As confidentially submitted to the Securities and Exchange Commission on May 14, 2020.

Registration No. 333-

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

FORM S-1
REGISTRATION STATEMENT
Under
The Securities Act of 1933

ACUTUS MEDICAL, INC.
(Exact name of registrant as specified in its charter)

Delaware	**3841**	**45-1306615**
(State or other jurisdiction of incorporation or organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification Number)

2210 Faraday Ave., Suite 100
Carlsbad, CA 92008
(442) 232-6080
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Vince Burgess
Chief Executive Officer
Acutus Medical, Inc.
2210 Faraday Ave., Suite 100
Carlsbad, CA 92008
(442) 232-6080
(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

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

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. ☐

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. ☐

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. ☐

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. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, 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. (Check one):

Large accelerated filer ☐ Accelerated filer ☐ Non-accelerated filer ☑ Smaller reporting company ☑

Emerging growth company ☑

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 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**
Common stock, $0.001 par value per share	$	$

(1) Estimated solely for the purpose of computing the amount of the registration fee pursuant to Rule 457(o) under the Securities Act of 1933, as amended.
(2) Includes the aggregate offering price of the additional shares of common stock that the underwriters have the option to purchase from the registrant.

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 or until the Registration Statement shall become effective on such date as the Commission acting pursuant to said Section 8(a) may determine.

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The information in this preliminary prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This preliminary prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state or other jurisdiction where the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED , 2020

Shares

ACUTUS MEDICAL

Common Stock

This is the initial public offering of shares of common stock of Acutus Medical, Inc.

We are offering 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 per share will be between $ and $. We intend to apply to list our common stock on under the symbol " ."

We are an emerging growth company under the federal securities laws and, as such, have elected to comply with certain reduced public company reporting requirements.

Investing in our common stock involves a high degree of risk. See "Risk Factors" beginning on page 16.

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

(1) See "Underwriting" for additional disclosure regarding the estimated underwriting discounts and commissions and estimated offering expenses.

We have granted the underwriters an option for a period of 30 days to purchase up to additional shares of our common stock.

The underwriters expect to deliver the shares against payment in New York, New York on , 2020.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

J.P. Morgan **BofA Securities** **William Blair**

Canaccord Genuity **BTIG**

, 2020

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We 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 we have prepared. We and the underwriters take no responsibility for, and can provide no assurance as to the reliability of, any other information that others may provide you. We are offering to sell, and seeking offers to buy, shares of common stock only in jurisdictions where offers and sales are permitted. The information contained in this prospectus is accurate only as of the date of this prospectus, regardless of the time of delivery of this prospectus or of any sale of the common stock.

This prospectus includes industry and market data that we obtained from periodic industry publications, third-party studies and surveys, filings of public companies in our industry and internal company surveys. These sources may include government and industry sources. Industry publications and surveys generally state that the information contained therein has been obtained from sources believed to be reliable. Although we believe the industry and market data to be reliable as of the date of this prospectus, this information could prove to be inaccurate. Industry and market data could be wrong because of the method by which sources obtained their data and because information cannot always be verified with complete certainty due to the limits on the availability and reliability of raw data, the voluntary nature of the data gathering process and other limitations and uncertainties. In addition, we do not know all of the assumptions regarding general economic conditions or growth that were used in preparing the forecasts from the sources relied upon or cited herein.

Until , 2020 (25 days after the date of this prospectus), all dealers that buy, sell or trade our common stock, 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.

PROSPECTUS SUMMARY

This summary highlights selected information contained in greater detail elsewhere in this prospectus and does not contain all of the information that you should consider in making your investment decision. Before investing in our common stock, you should carefully read the entire prospectus, including the sections titled "Risk Factors" and "Management's Discussion and Analysis of Financial Condition and Results of Operations" and the financial statements and related notes included elsewhere in this prospectus. As used in this prospectus, references to "we," "our," "us," the "Company" and "Acutus" refer to Acutus Medical, Inc. and, where appropriate, its wholly-owned subsidiary unless the context requires otherwise.

Overview

We are an arrhythmia management company focused on improving the way cardiac arrhythmias are diagnosed and treated. Despite several decades of efforts by incumbents in this field, the clinical and economic challenges associated with arrhythmia treatment continue to be a huge burden for patients, providers and payors. We are committed to advancing the field of electrophysiology with a unique array of products and technologies which will enable more physicians to treat more patients more efficiently and effectively. Through internal product development, acquisitions and global partnerships, we have established a global sales presence delivering a comprehensive portfolio of highly differentiated electrophysiology products that provide our customers with a complete solution for catheter-based treatment of cardiac arrhythmias.

We design, manufacture and market a complete set of tools for catheter-based ablation procedures to treat various arrhythmias. Our product portfolio includes novel access sheaths, transseptal crossing tools, diagnostic and mapping catheters, ablation catheters, mapping and imaging consoles and accessories, as well as supporting algorithms and software programs. Our foundational and most highly differentiated product is our AcQMap imaging and mapping system, which offers a paradigm-shifting approach to mapping the drivers and maintainers of arrhythmias with unmatched speed and precision. With the ability to rapidly and accurately identify ablation targets and to confirm both ablation success and procedural completion, we believe our AcQMap System addresses the primary unmet need in electrophysiology procedures today.

Cardiac arrhythmias, or heart rhythm disorders, are common and can occur when the heart beats too rapidly, too slowly or irregularly. If left untreated, arrhythmias can result in debilitating symptoms, heart failure, stroke and sudden cardiac death. As a result, cardiac ablation is a well-established therapy for the large and rapidly growing patient population, with clear and substantial reimbursement in developed markets. We estimate that in 2019 there were over 50 million individuals worldwide with arrhythmias and approximately 1.1 million ablation procedures globally, reflecting a $5.7 billion global market that has grown 13% annually since 2016 but is still less than 5% penetrated.

While multiple trials have established that cardiac ablation is effective when the source of the arrhythmia is accurately identified and successfully ablated, visualization of various complex arrhythmias and creation of durable ablation lesions remains challenging with long, unpredictable procedure times and inconsistent outcomes. For example, data from large, multi-center trials of cardiac ablation have demonstrated that approximately 30 to 50% of ablations for atrial fibrillation result in arrhythmia recurrence within the first 12 months of the initial ablation procedure. Currently marketed mapping systems are not able to quickly and consistently identify the source of the arrhythmia in more complex cases, which can contribute to these unsatisfactory outcomes. Current competitive mapping systems sequentially collect data, point-by-point, by contacting the heart surface at multiple locations throughout the chamber. This is a time-consuming process that often takes 15 to 20 minutes per map. Additionally, because contact-based mapping relies on a fixed timing reference to sequence the data points, it precludes these systems from being able to quickly and reliably identify

the drivers and maintainers of unstable arrhythmias, such as atrial fibrillation, many types of supraventricular tachycardias and certain ventricular arrhythmias.

We designed our AcQMap System to improve procedure efficiency and outcomes by rapidly and accurately identifying ablation targets and confirming both ablation success and procedure completion. Our AcQMap System consists of our single-use AcQMap catheter as well as our console, workstation and proprietary software algorithms. With 48 ultrasound transducers interspersed between 48 biopotential electrodes, our innovative mapping catheter collects the data required to create a comprehensive map of the cardiac anatomy and electrical propagation pathways and patterns in under three minutes, without contacting the chamber wall. Our proprietary software algorithms analyze the biopotential data and are collectively able to map any type of stable or unstable arrhythmia, including atrial fibrillation, as well as all supraventricular tachycardias and ventricular arrhythmias.

We believe that by creating high definition, clinically accurate activation maps of all types of arrhythmias, our AcQMap System offers physicians better decision-making tools for determining where to ablate. Similarly, we believe the speed and ease of creating a map makes it practical for physicians to iteratively map, treat, re-map and adjust additional therapy as needed. We believe these features will drive more efficient and predictable procedures and better outcomes for a broader range of arrhythmias.

These key clinical and workflow benefits are supported by the results of our clinical trials, including our UNCOVER AF post-market approval trial, which demonstrated that use of our AcQMap System in challenging persistent AF patients resulted in 73% and 93% freedom from atrial fibrillation at 12-months following their initial procedure after one or two procedures, respectively. These outcomes compare favorably to those of other clinical trials in the field that utilized currently marketed contact-based mapping catheters and systems, including the landmark STAR AF II trial, which demonstrated 61% and 79% freedom from atrial fibrillation after one or two procedures, respectively, in a similar cohort of persistent atrial fibrillation patients.

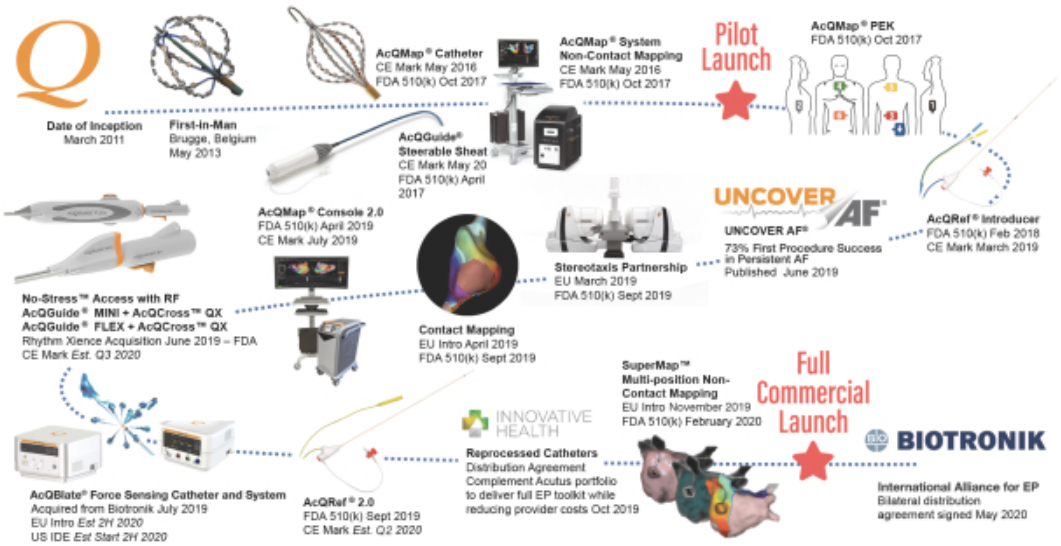
We have established a comprehensive portfolio of electrophysiology products that complements our AcQMap System and provides our customers a complete solution—from vascular access to diagnosis and treatment of arrhythmias. In addition to our AcQMap System, our commercial product portfolio includes a suite of access devices, our transseptal crossing device and full product lines of diagnostic and ablation catheters. We recently expanded our portfolio to include the AcQBlate gold-tip, irrigated, radiofrequency force sensing ablation catheters and control unit which we expect to commercialize upon regulatory approval. We anticipate CE Mark approval of our AcQBlate catheters and system in the second half of 2020, and we plan to commence an investigational device exemption, or IDE, trial for FDA clearance within the same time frame. We believe that our ability to offer a comprehensive and differentiated product portfolio supports the adoption and utilization of our AcQMap System and drives an efficient business model. Once an AcQMap console and workstation is established in a customer account, our revenue from that account is predominantly recurring and derived from the sale of our portfolio of disposable products used with our system.

We market and sell our comprehensive portfolio of electrophysiology products worldwide to hospitals and electrophysiologists that treat patients with arrhythmias. We have strategically developed a direct selling presence in the United States and select markets in Western Europe where cardiac ablation is a standard of care and third-party reimbursement is well-established. In other international markets, we leverage our partnership with Biotronik SE & Co. KG, or Biotronik, a large multi-national, privately-held biomedical technology company with a leading portfolio across cardiac rhythm management, electrophysiology and vascular intervention, to sell and distribute our products. In the United States and Western Europe, our target market is highly concentrated. We plan to leverage the concentrated nature of procedure volumes and the recurring nature of our sales to drive an increasingly efficient commercial model.

Our research and development activities are focused on advancing the field of electrophysiology by increasing the AcQMap System’s utility and seeking approval for additional labeled indications as well as

expanding our product portfolio to further improve and simplify the entire procedural experience. Our near-term pipeline includes products that broaden our commercial portfolio, increase functionality and/or reduce costs across catheters, accessory devices, mapping systems and software.

While early versions of our AcQMap System and certain related accessory products have been used in the United States and Western Europe in a limited, pilot launch capacity for several years, we initiated a full launch of our commercial-grade console and software products in the first quarter of 2020. Critical to our launch were a series of recent strategic transactions and regulatory approvals, including: FDA 510(k) clearance and CE Mark of our second-generation AcQMap console and SuperMap software suite; the addition of an integrated family of transseptal crossing and steerable introducer systems to our product portfolio through our acquisition of Rhythm Xience, Inc., or Rhythm Xience; and the acquisition of our AcQBlate Force sensing product line from Biotronik. Since our full launch, we have continued to enhance our product portfolio and global presence by entering into bi-lateral distribution agreements with Biotronik in May 2020, which added a full suite of diagnostic and ablation catheters to our product portfolio and significantly expanded our international distribution and market development capabilities. The diagram below depicts a chronology of these and other key events since our inception:



During the year ended December 31, 2019, we generated revenue of $2.8 million and a net loss of $97.0 million (which included $15.0 million in payments attributable to the product line we acquired from Biotronik pursuant to a license and distribution agreement), compared to revenue of $2.2 million and a net loss of $47.9 million during the year ended December 31, 2018. During the quarter ended March 31, 2020 we generated revenue of $ million and a net loss of $ million, compared to revenue of $ million and a net loss of $ million during the quarter ended March 31, 2019. The COVID-19 pandemic and the measures imposed to contain this pandemic have disrupted our business beginning in early March 2020. See the sections titled “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” for more information.

Our Competitive Strengths

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

- paradigm-shifting intracardiac mapping system offering significant advantages relative to the current standard of care;
- comprehensive and expanding product portfolio;
- attractive value proposition for hospitals, physicians, patients and payors;
- large, rapidly growing and underpenetrated market with established reimbursement;
- efficient commercial model;
- pure-play electrophysiology-focus;
- deep technology-driven competitive advantage supported by a robust patent portfolio, trade secrets and know-how, and in-licensed and acquired technology; and
- highly experienced senior management team with broad cardiovascular industry expertise.

Our Market and Industry

Cardiac Arrhythmias

Cardiac arrhythmias, or heart rhythm disorders, are common and can occur when the heart beats too rapidly, too slowly or irregularly. If left untreated, arrhythmias can result in debilitating symptoms, heart failure, stroke and sudden cardiac death.

Between the costs associated with treatment and the downstream complications associated with arrhythmias, it is estimated that they cost global healthcare systems between $21 and $61 billion annually. These costs and the associated societal burden have led medical societies to recommend, and government and private payors to reimburse, treatment. While some types of arrhythmias can be effectively managed with medications and/or implantable devices, there is still a significant unmet need for effective diagnostic and treatment alternatives for three major categories of arrhythmias: atrial fibrillation; supraventricular tachycardias (other than atrial fibrillation); and ventricular arrhythmias.

Atrial Fibrillation

Atrial fibrillation, or AF, is the most common arrhythmia and is characterized by rapid and irregular activation of the heart. This irregular behavior increases the potential to develop blood clots within the upper chambers of the heart, which can then circulate to other organs, leading to reduced blood flow and strokes. We estimate that there were approximately 475,000 cardiac ablation procedures globally for atrial fibrillation in 2019, representing a current market size of approximately $3.4 billion in disposable product revenue. We believe this market is significantly underpenetrated. With faster and more detailed arrhythmia visualization tools that allow for an iterative mapping and adaptive ablation approach, we believe there is a significant opportunity to address a greater portion of the up to 30 million individuals worldwide with AF.

Supraventricular Tachycardias (Atrial Arrhythmias other than AF)

Supraventricular tachycardias, or SVTs, are characterized by a rapid heartbeat in the upper chambers of the heart. These arrhythmias, which include atrial flutter and atrial tachycardia, among others, can arise organically or as a result of an incomplete ablation for atrial fibrillation. We estimate there were approximately 516,000 ablation procedures worldwide for SVTs in 2019, reflecting a market size of approximately $1.7 billion in disposable product revenue. We believe that there is a significant opportunity to leverage advanced mapping and ablation tools to address a greater portion of the estimated 17.1 million individuals worldwide with SVTs.

Ventricular Arrhythmias

Ventricular arrhythmias affect the lower chambers of the heart and consist primarily of ventricular tachycardias, or VTs, and premature ventricular contractions, or PVCs. If left untreated, VTs and PVCs can lead to heart failure, ventricular fibrillation and sudden cardiac death. We estimate that there were approximately 90,000 global ablation procedures for ventricular arrhythmias in 2019, reflecting a market size of approximately $620 million in disposable product revenue. With the right diagnostic and therapeutic tools, we believe there is significant opportunity to address a greater portion of the estimated 5.5 million individuals worldwide with ventricular arrhythmias.

Current Treatment Alternatives and Their Limitations

Arrhythmia treatments focus on relieving symptoms, improving quality of life and reducing the risk of stroke, heart failure or lethal arrhythmias. There are two primary treatment approaches for AF, SVTs, VTs and PVCs: medical management and catheter-based ablation of the tissue causing the heart's irregular rhythm. A minority of patients may also be treated with open heart surgery, minimally invasive epicardial ablation and/or implantable devices.

Medical Management

Medical management involves anticoagulation drugs to reduce stroke risk, anti-arrhythmic drugs, or AADs, to maintain the heart's regular rhythm, or rate controlling drugs to regulate the heart's rate. Medical management is often accompanied by cardioversion, which involves the application of an electric shock to the heart in order to restore the regular rhythm. Medical management has historically been considered first line therapy because of its noninvasive nature. However, current AADs have been associated with low success rates and an increased risk of adverse side effects that have been shown to result in a larger burden to the healthcare system than arrhythmias alone. While medical management is a common initial treatment modality for most patients, medical society guidelines have been changing to support cardiac ablation as a first line therapy.

Cardiac Ablation

Cardiac ablation involves identifying and destroying tissue in the heart that is responsible for initiating and/or maintaining an arrhythmia. In order to perform a cardiac ablation procedure, an electrophysiologist gains access to the heart through an incision in the groin and then inserts one or more diagnostic mapping catheters. Currently marketed mapping systems then collect data point-by-point through contact with the chamber wall to create a map of the anatomy and electrical activation pathways. This map is used to determine the tissue area that is likely causing the arrhythmia. Once the area of interest is identified, an ablation catheter is inserted that delivers the desired tissue-destructive therapy.

While multiple trials have established that cardiac ablation is effective when the source of the arrhythmia is accurately identified and successfully ablated, visualization of various arrhythmias and durable ablation remains challenging with long, unpredictable procedure times and inconsistent outcomes. For example, data from large, multi-center trials of ablation therapy, including STOP AF and STAR AF II, have demonstrated that approximately 30 to 50% of ablations for atrial fibrillation result in recurrence within 12 months of the initial ablation procedure. We believe a primary reason for this is the inability of currently marketed mapping systems to reliably identify where to ablate and when ablation is complete.

Limitations of Current Mapping Systems

Because currently marketed mapping systems rely on tissue contact and a fixed timing reference to collect and align data in the proper sequence, they are designed to map simple, stable and repetitive arrhythmias, including certain SVTs and VTs. Collecting a critical mass of data points to see even a stable rhythm is time

consuming with contact mapping technologies, often taking 15 to 20 minutes per map. In addition, these technologies can only map one rhythm from each data collection session and are not capable of quickly and reliably mapping unstable or complex arrhythmias such as AF, certain VTs, PVCs or many types of SVTs.

The challenges associated with contact-based mapping systems have limited the penetration of cardiac ablation therapy to a small portion of patients with AF, SVTs, VTs and PVCs. These challenges include:

- lengthy, unpredictable procedure times driving inefficient resource utilization;
- impracticality in the use of an iterative treatment approach (map, treat, re-map, adjust therapy, etc.);
- inability to quickly and reliably identify unstable arrhythmias including AF, certain VTs, PVCs and many types of SVTs (including those SVTs that occur during the procedure as a result of ablations for AF);
- AF recurrence rates of 30–50% within 12 months of initial ablation procedure; and
- the potential to cause ventricular arrhythmias due to contact with the chamber wall.

We believe that with better tools to diagnose areas in the heart that require ablation and rapidly assess therapy effect in real-time, there is significant opportunity to improve cardiac ablation success, reduce procedure times and increase the adoption of ablation therapy.

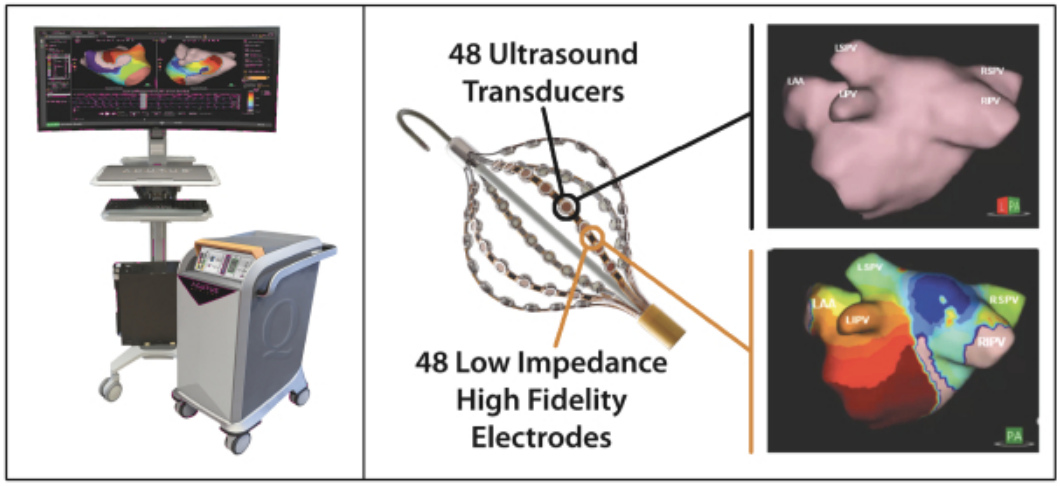
Our Solution

We design, manufacture and market a complete set of tools for catheter-based ablation procedures to treat various arrhythmias. Our foundational and most highly differentiated product is our AcQMap imaging and mapping system which offers a paradigm-shifting approach to mapping the drivers and maintainers of arrhythmias with unmatched speed and precision. With the ability to rapidly and accurately identify ablation targets and to confirm both ablation success and procedural completion, we believe our AcQMap System addresses the primary unmet need in electrophysiology procedures today.

Overview of Our AcQMap System

We developed our AcQMap System to address the key challenges that electrophysiologists face during ablation procedures and remove the barriers to adopting ablation for complex arrhythmia procedures.

Our AcQMap System consists of our AcQMap catheter, console and workstation. With 48 ultrasound transducers interspersed between 48 biopotential electrodes, our innovative mapping catheter collects the data required to create a comprehensive map of the cardiac anatomy and electrical propagation patterns and pathways without contacting the chamber wall. This allows us to create comprehensive diagnostic maps of the chamber anatomy and electrical propagation patterns and pathways in under three minutes. Our proprietary software algorithms analyze the biopotential data and are collectively able to map any type of stable or unstable arrhythmia, including atrial fibrillation, as well as all supraventricular tachycardias and ventricular arrhythmias, as depicted in the graphic below.



(Left): Our AcQMap console and workstation. (Middle): Our AcQMap mapping catheter. (Upper Right): Ultrasound reconstruction of the heart chamber anatomy using our AcQMap System. (Lower Right): Display of the electrical propagation patterns of the heart chamber using our AcQMap System. In the map, dark red is the front edge of the rhythm wavefront, with the trailing colors showing where the wavefront has been within the heart chamber. (Anatomy Terms): LSPV—Left superior pulmonary vein, LAA—Left atrial appendage, LIPV—Left inferior pulmonary vein, RSPV—Right superior pulmonary vein, RIPV—Right inferior pulmonary vein. PA— Posteroanterior.

Key Benefits of AcQMap

We believe the unique attributes of our AcQMap System offer significant clinical benefits relative to the current standard of care.

Allows for an Iterative Whole-Chamber Mapping Approach. With increased mapping speed and precision, electrophysiologists are empowered in real time to iteratively map, treat, re-map and adjust additional therapy as needed. This allows physicians to determine when ablation is complete, which we believe will drive more efficient and predictable procedures and better outcomes for a broader range of arrhythmias.

Increased Mapping Accuracy. Ultrasound technology allows us to create an anatomically accurate image of the heart chamber, and non-contact charge density mapping provides a more localized and sharper view of cardiac activation, resulting in images with four times higher resolution than voltage-based maps produced by currently marketed contact-based mapping systems. We believe the combination of these two features allows electrophysiologists to reliably identify and ablate the source of the arrhythmia, which will help improve clinical outcomes and reduce the need for repeat procedures.

Ability to Identify Multiple Complex Arrhythmias. The AcQMap System is the only commercially available mapping system that can quickly and reliably map both stable and unstable rhythms, allowing electrophysiologists to see changes in conduction during the procedure and arming them with an optimal solution to better customize therapy.

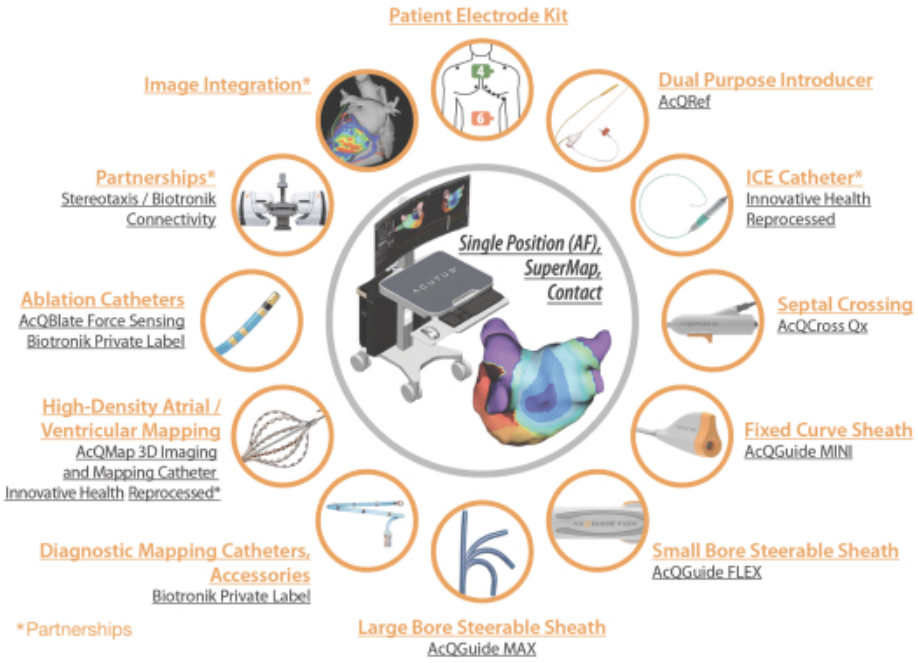
Excellent Clinical Outcomes. Our UNCOVER AF post-market approval trial, which assessed the effectiveness of the AcQMap System in identifying patient-specific targets for ablation, demonstrated favorable freedom from AF outcomes. The results are particularly favorable in the context of other landmark trials in the electrophysiology space, including the STAR AF II trial, which evaluated a similar population of persistent AF patients. We believe the key differentiator in outcomes was the use of our AcQMap System to map and identify key ablation patterns and targets.

Our Comprehensive Portfolio

We have established a comprehensive portfolio of electrophysiology products that complements our AcQMap System and provides our customers a complete solution – from vascular access to diagnosis and treatment of arrhythmias. Our commercial product portfolio includes our proprietary AcQMap System, a suite of access devices, our transseptal crossing device and full product lines of diagnostic and ablation catheters through our partnership with Biotronik. We recently expanded our portfolio to include the AcQBlate gold-tip, irrigated, radiofrequency force sensing ablation catheters and control unit which we expect to commercialize upon regulatory approval. We anticipate CE Mark approval of our AcQBlate catheters and system in the second half of 2020, and we plan to commence an IDE trial for FDA clearance within the same time frame.

We believe that our ability to offer a comprehensive and differentiated product portfolio supports the adoption and utilization of our AcQMap System and drives an efficient business model. Once an AcQMap console and workstation is established in a customer account, our revenue from that account is predominantly recurring and derived from the sale of our portfolio of disposable products used with our system.

The figure below shows our current portfolio of products.



Benefits for Key Stakeholders

We believe the key clinical benefits of our comprehensive portfolio offer an attractive value proposition for all stakeholders that will drive its continued adoption by hospitals and physicians.

Patients. We believe our ability to improve ablation effectiveness will improve patients' quality of life by reducing symptoms, hospitalizations for repeat procedures and the need for medical management.

Physicians. We believe the ability to accurately and iteratively map during the procedure improves the effectiveness of procedures and allows electrophysiologists to treat difficult cases that may have otherwise been referred for medical management or sent to an academic center of excellence. Similarly, we believe that the speed of our iterative mapping approach will ultimately result in shorter and more predictable procedure duration.

Hospitals. We believe our products will improve hospital workflow efficiency which will allow hospitals to better utilize their operating room capacity and fixed overhead as well as increase their return on capital.

Payors. We believe increased adoption of our products will reduce the financial burden of cardiac arrhythmias for payors by reducing repeat procedures for arrhythmia recurrence and extensive hospitalizations arising from complications of arrhythmias.

Our Growth Strategies

We are committed to advancing the field of electrophysiology with a unique array of products and technologies which will enable more physicians to treat more patients more efficiently and effectively. We seek to establish our AcQMap System as the standard of care for mapping and diagnosis of cardiac arrhythmias and to leverage its paradigm-shifting nature to drive adoption and utilization of our comprehensive portfolio of differentiated electrophysiology products.

Our growth strategies include:

- utilizing our superior mapping technology and open platform to establish our presence with a broad base of customer accounts and physicians;
- strategically expanding our commercial organization across key global markets to increase physician awareness and drive adoption;
- driving market penetration and portfolio utilization;
- continuing to expand our portfolio of products and broaden indications for existing products;
- leveraging our strategic partnerships to efficiently scale globally and broaden our product portfolio; and
- continuing to build our clinical evidence base.

Risks Associated with Our Business

Our business is subject to numerous risks and uncertainties, including those highlighted in the section titled “Risk Factors.” These risks include, but are not limited to, the following:

- We have a history of net losses, and we expect to continue to incur losses for at least the next several years. If we ever achieve profitability, we may not be able to sustain it.
- We have a limited history operating as a commercial company; if we fail to effectively train our sales force, increase our sales and marketing capabilities or develop broad brand awareness in a cost-effective manner, our growth will be impeded and our business will suffer.
- The commercial success of our products will depend upon attaining significant market acceptance of these products among hospitals, physicians, patients and payors.
- We have significant international operations, and intend to further expand our business internationally, which exposes us to market, regulatory, political, operational, financial and economic risks associated with doing business outside of the United States.

- We rely on our strategic relationship with Biotronik to enhance our product portfolio and to distribute our products in key international markets.
- We face significant competition, and if we are unable to compete effectively, we may not be able to achieve or maintain significant market penetration or improve our results of operations.
- If we are unable to manage the anticipated growth of our business, our future revenue and operating results may be adversely affected.
- We may not be able to develop, license or acquire new products, enhance the capabilities of our existing products to keep pace with rapidly changing technology and customer requirements or successfully manage the transition to new product offerings, any of which could have a material adverse effect on our business, financial condition and results of operations.
- Our quarterly and annual results may fluctuate significantly and may not fully reflect the underlying performance of our business.
- We depend upon third-party suppliers, including single-source suppliers, making us vulnerable to supply disruptions and price fluctuations.
- Adoption of our products depends upon appropriate physician training, and inadequate training may lead to negative patient outcomes, affect adoption of our products and adversely affect our business.
- Defects or failures associated with our products could lead to recalls, safety alerts or litigation, as well as significant costs and negative publicity.
- Coverage and adequate reimbursement may not be available for the procedures that utilize our products, which could diminish our sales or affect our ability to sell our products profitably.
- Regulatory compliance, including compliance with U.S. federal and state fraud and abuse and other healthcare laws and regulations, is expensive, complex and uncertain, and failure to comply could lead to enforcement actions against us and other negative consequences for our business.
- If we are unable to obtain and maintain patent protection or freedom to operate for any products we develop and for our technology, or if the scope of the patent protection obtained is not sufficiently broad, our competitors could develop and commercialize products and technology similar or identical to ours, and our ability to successfully commercialize any products we may develop, and our technology may be adversely affected.
- Our operations and financial results have been, and will continue to be, adversely impacted by the COVID-19 pandemic in the United States and the rest of the world.

Company Information

We were incorporated in Delaware on March 25, 2011 as Acutus Medical, Inc. Our principal executive offices and manufacturing facilities are located at 2210 Faraday Ave., Suite 100, Carlsbad, CA 92008, and our telephone number is (442) 232-6080. Our website address is www.acutusmedical.com. The information on, or that may be accessed through, our website is not a part of this prospectus and the inclusion of our website address in this prospectus is an inactive textual reference only.

Solely for convenience, our trademarks and trade names referred to in this prospectus appear without the ™ or ® symbol, but those 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 and trade names. Other trade names, trademarks and service marks appearing in this prospectus are the property of their respective owners.

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

We are an "emerging growth company," as defined in the Jumpstart Our Business Startups Act of 2012, or the JOBS Act. As such, we are eligible for exemptions from various reporting requirements applicable to other public companies that are not emerging growth companies, including, but not limited to, presenting only two years of audited financial statements in addition to any required unaudited interim financial statements with correspondingly reduced "Management's Discussion and Analysis of Financial Condition and Results of Operations" disclosure in this prospectus, not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act of 2002, or the Sarbanes-Oxley Act, reduced disclosure obligations regarding executive compensation, and an exemption from the requirements to obtain a non-binding advisory vote on executive compensation or golden parachute arrangements.

In addition, an emerging growth company can take advantage of an extended transition period for complying with new or revised accounting standards. This provision allows an emerging growth company to delay the adoption of certain accounting standards until those standards would otherwise apply to private companies. We have elected to avail ourselves of this provision of the JOBS Act. As a result, we will not be subject to new or revised accounting standards at the same time as other public companies that are not emerging growth companies. Therefore, our consolidated financial statements may not be comparable to those of companies that comply with new or revised accounting pronouncements as of public company effective dates.

We will remain an emerging growth company until the earliest of: (i) the last day of the fiscal year following the fifth anniversary of the consummation of this offering; (ii) the last day of the fiscal year in which we have total annual gross revenue of at least $1.07 billion; (iii) the last day of the fiscal year in which we are deemed to be a "large accelerated filer" as defined in Rule 12b-2 under the Securities Exchange Act of 1934, as amended, or the Exchange Act, which would occur if the market value of our common stock held by non-affiliates exceeded $700.0 million as of the last business day of the second fiscal quarter of such year; or (iv) the date on which we have issued more than $1.0 billion in non-convertible debt securities during the prior three-year period.

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 that $250.0 million measured on the last business day of our second fiscal quarter, or our annual revenue is less that $100.0 million during the most recently completed fiscal year and our voting and non-voting common stock held by non-affiliates is less that $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 for a period of 30 days to purchase up to additional shares of our common stock.
Common stock to be outstanding immediately after this offering	shares (or shares if the underwriters exercise their option to purchase additional shares in full).
Use of proceeds	We estimate that the net proceeds from the sale 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 on 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) and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us. We intend to use the net proceeds from this offering to support our commercial expansion, increased research and development activities, conduct of studies and clinical trials and international expansion, as well as for working capital and other general corporate purposes. We may also use a portion of the net proceeds of this offering for acquisitions or strategic transactions, though we have not entered into any agreements or commitments with respect to any specific transactions and have no understandings or agreements with respect to any such transactions at this time. See the section titled “Use of Proceeds” for more information.
Risk factors	See the section titled “Risk Factors” and other information included in this prospectus for a discussion of factors you should carefully consider before deciding to invest in shares of our common stock.
Proposed trading symbol	“ ”

The number of shares of common stock that will be outstanding after this offering is based on 164,101,086 shares of our common stock (including all shares of our convertible preferred stock on an as-converted basis) outstanding as of December 31, 2019, and excludes:

- 4,955,017 shares of our common stock issuable upon the exercise of warrants to purchase shares of our common stock outstanding as of December 31, 2019, with a weighted-average exercise price of $0.02 per share;
- 4,346,557 shares of our common stock issuable upon the exercise of warrants to purchase shares of convertible preferred stock outstanding as of December 31, 2019, which will be automatically converted into warrants to purchase shares of our common stock immediately prior to the completion of this offering, with a weighted-average exercise price of $1.714 per share;
- 19,850,309 shares of our common stock issuable upon the exercise of options to purchase shares of our common stock outstanding as of December 31, 2019, with a weighted-average exercise price of $0.98 per share;

- 8,431,411 shares of our common stock issuable upon the exercise of options to purchase shares of our common stock granted after December 31, 2019, with a weighted-average exercise price of $1.523 per share;
- 5,518,463 shares of our common stock issuable upon the vesting and settlement of outstanding restricted stock units, or RSUs, as of December 31, 2019, of which units will vest upon the effectiveness of the registration statement of which this prospectus forms a part; and
- shares of our common stock reserved for future grants under our stock-based compensation plans, consisting of:
  - 9,970,601 shares of our common stock reserved for future grants under our 2011 Equity Incentive Plan, or our 2011 Plan, which shares will be added to the shares to be reserved under our 2020 Equity Incentive Plan, or our 2020 Plan, which will become effective immediately prior to the effective date of this registration statement,
  - shares of our common stock reserved for future grants under our 2020 Plan, which will become effective immediately prior to the effective date of this registration statement, including shares of our common stock issuable upon the exercise of options to purchase shares of our common stock granted to certain of our executive officers, directors and new employees pursuant to our 2020 Plan, with a grant date of the effective date of this registration statement and with an exercise price equal to the initial public offering price, as well as any automatic increases in the number of shares of our common stock reserved for future issuance pursuant to this plan, and
  - shares of our common stock reserved for future issuance under our 2020 Employee Stock Purchase Plan, or the 2020 ESPP, which will become effective immediately prior to the effective date of this registration statement, as well as any automatic increases in the number of shares of our common stock reserved for future issuance pursuant to this plan.

In addition, unless otherwise indicated, all information in this prospectus assumes or gives effect to:

- a 1-for- reverse split of our capital stock which was effected on , 2020;
- the automatic conversion of all outstanding shares of our convertible preferred stock into an aggregate of 157,333,629 shares of our common stock immediately prior to the completion of this offering;
- the automatic conversion of all outstanding warrants to purchase shares of our convertible preferred stock outstanding into warrants to purchase an aggregate of 4,346,557 shares of our common stock immediately prior to the completion of this offering;
- no exercise of outstanding options or warrants or settlement of outstanding RSUs;
- no exercise by the underwriters of their option to purchase up to an additional shares of our common stock in this offering; and
- the adoption, filing and effectiveness of our amended and restated certificate of incorporation and amended and restated bylaws immediately prior to the completion of this offering.

We refer to our Series A convertible preferred stock, Series B convertible preferred stock, Series C convertible preferred stock and Series D convertible preferred stock as our convertible preferred stock in this prospectus, as well as for financial reporting purposes and in the financial tables included in this prospectus, as more fully explained in Note 13 to our consolidated financial statements included elsewhere in this prospectus.

SUMMARY CONSOLIDATED FINANCIAL DATA

The following tables set forth a summary of our historical consolidated financial data as of and for the periods indicated. We have derived the summary consolidated statements of operations and comprehensive loss data for the years ended December 31, 2019 and 2018 and the consolidated balance sheet data as of December 31, 2019 from our consolidated financial statements included elsewhere in this prospectus. You should read this data together with our consolidated financial statements and related notes included elsewhere in this prospectus and the information in the sections titled "Selected Consolidated Financial Data" and "Management's Discussion and Analysis of Financial Condition and Results of Operations." The summary consolidated financial data included in this section are not intended to replace the consolidated financial statements and related notes and are qualified in their entirety by our consolidated financial statements and related notes included elsewhere in this prospectus. Our historical results are not necessarily indicative of the results to be expected for any other period.

(in thousands, except share and per share data)	Year Ended December 31, 2019	2018
Consolidated Statements of Operations and Comprehensive Loss Data:		
Revenue[2]	$ 2,836	$ 2,166
Costs and operating expenses:		
Cost of products sold[1]	9,243	7,510
Research and development[1]	23,029	19,077
Research and development—license acquired	15,000	—
Selling, general and administrative[1]	26,847	13,330
Impairment of property and equipment	786	—
Change in fair value of contingent consideration	500	—
Total costs and operating expenses	75,405	39,917
Loss from operations	(72,569)	(37,751)
Other income (expense):		
Change in fair value of warrant liability and embedded derivative	(1,919)	(4,298)
Loss on issuance of convertible notes and warrants	—	(924)
Loss on debt extinguishment	(1,447)	—
Interest income	1,164	297
Interest expense	(22,268)	(5,231)
Total other income (expense), net	(24,470)	(10,156)
Loss before income taxes	(97,039)	(47,907)
Income tax benefit	—	—
Net loss	$ (97,039)	$ (47,907)
Net loss per common share, basic and diluted[3]	$ (14.85)	$ (9.03)
Weighted-average shares outstanding, basic and diluted[3]	6,534,469	5,307,392
Pro forma net loss per common share, basic and diluted (unaudited)[3]	$	
Pro forma weighted-average shares outstanding, basic and diluted (unaudited)[3]		

(1) The following table sets forth the stock-based compensation expense included in our consolidated results of operations for the years ended December 31, 2019 and 2018:

	Year Ended December 31,	
(in thousands)	**2019**	**2018**
Cost of products sold	$ 209	$ 215
Research and development	656	564
Selling, general and administrative	2,129	1,292
Total stock-based compensation expense	$ 2,994	$ 2,071

(2) The following table sets forth our revenue for disposables and systems/service for the years ended December 31, 2019 and 2018:

	Year Ended December 31,	
(in thousands)	**2019**	**2018**
Disposables	$ 2,817	$ 2,160
Systems/service	19	6
Total revenue	$ 2,836	$ 2,166

(3) See Note 16 to our consolidated financial statements included elsewhere in this prospectus for an explanation of the calculations of our basic and diluted net loss per common share, basic and diluted pro forma net loss per common share and the weighted-average number of shares used in the computation of the per share amounts.

	As of December 31, 2019		
	Actual	Pro Forma(1)	Pro Forma As Adjusted(2)(3)
(in thousands)		(unaudited)	
Consolidated Balance Sheet Data:			
Cash, cash equivalents and marketable securities	$ 71,803	$	$
Working capital(4)	50,546		
Total assets	105,455		
Contingent consideration, short- and long-term	13,900		
Common and preferred stock warrant liability	8,919		
Long-term debt	38,244		
Convertible preferred stock	253,358		
Accumulated deficit	(259,034)		
Total stockholders' equity (deficit)	(225,811)		

(1) The pro forma consolidated balance sheet data gives effect to: (i) the automatic conversion of all outstanding shares of our convertible preferred stock into an aggregate of 157,333,629 shares of common stock immediately prior to the completion of this offering, as if such conversion had occurred on December 31, 2019; (ii) the automatic conversion of all of our outstanding warrants to purchase convertible preferred stock into warrants to purchase shares of our common stock, and the related reclassification of our common and preferred stock warrant liability to stockholders' equity (deficit) immediately prior to the completion of this offering; and (iii) the filing and effectiveness of our amended and restated certificate of incorporation, which will be in effect immediately prior to the completion of this offering.

(2) The pro forma as adjusted consolidated balance sheet data gives effect to: (i) the pro forma items described in footnote (1) above; and (ii) the issuance and sale by us of shares of our common stock in this offering at 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) and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

(3) The pro forma as adjusted consolidated balance sheet data is illustrative only and will change based on the actual initial public offering price and other terms of this offering determined at pricing. Each $1.00 increase (decrease) in the assumed initial public offering price of $ per share would increase (decrease) each of our pro forma as adjusted cash, cash equivalents and marketable securities, working capital, total assets and total stockholders' equity (deficit) by $ million, assuming the number of shares of common stock 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 (decrease) of 1.0 million shares in the number of shares of common stock offered by us would increase (decrease) each of our pro forma as adjusted cash, cash equivalents and marketable securities, working capital, total assets and total stockholders' equity (deficit) by $ million, 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.

(4) Working capital is defined as total current assets less total current liabilities. See our consolidated financial statements and related notes included elsewhere in this prospectus for further details regarding our current assets and current liabilities.

RISK FACTORS

Investing in our common stock involves a high degree of risk. You should consider carefully the risks and uncertainties described below, together with all of the other information in this prospectus, including the section titled "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our financial statements and related notes included elsewhere in this prospectus, before deciding whether to invest in shares of our common stock. 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, results of operations and future prospects. In that event, the market price of our common stock could decline, and you could lose all or part of your investment. Please also see the sections titled "Special Notes Regarding Forward-Looking Statements" and "Market, Industry and Other Data."

Risks Related to Our Business and Products

We have a limited history operating as a commercial company; if we fail to effectively train our sales force, increase our sales and marketing capabilities or develop broad brand awareness in a cost-effective manner, our growth will be impeded and our business will suffer.

We were incorporated in 2011 and began commercializing our products in 2016. While early versions of our AcQMap System and certain related accessory products have been used in the United States and Western Europe in a limited, pilot launch capacity for several years, we only initiated a full launch of our commercial-grade console and software products in the first quarter of 2020. Accordingly, our limited commercialization experience and limited number of approved or cleared products make it difficult to evaluate our current business and assess our prospects. We also currently have limited sales and marketing experience. If we are unable to establish effective sales and marketing capabilities or if we are unable to commercialize any of our products, we may not be able to effectively generate product revenue, sustain revenue growth and compete effectively. In order to generate future growth, we plan to continue to expand and leverage our sales and marketing infrastructure to increase our customer base and grow our business. Identifying and recruiting qualified sales and marketing personnel and training them on our products, applicable federal and state laws and regulations, and on our internal policies and procedures requires significant time, expense and attention. It often takes several months or more before a sales representative is fully trained and productive. Our business may be harmed if our efforts to expand and train our sales force do not generate a corresponding increase in 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 and marketing personnel, to achieve desired productivity levels in a reasonable timeframe or timely leverage our fixed costs could have a material adverse effect on our business, financial condition and results of operations. Moreover, the members of our direct 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 equivalent technical expertise and qualifications, or if we are unable to successfully instill technical expertise in replacement personnel, our revenue and results of operations could be materially harmed.

Our ability to increase our customer base and achieve broader market acceptance of our products will also depend to a significant extent on our ability to expand our marketing efforts as we plan to dedicate significant resources to our marketing programs. Our business may be harmed if our marketing efforts and expenditures do not generate a corresponding increase in revenue. In addition, we believe that developing and maintaining broad awareness of our brand in a cost-effective manner is critical to achieving broad acceptance of our products and penetrating new customer accounts. Brand promotion activities may not generate patient or physician awareness or increased revenue, and even if they do, any increase in revenue may not offset the costs and expenses we incur in building our brand. If we fail to successfully promote, maintain and protect our brand, we may fail to attract or retain the physician acceptance necessary to realize a sufficient return on our brand building efforts, or to achieve the level of brand awareness that is critical for broad adoption of our products.

These factors also make it difficult for us to forecast our financial performance and growth, and such forecasts are subject to a number of uncertainties, including our ability to successfully develop additional products that add functionality, reduce the cost of products sold, broaden our commercial portfolio offerings and obtain U.S. Food and Drug Administration, or FDA, 510(k) clearance or pre-market approval, or PMA, for, and successfully commercialize, market and sell, our planned or future products in the United States or in international markets. 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 differ materially from our expectations and our business could suffer.

The commercial success of our products will depend upon attaining significant market acceptance of these products among hospitals, physicians, patients and payors.

Our success will depend, in part, on the acceptance of our products as safe, effective and, with respect to providers, cost-effective. We cannot predict how quickly, if at all, hospitals, physicians, patients or payors will accept our products or, if accepted, how frequently they will be used. Our products and planned or future products we may develop or market may never gain broad market acceptance for some or all of our targeted indications. Hospitals, physicians, patients and payors must believe that our products offer benefits over alternative treatment methods. To date, a substantial majority of our product sales and revenue have been derived from a limited number of customers who have adopted our AcQMap System and accompanying products. Our future growth and profitability largely depend on our ability to increase physician awareness of our system and our products and on the willingness of hospitals, physicians, patients or payors to adopt them. These parties may not adopt our products unless they are able to determine, based on experience, clinical data, medical society recommendations and other analyses, that our products are safe, effective and, with respect to providers, cost-effective, on a stand-alone basis and relative to competitors' products. Healthcare providers must believe that our products offer benefits over alternative treatment methods. Even if we are able to raise awareness, physicians tend to be slow in changing their medical treatment practices and may be hesitant to select our products for recommendation to their hospitals or patients for a variety of reasons, including:

- long-standing relationships with competing companies and distributors that sell other products;
- competitive response and negative selling efforts from providers of alternative products;
- lack of experience with our products and concerns that we are relatively new to market;
- lack or perceived lack of sufficient clinical evidence, including long-term data, supporting safety or clinical benefits; and
- time commitment and skill development that may be required to gain familiarity and proficiency with our products.

Physicians play a significant role in determining the course of a patient's treatment, and, as a result, the type of treatment that will be utilized and provided to a patient. We focus our sales, marketing and education efforts primarily on cardiac electrophysiologists, and aim to educate referring physicians regarding the patient population that would benefit from our products. However, we cannot assure you that we will achieve broad market acceptance among these practitioners.

For example, if electrophysiologists are not made aware of our products, they may not recommend ablation for their patients or the installation of our AcQMap System in their hospitals. In addition, some physicians may choose to utilize our products on only a subset of their total patient population or may not adopt our products at all. If we are not able to effectively demonstrate that the use of our products is beneficial in a broad range of patients, adoption of our products will be limited and may not occur as rapidly as we anticipate or at all, which would have a material adverse effect on our business, financial condition and results of operations. We cannot assure you that our products will achieve broad market acceptance among hospitals and physicians. Additionally,

even if our products achieve market acceptance, they may not maintain that market acceptance over time if competing products, procedures or technologies are considered safer or more cost-effective or otherwise superior. Any failure of our products to generate sufficient demand or to achieve meaningful market acceptance and penetration will harm our future prospects and have a material adverse effect on our business, financial condition and results of operations.

Our reputation among our current or potential customers, as well as among electrophysiologists, could also be negatively affected by safety or customer satisfaction issues involving us or our products, including product recalls. For example, in February 2020, we initiated a voluntary recall of a total of 120 of our AcQGuide Flex and AcQGuide Mini sheaths due to product defects that we determined arose during the manufacturing process by one of our contract manufacturers. Future product recalls or other safety or customer satisfaction issues relating to our reputation could negatively affect our ability to establish or maintain broad adoption of our products, which would harm our future prospects and have a material adverse effect on our business, financial condition and results of operations.

In most cases, before a hospital can purchase our AcQMap console and workstation for the first time, our system must be approved for use by a hospital's new product or value analysis committee, or the staff of a hospital or health system. Such approvals could deter or delay the use of our products by physicians. We cannot provide assurance that our efforts to obtain such approvals or generate adoption will be successful or increase the use of our products, and if we are not successful, it could have a material adverse effect on our business, financial condition and results of operations.

We have significant international operations, and intend to further expand our business internationally, which exposes us to market, regulatory, political, operational, financial and economic risks associated with doing business outside of the United States.

As of December 31, 2019, we have sold our products directly in the United States, Belgium, the Czech Republic, Denmark, France, Germany, Great Britain, Italy, the Netherlands and Switzerland. Our business strategy includes plans for significant expansion in the countries in which we currently operate as well as other international markets and may include establishing and maintaining physician outreach and education capabilities outside of the United States and expanding our relationships with international payors. During the years ended December 31, 2019 and December 31, 2018, 74% and 79%, respectively, of our revenue was generated from customers located outside of the United States, and we anticipate that international sales will continue to represent a substantial portion of our total sales in the future. For example, in May 2020, we entered into an expansive bi-lateral distribution agreement with Biotronik, pursuant to which Biotronik agreed to distribute our products in Germany, Japan, Mexico, Switzerland and multiple countries in Asia-Pacific, Eastern Europe, the Middle East and South America. In addition, some of our employees, including those of our Belgium subsidiary, suppliers and other strategic partners are located outside of the United States. Doing business internationally involves a number of risks, including:

- changes in a country's or region's political or economic conditions, including any potential impact resulting from the U.K.'s exit from the European Union, commonly referred to as Brexit;
- difficulties in developing effective marketing campaigns in unfamiliar foreign countries;
- multiple, conflicting and changing laws and regulations such as tax laws, privacy laws, export and import restrictions, employment laws, regulatory requirements and other governmental approvals, permits and licenses;
- obtaining regulatory approvals where required for the sale of our products in various countries;
- requirements to maintain data and the processing of that data on servers located within such countries;
- complexities associated with managing multiple payor reimbursement regimes, government payors or patient self-pay systems;

- trade protection measures, customs clearance and shipping delays;
- financial risks, such as longer payment cycles, difficulty collecting accounts receivable, the effect of local and regional financial pressures on demand and payment for our products and exposure to foreign currency exchange rate fluctuations;
- natural disasters, political and economic instability, including wars, terrorism, political unrest, outbreaks of disease or public health crises (including the impact of the COVID-19 pandemic), boycotts, curtailment of trade and other market restrictions;
- regulatory and compliance risks that relate to maintaining accurate information and control over activities subject to regulation under the United States Foreign Corrupt Practices Act of 1977, or FCPA, U.K. Bribery Act of 2010 and comparable laws and regulations in other countries;
- our reliance on international distributors, who we do not control, to effectively market and sell our products in full compliance with applicable laws;
- differing protection of intellectual property; and
- increased financial accounting and reporting burdens and complexities.

We rely on shipping providers to deliver products to our customers and distributors globally. Labor, tariff or World Trade Organization-related disputes, piracy, physical damage to shipping facilities or equipment caused by severe weather or terrorist incidents, congestion at shipping facilities, inadequate equipment to load, dock and offload our products, energy-related tie-ups, outbreaks of disease or public health crises (including the impact of the COVID-19 pandemic) or other factors could disrupt or delay shipping or off-loading of our products domestically and internationally. Such disruptions or delays could materially and adversely affect our business, financial condition and results of operations.

If one or more of these risks are realized, our business, financial condition and results of operations could be materially and adversely affected.

We rely on our strategic relationship with Biotronik to enhance our product portfolio and to distribute our products in key international markets.

We entered into expansive Bi-Lateral Distribution Agreements with Biotronik in May 2020 to round out our product portfolio with a full suite of diagnostic and ablation catheters, and to rapidly and efficiently establish a sales presence globally. Pursuant to our Bi-Lateral Distribution Agreements with Biotronik, we obtained a non-exclusive license to distribute a range of Biotronik's therapeutic and diagnostic electrophysiology products and accessories in the United States, Canada, China, Hong Kong and multiple countries in Western Europe under our own private label. Biotronik has also agreed to distribute our products and accessories in Germany, Japan, Mexico, Switzerland and multiple countries in Asia-Pacific, Eastern Europe, the Middle East and South America. Accordingly, the Bi-Lateral Distribution Agreements significantly expand both our product portfolio and our international sales presence. If Biotronik is unable to successfully market and sell our products in these markets, or if we are unable to successfully market Biotronik's products in the United States and geographies where we have or establish a direct selling presence, it could materially adversely impact our growth prospects in these markets and our relationship with Biotronik, which would harm our business, financial condition and results of operations. Our strategic alliance with Biotronik also includes cooperative arrangements with respect to regulatory approval and the commercialization, manufacture and marketing of our respective products in various geographic markets. While we will depend on Biotronik to sell our products in its designated territories and otherwise cooperate with us in our strategic alliance, we do not control the time and resources Biotronik devotes to such activities, and we may not have the resources available to satisfy expectations, which may adversely affect our relationship.

Either party may terminate the Bi-Lateral Distribution Agreements with respect to a country if the other party does not meet specified purchase targets for that country following a specified ramp-up period. Any

termination of the Bi-Lateral Distribution Agreements for this or other reasons could have a material adverse effect on our business, financial condition and results of operations. For example, recruiting and retaining qualified third-party distributors and training them in our technology and products requires significant time and resources. Further, if our relationship with Biotronik terminates, we may be unable to replace this relationship or develop a direct sales channel without disruption to our business.

We may also seek to enter into additional strategic partnerships with other third parties in the future, including distribution arrangements. If we fail to develop new relationships with any other strategic partners we seek to engage, including in new markets, fail to manage, train or incentivize distributors effectively, or fail to provide distributors with competitive products on attractive terms, or if these distributors are not successful in their sales and marketing efforts, our ability to generate revenue growth could suffer, which could have a material adverse effect on our business, financial condition and results of operations. Moreover, these strategic partnerships may be non-exclusive, and some of our strategic partners may also have cooperative relationships with certain of our competitors. These relationships may not continue, may not be commercially successful or may require our expenditure of significant financial, personnel and administrative resources from time to time. If we are unable to leverage our existing and future strategic partnerships to achieve and maintain distribution at a global scale or establish and maintain a broad product portfolio, it could have a material adverse effect on our business, financial condition and results of operations.

We face significant competition, and if we are unable to compete effectively, we may not be able to achieve or maintain significant market penetration or improve our results of operations.

The medical device industry is intensely competitive, subject to rapid change and significantly affected by new product introductions and other market activities of industry participants. We compete with manufacturers and distributors of cardiovascular medical devices. Our most significant competitors in the electrophysiology field include Abbott Laboratories, Biosense Webster Inc. (a Johnson & Johnson Company), Boston Scientific Corporation and Medtronic plc. Many of our competitors are large, well-capitalized companies with significantly greater market share and resources than we have. Therefore, they can spend more on product development, marketing, sales and other product initiatives than we can. We also compete with smaller medical device companies that have a single product or a limited range of products. Some of our competitors have:

- significantly greater name recognition;
- broader or deeper relations with healthcare professionals, customers and third-party payors;
- more established distribution networks;
- additional lines of products and the ability to offer rebates or bundle products to offer greater discounts or other incentives to gain a competitive advantage;
- greater experience in conducting research and development, manufacturing, clinical trials, marketing and obtaining regulatory clearance or approval for products; and
- greater financial and human resources for product development, sales and marketing and patent prosecution.

We compete primarily on the basis that our products are designed to enable more physicians to treat more patients more efficiently and effectively. Our continued success depends on our ability to:

- continue to develop innovative, proprietary products that address significant clinical needs in a manner that is safe and effective for patients and easy-to-use for physicians;
- obtain and maintain regulatory clearances or approvals;
- demonstrate safety and effectiveness in our sponsored and third-party clinical trials;
- expand our sales force across key markets to increase physician awareness;

- leverage our strategic partnerships and alliances to achieve distribution at a global scale, broaden our product portfolio and enable and accelerate global connectivity;
- obtain and maintain coverage and adequate reimbursement for procedures using our products;
- attract and retain skilled research, development, sales and clinical personnel;
- cost-effectively manufacture, market and sell our products; and
- obtain, maintain, enforce and defend our intellectual property rights and operate our business without infringing, misappropriating or otherwise violating the intellectual property rights of others.

We can provide no assurance that we will be successful in developing new products or commercializing them in ways that achieve market acceptance. If we develop new products, sales of those products may reduce revenue generated from our existing products. Moreover, any significant delays in our product launches may significantly impede our ability to enter or compete in a given market and may reduce the sales that we are able to generate from these products. We may experience delays in any phase of a product development, including during research and development, clinical trials, regulatory review, manufacturing and marketing. Delays in product introductions could have a material adverse effect on our business, financial condition and results of operations.

If we are unable to manage the anticipated growth of our business, our future revenue and operating results may be adversely affected.

We have experienced substantial growth in our operations, and we expect to experience continued substantial growth in our business. For example, in 2019, our headcount increased by 67%, and we released five new disposable products, two hardware products, including a major generational update to our AcQMap System, and 15 software updates. This growth has placed, and will continue to place, significant demands on our management and our operational infrastructure. Any growth that we experience in the future could require us to expand our sales and marketing personnel and manufacturing operations and general and administrative infrastructure. In addition to the need to scale our organization, future growth will impose significant added responsibilities on management, including the need to identify, recruit, train and integrate additional employees. We cannot assure you that any increases in scale, related improvements and quality assurance will be successfully implemented or that appropriate personnel will be available to facilitate the growth of our business. Rapid expansion in personnel could mean that less experienced people manufacture, market and sell our products, which could result in inefficiencies and unanticipated costs, reduced quality and disruptions to our operations. In addition, rapid and significant growth may strain our administrative and operational infrastructure and could require significant capital expenditures that may divert financial resources from other projects, such as research and development of potential future products. Our ability to manage our business and growth will require us to continue to improve our operational, financial and management controls, and reporting systems and procedures. If we are unable to manage our growth effectively, including by failing to implement necessary procedures, transition to new processes or hire necessary personnel, it may be difficult for us to execute our business strategy and our business could be adversely affected.

We may not be able to develop, license or acquire new products, enhance the capabilities of our existing products to keep pace with rapidly changing technology and customer requirements or successfully manage the transition to new product offerings, any of which could have a material adverse effect on our business, financial condition and results of operations.

Our success depends on our ability to develop, license or acquire and commercialize additional products and to develop new applications for our technologies in existing and new markets, while improving the performance and cost-effectiveness of our existing products, in each case in ways that address current and anticipated customer requirements. We intend to develop and commercialize additional products through our research and development program and by licensing or acquiring additional products and technologies from third parties. Such

success is dependent upon several factors, including functionality, competitive pricing, ease of use, the safety and efficacy of our products and our ability to identify, select and acquire the rights to products and technologies on terms that are acceptable to us.

The medical device industry is characterized by rapid technological change and innovation. New technologies, techniques or products could emerge that might offer better combinations of price and performance or better address customer requirements as compared to our current or future products. Competitors, who may have greater financial, marketing and sales resources than we do, may be able to respond more quickly and effectively than we can to new or changing opportunities, technologies, standards or customer requirements. Any new product we identify for internal development, licensing or acquisition may require additional development efforts prior to commercial sale, including extensive clinical testing and approval or clearance by the FDA and applicable foreign regulatory authorities. Due to the significant lead time and complexity involved in bringing a new product to market, we are required to make a number of assumptions and estimates regarding the commercial feasibility of a new product. These assumptions and estimates may prove incorrect, resulting in our introduction of a product that is not competitive at the time of launch. We anticipate that we will face increased competition in the future as existing companies and competitors develop new or improved products and as new companies enter the market with new technologies. Our ability to mitigate downward pressure on our selling prices will be dependent upon our ability to maintain or increase the value we offer to hospitals, physicians, patients and payors. All new products are prone to the risks of failure inherent in medical device product development, including the possibility that the product will not be shown to be sufficiently safe and effective for approval or clearance by regulatory authorities. In addition, we cannot assure you that any such products that are approved or cleared will be manufactured or produced economically, successfully commercialized or widely accepted in the marketplace. The expenses or losses associated with unsuccessful product development or launch activities, or a lack of market acceptance of our new products, could adversely affect our business, financial condition and results of operations.

Our ability to attract new customer accounts and increase revenue from existing customers depends in large part on our ability to enhance and improve our existing products and to introduce compelling new products. The success of any enhancement to our products depends on several factors, including our ability to drive increased installations of our AcQMap console and workstation in customer accounts, timely completion and delivery, competitive pricing and overall market acceptance. Any new product that we develop may not be introduced in a timely or cost-effective manner, may contain defects or may not achieve the market acceptance necessary to generate significant revenue. If we are unable to successfully develop, license or acquire new products, enhance our existing products to meet customer requirements or otherwise gain market acceptance, our business, financial condition and results of operations would be harmed.

The typical development cycle of new medical device products can be lengthy and complicated and may require complex technology and engineering. Such developments may involve external suppliers and service providers, making the management of development projects complex and subject to risks and uncertainties regarding timing, timely delivery of required components or services and satisfactory technical performance of such components or assembled products. If we do not achieve the required technical specifications or successfully manage new product development processes, or if development work is not performed according to schedule, then such new technologies or products may be adversely impacted and our business and operating results may be harmed.

Our quarterly and annual results may fluctuate significantly and may not fully reflect the underlying performance of our business.

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 other period should not be relied upon as an indication of future performance. Our quarterly and annual financial results may fluctuate 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. Factors that may cause fluctuations in our quarterly and annual results include, without limitation:

- the level of demand for our products, which may vary significantly from period to period;
- expenditures that we may incur to acquire, develop or commercialize additional products and technologies;
- the timing and cost of clinical trials, including obtaining regulatory approvals or clearances for planned or future products;
- the rate at which we grow our sales force and the speed at which newly hired salespeople become effective, and the cost and level of investment therein;
- the degree of competition in our industry and any change in the competitive landscape of our industry, including consolidation among our competitors or future partners;
- coverage and reimbursement policies with respect to the procedures using our products and potential future products that compete with our products;
- the timing and success or failure of clinical trials for our current or planned products or any future products we develop or competing products;
- the timing of customer orders or medical procedures, the timing and number of installations of our AcQMap console and workstation, the number of available selling days in a particular period, which can be impacted by a number of factors, such as holidays or days of severe inclement weather in a particular geography, the mix of products sold and the geographic mix of where products are sold;
- the timing and cost of, and level of investment in, research, development, regulatory approval and commercialization activities relating to our products, which may change from time to time;
- 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 and manufacturers;
- natural disasters, outbreaks of disease or public health crises, such as the COVID-19 pandemic;
- the timing and nature of any future acquisitions or strategic partnerships; and
- future accounting pronouncements or changes in our accounting policies.

Because our quarterly and annual 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.

In addition, this variability and unpredictability could result in our failing 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 may result in a decrease in the price of our common stock.

We depend upon third-party suppliers, including single-source suppliers, making us vulnerable to supply disruptions and price fluctuations.

We rely on third-party suppliers to provide us with certain components of our products, some of which are single-source suppliers. In some cases, we do not have long-term supply agreements with, or guaranteed commitments from, our suppliers, including single-source suppliers. We depend on our suppliers to provide us and our customers with materials in a timely manner that meet our and their quality, quantity and cost requirements. These suppliers may encounter problems during manufacturing for a variety of reasons, any of which could delay or impede their ability to meet our demand. For example, in response to an outbreak of

COVID-19, the single-source supplier of flex circuits for one of our products temporarily suspended production for a period of approximately one week in the first quarter of 2020. Our suppliers may also cease producing the components we purchase from them or otherwise decide to cease doing business with us. Any supply interruption from our suppliers or failure to obtain additional suppliers for any of the components used in our products would limit our ability to manufacture our products and could have a material adverse effect on our business, financial condition and results of operations.

Adoption of our products depends upon appropriate physician training, and inadequate training may lead to negative patient outcomes, affect adoption of our products and adversely affect our business.

The success of our products depends in part on our customers' adherence to appropriate patient selection and proper techniques provided in training sessions conducted by our training faculty. For example, we train our customers to ensure correct use of our AcQMap System. However, physicians rely on their previous medical training and experience, and we cannot guarantee that all such physicians will have the necessary skills or training to effectively utilize our products. We do not control which physicians use our products or how much training they receive, and physicians who have not completed our training sessions may nonetheless attempt to use our products. If physicians use our products in a manner that is inconsistent with their labeled indications, with components that are not compatible with our products or without adhering to or completing our training sessions, their patient outcomes may not be consistent with the outcomes achieved by other physicians or in our clinical trials. This result may negatively impact the perception of patient benefit and safety and limit adoption of our products, which would have a material adverse effect on our business, financial condition and results of operations.

Defects or failures associated with our products could lead to recalls, safety alerts or litigation, as well as significant costs and negative publicity.

Our business is subject to significant risks associated with manufacture, distribution and use of medical devices that are placed inside the human body, including the risk that patients may be severely injured by or even die from the misuse or malfunction of our products caused by design flaws or manufacturing defects. In addition, component failures, design defects, off-label uses or inadequate disclosure of product-related information could also result in an unsafe condition or the injury or death of a patient. These problems could lead to a recall or market withdrawal of, or issuance of a safety alert relating to, our products and could result in significant costs, negative publicity and adverse competitive pressure. For example, in February 2020, we initiated a voluntary recall of a total of 120 of our AcQGuide Flex and AcQGuide Mini sheaths due to product defects that we determined arose during the manufacturing process by one of our contract manufacturers. Although this issue has been corrected and did not cause any patient injury, as the recalled products had not been placed into service, customer satisfaction problems early in a product's launch can have a lasting negative impact on our reputation or on our ability to sell such product. Furthermore, the reporting of product defects or voluntary recalls to the FDA or analogous regulatory bodies outside the United States could result in manufacturing audits, inspections and broader recalls or other disruptions to our manufacturing processes. The circumstances giving rise to recalls are unpredictable, and any recalls of existing or future products could have a material adverse effect on our business, financial condition and results of operations.

We provide a limited warranty that our products are free of material defects and conform to specifications, and offer to repair, replace or refund the purchase price of defective products. As a result, we bear the risk of potential warranty claims on our products. In the event that we attempt to recover some or all of the expenses associated with a warranty claim against us from our suppliers or vendors, we may not be successful in claiming recovery and any recovery from such vendor or supplier may not be adequate.

The medical device industry has historically been subject to extensive litigation over product liability claims. We may be subject to product liability claims if our products cause, or merely appear to have caused, an injury or death, even if due to physician error. In addition, an injury or death that is caused by the activities of our

suppliers, such as those that provide us with components and raw materials, or by an aspect of a treatment used in combination with our products, such as a complementary drug or anesthesia, may be the basis for a claim against us by patients, hospitals, physicians or others purchasing or using our products, even if our products were not the actual cause of such injury or death. We may choose to settle any such claims even if we believe that such injuries were not due to failure of our products. An adverse outcome of any such claim involving one of our products could result in reduced market acceptance and demand for any or all of our products and could harm our reputation or brand and our ability to market our products in the future. In some circumstances, adverse events arising from or associated with the design, manufacture or marketing of our products could result in the suspension or delay of regulatory reviews of our premarket notifications or applications for marketing. Any of the foregoing problems could disrupt our business and have a material adverse effect on our business, financial condition and results of operations.

Although we carry product liability insurance, including for clinical trials and product marketing, we can give no assurance that such coverage will be available or adequate to satisfy any claims. Product liability insurance is expensive, subject to significant deductibles and exclusions, and may not continue to be available on acceptable terms, if at all. 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, significantly increase our expenses, and reduce product sales. If we are unable to obtain or maintain insurance at an acceptable cost or on acceptable terms with adequate coverage or otherwise protect against potential product liability claims, we could be exposed to significant liabilities. Product liability claims could cause us to incur significant legal fees and deductibles and claims in excess of our insurance coverage would be paid out of cash reserves, harming our financial condition and operating results. Defending a suit, regardless of its merit or eventual outcome, could be costly, could divert management's attention from our business and might result in adverse publicity, which could result in reduced acceptance of our products in the market, product recalls or market withdrawals.

We are required to file adverse event reports under Medical Device Reporting, or MDR, regulations with the FDA, which reports are publicly available on the FDA's website. We are required to file MDRs if our products may have caused or contributed to a serious injury or death or malfunctioned in a way that could likely cause or contribute to a serious injury or death if it were to recur. Any such MDR that reports a significant adverse event could result in negative publicity, which could harm our reputation and future sales. See "—Risks Related to Government Regulation—If any of our products cause or contribute to a death or a serious injury or malfunction in certain ways, we will be required to report under applicable medical device reporting regulations, which can result in voluntary corrective actions or agency enforcement actions."

Coverage and adequate reimbursement may not be available for the procedures that utilize our products, which could diminish our sales or affect our ability to sell our products profitably.

In both U.S. and non-U.S. markets, our ability to successfully commercialize and achieve market acceptance of our products depends, in significant part, on the availability of adequate financial coverage and reimbursement from third-party payors, including governmental payors (such as the Medicare and Medicaid programs in the United States), managed care organizations and private health insurers. Third-party payors decide which treatments they will cover and establish reimbursement rates for those treatments. Our products are purchased by hospitals and other providers who will then seek reimbursement from third-party payors for the procedures performed using our products. Reimbursement systems in international markets vary significantly by country and by region within some countries, and reimbursement approvals must be obtained on a country-by-country basis. In certain international markets, a product must be approved for reimbursement before it can be approved for sale in that country. Furthermore, many international markets have government-managed healthcare systems that control reimbursement for new devices and procedures. In most markets there are private insurance systems as well as government-managed systems.

While third-party payors currently cover and provide reimbursement for procedures using our currently cleared or approved products, we can give no assurance that these third-party payors will continue to provide

coverage and adequate reimbursement for the procedures using our products, to permit hospitals and doctors to offer procedures using our products to patients requiring treatment, or that current reimbursement levels for procedures using our products will continue. If sufficient coverage and reimbursement is not available for the procedures using our products, in either the United States or internationally, the demand for our products and our revenue will be adversely affected. Furthermore, although we believe there is potential to improve on the current reimbursement profile for our products in the future, the overall amount of reimbursement available for procedures intended to diagnose and treat complex heart arrhythmias could remain at current levels or decrease in the future. Failure by hospitals and other users of our products to obtain and maintain coverage and adequate reimbursement for the procedures using our products would materially adversely affect our business, financial condition and results of operations.

Third-party payors are also increasingly examining the cost effectiveness of products, in addition to their safety and efficacy, when making coverage and payment decisions. Third-party payors have also instituted initiatives to limit the growth of healthcare costs using, for example, price regulation or controls and competitive pricing programs. Some third-party payors also require demonstrated superiority, on the basis of randomized clinical trials, or pre-approval of coverage, for new or innovative devices or procedures before they will reimburse healthcare providers who use such devices or procedures. Additionally, no uniform policy for coverage and reimbursement exists in the United States, and coverage and reimbursement can differ significantly from payor to payor. Third-party payors often rely upon Medicare coverage policy and payment limitations in setting their own reimbursement rates, but also have their own methods and approval process apart from Medicare determinations. It is uncertain whether our current products or any planned or future products will be viewed as sufficiently cost effective to warrant coverage and adequate reimbursement levels for procedures using such products in any given jurisdiction.

Our operations and financial results have been, and will continue to be, adversely impacted by the COVID-19 pandemic in the United States and the rest of the world.

In December 2019, COVID-19 was reported to have surfaced in Wuhan, China, resulting in significant disruptions to Chinese manufacturing and travel. COVID-19 has now spread to virtually all other countries, including the United States, resulting in the World Health Organization characterizing COVID-19 as a pandemic. As a result of measures imposed by the governments in affected regions, many commercial activities, businesses and schools have been suspended as part of quarantines, shelter-in-place orders and other measures intended to contain this pandemic.

The COVID-19 pandemic and the measures imposed to contain this pandemic have disrupted and are expected to continue to impact our business. For example, on March 19, 2020, the Executive Department of the State of California issued Executive Order N-33-20, ordering all individuals in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors. Our primary operations are located in Carlsbad, California. As a result of such order, the majority of our employees have telecommuted, which may impact certain of our operations over the near term and long term. Moreover, beginning in March 2020, access to hospitals and other customer sites has been restricted to essential personnel, which has negatively impacted our ability to install our AcQMap consoles and workstations in new customer accounts and for our sales representatives and mappers to promote the use of our products with physicians. Moreover, hospitals and other therapeutic centers have suspended many elective procedures, resulting in a significantly reduced volume of procedures using our products. In addition, all clinical trials in Europe have been suspended with follow-ups for clinical trials done via telecom, and we believe enrollment timing in our planned clinical trials will be slowed due to COVID-19 driven delayed access to enrollment sites. As the COVID-19 pandemic continues to spread around the globe, the impact may be prolonged and we may experience additional disruptions that could severely impact our business, including:

- significant interruptions to, or temporary closures of, our operations, including our manufacturing facility or our commercial organization;

- adverse effects of the COVID-19 pandemic on macroeconomic conditions as well as within the economies and financial markets of specific regions in which our products are marketed;
- continued depressed demand for installations of our AcQMap console and workstation and for our disposable products during a prolonged delay in physicians performing elective procedures using our products, or due to focusing their resources elsewhere;
- continued or increased delays or difficulties in enrolling patients in our clinical trials or the interruption or delay of key clinical trial activities, such as clinical trial site monitoring, due to limitations on access to trial sites or limitations on travel imposed or recommended by federal or state governments, employers and others;
- limitations in resources that would otherwise be focused on the conduct of our business, including because of sickness or the desire to avoid contact with large groups of people or as a result of government-imposed shelter-in-place or similar working restrictions;
- difficulties in recruitment of qualified sales and marketing personnel and mappers during a period in which we are seeking to significantly expand our commercial organization; and
- interruption in global shipping that may affect the shipment of our products or the transport of clinical trial materials.

We are still assessing the impact that COVID-19 may have on our ability to effectively conduct our business operations as planned and there can be no assurance that we will be able to avoid a material impact on our business from the spread of COVID-19 or its consequences, including disruption to our business and downturns in business sentiment generally or in our industry. As a result of the interruptions to our business due to COVID-19, we have enacted a cash conservation program, which includes delaying certain non-critical capital expenditures and other projects, implementing a hiring freeze and temporary compensation and headcount reductions throughout our organization.

Additionally, certain third parties with whom we engage, including our strategic partners, third-party manufacturers, suppliers, clinical trial sites, regulators and other third parties with whom we conduct business are similarly adjusting their operations and assessing their capacity in light of the COVID-19 pandemic. If these third parties experience shutdowns or continued business disruptions, our ability to conduct our business in the manner and on the timelines presently planned could be materially and negatively impacted. For example, in response to an outbreak of COVID-19, the single-source supplier of flex circuits for one of our products temporarily suspended production for a period of approximately one week in the first quarter of 2020. Quarantines, shelter-in-place and similar government orders may continue to impact our third-party manufacturers and suppliers and could in turn adversely impact the availability or cost of materials, which could disrupt our supply chain.

The global outbreak of COVID-19 continues to rapidly evolve. The magnitude of the impact of the COVID-19 pandemic on our productivity, results of operations and financial position, and its disruption to our business and our clinical programs and timelines, will depend, in part, on the length and severity of these restrictions and on our ability to conduct business in the ordinary course.

The continuing development of our products depends upon our maintaining strong working relationships with hospitals, physicians and other medical personnel.

The research, development, marketing and sale of our current products and potential new and improved products for which we receive regulatory clearance or approval depend upon our maintaining working relationships with hospitals, physicians and other medical personnel. We rely on these relationships to provide us with considerable knowledge and experience regarding the development, marketing and sale of our products. For

example, physicians assist us in clinical trials and in marketing and as researchers, product consultants and public speakers. If we cannot maintain our strong working relationships and continue to receive such advice and input, the development and marketing of our products could suffer, which could have a material adverse effect on our business, financial condition and results of operations.

At the same time, the medical device industry's relationship with physicians is under increasing scrutiny by the U.S. Department of Health and Human Services Office of Inspector General, or OIG, the U.S. Department of Justice, or DOJ, the state attorney generals and other foreign and domestic government agencies. Our failure to comply with requirements governing the industry's relationships with physicians or an investigation into our compliance by the OIG, the DOJ, state attorney generals and other government agencies, could have a material adverse effect on our business, financial condition and results of operations. Additional information regarding the laws impacting our relationships with physicians and other healthcare professionals can be found below under "—Risks Related to Government Regulation."

We depend on our senior management team and the loss of one or more key employees or an inability to attract and retain highly skilled employees could harm our business.

Our success depends largely on the continued services of key members of our executive management team and others in key management positions. We do not currently maintain key person life insurance policies on any of our employees. If we lose one or more key employees, we may experience difficulties in competing effectively, developing our technologies and implementing our business strategy.

In addition, our research and development programs, clinical operations and sales and marketing efforts depend on our ability to attract and retain highly skilled scientists, engineers and sales professionals. Competition for skilled personnel in our market is intense, and we have from time to time experienced, and we expect to continue to experience, difficulty in hiring and retaining employees with appropriate qualifications on acceptable terms, or at all. Many of the companies with which we compete for experienced personnel have greater resources than we do, and any of our employees may terminate their employment with us at any time. If we hire employees from competitors or other companies, their former employers may attempt to assert that these employees or we have breached legal obligations, resulting in a diversion of our time and resources and, potentially, damages. In addition, job candidates and existing employees often consider the value of the stock awards they receive in connection with their employment. If the perceived benefits of our stock awards decline, it may harm our ability to recruit and retain highly skilled employees. If we fail to attract new personnel or fail to retain and motivate our current personnel, our business and future growth prospects would be harmed.

Our results of operations could be materially harmed if we are unable to accurately forecast customer demand for our products and manage our inventory.

We seek to maintain sufficient levels of inventory in order to protect ourselves from supply interruptions, but keep limited components, sub-assemblies, materials and finished products on hand. To ensure adequate inventory supply and manage our operations with our third-party manufacturers and suppliers, we forecast anticipated materials requirements and demand for our products in order to predict inventory needs and then place orders with our suppliers based on these predictions. Our ability to accurately forecast demand for our products could be negatively affected by many factors, including our limited historical commercial experience, rapid growth, failure to accurately manage our expansion strategy, product introductions by competitors, an increase or decrease in customer demand for our products, 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, including as a result of our introduction of product enhancements, may result in a portion of our inventory becoming obsolete or expiring, as well as inventory write-downs or write-offs, which could have a material adverse effect on our business, financial condition and

results of operations. Conversely, if we underestimate customer demand for our products or our own requirements for components, subassemblies and materials, our third-party manufacturers and suppliers may not be able to deliver components, sub-assemblies and materials to meet our requirements, which could result in inadequate inventory levels or interruptions, delays or cancellations of deliveries to our customers, any of which would damage our reputation, customer relationships and business. In addition, several components, sub-assemblies and materials incorporated into our products require lengthy order lead times, and additional supplies or materials may not be available when required on terms that are acceptable to us, or at all, and our third-party manufacturers and suppliers may not be able to allocate sufficient capacity in order to meet our increased requirements, any of which could have an adverse effect on our ability to meet customer demand for our products and our business, financial condition and results of operations.

The failure of third parties to meet their contractual, regulatory, and other obligations could adversely affect our business.

We rely on suppliers, vendors, outsourcing partners, consultants, alliance partners and other third parties to research, develop, manufacture and commercialize our products. Using these third parties poses a number of risks, such as: (i) they may not perform to our standards or legal requirements; (ii) they may not produce reliable results; (iii) they may not perform in a timely manner; (iv) they may not maintain confidentiality of our proprietary information; (v) disputes may arise with respect to ownership of rights to technology developed with our partners; and (vi) disagreements could cause delays in, or termination of, the research, development or commercialization of our products or result in litigation or arbitration. Moreover, some third parties are located in markets subject to political and social risk, corruption, infrastructure problems and natural disasters, in addition to country-specific privacy and data security risk given current legal and regulatory environments. Failure of third parties to meet their contractual, regulatory and other obligations may have a material adverse effect on our business, financial condition and results of operations.

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 Group Purchasing Organizations, or GPOs, and Integrated Delivery Networks, or 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 products, 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 not be able to achieve or maintain satisfactory pricing and margins for our products.

Manufacturers of medical devices have a history of price competition, and we can give no assurance that we will be able to achieve satisfactory prices for our products or maintain prices at the levels we have historically achieved. Any decline in the amount that payors reimburse our customers for procedures involving the use of our

products could make it difficult for 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 revenue and gross margins will decrease, which will adversely affect our ability to invest in and grow our business. If we are unable to maintain our prices, or if our costs increase and we are unable to offset such increase with an increase in our prices, our margins could erode. We will continue to be subject to significant pricing pressure, which could harm our business, financial condition and results of operations.

We have significant customer concentration, with a limited number of customers accounting for a significant portion of our 2019 revenue. If we fail to retain these customers, our revenue could decline significantly.

We currently derive a significant portion of our revenue from a relatively small number of customers. Our top three and five customers accounted for 53% and 65% of our revenue in 2019, respectively. There are inherent risks whenever a large percentage of revenue is concentrated with a limited number of customers. Our revenue could fluctuate materially and could be materially and disproportionately impacted by purchasing decisions of these customers or any other significant customer. In the future, any of our significant customers may decide to purchase less than they have in the past, may alter their purchasing patterns at any time with limited notice, or may decide not to continue to purchase our products at all, any of which could cause our revenue to decline and could have a material adverse effect on our business, financial condition and results of operations. If we do not diversify our customer base, we will continue to be susceptible to risks associated with customer concentration.

If our facilities become damaged or inoperable, or if we are required to vacate a facility, we may be unable to manufacture our products or we may experience delays in production or an increase in costs, which could adversely affect our results of operations.

We currently maintain our research and development, manufacturing and administrative operations in a building located in Carlsbad, California, and we do not have redundant facilities. Should our building be significantly damaged or destroyed by natural or man-made disasters, such as earthquakes, fires (both of which are prevalent in California) or other events, it could take months to relocate or rebuild, during which time our employees may seek other positions, our research, development and manufacturing would cease or be delayed and our products may be unavailable. Because of the time required to authorize manufacturing in a new facility under federal, state and non-U.S. regulatory requirements, we may not be able to resume production on a timely basis even if we are able to replace production capacity. While we maintain property and business interruption insurance, such insurance has limits and would not cover all damages, including losses caused by earthquakes or losses we may suffer due to our products being replaced by competitors' products. The inability to perform our research, development and manufacturing activities if our facilities become inoperable, combined with our limited inventory of materials and components and manufactured products, may cause physicians to discontinue using our products or harm our reputation, and we may be unable to re-establish relationships with such physicians in the future. Consequently, a catastrophic event at our current facility or any future facilities could have a material adverse effect on our business, financial condition and results of operations.

Furthermore, the current lease for our manufacturing facility expires at the end of 2022, and we may be unable to renew our lease or find a new facility on commercially reasonable terms. If we were unable or unwilling to renew at the proposed rates, relocating our manufacturing facility would involve significant expense in connection with the movement and installation of key manufacturing equipment and any necessary recertification with regulatory bodies, and we cannot assure you that such a move would not delay or otherwise adversely affect our manufacturing activities or operating results. If our manufacturing capabilities were impaired by our move, we may not be able to manufacture and ship our products in a timely manner, which would adversely impact our business.

We have limited experience manufacturing our products in commercial quantities, which could harm our business.

Because we have only limited experience in manufacturing our products in commercial quantities, we may encounter production delays or shortfalls. Such production delays or shortfalls may be caused by many factors, including the following:

- our intent to expand our manufacturing capacity, as a result of which our production processes may have to change;
- key components of our products are provided by a single supplier or limited number of suppliers, and we do not maintain large inventory levels of these components; if we experience a shortage or quality issues in any of these components, we would need to identify and qualify new supply sources, which could increase our expenses and result in manufacturing delays;
- a delay in completing validation and verification testing for new controlled environment rooms at our manufacturing facilities;
- state and federal regulations, including the FDA's Quality System Regulation, or QSR, for the manufacture of our products, noncompliance with which could cause an interruption in our manufacturing; and
- attraction and retention of qualified employees for our operations in order to significantly increase our manufacturing output.

If we are unable to keep up with demand for our products, our growth could be impaired, and market acceptance for our products could be harmed and physicians may instead elect to use our competitors' products. Our inability to successfully manufacture our products in sufficient quantities would materially harm our business.

In addition, our manufacturing facilities and processes and those of our third-party suppliers are subject to unannounced FDA and state regulatory inspections for compliance with the QSR. Developing and maintaining a compliant quality system is time consuming and expensive. Failure to maintain compliance with, or not fully complying with the requirements of the FDA and state regulators, could result in enforcement actions against us or our third-party suppliers, which could include the issuance of warning letters, seizures, prohibitions on product sales, recalls and civil and criminal penalties, any one of which could significantly impact our manufacturing supply and impair our financial results.

Technological change may adversely affect sales of our products and may cause our products to become obsolete.

The medical device market is characterized by extensive research and development and rapid technological change. There can be no assurance that other companies, including current competitors or new entrants, will not succeed in developing or marketing products that are more effective than our products or that would render our products obsolete or noncompetitive. Additionally, new surgical procedures, medications and other therapies could be developed that replace or reduce the importance of our products. If we are unable to innovate successfully, our products could become obsolete and our revenue would decline as our customers purchase our competitors' products. Our failure to develop new products, applications or features could result from insufficient cash resources, high employee turnover, inability to hire personnel with sufficient technical skills, a lack of other research and development resources or other constraints. Our failure or inability to devote adequate research and development resources or compete effectively with the research and development programs of our current or future competitors could have a material adverse effect on our business, financial condition and results of operations.

Consolidation in the medical device industry could have an adverse effect on our revenue and results of operations.

Many medical device companies are consolidating to create new companies with greater market power. As the medical device industry consolidates, competition to provide goods and services to industry participants will become more intense. These industry participants may try to use their market power to negotiate price concessions or reductions for our products. If we reduce our prices because of consolidation in the healthcare industry, our revenue would decrease, which could have a material adverse effect on our business, financial condition and results of operations.

We have limited data and experience regarding the safety and efficacy of our products. Results of earlier trials may not be predictive of future clinical trial results, and planned trials may not establish an adequate safety or efficacy profile for such products and other planned or future products, which would affect market acceptance of these products.

We have performed clinical trials with only limited patient populations. The long-term effects of using our products in a large number of patients have not been studied and the results of short-term clinical use of such products do not necessarily predict long-term clinical benefits or reveal long-term adverse effects. The results of clinical trials of our products conducted to date and ongoing or future trials 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 other patient populations. 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 and subsequently failed to obtain marketing approval. 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.

If our clinical trials are unsuccessful or significantly delayed, or if we do not complete our clinical trials, our business may be harmed.

Clinical development is a long, expensive and uncertain process and is subject to delays and the risk that products may ultimately prove unsafe or ineffective in treating the indications for which they are designed. Completion of clinical trials may take several years or more. Clinical trials can be delayed for a variety of reasons, including delays in obtaining regulatory approval to commence a trial, in reaching an agreement on acceptable clinical trial terms with prospective sites, in obtaining institutional review board approval at each site, in recruiting patients to participate in a trial or in obtaining sufficient supplies of clinical trial materials.

We cannot provide any assurance that we will successfully, or in a timely manner, enroll our clinical trials, that our clinical trials will meet their primary endpoints or that such trials or their results will be accepted by the FDA or foreign regulatory authorities.

We may experience numerous unforeseen events during, or because of, the clinical trial process that could delay or prevent us from receiving regulatory clearance or approval for new products or modifications of existing products, including new indications for existing products, including:

- enrollment in our clinical trials may be slower than we anticipate, or we may experience high screen failure rates in our clinical trials, resulting in significant delays;
- our clinical trials may produce negative or inconclusive results, and we may decide, or regulators may require us, to conduct additional clinical and/or preclinical testing which may be expensive and time-consuming;
- trial results may not meet the level of statistical significance required by the FDA or other regulatory authorities;

- the FDA or similar foreign regulatory authorities may find the product is not sufficiently safe for investigational use in humans;
- the FDA or similar foreign regulatory authorities may interpret data from preclinical testing and clinical trials in different ways than we do;
- there may be delays or failure in obtaining approval of our clinical trial protocols from the FDA or other regulatory authorities;
- there may be delays in obtaining institutional review board approvals or governmental approvals to conduct clinical trials at prospective sites;
- the FDA or similar foreign regulatory authorities may find our or our suppliers' manufacturing processes or facilities unsatisfactory;
- the FDA or similar foreign regulatory authorities may change their review policies or adopt new regulations that may negatively affect or delay our ability to bring a product to market or receive approvals or clearances to treat new indications;
- we may have trouble in managing multiple clinical sites;
- we may have trouble finding patients to enroll in our trials;
- we may experience delays in agreeing on acceptable terms with third-party research organizations and trial sites that may help us conduct the clinical trials; and
- we, or regulators, may suspend or terminate our clinical trials because the participating patients are being exposed to unacceptable health risks.

Failures or perceived failures in our clinical trials will delay and may prevent our product development and regulatory approval process, damage our business prospects and negatively affect our reputation and competitive position.

Clinical trials may be delayed, suspended or terminated for many reasons, which will increase our expenses and delay the time it takes to develop new products or seek new indications.

We may experience delays in our ongoing or future preclinical studies or clinical trials, and we do not know whether future preclinical studies or clinical trials will begin on time, need to be redesigned, enroll an adequate number of patients on time or be completed on schedule, if at all. The commencement and completion of clinical trials for future products or indications may be delayed, suspended or terminated as a result of many factors, including:

- the FDA or other regulators disagreeing as to the design, protocol or implementation of our clinical trials;
- the delay or refusal of regulators or institutional review boards, or IRBs, to authorize us to commence a clinical trial at a prospective trial site;
- changes in regulatory requirements, policies and guidelines;
- delays or failure to reach agreement on acceptable terms with prospective clinical 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;
- delays in patient enrollment and variability in the number and types of patients available for clinical trials;
- the inability to enroll a sufficient number of patients in trials to observe statistically significant treatment effects in the trial;

- having clinical sites deviate from the trial protocol or dropping out of a trial;
- negative or inconclusive results from ongoing preclinical studies or clinical trials, which may require us to conduct additional preclinical studies or clinical trials or to abandon projects that we expect to be promising;
- safety or tolerability concerns that could cause us to suspend or terminate a trial if we find that the participants are being exposed to unacceptable health risks;
- reports from preclinical or clinical testing of other similar therapies that raise safety or efficacy concerns;
- regulators or IRBs requiring that we or our investigators suspend or terminate clinical research for various reasons, including noncompliance with regulatory requirements or safety concerns, among others;
- lower than anticipated retention rates of patients and volunteers in clinical trials;
- our CROs or clinical trial sites failing to comply with regulatory requirements or meet their contractual obligations to us in a timely manner, or at all, deviating from the protocol or dropping out of a trial;
- delays relating to adding new clinical trial sites;
- difficulty in maintaining contact with patients after treatment, resulting in incomplete data;
- the quality of the products falling below acceptable standards;
- the inability to manufacture sufficient quantities of our products to commence or complete clinical trials; and
- exceeding budgeted costs due to difficulty in accurately predicting costs associated with clinical trials.

We could also encounter delays if a clinical trial is suspended or terminated by us, by the IRBs or the Ethics Committees of institutions at which such trials are being conducted, by the Data Safety Monitoring Board for such trial or by the FDA or other regulatory authorities. Such authorities may suspend or terminate a clinical trial due to a number of factors, including failure to conduct the clinical trial in accordance with regulatory requirements, including the FDA's current Good Clinical Practice, or GCP, regulations, or our clinical protocols, inspection of the clinical trial operations or trial site by the FDA resulting in the imposition of a clinical hold, unforeseen safety issues or adverse side effects, failure to demonstrate safety and effectiveness, changes in governmental regulations or administrative actions or lack of adequate funding to continue the clinical trial.

In addition, we may encounter delays if the FDA concludes that our financial relationships with investigators result in a perceived or actual conflict of interest that may have affected the interpretation of a trial, the integrity of the data generated at the applicable clinical trial site or the utility of the clinical trial itself. Principal investigators for our clinical trials may serve as scientific advisors or consultants to us from time to time and receive cash compensation and/or stock-based compensation in connection with such services. If these relationships and any related compensation to or ownership interest by the clinical investigator carrying out the trial result in perceived or actual conflicts of interest, or if the FDA concludes that the financial relationship may have affected interpretation of the trial, the integrity of the data generated at the applicable clinical trial site may be questioned and the utility of the clinical trial itself may be jeopardized, which could result in a delay or rejection by the FDA. Any such delay or rejection could prevent us from commercializing any of our products currently in development.

If we experience delays in the commencement or completion of any clinical trial of our products, or if any of our clinical trials are terminated, the commercial prospects of our products may be harmed, and our ability to generate revenue from sales may be delayed or materially diminished.

We do not know whether any of our future preclinical studies or clinical trials will begin as planned, will need to be restructured or will be completed on schedule, or at all. Any delays in completing our clinical trials

will increase our costs, slow down our product development and approval process and jeopardize our ability to commence sales and generate associated revenue. Any of these occurrences may significantly harm our business, financial condition and results of operations. 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, suspension or revocation of expanded regulatory clearance or approval of our products. Significant preclinical study or clinical trial delays also could shorten any periods during which we may have the exclusive right to commercialize our products or allow our competitors to bring products to market before we do and impair our ability to successfully commercialize our products.

Economic conditions may adversely affect our business.

Adverse worldwide economic conditions, including those related to the COVID-19 pandemic, may negatively impact our business. A significant change in the liquidity or financial condition of our customers could cause unfavorable trends in their purchases and also in our receivable collections, and additional allowances may be required, which could adversely affect our business, financial condition and results of operations. Adverse worldwide economic conditions may also adversely impact our suppliers' ability to provide us with materials and components, which could have a material adverse effect on our business, financial condition and results of operations.

The sizes of the markets for our current and future products have not been established with precision and may be smaller than we estimate.

Our estimates of the total addressable markets for our current products and products under development are based on a number of internal and third-party estimates, including, without limitation, the number of patients with cardiac arrhythmias and the assumed prices at which we can sell our products in markets that have not been established or that we have not yet entered. 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 estimates. As a result, our estimates of the total addressable market for our current or future products may prove to be incorrect. If the actual number of patients who would benefit from our products, the price at which we can sell products, or the total addressable market for our products is smaller than we have estimated, it may impair our sales growth and have an adverse impact on our business.

The use, misuse or off-label use of our products may result in injuries that lead to product liability suits, which could be costly to our business.

Our products have been cleared by the FDA for the treatment of complex heart arrhythmias. If physicians expand the patient population in which they elect to use our products that is outside of the intended use approved or cleared by the FDA, then the use, misuse or off-label use of our products may result in outcomes and adverse events including stroke and death, potentially leading to product liability claims. Our products are not indicated for use in all patients with complex heart arrhythmias, and therefore cannot be marketed or advertised in the United States for certain uses without additional clearances from the FDA. However, we cannot prevent a physician from using our products for off-label applications or using components or products that are not our products. In addition, we cannot guarantee that physicians are trained by us or their peers prior to utilizing our products. Complications resulting from the use of our products off-label or use by physicians who have not been trained appropriately, or at all, may expose us to product liability claims and harm our reputation. Moreover, if the FDA determines that our promotional materials or physician training, including our paid consultants' educational materials, constitutes promotion of an off-label use, it could request that we modify our training or promotional materials or subject us to enforcement action, including warning letters, untitled letters, fines, penalties or seizures. If we are found to have promoted such off-label uses, we may become subject to significant liability. The federal government has levied large civil and criminal fines and/or other penalties against companies for alleged improper promotion and has investigated, prosecuted and/or enjoined several companies from engaging in off-label promotion.

We may acquire other companies or technologies, which could fail to result in a commercial product or net sales, divert our management's attention, result in additional dilution to our stockholders and otherwise disrupt our operations and harm our operating results.

We have acquired, and may in the future seek to acquire or invest in, additional businesses, products or technologies that we believe could complement or expand our portfolio, enhance our technical capabilities or otherwise offer growth opportunities. For example, in June 2019, we added an integrated product family of transseptal crossing and steerable introducer systems to our product portfolio through our acquisition of Rhythm Xience and in July 2019, we acquired our AcQBlate Force sensing system and product line and Qubic Force device from Biotronik pursuant to the Biotronik License Agreement. However, we have limited experience in acquiring other businesses, products or technologies. The process of integrating an acquired company, business or technology may create unforeseen operating challenges, risks and expenditures, including that the acquisitions do not advance our corporate strategy, that we get an unsatisfactory return on our investment, that the acquisitions distract management, or that we may have difficulty: (i) integrating an acquired company's accounting, financial reporting, management information and information security, human resource and other administrative systems to permit effective management; (ii) integrating the controls, procedures and policies at companies we acquire into our internal control over financial reporting; and (iii) transitioning the acquired company's operations, suppliers and customers to us. It may take longer than expected to realize the full benefits from these acquisitions, such as increased revenue, enhanced efficiencies or increased market share, or the benefit may ultimately be smaller than we expected. Moreover, if any of our acquisitions or investments increase our international operations, it would expose us to additional risks relating to operating outside the United States, including increased operational and regulatory risks. Our failure to address these risks or other problems encountered in connection with our past or future acquisitions and investments could cause us to fail to realize the anticipated benefits of such acquisitions or investments, incur unanticipated liabilities and harm our business generally. If an acquired business, product or technology fails to meet our expectations or results in unanticipated costs and expenses, our business, financial condition and results of operations may suffer.

We also cannot assure you that we would be able to successfully complete any acquisition we choose to pursue, or that we would be able to successfully integrate any acquired business, product or technology in a cost-effective and non-disruptive manner. The pursuit of potential acquisitions may divert the attention of management and cause us to incur various costs and expenses in identifying, investigating and pursuing suitable acquisitions, whether or not they are consummated. We may not be able to identify desirable acquisition targets or be successful in entering into an agreement with any particular target or obtain the expected benefits of any acquisition or investment. In addition, under our Credit Agreement, dated as of May 20, 2019, with the lenders from time to time party thereto, Wilmington Trust, National Association, as administrative agent, and OrbiMed Royalty Opportunities II, LP, or ORO II, as origination agent, or the 2019 Credit Agreement, we may require the prior written consent of such agents and the required lenders prior to consummating any acquisition or investment.

Acquisitions could also result in dilutive issuances of equity or equity-linked securities, the use of our available cash, or the incurrence of debt, whether to fund the upfront purchase price of the transaction or deferred or contingent payments we agree to as part of the transaction. For further information regarding our recent strategic transactions, see the section titled "Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources."

The terms of our 2019 Credit 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.

On May 20, 2019, we entered into the 2019 Credit Agreement. The 2019 Credit Agreement provided us with a senior term loan facility in aggregate principal amount of $70.0 million, of which $40.0 million in aggregate principal amount is outstanding as of December 31, 2019. Of the remaining amount of the facility,

$10.0 million is available for borrowing by us on or prior to June 30, 2020 and $20.0 million is available for borrowing by us on or prior to December 31, 2020, in each case, subject to our achievement of specified trailing revenue levels. We could also incur additional indebtedness in the future.

Our payment obligations under the 2019 Credit Agreement reduce cash available to fund working capital, capital expenditures, research and development and general corporate needs. In addition, indebtedness under the 2019 Credit Agreement bears interest at a variable rate, making us vulnerable to increases in market interest rates. If market rates increase, we will have to pay additional interest on this indebtedness, which would further reduce cash available for our other business needs.

Our obligations under the 2019 Credit Agreement are secured by substantially all of our assets and the assets of our wholly-owned subsidiary. The security interest granted over our assets could limit our ability to obtain additional debt financing. In addition, the 2019 Credit Agreement contains customary affirmative and negative covenants restricting our activities, including limitations on: dispositions, mergers or acquisitions; encumbering our intellectual property; incurring indebtedness or liens; paying dividends or redeeming stock or making other distributions; making certain investments; liquidating our company; modifying our organizational documents; entering into sale-leaseback arrangements and engaging in certain other business transactions. In addition, we are required to maintain a minimum liquidity amount of $5.0 million. Failure to comply with the covenants in the 2019 Credit Agreement, including the minimum liquidity covenant, could result in the acceleration of our obligations under the 2019 Credit Agreement, and, if such acceleration were to occur, it would materially and adversely affect our business, financial condition and results of operations.

We may not have sufficient funds, and may be unable to arrange for additional financing, to pay the amounts due under our debt arrangements. The obligations under the 2019 Credit Agreement are subject to acceleration upon the occurrence of specified events of default, including payment default, change in control, bankruptcy, insolvency, certain defaults under other material debt, certain events with respect to regulatory approvals and a material adverse change in our business, operations or other financial condition. If an event of default (other than certain events of bankruptcy or insolvency) occurs and is continuing, ORO II may declare all or any portion of the outstanding principal amount of the borrowings plus accrued and unpaid interest to be due and payable. Upon the occurrence of certain events of bankruptcy or insolvency, all of the outstanding principal amount of the borrowings plus accrued and unpaid interest will automatically become due and payable. The 2019 Credit Agreement also provides for final payment fees of an additional $4.6 million that are due upon prepayment, on the maturity date or upon acceleration, as well as prepayment penalties.

Our outstanding indebtedness and any future indebtedness, combined with our other financial obligations, could increase our vulnerability to adverse changes in general economic, industry and market conditions, limit our flexibility in planning for, or reacting to, changes in our business and the industry and impose a competitive disadvantage compared to our competitors that have less debt or better debt servicing options.

Our results may be impacted by changes in foreign currency exchange rates.

Our reporting currency is the U.S. dollar and our sales outside the United States are primarily denominated in Euros and British Pound Sterling. For the years ended December 31, 2019 and 2018, approximately 74% and 79%, respectively, of our sales were denominated in currencies other than U.S. dollars. Our expenses are generally denominated in the currencies in which our operations are located, which is primarily in the United States and Europe. If our operations in countries outside of the United States grows, our results of operations and cash flows will be subject to fluctuations due to changes in foreign currency exchange rates, which could harm our business in the future. For example, if the value of the U.S. dollar increases relative to foreign currencies, in the absence of a corresponding change in local currency prices, our revenue could be adversely affected as we convert revenue from local currencies to U.S. dollars. In addition, because we conduct business in currencies other than U.S. dollars, but report our results of operations in U.S. dollars, we also face remeasurement exposure to fluctuations in currency exchange rates, which could hinder our ability to predict our

future results and earnings and could impact our results of operations. We do not currently maintain a program to hedge exposures to non-U.S. dollar currencies. If we are unable to address these risks effectively, it could have a material adverse effect on our business, financial condition and results of operations.

Taxing authorities may successfully assert that we should have collected or in the future should collect sales and use, gross receipts, value added or similar taxes and may successfully impose additional obligations on us, and any such assessments or obligations could adversely affect our business, financial condition and results of operations.

We have not historically collected sales and use, gross receipts, value added or similar taxes, although we may be subject to such taxes in various jurisdictions. One or more jurisdictions may seek to impose additional tax collection obligations on us, including for past sales. A successful assertion by a state, country or other jurisdiction that we should have been or should be collecting additional sales, use or other taxes on our services could, among other things, result in substantial tax liabilities for past sales, create significant administrative burdens for us, discourage users from purchasing our products or otherwise harm our business, results of operations and financial condition.

Our ability to utilize our net operating loss carryforwards may be limited.

As of December 31, 2019, we had U.S. federal and state net operating loss carryforwards, or NOLs, of approximately $199.9 million and $32.5 million, respectively. We may use these NOLs to offset against taxable income for U.S. federal and state income tax purposes. If not utilized, our U.S. federal NOLs (and our state NOLs in conforming states) arising in taxable years beginning before 2018 will begin to expire in 2031. Deductibility of U.S. federal NOLs arising in taxable years beginning after 2017 and used in taxable years beginning after 2020 is limited to 80% of our taxable income before the deduction for such NOLs. Additionally, Section 382 of the Internal Revenue Code of 1986, as amended, may limit the NOLs we may use in any year for U.S. federal income tax purposes in the event of certain changes in ownership of our company. A Section 382 “ownership change” generally occurs if one or more stockholders or groups of stockholders who own at least 5% of a company’s stock increase their ownership by more than 50 percentage points over their lowest ownership percentage within a rolling three-year period. Similar rules may apply under state tax laws. We have not conducted a 382 study to determine whether the use of our NOLs is impaired. We may have previously undergone an “ownership change.” In addition, this offering or future issuances or sales of our stock, including certain transactions involving our stock that are outside of our control, could result in future “ownership changes.” “Ownership changes” that have occurred in the past or that may occur in the future, including in connection with this offering, could result in the imposition of an annual limit on the amount of pre-ownership change NOLs and other tax attributes we can use to reduce our taxable income, potentially increasing and accelerating our liability for income taxes, and also potentially causing those tax attributes to expire unused. Any limitation on using NOLs could, depending on the extent of such limitation and the NOLs previously used, result in our retaining less cash after payment of U.S. federal and state income taxes during any year in which we have taxable income, rather than losses, than we would be entitled to retain if such NOLs were available as an offset against such income for U.S. federal and state income tax reporting purposes, which could adversely impact operating results.

If we experience significant disruptions in our information technology systems, our business may be adversely affected.

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 and inventory management. We do not have redundant information technology systems at this time. Our information technology systems may be subject to computer viruses, ransomware or other malware, attacks by computer hackers, failures during the process of upgrading or replacing software, databases or components thereof, power outages, damage or interruption from fires or other natural disasters, hardware

failures, telecommunication failures and user errors, among other malfunctions. We could be subject to any number of unintentional events that could involve a third party gaining unauthorized access to our systems, which could disrupt our operations, corrupt our data or result in release of our confidential information. Technological interruptions could disrupt our operations, including our ability to timely ship and track product orders, project inventory requirements, manage our supply chain and otherwise adequately service our customers or disrupt our customers' ability use our products for treatments. In the event we experience significant disruptions, we may be unable to repair our systems in an efficient and timely manner. Accordingly, such events may disrupt or reduce the efficiency of our entire operation and have a material adverse effect on our business, financial condition and results of operations. To the extent that any disruption or security breach were to result in a loss of, or damage to, our data or applications, or inappropriate disclosure of confidential or proprietary information, we could incur liability and the further development and commercialization of our products could be delayed or disrupted.

Currently, we carry business interruption coverage to mitigate certain potential losses but this insurance is limited in amount and may not be sufficient in type or amount to cover us against claims related to security breaches, cyber-attacks and other related data and system disruptions. We cannot be certain that such potential losses will not exceed our policy limits, insurance will continue to be available to us on economically reasonable terms, or at all, or any insurer will not deny coverage as to any future claim. In addition, we may be subject to changes in our insurance policies, including premium increases or the imposition of large deductible or co-insurance requirements. We are increasingly dependent on complex information technology to manage our infrastructure. Our information systems require an ongoing commitment of significant resources to maintain, protect and enhance our existing systems. Failure to maintain or protect our information systems and data integrity effectively could have a material adverse effect on our business, financial condition and results of operations.

Security breaches, loss of data and other disruptions could compromise sensitive information related to our business or our customer's patients or prevent us from accessing critical information and expose us to liability, which could adversely affect our business and our reputation.

In the ordinary course of our business, we may become exposed to, or collect and store sensitive data, including procedure-based information and legally protected health information, insurance information and other potentially personally identifiable information. We also store sensitive intellectual property and other proprietary business information. Although we take measures to protect sensitive information from unauthorized access or disclosure, our information technology, or IT, and infrastructure, and that of our third-party billing and collections provider and other technology partners, may be vulnerable to cyber-attacks by hackers or viruses or breached due to employee error, malfeasance or other disruptions. We rely extensively on IT systems, networks and services, including internet sites, data hosting and processing facilities and tools, physical security systems and other hardware, software and technical applications and platforms, some of which are managed, hosted, provided and/or used by third parties or their vendors, to assist in conducting our business. A significant breakdown, invasion, corruption, destruction or interruption of critical information technology systems or infrastructure, by our workforce, others with authorized access to our systems or unauthorized persons could negatively impact operations. The ever-increasing use and evolution of technology, including cloud-based computing, creates opportunities for the unintentional dissemination or intentional destruction of confidential information stored in our or our third-party providers' systems, portable media or storage devices. We could also experience a business interruption, theft of confidential information or reputational damage from industrial espionage attacks, malware or other cyber-attacks, which may compromise our system infrastructure or lead to data leakage, either internally or at our third-party providers. Although the aggregate impact on our operations and financial condition has not been material to date, we have been the target of events of this nature and expect them to continue as cybersecurity threats have been rapidly evolving in sophistication and becoming more prevalent in the industry. We are investing in protections and monitoring practices of our data and IT to reduce these risks and continue to monitor our systems on an ongoing basis for any current or potential threats. There can be no assurance, however, that our efforts will prevent breakdowns or breaches to our or our third-party

providers' databases or systems that could materially and adversely affect our business, financial condition and results of operations.

We are subject to stringent privacy laws, information security policies and contractual obligations governing the use, processing and cross-border transfer of personal information and our data privacy and security policies.

We receive, generate and store significant and increasing volumes of sensitive information, such as health information, insurance information and other potentially personally identifiable information. We face a number of risks relative to protecting this critical information, including loss of access risk, inappropriate use or disclosure, inappropriate modification and the risk of our being unable to adequately monitor, audit and modify our controls over our critical information. This risk extends to the third-party vendors and subcontractors we use to manage this sensitive data.

We are subject to a variety of local, state, national and international laws, directives and regulations that apply to the collection, use, retention, protection, disclosure, transfer and other processing of personal data in the different jurisdictions in which we operate, including comprehensive regulatory systems in the U.S. and Europe. Further, various states, such as California and Massachusetts, have implemented privacy laws and regulations that impose restrictive requirements regulating the use and disclosure of health information and other personally identifiable information. California enacted the California Consumer Privacy Act, or CCPA, which creates individual privacy rights for California consumers and increases the privacy and security obligations of entities handling certain personal data. The CCPA went into effect on January 1, 2020, and the California Attorney General may bring enforcement actions for violations beginning as early as July 1, 2020. The CCPA has been amended from time to time, and it remains unclear what, if any, further modifications will be made to this legislation or how it will be interpreted. State laws and regulations are not necessarily preempted by the Health Insurance Portability and Accountability Act of 1996, or HIPAA, particularly if a state affords greater protection to individuals than HIPAA. Where state laws are more protective, we have to comply with the stricter provisions. In addition to fines and penalties imposed upon violators, some of these state laws also afford private rights of action to individuals who believe their personal information has been misused. The interplay of federal and state laws may be subject to varying interpretations by courts and government agencies, creating complex compliance issues for us and data we receive, use and share, potentially exposing us to additional expense, adverse publicity and liability. Legal requirements relating to the collection, storage, handling, and transfer of personal information and personal data continue to evolve and may result in ever-increasing public scrutiny and escalating levels of enforcement, sanctions and increased costs of compliance.

The collection and use of personal data in the European Union are governed by the General Data Protection Regulation, or GDPR. The GDPR imposes stringent requirements for controllers and processors of personal data, including, for example, more robust disclosures to individuals and a strengthened individual data rights regime, shortened timelines for data breach notifications, limitations on retention of information, increased requirements pertaining to special categories of data, such as health data, and additional obligations when we contract with third-party processors in connection with the processing of the personal data. The GDPR also imposes strict rules on the transfer of personal data out of the European Union to the United States and other third countries. In addition, the GDPR provides that European Union member states may make their own further laws and regulations limiting the processing of personal data, including biometric or health data.

The GDPR applies extraterritorially, and we may be subject to the GDPR because of our data processing activities that involve the personal data of individuals located in the European Union, such as in connection with any European Union clinical trials or related to any employees in Europe. GDPR regulations may impose additional responsibility and liability in relation to the personal data that we process and we may be required to put in place additional mechanisms to ensure compliance with the new data protection rules. This may be onerous and may interrupt or delay our development activities, and materially and adversely affect our business, financial condition and results of operations.

Other jurisdictions outside the European Union are similarly introducing or enhancing privacy and data security laws, rules and regulations, which could increase our compliance costs and the risks associated with non-compliance. We cannot guarantee that we or our vendors may be in compliance with all applicable international regulations as they are enforced now or as they evolve. For example, our privacy and cybersecurity policies may be insufficient to protect any personal information we collect, or may not comply with applicable laws, in which case we may be subject to regulatory enforcement actions, lawsuits or reputational damage, all of which may adversely affect our business. If we or our vendors fail to comply with the GDPR and the applicable national data protection laws of the European Union member states, or if regulators assert we have failed to comply with these laws, it may lead to regulatory enforcement actions, which can result in monetary penalties of up to €20,000,000 or up to 4% of the total worldwide annual turnover of the preceding financial year, whichever is higher, and other administrative penalties.

Compliance with U.S. and international data protection laws and regulations could cause us to incur substantial costs or require us to change our business practices and compliance procedures in a manner adverse to our business. Penalties for violations of these laws vary. Moreover, complying with these various laws could require us to take on more onerous obligations in our contracts, restrict our ability to collect, use and disclose data, or in some cases, impact our ability to operate in certain jurisdictions. In addition, we rely on third-party vendors to collect, process and store data on our behalf and we cannot guarantee that such vendors are in compliance with all applicable data protection laws and regulations. Our or our vendors' failure to comply with U.S. and international data protection laws and regulations could result in 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. 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, could result in adverse publicity and could have a material adverse effect on our business, financial condition and results of operations.

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 products, even if the regulatory or legal action is unfounded or not material to our operations.

Certain of our operating results and financial metrics may be difficult to predict as a result of seasonality.

While we have not yet experienced significant seasonality in our results, it is not uncommon in our industry to experience seasonally weaker revenue during the summer months and end-of-year holiday season. We may be affected by seasonal trends in the future, particularly as our business matures. Additionally, this seasonality may be reflected to a much lesser extent, and sometimes may not be immediately apparent, in our revenue. To the extent we experience this seasonality, it may cause fluctuations in our operating results and financial metrics and make forecasting our future operating results and financial metrics more difficult.

Risks Related to Our Financial Position and Need for Additional Capital

We have a history of net losses, and we expect to continue to incur losses for at least the next several years. If we ever achieve profitability, we may not be able to sustain it.

We have incurred net losses since our inception in March 2011. For the year ended December 31, 2019, we had a net loss of $97.0 million (which included $15.0 million in payments attributable to the product line we acquired from Biotronik pursuant to the Biotronik License Agreement), and we expect to continue to incur additional net losses for at least the next several years. As a result of these losses, as of December 31, 2019, we had an accumulated deficit of $259.0 million. Prior to this offering, our operations have been financed primarily by aggregate net proceeds from the sale of our convertible preferred stock and principal of our converted debt of $253.9 million, as well as other indebtedness. Our losses and accumulated deficit have primarily been due to the significant investments we have made in our sales and marketing organization, clinical trials designed to provide clinical evidence of the safety and efficacy of our products and research and development and regulatory affairs to develop our products and support appropriate regulatory submissions. We have also invested in acquisitions of businesses, products and technologies that we believe complement or expand our portfolio, enhance our technical capabilities or otherwise offer growth opportunities. In addition, we have experienced negative gross margins in recent periods as a result of significant investments in our infrastructure to support our commercial launch and to enable our production volumes to scale as our business grows.

We expect to continue to incur significant sales and marketing, research and development, regulatory and other expenses as we expand our marketing efforts to increase adoption of our products, expand existing relationships with our customers, obtain regulatory clearances or approvals for our planned or future products, conduct clinical trials on our existing and planned or future products and develop new products or add new features to our existing products. 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 operating losses and net losses for at least the next several years, 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 would make it more difficult to finance our business and accomplish our strategic objectives, which would have a material adverse effect on our business, financial condition and results of operations.

In order to support our continued operations and the growth of our business, we may seek to raise additional capital, which may not be available to us on acceptable terms, or at all.

We expect capital expenditures and operating expenses to increase over the next several years as we continue to operate our business and expand our infrastructure, commercial operations and research and development activities. Our primary uses of capital are, and we expect will continue to be, investment in our commercial organization and related expenses, clinical research and development services, laboratory and related supplies, legal and other regulatory expenses, general administrative costs and working capital. In addition, we have acquired, and may in the future seek to acquire or invest in, additional businesses, products or technologies that we believe could complement or expand our portfolio, enhance our technical capabilities or otherwise offer growth opportunities. For further information regarding our recent strategic transactions, see the section titled “Management’s Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources.”

Because of these and other factors, we expect to continue to incur substantial net losses and negative cash flows from operations for at least the next several years. Our future liquidity and capital funding requirements will depend on numerous factors, including:

- our revenue growth;
- our research and development efforts;

- our sales and marketing activities;
- our success in leveraging our strategic partnerships, including with Biotronik, as well as entrance into any other strategic partnerships or strategic transactions in the future;
- our ability to raise additional funds to finance our operations;
- the outcome, costs and timing of any clinical trial results for our current or future products;
- the emergence and effect of competing or complementary products;
- the availability and amount of reimbursement for procedures using our products;
- our ability to maintain, expand and defend the scope of our intellectual property portfolio, including the amount and timing of any payments we may be required to make, or that we may receive, in connection with the licensing, filing, prosecution, defense and enforcement of any patents or other intellectual property rights;
- our ability to retain our current employees and the need and ability to hire additional management and sales, scientific and medical personnel;
- the terms and timing of any collaborative, licensing or other arrangements that we have or may establish;
- debt service requirements;
- the extent to which we acquire or invest in businesses, products or technologies; and
- the impact of the COVID-19 pandemic.

If we determine to raise additional funds, we may do so through equity or debt financings, which may not be available to us on the timing needed or on terms that we deem to be favorable. To the extent that we raise additional capital through the sale of equity or convertible debt securities, the ownership interest of our stockholders will be diluted, and the terms of these securities may include liquidation or other preferences that adversely affect the rights of common stockholders. Debt financing and preferred equity financing, if available, may involve agreements that include covenants limiting or restricting our ability to take specific actions, such as incurring additional debt, making acquisitions or capital expenditures or declaring dividends. If we are unable to maintain sufficient financial resources, our business, financial condition and results of operations will be materially and adversely affected, including potentially requiring us to delay, limit, reduce or terminate certain of our product discovery and development activities or future commercialization efforts.

Moreover, in the event that we enter into collaborations or licensing arrangements to raise capital, we may be required to accept unfavorable terms. These agreements may require that we relinquish or license to a third party on unfavorable terms our rights to products or technologies we otherwise would seek to develop or commercialize ourselves, or reserve certain opportunities for future potential arrangements when we might be able to achieve more favorable terms.

As of December 31, 2019, we had $71.8 million in cash, cash equivalents and marketable securities. While we believe the net proceeds from this offering, together with our existing cash, cash equivalents and marketable securities and anticipated cash generated from sales of our products, will be sufficient to meet our anticipated cash needs for at least 12 months following the date of this prospectus, we cannot assure you that we will be able to generate sufficient liquidity as and when needed, or that revenue from commercial sales will be adequate to fund our operating needs or achieve or sustain profitability. We have based this estimate on assumptions that may prove to be wrong, and we could use our capital resources sooner than we currently expect. Changing circumstances, some of which may be beyond our control, could cause us to consume capital significantly faster than we currently anticipate, and we may need to seek additional funds sooner than planned.

The report of our independent registered public accounting firm for the year ended December 31, 2019 includes a "going concern" explanatory paragraph.

The report of our independent registered public accounting firm on our consolidated financial statements as of and for the year ended December 31, 2019 includes an explanatory paragraph indicating that there is substantial doubt about our ability to continue as a going concern. If we are unable to raise sufficient capital when needed, our business, financial condition and results of operations will be materially and adversely affected, and we will need to significantly modify our operational plans to continue as a going concern. If we are unable to continue as a going concern, we might have to liquidate our assets and the values we receive for our assets in liquidation or dissolution could be significantly lower than the values reflected in our consolidated financial statements. The inclusion of a going concern explanatory paragraph by our auditors, our lack of cash resources and our potential inability to continue as a going concern may materially adversely affect our share price and our ability to raise new capital or to enter into critical contractual relations with third parties.

Risks Related to Government Regulation

Regulatory compliance is expensive, complex and uncertain, and a failure to comply could lead to enforcement actions against us and other negative consequences for our business.

Our current products are subject to extensive regulation by the FDA in the United States, our Notified Body in the European Union and certain other non-U.S. regulatory agencies. Complying with these regulations is costly, time-consuming, complex and uncertain. Government regulations specific to medical devices are wide-ranging and include, among other things, oversight of:

- product design, development, manufacture (including suppliers) and testing;
- laboratory, preclinical and clinical trials;
- product safety and effectiveness;
- product labeling;
- product storage and shipping;
- record keeping;
- pre-market clearance or approval;
- marketing, advertising and promotion;
- product sales and distribution;
- product changes;
- product recalls; and
- post-market surveillance and reporting of deaths or serious injuries and certain malfunctions.

Before a new medical device or service, or a new intended use for an existing product or service, can be marketed in the United States, a company must first submit and receive either 510(k) clearance or PMA from the FDA, unless an exemption applies. 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, preclinical, clinical trial, manufacturing and labeling data. The PMA process is typically required for devices that are deemed to pose the greatest risk, such as life-sustaining, life-supporting or implantable devices.

Either the 510(k) or PMA process can be expensive, lengthy and unpredictable. We may not be able to obtain any necessary clearances or approval or may be unduly delayed in doing so, which will negatively affect our business, financial condition and results of operations. Furthermore, even if we are granted regulatory clearances or approvals, they may include significant limitations on the indicated uses for the product, which may limit the market for the product. Although we have obtained 510(k) clearance to market our products, our clearance can be revoked if safety or efficacy problems develop.

In order to sell our products in member countries of the European Economic Area, or EEA, our products must comply with the essential requirements of the European Union Medical Devices Directive (Council Directive 93/42/EEC), or MDD. Compliance with these requirements is a prerequisite to be able to affix the Conformité Européene mark, or CE Mark, to our products, without which they cannot be sold or marketed in the EEA. To demonstrate compliance with the essential requirements, we must undergo a conformity assessment procedure, which varies according to the type of medical device and its classification. Except for low-risk medical devices (Class I non-sterile, non-measuring devices), where the manufacturer can issue an European Commission Declaration of Conformity based on a self-assessment of the conformity of its products with the essential requirements of the MDD, a conformity assessment procedure requires the intervention by a Notified Body. Depending on the relevant conformity assessment procedure, the Notified Body would typically audit and examine the technical file and the quality system for the manufacture, design and final inspection of our devices. The Notified Body issues a certificate of conformity following successful completion of a conformity assessment procedure conducted in relation to the medical device and its manufacturer and their conformity with the essential requirements. This certificate entitles the manufacturer to affix the CE Mark to its medical devices after having prepared and signed a related EC Declaration of Conformity. If we fail to remain in compliance with applicable European laws and directives, we would be unable to continue to affix the CE Mark to our products, which would prevent us from selling them within the EEA.

Further, all of our potential products and improvements of our current products will be subject to extensive regulation and will likely require permission from regulatory agencies and ethics boards to conduct clinical trials and clearance or approval from the FDA and non-U.S. regulatory agencies prior to commercial sale and distribution. Failure to comply with applicable U.S. requirements regarding, for example, promoting, manufacturing or labeling our products, may subject us to a variety of administrative or judicial actions and sanctions, such as Form 483 observations, warning letters, untitled letters, product recalls, product seizures, total or partial suspension of production or distribution, injunctions, fines, civil penalties and criminal prosecution. The FDA can also refuse to clear or approve pending applications.

Any enforcement action by the FDA and other comparable non-U.S. regulatory agencies could have a material adverse effect on our business, financial condition and results of operations. Our failure to comply with applicable regulatory requirements could result in enforcement action by the FDA or state or international agencies, which may include any of the following 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 or 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 approval of new products or modified products;

- operating restrictions;
- withdrawing 510(k) clearances or PMA approvals that have already been granted;
- refusal to grant export approval for our products; or
- criminal prosecution.

If any of these events were to occur, it would have a material and adverse effect on our business, financial condition and results of operations.

The FDA and the Federal Trade Commission, or FTC, also regulates the advertising and promotion of our products to ensure that the claims we make are consistent with our regulatory clearances and approvals, that there are adequate and reasonable data to substantiate the claims and that our promotional labeling and advertising is neither false nor misleading in any respect. If the FDA or FTC determines that any of our advertising or promotional claims are misleading, not substantiated or not permissible, we may be subject to enforcement actions, including warning letters, and we may be required to revise our promotional claims and make other corrections or restitutions.

Our operations are subject to pervasive and continuing FDA regulatory requirements.

Medical devices regulated by the FDA are subject to "general controls" which include: registration with the FDA; listing commercially distributed products with the FDA; complying with current Good Manufacturing Processes under QSR; filing reports with the FDA of and keeping records relative to certain types of adverse events associated with devices under the medical device reporting regulation; assuring that device labeling complies with device labeling requirements; reporting certain device field removals and corrections to the FDA; and obtaining pre-market notification 510(k) clearance for devices prior to marketing. Some devices known as "510(k)-exempt" devices can be marketed without prior marketing-clearance or approval from the FDA. In addition to the "general controls," some Class II medical devices are also subject to "special controls," including adherence to a particular guidance document and compliance with the performance standard. Instead of obtaining 510(k) clearance, most Class III devices are subject to PMA. As a company, we do not have prior experience in obtaining PMA approval.

The medical device industry is now experiencing greater scrutiny and regulation by federal, state and foreign governmental authorities. Companies in our industry are subject to more frequent and more intensive reviews and investigations, often involving the marketing, business practices and product quality management. Such reviews and investigations may result in civil and criminal proceedings; the imposition of substantial fines and penalties; the receipt of warning letters, untitled letters, demands for recalls or the seizure of our products; the requirement to enter into corporate integrity agreements, stipulated judgments or other administrative remedies; and could result in our incurring substantial unanticipated costs and the diversion of key personnel and management's attention from their regular duties, any of which may have a material and adverse effect on our business, financial condition and results of operations, and may result in greater and continuing governmental scrutiny of our business in the future.

Additionally, federal, state and foreign governments and entities have enacted laws and issued regulations and other standards requiring increased visibility and transparency of our interactions with healthcare providers. For example, Open Payments requires us to annually report to the Centers for Medicare & Medicaid Services, or CMS, payments and other transfers of value to all U.S. physicians and U.S. teaching hospitals, with the reported information made publicly available on a searchable website. Failure to comply with these legal and regulatory requirements could impact our business, and we have had and will continue to spend substantial time and financial resources to develop and implement enhanced structures, policies, systems and processes to comply with these legal and regulatory requirements, which may also impact our business and which could have a material adverse effect on our business, financial condition and results of operations.

Legislative or regulatory reforms may make it more difficult and costly for us to obtain regulatory clearance or approval of our planned or 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, 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 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.

In addition, on April 5, 2017, the European Parliament passed the Medical Devices Regulation (Regulation 2017/745), which repeals and replaces the MDD. 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.

The Medical Devices Regulation will only become applicable three years after publication. The effective date was further postponed by the European Commission for one year due to the COVID-19 pandemic, to May 2021. Once applicable, 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 European Union; and
- strengthen 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.

These modifications may have an effect on the way we conduct our business in the EEA.

Any change in the laws or regulations that govern the clearance and approval processes relating to our current, planned and future products could make it more difficult and costly to obtain clearance or approval for new products or to produce, market and distribute existing products. Significant delays in receiving clearance or approval or the failure to receive clearance or approval for our new products would have an adverse effect on our ability to expand our business.

If we fail to comply with U.S. federal and state fraud and abuse and other healthcare laws and regulations, including those relating to kickbacks and false claims for reimbursement, we could face substantial penalties and our business operations and financial condition could be adversely affected.

Healthcare providers and third-party payors play a primary role in the distribution, recommendation, ordering and purchasing of any medical device for which we have or obtain marketing clearance or approval. Through our arrangements with principal investigators, healthcare professionals and customers, we are exposed

to broadly applicable anti-fraud and abuse, anti-kickback, false claims and other healthcare laws and regulations that may constrain our business, our arrangements and relationships with customers, and how we market, sell and distribute our marketed medical devices. We have a compliance program, code of business conduct and ethics and associated policies and procedures, but it is not always possible to identify and deter misconduct by our employees and other third parties, and the precautions we take to detect and prevent noncompliance may not be effective in protecting us from governmental investigations for failure to comply with applicable fraud and abuse or other healthcare laws and regulations.

In the United States, we are subject to various state and federal anti-fraud and abuse laws, including, without limitation, the federal healthcare Anti-Kickback Statute and federal civil False Claims Act, federal data privacy and security laws and federal transparency laws related to payments and/or other transfers of value made to physicians and other healthcare professionals and teaching hospitals. There are similar laws in other countries. Our relationships and our distributors' relationships with physicians, other health care professionals and hospitals are subject to scrutiny under these laws.

Healthcare fraud and abuse laws and related regulations are complex, and even minor irregularities can potentially give rise to claims that a statute or prohibition has been violated. The laws that may affect our ability to operate include:

- the Anti-Kickback Statute, which prohibits, among other things, knowingly and willingly soliciting, offering, receiving or paying remuneration, directly or indirectly, overtly or covertly, in cash or in kind, to induce or reward either the referral of an individual, or the purchase, order or recommendation of, items or services for which payment may be made, in whole or in part, under a federal healthcare program, such as the Medicare and Medicaid programs. 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 the law or a specific intent to violate. In addition, the government may assert that a claim, including items or services resulting from a violation of the Anti-Kickback Statute, constitutes a false or fraudulent claim for purposes of the federal civil False Claims Act. 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 certain business arrangements from prosecution under the Anti-Kickback Statute; however, those exceptions and safe harbors are drawn narrowly, and there may be limited or no exception or safe harbor for many common business activities, such as reimbursement support programs, educational and research grants or charitable donations. Practices that involve remuneration to those who prescribe, purchase or recommend medical devices, including discounts, providing items or services for free or engaging such individuals as consultants, advisors or speakers, may be subject to scrutiny if they do not fit squarely within an exception or safe harbor and would be subject to a facts and circumstances analysis to determine compliance with the Anti-Kickback Statute. Our practices, such as trial periods or purchase of certain components of our Mapping Systems to customers, may not in all cases meet all of the criteria for statutory exception or regulatory safe harbor protection from anti-kickback liability. In October 2019, the federal government published two proposed regulations that would create new safe harbors for (among other things) certain value-based arrangements and patient engagement tools, and modify and clarify the scope of existing safe harbors for warranties and personal service agreements; even if these regulations are eventually finalized, the impact of the proposed regulations on our operations is not yet clear.
- federal civil and criminal false claims laws, including the federal civil False Claims Act, and civil monetary penalties laws, which prohibit, among other things, persons or entities from knowingly presenting, or causing to be presented, a false or fraudulent claim for payment of government funds and knowingly making, using or causing to be made or used, a false record or statement to get a false claim paid or to avoid, decrease or conceal an obligation to pay money to the federal government. A claim including items or services resulting from a violation of the Anti-Kickback Statute constitutes a false or

fraudulent claim for purposes of the federal civil False Claims Act. Actions under the federal civil 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. These individuals, sometimes known as "relators" or, more commonly, as "whistleblowers," may share in any amounts paid by the entity to the government in fines or settlement. Many pharmaceutical and medical device manufacturers have been investigated and have reached substantial financial settlements with the federal government under the federal civil False Claims Act for a variety 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 interactions with prescribers and other customers, including those that may have affected their billing or coding practices and submission of claims to the federal government. Federal civil False Claims Act liability is potentially significant in the healthcare industry because the statute provides for treble damages and mandatory monetary penalties for each false or fraudulent claim or statement. Because of the potential for large monetary exposure, healthcare and medical device companies often resolve allegations without admissions of liability for significant and material amounts to avoid the uncertainty of treble damages and per claim penalties that may be awarded in litigation proceedings.

- HIPAA, which imposes criminal and civil liability for, among other actions, knowingly and willfully executing, or attempting to execute, a scheme to defraud any healthcare benefit program, including private third-party payors, or knowingly and willfully falsifying, concealing or covering up a material fact or making a materially false, fictitious or fraudulent statement or representation, or making or using any false writing or document knowing the same to contain any materially false, fictitious or fraudulent statement or entry in connection with the delivery of or payment for healthcare benefits, items or services;
- HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act, or HITECH Act, and their implementing regulations, also impose obligations, including mandatory contractual terms, on covered entities subject to the rule, such as health plans, healthcare clearinghouses and certain healthcare providers, as well as their business associates that perform certain services for them or on their behalf involving the use or disclosure of individually identifiable health information with respect to safeguarding the privacy, security and transmission of individually identifiable health information. We believe we are not a covered entity or typically a business associate for purposes of HIPAA;
- the federal Physician Payments Sunshine Act, also known as Open Payments, which 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, with certain exceptions, to the CMS information related to payments or other "transfers of value" made to physicians, as defined by such law, and teaching hospitals, and requires applicable manufacturers and group purchasing organizations to report annually to CMS ownership and investment interests held by physicians and their immediate family members. Beginning in 2022, applicable manufacturers also will be required to report information regarding payments and transfers of value provided during the previous year to physician assistants, nurse practitioners, clinical nurse specialists, certified nurse anesthetists and certified nurse-midwives; and
- analogous state and foreign law equivalents of each of the above federal laws, such as anti-kickback and false claims laws which may apply to items or services reimbursed by any third-party payor, including commercial insurers; state laws that require medical device companies to comply with the industry's voluntary compliance guidelines and the applicable compliance guidance promulgated by the federal government or otherwise restrict payments that may be made to healthcare providers and other potential referral sources; state beneficiary inducement laws, which are state laws that require medical device manufacturers to report information related to payments and other transfers of value to physicians and other healthcare providers or marketing expenditures; and state and foreign laws governing the privacy and security of health information in certain circumstances, many of which differ from each other in significant ways and may not have the same effect, thus complicating compliance efforts.

State and federal regulatory and enforcement agencies continue to actively investigate violations of healthcare laws and regulations, and the U.S. Congress continues to strengthen the arsenal of enforcement tools. Most recently, the Bipartisan Budget Act of 2018, or BBA, increased the criminal and civil penalties that can be imposed for violating certain federal health care laws, including the Anti-Kickback Statute. Enforcement agencies also continue to pursue novel theories of liability under these laws. In particular, government agencies have continued regulatory scrutiny and enforcement activity with respect to manufacturer reimbursement support activities and patient support programs, including bringing criminal charges or civil enforcement actions under the Anti-Kickback Statute, federal civil False Claims Act and HIPAA's healthcare fraud and privacy provisions.

Because of the breadth of these laws and the narrowness of the statutory exceptions and regulatory safe harbors available under such laws, it is possible that some of our business activities, including certain sales and marketing practices, and financial arrangements with physicians, other healthcare providers and other customers, could be subject to challenge under one or more such laws. If an arrangement were deemed to violate the Anti-Kickback Statute, it may also subject us to violations under other fraud and abuse laws such as the federal civil False Claims Act and civil monetary penalties laws. Moreover, such arrangements could be found to violate comparable state fraud and abuse laws.

Achieving and sustaining compliance with applicable federal and state anti-fraud and abuse laws may prove costly. If we or our employees are found to have violated any of the above laws, we may be subjected to substantial criminal, civil and administrative penalties, including imprisonment, exclusion from participation in federal healthcare programs, such as Medicare and Medicaid, and significant fines, monetary penalties, forfeiture, disgorgement and damages, contractual damages, reputational harm, administrative burdens, diminished profits and future earnings and the curtailment or restructuring of our operations, any of which could adversely affect our ability to operate our business and our financial results. Any action or investigation against us for the violation of these healthcare fraud and abuse laws, even if successfully defended, could result in significant legal expenses and could divert our management's attention from the operation of our business. Companies settling federal civil False Claims Act, Anti-Kickback Statute or civil monetary penalties law cases also may be required to enter into a Corporate Integrity Agreement with the OIG in order to avoid exclusion from participation (i.e., loss of coverage for their products) in federal healthcare programs such as Medicare and Medicaid. Corporate Integrity Agreements typically impose substantial costs on companies to ensure compliance. Defending against any such actions can be costly, time-consuming and may require significant personnel resources, and may have a material adverse effect on our business, financial condition and results of operations.

Healthcare reform initiatives and other administrative and legislative proposals may adversely affect our business, financial condition, results of operations and cash flows in our key markets.

There have been and continue to be proposals by the federal government, state governments, regulators and third-party payors to control or manage the increased costs of healthcare and, more generally, to reform the U.S. healthcare system. Certain of these proposals could limit the prices we are able to charge for our products or the coverage and reimbursement available for our products and could limit the acceptance and availability of our products. The adoption of proposals to control costs could have a material adverse effect on our business, financial condition and results of operations.

For example, in the United States, in March 2010, the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act of 2010, or collectively, the Affordable Care Act, is a sweeping measure intended to expand healthcare coverage within the United States, primarily through the imposition of health insurance mandates on employers and individuals, the provision of subsidies to eligible individuals enrolled in plans offered on the health insurance exchanges and the expansion of the Medicaid program. Implementation of the Affordable Care Act will impact existing government healthcare programs and will result in the development of new programs.

There remain judicial and Congressional challenges to certain aspects of the Affordable Care Act, as well as efforts by the Trump administration to repeal or replace certain aspects of the Affordable Care Act, and we

expect such challenges and amendments to continue. For example, since January 2017, President Trump has signed Executive Orders and other directives designed to delay the implementation of certain provisions of the Affordable Care Act or otherwise circumvent some of the requirements for health insurance mandated by the Affordable Care Act. Concurrently, Congress has considered legislation that would repeal or repeal and replace all or part of the Affordable Care Act. While Congress has not passed comprehensive repeal legislation, several bills affecting the implementation of certain taxes under the Affordable Care Act have been signed into law. Legislation enacted in 2017, informally known as the Tax Cuts and Jobs Act, or TCJA, includes a provision repealing, effective January 1, 2019, the tax-based shared responsibility payment imposed by the Affordable Care Act on certain individuals who fail to maintain qualifying health coverage for all or part of a year that is commonly referred to as the "individual mandate." Further, the BBA, among other things, amended the Affordable Care Act, effective January 1, 2019, to close the coverage gap in most Medicare drug plans, commonly referred to as the "donut hole." In December 2018, CMS published a new final rule further permitting collections and payments to and from certain Affordable Care Act qualified health plans and health insurance issuers under the Affordable Care Act risk adjustment program in response to the outcome of federal district court litigation regarding the method CMS uses to determine this risk adjustment. On December 14, 2018, a Texas U.S. District Court Judge ruled that the Affordable Care Act is unconstitutional in its entirety because the "individual mandate" was repealed by Congress as part of the TCJA. Additionally, on December 18, 2019, the U.S. Court of Appeals for the 5th Circuit upheld the District Court ruling that the individual mandate was unconstitutional and remanded the case back to the District Court to determine whether the remaining provisions of the Affordable Care Act are invalid as well. On March 2, 2020, the United States Supreme Court granted the petitions for writs of certiorari to review this case, and has allotted one hour for oral arguments, which are expected to occur in the fall of 2020.

In addition, other legislative changes have been proposed and adopted since the Affordable Care Act was enacted. On August 2, 2011, the Budget Control Act of 2011 was signed into law, which, among other things, includes reductions to Medicare payments to providers of 2% per fiscal year, which went into effect on April 1, 2013 and, due to subsequent legislative amendments to the statute, including the BBA, will remain in effect through 2030 unless additional Congressional action is taken. The Coronavirus Aid, Relief and Economic Security Act, or CARES Act, which was signed into law in March 2020 and is designed to provide financial support and resources to individuals and businesses affected by the COVID-19 pandemic, suspended the 2% Medicare sequester from May 1, 2020 through December 31, 2020, and extended the sequester by one year, through 2030 unless additional Congressional action is taken. On January 2, 2013, the American Taxpayer Relief Act of 2012 was signed into law, which, among other things, reduced Medicare payments to several providers, including hospitals, and increased the statute of limitations period for the government to recover overpayments to providers from three to five years.

We cannot assure you that the Affordable Care Act, as currently enacted or as amended in the future, will not harm our business and financial results, and we cannot predict how future federal or state legislative or administrative changes relating to healthcare reform will affect our business.

There likely will continue to be legislative and regulatory proposals at the federal and state levels directed at containing or lowering the cost of healthcare. We cannot predict the initiatives that may be adopted in the future or their full impact. 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 products;
- our ability to generate revenue and achieve or maintain profitability; and
- the availability of capital.

Further, recently there has been heightened governmental scrutiny over the manner in which manufacturers set prices for their marketed products, which has resulted in several U.S. Congressional inquiries and proposed

and enacted federal legislation designed to bring transparency to product pricing and reduce the cost of products and services under government healthcare programs. While some of these measures may require additional authorization to become effective, Congress and the Trump administration have each indicated that it will continue to seek new legislative and/or administrative measures to control product costs. Additionally, individual states in the United States have also increasingly passed legislation and implemented regulations designed to control product pricing, including price or patient reimbursement constraints, discounts, restrictions on certain product access and marketing cost disclosure and transparency measures. Moreover, regional healthcare authorities and individual hospitals are increasingly using bidding procedures to determine what products to purchase and which suppliers will be included in their healthcare programs. Adoption of price controls and other cost-containment measures, and adoption of more restrictive policies in jurisdictions with existing controls and measures may prevent or limit our ability to generate revenue and attain profitability.

Various new healthcare reform proposals are emerging at the federal and state level. It is also possible that additional governmental action is taken to address the COVID-19 pandemic. Any new federal and state healthcare initiatives that may be adopted could limit the amounts that federal and state governments will pay for healthcare products and services, and could have a material adverse effect on our business, financial condition and results of operations.

If we fail to comply with the FDA's QSR, or FDA or EU requirements that pertain to clinical trials or investigations, the FDA or the competent EU authority could take various enforcement actions, including halting our manufacturing operations, and our business would suffer.

In the United States, as a manufacturer of a medical device, we are required to demonstrate and maintain compliance with the FDA's QSR. The QSR is a complex regulatory scheme that covers the methods and documentation of the design, testing, control, manufacturing, labeling, quality assurance, packaging, storage and shipping of medical devices. The FDA enforces the QSR through periodic inspections and unannounced "for cause" inspections.

We are subject to periodic FDA inspections to determine compliance with QSR and pursuant to the Bioresearch Monitoring Program, which may in the future result in the FDA issuing Form 483s, including during the conduct of clinical trials. Outside the United States, our products and operations are also often required to comply with standards set by industrial standards bodies, such as the International Organization for Standardization. Foreign regulatory bodies may evaluate our products or the testing that our products undergo against these standards. The specific standards, types of evaluation and scope of review differ among foreign regulatory bodies. Our failure to comply with FDA or local requirements that pertain to clinical trials/investigations, including GCP requirements, and the QSR (in the United States), or failure to take satisfactory and prompt corrective action in response to an adverse inspection, could result in enforcement actions, including a warning letter, adverse publicity, a shutdown of or restrictions on our manufacturing operations, delays in approving or clearing our products, refusal to permit the import or export of our product, prohibition on sales of our product, a recall or seizure of our products, fines, injunctions, civil or criminal penalties, or other sanctions, any of which could cause our business and operating results to suffer.

Our global operations expose us to numerous and sometimes conflicting legal and regulatory requirements, and violation of these requirements could harm our business.

We are subject to numerous, and sometimes conflicting, legal regimes in the countries in which we operate, including on matters as diverse as health and safety standards, marketing and promotional activities, anticorruption, import/export controls, content requirements, trade restrictions, tariffs, taxation, sanctions, immigration, internal and disclosure control obligations, securities regulation, anti-competition, data privacy and labor relations. This includes in emerging markets where legal systems may be less developed or familiar to us. We strive to abide by and maintain compliance with these laws and regulations. Compliance with diverse legal requirements is costly, time-consuming and requires significant resources. Violations of one or more of these

regulations in the conduct of our business could result in significant fines, criminal sanctions against us or our officers, prohibitions on doing business and damage to our reputation. Violations of these regulations in connection with the performance of our obligations to our customers also could result in liability for significant monetary damages, fines and/or criminal prosecution, unfavorable publicity and other reputational damage, restrictions on our ability to process information and allegations by our customers or distributors that we have not performed our contractual obligations. Due to the varying degrees of development of the legal systems of the countries in which we operate, local laws might be insufficient to protect our rights.

Our international operations could be affected by changes in laws, trade regulations, labor and employment regulations, and procedures and actions affecting approval, products and solutions, pricing, reimbursement and marketing of our products and solutions, as well as by inter-governmental disputes. Any of these changes could adversely affect our business. The imposition of new laws or regulations, including potential trade barriers, may increase our operating costs, impose restrictions on our operations or require us to spend additional funds to gain compliance with the new rules, if possible, which could have an adverse impact on our financial condition and results of operations.

Material modifications to our products may require new 510(k) clearances, CE Marks or other premarket approvals or may require us to recall or cease marketing our products and services until clearances are obtained.

Material modifications to the intended use or technological characteristics of any of our products will require new 510(k) clearances, premarket approvals or CE Mark grants, or require us to recall or cease marketing the modified devices until these clearances or approvals are obtained. Based on FDA published guidelines, 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; however, the FDA can review a manufacturer's decision. Any modification to an FDA cleared device or service that would significantly affect its safety or efficacy or that would constitute a major change in its intended use would require a new 510(k) clearance or possibly a premarket approval. We may not be able to obtain additional 510(k) clearances or premarket approvals for new products or for modifications to, or additional indications for, our products in a timely fashion, or at all. Delays in obtaining required future clearances would harm our ability to introduce new or enhanced products in a timely manner, which in turn would harm our future growth.

We have made modifications to our products in the past that we believe do not require additional clearances or approvals, and we may make additional modifications in the future. If the FDA or an EU Notified Body disagrees and requires new clearances or approvals for any of these modifications, we may be required to recall and to stop selling or marketing our products as modified, which could harm our operating results and require us to redesign our products or services. In these circumstances, we may be subject to significant enforcement actions.

Our products may be subject to recalls after receiving FDA or foreign approval or clearance, which could divert managerial and financial resources, harm our reputation and adversely affect our business.

The FDA and similar foreign governmental authorities have the authority to require the recall of our products because of any failure to comply with applicable laws and regulations, or defects in design or manufacture. A government mandated or voluntary product recall by us could occur because of, for example, component failures, device malfunctions or other adverse events, such as serious injuries or deaths, or quality-related issues, such as manufacturing errors or design or labeling defects. Any future recalls of our products could divert managerial and financial resources, harm our reputation and adversely affect our business.

If we initiate a correction or removal for one of our devices to reduce a risk to health posed by the device, we would be required to submit a publicly available Correction and Removal report to the FDA and, in many cases, similar reports to other regulatory agencies. This report could be classified by the FDA as a device recall

which could lead to increased scrutiny by the FDA, other international regulatory agencies and our customers regarding the quality and safety of our devices. Furthermore, the submission of these reports has been and could be used by competitors against us in competitive situations and cause customers to delay purchase decisions or cancel orders and would harm our reputation.

In addition, we are subject to medical device reporting regulations that require us to report to the FDA or similar foreign governmental authorities if one of our products may have caused or contributed to a death or serious injury or if we become aware that it has malfunctioned in a way that would likely cause or contribute to a death or serious injury if the malfunction recurred. Failures to properly identify reportable events or to file timely reports, as well as failure to address each of the observations to the FDA's satisfaction, can subject us to sanctions and penalties, including warning letters and recalls. Physicians, hospitals and other healthcare providers may make similar reports to regulatory authorities. Any such reports may trigger an investigation by the FDA or similar foreign regulatory bodies, which could divert managerial and financial resources, harm our reputation and have a material adverse effect on our business, financial condition and results of operations.

If any of our products cause or contribute to a death or a serious injury or malfunction in certain ways, we will be required to report under applicable medical device reporting regulations, which can result in voluntary corrective actions or agency enforcement actions.

Under FDA MDR regulations, medical device manufacturers are required to report to the FDA information that a device has or may have caused or contributed to a death or serious injury or has malfunctioned in a way that would likely cause or contribute to death or serious injury if the malfunction of the device or one of our similar devices were to recur. If we fail to report events required to be reported to the FDA within the required timeframes, or at all, the FDA could take enforcement action and impose sanctions against us. Any such adverse event involving our products also could result in future voluntary corrective actions, such as recalls or customer notifications, or agency action, such as inspection or enforcement action. Any corrective action, whether voluntary or involuntary, as well as defending ourselves in a lawsuit, would require our time and capital, distract management from operating our business and may harm our reputation and have a material adverse effect on our business, financial condition and results of operations.

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

We are exposed to the risk that our employees, independent contractors, consultants, strategic partners, distributors and vendors may engage in fraudulent or illegal activity. Misconduct by these parties could include intentional, reckless and/or negligent conduct or disclosure of unauthorized activities to us that violates: (i) the laws of the FDA and other similar foreign regulatory bodies, including those laws requiring the reporting of true, complete and accurate information to such regulators; (ii) manufacturing standards; (iii) healthcare fraud and abuse laws in the United States and similar foreign fraudulent misconduct laws; or (iv) laws that require the true, complete and accurate reporting of financial information or data. These laws may impact, among other things, future sales, marketing and education programs. In particular, the promotion, sales and marketing of healthcare items and services, as well as certain business arrangements in the healthcare industry, are subject to extensive laws designed 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, structuring and commissions, certain customer incentive programs and other business arrangements generally. Activities subject to these laws also involve the improper use of information obtained in the course of patient recruitment for clinical trials.

We have adopted a code of business conduct and ethics, but it is not always possible to identify and deter misconduct by our employees and other third parties, and the precautions we take to detect and prevent these activities 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 result in the imposition of significant fines or other sanctions, including the imposition of civil, criminal and administrative penalties, damages, monetary fines, disgorgement, individual imprisonment, additional integrity reporting and oversight obligations, possible exclusion from participation in Medicare, Medicaid and other federal healthcare programs, contractual damages, reputational harm, diminished profits and future earnings and curtailment of operations, any of which could adversely affect our ability to operate our business and our results of operations. Whether or not we are successful in defending against any such actions or investigations, we could incur substantial costs, including legal fees, and divert the attention of management in defending ourselves against any of these claims or investigations, which could have a material adverse effect on our business, financial condition and results of operations.

Failure to comply with anti-bribery, anti-corruption, and anti-money laundering laws, including the FCPA, as well as export control laws, customs laws, sanctions laws and other laws governing our operations could result in civil or criminal penalties, other remedial measures and legal expenses.

As we grow our international presence, we are increasingly exposed to anti-corruption, trade and economic sanctions and other restrictions imposed by the United States, the European Union and other governments and organizations. The FCPA generally prohibits companies and their employees and third-party intermediaries from offering, promising, giving or authorizing the provision of anything of value, either directly or indirectly, to a non-U.S. government official in order to influence official action or otherwise obtain or retain business. In addition, the U.K. Bribery Act prohibits both domestic and international bribery, as well as bribery across both private and public sectors. We may have direct or indirect interactions with officials and employees of government agencies or government-affiliated hospitals, universities and other organizations. Violations of the FCPA, U.K. Bribery Act and anti-corruption laws could result in fines, criminal sanctions against us, our officers or our employees and prohibitions on the conduct of our business. Violations would also negatively affect our business and reputation, financial condition and results of operations.

In addition, our solutions may be subject to U.S. and foreign export controls, trade sanctions and import laws and regulations. Governmental regulation of the import or export of our solutions, or our failure to obtain any required import or export authorization for our solutions, when applicable, could harm our international sales and adversely affect our revenue. Compliance with applicable regulatory requirements regarding the export of our solutions may create delays in the introduction of our solutions in international markets or, in some cases, prevent the export of our solutions 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. If we fail to comply with export and import regulations and such economic sanctions, penalties could be imposed, including fines and/or denial of certain export privileges. Moreover, any new export or import restrictions, new legislation or shifting approaches in the enforcement or scope of existing regulations, or in the countries, persons or products targeted by such regulations, could result in decreased use of our solutions by, or in our decreased ability to export our solutions to, existing or potential customers with international operations. Any decreased use of our solutions or limitation on our ability to export or sell access to our solutions would likely adversely affect our business.

We have implemented policies and procedures designed to ensure compliance by us and our directors, officers, employees, representatives, consultants and agents with the FCPA, the U.K. Bribery Act, export control and economic sanctions laws, and other anti-corruption, anti-money-laundering and anti-terrorism laws and regulations. We cannot assure you, however, that our policies and procedures are or will be sufficient or that directors, officers, employees, representatives, consultants and agents have not engaged and will not engage in prohibited conduct for which we may be held responsible. Violations of the FCPA, the U.K. Bribery Act, export control and economic sanctions laws, or other anti-corruption, anti-money laundering and anti-terrorism laws or regulations may result in severe criminal or civil sanctions, and we may be subject to other liabilities, which could have a material adverse effect on our business, financial condition and results of operations.

Compliance with environmental laws and regulations could be expensive, and failure to comply with these laws and regulations could subject us to significant liability.

Our research and development and manufacturing operations involve the use of hazardous substances and are subject to a variety of federal, state, local and foreign environmental laws and regulations relating to the storage, use, discharge, disposal, remediation of, and human exposure to, hazardous substances and the sale, labeling, collection, recycling, treatment and disposal of products containing hazardous substances. Liability under environmental laws and regulations can be joint and several and without regard to fault or negligence. Compliance with environmental laws and regulations may be expensive and noncompliance could result in substantial liabilities, fines and penalties, personal injury and third-party property damage claims and substantial investigation and remediation costs. Environmental laws and regulations could become more stringent over time, imposing greater compliance costs and increasing risks and penalties associated with violations. We cannot assure you that violations of these laws and regulations will not occur in the future or have not occurred in the past as a result of human error, accidents, equipment failure or other causes. The expense associated with environmental regulation and remediation could harm our financial condition and results of operations.

Risks Related to Our Intellectual Property

If we are unable to obtain and maintain patent protection or freedom to operate for any products we develop and for our technology, or if the scope of the patent protection obtained is not sufficiently broad, our competitors could develop and commercialize products and technology similar or identical to ours, and our ability to successfully commercialize any products we may develop, and our technology, may be adversely affected.

Our success depends in large part on our ability to obtain and maintain patent and other intellectual property protection in the United States and other countries with respect to our products and technology we develop.

We seek to protect our position by in-licensing intellectual property relating to our products and filing patent applications in the United States and abroad related to our technologies and products that are important to our business. We also rely on a combination of contractual provisions, confidentiality procedures and copyright, trademark, trade secret and other intellectual property rights to protect the proprietary aspects of our brands, technologies and data. These legal measures afford only limited protection, and competitors or others may gain access to or use our intellectual property and proprietary information. Our success will depend, in part, on obtaining and maintaining patents, preserving our trade secrets, maintaining the security of our data and know-how and obtaining other intellectual property rights.

We may not be able to obtain and maintain intellectual property or other proprietary rights necessary to our business or in a form that provides us with a competitive advantage. For example, our trade secrets, data and know-how could be subject to unauthorized use, misappropriation or disclosure to unauthorized parties, despite our efforts to enter into confidentiality agreements with our employees, consultants, contractors, clients and other vendors who have access to such information, and could otherwise become known or be independently discovered by third parties. 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, in a timely manner, or in all jurisdictions where protection may be commercially advantageous, or we may not be able to protect our intellectual property at all. Despite our efforts to protect our intellectual property, unauthorized parties may be able to obtain and use information that we regard as proprietary. It is also possible that we will fail to identify patentable aspects of our research and development output in time to obtain patent protection. Although we enter into non-disclosure and confidentiality agreements with parties who have access to confidential or patentable aspects of our research and development output, such as our employees, consultants, contractors, collaborators, vendors 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. In addition, 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 our owned or any licensed patents or pending patent applications, or that we were the first to file for patent protection of such inventions.

The patent position of medical device companies generally is highly uncertain, involves complex legal and factual questions, and has been the subject of much litigation in recent years. Changes in either the patent laws or their interpretation in the United States and other countries may diminish our ability to protect our inventions, obtain, maintain, and enforce our intellectual property rights and, more generally, could affect the value of our intellectual property or narrow the scope of our owned and licensed patents. With respect to both in-licensed and owned intellectual property, we cannot predict whether the patent applications we and our licensors are currently pursuing will issue as patents in any particular jurisdiction or whether the claims of any issued patents will provide sufficient protection from competitors. As a result, the issuance, scope, validity, enforceability and commercial value of our patent rights are highly uncertain.

Moreover, the coverage claimed in a patent application can be significantly reduced before a patent is issued, and its scope can be reinterpreted after issuance. Even if patent applications we license or own currently or in the future issue as patents, they may not issue in a form that will provide us with any meaningful protection, prevent competitors or other third parties from competing with us, or otherwise provide us with any competitive advantage. Any patents that we hold or in-license may be challenged, narrowed or invalidated by third parties. Additionally, our competitors or other third parties may be able to circumvent our patents by developing similar or alternative technologies or products in a non-infringing manner. Third parties may also have blocking patents that could prevent us from marketing our own products and practicing our own technology. Alternatively, third parties may seek approval to market their own products similar to or otherwise competitive with our products. In these circumstances, we may need to defend and/or assert our patents, including by filing lawsuits alleging patent infringement. In any of these types of proceedings, a court or agency with jurisdiction may find our patents invalid, unenforceable or not infringed, in which case, our competitors and other third parties may then be able to market products and use manufacturing and analytical processes that are substantially similar to ours. Even if we have valid and enforceable patents, these patents still may not provide protection against competing products or processes sufficient to achieve our business objectives.

Given that patent applications are confidential for a period of time after filing, we cannot be certain that we were the first to file any patent application related to our products. Competitors may also contest our patents, if issued, by showing the patent examiner that the invention was not original, was not novel or was obvious. In litigation, a competitor could claim that our patents, if issued, are not valid for a number of reasons. If a court agrees, we would lose our rights to those challenged patents.

In addition, given the amount of time required for the development, testing and regulatory review of new products, patents protecting such products might expire before or shortly after such products are commercialized. As a result, our intellectual property may not provide us with sufficient rights to exclude others from commercializing products similar or identical to ours. Moreover, some of our owned and in-licensed 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 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.

Our other intellectual property, including our trademarks, could also be challenged, invalidated, infringed and circumvented by third parties, and our trademarks could also be diluted, declared generic or found to be infringing on other marks, in which case we could be forced to re-brand our products, 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.

We may in the future also be subject to claims by our former employees, consultants or contractors asserting an ownership right in our patents or patent applications, as a result of the work they performed on our behalf. Although we generally require all of our employees, consultants, contractors and any other partners or collaborators who have access to our proprietary know-how, information or technology to assign or grant similar rights to their inventions to us, we cannot be certain that we have executed such agreements with all parties who may have contributed to our intellectual property, nor can we 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.

Failure to obtain and maintain patents, trademarks and other 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, and may not provide an adequate remedy if our intellectual property rights are infringed, misappropriated or otherwise violated. Any of the foregoing could have a material adverse effect on our competitive position, business, financial conditions, results of operations and prospects.

Furthermore, our owned and in-licensed patents may be subject to a reservation of rights by one or more third parties. For example, this could arise if the research resulting in certain of our owned or in-licensed patent rights and technology was funded in part by the U.S. government. As a result, the government may have certain rights, or march-in rights, to such patent rights and technology. When new technologies are developed with government funding, the government generally obtains certain rights in any resulting patents, including a non-exclusive license authorizing the government to use the invention for non-commercial purposes. These rights may permit the government to disclose our confidential information to third parties and to exercise march-in rights to use or allow third parties to use our licensed technology. The government can exercise its march-in rights if it determines that action is necessary because we fail to achieve practical application of the government-funded technology, because action is necessary to alleviate health or safety needs, to meet requirements of federal regulations, or to give preference to U.S. industry. In addition, our rights in such inventions may be subject to certain requirements to manufacture products embodying such inventions in the United States. Any exercise by the government of such rights could harm our competitive position, business, financial condition, results of operations and prospects.

Moreover, a portion of our intellectual property has been acquired from one or more third parties. While we have conducted diligence with respect to such acquisitions, because we did not participate in the development or prosecution of much of the acquired intellectual property, we cannot guarantee that our diligence efforts identified and/or remedied all issues related to such intellectual property, including potential ownership errors, potential errors during prosecution of such intellectual property, and potential encumbrances that could limit our ability to enforce such intellectual property rights

We may become a party to intellectual property litigation or administrative proceedings that could be costly and could interfere with our ability to sell and market our products.

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. It is possible that U.S. and foreign patents and pending patent applications or trademarks controlled by third parties may be alleged to cover our products, or that we may be accused of misappropriating third parties' trade secrets. Additionally, our products include components that we purchase from vendors, 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 or to use product names. Because patent applications can take years to issue and are often afforded confidentiality for some period of time, there may currently be pending applications, unknown to us, that later result in issued patents that could cover one or more of our products. Moreover, in recent years, individuals and groups that are non-practicing entities, commonly referred to as "patent trolls," have purchased 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 and business operations infringe or 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. Vendors 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, or any indemnification granted by such vendors may not be sufficient to address any liability and costs we incur as a result of such claims. Additionally, we may be obligated to indemnify our customers or business partners in connection with litigation and to obtain licenses or refund subscription fees, which could further exhaust our resources.

Even if we believe third party's intellectual property claims are without merit, there is no assurance that a court would find in our favor, including on questions of infringement, validity, enforceability or priority of patents. The strength of our defenses will depend on the patents asserted, the interpretation of these patents, and our ability to invalidate the asserted patents. A court of competent jurisdiction could hold that these third-party patents are valid, enforceable and infringed, which could materially and adversely affect our ability to commercialize any products or technology we may develop and any other products or technologies covered by the asserted third-party patents. In order to successfully challenge the validity of any such 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, the patent owner need only prove infringement by a preponderance of the evidence, which is a lower burden of proof.

Further, if patents, trademarks or trade secrets are successfully asserted against us, this may harm our business and result in injunctions preventing us from developing, manufacturing or selling our products, or result in obligations to pay license fees, damages, attorney fees and court costs, which could be significant. In addition, if we are found to willfully infringe third-party patents or trademarks or to have misappropriated trade secrets, we could be required to pay treble damages in addition to other penalties.

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 be unable to obtain necessary licenses on satisfactory terms, if at all. In addition, if any license we obtain is non-exclusive, we may not be able to prevent our competitors and other third parties from using the intellectual property or technology covered by such license to compete with us. If we do not obtain necessary licenses, we may not be able to redesign our products to avoid infringement. Any of these events could materially and adversely affect our business, financial condition and results of operations.

Similarly, interference or derivation proceedings provoked by third parties or brought by the U.S. Patent and Trademark Office, or USPTO, may be necessary to determine priority with respect to our patents, patent applications, trademarks or trademark applications. We may also become involved in other proceedings, such as reexamination, *inter partes* review, derivation or opposition proceedings before the USPTO or other jurisdictional body relating to our intellectual property rights or the intellectual property rights of others. Adverse determinations in a judicial or administrative proceeding or failure to obtain necessary licenses could prevent us from manufacturing our products or using product names, which would have a significant adverse impact on our business, financial condition and results of operations.

Additionally, 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. Competitors may infringe our issued patents or other intellectual property, which we may not always be able to detect. To counter infringement or unauthorized use, we may be required to file infringement claims, which can be expensive and time-consuming. Any claims we assert against perceived infringers could provoke these parties to assert counterclaims against us alleging that we infringe their intellectual property or alleging that our intellectual property is invalid or unenforceable. Grounds for a validity challenge could be an alleged failure to meet any of several statutory requirements, including lack of 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 the USPTO, or made a misleading statement, during prosecution. Third parties may raise challenges to the validity of certain of our owned or in-licensed patent 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, interference proceedings, derivation proceedings and equivalent proceedings in foreign jurisdictions (e.g., opposition proceedings). In any such lawsuit or other proceedings, a court or other administrative body may decide that a patent of ours is invalid or unenforceable, in whole or in part, construe the patent's claims narrowly or refuse to stop the other party from using the technology at issue on the grounds that our patents do not cover the technology in question.

The outcome following legal assertions of invalidity and unenforceability is unpredictable. If a third party were to prevail on a legal assertion of invalidity or unenforceability, we would lose at least part, and perhaps all, of the patent protection on our products or products that we may develop. If our patents 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 other proceeding could put one or more of our patents at risk of being invalidated or interpreted narrowly. Any of these events could materially and adversely affect our business, financial condition and results of operations.

Even if resolved in our favor, litigation or other proceedings relating to intellectual property claims may cause us to incur significant expenses and could distract our 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 the price of our common stock. 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. Furthermore, because of the substantial amount of discovery required in connection with intellectual property litigation, there is a risk that some of our confidential or sensitive information could be compromised by disclosure in the event of litigation. Uncertainties resulting from the initiation and continuation of patent and other intellectual property litigation or other proceedings could have a material adverse effect on our business, financial condition and results of operations.

Our rights to develop and commercialize our products are subject, in part, to the terms and conditions of licenses granted to us by others.

We rely, in part, upon licenses to certain patent rights and proprietary technology from third parties that are important or necessary to the development of our products and technology. These and other licenses 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.

In addition, we may not have the right to control the preparation, filing, prosecution, maintenance, enforcement and defense of patents and patent applications covering the technology that we license from third parties. Therefore, we cannot be certain that these patents and patent applications will be prepared, filed, prosecuted, maintained, enforced and defended in a manner consistent with the best interests of our business. If our licensors fail to prosecute, maintain, enforce and defend such patents, or lose rights to those patents or patent applications, the rights we have licensed may be reduced or eliminated, and our right to develop and commercialize any of our products that are subject of such licensed rights could be adversely affected.

Our licensors may have relied on third-party consultants or collaborators or on funds from third parties such that our licensors are not the sole and exclusive owners of the patents we in-license. This could materially and adversely affect our business, financial condition and results of operations.

The agreements under which we currently license intellectual property or technology from third parties are complex, and certain provisions in such agreements may be susceptible to multiple interpretations. The resolution of any contract interpretation disagreement that may arise could narrow what we believe to be the scope of our rights to the relevant intellectual property or technology, or increase what we believe to be our financial or other obligations under the relevant agreement. In spite of our best efforts, our licensors might also conclude that we have materially breached our license agreements and terminate the license agreements, thereby removing our ability to develop and commercialize products and technology covered by these license agreements. If these in-licenses are terminated, or if the underlying patents fail to provide the intended exclusivity, competitors would have the freedom to seek regulatory approval of, and to market, products identical to ours. In addition, we may seek to obtain additional licenses from our licensors and, in connection with obtaining such licenses, we may agree to amend our existing licenses in a manner that may be more favorable to the licensors, including by agreeing to terms that could enable third parties (potentially including our competitors) to receive licenses to a portion of the intellectual property that is subject to our existing licenses. Any of these events could materially and adversely affect our business, financial condition and results of operations.

We may not be successful in obtaining necessary rights to any products we may develop through acquisitions and in-licenses.

We may need to obtain additional licenses from our existing licensors or otherwise acquire or in-license any intellectual property rights from third parties that we identify as necessary for our products. It is possible that we may be unable to obtain any additional licenses or acquire such intellectual property rights at a reasonable cost or on reasonable terms, if at all. The licensing or acquisition of third-party intellectual property rights is a competitive area, and several more established companies may pursue strategies to license or acquire third-party intellectual property rights that we may consider attractive or necessary. These established companies may have a competitive advantage over us due to their size, capital resources and greater clinical development and commercialization capabilities. In addition, companies that perceive us to be a competitor may be unwilling to assign or license rights to us. We also may be unable to license or acquire third-party intellectual property rights on terms that would allow us to make an appropriate return on our investment or at all. In that event, 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 products, which could materially and adversely affect our business, financial condition and results of operations.

If we are unable to protect the confidentiality of our other proprietary information, our business and competitive position may be harmed.

In addition to patent protection, we also rely on other proprietary rights, including protection of trade secrets, and other proprietary information that is not patentable or that we elect not to patent. However, trade secrets can be difficult to protect and some courts are less willing or unwilling to protect trade secrets. To

maintain the confidentiality of our trade secrets and proprietary information, we rely heavily on confidentiality provisions that we have in contracts with our employees, consultants, contractors, collaborators and others upon the commencement of their relationship with us. We cannot guarantee that we have entered into such agreements with each party that may have or have had access to our trade secrets or proprietary technology and processes. We may not be able to prevent the unauthorized disclosure or use of our technical knowledge or other trade secrets by such third parties, despite the existence generally of these confidentiality restrictions. These contracts may not provide meaningful protection for our trade secrets, know-how or other proprietary information in the event of any unauthorized use, misappropriation or disclosure of such trade secrets, know-how or other proprietary information. There can be no assurance that such 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 competitors. Despite the protections we do place on our intellectual property or other proprietary rights, monitoring unauthorized use and disclosure of our intellectual property 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. Enforcing a claim that a party illegally disclosed or misappropriated a trade secret is difficult, expensive and time-consuming, and the outcome is unpredictable. The laws of many foreign countries will not protect our intellectual property or other proprietary rights to the same extent as the laws of the United States. Consequently, we may be unable to prevent our proprietary technology from being exploited in the United States and abroad, which could affect our ability to expand in domestic and international markets or require costly efforts to protect our technology.

To the extent our intellectual property or other proprietary information protection is incomplete, we are exposed to a greater risk of direct competition. A third party could, without authorization, copy or otherwise obtain and use our products or technology, or develop similar technology. Our competitors could purchase our products and attempt to replicate some or all of the competitive advantages we derive from our development efforts or design around our protected technology. Our failure to secure, protect and enforce our intellectual property rights could substantially harm the value of our products, brand and business. The theft or unauthorized use or publication of our trade secrets and other confidential business information could reduce the differentiation of our products and harm our business, the value of our investment in development or business acquisitions could be reduced and third parties might make claims against us related to losses of their confidential or proprietary information.

Further, it is possible that others will independently develop the same or similar technology or otherwise obtain access to our unpatented technology, and in such cases we could not assert any trade secret rights against such parties. Costly and time-consuming litigation could be necessary to enforce and determine the scope of our trade secret rights and related confidentiality and nondisclosure provisions. If we fail to obtain or maintain trade secret protection, or if our competitors obtain our trade secrets or independently develop technology similar to ours or competing technologies, our competitive market position could be materially and adversely affected. In addition, some courts are less willing or unwilling to protect trade secrets, and agreement terms that address non-competition are difficult to enforce in many jurisdictions and might not be enforceable in certain cases.

We also seek to preserve the integrity and confidentiality of our data and other confidential information 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 detecting the disclosure or misappropriation of confidential information and enforcing a claim that a party illegally disclosed or misappropriated confidential information is difficult, expensive and time-consuming, and the outcome is unpredictable. Further, we may not be able to obtain adequate remedies for any breach. Any of the foregoing could materially and adversely affect our business, financial condition and results of operations.

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 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 and patent applications will be due to the USPTO and foreign patent agencies over the lifetime of our owned or licensed patents and applications. In certain circumstances, we rely on our licensing partners to pay these fees due to U.S. and non-U.S. patent agencies. While an unintentional lapse 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 noncompliance 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, we may not be able to stop a competitor from marketing products that are the same as or similar to our products, which 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 rights throughout the world.

A company may attempt to commercialize competing products utilizing our proprietary design, trademarks or trade names in foreign countries where we do not have any patents or patent applications and where legal recourse may be limited or unavailable. This may have a significant commercial impact on our foreign business operations.

Filing, prosecuting and defending patents or trademarks on our current and future products in all countries throughout the world would be prohibitively expensive. The requirements for patentability and trademarking may differ in certain countries, particularly developing countries. The laws of some foreign countries do not protect intellectual property rights to the same extent as laws in the United States. Consequently, we may not be able to prevent third parties from utilizing our inventions and trademarks in all countries outside the United States. Competitors may use our technologies or trademarks in jurisdictions where we have not obtained patent or trademark protection to develop or market their own products and, further, may export otherwise infringing products to territories where we have patent and trademark protection but enforcement on infringing activities is inadequate. These products may compete with our products, and our patents, trademarks or other intellectual property rights may not be effective or sufficient to prevent them from competing.

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, trademarks and other intellectual property protection, which could make it difficult for us to stop the infringement of our patents and trademarks or marketing of competing products in violation of our intellectual property rights generally. Proceedings to enforce our intellectual property 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 and trademarks at risk of being invalidated or interpreted narrowly and our patent or trademark applications at risk, 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. In addition, many countries, including India, China and certain countries in Europe, 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 those countries, we may have limited remedies if our patents are infringed or if we are compelled to grant a license to our patents to a third party, which could materially diminish the value of those patents. This could limit our potential revenue opportunities. Accordingly, our efforts to enforce our intellectual property

rights around the world may be inadequate to obtain a significant commercial advantage from the intellectual property that we own or license. Finally, our ability to protect and enforce our intellectual property rights may be adversely affected by unforeseen changes in foreign intellectual property laws.

We may be subject to claims that we or our employees, consultants or contractors have wrongfully used, disclosed or otherwise 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 or claims asserting an ownership interest in intellectual property we regard as our own.

Many of our employees, consultants and contractors 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, consultants and contractors 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, used, disclosed or otherwise misappropriated intellectual property, including trade secrets or other proprietary information, of their former employers or our competitors or potential 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, consultants or contractors 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 such 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, we may lose valuable intellectual property rights or personnel. For example, a court could prohibit us from using technologies or features that are essential to our products, if such technologies or features are found to incorporate or be derived from the trade secrets or other proprietary information of the former employers. Even if we are successful in defending against such claims, litigation could result in substantial costs and be a distraction to management.

An inability to incorporate technologies or features that are important or essential to our products could have a material adverse effect on our business, financial condition and results of operations, and may prevent us from selling our products. 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 products, which could have an adverse effect on our business, financial condition and results of operations.

We may be subject to claims challenging the inventorship of our patents and other intellectual property.

We or our licensors may be subject to claims that former consultants, contractors or other third parties have an interest in our owned or in-licensed patents, trade secrets or other intellectual property as an inventor or co-inventor. While it is our policy to require our employees, consultants and contractors who may be involved in the conception or development of intellectual property to execute agreements assigning such intellectual property to us, we may be unsuccessful in executing such an agreement with each party who, in fact, conceives or develops intellectual property that we regard as our own. The assignment of intellectual property rights may not be self-executing, or the assignment agreements may be breached, and we may be forced to bring claims against third parties, or defend claims that they may bring against us, to determine the ownership of what we regard as our intellectual property. If we or our licensors 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 products. Any such events could have a material 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.

Recent patent reform legislation could increase the uncertainties and costs surrounding the prosecution of patent applications and the enforcement or defense of issued patents. In 2011, the Leahy-Smith America Invents Act, or Leahy-Smith Act, was signed into law. The Leahy-Smith Act includes a number of significant changes to U.S. patent law. These include provisions that affect the way patent applications are prosecuted and also may affect patent litigation. These also include provisions that switched the United States from a "first-to-invent" system to a "first-inventor-to-file" system, allow third-party submission of prior art to the USPTO during patent prosecution and set forth additional procedures to attack the validity of a patent by the USPTO administered post grant proceedings, including post-grant review, *inter partes* review and derivation proceedings. Under a first-inventor-to-file system, assuming the other requirements for patentability are met, the first inventor to file a patent application generally will be entitled to the patent on an invention regardless of whether another inventor had made the invention earlier. The USPTO recently developed new regulations and procedures to govern administration of the Leahy-Smith Act, and many of the substantive changes to patent law associated with the Leahy-Smith Act, and in particular, the first to file provisions, became effective in 2013. Accordingly, it is not clear what, if any, impact the Leahy-Smith Act will have on the operation of our business. The Leahy-Smith Act and its implementation could increase the uncertainties and costs surrounding the prosecution of our patent applications and the enforcement or defense of our issued patents, all of which could have a material adverse effect on our business, financial condition and results of operations.

In addition, 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. 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.

If our trademarks and trade names 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 trademarks, service marks, trade names and brand names to distinguish our products from the products of our competitors and have registered or applied to register these trademarks. Our registered or unregistered trademarks, service marks, trade names and brand names may be challenged, infringed, diluted, circumvented or declared generic or determined to be infringing on other marks. Additionally, we cannot assure you that our trademark applications will be approved. 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 are given an opportunity to oppose pending trademark applications and to seek to cancel registered trademarks. Opposition or cancellation proceedings may be filed against our trademarks, and our trademarks may not survive such proceedings. In the event that our trademarks are successfully challenged, we could be forced to rebrand our products, which could result in loss of brand recognition and could require us to devote resources towards advertising and marketing new brands. At times, competitors 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, financial condition and results of operations may be adversely affected.

Risks Related to Our Common Stock and This Offering

There has been no prior market for our common stock, the market price for our common stock may be volatile or may decline regardless of our operating performance, an active public trading market may not develop or be sustained following this offering, and you may not be able to resell our common stock at or above the initial public offering price.

There has been no public market for our common stock prior to 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. You may not be able to resell your shares at or above the initial public offering price due to a number of factors such as those listed in "—Risks Related to Our Business and Strategy" and the following:

- actual or anticipated changes or fluctuations in our operating results;
- the failure by our customers to obtain coverage and reimbursement levels that would be sufficient to support product sales to our customers;
- unanticipated serious safety concerns related to the use of our products;
- the financial projections we may provide to the public, any changes in these projections or our failure to meet these projections;
- announcements by us or our competitors of new products, significant acquisitions, strategic partnerships, joint venture or capital commitments;
- industry or financial analyst or investor reaction to our press releases, other public announcements and filings with the SEC;
- rumors and market speculation involving us or other companies in our industry;
- future sales or expected future sales of our common stock;
- price and volume fluctuations in the overall stock market from time to time;
- changes in operating performance and stock market valuations of other medical device companies generally, or those in our industry in particular;
- our cash position;
- the expiration of market stand-off or contractual lock-up agreements and sales of shares of our common stock by us or our shareholders;
- failure of industry or financial analysts to maintain coverage of us, changes in financial estimates by any analysts who follow our company or our failure to meet these estimates or the expectations of investors;
- actual or anticipated developments in our business or our competitors' businesses or the competitive landscape generally;
- our inability to obtain adequate supplies and components for our products or inability to do so at acceptable prices;
- litigation involving us, our industry or both, or investigations by regulators into our operations or those of our competitors;
- accusations that we have violated a law or regulation;
- recalls of our products;
- developments or disputes concerning our intellectual property rights or our solutions, or third-party proprietary rights;

- any delay in any regulatory filings for our planned or future products and any adverse development or perceived adverse development with respect to the applicable regulatory authority's review of such products;
- adverse regulatory decisions, including failure to receive regulatory approval or clearance of our planned and future products or maintain regulatory approval or clearance for our existing products;
- changes in laws or regulations applicable to our products;
- announced or completed acquisitions of businesses or technologies by us or our competitors;
- breaches of, or failures relating to, security, privacy or data protection;
- new laws or regulations or new interpretations of existing laws or regulations applicable to our business;
- any major changes in our management or our board of directors;
- changes in accounting principles;
- ineffectiveness of our internal controls;
- actual or anticipated changes in healthcare policy and reimbursement levels;
- general economic conditions and slow or negative growth of our markets; and
- other events or factors, including those resulting from war, incidents of terrorism or responses to these events.

Although we intend to apply to list our common stock on the , we cannot assure you that a trading market for our common stock will develop, or, if a trading market does develop, that it will be maintained. The stock markets, and securities of medical device companies in particular, have experienced extreme price and volume fluctuations that have affected and continue to affect the market prices of equity securities of many medical device companies. Stock prices of many medical device companies have fluctuated in a manner unrelated or disproportionate to the operating performance of those companies.

Our quarterly operating results fluctuate and may fall short of prior periods, our projections or the expectations of securities analysts or investors, which could materially adversely affect our stock price.

Our operating results have fluctuated from quarter to quarter at points in the past, and they may do so in the future. Therefore, results of any one quarter are not a reliable indication of results to be expected for any other quarter or for any year. If we fail to increase our results over prior periods, to achieve our projected results or to meet the expectations of securities analysts or investors, our stock price may decline, and the decrease in the stock price may be disproportionate to the shortfall in our financial performance. Results may be affected by various factors, including those described in these risk factors. We maintain a forecasting process that seeks to plan sales and align expenses. If we do not control costs or appropriately adjust costs to actual results, or if actual results differ significantly from our forecast, our financial performance could be materially adversely affected.

We may be subject to securities litigation, which is expensive and could divert management attention.

The market price of our common stock may be volatile and, in the past, companies that have experienced volatility in the market price of their stock have been subject to securities class action litigation. We may be the target of this type of litigation in the future. Securities litigation against us could result in substantial costs and divert our management's attention from other business concerns, which could seriously harm our business.

You will incur immediate dilution in the net tangible book value of the shares you purchase in this offering.

The initial public offering price of our common stock will be higher than the net tangible book value per share of outstanding common stock prior to completion of this offering. Based on our net tangible book value as

of , 2020 and upon the issuance and sale of shares of common stock by us at 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) if you purchase our common stock in this offering, you will suffer immediate dilution of approximately $ per share in net tangible book value. Dilution is the amount by which the offering price paid by purchasers of our common stock in this offering will exceed the pro forma net tangible book value per share of our common stock upon completion of this offering. If the underwriters exercise their option to purchase additional shares, you will experience future dilution. A total of shares of common stock have been reserved for future issuance under our stock-based compensation plans, including our 2020 Plan and our 2020 ESPP. You may experience additional dilution upon future equity issuances or the exercise of stock options to purchase common stock granted to our directors, officers and employees under our current and future stock-based compensation plans, including our 2020 Plan and our 2020 ESPP. See the section titled "Dilution."

The issuance of additional shares of our common stock in connection with financings, acquisitions, investments, our share incentive plans or otherwise will dilute all other stockholders.

Our articles of incorporation that will be in effect immediately prior to the completion of this offering authorize us to issue up to shares of our common stock and up to shares of preferred stock with such rights and preferences as included in our certificate of incorporation. Subject to compliance with applicable rules and regulations, we may issue common stock or securities convertible into common stock from time to time in connection with a financing, acquisition, investment, our equity incentive plans or otherwise. Any such issuance could result in substantial dilution to our existing stockholders and cause the market price of our common stock to decline.

We currently do not intend to declare dividends on our common stock in the foreseeable future and, as a result, your only opportunity to achieve a return on your investment is if the price of our common stock appreciates.

We currently do not expect to declare any dividends on our common stock in the foreseeable future. Instead, we anticipate that all of our earnings, if any, in the foreseeable future will be used to provide working capital, to support our operations and to finance the growth and development of our business. Any determination to declare or pay dividends in the future will be at the discretion of our board of directors, subject to applicable laws and dependent upon a number of factors, including our earnings, capital requirements and overall financial conditions. In addition, our ability to pay dividends on our common stock is currently limited by the covenants of our 2019 Credit Agreement and may be further restricted by the terms of any future debt or preferred securities. Accordingly, your only opportunity to achieve a return on your investment in our company may be if the market price of our common stock appreciates and you sell your shares at a profit. The market price for our common stock may never exceed, and may fall below, the price that you pay for such common stock.

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 reporting 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 this 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," with at least $700 million of equity securities held by non-affiliates;
- 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 this offering.

We cannot predict if investors will find our common stock less attractive if we choose to rely on any of the exemptions afforded 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.

Under the JOBS Act, emerging growth companies can also delay adopting new or revised accounting standards until such time as those standards apply to private companies. We have elected to avail ourselves of this provision of the JOBS Act. As a result, we will not be subject to new or revised accounting standards at the same time as other public companies that are not emerging growth companies. Therefore, our consolidated financial statements may not be comparable to those of 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.

If securities analysts do not publish research or reports about our business or if they downgrade our stock or our sector, our stock price and trading volume could decline.

The trading market for our common stock will rely in part on the research and reports that industry or financial analysts publish about us or our business or industry. We do not control these analysts. Furthermore, if one or more of the analysts who do cover us downgrade our stock or our industry, or the stock of any of our competitors, or publish inaccurate or unfavorable research about our business or industry, the price of our stock could decline. If one or more of these analysts ceases coverage of us or fails to publish reports on us regularly, we could lose visibility in the market, which in turn could cause our stock price or trading volume to decline.

We have broad discretion to determine how to use the funds raised in this offering, and we may use them in ways that may not enhance our operating results or the price of our common stock.

Though we currently intend to use the net proceeds from this offering for the purposes described in the section titled "Use of Proceeds," our management will have broad discretion in the application of the net proceeds from this offering, including for any of the purposes described in the section titled "Use of Proceeds." We could spend the proceeds from this offering in ways that our stockholders may not agree with or that do not yield a favorable return. You will not have the opportunity as part of your investment decision to assess whether the net proceeds are being used appropriately. Investors in this offering will need to rely upon the judgment of our management and board of directors with respect to the use of proceeds. If we do not use the net proceeds that we receive in this offering effectively, our business, financial condition, results of operations and prospects could be harmed, and the market price of our common stock could decline.

Our directors, executive officers and principal stockholders and their respective affiliates will continue to have substantial influence over us after this offering and could delay or prevent a change in corporate control; our principal stockholders may have interests that conflict with your interests as an investor in our common stock.

As of December 31, 2019, our directors, executive officers and holders of more than 5% of our common stock beneficially owned, as a group, 78.8% of our common stock. After this offering, our directors, executive officers and holders of more than 5% of our common stock, together with their affiliates, will beneficially own, in the aggregate, approximately % of our outstanding common stock, assuming no exercise of the underwriters' option to purchase additional shares of our common stock in this offering. In addition, as of December 31, 2019, we had $40.0 million in aggregate principal amount of outstanding long-term debt under our 2019 Credit Agreement with an entity affiliated with OrbiMed Advisors LLC, or OrbiMed Advisors, one of our 5% holders. Our CEO, Vince Burgess, is also a venture partner with OrbiMed Advisors. Our principal stockholders, in the aggregate, will continue to have substantial influence over the outcome of matters submitted to our stockholders for approval, including the election of directors and any merger, consolidation or sale of all or substantially all of our assets. In addition, these stockholders, in the aggregate, will continue to have significant influence over the management and affairs of our company. Accordingly, this concentration of ownership may have the effect of:

- delaying, deferring or preventing a change in corporate control;
- impeding a merger, consolidation, takeover or other business combination involving us; or
- discouraging a potential acquirer from making a tender offer or otherwise attempting to obtain control of us.

The interests of our principal stockholders may conflict with your interests as a stockholder. You should carefully consider these potential conflicts of interest before deciding whether to invest in shares of our common stock.

Future sales, or the perception of future sales, by us or our existing stockholders in the public market following this offering could cause the market price for our common stock to decline.

After this offering, the sale of shares of our common stock in the public market, or the perception that such sales could occur, could harm the prevailing market price of shares of our common stock. These sales, or the possibility that these sales may occur, also might make it more difficult for us to sell equity securities in the future at a time and at a price that we deem appropriate.

Upon consummation of this offering, we will have a total of shares of common stock outstanding. All shares sold in this offering will be freely tradable without restriction or further registration under the Securities Act of 1933, as amended, or the Securities Act, except that any shares held by our affiliates, as that term is defined under Rule 144 of the Securities Act, or Rule 144, including our directors, executive officers and other affiliates, may be sold only in compliance with the limitations described in the section titled "Shares Eligible for Future Sale."

The shares held by certain directors and officers and their affiliates immediately following the consummation of this offering will represent approximately % of our total outstanding shares of common stock following this offering, based on the number of shares outstanding as of December 31, 2019. Such shares will be "restricted securities" within the meaning of Rule 144 and subject to certain restrictions on resale following the consummation of this offering. Restricted securities may be sold in the public market only if they are registered under the Securities Act or are sold pursuant to an exemption from registration such as Rule 144, as described in the section titled "Shares Eligible for Future Sale."

In connection with this offering, we, our directors and executive officers, and holders of substantially all of our common stock prior to this offering have each agreed with the underwriters, subject to certain exceptions, not

to dispose of or hedge any of our or their common stock or securities convertible into or exchangeable for shares of common stock during the period from the date of this prospectus continuing through the date 180 days after the date of this prospectus, except with the prior written consent of certain representatives of the underwriters. See the section titled "Underwriting" for a description of these lock-up agreements.

Upon the expiration of the contractual lock-up agreements pertaining to this offering, up to an additional shares will be eligible for sale in the public market, of which are held by directors, executive officers and other affiliates and will be subject to volume, manner of sale and other limitations under Rule 144. Following completion of this offering, shares covered by registration rights would represent approximately % of our outstanding common stock (or %, if the underwriters exercise in full their option to purchase additional shares). Registration of any of these outstanding shares of common stock would result in such shares becoming freely tradable without compliance with Rule 144 upon effectiveness of the registration statement. See the section titled "Shares Eligible for Future Sale."

As restrictions on resale end or if these stockholders exercise their registration rights, the market price of our shares of common stock could drop significantly if the holders of these shares sell them or are perceived by the market as intending to sell them. These factors could also make it more difficult for us to raise additional funds through future offerings of our shares of common stock or other securities.

In addition, the shares of our common stock reserved for future issuance under our 2020 Plan and our 2020 ESPP will become eligible for sale in the public market once those shares are issued, subject to provisions relating to various vesting agreements, lock-up agreements and Rule 144, as applicable. A total of shares of our common stock and shares of our common stock have been reserved for future issuance under our 2020 Plan and our 2020 ESPP, respectively.

In the future, we may also issue our securities in connection with investments or acquisitions. The amount of shares of our common stock issued in connection with an investment or acquisition could constitute a material portion of our then-outstanding shares of our common stock. Any issuance of additional securities in connection with investments or acquisitions may result in additional dilution to you.

The requirements of being a public company may strain our resources, divert management's attention and affect our ability to attract and retain qualified board members.

As a public company, we will be subject to the reporting and corporate governance requirements of the Exchange Act, the listing requirements of the and other applicable securities rules and regulations, including the Sarbanes-Oxley Act and the Dodd-Frank Wall Street Reform and Consumer Protection Act. Compliance with these rules and regulations 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, particularly after we are no longer an "emerging growth company" as defined in the JOBS Act. Among other things, the Exchange Act requires that we file annual, quarterly and current reports with respect to our business and results of operations and maintain effective disclosure controls and procedures and internal control over financial reporting. In order to 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 harm our business, financial condition, results of operations and prospects. Although we have already hired additional personnel to help comply with these requirements, we may need to further expand our legal and finance departments in the future, 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 expense 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, regulatory authorities may initiate legal proceedings against us and our business and prospects may be harmed. As a result of disclosure of information in the filings required of a public company and in this prospectus, our business and financial condition will become more visible, which may result in threatened or actual litigation, including by competitors and other third parties. If such claims are successful, our business, financial condition, results of operations and prospects could be materially harmed, and even if the claims do not result in litigation or are resolved in our favor, these claims, and the time and resources necessary to resolve them, could divert the resources of our management and materially harm our business, financial condition, results of operations and prospects.

We also expect that being a public company and these new rules and regulations will make it more expensive for us to obtain director and officer liability insurance, and 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 executive officers and members of our board of directors, particularly to serve on our audit committee and compensation committee.

In addition, as a result of our disclosure obligations as a public company, we will have reduced strategic flexibility and will be under pressure to focus on short-term results, which may materially and adversely affect our ability to achieve long-term profitability.

Provisions in our organizational documents and agreements with third parties could delay or prevent a change of control.

Certain provisions of our amended and restated certificate of incorporation and amended and restated bylaws may have the effect of delaying or preventing a merger, acquisition, tender offer, takeover attempt or other change of control transaction that a stockholder might consider to be in its best interest, including attempts that might result in a premium over the market price of our common stock.

These provisions include the following:

- establish a classified board of directors so that not all members of our board of directors are elected at one time;
- authorize the issuance of "blank check" preferred stock that our board of directors could use to implement a stockholder rights plan;
- permit the board of directors to establish the number of directors and fill any vacancies and newly-created directorships;
- provide that directors may only be removed for cause;
- require super-majority voting to amend some provisions in our certificate of incorporation and bylaws;
- eliminate the ability of our stockholders to call special meetings of stockholders;
- prohibit stockholder action by written consent, which requires all stockholder actions to be taken at a meeting of our stockholders;
- provide that the board of directors is expressly authorized to make, alter or repeal our bylaws;
- restrict the forum for certain litigation against us to Delaware; and

- establish 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.

These provisions could make it more difficult for a third party to acquire us, even if the third party's offer may be considered beneficial by many of our stockholders. As a result, our stockholders may be limited in their ability to obtain a premium for their shares. See the section titled "Description of Capital Stock."

In addition, our agreements with Biotronik contain provisions that may have the effect of delaying, deterring or preventing a change in control transaction involving us. Under the Biotronik License Agreement, if we undergo a change in control with certain competitors of the Biotronik Parties (as defined therein), then our exclusive license to our AcQBlate Force ablation catheters and Qubic Force device in the United States would convert to co-exclusive licenses with the Biotronik Parties, certain milestone payments would become immediately due and payable (regardless of achievement) and we would be required to pay up to $25.0 million to the Biotronik Parties (to the extent such amount has not already been paid as unit-based royalties). In addition, the non-distributing party of each Bi-Lateral Distribution Agreement has the right to terminate the agreement in the case of a change in control of either party, whereas the distributing party of each Bi-Lateral Distribution Agreement has the right, in certain circumstances, to terminate the agreement in the case of a change in control of the non-distributing party. For a more complete summary of these agreements, see the section titled "Business—Biotronik Agreements."

In connection with the preparation of our consolidated financial statements as of and for the years ended December 31, 2019 and 2018, the Company and our independent registered public accounting firm identified a material weakness in the Company's internal control over financial reporting. If we are not able to remediate the material weakness and otherwise to maintain an effective system of internal control over financial reporting in the future, investors may lose confidence in the accuracy and completeness of our financial reports, and the market price of our common stock could be materially and adversely affected.

As a privately-held company, we were not required to evaluate our internal control over financial reporting in a manner that meets the standards of publicly traded companies required by Section 404(a) of the Sarbanes-Oxley Act and to date, we have not conducted an evaluation and testing of our internal control required by Section 404 of the Sarbanes-Oxley Act. As a public company, we will have significant requirements for enhanced financial reporting and internal controls. We may also experience situations in the future where our evaluation and testing processes required by Section 404 of the Sarbanes-Oxley Act, or work performed by independent registered public accountants, may identify one or more material weaknesses in our internal control over financial reporting that will result in our inability to assert that our internal control over financial reporting is effective. During our evaluation and testing, we may identify deficiencies and be unable to remediate them before we must provide the required reports.

In connection with the audits of our consolidated financial statements included elsewhere in this prospectus, we and our independent registered public accounting firm identified a material weakness related to our financial statement closing process, primarily related to a lack of appropriately designed and implemented controls over the review and approval of manual journal entries and the related supporting journal entry calculations. Under standards established by the Public Company Accounting Oversight Board, a material weakness is a deficiency, or 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 consolidated financial statements will not be prevented or detected and corrected on a timely basis.

We are working to remediate the material weakness and are taking steps to strengthen our internal control over financial reporting. In order to do so, we have taken and plan to take the following actions: (i) the hiring of additional finance and accounting personnel over time to augment our accounting staff and to provide more resources for complex accounting matters and financial reporting; and (ii) further developing and implementing formal policies, processes and documentation procedures relating to our financial reporting. The actions that we

are taking are subject to ongoing executive management review, and will also be subject to audit committee oversight. If we are unable to successfully remediate the material weakness, or if in the future, we identify further material weaknesses in our internal control over financial reporting, we may not detect errors on a timely basis and our consolidated financial statements may be materially misstated.

The process of designing and implementing effective internal controls is a continuous effort that requires us to anticipate and react to changes in our business and the economic and regulatory environments and to expend significant resources to maintain a system of internal controls that is adequate to satisfy our reporting obligations as a public company. If we are unable to establish or maintain appropriate internal financial reporting controls and procedures, it could cause us to fail to meet our reporting obligations on a timely basis, result in material misstatements in our consolidated financial statements and harm our results of operations. In addition, we will be required, pursuant to Section 404 of the Sarbanes-Oxley Act, to furnish a report by management on, among other things, the effectiveness of our internal control over financial reporting in the second annual report following the completion of this offering. This assessment will need to include disclosure of any material weaknesses identified by our management in our internal control over financial reporting. The rules governing the standards that must be met for our management to assess our internal control over financial reporting are complex and require significant documentation, testing and possible remediation. Testing and maintaining internal controls may divert our management's attention from other matters that are important to our business. Our independent registered public accounting firm will be required to issue an attestation report on the effectiveness of our internal control over financial reporting in our first annual report required to be filed with the SEC following the date we are no longer an emerging growth company and after we meet the definition of an accelerated filer. We or our independent registered public accounting firm may not be able to conclude on an ongoing basis that we have effective internal control over financial reporting, which could harm our operating results, cause investors to lose confidence in our reported financial information and cause the trading price of our stock to fall. In addition, as a public company we will be required to file accurate and timely quarterly and annual reports with the SEC under the Exchange Act. Any failure to report our financial results on an accurate and timely basis could result in sanctions, lawsuits, delisting of our shares or other adverse consequences that would materially harm our business. In addition, we could become subject to investigations by the SEC and other regulatory authorities, and become subject to litigation from investors and stockholders, which could harm our reputation and our financial condition, or divert financial and management resources from our core business.

Our amended and restated bylaws that will become effective immediately prior to the completion of this offering provide that the Court of Chancery of the State of Delaware and the federal district courts of the United States of America will be the exclusive forums for substantially all disputes between us and our stockholders, which could limit our stockholders' ability to obtain a favorable judicial forum for disputes with us or our directors, officers or employees.

Our amended and restated bylaws that will become effective immediately prior to the completion of this offering provide that the Court of Chancery of the State of Delaware (or, if the Court of Chancery does not have jurisdiction, another State court in Delaware or the federal district court for the District of Delaware) is the exclusive forum for the following (except for any claim as to which such court determines that there is an indispensable party not subject to the jurisdiction of such court (and the indispensable party does not consent to the personal jurisdiction of such court within 10 days following such determination), which is vested in the exclusive jurisdiction of a court or forum other than such court or for which such court does not have subject matter jurisdiction):

- any derivative action or proceeding brought on our behalf;
- any action asserting a claim of breach of fiduciary duty;
- any action asserting a claim against us arising under the Delaware General Corporation Law, our amended and restated certificate of incorporation or our amended and restated bylaws; and
- any action asserting a claim against us that is governed by the internal-affairs doctrine.

This provision would not apply to suits brought to enforce a duty or liability created by the Exchange Act or any other claim for which the U.S. federal courts have exclusive jurisdiction.

Our amended and restated bylaws further provide that the federal district courts of the United States of America will be the exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act.

These exclusive-forum provisions may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or our directors, officers or other employees, which may discourage lawsuits against us and our directors, officers and other employees. Any person or entity purchasing or otherwise acquiring any interest in any of our securities shall be deemed to have notice of and consented to these provisions. There is uncertainty as to whether a court would enforce such provisions, and the enforceability of similar choice of forum provisions in other companies' charter documents has been challenged in legal proceedings. It is possible that a court could find these types of provisions to be inapplicable or unenforceable, and if a court were to find either exclusive-forum provision in our amended and restated bylaws to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving the dispute in other jurisdictions, which could seriously harm our business.

Our board of directors will be authorized to issue and designate shares of our preferred stock in additional series without stockholder approval.

Our amended and restated certificate of incorporation will authorize our board of directors, without the approval of our stockholders, to issue shares of our preferred stock, subject to limitations prescribed by applicable law, rules and regulations and the provisions of our amended and restated certificate of incorporation, as shares of preferred stock in series, to establish from time to time the number of shares to be included in each such series and to fix the designation, powers, preferences and rights of the shares of each such series and the qualifications, limitations or restrictions thereof. The powers, preferences and rights of these additional series of preferred stock may be senior to or on parity with our common stock, which may reduce its value.

SPECIAL NOTES REGARDING FORWARD-LOOKING STATEMENTS

This prospectus contains forward-looking statements concerning our business, operations and financial performance and condition, as well as our plans, objectives and expectations for our business, operations and financial performance and condition. Any statements contained herein that are not statements of historical facts may be deemed to be forward-looking statements. In some cases, you can identify forward-looking statements by terminology such as “anticipate,” “assume,” “believe,” “contemplate,” “continue,” “could,” “due,” “estimate,” “expect,” “goal,” “intend,” “may,” “objective,” “plan,” “predict,” “potential,” “positioned,” “seek,” “should,” “target,” “will,” “would” and other similar expressions that are predictions of or indicate future events and future trends, or the negative of these terms or other comparable terminology.

These forward-looking statements include, but are not limited to, statements about:

- our plans and expected timeline related to our products, or developing new products, to address additional indications or otherwise;
- the expected use of our products by physicians;
- the size and growth potential of the markets for our products, and our ability to serve those markets;
- our ability to identify and develop new planned products and/or acquire new products;
- our plans to conduct further clinical trials;
- our ability to obtain, maintain and expand regulatory clearances for our products and any new products;
- our ability to maintain or expand our relationships with strategic partners, or to identify and develop new strategic partnerships;
- our ability to expand our business into new geographic markets;
- the expected growth of our business and our organization;
- our expectations regarding government and third-party payor coverage and reimbursement;
- our ability to retain and recruit key personnel, including the continued development of a sales and marketing infrastructure;
- our expectations regarding the impact of the COVID-19 pandemic on our business;
- our ability to obtain an adequate supply of materials and components for our products from our third-party suppliers, some of whom are single-source suppliers;
- our ability to manufacture sufficient quantities of our products with sufficient quality;
- our ability to obtain, maintain, enforce and defend intellectual property protection for our products;
- our estimates of our expenses, ongoing losses, future revenue, capital requirements and our need for, or ability to obtain, additional financing;
- our expected uses of the net proceeds from this offering;
- our expectations regarding the time during which we will be an emerging growth company under the JOBS Act; and
- developments and projections relating to our competitors or our industry.

We believe that it is important to communicate our future expectations to our investors. However, there may be events in the future that we are not able to accurately predict or control and that may cause our actual results to differ materially from the expectations we describe in our forward-looking statements. These forward-looking statements are based on management’s current expectations, estimates, forecasts and projections about our

business and the industry in which we operate and management's beliefs and assumptions and are not guarantees of future performance or development and involve known and unknown risks, uncertainties and other factors that are in some cases beyond our control. As a result, any or all of our forward-looking statements in this prospectus may turn out to be inaccurate. Factors that may cause actual results to differ materially from current expectations include, among other things, those listed in the section titled "Risk Factors" and elsewhere in this prospectus. Potential investors are urged to consider these factors carefully in evaluating the forward-looking statements.

These forward-looking statements speak only as of the date of this prospectus. We assume no obligation to update or revise these forward-looking statements for any reason, even if new information becomes available in the future. You should not rely upon forward-looking statements as predictions of future events. Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee that the future results, levels of activity, performance or events and circumstances reflected in the forward-looking statements will be achieved or occur. We undertake no obligation to update publicly any forward-looking statements for any reason after the date of this prospectus to conform these statements to actual results or to changes in our expectations.

You should read this prospectus and the documents that we reference in this prospectus and have filed with the SEC as exhibits to the registration statement of which this prospectus is a part with the understanding that our actual future results, levels of activity, performance and events and circumstances may be materially different from what we expect.

MARKET, INDUSTRY AND OTHER DATA

This prospectus contains estimates and information concerning our industry, including the incidence of certain medical conditions and procedures, healthcare costs, market size and growth rates of the markets in which we participate, that are based on industry publications and reports. We relied on industry, market data, peer-reviewed journals, formal presentations at medical society meetings and independent third-party sources for procedure data in the United States, as well as publicly available data and other sources. We also rely on our own research and estimates in this prospectus. In some cases, we do not expressly refer to the sources from which this data is derived. This information involves a number of assumptions and limitations, and you are cautioned not to give undue weight to these estimates. We have not independently verified the data contained in any third-party information, and cannot assure you of its accuracy or completeness.

Although we believe the market position, market opportunity, market size and medical information included in this prospectus is reliable, such information is inherently imprecise. In addition, projections, assumptions, and estimates of our future performance and the future performance of the industry in which we operate are necessarily subject to a high degree of uncertainty and risk due to a variety of factors, including those described in the section titled “Risk Factors.” These and other factors could cause results to differ materially from those expressed in these publications and reports.

DIVIDEND POLICY

We have never declared or paid, and do not anticipate declaring or paying, any cash dividends on any of our capital stock. We do not anticipate paying any dividends in the foreseeable future, and we currently intend to retain all available funds and any future earnings, if any, for use in the operation of our business, to finance the growth and development of our business and for future repayment of debt. Future determinations as to the declaration and payment of dividends, if any, will be at the discretion of our board of directors and will depend on then-existing conditions, including our operating results, financial condition, contractual restrictions, capital requirements, business prospects and other factors our board of directors may deem relevant. In addition, our 2019 Credit Agreement restricts our ability to pay dividends or make other distributions or payments on account of our common stock, in each case subject to certain exceptions.

USE OF PROCEEDS

We estimate that the net proceeds from the sale 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 on 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) and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

Each $1.00 increase (decrease) in the assumed initial public offering price of $ per share would increase (decrease) the net proceeds to us from this offering by $ 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 the estimated underwriting discounts and commissions and estimated offering expenses payable by us. Similarly, each increase (decrease) of 1.0 million shares in the number of shares offered by us would increase (decrease) the net proceeds to us from this offering by $ million, assuming that the assumed initial public offering price remains the same, and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us. We do not expect that a change in the initial public offering price or the number of shares by these amounts would have a material effect on our uses of the proceeds from this offering.

We currently intend to use the net proceeds from this offering to support our commercial expansion, increased research and development activities, conduct of studies and clinical trials and international expansion, as well as for working capital and other general corporate purposes.

We believe opportunities may exist from time to time to expand our current business through license or acquisitions of, or investments in, complementary businesses, products or technologies. While we have no current agreements, commitments or understandings for any specific licenses, acquisitions or investments at this time, we may use a portion of the net proceeds for these purposes.

Our management will have broad discretion over the use of the net proceeds from this offering. The amounts and timing of our expenditures will depend upon numerous factors, including cash flows from operations, the extent and success of our commercial expansion, the extent and results of our research and development efforts, the timing and success of our studies and clinical trials, the timing and results of regulatory submissions, reimbursement and the anticipated growth of our business. Pending their uses, we plan to invest the net proceeds of this offering in short-term, interest-bearing, investment-grade instruments, certificates of deposit or direct or guaranteed obligations of the U.S. government.

CAPITALIZATION

The following table sets forth our cash, cash equivalents and marketable securities and capitalization as of December 31, 2019 on:

- an actual basis;
- a pro forma basis, giving effect to (i) the automatic conversion of all outstanding shares of our convertible preferred stock into an aggregate of 157,333,629 shares of our common stock immediately prior to the completion of this offering, as if such conversion had occurred on December 31, 2019, (ii) the automatic conversion of all outstanding warrants to purchase shares of our convertible preferred stock into warrants to purchase shares of our common stock, and the related reclassification of our common and preferred stock warrant liability to stockholders' equity (deficit) immediately prior to the completion of this offering, and (iii) the filing and effectiveness of our amended and restated certificate of incorporation, which will be in effect immediately prior to the completion of this offering; and
- a pro forma as adjusted basis to give further effect to our issuance and sale of shares of common stock in this offering at 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) and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

You should read this information in conjunction with our consolidated financial statements and related notes included elsewhere in this prospectus, as well as the sections titled "Selected Consolidated Financial Data" and "Management's Discussion and Analysis of Financial Condition and Results of Operations."

	As of December 31, 2019		
(in thousands, except share and per share data)	**Actual**	**Pro Forma**	**Pro Forma As Adjusted**
Cash, cash equivalents and marketable securities	$ 71,803	$	$
Long-term debt	$ 38,244	$	$
Common and preferred stock warrant liability	8,919		
Convertible preferred stock, $0.001 par value per share; 172,064,796 shares authorized, 157,333,629 shares issued and outstanding, actual; no shares authorized, issued or outstanding, pro forma and pro forma as adjusted	253,358	—	—
Stockholders' equity (deficit):			
Preferred stock, $0.001 par value per share; no shares authorized, issued or outstanding, actual; shares authorized, pro forma and pro forma as adjusted; no shares issued or outstanding, pro forma and pro forma as adjusted	—	—	—
Common stock, $0.001 par value per share; 220,000,000 shares authorized, 6,767,457 shares issued and outstanding, actual; shares authorized, shares issued and outstanding, pro forma; shares authorized, shares issued and outstanding, pro forma as adjusted	7		
Additional paid-in capital	33,246		
Accumulated deficit	(259,034)		
Accumulated other comprehensive (loss) income	(30)		
Total stockholders' equity (deficit)	(225,811)		
Total capitalization	$ 74,710	$	$

The pro forma as adjusted information discussed above is illustrative only and will be adjusted based on the actual public offering price and other terms of this offering determined at pricing. Each $1.00 increase (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 (decrease) each of our pro forma as adjusted cash, cash equivalents and marketable securities, additional paid-in capital, total stockholders' equity (deficit) and total capitalization by $ million, assuming that the number of shares of common stock 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 (decrease) of 1.0 million shares in the number of shares of common stock offered by us would increase (decrease) each of our pro forma as adjusted cash, cash equivalents and marketable securities, additional paid-in capital, total stockholders' equity (deficit) and total capitalization by $ million, 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.

If the underwriters' option to purchase additional shares is exercised in full, our pro forma as adjusted cash, cash equivalents and marketable securities, additional paid-in capital, total stockholders' equity (deficit), total capitalization and shares outstanding as of December 31, 2019 would be $ million, $ million, $ million, $ million and , respectively.

The number of shares of common stock that will be outstanding after this offering on a pro forma and pro forma as adjusted basis is based on 164,101,086 shares of our common stock (including all shares of our convertible preferred stock on an as-converted basis) outstanding as of December 31, 2019, and excludes:

- 4,955,017 shares of our common stock issuable upon the exercise of warrants to purchase shares of our common stock outstanding as of December 31, 2019, with a weighted-average exercise price of $0.02 per share;
- 4,346,557 shares of our common stock issuable upon the exercise of warrants to purchase shares of convertible preferred stock outstanding as of December 31, 2019, which will be automatically converted into warrants to purchase shares of our common stock immediately prior to the completion of this offering, with a weighted-average exercise price of $1.714 per share;
- 19,850,309 shares of our common stock issuable upon the exercise of options to purchase shares of our common stock outstanding as of December 31, 2019, with a weighted-average exercise price of $0.98 per share;
- 8,431,411 shares of our common stock issuable upon the exercise of options to purchase shares of our common stock granted after December 31, 2019, with a weighted-average exercise price of $1.523 per share;
- 5,518,463 shares of our common stock issuable upon the vesting and settlement of outstanding RSUs as of December 31, 2019, of which units will vest upon the effectiveness of the registration statement of which this prospectus forms a part; and
- shares of our common stock reserved for future grants under our stock-based compensation plans, consisting of:
  - 9,970,601 shares of our common stock reserved for future grants under our 2011 Plan, which shares will be added to the shares to be reserved under our 2020 Plan, which will become effective immediately prior to the effective date of this registration statement,
  - shares of our common stock reserved for future grants under our 2020 Plan, which will become effective immediately prior to the effective date of this registration statement, including shares of our common stock issuable upon the exercise of options to purchase shares of our common stock granted to certain of our executive officers, directors and new employees pursuant to our 2020 Plan, with a grant date of the effective date of this registration

statement and with an exercise price equal to the initial public offering price, as well as any automatic increases in the number of shares of our common stock reserved for future issuance pursuant to this plan, and

- shares of our common stock reserved for future issuance under our 2020 ESPP, which will become effective immediately prior to the effective date of this registration statement, as well as any automatic increases in the number of shares of our common stock reserved for future issuance pursuant to this plan.

DILUTION

If you invest in our common stock in this offering, your ownership interest will be diluted immediately to the extent of the difference between the initial public offering price per share of our common stock and the pro forma as adjusted net tangible book value per share of our common stock immediately after this offering.

Our historical net tangible book value (deficit) as of December 31, 2019 was $(241.9) million, or $(35.75) per share of our common stock. Our historical net tangible book value (deficit) is the amount of our total tangible assets less our total liabilities and convertible preferred stock, which is not included within our stockholders' equity (deficit). Historical net tangible book value per share represents historical net tangible book value (deficit) divided by the number of shares of our common stock outstanding as of December 31, 2019.

Our pro forma net tangible book value as of December 31, 2019 was $ million, or $ per share of our common stock. Pro forma net tangible book value represents the amount of our total tangible assets less our total liabilities, after giving effect to the automatic conversion of all outstanding shares of our convertible preferred stock into an aggregate of 157,333,629 shares of our common stock immediately prior to the completion of this offering. Pro forma net tangible book value per share represents pro forma net tangible book value divided by the total number of shares outstanding as of December 31, 2019, after giving effect to the automatic conversion of all outstanding shares of our convertible preferred stock into an aggregate of 157,333,629 shares of our common stock immediately prior to the completion of this offering.

After giving further effect to our sale of shares of common stock in this offering at 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) and 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 December 31, 2019 would have been approximately $ million, or approximately $ per share. This represents an immediate increase in pro forma as adjusted net tangible book value per share of $ to our existing stockholders and an immediate dilution in pro forma as adjusted net tangible book value per share of approximately $ to new investors purchasing common stock in this offering. Dilution per share to new investors purchasing common stock in this offering is determined by subtracting pro forma as adjusted net tangible book value per share after this offering from the assumed initial public offering price per share paid by new investors.

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

Assumed initial public offering price per share		$
Historical net tangible book value (deficit) per share as of December 31, 2019	$(35.75)	
Pro forma increase in net tangible book value per share as of December 31, 2019		
Pro forma net tangible book value per share as of December 31, 2019		
Increase in pro forma as adjusted net tangible book value per share attributable to new investors purchasing shares in this offering		
Pro forma as adjusted net tangible book value per share after this offering		
Dilution per share to new investors purchasing shares in this offering		$

The dilution information discussed above is illustrative only and may change based on the actual initial public offering price and other terms of this offering. Each $1.00 increase 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 our pro forma as adjusted net tangible book value by $ per share and the dilution per share to new investors in this offering by $ per share, 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 $1.00 decrease in the assumed initial public offering price of $ per share would decrease our pro forma as adjusted net tangible book value by $ per share and the dilution per share to new investors in this offering by $ per share, 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.

Each increase of 1.0 million in the number of shares of common stock offered by us would increase our pro forma as adjusted net tangible book value by $ per share and the dilution per share to new investors in this offering by $ per share, assuming the assumed initial public offering price remains the same, and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us. Similarly, each decrease of 1.0 million in the number of shares of common stock offered by us would decrease our pro forma as adjusted net tangible book value by $ per share and the dilution per share to new investors in this offering by $ per share, assuming the assumed initial public offering price remains the same, and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

The following table summarizes, as of December 31, 2019, on a pro forma as adjusted basis as described above, the difference between existing stockholders and investors purchasing shares in this offering with respect to the number of shares of common stock purchased from us, the total consideration paid to us, and the weighted-average price per share paid, before deducting the 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 before this offering		%	$	%	$
Investors purchasing shares in this offering					$
Total		100.0%	$	100.0%	

The table above assumes no exercise of the underwriters' option to purchase additional shares in this offering. If the underwriters' option to purchase additional shares is exercised in full, the number of shares of our common stock held by existing stockholders would be reduced to % of the total number of shares of our common stock outstanding after this offering, and the number of shares of common stock held by new investors participating in the offering would be increased to % of the total number of shares outstanding after this offering.

Each $1.00 increase (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 (decrease) the total consideration paid by new investors by $ million, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same. Similarly, each increase (decrease) of 1.0 million shares in the number of shares offered by us would increase (decrease) the total consideration paid by new investors by $ million, assuming no change in the assumed initial public offering price.

The foregoing tables and calculations (other than the historical net tangible book value calculation) are based on the 164,101,086 shares of our common stock (including all shares of our convertible preferred stock on an as-converted basis) outstanding as of December 31, 2019, and excludes:

- 4,955,017 shares of our common stock issuable upon the exercise of warrants to purchase shares of our common stock outstanding as of December 31, 2019, with a weighted-average exercise price of $0.02 per share;

- 4,346,557 shares of our common stock issuable upon the exercise of warrants to purchase shares of convertible preferred stock outstanding as of December 31, 2019, which will be automatically converted into warrants to purchase shares of our common stock immediately prior to the completion of this offering, with a weighted-average exercise price of $1.714 per share;
- 19,850,309 shares of our common stock issuable upon the exercise of options to purchase shares of our common stock outstanding as of December 31, 2019, with a weighted-average exercise price of $0.98 per share;
- 8,431,411 shares of our common stock issuable upon the exercise of options to purchase shares of our common stock granted after December 31, 2019, with a weighted-average exercise price of $1.523 per share;
- 5,518,463 shares of our common stock issuable upon the vesting and settlement of outstanding RSUs as of December 31, 2019, of which units will vest upon the effectiveness of the registration statement of which this prospectus forms a part; and
- shares of our common stock reserved for future grants under our stock-based compensation plans, consisting of:
  - 9,970,601 shares of our common stock reserved for future grants under our 2011 Plan, which shares will be added to the shares to be reserved under our 2020 Plan, which will become effective immediately prior to the effective date of this registration statement,
  - shares of our common stock reserved for future grants under our 2020 Plan, which will become effective immediately prior to the effective date of this registration statement, including shares of our common stock issuable upon the exercise of options to purchase shares of our common stock granted to certain of our executive officers, directors and new employees pursuant to our 2020 Plan, with a grant date of the effective date of this registration statement and with an exercise price equal to the initial public offering price, as well as any automatic increases in the number of shares of our common stock reserved for future issuance pursuant to this plan, and
  - shares of our common stock reserved for future issuance under our 2020 ESPP, which will become effective immediately prior to the effective date of this registration statement, as well as any automatic increases in the number of shares of our common stock reserved for future issuance pursuant to this plan.

To the extent that any outstanding options to purchase shares of our common stock are exercised or new awards are granted under our equity compensation plans, or we issue additional shares of common stock or other securities convertible into or exercisable or exchangeable for shares of our capital stock in the future, there will be further dilution to investors participating in this offering.

SELECTED CONSOLIDATED FINANCIAL DATA

The following tables set forth our selected historical consolidated financial data as of and for the periods indicated. We have derived the selected consolidated statements of operations and comprehensive loss data for the years ended December 31, 2019 and 2018 and the consolidated balance sheet data as of December 31, 2019 and 2018 from our consolidated financial statements included elsewhere in this prospectus. You should read this data together with our consolidated financial statements and related notes included elsewhere in this prospectus and the information in the section titled "Management's Discussion and Analysis of Financial Condition and Results of Operations." The selected consolidated financial data included in this section are not intended to replace the consolidated financial statements and related notes and are qualified in their entirety by our consolidated financial statements and related notes included elsewhere in this prospectus. Our historical results are not necessarily indicative of the results to be expected for any other period.

(in thousands, except share and per share data)	Year Ended December 31, 2019	2018
Consolidated Statements of Operations and Comprehensive Loss Data:		
Revenue[2]	$ 2,836	$ 2,166
Costs and operating expenses:		
Cost of products sold[1]	9,243	7,510
Research and development[1]	23,029	19,077
Research and development—license acquired	15,000	—
Selling, general and administrative[1]	26,847	13,330
Impairment of property and equipment	786	—
Change in fair value of contingent consideration	500	—
Total costs and operating expenses	75,405	39,917
Loss from operations	(72,569)	(37,751)
Other income (expense):		
Change in fair value of warrant liability and embedded derivative	(1,919)	(4,298)
Loss on issuance of convertible notes and warrants	—	(924)
Loss on debt extinguishment	(1,447)	—
Interest income	1,164	297
Interest expense	(22,268)	(5,231)
Total other income (expense), net	(24,470)	(10,156)
Loss before income taxes	(97,039)	(47,907)
Income tax benefit	—	—
Net loss	$ (97,039)	$ (47,907)
Net loss per common share, basic and diluted[3]	$ (14.85)	$ (9.03)
Weighted-average shares outstanding, basic and diluted[3]	6,534,469	5,307,392
Pro forma net loss per common share, basic and diluted (unaudited)[3]	$	
Pro forma weighted-average shares outstanding, basic and diluted (unaudited)[3]		

(1) The following table sets forth the stock-based compensation expense included in our consolidated results of operations for the years ended December 31, 2019 and 2018:

	Year Ended December 31,	
(in thousands)	**2019**	**2018**
Cost of products sold	$ 209	$ 215
Research and development	656	564
Selling, general and administrative	2,129	1,292
Total stock-based compensation expense	$ 2,994	$ 2,071

(2) The following table sets forth our revenue for disposables and systems/service for the years ended December 31, 2019 and 2018:

	Year Ended December 31,	
(in thousands)	**2019**	**2018**
Disposables	$ 2,817	$ 2,160
Systems/service	19	6
Total revenue	$ 2,836	$ 2,166

(3) See Note 16 to our consolidated financial statements included elsewhere in this prospectus for an explanation of the calculations of our basic and diluted net loss per common share, basic and diluted pro forma net loss per common share and the weighted-average number of shares used in the computation of the per share amounts.

	As of December 31,	
(in thousands)	**2019**	**2018**
Consolidated Balance Sheet Data:		
Cash, cash equivalents and marketable securities	$ 71,803	$ 17,745
Working capital (deficit)(1)	50,546	(2,923)
Total assets	105,455	25,948
Contingent consideration, short- and long-term	13,900	—
Common and preferred stock warrant liability	8,919	6,842
Long-term debt	38,244	14,591
Convertible preferred stock	253,358	118,319
Accumulated deficit	(259,034)	(161,995)
Total stockholders' deficit	(225,811)	(131,824)

(1) Working capital (deficit) is defined as total current assets less total current liabilities. See our consolidated financial statements and related notes included elsewhere in this prospectus for further details regarding our current assets and current liabilities.

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

You should read the following discussion and analysis of our financial condition and results of operations together with our consolidated financial statements and related notes and other financial information included elsewhere in this prospectus. Some of the information contained in this discussion and analysis or set forth elsewhere in this prospectus, including information with respect to our plans and strategy for our business, includes forward-looking statements that involve risks and uncertainties. You should review the section titled "Risk Factors" for a discussion of important factors that could cause actual results to differ materially from the results described in or implied by the forward-looking statements contained in the following discussion and analysis.

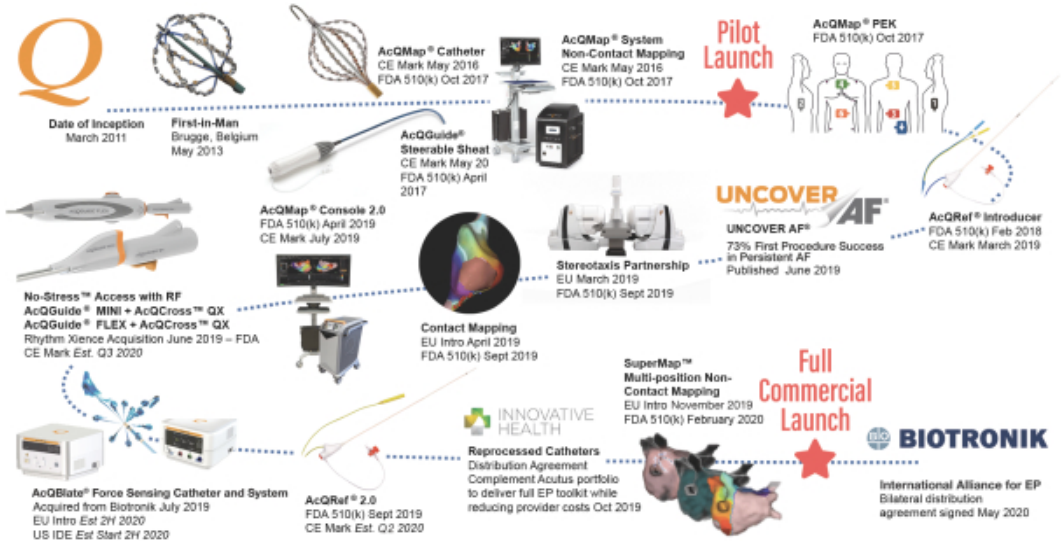
Overview

We are an arrhythmia management company focused on improving the way cardiac arrhythmias are diagnosed and treated. Despite several decades of effort by the incumbents in this field, the clinical and economic challenges associated with arrhythmia treatment continue to be a huge burden for patients, providers and payors. We are committed to advancing the field of electrophysiology with a unique array of products and technologies which will enable more physicians to treat more patients more effectively and efficiently. Through internal product development, acquisitions and global partnerships, we have established a global sales presence delivering a comprehensive portfolio of highly differentiated electrophysiology products that provide our customers with a complete solution for catheter-based treatment of cardiac arrhythmias.

Our product portfolio includes novel access catheters, diagnostic and mapping catheters, ablation catheters, mapping and imaging consoles and accessories, as well as supporting algorithms and software programs. Our foundational and most highly differentiated product is our AcQMap imaging and mapping system. Our paradigm-shifting AcQMap System offers a novel approach to mapping the drivers and maintainers of arrhythmias with unmatched speed and precision. With the ability to rapidly and accurately identify ablation targets and to confirm both ablation success and procedural completion, we believe our AcQMap System addresses the primary unmet need in electrophysiology procedures today.

We were incorporated in the State of Delaware on March 25, 2011 and are headquartered in Carlsbad, California. While early versions of our AcQMap System and certain related accessory products have been used in the United States and Western Europe in a limited, pilot launch capacity for several years, we initiated a full launch of our commercial-grade console and software products in the first quarter of 2020. Critical to our launch were a series of recent strategic transactions and regulatory approvals, including: FDA 510(k) clearance and CE Mark of our second-generation AcQMap console and SuperMap software suite; the addition of an integrated family of transseptal crossing and steerable introducer systems to our product portfolio through our acquisition of Rhythm Xience, Inc., or Rhythm Xience; and the acquisition of our AcQBlate Force sensing product line from Biotronik SE & Co. KG, or Biotronik. Since our full launch, we have continued to enhance our product portfolio and global presence by entering into bi-lateral distribution agreements with Biotronik in May 2020, which added a full suite of diagnostic and ablation catheters to our product portfolio and significantly expanded our international distribution and market development capabilities.

The diagram below depicts a chronology of these and other key events since our inception:



We market our comprehensive portfolio of electrophysiology products worldwide to hospitals and electrophysiologists that treat patients with arrhythmias. We have strategically developed a direct selling presence in the United States and select markets in Western Europe where cardiac ablation is a standard of care and third-party reimbursement is well-established. In these markets, we install our AcQMap console and workstation with customer accounts and then sell our disposable products to those accounts for use with our system. In other international markets, we leverage our partnership with Biotronik to install our AcQMap console and workstation with customer accounts and then to sell our disposable products to those accounts. Once an AcQMap console and workstation is established in a customer account, our revenue from that account is predominantly recurring and derived from the sale of our portfolio of disposable products used with our system. Our currently marketed disposable products include access sheaths, transseptal crossing tools, diagnostic and mapping catheters, ablation catheters and accessories. We plan to leverage the geographically concentrated nature of procedure volumes and the recurring nature of our sales to drive an increasingly efficient commercial model.

As of May 14, 2020, our commercial organization consisted of 58 individuals with substantial applicable medical device, sales and clinical experience, including sales managers, sales representatives and mappers. Over time, we plan to selectively add highly qualified personnel to our commercial organization with a strategic mix of sales representatives and mappers to cover the concentrated group of hospitals that we believe perform the majority of the cardiac ablation procedures in our direct markets.

Our revenue has historically consisted predominantly of sales of our disposable products, as we generally loaned our first-generation AcQMap console and workstation to our customers without charge to facilitate the use of our disposable products. Beginning in late 2019, we have begun to install our second-generation AcQMap console and workstation with customer accounts under evaluation contracts. Under these evaluation contracts, we place our AcQMap console and workstation with customers at no upfront cost during the applicable evaluation period and seek to reach agreement with the customer for purchase of the console and workstation in the form of a contractual commitment to purchase a minimum amount of our disposable products or a cash purchase. In addition, we have also generated a small portion of our revenue from service agreements with our customers.

We currently manufacture our novel access sheaths, transseptal crossing tools, diagnostic and mapping catheters, ablation catheters, mapping and imaging consoles and accessories at our approximately 50,800 square

foot facility in Carlsbad, California. This facility provides approximately 15,750 square feet of space for our production and distribution operations, including manufacturing, quality control and storage. In addition, we stock inventory of raw materials, components and finished goods at our facility in Carlsbad and, to a limited extent, with our sales representatives, who travel to our customers' locations as part of their sales efforts. We rely on a single or limited number of suppliers for certain raw materials and components, and we generally have no long-term supply arrangements with our suppliers, as we generally order on a purchase order basis. Furthermore, we rely on third parties to manufacture certain products we offer our customers as part of our product portfolio, including Biotronik for diagnostic and ablation catheters, radiofrequency, or RF, generators and irrigation pumps, Innovative Health for reprocessed diagnostic catheters and MedFact for robotic navigation enabled ablation catheters.

As of March 31, 2020, we have completed three clinical trials that collectively evaluated 223 subjects across 16 centers in multiple countries. We are currently conducting two post-market trials to provide physicians with additional safety and effectiveness data on the use of our AcQMap System, and we are planning two investigational device exemption, or IDE, trials to support regulatory approval of our AcQBlate Force ablation catheters. Our ongoing and planned trials are anticipated to involve an aggregate of over 700 subjects in at least 35 centers in the United States and internationally. We expect to provide data readouts from these ongoing and planned trials at various points in time through 2023.

In 2019, we generated revenue of $2.8 million, of which 74% was from customers located outside of the United States. Since our inception, we have generated significant losses. Our net loss was $97.0 million for the year ended December 31, 2019 (which included $15.0 million in payments attributable to the product line we acquired from Biotronik pursuant to the Biotronik License Agreement), and as of December 31, 2019, we had an accumulated deficit of $259.0 million and working capital of $50.5 million. Prior to this offering, our operations have been financed primarily by aggregate net proceeds from the sale of our convertible preferred stock and principal of our converted debt of $253.9 million, as well as other indebtedness.

We intend to continue to make significant investments in our sales and marketing organization. We believe increasing the number of sales representatives and expanding our international marketing programs will help facilitate further adoption of our products among existing customer accounts as well as broaden awareness of our products to new accounts. We also expect to continue to make substantial investments in our ongoing clinical trials and in additional clinical trials that are designed to provide clinical evidence of the safety and effectiveness of our existing and future generations of products. We expect to continue to make investments in research and development and regulatory affairs to develop future generations of products based on our technology, supported with appropriate regulatory submissions. We may in the future seek to acquire or invest in additional businesses, products or technologies that we believe could complement or expand our portfolio, enhance our technical capabilities or otherwise offer growth opportunities. We will also incur costs as a public company that we have not previously incurred or have previously incurred at lower rates, including increased costs for employee-related expenses, director and officer insurance premiums, audit and legal fees, investor relations fees, fees to members of our board of directors and expenses for compliance with public-company reporting requirements under the Exchange Act and rules implemented by the SEC, as well as stock exchange rules. Because of these and other factors, we expect to continue to incur substantial net losses and negative cash flows from operations for at least the next several years.

Biotronik Agreements

Biotronik License Agreement

In July 2019, we entered into the Biotronik License Agreement with Biotronik and VascoMed GmbH, or VascoMed (who we refer to together as the Biotronik Parties), whereby we acquired certain manufacturing equipment and obtained from the Biotronik Parties a license under certain patents and technology to develop, commercialize, distribute and manufacture our AcQBlate Force ablation catheters and Qubic Force device. We

refer to this transaction as the Biotronik Asset Acquisition. Pursuant to the Biotronik License Agreement, we paid Biotronik a $3.0 million upfront fee at the time the agreement was signed, as well as a technology transfer fee consisting of $7.0 million in cash in December 2019 and $5.0 million in shares of our Series D convertible preferred stock in February 2020.

The Biotronik License Agreement also requires that we pay the Biotronik Parties certain milestone payments as follows: (i) $2.0 million upon receipt of marketing approval for the sale of our AcQBlate Force ablation catheters in Europe; (ii) $5.0 million upon the receipt of marketing approval for the sale of our AcQBlate Force ablation catheters in the United States; and (iii) $3.0 million upon the first commercial sale of our AcQBlate Force ablation catheters in the United States. We are also required to pay the Biotronik Parties unit-based royalties on any sales we make of our AcQBlate Force ablation catheters following commercialization.

Bi-Lateral Distribution Agreements

In May 2020, we entered into more expansive bi-lateral distribution agreements with Biotronik. We refer to these agreements as the Bi-Lateral Distribution Agreements and our relationship with Biotronik as the Acutus/Biotronik Global Alliance for Electrophysiology. Pursuant to our Bi-Lateral Distribution Agreements, we obtained a non-exclusive license to distribute a range of Biotronik's therapeutic electrophysiology products and accessories (including the AlCath family of RF ablation catheters) in the United States, Canada, China, Hong Kong and multiple Western European countries under our own private label. Moreover, if an IDE clinical trial is required for these products to obtain regulatory approval in the United States, or a clinical trial is required for these products to obtain regulatory approval in China, we will obtain an exclusive distribution right in such territories for a term of up to five years commencing on the date of regulatory approval if we cover the cost of the IDE or other clinical trial and we conduct such study within a specified period. We also obtained a non-exclusive license to distribute a range of Biotronik's diagnostic electrophysiology products and accessories in each of the foregoing territories under our own private label.

Pursuant to the Bi-Lateral Distribution Agreements, Biotronik has also agreed to distribute our products, including our AcQMap System, our Qubic Force device and our disposable products (including our AcQBlate Force catheters) and accessories in Germany, Japan, Mexico, Switzerland and multiple countries in Asia-Pacific, Eastern Europe, the Middle East and South America. We also granted Biotronik a co-exclusive right to distribute these products in Hong Kong. Biotronik is required to use our branding with respect to the AcQMap console and workstation, but retains the right to distribute our disposable products and accessories under its private label. Each party will pay to the other party specified transfer prices on the sale of the other party's products under the Bi-Lateral Distribution Agreements and, accordingly, will earn a distribution margin on the sale of the other party's products.

For a further description of our agreements with Biotronik, see the section titled "Business—Biotronik Agreements."

Key Business Metric

We regularly review a number of operating and financial metrics, including the following key business metric, to evaluate our business, measure our performance, identify trends affecting our business, formulate financial projections and make strategic decisions. We believe that the following metric is representative of our current business. However, we anticipate this metric may change or may be substituted for additional or different metrics as our business grows and as we introduce new products.

Installed Base

Once an AcQMap console and workstation is established in a customer account, our revenue from that account is predominantly recurring and derived from the sale of our portfolio of disposable products used with

our system. We believe our installed base is one of the key indicators of our ability to drive customer adoption of our products. We define our installed base as the cumulative number of AcQMap consoles and workstations placed into service at customer sites, all of which to date were originally placed without charge to the customer. Beginning in late 2019, we have begun to install our second-generation AcQMap console and workstation with customer accounts under evaluation contracts. Under these evaluation contracts, we place our AcQMap console and workstation with customers at no upfront cost during the applicable evaluation period and seek to reach agreement with the customer for purchase of the console and workstation in the form of a contractual commitment to purchase a minimum amount of our disposable products or a cash purchase. Our installed base as of December 31, 2019 and 2018 is set forth in the table below:

	As of December 31,	
	2019	2018
Installed base:		
United States	10	5
International	17	16
Total	27	21

Growth in our quarterly installed base can fluctuate due to a number of factors, including the commercial effectiveness of our sales representatives and strategic partners such as Biotronik, and the procurement and budgeting cycles of many of our customers, especially those where unused funds may be forfeited or future budgets may be reduced if purchases are not made by their fiscal year end. We also believe the timing of installations has been impacted and will continue to be impacted by the timing of product introductions and transitions. In addition, the growth of our market in certain geographic regions and our continued efforts to service these regions impact unit volumes quarter to quarter.

Factors Affecting Our Performance

There are a number of factors that have impacted, and we believe will continue to impact, or that we expect to impact, our results of operations and growth. These factors include:

- ***Market Acceptance***. The growth of our business will depend substantially on our ability to increase our installed base. Once an AcQMap console and workstation is established in a customer account, our revenue from that account is predominantly recurring and derived from the sale of our portfolio of disposable products used with our system. Our ability to increase our installed base will depend on our ability to gain broader acceptance of our AcQMap System by continuing to make physicians and other hospital staff aware of the benefits of the AcQMap System, thereby generating increased demand for system installations and the frequency of use of our disposable products. Although we are attempting to increase our installed base through our established relationships and focused sales efforts, we cannot provide assurance that our efforts will be successful.
- ***Commercial Organization Size and Effectiveness***. As of May 14, 2020, our commercial organization consisted of 58 individuals with substantial applicable medical device, sales and clinical experience, including sales managers, sales representatives and mappers. We intend to continue to make significant investments in our commercial organization by increasing the number of our sales representatives, sales managers and mappers, as well as by expanding our global marketing and training programs, to help facilitate further adoption of our products among existing and new customer accounts. The rate at which we grow our commercial organization and the speed at which newly hired personnel become effective can impact our revenue growth or our costs incurred in anticipation of such growth.
- ***Strategic Partnerships and Acquisitions***. We have in the past, and may in the future, enter into strategic partnerships and acquire complementary businesses, products or technologies. For example, we have entered into strategic partnerships with Innovative Health and Stereotaxis and, most recently, we entered into our Global Alliance for Electrophysiology with Biotronik in May 2020. In addition, we

added an integrated family of transseptal crossing and steerable introducer systems to our product portfolio through our acquisition of Rhythm Xience in June 2019 and acquired our AcQBlate Force sensing product line from Biotronik in July 2019. Our strategic partnerships and acquisitions have helped us establish a global sales presence delivering a comprehensive portfolio of highly differentiated electrophysiology products that provide our customers with a complete solution for catheter-based treatment of cardiac arrhythmias. Our ability to grow our revenue will depend substantially on our ability to leverage our strategic partnerships and acquisitions to achieve distribution at a global scale, broaden our product portfolio and enable and accelerate global connectivity.

- ***Continued Investment in Innovation***. Our business strategy relies significantly on innovation to develop and introduce new products and to differentiate our products from our competitors. For example, in 2019, our research and development team released five new disposable products, two hardware products, including a major generational update to our AcQMap System, and 15 software updates. We expect our research and development expenditures to increase as we make additional investments to support our growth strategies. We plan to increase our research and development expenditures with internal initiatives, as well as potentially licensing or acquiring technology from third parties. We also expect expenditures associated with our manufacturing organization to grow over time as production volume increases and we bring new products to market. Our internal and external investments will be focused on initiatives that we believe will offer the greatest opportunity for growth and profitability. With a significant investment in research and development, a strong focus on innovation and a well-managed innovation process, we believe we can continue to innovate and grow. Introducing additional, innovative products is also expected to help support our existing installed base and help drive demand for additional installations of our system. If, however, our future innovations are not successful in meeting customers' needs or prove to be too costly relative to their perceived benefit, we may not be successful. Moreover, as cost of products sold, operating expenses and capital expenditures fluctuate over time, we may experience short-term, negative impacts to our results of operations and cash flows, but we are undertaking such investments in the belief that they will contribute to long-term growth.

- ***Product and Geographic Mix; Timing***. Our financial results, including our gross margins, may fluctuate from period to period due to a variety of factors, including: average selling prices; production volumes; the cost of direct materials; the timing of customer orders or medical procedures and the timing and number of system installations; the number of available selling days in a particular period, which can be impacted by a number of factors such as holidays or days of severe inclement weather in a particular geography; the mix of products sold and the geographic mix of where products are sold; the level of reimbursement available for our products; discounting practices; manufacturing costs; product yields; headcount; and cost-reduction strategies. For example, gross margins on the sale of our products by our direct selling organization in the United States and Western Europe are higher than gross margins on the sale of our products by Biotronik in other parts of the world. Moreover, gross margins on the sale of our proprietary products are generally higher than gross margins on the sale of products we source through our strategic partnerships with third parties. Future selling prices and gross margins for our products may fluctuate due to a variety of other factors, including the introduction by others of competing products or the attempted integration by third parties of capabilities similar to ours into their existing products. We aim to mitigate downward pressure on our selling prices by increasing the value proposition offered by our products through innovation. While we have not yet experienced significant seasonality in our results, it is not uncommon in our industry to experience seasonally weaker revenue during the summer months and end-of-year holiday season.

- ***Regulatory Approvals/Clearances and Timing and Efficiency of New Product Introductions***. We are seeking FDA clearance and CE Mark for the use of our AcQBlate Force ablation catheters and Qubic Force device in the United States and Europe, as well as regulatory clearance or approval of our other pipeline products in the United States and in international markets. Our ability to grow our revenue will

depend on our obtaining necessary regulatory approvals or clearances for our products. In addition, as we introduce new products, we expect to build our inventory of components and finished goods in advance of sales, which may cause quarterly fluctuations in our results of operations.

- ***Competition***. Our industry is intensely competitive, subject to rapid change and significantly affected by new product introductions and other market activities of industry participants. Our most significant competitors are large, well-capitalized companies. We must continue to successfully compete considering our competitors' existing and future products and related pricing and their resources to successfully market to the physicians who could use our products. Publications of clinical results by us, our competitors and other third parties can also have a significant influence on whether, and the degree to which, we are able to gain market share and increase utilization of our products.
- ***COVID-19 Pandemic***. Beginning in early March 2020, the COVID-19 pandemic and the measures imposed to contain this pandemic have disrupted and are expected to continue to impact our business. For example, on March 19, 2020, the Executive Department of the State of California issued Executive Order N-33-20, ordering all individuals in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors. Our primary operations are located in Carlsbad, California. As a result of such order, the majority of our employees have telecommuted, which may impact certain of our operations over the near term and long term. Moreover, beginning in March 2020, access to hospitals and other customer sites has been restricted to essential personnel, which has negatively impacted our ability to install our AcQMap consoles and workstations in new accounts and for our sales representatives and mappers to promote the use of our products with physicians. Moreover, hospitals and other therapeutic centers have suspended many elective procedures, resulting in a significantly reduced volume of procedures using our products. In addition, all clinical trials in Europe have been suspended with follow-ups for clinical trials done via telecom, and we believe enrollment timing in our planned clinical trials will be slowed due to COVID-19 driven delayed access to enrollment sites. As a result of the interruptions to our business due to COVID-19, we have enacted a cash conservation program, which includes delaying certain non-critical capital expenditures and other projects and implementing a hiring freeze and temporary compensation and headcount reductions throughout our organization. The magnitude of the impact of the COVID-19 pandemic on our productivity, results of operations and financial position, and its disruption to our business and our clinical programs and timelines, will depend, in part, on the length and severity of these restrictions and on our ability to conduct business in the ordinary course. Quarantines, shelter-in-place and similar government orders have also impacted, and may continue to impact, our third-party manufacturers and suppliers, and could in turn adversely impact the availability or cost of materials, which could disrupt our supply chain.

In addition, we may experience meaningful variability in our quarterly revenue and gross profit/loss as a result of a number of factors, including, but not limited to: inventory write-offs and write-downs; costs, benefits and timing of new product introductions; the availability and cost of components and raw materials; and fluctuations in foreign currency exchange rates. Additionally, we may experience quarters in which our costs and operating expenses, in particular our research and development expenses, fluctuate depending on the stage and timing of product development.

While certain of these factors may present significant opportunities for us, they all pose significant risks and challenges that we must address. See the section titled "Risk Factors" for more information.

Components of Results of Operations

Revenue

Our revenue consists of: (i) revenue from the sale of our disposable products; and (ii) systems and service revenue. In the United States and select markets in Western Europe where we have developed a direct selling

presence, we install our AcQMap console and workstation with our customer accounts and then generate revenue from the sale of our disposable products to these accounts for use with our system. In other international markets, we leverage our partnership with Biotronik to install our AcQMap console and workstation with customer accounts and then generate revenue from Biotronik's sale of our disposable products to these accounts for use with our system. Our currently marketed disposable products include access sheaths, transseptal crossing tools, diagnostic and mapping catheters, ablation catheters and accessories.

Our revenue has historically consisted predominantly of sales of our disposable products, as we generally loaned our first-generation AcQMap console and workstation to our customers without charge to facilitate the use of our disposable products. Beginning in late 2019, we have begun to install our second-generation AcQMap console and workstation with customer accounts under evaluation contracts. Under these evaluation contracts, we place our AcQMap console and workstation with customers at no upfront cost during the applicable evaluation period and seek to reach agreement with the customer for purchase of the console and workstation in the form of a contractual commitment to purchase a minimum amount of our disposable products or a cash purchase. Title to the console and workstation would typically convey to the customer once the contractual commitment was satisfied, while title would convey per the sales order terms in the case of a cash sale. In addition, we also generate a small portion of our revenue from service agreements. Revenue is recognized when the customer obtains control of the promised goods or services, generally at a point in time, and is recognized in an amount that reflects the consideration that we expect to receive in exchange for those goods or services. For the years ended December 31, 2019 and 2018, approximately 74% and 79%, respectively, of our sales were denominated in currencies other than U.S. dollars, primarily in Euros and the British Pound Sterling, or GBP. Our revenue is subject to fluctuation based on the foreign currency in which our products are sold.

Costs and Operating Expenses

Cost of Products Sold

Cost of products sold consist primarily of raw materials, direct labor, manufacturing overhead associated with the production and sale of our disposable products and, to a more limited extent, production and depreciation of our AcQMap console and workstation that we install with our customer accounts. We depreciate equipment over a three-year period. Cost of products sold also includes expenditures for warranty, field service, freight, royalties and inventory reserve provisions. We expect cost of products sold to increase in absolute dollars in future periods as our revenue increases.

Gross profit is calculated as revenue less cost of products sold. Gross margin is gross profit expressed as a percentage of revenue. Our gross margins may fluctuate from period to period due to a variety of factors, including: average selling prices; production volumes; the cost of direct materials; the timing of customer orders or medical procedures and the timing and number of system installations; the number of available selling days in a particular period, which can be impacted by a number of factors such as holidays or days of severe inclement weather in a particular geography; the mix of products sold and the geographic mix of where products are sold; the level of reimbursement available for our products; discounting practices; manufacturing costs; product yields; headcount; and cost-reduction strategies. For example, gross margins on the sale of our products by our direct selling organization in the United States and Western Europe are higher than gross margins on the sale of our products by Biotronik in other parts of the world. Moreover, gross margins on the sale of our proprietary products are generally higher than gross margins on the sale of products we source through our strategic partnerships with third parties. Future selling prices and gross margins for our products may fluctuate due to a variety of other factors, including the introduction by others of competing products or the attempted integration by third parties of capabilities similar to ours into their existing products. We aim to mitigate downward pressure on our selling prices by increasing the value proposition offered by our products through innovation.

In addition, we have experienced negative gross margins in recent periods as a result of significant investments in our infrastructure to support our commercial launch and to enable our production volumes to scale

as our business grows. We expect our gross margins to increase over the long term to the extent we are successful in increasing our sales volume and are therefore able to leverage our fixed costs. We intend to use our design, engineering and manufacturing capabilities to further advance and improve the efficiency of our manufacturing processes, which, if successful, we believe will reduce costs and enable us to increase our gross margins. Such manufacturing cost improvement efforts may involve moving production of key subassemblies in house, volume driven supplier cost reductions and process redesigns. While we expect gross margins to increase over the long term, they will likely fluctuate from quarter to quarter as we continue to introduce new products and adopt new manufacturing processes and technologies.

Research and Development Expenses

Research and development expenses consist primarily of salaries and employee-related costs (including stock-based compensation) for personnel directly engaged in research and development activities, clinical trial expenses, equipment costs, materials costs, allocated rent and facilities costs and depreciation.

Research and development expenses related to possible future products are expensed as incurred. We also accrue and expense costs for activities associated with clinical trials performed by third parties as incurred. All other costs relative to setting up clinical trial sites are expensed as incurred. Clinical trial site costs related to patient enrollment are accrued as patients are entered into the trials.

We expect our research and development expenses to increase in absolute dollars for the foreseeable future, though they may vary from period to period as a percentage of revenue, as we hire additional research and development personnel, as well as continue to develop new products, enhance existing products and technologies and perform activities related to obtaining additional regulatory approvals or clearances.

Research and Development Expenses—License Acquired

In July 2019, we entered into the Biotronik License Agreement with the Biotronik Parties in connection with the Biotronik Asset Acquisition. In accordance with Accounting Standards Codification, or ASC, 805, *Business Combinations*, the Biotronik Asset Acquisition was accounted for as an asset acquisition as substantially all of the $15.0 million in value transferred to Biotronik was allocated to intellectual property. On the acquisition date, the products licensed had not yet received regulatory approval and the intellectual property did not have an alternative use. Accordingly, the $15.0 million paid to Biotronik was immediately charged to research and development expenses—license acquired in our consolidated statement of operations and comprehensive loss. Additional contingent milestone payments of up to $10.0 million are to be made to the Biotronik Parties upon certain regulatory approvals and first commercial sale, as described above. In further consideration of the rights granted, beginning with our first commercial sale of the first force sensing ablation catheter within the licensed product line, we will also make per unit royalty payments. We have determined that as of the acquisition date and as of December 31, 2019, the contingent milestone and royalty payments are not probable and estimable and therefore have not been recorded as a liability. Upon regulatory approval of our force sensing ablation catheter in Europe, the milestone payments will be capitalized and amortized, and the royalty payments will be recorded as cost of products sold as sales of catheters are recognized.

Selling, General and Administrative Expenses

Selling, general and administrative expenses consist primarily of salaries and employee-related costs (including stock-based compensation) for personnel in sales, executive, finance and other administrative functions, allocated rent and facilities costs, legal fees relating to intellectual property and corporate matters, professional fees for accounting and consulting services, marketing costs and insurance costs.

We expect our selling, general and administrative expenses to increase in absolute dollars for the foreseeable future, though they may vary from period to period as a percentage of revenue, as we expand our sale force and increase the number of our mappers, increase our professional education and physician training, as well

as to support our expanded infrastructure and incur increased costs associated with operating as a public company. These increases are expected to include increased costs for fees to members of our board of directors, increased employee-related expenses, and increased director and officer insurance premiums, audit and legal fees, investor relations fees and expenses for compliance with public company reporting requirements under the Exchange Act and rules implemented by the SEC, as well as stock exchange rules.

Other Income (Expense)

Change in Fair Value of Warrant Liability

We accounted for certain of our freestanding warrants to purchase shares of our common stock and preferred stock as liabilities at fair value. We accounted for certain features of our convertible notes issued in 2018, or the 2018 Convertible Notes (which were converted into shares of our Series D convertible preferred stock in 2019), that were determined to be an embedded derivative requiring bifurcation and separate accounting at fair value. The warrants and embedded derivative were subject to re-measurement at each balance sheet date with gains and losses reported in our consolidated statements of operations and comprehensive loss.

Loss on Issuance of Convertible Notes and Warrants

We recorded a loss on the issuance of the 2018 Convertible Notes and warrants for the excess fair value of the automatic conversion feature of the notes after allocating the gross proceeds of the 2018 Convertible Notes to the fair value of the warrants and the beneficial conversion feature held by the noteholders.

Loss on Debt Extinguishment

During 2019, we prepaid the entire principal amount of our loan under our loan and security agreement with Oxford Finance LLC, or the 2018 Term Loan. We recorded a loss on debt extinguishment for the write off of deferred financing fees, the prepayment penalty and related fees upon our prepayment of this loan.

Interest Income

Interest income consists primarily of interest earned on our cash, cash equivalents and marketable securities.

Interest Expense

Interest expense relates to our: (i) Credit Agreement with Orbimed Royalty Opportunities II, LP and Deerfield Private Design Fund II, L.P., or the 2019 Credit Agreement; (ii) 2018 Term Loan, which was repaid during 2019; (iii) 2018 Convertible Notes; and (iv) convertible notes issued in 2019, or the 2019 Convertible Notes. Our 2018 Convertible Notes and our 2019 Convertible Notes were converted into shares of our Series D convertible preferred stock during 2019.

Results of Operations for the Years Ended December 31, 2019 and 2018

The results of operations presented below should be reviewed in conjunction with our consolidated financial statements and related notes included elsewhere in this prospectus. The following table sets forth our results of operations for the years ended December 31, 2019 and 2018:

(dollars in thousands)	Year Ended December 31, 2019	2018	Change $	Change %
Revenue(2)	$ 2,836	$ 2,166	$ 670	31%
Costs and operating expenses:				
Cost of products sold(1)	9,243	7,510	1,733	23%
Research and development(1)	23,029	19,077	3,952	21%
Research and development—license acquired	15,000	—	15,000	100%
Selling, general and administrative(1)	26,847	13,330	13,517	101%
Impairment of property and equipment	786	—	786	100%
Change in fair value of contingent consideration	500	—	500	100%
Total costs and operating expenses	75,405	39,917	35,488	89%
Loss from operations	(72,569)	(37,751)	(34,818)	92%
Other income (expense):				
Change in fair value of warrant liability and embedded derivative	(1,919)	(4,298)	2,379	(55%)
Loss on issuance of convertible notes and warrants	—	(924)	924	(100%)
Loss on debt extinguishment	(1,447)	—	(1,447)	100%
Interest income	1,164	297	867	292%
Interest expense	(22,268)	(5,231)	(17,037)	326%
Total other income (expense), net	(24,470)	(10,156)	(14,314)	141%
Loss before income taxes	(97,039)	(47,907)	(49,132)	103%
Income tax benefit	—	—	—	—%
Net loss	$(97,039)	$(47,907)	$(49,132)	103%
Other comprehensive income (loss):				
Unrealized gain (loss) on marketable securities	46	(1)	47	(4700%)
Foreign currency translation adjustment	(96)	(43)	(53)	123%
Comprehensive loss	$(97,089)	$(47,951)	$(49,138)	102%

(1) The following table sets forth the stock-based compensation expense included in our results of operations for the years ended December 31, 2019 and 2018:

(in thousands)	Year Ended December 31, 2019	2018
Cost of products sold	$ 209	$ 215
Research and development	656	564
Selling, general and administrative	2,129	1,292
Total stock-based compensation expense	$ 2,994	$ 2,071

(2) The following table sets forth our revenue for disposables and systems/service for the years ended December 31, 2019 and 2018:

	Year Ended December 31,	
(in thousands)	**2019**	**2018**
Disposables	$ 2,817	$ 2,160
Systems/service	19	6
Total revenue	$ 2,836	$ 2,166

Revenue

Revenue was $2.8 million for the year ended December 31, 2019, compared to $2.2 million for the year ended December 31, 2018. This increase of $0.7 million, or 31%, was primarily attributable to an increase in purchase volume of our disposable products used in electrophysiology procedures as a result of a higher installed base, as well as slightly higher average selling prices on certain of our disposable products. Substantially all of our revenue for the years ended December 31, 2019 and 2018 was generated from sales of our disposable products.

Revenue, classified by the major geographic areas in which our products are shipped, was $0.7 million for the United States and $2.1 million for all other countries in 2019, compared to $0.5 million for the United States and $1.7 million for all other countries in 2018.

Costs and Operating Expenses

Cost of Products Sold

Cost of products sold was $9.2 million for the year ended December 31, 2019, compared to $7.5 million for the year ended December 31, 2018. This increase of $1.7 million, or 23%, was primarily attributable to increased manufacturing overhead and direct labor resources in anticipation of our full commercial launch, charges taken for excess and obsolete inventory reserves associated with our first-generation AcQMap console and for growth in sales volume. Gross margin was negative 226% for the year ended December 31, 2019 compared to negative 247% for the year ended December 31, 2018. This improvement in gross margin was primarily attributable to increased sales volume of our disposable products, but partially offset by the aforementioned inventory reserve charges.

Research and Development Expenses

Research and development expenses were $23.0 million for the year ended December 31, 2019, compared to $19.1 million for the year ended December 31, 2018. This increase of $4.0 million, or 21%, was primarily attributable to $1.8 million in increased compensation and related costs from higher headcount, and $1.2 million in increased materials and supplies costs related to higher engineering project spending.

Research and Development Expenses—License Acquired

Research and development expenses—license acquired were $15.0 million for the year ended December 31, 2019, related to the Biotronik Asset Acquisition, where we acquired intellectual property. Since the acquired intellectual property had no alternative use and was for products that have not yet received regulatory approval, the intellectual property was immediately charged to research and development expenses—license acquired.

Selling, General and Administrative Expenses

Selling, general and administrative expenses were $26.8 million for the year ended December 31, 2019, compared to $13.3 million for the year ended December 31, 2018. This increase of $13.5 million, or 101%, was primarily attributable to $7.8 million in increased compensation and related costs due to our investment in our commercial organization in support of our full commercial launch in the United States in the first quarter of 2020, $3.8 million in increased consulting expenses and $0.8 million in increased general marketing expenses.

Impairment of Property and Equipment

For the year ended December 31, 2019, we recorded an impairment of property and equipment related to the first generation of our AcQMap System that was no longer in service. The impairment is the result of an analysis that indicated it was probable the undiscounted cash flows derived from the assets would not exceed their book value during their remaining useful life.

Change in Fair Value of Contingent Consideration

For the year ended December 31, 2019, we recorded a change in fair value of contingent consideration of $0.5 million for the increase in the fair value of the contingent consideration for the acquisition of Rhythm Xience.

Other Income (Expense)

Other expense, net was $24.5 million for the year ended December 31, 2019, compared to $10.2 million for the year ended December 31, 2018. This increase of $14.3 million, or 141%, was primarily attributable to $17.0 million in increased interest expense primarily related to the 2019 Credit Agreement and 2018 Convertible Notes and a $1.4 million loss on debt extinguishment related to costs and fees associated with the repayment of the 2018 Term Loan, partially offset by a decrease in the change in fair value of the warrant and embedded derivative liabilities.

Liquidity and Capital Resources

We have incurred significant operating losses and negative cash flows from operations since our inception, and we anticipate that we will incur significant losses for at least the next several years. As of December 31, 2019, we had cash, cash equivalents and marketable securities of $71.8 million. For the years ended December 31, 2019 and 2018, our net losses were $97.0 million and $47.9 million, respectively, and our net cash used in operating activities was $56.0 million and $33.8 million, respectively. We had an accumulated deficit of $259.0 million as of December 31, 2019.

Prior to this offering, our operations have been financed primarily by aggregate net proceeds from the sale of our convertible preferred stock and principal of our converted debt of $253.9 million, as well as other indebtedness. In June and July 2019, we completed an equity financing pursuant to which we issued 79,740,085 shares of Series D convertible preferred stock in a private placement. The Series D convertible preferred stock issuance was comprised of: (i) 39,789,158 shares at $1.714 per share for cash proceeds of $66.6 million, net of fees of $1.6 million; and (ii) 18,325,558 shares at $1.3712 per share (including a 20% discount) for the conversion of our 2018 Convertible Notes (and related accrued interest) and 21,625,369 shares at $1.714 per share for the conversion of our 2019 Convertible Notes (and related accrued interest), in an aggregate amount of $68.5 million, including the fair value of the embedded derivative of $6.3 million relating to the 20% discount for the conversion of the 2018 Convertible Notes.

Our future liquidity and capital funding requirements will depend on numerous factors, including:

- our revenue growth;
- our research and development efforts;
- our sales and marketing activities;
- our success in leveraging our strategic partnerships, including with Biotronik, as well as entrance into any other strategic partnerships or strategic transactions in the future;
- our ability to raise additional funds to finance our operations;
- the outcome, costs and timing of any clinical trial results for our current or future products;

- the emergence and effect of competing or complementary products;
- the availability and amount of reimbursement for procedures using our products;
- our ability to maintain, expand and defend the scope of our intellectual property portfolio, including the amount and timing of any payments we may be required to make, or that we may receive, in connection with the licensing, filing, prosecution, defense and enforcement of any patents or other intellectual property rights;
- our ability to retain our current employees and the need and ability to hire additional management and sales, scientific and medical personnel;
- the terms and timing of any collaborative, licensing or other arrangements that we have or may establish;
- debt service requirements;
- the extent to which we acquire or invest in businesses, products or technologies; and
- the impact of the COVID-19 pandemic.

Our primary uses of capital are, and we expect will continue to be, investment in our commercial organization and related expenses, clinical research and development services, laboratory and related supplies, legal and other regulatory expenses, general administrative costs and working capital. In addition, we have acquired, and may in the future seek to acquire or invest in, additional businesses, products or technologies that we believe could complement or expand our portfolio, enhance our technical capabilities or otherwise offer growth opportunities. For example, in June 2019, we acquired Rhythm Xience, a medical device company specializing in the design and manufacture of transseptal crossing and steerable introducer systems, for $3.0 million in cash. The cash payment did not include the potential $17.0 million in earn out consideration to be paid based on the achievement of certain regulatory milestones and revenue milestones. In February 2020, we issued to the former owners of Rhythm Xience 1,166,861 shares of our Series D convertible preferred stock and paid them $2.5 million in connection with the regulatory and revenue milestones earned to date. In addition, pursuant to the Biotronik License Agreement, we paid Biotronik a $3.0 million upfront fee at the time the agreement was signed, as well as a technology transfer fee consisting of $7.0 million in cash in December 2019 and $5.0 million in shares of our Series D convertible preferred stock in February 2020. We are required to pay the Biotronik Parties up to $10.0 million upon the achievement of various regulatory and sales-related milestones, as well as unit-based royalties on any sales of force sensing catheters. We will also incur costs as a public company that we have not previously incurred or have previously incurred at lower rates.

Our audited consolidated financial statements included elsewhere in this prospectus have been prepared assuming we will continue to operate as a going concern, which contemplates the realization of assets and settlement of liabilities in the normal course of business, and do not include any adjustments to reflect the possible future effects on the recoverability and classification of assets or the amounts and classifications of liabilities that may result from uncertainty related to our ability to continue as a going concern. At present, without taking into consideration any proceeds from this offering, we do not have enough cash on hand to cover our costs for the next 12 months. In order to proceed with our business plan, we will need to raise substantial additional funds. However, based on our current operating plan, we believe the net proceeds from this offering, together with our existing cash, cash equivalents and marketable securities and anticipated cash generated from sales of our products, will be sufficient to meet our anticipated cash needs for at least 12 months following the date of this prospectus.

If we determine to raise additional funds, we may do so through equity or debt financings, which may not be available to us on the timing needed or on terms that we deem to be favorable. To the extent that we raise additional capital through the sale of equity or convertible debt securities, the ownership interest of our stockholders will be diluted, and the terms of these securities may include liquidation or other preferences that

adversely affect the rights of common stockholders. Debt financing and preferred equity financing, if available, may involve agreements that include covenants limiting or restricting our ability to take specific actions, such as incurring additional debt, making acquisitions or capital expenditures or declaring dividends. If we are unable to maintain sufficient financial resources, our business, financial condition and results of operations will be materially and adversely affected, including potentially requiring us to delay, limit, reduce or terminate certain of our product discovery and development activities or future commercialization efforts.

Debt Obligations

During 2019, we repaid our 2018 Term Loan and our 2018 Convertible Notes and our 2019 Convertible Notes were converted into shares of our Series D convertible preferred stock.

On May 20, 2019, we entered into the 2019 Credit Agreement. The 2019 Credit Agreement provided us with a senior term loan facility in aggregate principal amount of $70.0 million, of which we borrowed $40.0 million upon closing. Of the remaining amount of the facility, $10.0 million is available for borrowing by us on or prior to June 30, 2020, and $20.0 million is available for borrowing by us on or prior to December 31, 2020, in each case, subject to our achievement of specified trailing revenue levels. The 2019 Credit Agreement bears interest per annum at 7.75% plus LIBOR for such interest period, and the principal amount of term loans outstanding under the 2019 Credit Agreement is due on May 20, 2024. The 2019 Credit Agreement can be prepaid but is subject to prepayment penalties. The 2019 Credit Agreement provides for final payment fees of an additional $4.6 million that are due upon prepayment, on the maturity date or upon acceleration.

Our obligations under the 2019 Credit Agreement are secured by substantially all of our assets, including our intellectual property, and is guaranteed by our subsidiary. The 2019 Credit Agreement contains customary affirmative and restrictive covenants, including with respect to our ability to enter into fundamental transactions, incur additional indebtedness, grant liens, pay any dividend or make any distributions to our holders, make investments and merge or consolidate with any other person or engage in transactions with our affiliates, but does not include any financial covenants, other than a minimum liquidity requirement.

In connection with our entry into the 2019 Credit Agreement, we issued liability-classified warrants with a fair value of $0.9 million to purchase 4,084,014 shares of our Series C convertible preferred stock at $1.714 per share. These warrants were subsequently automatically converted into warrants to purchase an equal number of shares of our Series D convertible preferred stock at a price of $1.714 per share.

Cash Flows

The following table shows a summary of our cash flows for the years ended December 31, 2019 and 2018 (in thousands):

	Year Ended December 31,	
	2019	2018
Net cash used in operating activities	$ (55,986)	$ (33,780)
Net cash used in investing activities	(70,430)	(4,742)
Net cash provided by financing activities	126,339	37,414
Effect of exchange rate changes on cash, cash equivalents and marketable securities	(96)	(43)
Net change in cash, cash equivalents and restricted cash	$ (173)	$ (1,151)

Operating Activities

During the year ended December 31, 2019, operating activities used $56.0 million of cash, an increase of $22.2 million from the year ended December 31, 2018. This increase was primarily attributable to a $49.1 million increase in net loss and a $3.7 million increase in the use of cash from operating assets and liabilities, primarily resulting from: (i) a $5.4 million increase in the inventory balance from December 31, 2018

to December 31, 2019, as compared to a relatively consistent inventory balance from December 31, 2017 to December 31, 2018, partially offset by (ii) a $2.4 million increase in accounts payable balance from December 31, 2018 to December 31, 2019, as compared to a relatively consistent accounts payable balance from December 31, 2017 to December 31, 2018. The increase in net loss and use of cash from operating assets and liabilities was partially offset by a $30.6 million increase of non-cash items, primarily driven by an increase of $14.3 million in amortization of debt issuance costs and a $15.0 million write-off of intellectual property acquired in the Biotronik Asset Acquisition.

Investing Activities

During the year ended December 31, 2019, investing activities used $70.4 million of cash, an increase of $65.7 million from the year ended December 31, 2018. This increase was primarily attributable to a $54.4 million increase in purchases of marketable securities, a $10.0 million payment for the Biotronik Asset Acquisition, $3.0 million of cash paid, net of cash acquired, for the Rhythm Xience acquisition and a $1.4 million increase in purchase of property and equipment, partially offset by a $3.1 million increase in the maturities of marketable securities.

Financing Activities

During the year ended December 31, 2019, financing activities provided $126.3 million of cash, an increase of $88.9 million from the year ended December 31, 2018. This increase was primarily attributable to $66.6 million from the issuance of shares of our Series D convertible preferred stock in June and July 2019 and $40.0 million resulting from the closing of the 2019 Credit Agreement, partially offset by a $16.6 million increase in debt repayments related to the repayment of the 2018 Term Loan and payments of issuance and extinguishment costs.

Contractual Obligations and Commitments

The following table summarizes our contractual obligations and commitments as of December 31, 2019 (in thousands):

	Payments Due by Period				
	Total	Less than 1 Year	1-3 Years	3-5 Years	More than 5 Years
Principal payments on long-term debt(1)	$40,000	$ —	$ —	$40,000	$ —
Exit fees for long-term debt(1)	4,550	—	—	4,550	—
Interest payments on long-term debt(2)	18,370	4,168	8,314	5,888	—
Operating leases(3)	3,233	1,013	2,118	102	—
Purchase obligations(4)	12,288	12,283	5	—	—
Total	$78,441	$17,464	$10,437	$50,540	$ —

(1) On May 20, 2019, we entered into the 2019 Credit Agreement. The 2019 Credit Agreement provides us with a senior term loan facility in aggregate principal amount of $70.0 million, of which we borrowed $40.0 million upon closing. Of the remaining amount of the facility, $10.0 million is available for borrowing by us on or prior to June 30, 2020, and $20.0 million is available for borrowing by us on or prior to December 31, 2020, in each case, subject to our achievement of specified trailing revenue levels. The principal amount of term loans outstanding under the 2019 Credit Agreement is due on May 20, 2024. Principal payments and exit fees associated with the term loan are included in the above table.

(2) Interest payments are based on the variable interest rate of 10.25% in effect as of December 31, 2019 applied to the principal balance outstanding as of December 31, 2019, and considering the contractual repayment schedule in the 2019 Credit Agreement assuming the debt will be outstanding until maturity.

(3) We lease approximately 50,800 square feet of office space for our corporate headquarters and manufacturing facility in Carlsbad, California under a noncancelable operating lease that expires on December 31, 2022. We have a renewal option for an additional five-year term upon the expiration date of this lease, which has been excluded from the calculation of the right-of-use asset as it is not reasonably certain to be exercised. Additionally, we lease approximately 3,900 square feet of office space in Zaventem, Belgium under a noncancelable operating lease that expires on December 31, 2021. We have a renewal option for an additional three-year term upon the expiration date of this lease, which has been included in the calculation of the right-of-use asset as it is reasonably certain to be exercised.

(4) As of December 31, 2019, we had $12.3 million of open purchase orders. All of our purchase orders may be cancelled without significant penalty.

In addition, we enter into agreements in the normal course of business with contract research organizations for clinical trials and with vendors for preclinical trials and other services and products for operating purposes which are cancelable at any time by us, generally upon 30 days prior written notice. These payments are not included in this table of contractual obligations.

Further, the agreement to acquire Rhythm Xience requires us to pay the former owners of Rhythm Xience up to $15.0 million in additional cash earn out consideration based on the achievement of certain regulatory and revenue milestones. In February 2020, we issued to the former owners of Rhythm Xience 1,166,861 shares of our Series D convertible preferred stock and paid them $2.5 million in connection with the regulatory and revenue milestones earned to date. In addition, pursuant to the Biotronik License Agreement, we issued to Biotronik $5.0 million in shares of our Series D convertible preferred stock in February 2020, and we are required to pay the Biotronik Parties up to $10.0 million upon the achievement of various regulatory and sales-related milestones, as well as unit-based royalties on any sales of force sensing catheters.

Off-Balance Sheet Arrangements

As of December 31, 2019, we did not have, and we do not currently have, any off-balance sheet arrangements, as defined in the SEC rules and regulations.

Critical Accounting Policies and Estimates

Management's discussion and analysis of our financial condition and results of operations is based on our consolidated financial statements, which have been prepared in accordance with U.S. generally accepted accounting principles, or GAAP. The preparation of these consolidated financial statements requires us to make estimates and assumptions for the reported amounts of assets, liabilities, revenue, expenses. 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 the Note 2 to 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 our financial condition and results of operations and require our most difficult, subjective and complex judgments.

Revenue from Contracts with Customers

We adopted ASC 606, *Revenue from Contracts with Customers*, effective January 1, 2018, using the full retrospective method.

In the United States and select markets in Western Europe where we have developed a direct selling presence, we install our AcQMap console and workstation with our customer accounts and then generate revenue from the sale of our disposable products to these accounts for use with our system. In other international markets, we leverage our partnership with Biotronik to install our AcQMap console and workstation with customer accounts and then generate revenue from Biotronik's sale of our disposable products to these accounts. Once an AcQMap console and workstation is established in a customer account, our revenue from that account is predominantly recurring and derived from the sale of our portfolio of disposable products used with our system. Our currently marketed disposable products include access sheaths, transseptal crossing tools, diagnostic and mapping catheters, ablation catheters and accessories.

Our revenue has historically consisted predominantly of sales of our disposable products, as we have generally loaned our AcQMap console and workstation to our customers without charge to facilitate the use of

our disposable products. In addition, we also generate a small portion of our revenue from service agreements. We provide our disposable products in exchange for consideration, which occurs when a customer submits a purchase order and we provide our disposable products at the agreed upon prices in the invoice. Generally, for our first-generation AcQMap console and workstation, customers purchased disposable products using separate purchase orders after the equipment has been installed at no upfront cost with no binding agreement or requirement to purchase any disposable products. We have elected the practical expedient and accounting policy election to account for the shipping and handling as activities to fulfill the promise to transfer the disposable products and not as a separate performance obligation.

Our contracts for disposables generally only include fixed consideration, with no discounts, rebates, returns or other forms of variable consideration. Our customers are generally required to pay within 30 to 60 days.

The delivery of disposable products are performance obligations satisfied at a point in time. The delivery terms are Free on Board, or FOB, shipping point or FOB destination. For disposable products that are shipped FOB shipping point, the customer has the significant risks and rewards of ownership and legal title to the assets when the disposable products leave our shipping facilities, thus the customer obtains control and revenue is recognized at that point in time. Revenue is recognized on delivery for disposable products shipped via FOB destination.

Our contracts with customers generally have an expected duration of one year or less, therefore we have elected the practical expedient in ASC 606 to not disclose information about our remaining performance obligations. Any incremental costs to obtain contracts are recorded as selling, general and administrative expense as incurred due to the short duration of our contracts.

Stock-Based Compensation

We account for all stock-based payments to employees and non-employees, including grants of stock options, restricted stock awards, or RSAs, and restricted stock units with non-market performance and service conditions, or PSUs, to be recognized in our consolidated financial statements, based on their respective grant date fair values. We estimate the fair value of stock option grants using the Black-Scholes option pricing model. The RSAs and PSUs are valued based on the fair value of our common stock on the date of grant. The assumptions used in calculating the fair value of stock-based awards represent management's best estimates and involve inherent uncertainties and the application of management's judgment. We expense stock-based compensation related to stock options and RSAs over the requisite service period. As the PSUs have a performance condition, compensation expense is recognized for each vesting tranche over the respective requisite service period of each tranche if and when we deem it probable that the performance conditions will be satisfied. We may recognize a cumulative true-up adjustment related to PSUs once a condition becomes probable of being satisfied if the related service period had commenced in a prior period. Forfeitures are recorded as they occur.

The determination of the grant date fair value of options using an option pricing model is affected principally by our estimated fair value of shares of our common stock and requires management to make a number of other assumptions, including the expected term of the option, the expected volatility of the underlying shares, the risk-free interest rate and the expected dividend yield. The assumptions used in our Black-Scholes option-pricing model represent management's best estimates at the time of measurement. These estimates are complex, involve a number of variables, uncertainties and assumptions and the application of management's judgment, as they are inherently subjective. If any assumptions change, our stock-based compensation expense could be materially different in the future. These assumptions are estimated as follows:

- *Fair Value of Common Stock.* See the subsection titled "—Fair Value of Common Stock" below.
- *Expected Term.* The expected term represents the period that our options are expected to be outstanding. We calculated the expected term using the simplified method for options based on the

average of each option's vesting term and the contractual period during which the option can be exercised, which is typically 10 years following the date of grant.

- *Expected Volatility.* The expected volatility was based on the historical share volatility of several comparable publicly traded companies over a period of time equal to the expected term of the options, as we do not have any trading history to use the volatility of our own common stock. The comparable companies were chosen based on their size, stage in life cycle and area of specialty. We will continue to apply this process until a sufficient amount of historical information regarding the volatility of our own stock price becomes available.
- *Risk-Free Interest Rate.* The risk-free interest rate was based on the yields of U.S. Treasury securities with maturities appropriate for the term of the award.
- *Expected Dividend Yield.* We have not paid dividends on our common stock nor do we expect to pay dividends in the foreseeable future. Therefore, we used an expected dividend yield of zero.

Fair Value of Common Stock

There has been no public market for our common stock to date. As such, the estimated fair value of our common stock and underlying stock options has been determined at each grant date by our board of directors, with input from management, based on the information known to us on the grant date and upon a review of any recent events and their potential impact on the estimated per share fair value of our common stock. As part of these fair value determinations, our board of directors obtained and considered valuation reports prepared by a third-party valuation firm in accordance with the guidance outlined in the American Institute of Certified Public Accountants Technical Practice Aid, *Valuation of Privately-Held-Company Equity Securities Issued as Compensation*.

In determining the fair value of our common stock prior to this offering, multiple factors were considered in selecting an appropriate valuation approach, including, without limitation: (i) does the valuation method reflect our going-concern and/or expected time to liquidity status; (ii) does the valuation method assign value to the junior instruments, unless a future exit scenario is being analyzed whereby no cash is being distributed to the junior instruments based on equity class-specific rights; and (iii) is the complexity of the method appropriate based on our stage of development at the date of the valuation. The valuation methods evaluated and utilized, as appropriate, included the Option Pricing Method, or OPM, Scenario-Based Method and Hybrid Method. The OPM is a forward-looking method that considers our current equity value and allocates our total equity value to the various equity classes considering a continuous distribution of outcomes, rather than focusing on distinct future scenarios. The Scenario-Based Method is a forward-looking method that considers the payoff to each class of equity across a range of future exit scenarios, discounted to the applicable valuation date at an appropriate rate of return for each equity class. This method may include a simplified scenario analysis, a relative value scenario analysis or a full scenario analysis, also known as the Probability-Weighted Expected Return Method, or PWERM. The Hybrid Method is a hybrid of the OPM and the Scenario-Based Method.

Prior to June 2018, we determined the estimated fair value of our common stock using the OPM given the uncertainty associated with both the timing and type of any future exit scenario. The OPM is an allocation method that considers the current value of equity and then allocates that equity value to the various equity classes considering the rights and preferences of the individual equity classes. The OPM treated our common stock and convertible preferred stock as call options on our total equity value, with exercise prices based on the liquidation preferences of the convertible preferred stock. The OPM utilized the Black-Scholes model to price the call options, and considered the various terms of the stockholder agreements that would affect the distributions to each class of equity upon a liquidity event, including the level of seniority among the classes of equity, dividend policy, conversion ratios and cash allocations. When determining our total equity value, a Market Approach using the Market Value of Invested Capital and Adjusted Enterprise Value Method was determined to be appropriate. The Market Value of Invested Capital was determined based on the performance of a set of guideline comparable companies, known as the Guideline Publicly-Traded Companies Method, or GPTCM, and

a book value of invested capital multiple that considered all of the guideline public companies' various financial characteristics. The Adjusted Enterprise Value Method utilized our equity value, as determined by our most recent prior valuation and adjusted the value based on changes in the market. Our overall equity value was then inferred by weighting the Market Value of Invested Capital and Adjusted Enterprise Value Method equally. Since our shares are not publicly traded, a discount for lack of marketability, or DLOM, was then applied to the freely traded/marketable value.

From June 2018 to March 2019, we determined the estimated fair value of our common stock using the OPM applying both an Income Approach and Market Approach when determining our total equity value. The Income Approach utilized the discounted cash flow, or DCF, method to value our business enterprise. The DCF method required estimation of future economic benefits and the application of an appropriate discount rate to risk-adjust the projected cash flows to a single present value. The Market Approach consisted of identifying transactions involving companies with characteristics similar to us. Based on the identified transactions, measures were developed for calculating value predicated on the prices and operating metrics specific to the transactions. The Market Approach utilized the GPTCM and a Guideline Transactions Method, or GTM. Under the GPTCM and GTM, valuation multiples were calculated from the market data and operating metrics of the guideline companies/transactions. The selected multiples were evaluated and adjusted based on our strengths and weaknesses relative to the companies/transactions being analyzed. The selected multiples were ultimately applied to our operating metrics to calculate indications of value. A DLOM was also then applied.

Beginning in March 2019, we determined the estimated fair value of our common stock using the Hybrid Method, which incorporated the OPM and the PWERM Scenario-Based Method, estimating the probability-weighted value across multiple scenarios by using the OPM to estimate the allocation of value within one or more of those scenarios. The Hybrid Method was utilized given there was transparency into one or more near-term potential exits but there existed uncertainty regarding what would occur if the near-term exit plans did not materialize. Under the PWERM, the values of the various equity interests were estimated based upon an analysis of future values for our company, assuming various potential future outcomes. Share value was based upon the probability-weighted present value of expected future investment returns, considering each of the possible future outcomes available to us, as well as the rights of each share class. The future outcomes modeled included an initial public offering, a merger or sale, a dissolution or continued operation as a private company until a later exit date. To estimate our total equity value, a combination of the Backsolve Methodology ("backsolving" the implied enterprise value based on the price paid for each new preferred security sold), a DCF analysis and a GPTCM analysis was used for scenario options, based on the fact pattern that existed as of the particular valuation date. After deriving the indicated values of equity under the scenario options, the present value of the class specific equity allocations were calculated. After calculating the present values as applicable to the scenarios, the probability of each scenario occurring was multiplied by the indications of value under each scenario. The sum of the probability-weighted values for our common stock was then divided by our total common stock outstanding as of the relevant valuation date.

In addition to considering the results of these third-party valuation reports, our board of directors used assumptions based on various objective and subjective factors, combined with management judgment, to determine the fair value of our common stock as of each grant date, including:

- the prices at which we sold shares of preferred stock and the superior rights and preferences of the preferred stock relative to our common stock at the time of each grant;
- external market conditions affecting the life sciences research and development industry and trends within the industry;
- our stage of development and business strategy;
- our financial condition and operating results, including our levels of available capital resources and forecasted results;
- developments in our business;

- the progress of our research and development efforts;
- equity market conditions affecting comparable public companies; and
- general market conditions and the lack of marketability of our common stock.

Application of these approaches involves the use of estimates, judgment and assumptions that are highly complex and subjective, such as those regarding our expected future revenue, expenses and future cash flows, discount rates, market multiples, the selection of comparable companies and the probability of possible future events. Changes in any or all of these estimates and assumptions or the relationships between the assumptions impact our valuations as of each valuation date and may have a material impact on the valuation of our common stock.

Once a public trading market for our common stock has been established in connection with the closing of this offering, it will no longer be necessary for our board of directors to estimate the fair value of our common stock in connection with our accounting for granted stock options and other such awards we may grant, as the fair value of our common stock will be determined based on the closing price of our common stock as reported on the date of grant.

As of , 2020, based on 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), the aggregate intrinsic value of our outstanding stock options was $ million, with $ million related to vested stock options. As of , 2020, we had $ million of unrecognized stock-based compensation which is expected to be recognized over a weighted-average period of approximately years.

Warrant Liability

We account for certain common stock warrants and convertible preferred stock warrants outstanding as a liability, in accordance with ASC 815, *Derivatives and Hedging*, at fair value and adjust the instruments to fair value at each reporting period. The fair value of these warrants have been estimated using a Monte Carlo simulation in 2018 and first quarter of 2019 and as an output of the Hybrid Method for the remaining quarters of 2019. The underlying equity included in the Monte Carlo simulation and the Hybrid Method was determined based on the equity value implied from preferred stock transactions and from examination of income and market approaches for measurement dates in which a preferred transaction was not applicable. Additionally, the expected initial public offering value was considered in the determination of the equity value. The fair value of the warrants was impacted by the model selected as well as assumptions surrounding unobservable inputs including the underlying equity value, risk-free interest rate, expected dividend yield, expected term and expected volatility.

This liability is subject to re-measurement at each reporting period until exercised, and any change in fair value is recognized in our consolidated statements of operations and comprehensive loss.

Business Combinations

Under the acquisition method of accounting, we allocate the fair value of the total consideration transferred to the tangible and identifiable intangible assets acquired and liabilities assumed based on their estimated fair values on the date of acquisition. The fair values assigned, defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between willing market participants, are based on estimates and assumptions determined by management. We record the excess consideration over the aggregate fair value of tangible and intangible assets, net of liabilities assumed, as goodwill. These valuations require us to make significant estimates and assumptions, especially with respect to intangible assets.

In connection with certain of our acquisitions, additional contingent consideration can be earned by the sellers upon achievement of certain milestones and revenue-based targets in certain years. The initial fair value of

the revenue-based contingent consideration was calculated through the use of a Monte Carlo simulation utilizing revenue projections for the respective earn-out period, corresponding targets and approximate timing of payments as outlined in the purchase agreement. The analyses used the following assumptions: (i) expected term; (ii) risk-adjusted net sales or earnings; (iii) risk-free interest rate; and (iv) expected volatility of earnings. Estimated payments, as determined through the respective model, were further discounted by a credit spread assumption to account for credit risk. The fair value of the milestones-based contingent consideration was determined by probability weighting and discounting to the respective valuation date at our cost of debt. Our cost of debt was determined by performing a synthetic credit rating for us and selecting yields based on companies with a similar credit rating. The contingent consideration is revalued to fair value each period, and any increase or decrease is recorded in operating loss. The fair value of the contingent consideration may be impacted by certain unobservable inputs, most significantly with regard to discount rates, expected volatility and historical and projected performance. Significant changes to these inputs in isolation could result in a significantly different fair value measurement.

Management typically uses the discounted cash flow method to value our acquired intangible assets. This method requires significant management judgment to forecast future operating results and establish residual growth rates and discount factors. The estimates we use to value and amortize intangible assets are consistent with the plans and estimates that we use to manage our business and are based on available historical information and industry estimates and averages. If the subsequent actual results and updated projections of the underlying business activity change compared with the assumptions and projections used to develop these values, we could experience impairment charges. In addition, we have estimated the economic lives of certain acquired assets and these lives are used to calculate depreciation and amortization expense. If our estimates of the economic lives change, depreciation or amortization expenses could be accelerated or slowed.

Goodwill is not amortized but is subject to periodic impairment testing. Goodwill is assigned to a reporting unit and the reporting unit's goodwill is tested for impairment at least on an annual basis and between annual tests if an event occurs or circumstances change that would more likely than not reduce the fair value of a reporting unit below its carrying amount. In the evaluation of goodwill for impairment, which we perform annually during the fourth quarter, we first assesses qualitative factors to determine whether the existence of events or circumstances led to a determination that it was more likely than not that the fair value of a reporting unit is less than its carrying amount. If, after assessing the totality of events or circumstances, we determine that it is more likely than not that the fair value of a reporting unit is less than its carrying amount, we perform the quantitative goodwill impairment test.

Recent Accounting Pronouncements

See Note 2 to our consolidated financial statements included elsewhere in this prospectus for a description of recent accounting pronouncements applicable to our consolidated financial statements.

Emerging Growth Company and Smaller Reporting Company Status

We are an "emerging growth company," as defined in the Jumpstart Our Business Startups Act of 2012, or the JOBS Act. As such, we are eligible for exemptions from various reporting requirements applicable to other public companies that are not emerging growth companies, including, but not limited to, presenting only two years of audited financial statements in addition to any required unaudited interim financial statements with correspondingly reduced "Management's Discussion and Analysis of Financial Condition and Results of Operations" disclosure in this prospectus, not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act, reduced disclosure obligations regarding executive compensation, and an exemption from the requirements to obtain a non-binding advisory vote on executive compensation or golden parachute arrangements. We have elected to take advantage of certain of the reduced disclosure obligations in this prospectus and may elect to take advantage of other reduced reporting requirements in our future filings with the SEC. As a result, the information that we provide to our stockholders may be different than you might receive from other public reporting companies in which you hold equity interests.

In addition, an emerging growth company can take advantage of an extended transition period for complying with new or revised accounting standards. This provision allows an emerging growth company to delay the adoption of certain accounting standards until those standards would otherwise apply to private companies. We have elected to avail ourselves of this provision of the JOBS Act. As a result, we will not be subject to new or revised accounting standards at the same time as other public companies that are not emerging growth companies. Therefore, our consolidated financial statements may not be comparable to those of companies that comply with new or revised accounting pronouncements as of public company effective dates.

We will remain an emerging growth company until the earliest of: (i) the last day of the fiscal year following the fifth anniversary of the consummation of this offering; (ii) the last day of the fiscal year in which we have total annual gross revenue of at least $1.07 billion; (iii) the last day of the fiscal year in which we are deemed to be a "large accelerated filer" as defined in Rule 12b-2 under the Exchange Act, which would occur if the market value of our common stock held by non-affiliates exceeded $700.0 million as of the last business day of the second fiscal quarter of such year; or (iv) the date on which we have issued more than $1.0 billion in non-convertible debt securities during the prior three-year period.

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.

Quantitative and Qualitative Disclosures About Market Risk

We are exposed to market risks in the ordinary course of our business. Market risk represents the risk of loss that may impact our financial position due to adverse changes in financial market prices and rates. Our market risk exposure is primarily the result of fluctuations in interest rates and foreign currency exchange rates.

Interest Rate Risk

Our cash, cash equivalents and marketable securities as of December 31, 2019 consisted of $62.4 million invested in commercial paper and short-term highly liquid, high credit quality corporate debt securities as well as $9.5 million invested in bank deposits and money market funds. Our historical interest income has not fluctuated significantly. We do not believe that a hypothetical 10% change in interest rates would have a material impact on our consolidated financial statements included elsewhere in this prospectus. We do not enter into investments for trading or speculative purposes and have not used any derivative financial instruments to manage our interest rate risk exposure. As of December 31, 2019, we had $40.0 million in variable rate debt outstanding. Our 2019 Credit Agreement bears interest per annum at 7.75% plus LIBOR for such interest period. A hypothetical change in interest rates of 10% would have resulted in a change of $4.0 million in interest expense in 2019.

Foreign Currency Exchange Risk

Our reporting currency is the U.S. dollar and our sales outside the United States are primarily denominated in Euros and GBP. For the years ended December 31, 2019 and 2018, approximately 74% and 79%, respectively, of our sales were denominated in currencies other than U.S. dollars. Our expenses are generally denominated in the currencies in which our operations are located, which are primarily in the United States and Europe. If our operations in countries outside of the United States grows, our results of operations and cash flows will be subject to fluctuations due to changes in foreign currency exchange rates, which could harm our business in the future. For example, if the value of the U.S. dollar increases relative to foreign currencies, in the absence of a corresponding change in local currency prices, our revenue could be adversely affected as we convert revenue from local currencies to U.S. dollars. In addition, because we conduct business in currencies other than U.S.

dollars, but report our results of operations in U.S. dollars, we also face remeasurement exposure to fluctuations in currency exchange rates, which could hinder our ability to predict our future results and earnings and could impact our results of operations. We do not currently maintain a program to hedge exposures to non-U.S. dollar currencies. We do not believe that a hypothetical 10% change in the relative value of the U.S. dollar to other currencies would have a material impact on our consolidated financial statements included elsewhere in this prospectus.

Internal Control Over Financial Reporting

A company's internal control over financial reporting is a process designed by, or under the supervision of, that company's principal executive and principal financial officers, or persons performing similar functions, and influenced by that company's board of directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements in accordance with GAAP. Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with policies or procedures may deteriorate.

In connection with the audits of our consolidated financial statements included elsewhere in this prospectus, we and our independent registered public accounting firm identified a material weakness related to our financial statement closing process, primarily related to a lack of appropriately designed and implemented controls over the review and approval of manual journal entries and the related supporting journal entry calculations. Under standards established by the Public Company Accounting Oversight Board, a material weakness is a deficiency, or 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 consolidated financial statements will not be prevented or detected and corrected on a timely basis.

We are working to remediate the material weakness and are taking steps to strengthen our internal control over financial reporting. In order to do so, we have taken and plan to take the following actions: (i) the hiring of additional finance and accounting personnel over time to augment our accounting staff and to provide more resources for complex accounting matters and financial reporting; and (ii) further developing and implementing formal policies, processes and documentation procedures relating to our financial reporting. The actions that we are taking are subject to ongoing executive management review, and will also be subject to audit committee oversight. If we are unable to successfully remediate the material weakness, or if in the future, we identify further material weaknesses in our internal control over financial reporting, we may not detect errors on a timely basis and our consolidated financial statements may be materially misstated.

BUSINESS

Overview

We are an arrhythmia management company focused on improving the way cardiac arrhythmias are diagnosed and treated. Despite several decades of efforts by incumbents in this field, the clinical and economic challenges associated with arrhythmia treatment continue to be a huge burden for patients, providers and payors. We are committed to advancing the field of electrophysiology with a unique array of products and technologies which will enable more physicians to treat more patients more efficiently and effectively. Through internal product development, acquisitions and global partnerships, we have established a global sales presence delivering a comprehensive portfolio of highly differentiated electrophysiology products that provide our customers with a complete solution for catheter-based treatment of cardiac arrhythmias.

We design, manufacture and market a complete set of tools for catheter-based ablation procedures to treat various arrhythmias. Our product portfolio includes novel access sheaths, transseptal crossing tools, diagnostic and mapping catheters, ablation catheters, mapping and imaging consoles and accessories, as well as supporting algorithms and software programs. Our foundational and most highly differentiated product is our AcQMap imaging and mapping system, which offers a paradigm-shifting approach to mapping the drivers and maintainers of arrhythmias with unmatched speed and precision. With the ability to rapidly and accurately identify ablation targets and to confirm both ablation success and procedural completion, we believe our AcQMap System addresses the primary unmet need in electrophysiology procedures today.

Cardiac arrhythmias, or heart rhythm disorders, are common and can occur when the heart beats too rapidly, too slowly or irregularly. If left untreated, arrhythmias can result in debilitating symptoms, heart failure, stroke and sudden cardiac death. As a result, cardiac ablation is a well-established therapy for the large and rapidly growing patient population, with clear and substantial reimbursement in developed markets. We estimate that in 2019 there were over 50 million individuals worldwide with arrhythmias and approximately 1.1 million ablation procedures globally, reflecting a $5.7 billion global market that has grown 13% annually since 2016 but is still less than 5% penetrated.

While multiple trials have established that cardiac ablation is effective when the source of the arrhythmia is accurately identified and successfully ablated, visualization of various arrhythmias and creation of durable ablation lesions remains challenging with long, unpredictable procedure times and inconsistent outcomes. For example, data from large, multi-center trials of cardiac ablation have demonstrated that approximately 30 to 50% of ablations for atrial fibrillation result in arrhythmia recurrence within the first 12 months of the initial ablation procedure. Currently marketed mapping systems are not able to quickly and consistently identify the source of the arrhythmia in more complex cases, which can contribute to these unsatisfactory outcomes. Current competitive mapping systems sequentially collect data, point-by-point, by contacting the heart surface at multiple locations throughout the chamber. This is a time-consuming process that often takes 15 to 20 minutes per map. Additionally, because contact-based mapping relies on a fixed timing reference to sequence the data points, it precludes these systems from being able to quickly and reliably identify the drivers and maintainers of unstable arrhythmias, such as atrial fibrillation, many types of supraventricular tachycardias and certain ventricular arrhythmias.

We designed our AcQMap System to improve procedure efficiency and outcomes by rapidly and accurately identifying ablation targets and confirming both ablation success and procedure completion. Our AcQMap System consists of our single-use AcQMap catheter as well as our console, workstation and proprietary software algorithms. With 48 ultrasound transducers interspersed between 48 biopotential electrodes, our innovative mapping catheter collects the data required to create a comprehensive map of the cardiac anatomy and electrical propagation pathways and patterns in under three minutes, without contacting the chamber wall. Our proprietary software algorithms analyze the biopotential data and are collectively able to map any type of stable or unstable arrhythmia, including atrial fibrillation, as well as all supraventricular tachycardias and ventricular arrhythmias.

We believe that by creating high definition, clinically accurate activation maps of all types of arrhythmias, our AcQMap System offers physicians better decision-making tools for determining where to ablate. Similarly, we believe the speed and ease of creating a map makes it practical for physicians to iteratively map, treat, re-map and adjust additional therapy as needed. We believe these features will drive more efficient and predictable procedures and better outcomes for a broader range of arrhythmias.

These key clinical and workflow benefits are supported by the results of our clinical trials, including our UNCOVER AF post-market approval trial, which demonstrated that use of our AcQMap System in challenging persistent AF patients resulted in 73% and 93% freedom from atrial fibrillation at 12-months following their initial procedure after one or two procedures, respectively. These outcomes compare favorably to those of other clinical trials in the field that utilized currently marketed contact-based mapping catheters and systems, including the landmark STAR AF II trial, which demonstrated 61% and 79% freedom from atrial fibrillation after one or two procedures, respectively, in a similar cohort of persistent atrial fibrillation patients.

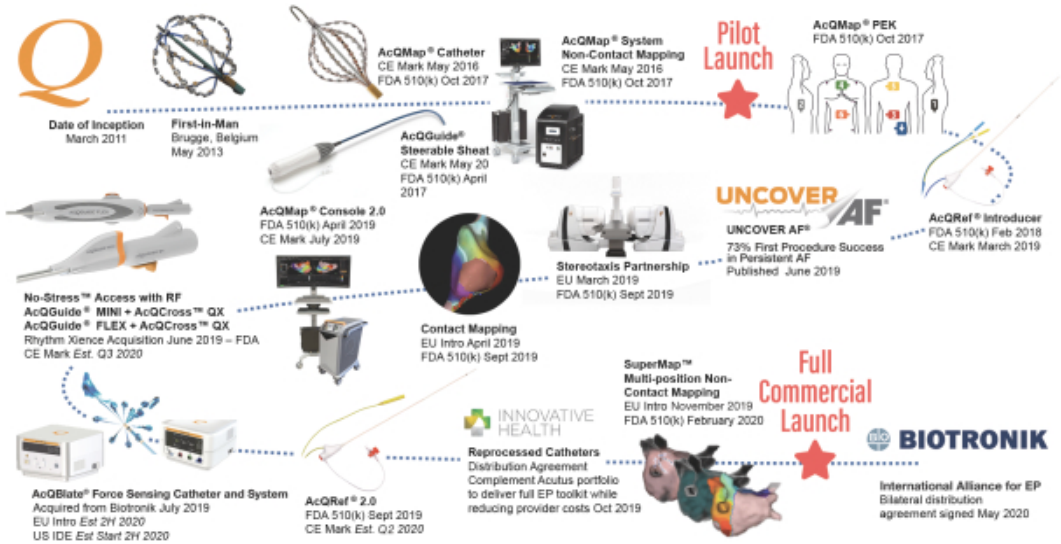
We have established a comprehensive portfolio of electrophysiology products that complements our AcQMap System and provides our customers a complete solution—from vascular access to diagnosis and treatment of arrhythmias. In addition to our AcQMap System, our commercial product portfolio includes a suite of access devices, our transseptal crossing device and full product lines of diagnostic and ablation catheters. We recently expanded our portfolio to include the AcQBlate gold-tip, irrigated, radiofrequency force sensing ablation catheters and control unit which we expect to commercialize upon regulatory approval. We anticipate CE Mark approval of our AcQBlate catheters and system in the second half of 2020, and we plan to commence an investigational device exemption, or IDE, trial for FDA clearance within the same time frame. We believe that our ability to offer a comprehensive and differentiated product portfolio supports the adoption and utilization of our AcQMap System and drives an efficient business model. Once an AcQMap console and workstation is established in a customer account, our revenue from that account is predominantly recurring and derived from the sale of our portfolio of disposable products used with our system.

We market and sell our comprehensive portfolio of electrophysiology products worldwide to hospitals and electrophysiologists that treat patients with arrhythmias. We have strategically developed a direct selling presence in the United States and select markets in Western Europe where cardiac ablation is a standard of care and third-party reimbursement is well-established. In other international markets, we leverage our partnership with Biotronik SE & Co. KG, or Biotronik, a large multi-national, privately-held biomedical technology company with a leading portfolio across cardiac rhythm management, electrophysiology and vascular intervention, to sell and distribute our products. In the United States and Western Europe, our target market is highly concentrated. We plan to leverage the concentrated nature of procedure volumes and the recurring nature of our sales to drive an increasingly efficient commercial model.

Our research and development activities are focused on advancing the field of electrophysiology by increasing the AcQMap System's utility and seeking approval for additional labeled indications as well as expanding our product portfolio to further improve and simplify the entire procedural experience. Our near-term pipeline includes products that broaden our commercial portfolio, increase functionality and/or reduce costs across catheters, accessory devices, mapping systems and software.

While early versions of our AcQMap System and certain related accessory products have been used in the United States and Western Europe in a limited, pilot launch capacity for several years, we initiated a full launch of our commercial-grade console and software products in the first quarter of 2020. Critical to our launch were a series of strategic transactions and regulatory approvals including: FDA 510(k) clearance and CE Mark of our second-generation AcQMap console and SuperMap software suite; the addition of an integrated family of transseptal crossing and steerable introducer systems to our product portfolio through our acquisition of Rhythm Xience, Inc., or Rhythm Xience; and the acquisition of our AcQBlate Force sensing product line from Biotronik. Since our full launch, we have continued to enhance our product portfolio and global presence by entering into bi-lateral distribution agreements with Biotronik in May 2020, which added a full suite of diagnostic and ablation

catheters to our product portfolio and significantly expanded our international distribution and market development capabilities. The diagram below depicts a chronology of these and other key events since our inception:



During the year ended December 31, 2019, we generated revenue of $2.8 million and a net loss of $97.0 million (which included $15.0 million in payments attributable to the product line we acquired from Biotronik pursuant to the Biotronik License Agreement), compared to revenue of $2.2 million and a net loss of $47.9 million during the year ended December 31, 2018. During the quarter ended March 31, 2020 we generated revenue of $ million and a net loss of $ million, compared to revenue of $ million and a net loss of $ million during the quarter ended March 31, 2019. The COVID-19 pandemic and the measures imposed to contain this pandemic have disrupted our business beginning in early March 2020. See the sections titled “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” for more information.

Our Competitive Strengths

Paradigm-Shifting Intracardiac Mapping System Offering Significant Advantages Relative to the Current Standard of Care. Our foundational and most highly differentiated product is our AcQMap imaging and mapping system. Our AcQMap System combines two innovative arrhythmia mapping concepts, the use of ultrasound to create a more anatomically accurate image of the heart chamber, and charge density electrical mapping to display the heart’s true activation patterns and pathways. These features allow physicians to create a map of an entire heart chamber and any arrhythmia in under three minutes, without contacting the chamber wall. The speed and ease of creating a map makes it practical for physicians to iteratively map, treat, re-map and adjust additional therapy as needed. We believe that by offering electrophysiologists a faster and more comprehensive decision-making tool, our AcQMap System allows them to improve ablation procedure outcomes, reduce procedure time and increase certainty around resource utilization. We are seeking to establish our AcQMap System as the standard of care for intracardiac mapping in electrophysiology procedures and to leverage its paradigm-shifting nature to drive adoption and utilization across our comprehensive portfolio of tools for catheter-based ablation procedures.

Comprehensive and Expanding Product Portfolio. Through internal product development, acquisitions and global partnerships, we have established a global sales presence delivering a comprehensive portfolio of highly

differentiated electrophysiology products that provide our customers with a complete solution for catheter-based treatment of cardiac arrhythmias. Our product portfolio includes novel access sheaths, transseptal crossing tools, diagnostic and mapping catheters, ablation catheters, mapping and imaging consoles and accessories, as well as supporting algorithms and software programs. Our foundational and most highly differentiated product is our AcQMap imaging and mapping system. We recently expanded our portfolio to include the AcQBlate gold-tip, irrigated, radiofrequency force sensing ablation catheters and control unit, which we expect to initially commercialize in the United States and Europe upon regulatory approval. We currently anticipate that our AcQBlate catheters will receive CE Mark in the second half of 2020, and we plan to commence an IDE trial for FDA clearance within the same time frame. We believe that our ability to offer a comprehensive portfolio supports adoption of our products and drives an increasingly efficient revenue model with a growing component of recurring revenue per procedure.

Attractive Value Proposition for Hospitals, Physicians, Patients and Payors. We believe that by creating high definition, clinically accurate activation maps, our AcQMap System offers physicians better decision-making tools for determining where to ablate. Similarly, by materially simplifying the process and reducing the time required to create an intracardiac map from 15 to 20 minutes to under three minutes, our AcQMap System makes it practical for physicians to iteratively map, treat, re-map and adjust additional therapy as needed. We believe these features will drive more efficient and predictable procedures and better outcomes for a broader range of arrhythmias. For hospitals, we believe our AcQMap System will materially reduce procedure times and allow our customers to improve lab throughput. Lastly, by driving better outcomes, including freedom from arrhythmia and reduced need for repeat procedures, our AcQMap System will reduce the financial burden for payors. We believe these benefits will continue to support the adoption of our AcQMap System by hospitals and physicians.

Large, Rapidly Growing and Underpenetrated Market with Established Reimbursement. Arrhythmias are a common and often progressive condition which, if left untreated, can result in debilitating symptoms, heart failure, stroke and sudden cardiac death. As a result, ablation of arrhythmias is a well-established therapy for a large and rapidly growing global population, with clear and substantial reimbursement in developed markets. We estimate that in 2019, there were over 50 million individuals worldwide with arrhythmias and approximately 1.1 million ablation procedures globally, reflecting a global market of $5.7 billion that is less than 5% penetrated. While the global market has grown at 13% annually since 2016 due to demographic trends and improving therapies, we believe that the size of this market has historically been constrained by the capabilities of existing technologies, which have demonstrated limited effectiveness in treating more complex and unstable arrhythmias. We believe our differentiated technology has the potential to drive adoption of our products within the existing $5.7 billion market as well as to expand the market by facilitating wider treatment of complex or unstable arrhythmias that are not as frequently treated with cardiac ablation.

Efficient Commercial Model. We have strategically developed a direct selling presence in the United States and select markets in Western Europe where cardiac ablation is a standard of care and third-party reimbursement is well-established. In order to efficiently address international markets, we have entered into bi-lateral distribution agreements with Biotronik that allow us to leverage their experienced salesforce to distribute our products in international markets where Biotronik has a significant presence and existing infrastructure. The target market for our product portfolio is highly concentrated with an existing physician user base that is already well trained and experienced in diagnosing and ablating arrhythmias. In the United States, we believe there are approximately 1,000 physicians and 700 hospitals that perform cardiac ablation procedures and that over 60% of the 400,000 cardiac ablation procedures performed in the United States in 2019 took place in approximately 200 high volume hospitals. We plan to leverage the concentrated nature of procedure volumes to focus our initial commercial efforts on the high and medium volume centers in our markets in the United States and Western Europe. Once an AcQMap console and workstation is established in a customer account, our revenue from that account is predominantly recurring and derived from the sale of our portfolio of disposable products used with our system. Our recurring revenue model allows for more efficient commercial sales and increased pull-through of additional products. We believe that hospitals worldwide spend between $3,000 to $10,000 on disposable

products in each ablation procedure, depending on the type of procedure and geography. As we continue to expand our product portfolio, we aim to capture an increasing portion of the overall procedure spend.

Pure-Play Electrophysiology Focus. Our deep commitment to understanding the needs of our customers has allowed us to develop and commercialize a platform with a differentiated value proposition. Our exclusive focus on electrophysiology has supported our rapid cadence of innovation, including our ability to establish a complete portfolio of devices for diagnosing and treating any arrhythmia. We intend to continue to leverage our engineering and algorithmic expertise to increase the AcQMap System's utility and continue seeking approval for additional labeled indications as well as to expand our portfolio to further improve and simplify the entire procedural experience. Additionally, our commitment to disrupting the industry and evolving a decades-old standard of care has also allowed us to attract a highly experienced commercial organization that has medical device sales and clinical expertise, specifically in the electrophysiology, interventional cardiology and cardiac rhythm segments.

Deep Technology-Driven Competitive Advantage Supported by a Robust Patent Portfolio, Trade Secrets and Know-how, and In-Licensed and Acquired Technology. We believe our AcQMap System represents a meaningful improvement over contact-based mapping, the existing standard of care. Our technology lead is supported by a combination of our strong patent portfolio, trade secrets, in-licensed technology and know-how. As of April 10, 2020, we solely owned or exclusively licensed more than 55 issued patents globally and more than 65 pending patent applications that include device, apparatus and method claims surrounding mapping, anatomy reconstruction, energy modalities for ablation therapy as well as endovascular access to all chambers of the heart. In addition, we believe that our deep competitive advantage is further supported by the fact that other companies' platforms do not currently perform non-contact mapping, and we believe for them to add that capability, it would require not only developing non-contact based mapping catheters and supporting software algorithms, but also replacing their fleet of installed mapping consoles.

Highly Experienced Senior Management Team with Broad Cardiovascular Industry Expertise. Our senior management team consists of seasoned medical device professionals with deep industry experience. 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 clinicians and patients they serve. Members of our team have worked with well-regarded medical technology companies such as Volcano Corporation, Boston Scientific Corporation, Guidant Corporation, Medtronic plc, Abbott Laboratories, St. Jude Medical, Inc., Philips and Biotronik.

Our Growth Strategies

Utilizing our Superior Mapping Technology and Open Platform to Establish our Presence with a Broad Base of Customer Accounts and Physicians. We are seeking to establish our AcQMap System as the standard of care for intracardiac mapping in electrophysiology procedures and to leverage its paradigm-shifting nature to drive adoption of our full product portfolio in new customer accounts. We believe that by offering electrophysiologists a faster and more comprehensive decision-making tool, our AcQMap System will allow for improved ablation procedure outcomes, reduced procedure time and increased certainty around resource utilization. We believe these benefits offer an attractive value proposition for key stakeholders including physicians, hospitals and payors and will continue to drive adoption. We expect the value proposition of our AcQMap System to continue to drive demand for opening new customer accounts.

Strategically Expanding our Commercial Organization Across Key Global Markets to Increase Physician Awareness and Drive Adoption. We have taken and continue to take a measured approach to account targeting and physician training. We have assembled a team with in-depth knowledge of the target markets in which we compete and seek to compete. As of May 14, 2020, our commercial organization consisted of 58 individuals with substantial applicable medical device, sales and clinical experience, including sales management, sales representatives and mappers, who act as technical and clinical support personnel on site in the electrophysiology

lab during procedures. Over time, we plan to selectively add highly qualified personnel to our commercial organization with a strategic mix of sales representatives and mappers to cover the concentrated group of hospitals that we believe perform the majority of the cardiac ablation procedures in our direct markets. In order to efficiently address international markets and complement our direct presence in Western Europe, we have entered into bi-lateral distribution agreements with Biotronik that allow us to leverage their large and established salesforce in international markets where they have significant infrastructure and presence. As we grow the size of our direct and indirect sales organizations, we will continue to take a proactive approach to training our salesforce across the organization, allowing us to maximize cross-selling opportunities and drive adoption across our portfolio.

Driving Market Penetration and Portfolio Utilization. As we expand our presence with an increasing network of hospital customers, we aim to drive increasing utilization of our products. We plan to leverage the value proposition of our AcQMap System to drive its adoption across arrhythmia cases that are being treated with competitive systems as well as to enable more electrophysiologists to address more complex, unstable arrhythmias that may not have otherwise been treated with ablation therapy. We devote significant resources to training and educating physicians to increase awareness and utilization of our AcQMap System and broader portfolio. Additionally, we have developed an on-site curriculum at our Carlsbad, California facility where physicians receive in-depth presentations and hands-on training in our simulation lab. We also offer a variety of live and virtual opportunities for ongoing professional education, including for electrophysiologists to observe cases with leading practitioners and frequent hands-on, preclinical training sessions in our AcQLab. In addition to professional education, we also plan to leverage our mappers, who are present in cases, to drive utilization of our full portfolio of devices for cardiac ablation procedures.

Continuing to Expand our Portfolio of Products and Broaden Indications for Existing Products. We have established a comprehensive portfolio of products that complements our AcQMap System and offers our customers a complete solution—from vascular access to diagnosis and treatment of arrhythmias. We believe that our ability to offer a comprehensive and differentiated portfolio supports the willingness of hospitals and physicians to champion the adoption of our AcQMap System in their institutions. A complete portfolio also drives an increasingly efficient revenue model with a growing component of recurring revenue per procedure. Our research and development activities are focused on advancing the field of electrophysiology by increasing the AcQMap System's utility and seeking approval for additional labeled indications, as well as expanding our product portfolio to further improve and simplify the entire procedural experience. Our near-term pipeline includes products that broaden our commercial portfolio, increase functionality and/or reduce costs across catheters, accessory devices, mapping systems and software.

Leveraging our Strategic Partnerships to Efficiently Scale Globally and Broaden our Product Portfolio. We have entered into alliances with a number of strategic partners, including Biotronik, Stereotaxis, and Innovative Health. These partnerships have rapidly broadened our product portfolio, significantly expanded our geographic reach and provided co-marketing opportunities. With these partnerships in place, we expect to be able to rapidly develop high volume markets through broadening and deepening our relationships with electrophysiologists both in the United States and internationally. Further, by broadening our portfolio through partnerships, we have equipped our team with a full suite of products to offer to customer accounts which, we believe, will lead to greater utilization of our AcQMap System.

Continuing to Build our Clinical Evidence Base. The safety and effectiveness of our AcQMap System are supported by data from our three completed clinical trials that collectively evaluated 223 subjects across 16 centers in multiple countries. We are currently conducting two additional post-market trials that we expect will provide valuable evidence to support the clinical utility of our AcQMap System and will continue to drive its adoption and utilization. Our RECOVER AF trial is designed to demonstrate the value of our AcQMap System in patients being re-treated after one or two failed AF ablations. We are also sponsoring and enrolling patients in the DISCOVER patient registry and designing the PLASZMA trial to produce valuable data that we believe will further demonstrate how our AcQMap System can be used to standardize best practices, speed procedures and

improve electrophysiology lab productivity. As part of our portfolio expansion strategy, we are also planning two IDE trials to support regulatory approval of our AcQBlate gold-tip, irrigated, radiofrequency force sensing ablation catheters and control unit, which we expect to commence in the second half of 2020.

Our Market and Industry

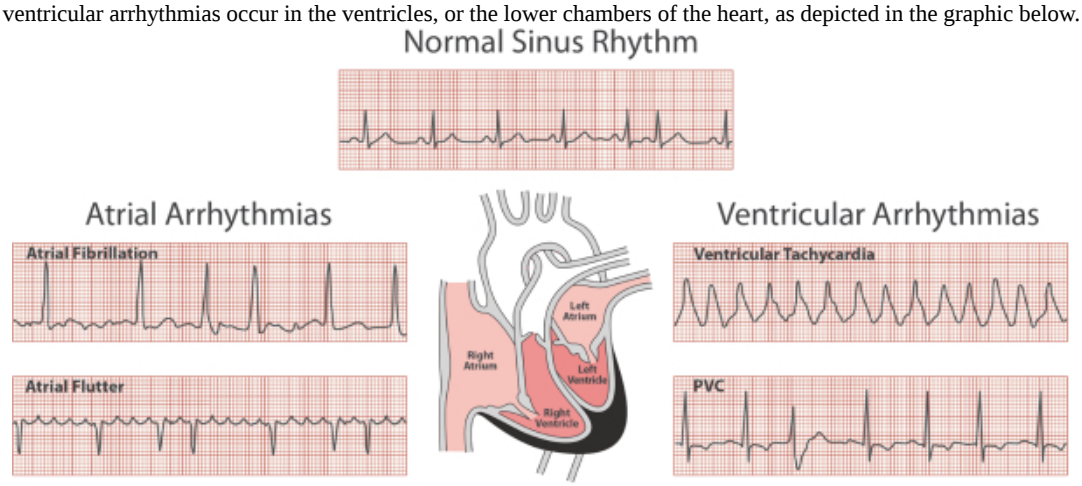
Cardiac Arrhythmias

Cardiac arrhythmias, or heart rhythm disorders, are common and can occur when the heart beats too rapidly, too slowly or irregularly. Symptoms associated with arrhythmias include fatigue, reduced exercise tolerance, palpitations, lightheadedness, shortness of breath and significant quality of life impairment. If left untreated, arrhythmias can result in debilitating symptoms, heart failure, stroke and sudden cardiac death.

Arrhythmias can affect a broad range of patient populations across all ages and lifestyles. Multiple factors can impact the development of cardiac arrhythmias, including genetics, structural heart damage, heart dysfunction, obesity, high blood pressure, obstructive sleep apnea and aging, among other factors. We estimate that in 2019, there were over 50 million people worldwide who suffered from chronic or newly diagnosed arrhythmias. This population has steadily grown as a result of multiple demographic trends, including an aging population and the increasing proliferation of the "western life style." The increasing utilization of wirelessly-connected implantable devices, as well as the accessibility of both medical-grade and consumer-oriented wearable cardiac monitoring devices, is also driving broader awareness and diagnosis of cardiac arrhythmias.

Between the costs associated with treatment and the downstream complications associated with arrhythmias, it is estimated that they cost global healthcare systems between $21 and $61 billion annually. These costs and the associated societal burden have led medical societies to recommend, and government and private payors to reimburse, treatment. While some types of arrhythmias can be effectively managed with medications and/or implantable devices, there is still a significant unmet need for effective diagnostic and treatment alternatives for three major categories of arrhythmias: atrial fibrillation; supraventricular tachycardias (other than atrial fibrillation); and ventricular arrhythmias.

Atrial fibrillation and other supraventricular tachycardias such as atrial flutter are arrhythmias that occur in the upper chambers of the heart, above the ventricles, and ventricular arrhythmias occur in the ventricles, or the lower chambers of the heart, as depicted in the graphic below.



Illustrative electrical activity of the major categories of arrhythmias traced on an electrocardiogram, as compared to normal sinus rhythm.

Atrial Fibrillation

Atrial fibrillation, or AF, is the most common arrhythmia with a global prevalence of over 30 million people in 2019. Atrial fibrillation is characterized by rapid and irregular activation of the heart. During atrial fibrillation, the heart's two upper chambers, or the atria, beat chaotically and irregularly, out of coordination with the two lower chambers, or the ventricles. This irregular behavior increases the potential to develop blood clots within the upper chambers of the heart, which can then circulate to other organs, leading to reduced blood flow and strokes. Individuals with atrial fibrillation are five times more likely to have an embolic stroke than those without atrial fibrillation, and strokes caused by atrial fibrillation are known to be more severe than those due to other causes. Atrial fibrillation is also a costly condition, leading to over 450,000 hospitalizations annually at a cost of approximately $16 to $26 billion to the U.S. healthcare system each year.

Once diagnosed, atrial fibrillation is classified into three primary categories based on the duration of continuous arrhythmia. The table below summarizes the types of atrial fibrillation and our estimates of the relative prevalence of each within the affected and treated populations, respectively.

Type of Atrial Fibrillation	Description	Prevalence of Arrhythmia Type	AF Type Treated with Ablation in 2019
Paroxysmal AF	Atrial fibrillation that terminates spontaneously or with intervention within 7 days of onset	34%	53%
Persistent AF	Continuous atrial fibrillation that is sustained beyond 7 days but less than 12 months	33%	33%
Long-standing Persistent AF	A type of persistent AF defined as continuous atrial fibrillation for longer than 12 months	33%	14%

We estimate that there were approximately 475,000 cardiac ablation procedures globally for atrial fibrillation in 2019, representing a current market size of approximately $3.4 billion in disposable product revenue. We believe this market is significantly underpenetrated. For example, while 475,000 cardiac ablation procedures were performed globally in 2019, we estimate that there are 30 million individuals worldwide with atrial fibrillation. While a variety of factors contribute to this disparity, including a lack of ready access to healthcare, we believe a significant portion of this disparity is attributable to the limitations of the current standard of care. Because atrial fibrillation is difficult to map and treat using currently marketed contact-based mapping systems, we believe that a significant number of individuals with atrial fibrillation who may benefit from ablation therapy are not being referred for or treated with ablation therapy today. With faster and more detailed arrhythmia visualization tools that allow for an iterative mapping and adaptive ablation approach, we believe there is a significant opportunity to address a greater portion of the up to 30 million individuals worldwide with AF.

Supraventricular Tachycardias (Atrial Arrhythmias other than AF)

Supraventricular tachycardias (other than AF), or SVTs, which are characterized by a rapid heartbeat in the upper chambers of the heart, had an estimated global prevalence of 17.1 million people in 2019. SVTs include right and left-sided arrhythmias such as atrial flutter or atrial tachycardia, among others. These arrhythmias can arise organically or as a result of an incomplete ablation for atrial fibrillation.

We estimate that there were approximately 516,000 ablation procedures worldwide for SVTs in 2019, reflecting a market size of approximately $1.7 billion in disposable product revenue. We estimate, however, that there are 17.1 million individuals worldwide with SVTs. While a variety of other factors contribute to this disparity, including a lack of ready access to healthcare, we believe a significant portion of this disparity is attributable to the limitations of the current standard of care. Atrial flutters and tachycardias, which often result from incomplete ablations for atrial fibrillation, are often extremely complex, featuring varying cycle lengths and

multiple morphologies that make them difficult and time-consuming to map using contact-based mapping systems. As a result, many electrophysiologists are reluctant to treat patients with these arrhythmias who may otherwise benefit from ablation therapy, and they can go undetected when they arise during or after an AF procedure. We believe that there is a significant opportunity to leverage advanced mapping and ablation tools to address a greater portion of the estimated 17.1 million individuals worldwide with SVTs.

Ventricular Arrhythmias

Ventricular arrhythmias affect the lower chambers of the heart and consist primarily of ventricular tachycardias, or VTs, and premature ventricular contractions, or PVCs. VTs are characterized by an abnormal, rapid ventricular heart rate that does not allow the heart to fill with blood before contracting, limiting the amount of oxygenated blood delivered to the body. PVCs are a condition in which the ventricles contract too soon, out of sequence with the normal heart beat. Frequent PVCs can lead to palpitations, shortness of breath, dizziness and cardiomyopathy. If left untreated, VTs and PVCs can lead to heart failure, ventricular fibrillation and sudden cardiac death.

We estimate that in 2019 there were 5.5 million individuals worldwide with ventricular arrhythmias who may have benefitted from ablation therapy. However, we estimate that approximately 90,000 global ablation procedures for ventricular arrhythmias were performed in 2019, reflecting a market size of approximately $620 million in disposable product revenue. In order to map these arrhythmias with currently marketed contact-based mapping systems, the catheter must contact the tissue, which can itself cause these arrhythmias to occur during the procedure. When VTs and PVCs are induced during the procedure, patients can become hemodynamically unstable and rapidly deteriorate, presenting significant risks for the patient. Accordingly, with the right diagnostic and therapeutic tools, we believe there is significant opportunity to address a greater portion of the estimated 5.5 million individuals worldwide with ventricular arrhythmias who may benefit from ablation therapy.

The table below summarizes our estimates of the existing market for cardiac arrhythmias.

Type of Arrhythmia	2019 Global Prevalence	2019 Global Procedures	2019 Market Size (Disposables)
Atrial fibrillation (AF)	30.0 million	475,000	$ 3.4 billion
Supraventricular tachycardias (SVTs)	17.1 million	516,000	$ 1.7 billion
Ventricular arrhythmias (VTs and PVCs)	5.5 million	90,000	$ 0.6 billion
Total	**52.6 million**	**1,081,000**	**$ 5.7 billion**

Current Treatment Alternatives and Their Limitations

Arrhythmia treatments focus on relieving symptoms, improving quality of life and reducing the risk of stroke, heart failure or lethal arrhythmias. There are two primary treatment approaches for AF, SVTs, VTs and PVCs: medical management and catheter-based ablation of the tissue causing the heart's irregular rhythm. A minority of patients may also be treated with open heart surgery, minimally invasive epicardial ablation and/or implantable devices.

Medical Management

Medical management involves anticoagulation drugs to reduce stroke risk, anti-arrhythmic drugs, or AADs, to maintain the heart's regular rhythm, or rate controlling drugs to regulate the heart's rate. Medical management is often accompanied by cardioversion, which involves the application of an electric shock to the heart in order to restore the regular rhythm. Medical management has historically been considered first line therapy because of its noninvasive nature. However, current AADs have been associated with low success rates and an increased risk of

adverse side effects that have been shown to result in a larger burden to the healthcare system than arrhythmias alone. Landmark trials comparing medical management to cardiac ablation, including the CABANA and CAPTAF trials, have shown medical management to be associated with poor quality of life outcomes, and the CASTLE-AF trial demonstrated that medical management is inferior to cardiac ablation in patients with heart failure with respect to reducing mortality, cardiovascular-related hospitalizations and the proportion of time that patients spend in atrial fibrillation.

While medical management is a common initial treatment modality for most patients, medical society guidelines have been changing to support cardiac ablation as a first line therapy. In addition, the Centers for Medicare & Medicaid Services, or CMS, reimbursement policies generally support treatment with cardiac ablation if a patient has failed or refuses medical management.

Cardiac Ablation

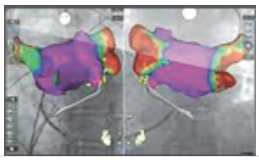
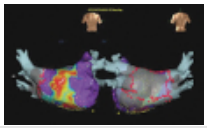
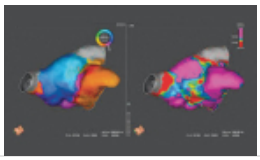
Cardiac ablation involves identifying and destroying tissue in the heart that is either determined or presumed to be responsible for initiating and/or maintaining an arrhythmia. Ablation therapy was pioneered based on the success of the Cox-Maze procedure, which utilized an open surgical approach to create incisional scars in the heart tissue to block abnormal electrical circuits. Catheter-based cardiac ablation was developed in 1994 as a less invasive alternative using catheters that enter the venous system through the groin and radiofrequency energy to emulate the lines created by the surgeons' scalpel. More recently, trials have demonstrated that electrical signals arising in the pulmonary veins are one source of arrhythmias and that electrically isolating the pulmonary veins from the left atrial body using ablation, referred to as pulmonary vein isolation, or PVI, can improve procedure success rates.

In order to perform a cardiac ablation procedure, an electrophysiologist gains access to the heart through an incision in the groin and then inserts one or more diagnostic mapping catheters. The mapping catheter is designed to recreate the chamber's anatomy and visualize the heart's electrical activation pathways on a console screen. Currently marketed mapping systems simultaneously collect data point-by-point through contact with the chamber wall to recreate the chamber anatomy and map the heart's electrical activation pathways. The contact-based electrical data points are sequenced to a stable timing reference in order to create a map of the electrical activation pathways. This combined anatomical and electrical map is used to determine the tissue area that is suspected of causing the arrhythmia. Once the area of interest is identified, an ablation catheter is inserted that then delivers the desired tissue-destructive therapy. While multiple trials have established that cardiac ablation is effective when the source of the arrhythmia is accurately identified and successfully ablated, visualization of various complex arrhythmias and creation of durable ablation lesions remains challenging with long, unpredictable procedure times and inconsistent outcomes. For example, data from large, multi-center trials of ablation therapy, including STOP AF and STAR AF II, have demonstrated that approximately 30 to 50% of ablations for atrial fibrillation result in recurrence within the first 12 months of the initial ablation procedure. We believe a primary reason for this is the inability of currently marketed mapping systems to quickly and reliably identify where to ablate and when ablation is complete.

Limitations of Current Mapping Systems

Because currently marketed mapping systems all rely on tissue contact and a fixed timing reference to collect and align data in the proper sequence, they are designed to map simple, stable and repetitive arrhythmias, including certain SVTs and certain VTs. Collecting a critical mass of data points to see even a stable rhythm is time consuming with contact mapping technologies, often taking 15 to 20 minutes per map. In addition, these technologies can only map one rhythm from each data collection session and are not capable of quickly and reliably mapping unstable or complex arrhythmias such as AF, certain VTs, PVCs and many types of SVTs.

Below is a snapshot of the currently marketed mapping systems and their respective capabilities:

	Biosense Webster Inc. (a Johnson & Johnson Company)	Abbott Laboratories	Boston Scientific Corporation
Map image			
Platform type	Stand-alone, closed therapeutic system	Stand-alone system	Stand-alone system
Mapping capability	Contact only	Contact only	Contact only
Technology	Voltage only	Voltage only	Voltage only
Mappable rhythms	Stable rhythms (Atrial Tachycardia, Typical Atrial Flutter, Ventricular Tachycardia)	Stable rhythms (Atrial Tachycardia, Typical Atrial Flutter, Ventricular Tachycardia)	Stable rhythms (Atrial Tachycardia, Typical Atrial Flutter, Ventricular Tachycardia)
Time to map	15-20 mins / map	15-20 mins / map	15-20 mins / map

Limitations of Contact Mapping Systems for AF

PVI has become a first line ablation strategy for patients with AF. It has been shown to be an acceptable anatomic ablation strategy for most paroxysmal AF cases (which are typically less complex and easier to treat than persistent AF). Currently marketed mapping systems are well suited to reconstruct anatomical structures, such as the pulmonary veins, however, they are less suited to quickly and reliably map electrical activation in the atrial body. It is widely accepted that AF drivers and maintainers exist beyond the pulmonary veins in patients with more complex AF, such as persistent AF and long-standing persistent AF. These patients tend to have larger atriums and one or more areas of fibrosis that create electrical rhythm abnormalities that arise within the atrial body. Persistent and long-standing persistent AF patients have historically proven challenging to treat with cardiac ablation due to the inability of currently marketed mapping systems to quickly and reliably map unstable arrhythmias. This limitation makes it difficult to identify the AF drivers and maintainers of the arrhythmia and impractical from a time perspective for electrophysiologists to ablate tissue and then re-map to confirm treatment efficacy. The STAR AF II trial, which specifically evaluated three strategies for treating persistent and long-standing persistent AF patients, demonstrated that utilizing currently marketed mapping systems to identify additional areas for ablation was unable to improve outcomes relative to pulmonary vein isolation alone, and yielded 12-month freedom from AF below 60%. Arrhythmia recurrence following ablation often requires retreatment, which can be costly for the healthcare system and potentially harmful for the patient.

Despite incremental improvements in currently marketed mapping systems, patient outcomes remain unpredictable and procedures are still very lengthy and generally resource-intensive for the hospital. On average, procedures last approximately 2 hours and can take up to 6 hours in certain complex cases or in situations where the ablation procedure actually elicits additional arrhythmias, such as flutter and tachycardia. Given the time required to create a map with contact-based systems, it is often impractical for electrophysiologists to follow an iterative whole-chamber mapping and ablation approach to ensure they have addressed all arrhythmias. Iterative mapping (map-ablate-remap) allows for rapid decision-making through clinically actionable data. We believe that the inability to iteratively map throughout a procedure means patients undergoing therapy for AF are more likely to require a repeat procedure and experience increased incidence of other SVTs after a procedure.

We believe that with better tools to diagnose areas in the heart that require ablation and rapidly assess therapy effect in real-time, there is significant opportunity to improve cardiac ablation success, reduce procedure times and increase the adoption of ablation therapy.

Limitations of Contact Mapping Systems for SVTs and Ventricular Arrhythmias

Currently marketed mapping technologies also face significant limitations in addressing SVTs and ventricular arrhythmias which, in turn, has limited the penetration of cardiac ablation therapy to a small portion of these affected populations.

While currently marketed mapping systems are effective at treating typical atrial flutter, approximately 40% to 60% of patients with typical atrial flutter also have atrial fibrillation. Current systems, which can only map one rhythm at a time, require a new map to diagnose each arrhythmia. Similarly, for atypical atrial flutter and atrial tachycardia, which comprise the majority of patients in this market segment, current technologies lack the ability to quickly and reliably locate the source of the arrhythmia, as these arrhythmias are generally transient in nature and have varying cycle lengths. As a result, physicians often default to medical management for treatment of these SVTs.

Ventricular arrhythmias are often hemodynamically unstable arrhythmias and are aggravated by contact with the ventricular wall. Similarly, PVCs can be difficult to map due to their lack of stability and repetitiveness, as they often occur as a single beat. These factors make current contact-based, point-by-point mapping systems impractical and in many cases unable to address them. As a result, we believe that physicians often prefer to rely on medical management or device therapy for treatment of these ventricular arrhythmias.

Our Solution

We design, manufacture and market a complete set of tools for catheter-based ablation procedures to treat various arrhythmias. Our foundational and most highly differentiated product is our AcQMap imaging and mapping system which offers a paradigm-shifting approach to mapping the drivers and maintainers of arrhythmias with unmatched speed and precision. With the ability to rapidly and accurately identify ablation targets and to confirm both ablation success and procedural completion, we believe our AcQMap System addresses the primary unmet need in electrophysiology procedures today.

We have established a comprehensive portfolio of electrophysiology products that complements our AcQMap System and provides our customers a complete solution – from vascular access to diagnosis and treatment of arrhythmias. We believe that our ability to offer a comprehensive and differentiated product portfolio supports the adoption and utilization of our AcQMap System and drives an efficient business model with a growing component of recurring revenue.

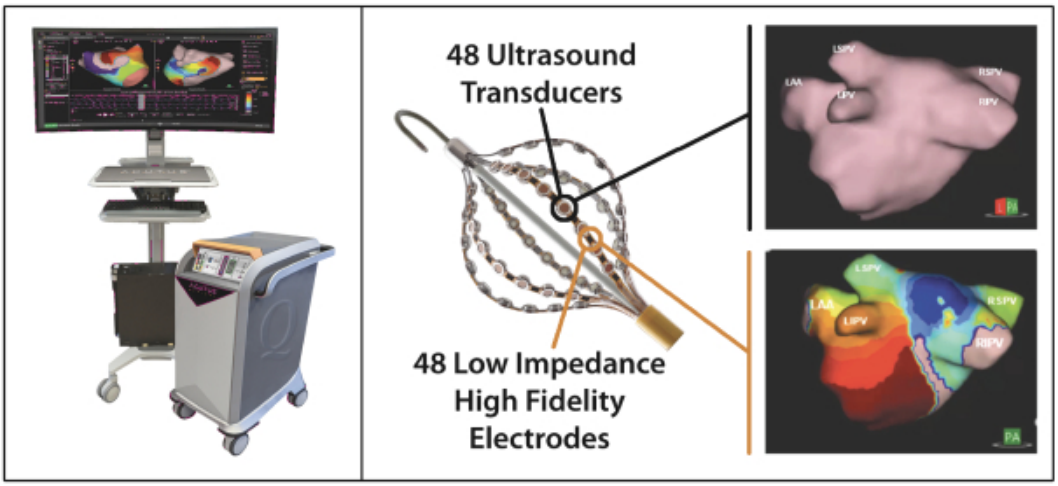
Overview of Our AcQMap System

We developed our AcQMap System to address the key challenges that electrophysiologists face during ablation procedures and remove the barriers to adopting ablation for complex arrhythmia procedures. Our AcQMap System is designed to help electrophysiologists map stable and unstable arrhythmias, as well as to efficiently assess and adapt therapy during the procedure. The AcQMap System is the only commercially available non-contact mapping system that introduces two novel concepts to 3D-mapping: ultrasound to reconstruct the endocardial surface anatomy and charge density for mapping arrhythmias. Our mapping catheter can collect the data required to create a comprehensive map of the cardiac anatomy and electrical propagation patterns and pathways in under three minutes. In comparison to contact mapping, which is the current standard of care, non-contact mapping reduces signal artifact and distortion that can affect the quality, accuracy and reproducibility of the map. Additionally, our AcQMap System can accurately map all arrhythmias, whereas contact mapping systems are not able to reliably map unstable arrhythmias such as AF, PVCs and many types of SVTs.

Our AcQMap System consists of our AcQMap catheter, console and workstation. The AcQMap catheter is a single-use, 10F catheter that is introduced into the chamber of interest over a guidewire. The distal end of the

catheter is deployed into a 25 millimeter diameter spheroid, formed by six splines. Each spline has eight ultrasound transducers interspersed between eight biopotential electrodes, resulting in a total of 48 sensors of each type. The ultrasound transducers reconstruct the cardiac anatomy while the high fidelity, low impedance electrodes sample the voltage potential field to create maps of cardiac activation using charge density.

Our AcQMap catheter maps the full heart chamber and is able to capture both stable and unstable rhythms in a single data acquisition. Our AcQMap System acquires up to 115,000 ultrasound data points per minute to accurately reconstruct the cardiac anatomy and simultaneously collects 9 million biopotential samples per minute to visualize cardiac activation. This allows us to create comprehensive diagnostic maps of the chamber anatomy and electrical propagation patterns and pathways in under three minutes without contacting the chamber wall. Our proprietary software algorithms analyze the biopotential data and are collectively able to map any type of stable or unstable arrhythmia, including atrial fibrillation, as well as all supraventricular tachycardias and ventricular arrhythmias, as depicted in the graphic below.



(Left): Our AcQMap console and workstation. (Middle): Our AcQMap mapping catheter. (Upper Right): Ultrasound reconstruction of the heart chamber anatomy using our AcQMap System. (Lower Right): Display of the electrical propagation patterns of the heart chamber using our AcQMap System. In the map, dark red is the front edge of the rhythm wavefront, with the trailing colors showing where the wavefront has been within the heart chamber. (Anatomy Terms): LSPV—Left superior pulmonary vein, LAA—Left atrial appendage, LIPV—Left inferior pulmonary vein, RSPV—Right superior pulmonary vein, RIPV—Right inferior pulmonary vein. PA— Posteroanterior.

Our AcQMap catheter is attached to the AcQMap console, which contains electronic instrumentation that drives transmission and acquisition of the ultrasound, localization and cardiac electrical data. The data is passed from the AcQMap console to the AcQMap workstation on which the AcQMap software analyzes and maps the arrhythmia using one of our three mapping algorithms, depending on the type of arrhythmia. Our current suite of mapping algorithms includes our proprietary Single Position and SuperMap modes, along with a basic contact mode. Electrophysiologists can seamlessly toggle between these modes during procedures.

Our flagship Single Position algorithm was developed to map unstable, complex tachyarrhythmias, which are known to include AF, as well as simple and complex stable tachycardias. Based on learnings from our UNCOVER AF trial, we developed the SuperMap algorithm to allow electrophysiologists to identify and address atrial flutters and other tachycardias that commonly arise during cardiac ablation procedures targeting AF. SuperMap allows us to collect data from multiple positions (also non-contact) within the chamber of interest and map multiple simple and complex, stable tachycardias within the same data acquisition. Lastly, our contact mode allows electrophysiologists to use traditional point-by-point or multi-point data collection to map simple, stable

tachycardias in less complex cases. The table below lays out the key features of our proprietary Single Position and SuperMap algorithms.

Mapping Algorithm	Single Position	SuperMap
Algorithm description	• Ultrasound is used to create the anatomy • Non-contact data is collected from a single, central position within the chamber of interest • Selected segments of the data are processed through the charge density algorithm • Charge density maps display activation patterns and pathways	• Ultrasound is used to create the anatomy • Non-contact data is collected from multiple positions throughout the chamber of interest • Data is automatically binned based on signal morphology • The data in each unique bin is sequenced to a stable, timing reference • Charge density maps display the activation pathway
Mappable rhythms	• Simple, stable tachycardias (Atrial Tachycardia, Typical Atrial Flutter, Ventricular Tachycardia) • Complex, stable tachycardias (Atypical Atrial Flutter, Atrial and ventricular tachycardias with small cycle length variations) • Complex, unstable tachyarrhythmias (Atrial fibrillation)	• Simple, stable tachycardias (Atrial Tachycardia, Typical Atrial Flutter, Ventricular Tachycardia) • Complex, stable tachycardias (Atypical Atrial Flutter, Atrial and ventricular tachycardias with small cycle length variations)
Number of rhythms that can be mapped from a single data collection	Multiple	Multiple
Time to create map	<3 minutes	<3 minutes

Key Benefits of AcQMap System

We believe the unique attributes of our AcQMap System offer significant clinical benefits relative to the current standard of care.

Allows for an Iterative Whole-Chamber Mapping Approach. The design of our non-contact AcQMap catheter allows it to map both the anatomy and the electrical propagation patterns and pathways of an entire heart chamber in less than three minutes. With increased mapping speed and precision, electrophysiologists are empowered in real time to iteratively map, treat, re-map and adjust additional therapy as needed. This allows physicians to determine when ablation is complete, which we believe will drive more efficient and predictable procedures and better outcomes for a broader range of arrhythmias.

Increased Mapping Accuracy. We believe our technology creates the most accurate and robust map available to electrophysiologists. Ultrasound technology allows us to create an anatomically accurate image of the heart chamber, which is critical for properly defining the locations of charge sources, and non-contact charge density mapping is our novel approach that allows the AcQMap System to display the heart's true activation patterns and pathways. In contrast to the broad and smooth view contact-based voltage mapping offers, charge density provides a more localized and sharper view of cardiac activation, resulting in images with four times higher resolution than voltage-based maps produced by currently marketed contact-based mapping systems. We believe the combination of these two features in our proprietary AcQMap System allows electrophysiologists to reliably identify and ablate the source of the arrhythmia, which will help improve clinical outcomes and reduce the need for repeat procedures.

Ability to Identify Multiple Complex Arrhythmias. With our AcQMap System, electrophysiologists can map both stable and unstable rhythms that incumbent 3D mapping systems are not capable of mapping. In addition, electrophysiologists can toggle between our sophisticated SuperMap and Single Position modalities to capture any occurring arrhythmia, or multiple concurrent arrhythmias, without interrupting case flow or extending procedure times. These features allow electrophysiologists to see changes in conduction during the procedure and arm them with an optimal solution to better customize therapy.

Excellent Clinical Outcomes

Our AcQMap System has been clinically demonstrated to drive excellent outcomes across a broad range of the most common simple and complex arrhythmias, including atrial fibrillation. Our UNCOVER AF post-market approval trial, which assessed the effectiveness of the AcQMap System in identifying and ablating patient-specific targets outside of the pulmonary veins in addition to PVI, demonstrated favorable freedom from AF outcomes. In the UNCOVER AF trial, utilization of our AcQMap System in persistent AF patients demonstrated 73% and 93% freedom from AF at 12 months following their initial procedure after one or two procedures, respectively. Even for patients that did not achieve freedom from AF at 12 months, the UNCOVER AF data demonstrated reduced AF burden and a significant quality of life improvement. Additionally, the UNCOVER AF data demonstrated that patients were 9.4 times more likely to maintain normal sinus rhythm when three or more arrhythmia targets were ablated in addition to PVI, as guided by the AcQMap System.

In comparison, in the landmark STAR AF II trial, Abbott Laboratories evaluated cardiac ablation methodologies in a similar set of persistent AF patients and demonstrated only 61% freedom from AF at 12 months after one procedure and 79% freedom from AF after multiple procedures with PVI. The STAR AF II trial demonstrated lower effectiveness outcomes when electrophysiologists used competitive 3D mapping tools to identify and ablate other targets outside the pulmonary veins. We believe the key differentiator in outcomes was the use of our AcQMap System to map and identify these key ablation patterns and targets and map and treat them in an iterative (map-ablate-remap) fashion.

The table below shows the effectiveness endpoints of our UNCOVER AF trial as well as the same endpoints from the STAR AF II trial for each of the three treatment arms in that trial.

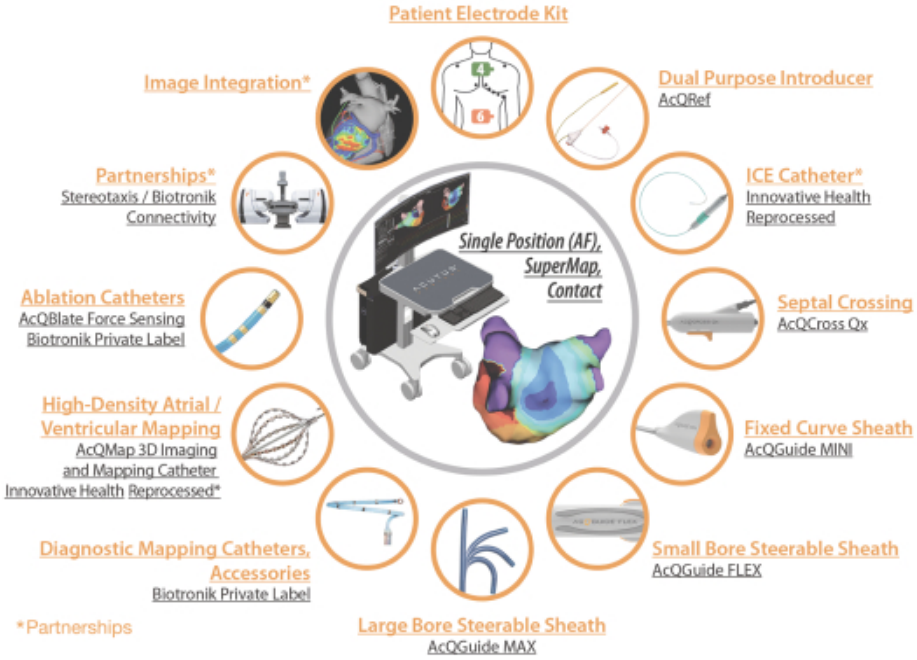
Variable	UNCOVER AF PVI + Targets 12M (%)	STAR AF II PVI 12M (%)	STAR AF II PVI + CFAE 12M (%)	STAR AF II PVI + Lines 12M (%)
Freedom from AF > 30 seconds after one procedure, with or without AAD	**73**	61	54	50
Freedom from AF > 30 seconds after multiple procedures, with or without AAD	**93**	79	70	70

CFAE and Lines are ablation strategies targeting potential sources of arrhythmia outside of the pulmonary veins. Complex Fractionated Atrial Electrograms, or CFAE, are electrograms that show either rapid or continuous electrical activity during atrial fibrillation identified by validated, automated software in the mapping system (EnSite). Lines were ablated along the atrial roof and mitral valve isthmus.

Our Comprehensive Portfolio

We have established a comprehensive portfolio of electrophysiology products that complements our AcQMap System and provides our customers a complete solution – from vascular access to diagnosis and treatment of arrhythmias. Our commercial product portfolio includes our proprietary AcQMap System, a suite of access devices, our transseptal crossing device and full product lines of diagnostic and ablation catheters through our partnership with Biotronik. We recently expanded our portfolio to include the AcQBlate gold-tip, irrigated, radiofrequency force sensing ablation catheters and control unit which we expect to commercialize upon regulatory approval. We anticipate CE Mark approval of our AcQBlate catheters and system in the second half of 2020, and we plan to commence an IDE trial for FDA clearance within the same time frame. We believe that our ability to offer a comprehensive and differentiated product portfolio supports the adoption and utilization of our

AcQMap System and drives an efficient business model. Once an AcQMap console and workstation is established in a customer account, our revenue from that account is predominantly recurring and derived from the sale of our portfolio of disposable products used with our system. Our suite of products either currently marketed or in late stages of development are depicted in the graphic below:



Benefits for Key Stakeholders

We believe the key clinical benefits of our comprehensive portfolio offer an attractive value proposition for all stakeholders that will drive its continued adoption by hospitals and physicians.

Patients. Our AcQMap System demonstrated excellent clinical outcomes in treating AF and other atrial arrhythmias in the UNCOVER AF trial and in ongoing real-world experience. We believe our ability to improve ablation effectiveness will improve patients' quality of life by reducing symptoms, hospitalizations for repeat procedures and the need for medical management.

Physicians. We believe the ability to accurately and iteratively map during the procedure improves the effectiveness of procedures and allows electrophysiologists to treat difficult cases that may have otherwise been referred for medical management or sent to an academic center of excellence. As such, physicians benefit from the ability to grow their practices by increasing the volume and types of procedures they can perform. Similarly, we believe that the speed of our iterative mapping approach will ultimately result in shorter and more predictable procedure duration. In addition, our mapping system is open in architecture, allowing optimal flexibility in the tools physicians use for diagnosing and treating arrhythmias.

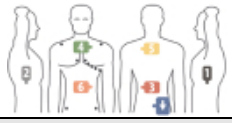
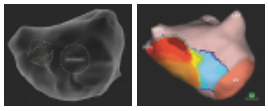
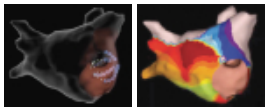
Hospitals. By increasing patient throughput, reducing procedure times and improving the predictability of procedure duration, we believe our products will improve hospital workflow efficiency. This will allow hospitals to better utilize their operating room capacity and fixed overhead as well as increase their return on capital. Our portfolio of products also increases the opportunity set of addressable procedures, allowing hospitals to treat

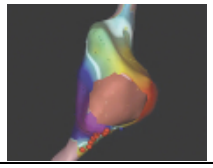
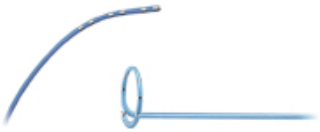
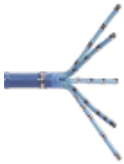
patients that would otherwise have relied on medical management or have been referred to other academic centers for treatment.

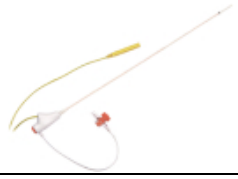
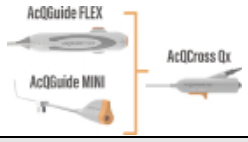
Payors. We believe increased adoption of our products will reduce the financial burden of cardiac arrhythmias for payors by reducing repeat procedures for arrhythmia recurrence and extensive hospitalizations arising from complications of arrhythmias.

Our Product Portfolio

Through internal product development, acquisitions and global partnerships, we have established a comprehensive portfolio of electrophysiology products. Our product portfolio includes novel access sheaths, transseptal crossing tools, diagnostic and mapping catheters, ablation catheters, mapping and imaging consoles and accessories, as well as supporting algorithms and software programs. An overview of our key products is presented in the table below.

Product Portfolio	
Diagnostic System & Accessories	
AcQMap Console and Workstation 	An advanced imaging, navigation and mapping system that offers physicians better decision-making tools for determining where to ablate and makes it practical for physicians to iteratively map, treat, re-map and adjust additional therapy as needed.
Patient Electrode Kit 	Single-use AcQMap patient electrode kit, consisting of localization patches, an analog ground patch and ECG electrodes, which is required in every procedure to provide cardiac signals, catheter localization and AcQMap System grounding.
Software Mapping Modes	
Single Position 	State-of-the-art, non-contact mapping solution that enables the AcQMap System to map unstable, complex arrhythmias, which are known to include AF, as well as simple and complex stable tachycardias.
SuperMap 	Revolutionary non-contact mapping solution allows the AcQMap System to collect data from numerous locations within the chamber of interest and map multiple simple and complex, stable tachycardias within the same data acquisition. Developed to allow electrophysiologists to identify and address atrial flutters and other tachycardias that occur organically or commonly arise during and after AF ablations.

Product Portfolio	
Contact Mapping 	Conventional contact mapping solution that uses traditional point-by-point or multi-point data collection to map simple, stable tachycardias in less complex, routine cases.
Stereotaxis Integration 	Through our partnership with Stereotaxis, we offer a version of our Single Position and SuperMap software mapping modes that allows our AcQMap system to be used with Stereotaxis' unique-in-the-industry robotic platform for cardiac ablation.
Diagnostic & Monitoring Devices	
AcQMap 3D Imaging and Mapping Catheter 	An advanced, non-contact, over-the-wire, intracardiac device used for mapping during standard and complex electrophysiology procedures. The single-use catheter enables acquisition of ultrasound and biopotential data to reconstruct the cardiac anatomy and map electrical propagation patterns and pathways, resulting in images with a four times higher resolution than voltage-based maps. Our AcQMap catheter is currently indicated for use in the atria. Our research and development initiatives include expanding the indication for use in the ventricles.
Conventional Diagnostic Catheters* 	Through our partnership with Biotronik, we offer a family of conventional diagnostic catheters including multi-polar, steerable and loop catheters which are commonly used during mapping and ablation procedures. These catheters can be used for contact mapping or in conjunction with our AcQMap catheter. These catheters will be sold under the Acutus brand.
Reprocessed Diagnostic Catheters 	Through our partnership with Innovative Health, we offer reprocessed versions of a wide variety of commercial catheters, including diagnostic, multipole, fixed, steerable and advanced mapping and imaging (e.g., intracardiac echocardiography) catheters. These reprocessed catheters allow us to provide customers with a full suite of physician preferred devices and confer cost savings to providers.

Product Portfolio	
Access Devices	
AcQRef Introducer 	Dual-purpose introducer sheath with integrated electrode that provides stable electrical reference and vascular access, eliminating the need for an additional introducer and quadripolar reference catheter.
AcQGuide MAX Steerable Introducer 	Large diameter specialty sheath to facilitate the intracardiac placement and maneuverability of diagnostic and ablation catheters, including our AcQMap catheter. Enables optimal maneuverability and increased control, providing a stable platform to ensure smooth catheter passage and precision placement.
Transseptal Access Product Family 	Our integrated transseptal and sheath line of products is fast, safe and easy to use in any septal anatomy. The AcQCross Qx transseptal needle facilitates either a mechanical or RF-facilitated septal puncture. The fixed curve AcQGuide MINI and steerable AcQGuide FLEX introducers interlock with the AcQCross Qx transseptal needle for smooth delivery across the septum without the need for a guidewire exchange.
Therapeutic Devices	
AcQBlate FORCE Ablation Catheters 	Innovative catheter platform that combines optical fiber technology for contact force sensing and a unique-in-the-industry irrigated gold ablation tip that offers excellent electrical and thermal properties compared to the platinum-iridium tip commonly used in marketed devices. The force sensor information can be visualized on both the AcQMap System and/or an external monitor integrated with our Qubic Force device. We currently anticipate that our AcQBlate catheters and Qubic Force control unit will receive CE Mark in the second half of 2020, and we plan to commence an IDE trial for FDA clearance within the same time frame.
AlCath Ablation Catheters* 	Through our partnership with Biotronik, we will offer an Acutus private-labeled version of the AlCath ablation catheter platform that utilizes a gold ablation tip. The AlCath ablation catheter family encompasses a range of irrigated and non-irrigated catheters. We will sell this line of catheters under the Acutus brand in the United States subject to regulatory approval, which we anticipate receiving by the first half 2022 and in certain markets in Western Europe and the United Kingdom (where CE Mark is currently in place).

Product Portfolio	
MedFact Robotic Navigation Enabled Ablation Catheters* 	Through our supply agreement with MedFact, we distribute specialty magnetic catheters in CE Mark countries for use with Stereotaxis' robotic platform for cardiac ablation.
Qubic Force 	Our Qubic Force device is used in conjunction with our AcQBlate force sensing catheters to allow the electrophysiologist to monitor and adjust the contact force of the ablation catheter tip on the cardiac wall during ablation. We currently anticipate that the Qubic Force device will receive CE Mark in the second half of 2020 and FDA clearance in the first half of 2022.
Qubic RF Generator and Pulse Stimulator* 	Through our partnership with Biotronik, we will distribute the Qubic RF Generator and Pulse Stimulator in the United States and certain countries in Asia and Western Europe. Both devices are currently CE Marked. Regulatory approval for these devices in the United States is expected by the first half of 2022. The Qubic RF generator has the smallest footprint of any RF ablation generator in the electrophysiology industry and allows an easy integration into virtually any electrophysiology lab. The Qubic RF generator operates seamlessly with the Qiona pump and Qubic Force devices.
Qiona Pump* 	Through our partnership with Biotronik, we will distribute the Qiona Pump in the United States and certain countries in Asia and Western Europe. The Qiona Pump is currently CE Marked. Regulatory approval for this device in the United States is expected by the first half of 2022. The Qiona Pump is a peristaltic irrigation pump that delivers cooling fluid to reduce the risk of thrombus forming on the ablation tip and to maintain the correct temperature at the ablation catheter tip and the treatment site and helps to protect the surrounding healthy tissues. The Qiona Pump operates seamlessly with the Qubic RF and Qubic Force devices.

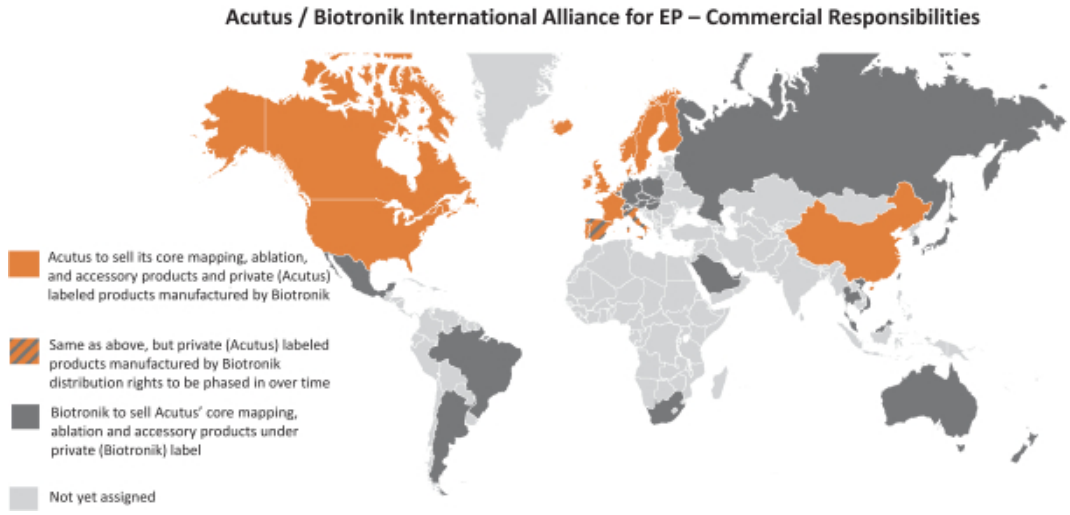
* *Strategic partnership—private label and/or distribution rights*

Our Commercial Strategy

We market our comprehensive portfolio of electrophysiology products worldwide to hospitals and electrophysiologists that treat patients with arrhythmias. We have strategically developed a direct selling presence in the United States and select markets in Western Europe where cardiac ablation is a standard of care and third-party reimbursement is well-established. In these markets, we install our AcQMap console and workstation with customer accounts and then sell our disposable products, including products licensed through various partnerships, to those accounts for use with our system. In other international markets, we leverage our

partnership with Biotronik to install our AcQMap console and workstation with customer accounts and then to sell our disposable products to those accounts.

Through our bi-lateral distribution agreements with Biotronik, we will leverage Biotronik's highly tenured salesforce to distribute our AcQMap System and associated products in certain markets in Germany, Japan, Mexico, Switzerland and multiple countries in Asia-Pacific, Eastern Europe, the Middle East and South America where they have an established, long-standing presence and existing infrastructure. Additionally, the bi-lateral distribution agreements allow us to sell a range of Biotronik's electrophysiology products under our private label (Acutus branded) in our direct markets. These products complement our AcQMap System and provide us with a comprehensive electrophysiology portfolio. The bi-lateral distribution agreements are also expected to enable us to cooperatively bundle electrophysiology and cardiac rhythm management product lines across the Acutus and Biotronik portfolios in certain markets. Further, through our bi-lateral distribution agreements with Biotronik, we also expect to be able to utilize Biotronik's proprietary digital infrastructure. This should eventually allow our commercial team to monitor and support cases remotely and should enable us to build a collaborative library of cases in order to develop workflow strategies, establish best practices and deliver training programs. See the section titled "—Biotronik Agreements—Bi-Lateral Distribution Agreements" for a further description of the bi-lateral distribution agreements. The territories in which we and Biotronik, respectively, have responsibility for commercializing and selling our products under the bi-lateral distribution agreements are depicted in the graphic below:



Acutus currently has direct sales operations in the United States, the United Kingdom, Germany, France, Belgium, the Netherlands, Italy and the Czech Republic.

In the United States and Western Europe, our target market is highly concentrated. In the United States, we believe there are approximately 1,000 physicians and 750 electrophysiology programs that perform cardiac ablation procedures and that over 60% of the procedures in the United States take place in approximately 200 high volume electrophysiology centers. In our direct markets in Western Europe, we believe there is similar concentration across electrophysiology centers and procedures. For example, in France, Italy, Germany, Spain and the United Kingdom, we believe there are approximately 700 electrophysiology programs and approximately 200 high volume centers that perform more than 150 ablation procedures per year. We plan to leverage the concentrated nature of procedure volumes to focus our direct commercial efforts on the high and medium volume centers in our markets in the United States and Western Europe.

Our sales force consists of sales representatives and mappers that have substantial applicable medical device sales and clinical experience, specifically in the electrophysiology, interventional cardiology and cardiac rhythm spaces. Our sales representatives are responsible for developing territory business plans, targeting and opening new customer accounts, promoting the benefits of our product portfolio and driving adoption and utilization of the AcQMap System. Our mappers, who provide clinical procedure support, are also focused on driving penetration and utilization across our portfolio. We also support our sales organization with strategic marketing and practice development initiatives.

As of May 14, 2020, our commercial organization consisted of 58 individuals with substantial applicable medical device, sales and clinical experience, including sales managers, sales representatives and mappers. As we continue to grow the size of our sales organization, with an emphasis on increasing adoption by existing customers and expanding our current customer base, we expect to focus on adding a strategic mix of sales representatives and mappers.

Professional Education and Sales Training

We are focused on developing strong relationships with our customers and supporting the value proposition that our products deliver. We devote significant resources to training and educating physicians in the use of our AcQMap System and our associated products. We have developed a robust training course, which we host at our facility in Carlsbad, California. During our training courses, physicians receive in-depth presentations on our product portfolio and can experience hands-on training in our simulation lab. We also offer a variety of live and virtual opportunities for ongoing professional education, including for electrophysiologists to observe cases with leading practitioners and frequent hands-on preclinical training sessions in our AcQLab.

In order to provide support to our physician customers in the field, our highly specialized sales representatives and mappers receive in-depth training and develop a thorough understanding of complex cardiac arrhythmias, key aspects of our technology and procedure planning. Our extensive training and continuous education programs consist of both virtual and in-person foundational training, procedure observation, and sales skills development. Furthermore, as part of our partnership with Biotronik, we have developed a closely coordinated ongoing training program where we cross-train our respective salesforces and mappers on the key technical benefits and value drivers across both portfolios.

Clinical Data

The safety and effectiveness of our AcQMap System are supported by data from three clinical trials that collectively evaluated 223 subjects across 16 centers in multiple countries. The data from our First-in-Man trial established the safety and functionality of our AcQMap System, and our subsequent DDRAMATIC-SVT trial supported its FDA clearance and CE Mark approval. Our UNCOVER AF trial, which evaluated the effectiveness of our AcQMap System in the persistent AF population, provides additional high-quality evidence supporting its adoption in the field.

We are currently conducting two post-market trials to provide physicians with additional safety and effectiveness data on the use of our AcQMap System, and we are planning two IDE trials to support regulatory approval of our AcQBlate gold-tip, irrigated, radiofrequency force sensing ablation catheters and Qubic Force device. Our ongoing and planned trials are anticipated to involve in aggregate of over 700 subjects in at least 35 centers in the United States and internationally. We expect to provide data readouts from these trials at various points in time through 2023.

Investment in clinical evidence is a core strategy of our company. We involve physician advisors who are recognized for excellence in electrophysiology to assist us with clinical trial designs. We also seek to ensure rigorous, high-quality data collection and reporting by using an independent assessment of safety and therapy effectiveness endpoints. Our clinical and regulatory organization, which manages trial design and execution, has

specialized expertise in trial management, data collection and biostatistics, in addition to U.S. and international medical device regulatory expertise.

First-in-Man Clinical Trial

Our First-in-Man trial was a single-arm trial conducted at two sites in Europe from March 2013 to October 2014. The First-in-Man trial was initiated as a feasibility trial to assess the safety and performance of the AcQMap System in subjects already scheduled for atrial ablation. The trial enrolled a total of 12 subjects and successfully demonstrated the ability of the AcQMap System to safely reconstruct an atrial anatomic chamber and create charge density maps in subjects with atrial arrhythmias.

DDRAMATIC-SVT (Dipole Density Right (and left) Atrial Mapping and Assessment of Therapy In Complex Supraventricular Tachycardia) Clinical Trial

Following completion of the First-in-Man trial, we conducted the DDRAMATIC-SVT trial, a multi-center, multi-national, single-arm, prospective trial, at eight sites in Europe and Canada. The DDRAMATIC-SVT trial was designed to demonstrate safety and effectiveness of the AcQMap System for creating charge density maps in subjects with SVTs and AF. The trial enrolled 85 subjects between March 2015 and June 2017. Data from the DDRAMATIC-SVT trial were used to support CE Mark approval of the AcQMap System in May 2016 and FDA 510(k) clearance in October 2017.

The DDRAMATIC-SVT trial enrolled subjects already scheduled for a cardiac ablation procedure, including *de novo* and retreatment subjects. The DDRAMATIC-SVT trial demonstrated that the AcQMap System was safe and could effectively collect data to construct pre- and post-ablation charge density activation maps of stable and unstable complex atrial arrhythmias.

The DDRAMATIC-SVT trial also assessed patients at 12-months follow-up for freedom from atrial arrhythmias and AF on or off antiarrhythmic drugs. Use of the AcQMap System in persistent AF patients resulted in 75.8% and 81.9% of patients becoming arrhythmia free and AF free, respectively, at 12-months on or off antiarrhythmic drugs. The excellent effectiveness outcomes in persistent AF patients supported our investment in the UNCOVER AF trial, which was designed to further establish the effectiveness of our AcQMap System in addressing complex, undertreated arrhythmias such as persistent AF.

UNCOVER AF (Utilizing Novel dipole density Capabilities to Objectively Visualize the Etiology of Rhythms in Atrial Fibrillation) Post-Market Approval Trial

We designed the UNCOVER AF trial based on learnings from DDRAMATIC-SVT and modeled it after the STAR AF II trial, a landmark trial sponsored by Abbott Laboratories and published in 2015. STAR AF II evaluated the effectiveness of ablation strategies in a similar persistent AF patient population.

The UNCOVER AF trial was a prospective, nonrandomized trial conducted in 13 centers across Europe and Canada between October 2016 and April 2017. Adults between the ages of 18 and 80 with persistent AF that were scheduled for their first cardiac ablation procedure were eligible to participate. Subjects were excluded from participation if they experienced AF lasting longer than 12 months, had a left ventricular ejection fraction <40% or left atrial size >50 mm, and if they had any prior history of stroke.

Per the trial protocol, our AcQMap System was used to collect ultrasound and biopotential data to reconstruct the atrial anatomy and create maps of atrial activation. After anatomic reconstruction, a charge density map was made during AF. If the subject presented in sinus rhythm, AF was induced using rapid atrial pacing. The atrial activation map was reviewed to identify areas of interest for ablation therapy. PVI was then performed using radiofrequency energy or cryotherapy, based on physician preference. Physicians were encouraged whenever possible to incorporate target areas near the pulmonary veins within the area being

isolated. After PVI, another charge density map was acquired to confirm the original areas of interest. Physicians were encouraged to ablate all areas of interest and map frequently to assess effectiveness of therapy and elimination of all identified areas. The efficiency of creating new maps with the AcQMap System encouraged iterative mapping following ablation therapy delivery. On average, electrophysiologists created four full-chamber maps per patient.

Follow-up data was collected prior to discharge and at seven days, and one, three, six, nine, and 12 months. At the three, six, nine, and 12-month follow-up, a 24-hour continuous ECG monitor was worn by the subject to assess for recurrence of atrial arrhythmias. Endpoint failures included any arrhythmia recurrence >30 seconds between three months and 12 months follow-up and ablation retreatment at any time through the duration of the trial.

The primary safety outcome of the trial was freedom from all device or procedural complications within 24 hours of the procedure. Pre-specified major adverse events, or MAEs, were identified and required to be reported by each site throughout the follow-up period. All adverse events were reviewed by an independent clinical events committee.

The primary effectiveness outcome was freedom from AF >30 seconds in duration at 12 months, with or without AADs. Because cardiac ablation for AF can cause other atrial arrhythmias, including atrial flutter and tachycardias, freedom from atrial arrhythmias >30 seconds off AADs was a key secondary effectiveness endpoint.

Other key secondary effectiveness endpoints included freedom from AF and atrial arrhythmias >30 seconds after two ablation procedures. AF burden, which measures the percent of the day that the patient is in AF and is considered by electrophysiologists to be an important metric for determining symptom improvement, was also measured by the combined continuous ECG recordings from each patient through 12 months. Patient quality of life was also assessed at each follow-up visit using the Atrial Fibrillation Effect on Quality of Life, or AFEQT, disease-specific questionnaire.

In the trial, 141 subjects were screened, 129 were enrolled and 127 were treated. The procedure was terminated for clinical reasons in two subjects. Follow-up was excellent with 12-month data recorded for 95% of patients. Patient demographics were similar to those in the landmark STAR AF II trial. Average patient age was 62 years and approximately three-fourths of enrolled patients were male. Enrolled patients were typical for the persistent AF population as indicated by the length of time in AF, AAD and cardioversion usage, left atrial diameter and associated co-morbidities. Mean left atrial diameter was 43 millimeters and mean left ventricular ejection fraction was 58%. Onset of first diagnosed AF was three years and onset of first diagnosed persistent AF was two years. Most patients had previously failed at least one AAD and had been cardioverted at least once within the previous two years. Comorbidities included hypertension, coronary artery disease, diabetes, valvular disease, cardiomyopathy and heart failure.

The key clinical outcomes of our UNCOVER AF trial are summarized below.

Safety Outcome

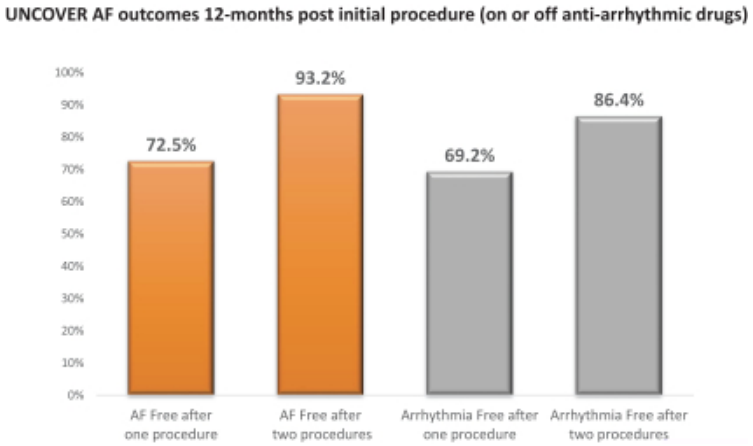
Ninety eight percent of subjects were MAE free. Three MAEs were adjudicated by the clinical events committee to be probably related to the procedure but not the AcQMap System. Two MAEs were related to cardiac tamponade and one was related to stroke, the symptoms of which resolved after five days.

Key Primary and Secondary Effectiveness Outcomes

After a single procedure, 72.5% of patients were AF free, on or off AADs. After two procedures, 93.2% of patients were AF free, on or off AADs, at 12 months post-initial procedure.

Similarly, at 12 months follow-up, 69.2% of patients were free from other atrial arrhythmias, on or off AADs. After two procedures, 86.4% of patients were free from other atrial arrhythmias, on or off AADs.

The figure below summarizes these key effectiveness outcomes.



Single Procedure Freedom from AF and Atrial Arrhythmias On or Off Antiarrhythmic Drugs at 12-Month Follow-up

Following the cardiac ablation procedure, a 24-hour continuous ECG monitor was used to measure AF burden based on the total time spent in atrial fibrillation, atrial flutter and atrial tachycardia >30 seconds. Following a single ablation procedure, 81% of subjects had no episodes lasting >30 seconds, and 98% of patients spent £30% of the time in an atrial arrhythmia. Based on prior industry trials, including the DISCERN trial, we believe this reduction in AF burden reflects a significant quality of life improvement for patients. The DISCERN trial, which was published in 2018 in the Journal of the American Heart Association, indicated that when patients spent more than 35% of their day in AF, their quality of life, specifically their ability to perform daily activities, was greatly impaired.

Individually, each of the symptom severity, daily activity, treatment concern and treatment satisfaction domain scores on the quality of life questionnaire demonstrated a statistically significant improvement for subjects in sinus rhythm at 12 months. Similarly, the overall change from baseline to 12 months in the total quality of life score showed a statistically significant improvement for subjects in sinus rhythm compared with those who were in an atrial arrhythmia.

While the landmark STAR AF II trial implied that PVI alone for treating persistent AF may be a better approach than PVI plus additional ablation targets, we believe the results of our UNCOVER AF trial provide substantive evidence supporting the clinical utility of our AcQMap System in identifying areas of interest outside the pulmonary veins to be targeted for ablation therapy in subjects with persistent AF. To test this theory, we performed a multivariate analysis to assess the relationship between treatment and outcome variables across 54 potential predictors of outcomes in our UNCOVER trial. We found that patients were 9.4 times more likely to be in normal sinus rhythm when three or more AcQMap identified targets were ablated and 2.8 times more likely to be in normal sinus rhythm when at least two of three AcQMap-identified pattern types were ablated. We believe the key differentiator in outcomes was the use of our AcQMap System to map and identify these key ablation patterns and targets. Importantly, the UNCOVER AF trial was the first time that many of the electrophysiologists participating in the trial had used the AcQMap System, indicating that the strong effectiveness outcomes were achievable without prior experience for the physicians.

Ongoing and Future Clinical Trials

We are currently conducting an additional multi-center, multi-national post-market approval trial, RECOVER AF, and have begun enrolling patients in the DISCOVER patient registry. We are also in the planning phase of our PLASZMA trial.

We designed our RECOVER AF trial to demonstrate the safety and effectiveness of the AcQMap System for recurrent atrial fibrillation following a first or second failed AF ablation in 100 treated patients in Europe and Canada. We expect to complete follow-up for the RECOVER AF trial in the second half of 2020.

Our DISCOVER registry is a multi-national registry designed to collect data on real-world use patterns for our AcQMap System and accessories as well as to track procedural efficiency and patient outcomes. We began enrolling patients in October 2019 and expect to enroll up to 500 patients. As of March 31, 2020, we had enrolled 62 patients.

Our PLASZMA (PVI + Left Atrial Slow Zone Mapping and Ablation) trial is a multi-center, non-randomized trial designed to examine the effectiveness of the AcQMap System in identifying consistent zones of slow conduction during sinus rhythm and pacing at various cycle-lengths within the chamber of interest and comparing those areas with conduction abnormalities in complex atrial arrhythmias such as atrial fibrillation, atrial flutter and atrial tachycardia. We anticipate beginning to enroll patients in the second half of 2020 and expect to enroll up to 100 patients.

We anticipate that these post-market approval trials will provide valuable evidence to support the clinical utility of our AcQMap System in treating arrhythmias and will continue to drive its adoption and utilization. As part of our portfolio expansion strategy, we are also planning two IDE trials to support regulatory approval of our AcQBlate gold-tip, irrigated, radiofrequency force sensing ablation catheters, which we expect to commence in the second half of 2020.

Research and Development

Our research and development efforts are focused on advancing the field of electrophysiology. We believe that our AcQMap System is a foundational platform that will drive a better standard of care for the treatment of cardiac arrhythmias. Our research and development activities are focused on increasing the AcQMap System's utility and seeking approval for additional labeled indications as well as expanding our portfolio of electrophysiology products to further improve and simplify the entire procedural experience. Our near-term pipeline includes products that broaden our commercial portfolio, increase functionality, and/or reduce costs across catheters, accessory devices, mapping systems and software. Other key programs in early stages of development include expanding our AcQMap Catheter indication to map ventricular arrhythmias as well as developing alternative ablation modalities such as pulse field ablation, also known as electroporation.

Our research and development team has significant experience bringing innovative products to market across numerous medical device organizations. Our team has mechanical, electrical, software, systems and algorithms engineering experience in addition to specialized capabilities in physics, mathematics and ultrasound technology. In 2019, our research and development team released five new disposable products, two hardware products, including a major generational update to our AcQMap System, and 15 software updates. Our research and development efforts are both directed from and executed at our facility in Carlsbad, California.

Reimbursement

We receive payment for our products directly from hospitals or other treatment facilities and do not directly bill any third-party payors. In the United States, physicians, hospitals and other treatment facilities receive payment for patient care from third-party payors, including private insurers and government insurance programs

such as Medicare and Medicaid, for the total healthcare services required to diagnose and treat the patient's cardiac arrhythmias.

Diagnosis and treatment of cardiac arrhythmias can be performed in either an inpatient or outpatient setting. Each setting has its own coding and payment schedule. The choice to treat a patient as an inpatient or outpatient is a medical decision, but in general, sicker patients and those expected to need a longer hospital stay are admitted as inpatients.

Hospital Outpatient

Reimbursement for the facility in the outpatient setting is determined by CMS' comprehensive Ambulatory Payment Classification, or APC, system which assigns codes specifically related to a single procedure. Hospitals receive a Medicare outpatient payment based on the APC group assigned to the physician service or procedure performed, which are described by Current Procedure Terminology, or CPT, codes. CPT codes are specific to the approach, the technique used and the specific anatomy in which the procedure is performed. For diagnosis and treatment of cardiac arrhythmias, the main drivers of APC assignment are anatomical location and the diagnostic or therapeutic devices that are used in the procedure. The table below lists the three major APC groups under which cardiac ablation procedures are reimbursed.

Our portfolio of access, diagnostic and therapeutic tools can be used separately and in conjunction with competitor products within all three APC groups. The majority of procedures where our products would be used are Level 3 EP Procedures.

The table below describes outpatient payments for electrophysiology in the United States.

C-APC	APC Description	National Medicare Rate
5211	Level 1 EP procedures	$ 988
5212	Level 2 EP Procedures	$ 5,885
5213	Level 3 EP Procedures	$ 20,433

Hospital Inpatient

CMS reimbursement for the facility in the inpatient setting is determined according to the hospital inpatient prospective payment system, or IPPS. Payment is set by the applicable Medicare Severity Diagnosis Related Group, or MS-DRG, which groups patients by similar diagnoses and/or performed procedures. The IPPS payment covers the entire admission, including any secondary procedures.

In the inpatient setting, diagnosis and ablation of complex cardiac arrhythmias is assigned to one of the two MS-DRGs listed in the table below, depending on whether there are major complications associated with the procedure. These MS-DRGs are the same for procedures that address atrial and ventricular tachycardias as well as atrial fibrillation.

The table below describes the proposed inpatient payments for electrophysiology for U.S. hospitals for 2020.

MS-DRG	Description	2020 National Average Reimbursement
273	Percutaneous intracardiac procedures with major complications	$ 23,240
274	Percutaneous intracardiac procedures without major complications	$ 19,792

Physician Payment

In addition to reimbursement for the facility, CMS also reimburses the physician for their time spent performing the procedure according to the Medicare Physician Fee Schedule, or PFS. The PFS is based on the amount of work dedicated to the procedure and is updated annually.

CPT code 93656 is the standard code for AF ablation procedures and is associated with a proposed payment of $1,178 per procedure according to the 2020 PFS. In addition to this code, CPT code 93655 can also be reported when two distinctly different arrhythmia foci are treated. CPT code 93655 is associated with a payment of $447 in 2020. In addition, CPT code 93657 can be reported, in combination with CPT code 93656, up to two times per case for catheter ablation of the left or right atrium for the treatment of AF after completion of PVI. CPT code 93657 is associated with a payment of $446 according to the 2020 PFS.

Commercial Third-Party Payors

Commercial third-party payors often refer to CMS coverage policies and payment limitations in setting their own reimbursement rates, while also relying on their own methods and approval process apart from CMS determinations. While reimbursement for cardiac ablation procedures is well established across commercial payors, there is no uniform policy in the United States. Therefore, coverage and reimbursement can differ significantly from payor to payor.

International

Outside of the United States, market acceptance of medical devices depends partly upon the availability of reimbursement within the prevailing healthcare payment system. Reimbursement levels vary significantly by country and, within some countries, by region. Reimbursement is obtained from a variety of sources, including government-sponsored and private health insurance plans, and combinations of both. Cardiac ablation for arrhythmias is a standard of care in developed international markets and reimbursement generally exists for electrophysiology procedures, though levels vary considerably by country. We designed our commercial strategy to utilize a direct salesforce in certain developed markets in Western Europe where reimbursement for electrophysiology procedures is sufficient to support utilization of our AcQMap System and associated products.

Competition

The medical device industry is intensely competitive, subject to rapid change and significantly affected by new product introductions and other market activities of industry participants. We compete with manufacturers and distributors of cardiovascular medical devices. Our most significant competitors in the electrophysiology field include Abbott Laboratories, Biosense Webster Inc. (a Johnson & Johnson Company), Boston Scientific Corporation and Medtronic plc. Many of our competitors are large, well-capitalized companies with significantly greater market share and resources than we have. Therefore, they can spend more on product development, marketing, sales and other product initiatives than we can. We also compete with smaller medical device companies that have single products or a limited range of products. Some of our competitors have:

- significantly greater name recognition;
- broader or deeper relations with healthcare professionals, customers and third-party payors;
- more established distribution networks;
- additional lines of products and the ability to offer rebates or bundle products to offer greater discounts or other incentives to gain a competitive advantage;
- greater experience in conducting research and development, manufacturing, clinical trials, marketing and obtaining regulatory clearance or approval for products; and

- greater financial and human resources for product development, sales and marketing and patent prosecution.

We believe that our proprietary AcQMap System offers a paradigm-shifting approach to mapping the drivers and maintainers of arrhythmias with unmatched speed and precision. With the ability to rapidly and accurately identify ablation targets and to confirm both ablation success and procedural completion, we believe our AcQMap System addresses the primary unmet need in electrophysiology procedures today. We have established a comprehensive portfolio of electrophysiology products that complements our AcQMap System and provides our customers a complete solution—from vascular access to diagnosis and treatment of arrhythmias. We compete primarily on the basis that our products are designed to enable more physicians to treat more patients more efficiently and effectively. Our continued success depends on our ability to:

- continue to develop innovative, proprietary products that address significant clinical needs in a manner that is safe and effective for patients and easy-to-use for physicians;
- obtain and maintain regulatory clearances or approvals;
- demonstrate safety and effectiveness in our sponsored and third-party clinical trials;
- expand our sales force across key markets to increase physician awareness;
- leverage our strategic partnerships and alliances to achieve distribution at a global scale, broaden our product portfolio and enable and accelerate global connectivity;
- obtain and maintain coverage and adequate reimbursement for procedures using our products;
- attract and retain skilled research, development, sales and clinical personnel;
- cost-effectively manufacture, market and sell our products; and
- obtain, maintain, enforce and defend our intellectual property rights and operate our business without infringing, misappropriating or otherwise violating the intellectual property rights of others.

Biotronik Agreements

In July 2019, we entered into a license and distribution agreement with Biotronik and VascoMed GmbH (who we refer to together as the Biotronik Parties), whereby we acquired certain assets and licensing rights (including distribution rights) related to force sensing ablation catheters and electronic equipment and accessories. We refer to this agreement as the Biotronik License Agreement.

Further, in May 2020, we entered into more expansive bi-lateral distribution agreements with Biotronik, where we acquired the right to distribute a range of Biotronik's therapeutic and diagnostic electrophysiology products, and Biotronik agreed to distribute our AcQMap System and related disposable products. We refer to these agreements as the Bi-Lateral Distribution Agreements and this relationship with Biotronik as the Acutus/Biotronik Global Alliance for Electrophysiology.

Biotronik License Agreement

Pursuant to the Biotronik License Agreement, we acquired certain manufacturing equipment and other assets and obtained from the Biotronik Parties a license under certain patents and technology to develop, commercialize, distribute and manufacture our AcQBlate Force ablation catheters, which upon regulatory approval we will manufacture at our facility in Carlsbad and sell in the United States, Canada, certain markets in Western Europe and Asia and internationally under our private label. In addition, under the Biotronik License Agreement, we obtained from the Biotronik Parties a license under certain patents and technology to develop, commercialize, distribute and manufacture our Qubic Force device, which is designed for the visualization of contact force measured by our AcQBlate Force ablation catheters. Upon regulatory approvals, Biotronik will

initially manufacture our Qubic Force device as a contract manufacturer. We can, however, elect to have the Biotronik Parties transfer the responsibility for the manufacture and supply of our Qubic Force device to us with 24 months' advance notice. We also obtained a non-exclusive license to distribute a range of Biotronik's branded electronic electrophysiology products, including the Qubic RF Generator and Pulse Stimulator and Qiona Pump and related accessories, which are used in connection with ablation procedures.

With respect to our AcQBlate Force ablation catheters and Qubic Force device, our license from the Biotronik Parties is exclusive in the United States and co-exclusive with the Biotronik Parties outside the United States in the field of radiofrequency, or RF, or direct current ablation with optically based contact force sensing for cardiac applications. With respect to Biotronik's branded electronic electrophysiology products, our license is non-exclusive and has a term of five years outside the United States and the full term of the Biotronik License Agreement within the United States.

Pursuant to the Biotronik License Agreement, we are responsible for developing, obtaining and maintaining regulatory approval for our AcQBlate Force ablation catheters and our Qubic Force device with the FDA and our European Union Notified Body, DQS-MED, Frankfurt, Germany, or DQS, including the performance of any necessary clinical trials.

In consideration for the rights granted to us under the Biotronik License Agreement, we paid Biotronik a $3.0 million upfront fee at the time the agreement was signed, as well as a technology transfer fee consisting of $7.0 million in cash in December 2019 and $5.0 million in shares of our Series D convertible preferred stock in February 2020. The Biotronik License Agreement also requires that we pay the Biotronik Parties certain milestone payments as follows: (i) $2.0 million upon receipt of marketing approval for the sale of our AcQBlate Force ablation catheters in Europe; (ii) $5.0 million upon the receipt of marketing approval for the sale of our AcQBlate Force ablation catheters in the United States; and (iii) $3.0 million upon the first commercial sale of our AcQBlate Force ablation catheters in the United States. We are also required to pay the Biotronik Parties unit-based royalties on any sales we make of our AcQBlate Force ablation catheters.

Under the Biotronik License Agreement, if we undergo a change in control with certain competitors of the Biotronik Parties, then our exclusive license to our AcQBlate Force ablation catheters and Qubic Force device in the United States would convert to co-exclusive licenses with the Biotronik Parties, the milestone payments described above would become immediately due and payable (regardless of achievement) and we would be required to pay up to $25.0 million to the Biotronik Parties (to the extent such amount has not already been paid as unit-based royalties). See "Risk Factors—Risks Related to Our Common Stock and this Offering—Provisions in our organizational documents or agreements with third parties could delay or prevent a change of control." Starting from the effective date of the Biotronik License Agreement and ending on the earlier of: (i) six years following the effective date of the Biotronik License Agreement and (ii) a change in control of us involving certain competitors of the Biotronik Parties, neither party nor their affiliates are allowed to commercialize competitive ablation catheters in the field of the license.

The term of the Biotronik License Agreement is 10 years, but the term automatically renews for successive five-year periods until we give prior written notice of our desire not to renew. The Biotronik License Agreement may be terminated by either party in the event of a material breach or upon specified insolvency events of the other party. However, if the Biotronik Parties terminate the Biotronik License Agreement due to a material breach by us that was not related to our payment obligations under the agreement, then we would retain a non-exclusive license to our AcQBlate Force ablation catheters and Qubic Force device, subject to the Biotronik Parties' rights to terminate such license under specific conditions.

Bi-Lateral Distribution Agreements

Pursuant to our Bi-Lateral Distribution Agreements, we obtained a non-exclusive license to distribute a range of Biotronik's therapeutic electrophysiology products and accessories (including the AlCath family of RF

ablation catheters) in the United States, Canada, China, Hong Kong and multiple Western European countries under our own private label. Moreover, if an IDE clinical trial is required for these products to obtain regulatory approval in the United States, or a clinical trial is required for these products to obtain regulatory approval in China, we will obtain an exclusive distribution right in such territories for the applicable products for a term of up to five years commencing on the date of regulatory approval if we cover the cost of the required IDE or other clinical trial and we conduct such study within a specified period. We also obtained a non-exclusive license to distribute a range of Biotronik's diagnostic electrophysiology products and accessories under our own private label in each of the foregoing territories.

Pursuant to the Bi-Lateral Distribution Agreements, Biotronik has also agreed to distribute our products, including our AcQMap System, our Qubic Force device and our disposable products (including our AcQBlate Force catheters) and accessories in Germany, Japan, Mexico, Switzerland and multiple countries in Asia-Pacific, Eastern Europe, the Middle East and South America. In connection therewith, we granted to Biotronik an exclusive, non-transferable right to commercialize and distribute these products in such countries. We also granted Biotronik a co-exclusive right to commercialize and distribute these products in Hong Kong. Biotronik is required to use our branding with respect to the AcQMap console and workstation, but retains the right to distribute our disposable products and accessories under its private label.

Under the Bi-Lateral Distribution Agreements, each party is responsible for manufacturing and supplying its own products to the other party, though initially Biotronik will be responsible for manufacturing our Qubic Force device pursuant to the Biotronik License Agreement. The agreements also provide for the collaboration of the parties in commercialization, marketing and sales efforts, as well as responsibility for obtaining regulatory approvals.

The term of the Bi-Lateral Distribution Agreements is initially seven years, which may be renewed for successive three-year periods. In addition, the non-distributing party may terminate each of the Biotronik Distribution Agreements, on a country-by-country basis, if the distributing party does not meet specified performance metrics for such country following a specified ramp-up period. The Bi-Lateral Distribution Agreements also provides that if either party chooses to distribute a product that is competitive to one of the other party's products within the other party's territory, the other party has the right to remove that specific product from the applicable Bi-Lateral Distribution Agreement. In addition, the non-distributing party of each Bi-Lateral Distribution Agreement has the right to terminate the agreement in the case of a change in control of either party, whereas the distributing party of each Bi-Lateral Distribution Agreement has the right, in certain circumstances, to terminate the agreement in the case of a change in control of the non-distributing party. See "Risk Factors—Risks Related to Our Common Stock and this Offering—Provisions in our organizational documents or agreements with third parties could delay or prevent a change of control."

License Agreements

Exclusive Patent License Agreement—Christoph Scharf

In May 2011, we entered into an Exclusive Patent License Agreement with Christoph Scharf, or Dr. Scharf, as amended in September 2011, whereby we acquired an exclusive, irrevocable, perpetual, transferable, sublicensable worldwide license under certain patents and pending patent applications and related technology claiming methods, devices and technology related to recording electrical activity of organ tissues to make, have made, use, sell, offer for sale and import any products and practice and exploit any method, process or procedure in connection therewith. We are obliged to use commercially reasonable efforts to develop and sell products covered by the licensed patents, and following the first commercial sale of any such product, we must use commercially reasonable efforts to meet the market demand for such product. In exchange for our license, we are required to pay Dr. Scharf low single-digit percentage royalties on net sales by us, our affiliates or sublicensees of any products covered by a valid claim in the licensed patents for the term of the license, subject to certain reductions. The term of the license agreement continues, on a country-by-country and product-by-product basis,

until the expiration of the last to expire valid claim in the licensed patents that cover such product in such country. We may terminate the license agreement after providing written notice to Dr. Scharf.

Exclusive Patent License Agreement—University of Minnesota

In April 2014, we entered into an Exclusive Patent License Agreement with the Regents of the University of Minnesota, or the University of Minnesota, as amended in October 2014, pursuant to which we received an exclusive, sublicenseable license under certain patents and pending patent applications claiming methods, devices and technology related to cardiac imaging technology to make, have made, use, offer to sell or sell, offer to lease or lease, import or otherwise offer to dispose or dispose of products for all uses, in all countries where there are issued and unexpired patents or patent applications subsisting. Our license is subject to certain reserved rights by the U.S. government and the University of Minnesota's retained non-exclusive right to practice the licensed intellectual property for teaching, research and educational purposes. We are obliged to use commercially reasonable efforts to commercialize products covered by the license as soon as practicable and maximize sales of any such products. In consideration for our license, we reimbursed the University of Minnesota certain patent-related expenses incurred in connection with prosecution and maintenance of the licensed patents and patent applications, and paid University of Minnesota a specified upfront payment. We are also required to pay the University of Minnesota a specified annual maintenance and administrative fees, certain regulatory and commercial milestone payments up to $235,000, and a low single-digit percentage royalties on net sales of products covered by our license, subject to a minimum annual royalty. Further, we are obligated to pay the University of Minnesota a low double-digit percentage of revenue (other than royalties) that we or our affiliates receive from sublicensees as a result of the grant of a sublicense under the rights granted under the license agreement.

The term of the license agreement expires on the date on which no licensed patents are active and no licensed patent applications are pending. The University of Minnesota may terminate the license agreement for our uncured material breach or insolvency, or if we challenge the validity or enforceability of any patents or patent applications licensed under the license agreement.

Master License Agreement—Heraeus Medical Components LLC

In June 2015, we entered into a Master License Agreement with Biotectix, LLC, as amended and assumed by Heraeus Medical Components LLC, or Heraeus, in August 2017, pursuant to which Heraeus agreed to develop a coating for use in our catheters, incorporating certain intellectual property licensed from us and SurModics, Inc., or SurModics. Pursuant to the Master License Agreement, we and Heraeus granted each other non-exclusive, royalty-free worldwide licenses under our respective technology rights to research and develop coated products.

Following our request to initiate commercial sales in 2016, Heraeus agreed to supply us with coating materials for the production of our coated catheters. We are required to provide Heraeus binding forecasts of purchase orders for coating materials used in our catheters, and we pay for such coating materials supplied by Heraeus on a per unit basis. In addition, we are required to pay tiered low single-digit percentage royalties on net sales of our catheters incorporating the coating supplied by Heraeus, subject to certain reductions and an annual minimum royalty of $25,000 per year. We are also obliged to pay a one-time commercial milestone payment of $500,000.

At our request and for a specified transfer fee, Heraeus will be required to transfer certain technology and intellectual property to enable us to manufacture the coated catheter. Upon any such request and our payment of a specified license initiation fee, Heraeus will automatically grant us a non-exclusive, royalty-bearing, sublicenseable (subject to certain limitations) worldwide license under certain other intellectual property (which includes intellectual property owned by SurModics) to make, have made, use, offer to sell, sell, and import our

catheters using the coating, and to use SurModics reagents and materials in such catheters to the extent covered by the licensed intellectual property.

In the event of a supply failure by Heraeus, Heraeus will grant us a non-exclusive, non-transferable right to make the coating materials and provide technology transfer therefor.

To the extent that any such coating materials we make or have made contain any of SurModics' reagents, SurModics will be our exclusive supplier of such reagents, and our right to transfer any such reagents to a third-party manufacturer for the manufacture of the coating material will be subject to such manufacturer entering into a confidentiality agreement with SurModics to protect its confidential information.

The term of the Master License Agreement expires upon the expiration of the last-to-expire licensed patent, and upon expiration, all licenses granted to us shall become fully paid and irrevocable. We may terminate the Master License Agreement for any reason upon nine months' advanced written notice. Either party may terminate the agreement after providing written notice upon the other party's uncured material breach or insolvency. If a party terminates this agreement within nine months of its own change of control, such party shall make a payment of $250,000 to the other party. For more information regarding the risks related to our reliance on Heraeus and SurModics for the production of a component of our products, please see "Risk Factors—Risks Related to Our Business and Products—The failure of third parties to meet their contractual, regulatory, and other obligations could adversely affect our business."

Intellectual Property

Our success depends in part on our ability to obtain, maintain, protect and enforce our intellectual property rights, including our patent rights, preserve the confidentiality of our trade secrets, operate without infringing, misappropriating or otherwise violating the intellectual property rights of others and prevent others from infringing, misappropriating or otherwise violating our intellectual property rights. We rely on a combination of patent, trademark, trade secret, copyright and other intellectual property rights and measures to protect the products and technology that we consider important to our business. We also rely on know-how and continuing technological innovation to develop and maintain our competitive position.

Our policy is to seek to protect our proprietary position by, among other methods, pursuing and obtaining patent protection in the United States and in jurisdictions outside of the United States related to our technology, inventions, improvements and products that are important to the development and implementation of our business. Our patent portfolio covers mapping, anatomy reconstruction, multiple energy modalities for ablation therapy as well as cardiac access and is intended to cover our products and components thereof, their methods of use and processes for their manufacture, including device, apparatus and method claims. Within mapping, our specific intellectual property claims are directed at contact and non-contact charge density mapping, multi-transducer ultrasound reconstruction of cardiac anatomy which generates static and dynamic images that enable the assessment of cardiac function/output, determination of wall thickness and visualization of adjacent structures. Within cardiac access, our intellectual property portfolio includes claims directed to endovascular access to all chambers of the heart. We also rely on trade secrets and know-how to protect our technology and product candidates, including our AcQMap System.

As of April 10, 2020, our patent portfolio included 24 solely owned or exclusively licensed U.S. patents and 26 solely owned or exclusively licensed pending U.S. patent applications (including three solely owned Patent Cooperation Treaty, or PCT, applications and four solely owned provisional U.S. patent applications). In addition, we solely owned or exclusively licensed 32 issued patents and 42 pending patent applications in jurisdictions outside the United States. Of our 68 pending patent applications, eight have been allowed. Of our 24 owned and exclusively licensed U.S. patents, 20 U.S. patents cover our AcQMap mapping system. Such U.S. patents, and any U.S. patents that may in the future issue from such applications, are scheduled to expire between 2027 and 2040, without taking potential patent term extensions or adjustments into account, and assuming

national phase entries are timely made upon our pending PCT application and timely payments of all applicable maintenance or annuity fees are made.

Pending PCT patent applications are not eligible to become issued patents until, among other things, we file such PCT applications as national stage patent application(s) within 30 or 31 months in the countries or regions in which we seek patent protection, depending on the country or region. If we do not timely file any national stage patent applications, we may lose our priority date with respect to any such PCT patent applications and any patent protection on the inventions disclosed in such PCT patent applications. Provisional patent applications are not eligible to become issued patents, but can become the basis of PCT and U.S. non-provisional patent applications, if such PCT or U.S. non-provisional applications are filed within 12 months of filing the related provisional patent application. If we do not timely file any non-provisional patent applications, we will lose our priority date and might be unable to obtain any patent protection on the inventions disclosed in any such provisional patent application.

The term of individual patents depends upon the legal term for patents in the countries in which they are granted. In most countries, including the United States, the patent term is 20 years from the earliest claimed filing date of a non-provisional patent application in the applicable country. In the United States, a patent's term may, in certain cases, be lengthened by patent term adjustment, which compensates a patentee for administrative delays by the USPTO in examining and granting a patent, or may be shortened if a patent is terminally disclaimed over a commonly owned patent or a patent naming a common inventor and having an earlier expiration date. We cannot be sure that our pending patent applications that we have filed or may file in the future will result in issued patents, and we can give no assurance that any patents that have issued or might issue in the future will protect our current or future products, will provide us with any competitive advantage, and will not be challenged, invalidated or circumvented.

We also rely, in some circumstances, on trade secrets relating to our technology and products. However, trade secrets and proprietary information can be difficult to protect. We seek to protect our trade secrets and proprietary information, in part, by confidentiality agreements and proprietary invention assignment agreements with our employees, consultants, scientific advisors and contractors. 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 the measures we take to protect and preserve our trade secrets and proprietary information, there may be instances in which they may not provide meaningful protection. Such measures can be breached, and we may not have adequate remedies for any such breach. In addition, our trade secrets may otherwise become known or be independently discovered by competitors or misused by any collaborator to whom we disclose such information. Despite any measures taken to protect our intellectual property, unauthorized parties may attempt to copy aspects of our products or to obtain or use information that we regard as proprietary. As a result, we may be unable to meaningfully protect our trade secrets and proprietary information.

For more information regarding the risks related to our intellectual property, please see the section titled "Risk Factors—Risks Related to Our Intellectual Property."

Manufacturing and Supply

We currently manufacture our novel access sheaths, transseptal crossing tools, diagnostic and mapping catheters, ablation catheters, mapping and imaging consoles and accessories at our approximately 50,800 square foot facility in Carlsbad, California. This facility provides approximately 15,750 square feet of space for our production and distribution operations, including manufacturing, quality control and storage. We believe our existing facility is sufficient to meet our current manufacturing needs and we believe that adequate additional space will be available if we require it.

We stock inventory of raw materials, components and finished goods at our facility in Carlsbad and, to a limited extent, with our sales representatives, who travel to our hospital customers' locations as part of their sales

efforts. We rely on a single or limited number of suppliers for certain raw materials and components, and we generally have no long-term supply arrangements with our suppliers, as we generally order on a purchase order basis. Furthermore, we rely on third parties to manufacture certain products we offer our customers as part of our product portfolio, including Biotronik for diagnostic and ablation catheters, RF generators and irrigation pumps, Innovative Health for reprocessed diagnostic catheters and MedFact for robotic navigation enabled ablation catheters.

In the United States, we generally ship our proprietary products from Carlsbad to our customers in the United States, but also may sell our products directly to our hospital customers through our sales representatives, who deliver such products to hospital customers in the field. Internationally, we ship our proprietary products from Carlsbad to our Belgian subsidiary. Product is then placed on the market by being shipped to customers and distributors pursuant to purchase orders. The third-party manufacturers whose products we offer as part of our product portfolio ship products, either directly to our customers or to our Carlsbad or Brussels, Belgium facilities, pursuant to purchase orders we place with them.

Our manufacturing and distribution operations are subject to regulatory requirements of the FDA's Quality System Regulation, or QSR, for medical devices sold in the United States, set forth in 21 CFR part 820, and the European Medical Device Directive 93/42/EEC and amendments, or MDD, and the products comply to ISO 13485 for manufacturing for medical devices marketed in the European Union. In addition, the Carlsbad facility is licensed by the California Food and Drug Branch. We are also subject to applicable local regulations relating to the environment, waste management and health and safety matters, including measures relating to the release, use, storage, treatment, transportation, discharge, disposal, sale, labeling, collection, recycling, treatment and remediation of hazardous substances.

The FDA monitors compliance with the QSR through periodic inspections of our facilities and may include our suppliers' facilities as well. DQS-MED monitors compliance with the MDD requirements through both annual scheduled audits and periodic unannounced audits of our manufacturing facilities as well as our contract manufacturers' facilities.

Our failure, or the failure of our suppliers or third-party manufacturers, to maintain acceptable quality requirements could result in the shutdown of our manufacturing operations or the recall of our products, which would harm our business. In the event that one of our suppliers or third-party manufacturers fails to maintain acceptable quality requirements, we may have to qualify a new supplier and could experience a material adverse effect to manufacturing and manufacturing delays as a result.

Government Regulation

U.S. Food & Drug Administration

Our products and operations are subject to extensive and ongoing regulation by the FDA under the Federal Food, Drug, and Cosmetic Act, or FDCA, and its implementing regulations, as well as other federal and state regulatory bodies in the United States. The laws and regulations govern, among other things, product design and development, preclinical and clinical testing, manufacturing, packaging, labeling, storage, record keeping and reporting, clearance or approval, marketing, distribution, promotion, import and export, and post-marketing surveillance.

Unless an exemption applies, each new or significantly modified medical device we seek to commercially distribute in the United States will require either a premarket notification to the FDA requesting permission for commercial distribution under Section 510(k) of the FDCA, also referred to as a 510(k) clearance, or approval from the FDA of a PMA application. Both the 510(k) clearance and PMA processes can be resource intensive, expensive, and lengthy, and require payment of significant user fees, unless an exemption is available.

Device Classification

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 control needed to provide reasonable assurances with respect to safety and effectiveness.

Class I includes devices with the lowest risk to the patient and are those for which safety and effectiveness can be reasonably assured by adherence to a set of FDA regulations, referred to as the General Controls for Medical Devices, which require compliance with the applicable portions of the QSR, facility registration and product listing, reporting of adverse events and malfunctions, and appropriate, truthful and non-misleading labeling and promotional materials. Some Class I devices, also called Class I reserved devices, also require premarket clearance by the FDA through the 510(k) premarket notification process described below. Most Class I products are exempt from the premarket notification requirements.

Class II devices are those that are subject to the 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, patient registries, FDA guidance documents and post-market surveillance. Most Class II devices are subject to premarket review and clearance by the FDA. Premarket review and clearance by the FDA for Class II devices is accomplished through the 510(k) premarket notification process.

Class III devices include devices deemed by the FDA to pose the greatest risk such as life-supporting or life-sustaining devices, or implantable devices, in addition to those deemed novel and not substantially equivalent following the 510(k) process. The safety and effectiveness of Class III devices cannot be reasonably assured solely by the General Controls and Special Controls described above. Therefore, these devices are subject to the PMA application process, which is generally more costly and time consuming than the 510(k) process. Through the PMA application process, the applicant must submit data and information demonstrating reasonable assurance of the safety and effectiveness of the device for its intended use to the FDA's satisfaction. Accordingly, a PMA application typically includes, but is not limited to, extensive technical information regarding device design and development, preclinical and clinical trial data, manufacturing information, labeling and financial disclosure information for the clinical investigators in device trials. The PMA application must provide valid scientific evidence that demonstrates to the FDA's satisfaction a reasonable assurance of the safety and effectiveness of the device for its intended use.

The Investigational Device Process

In the United States, absent certain limited exceptions, human clinical trials intended to support medical device clearance or approval require an IDE application. Some types of trials deemed to present "non-significant risk" are deemed to have an approved IDE once certain requirements are addressed, and IRB approval is obtained. If the device presents a "significant risk" to human health, as defined by the FDA, the sponsor must submit an IDE application to the FDA and obtain IDE approval prior to commencing the human clinical trials. The IDE application must be supported by appropriate data, such as animal and laboratory testing results, showing that it is safe to test the device in humans and that the testing protocol is scientifically sound. The IDE application must be approved in advance by the FDA for a specified number of subjects. Generally, clinical trials for a significant risk device may begin once the IDE application is approved by the FDA and the trial protocol and informed consent are approved by appropriate institutional review boards at the clinical trial sites. There can be no assurance that submission of an IDE will result in the ability to commence clinical trials, and although the FDA's approval of an IDE allows clinical testing to go forward for a specified number of subjects, it does not bind the FDA to accept the results of the trial as sufficient to prove the product's safety and effectiveness, even if the trial meets its intended success criteria.

All clinical trials must be conducted in accordance with the FDA's IDE regulations that govern investigational device labeling, prohibit promotion and specify an array of recordkeeping, reporting and

monitoring responsibilities of trial sponsors and trial investigators. Clinical trials must further comply with the FDA's good clinical practice regulations for institutional review board approval and for informed consent and other human subject protections. Required records and reports are subject to inspection by the FDA. The results of clinical testing may be unfavorable, or, even if the intended safety and effectiveness success criteria are achieved, may not be considered sufficient for the FDA to grant marketing approval or clearance of a product.

The 510(k) Clearance Process

Under the 510(k) clearance process, the manufacturer must submit to the FDA a premarket notification, demonstrating that the device is "substantially equivalent," as defined in the FDCA, to a legally marketed predicate device.

A predicate device is a legally marketed device that is not subject to premarket approval, i.e., a device that was legally marketed prior to May 28, 1976 (pre-amendments device) and for which a PMA is not required, a device that has been reclassified from Class III to Class II or I, or a device that was previously found substantially equivalent through the 510(k) process. 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 is sometimes required to support substantial equivalence.

After a 510(k) premarket notification is submitted, the FDA determines whether to accept it for substantive review. If it lacks necessary information for substantive review, the FDA will refuse to accept the 510(k) notification. If it is accepted for filing, the FDA begins a substantive review. By statute, the FDA is required to complete its review of a 510(k) notification within 90 days of receiving the 510(k) notification. As a practical matter, clearance often takes longer, and clearance is never assured. Although many 510(k) premarket notifications are cleared without clinical data, the FDA may require further information, including clinical data, to make a determination regarding substantial equivalence, which may significantly prolong the review process. If the FDA agrees that the device is substantially equivalent, it will grant clearance to commercially market the device.

If the FDA determines that the device is not "substantially equivalent" to a predicate device, or if the device is automatically classified into Class III, the device sponsor must then fulfill the much more rigorous premarketing requirements of the PMA approval process, or seek reclassification of the device through the de novo process. A manufacturer can also submit a petition for direct de novo review if the manufacturer is unable to identify an appropriate predicate device and the new device or new use of the device presents a moderate or low risk.

After a device receives 510(k) clearance, any modification that could significantly affect its safety or effectiveness, or that would constitute a new or major change in its intended use, will require a new 510(k) clearance or, depending on the modification, could require a PMA application or de novo classification. The FDA requires each manufacturer to determine whether the proposed change requires submission of a 510(k) or a PMA in the first instance, but the FDA can review any such decision and disagree with a manufacturer's determination. Many minor modifications are accomplished by a letter-to-file in which the manufacture documents the change in an internal letter-to-file. The letter-to-file is in lieu of submitting a new 510(k) to obtain clearance for such change. The FDA can always review these letters to file in an inspection. If the FDA disagrees with a manufacturer's determination regarding whether a new premarket submission is required for the modification of an existing device, the FDA can require the manufacturer to cease marketing and/or recall the modified device until 510(k) clearance or approval of a PMA application is obtained.

The PMA Approval Process

Following receipt of a PMA application, the FDA conducts an administrative review to determine whether the application is sufficiently complete to permit a substantive review. If it is not, the agency will refuse to file

the PMA. If it is, the FDA will accept the application for filing and begin the review. The FDA, by statute and by regulation, has 180 days to review a filed PMA application, although the review of an application more often occurs over a significantly longer period. During this review period, the FDA may request additional information or clarification of information already provided, and the FDA may issue a major deficiency letter to the applicant, requesting the applicant's response to deficiencies communicated by the FDA. The FDA considers a PMA or PMA supplement to have been voluntarily withdrawn if an applicant fails to respond to an FDA request for information (e.g., major deficiency letter) within a total of 360 days. Before approving or denying a PMA, an FDA advisory committee may review the PMA at a public meeting and provide the FDA with the committee's recommendation on whether the FDA should approve the submission, approve it with specific conditions, or not approve it. The FDA is not bound by the recommendations of an advisory committee, but it considers such recommendations carefully when making decisions.

Prior to approval of a PMA, the FDA may conduct inspections of the clinical trial data and clinical trial sites, as well as inspections of the manufacturing facility and processes. Overall, the FDA review of a PMA application generally takes between one and three years but may take significantly longer. The FDA can delay, limit or deny approval of a PMA application for many reasons, including:

- the device may not be shown safe or effective to the FDA's satisfaction;
- the data from preclinical studies and/or clinical trials may be found unreliable or insufficient to support approval;
- the manufacturing process or facilities may not meet applicable requirements; and
- changes in FDA approval policies or adoption of new regulations may require additional data.

If the FDA evaluation of a PMA is favorable, the FDA will issue either an approval letter, or an approvable letter, the latter of which usually contains a number of conditions that must be met in order to secure final approval of the PMA. When and if those conditions have been fulfilled to the satisfaction of the FDA, the agency will issue a PMA approval letter authorizing commercial marketing of the device, subject to the conditions of approval and the limitations established in the approval letter. If the FDA's evaluation of a PMA application or manufacturing facilities is not favorable, the FDA will deny approval of the PMA or issue a not approvable letter. The FDA also may determine that additional tests or clinical trials are necessary, in which case the PMA approval may be delayed for several months or years while the trials are conducted and data is submitted in an amendment to the PMA, or the PMA is withdrawn and resubmitted when the data are available. The PMA process can be expensive, uncertain and lengthy and a number of devices for which the FDA approval has been sought by other companies have never been approved by the FDA for marketing.

New PMA applications or PMA supplements are required for modification to the manufacturing process, equipment or facility, quality control procedures, sterilization, packaging, expiration date, labeling, device specifications, ingredients, materials or design of a device that has been approved through the PMA process. PMA supplements often require submission of the same type of information as an initial PMA application, except that the supplement is limited to information needed to support any changes from the device covered by the approved PMA application and may or may not require as extensive technical or clinical data or the convening of an advisory panel, depending on the nature of the proposed change.

In approving a PMA application, as a condition of approval, the FDA may also require some form of post-approval trial or post-market surveillance, whereby the applicant conducts a follow-up trial or follows certain patient groups for a number of years and makes periodic reports to the FDA on the clinical status of those patients when necessary to protect the public health or to provide additional or longer term safety and effectiveness data for the device. The FDA may also require post-market surveillance for certain devices cleared under a 510(k) notification, such as implants or life-supporting or life-sustaining devices used outside a device user facility. The FDA may also approve a PMA application with other post-approval conditions intended to ensure the safety and effectiveness of the device, such as, among other things, restrictions on labeling, promotion, sale, distribution and use.

Pervasive and Continuing Regulation

After a device is placed on the market, numerous regulatory requirements continue to apply. These include:

- the FDA's QSR, which requires manufacturers, including their suppliers, to follow stringent design, testing, control, documentation and other quality assurance procedures during all aspects of the manufacturing process;
- labeling regulations and FDA prohibitions against the promotion of products for uncleared, unapproved or off-label uses;
- medical device reporting, or MDR, regulations, which require that manufacturers report to the FDA if their device may have caused or contributed to a death or serious injury or malfunctioned in a way that would likely cause or contribute to a death or serious injury if the malfunction were to recur;
- medical device recalls, which require that manufacturers report to the FDA any recall of a medical device, provided the recall was initiated to either reduce a risk to health posed by the device, or to remedy a violation of the FDCA caused by the device that may present a risk to health; and
- post-market surveillance regulations, which apply when necessary to protect the public health or to provide additional safety and effectiveness data for the device.

We have registered with the FDA as a medical device manufacturer and have obtained a manufacturing license from the California Department of Public Health, or CDPH. The FDA and CDPH have broad post-market and regulatory enforcement powers. We are subject to unannounced inspections by the FDA and the Food and Drug Branch of CDPH to determine our compliance with the QSR and other regulations, and these inspections may include the manufacturing facilities of our suppliers. Additionally, our Notified Body, DQS-MED regularly inspects our manufacturing, design and operational facilities to ensure ongoing ISO 13485 compliance in order to maintain our CE Mark.

Failure to comply with applicable regulatory requirements can result in enforcement action by the FDA, which may include any of the following sanctions:

- warning letters, fines, injunctions, consent decrees and civil penalties;
- repair, replacement, refunds, recall or seizure of our products;
- operating restrictions, partial suspension or total shutdown of production;
- refusing our requests for 510(k) clearance or premarket approval of new products, new intended uses or modifications to existing products;
- withdrawing 510(k) clearance or premarket approvals that have already been granted; and
- criminal prosecution.

Export of Our Products

Export of products subject to the 510(k) notification requirements, but not yet cleared to market, is permitted with FDA authorization provided certain requirements are met. Unapproved or uncleared products subject to the PMA requirements may be exported if the exporting company and the device meet certain criteria, including, among other things, that the device complies with the laws of the receiving country, has valid marketing authorization from the appropriate authority and the company submits a "Simple Notification" to FDA when it begins to export. Importantly, however, export of such products may be limited to certain countries designated by statutory provisions, and petitions may need to be submitted to FDA to enable export to countries other than those designated in the statutory provisions. The petitioning process can be difficult, and FDA may not authorize unapproved or uncleared products to be exported to countries to which a manufacturer wishes to export. Devices that are adulterated, devices whose label and labeling does not comply with requirements of the country receiving the product, and devices that are not promoted in accordance with the law of the receiving country, among others, cannot be exported.

Foreign Government Regulation

The regulatory review process for medical devices varies from country to country, and many countries also impose product standards, packaging requirements, environmental requirements, labeling requirements and import restrictions on devices. Each country has its own tariff regulations, duties, and tax requirements. Failure to comply with applicable foreign regulatory requirements may subject a company to fines, suspension or withdrawal of regulatory approvals, product recalls, seizure of products, operating restrictions, criminal prosecution or other consequences.

European Union

Our portfolio of products is regulated in the European Union as a medical device per the European Union Directive 93/42/EEC, also known as the Medical Device Directive, or MDD. The MDD sets out the basic regulatory framework for medical devices in the European Union. The system of regulating medical devices operates by way of a certification for each medical device. Each certified device is marked with the CE Mark which shows that the device has a Certificat de Conformité. There are national bodies known as Competent Authorities in each member state which oversee the implementation of the MDD within their jurisdiction. The means for achieving the requirements for the CE Mark vary according to the nature of the device. Devices are classified in accordance with their perceived risks, similarly to the U.S. system. The class of a product determines the conformity assessment required before the CE Mark can be placed on a product. Conformity assessments for our products are carried out as required by the MDD. Each member state can appoint Notified Bodies within its jurisdiction. If a Notified Body of one- member state has issued a Certificat de Conformité, the device can be sold throughout the European Union without further conformance tests being required in other member states. The CE Mark is contingent upon continued compliance with the applicable regulations and the quality system requirements of the ISO 13485 standard. Our current CE Mark is issued by DQS-MED (Frankfurt, Germany).

After the product has received the CE Mark and been placed on the market in the EEA, a manufacturer must comply with a number of regulatory requirements relating to:

- registration of medical devices in individual EEA countries;
- pricing and reimbursement of medical devices;
- establishment of post-marketing surveillance and adverse event reporting procedures;
- field safety corrective actions, including product recalls and withdrawals; and
- interactions with physicians.

In 2017, the European Parliament passed the Medical Devices Regulation, which repeals and replaces the EU Medical Devices Directive. 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 in vitro diagnostic devices and ensure a high level of safety and health while supporting innovation.

The Medical Devices Regulation will however only become applicable three years after publication. The effective date was further postponed by the European Commission for one year due to the COVID-19 pandemic, to May 2021. Once applicable, 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; and
- strengthen 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.

To the extent that our products have already been certified under the existing regulatory framework, the MDR allows us to market them provided that the requirements of the transitional provisions are fulfilled. In particular, the certificate in question must still be valid. Under article 120(2) MDR, certificates issued by notified bodies before May 25, 2017 will remain valid until their indicated expiry dates. By contrast, certificates issued after May 25, 2017 will be void at the latest by May 27, 2024. Accordingly, before that date, we will need to obtain new CE Certificates of Conformity. Furthermore, the regulation introduces UDI, i.e., a bar code that must be placed on the label of the device or on its packaging, and manufacturers will be obligated to file adverse effects reports via the Eudamed platform in case there is an increase in the frequency or severity of incidents related to the medical device.

California Consumer Privacy Act

In the United States, there are local, state and national laws, directives and regulations that apply to the collection, use, storage, disclosure, transfer and other processing of personal information, including health information. One such law is the California Consumer Privacy Act, or CCPA, which creates individual privacy rights for California consumers and increases the privacy and security obligations of entities handling certain personal data. The CCPA went into effect on January 1, 2020, and the California Attorney General may bring enforcement actions for violations beginning July 1, 2020. The CCPA has been amended from time to time, and it remains unclear what, if any, further modifications will be made to this legislation or how it will be interpreted.

For more information regarding the risks related to privacy laws that apply to us, please see "Risk Factors—Risks Related to Our Business and Products—We are subject to stringent privacy laws, information security policies and contractual obligations governing the use, processing and cross-border transfer of personal information and our data privacy and security policies."

Health Insurance Portability and Accountability Act

The Health Insurance Portability and Accountability Act of 1996, or HIPAA, created new 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, or obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any healthcare benefit program, regardless of the payor (e.g., public or private) and knowingly and willfully falsifying, concealing or covering up by any trick or device 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. 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.

HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act, or HITECH, also established federal protection for the privacy and security of health information. Under HIPAA, the Department of Health and Human Services, or HHS, has issued regulations to protect the privacy and security of protected health information used or disclosed by "Covered Entities," including certain healthcare providers

and their "Business Associates." HIPAA also regulates standardization of data content, codes and formats used in healthcare transactions and standardization of identifiers for health plans and covered providers. The privacy regulations, among other things, protect medical records and other protected health information by limiting their use and release, giving patients the right to access their medical records and limiting most disclosures of health information to the minimum amount necessary to accomplish an intended purpose. The HIPAA security standards require the adoption of administrative, physical and technical safeguards and the adoption of written security policies and procedures. HIPAA also requires Covered Entities to execute Business Associate Agreements with their Business Associates who need access to protected health information in order to provide services for or on behalf of the Covered Entities. In addition, companies that would not otherwise be subject to HIPAA may become contractually obligated to follow HIPAA requirements through agreements with Covered Entities and Business Associates, and some of our customers may require us to agree to these provisions.

In addition, HIPAA and other federal privacy regulations, such as Section 5 of the Federal Trade Commission Act, there are a number of state laws regarding the privacy and security of health information and personal data that apply to us. The compliance requirements of these laws, including additional breach reporting requirements, and the penalties for violation vary widely, and new privacy and security laws in this area are evolving. Requirements of these laws and penalties for violations vary widely.

If we or our operations are found to be in violation of HIPAA, HITECH or their implementing regulations, we may be subject to significant penalties, including civil and criminal penalties, fines, and exclusion from participation in federal or state healthcare programs, and the curtailment or restructuring of our operations. HITECH increased the civil and criminal penalties that may be imposed against Covered Entities, their Business Associates and possibly other persons, and gave state attorneys general new authority to file civil actions for damages or injunctions in federal courts to enforce the federal HIPAA laws and seek attorney's fees and costs associated with pursuing federal civil actions.

U.S. Federal, State and Foreign Fraud and Abuse Laws

The federal and state governments have enacted, and actively enforce, a number of laws to address fraud and abuse in federal healthcare programs. Our business is subject to compliance with these laws. Violations of such laws could result in significant civil, criminal and administrative sanctions, damages, disgorgement, monetary fines, possible exclusion from participation in Medicare, Medicaid and other federal healthcare programs, imprisonment, integrity oversight and reporting obligations, contractual damages, reputational harm, diminished profits and future earnings, and curtailment or restructuring of our operations.

Anti-Kickback Statutes

The federal Anti-Kickback Statute prohibits persons from knowingly and willfully soliciting, offering, receiving or providing remuneration, directly or indirectly, in exchange for or to induce either the referral of an individual, or the furnishing or arranging for a good or service, for which payment may be made under a federal healthcare program, such as Medicare or Medicaid. A person or entity does not need to have actual knowledge of the statute or specific intent to violate it to have committed a violation.

The definition of "remuneration" has been broadly interpreted to include anything of value, including, for example, gifts, certain discounts, the furnishing of free supplies, equipment or services, credit arrangements, payment of cash and waivers of payments. 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 businesses, the statute has been violated. In addition, the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act of 2010, or collectively, the Affordable Care Act. codified case law that 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 False Claims Act. There are a number of statutory exceptions and regulatory safe harbors protecting some common activities from prosecution, but the exceptions and safe harbors are drawn narrowly and require strict compliance in order to offer protection.

The failure of a transaction or arrangement to fit precisely within one or more safe harbors does not necessarily mean that it is illegal or that prosecution will be pursued. However, conduct and business arrangements that do not fully satisfy an applicable statutory exception or regulatory safe harbor may result in increased scrutiny by government enforcement authorities such as the Office of Inspector General, or OIG, of HHS.

Many states have adopted laws similar to the Anti-Kickback Statute. Some of these state prohibitions apply to referral of recipients for healthcare products or services reimbursed by any source, not only government healthcare programs, and may apply to payments made directly by the patient.

Government officials have continued their enforcement efforts related to the marketing of healthcare services and products, among other activities, and continue to bring cases against companies, and certain individual sales, marketing and executive personnel, for allegedly offering unlawful inducements to potential or existing customers in an attempt to procure their business.

Federal False Claims Act

The federal False Claims Act, or FCA, imposes liability on any person or entity that, among other things, knowingly presents, or causes to be presented, a false or fraudulent claim for payment by a federal healthcare program. The *qui tam* provisions of the FCA allow a private individual to bring actions on behalf of the federal government alleging that the defendant has violated the FCA and to share in any monetary recovery. In addition, various states have enacted false claims laws analogous to the FCA, and many of these state laws apply where a claim is submitted to any third-party payor and not only a federal healthcare program.

When an entity is determined to have violated the FCA, it may be required to pay up to three times the actual damages sustained by the government, plus significant civil fines and penalties. As part of any settlement, the government may require the entity to enter into a corporate integrity agreement, which imposes certain compliance, certification and reporting obligations. There are many potential bases for liability under the FCA. Liability arises, primarily, when an entity knowingly submits, or causes another to submit, a false claim for reimbursement to the federal government. For example, the federal government has used the FCA to assert liability on the basis of kickbacks, or in instances in which manufacturers have provided billing or coding advice to providers that the government considered to be inaccurate. In these cases, the manufacturer faces liability for "causing" a false claim. In addition, the federal government has prosecuted companies under the FCA in connection with off-label promotion of products. Our activities relating to the reporting of discount and rebate information and other information affecting federal, state and third-party reimbursement of our products and the sale and marketing of our products may be subject to scrutiny under these laws.

While we are unaware of any current matters, we are unable to predict whether we will be subject to actions under the FCA or a similar state law, or the impact of such actions. However, the costs of defending such claims, as well as any sanctions imposed, could significantly affect our financial performance.

Civil Monetary Penalties

The federal Civil Monetary Penalty laws imposes penalties against any person or entity that, among other things, is determined to have presented or caused to be presented a claim to a federal healthcare program that the person knows or should know is for an item or service that was not provided as claimed or is false or fraudulent, or offering or transferring remuneration to a federal healthcare beneficiary that a person knows or should know is likely to influence the beneficiary's decision to order or receive items or services reimbursable by the government from a particular provider or supplier.

Open Payments

The Physician Payments Sunshine Act, known as "Open Payments" and enacted as part of the Affordable Care Act, requires certain pharmaceutical and medical device manufacturers of products covered by Medicare,

Medicaid or the Children's Health Insurance Program to report annually to HHS: payments and transfers of value to physicians, as defined by such law, and teaching hospitals, and applicable manufacturers and group purchasing organizations, to report annually ownership and investment interests held by physicians and their immediate family members. Applicable manufacturers are required to submit annual reports to the CMS. Failure to submit required information in a timely, complete and accurate manner may result in significant civil monetary penalties. We are subject to Open Payments and the information we disclose may lead to greater scrutiny, which may result in modifications to established practices and additional costs. Additionally, similar reporting requirements have also been enacted on the state level domestically, and an increasing number of countries worldwide either have adopted or are considering similar laws requiring transparency of interactions with healthcare professionals.

Foreign Corrupt Practices Act

The Foreign Corrupt Practices Act, or FCPA, prohibits any U.S. individual or business from paying, offering, or authorizing payment or offering of anything of value, directly or indirectly, to any foreign government official, political party or candidate for the purpose of improperly influencing any act or decision of a foreign government entity to obtain or retain business. The FCPA also obligates companies whose securities are listed on a national securities exchange in the United States to comply with accounting provisions which require the maintenance of books and records that accurately and fairly reflect all transactions of the corporation, including international subsidiaries, if any, and to devise and maintain an adequate system of internal accounting controls.

International Laws

In Europe, various countries have adopted anti-bribery laws providing for severe consequences in the form of criminal penalties and significant fines for individuals or companies committing a bribery offense.

Violations of these anti-bribery laws, or allegations of such violations, could have a negative impact on our business, results of operations and reputation.

For instance, in the United Kingdom, the U.K. Bribery Act 2010 covers both public and private sector bribery, and prohibits the offer, provision, or promise to give a financial or other advantage to induce or reward another individual to improperly perform their relevant functions or activities, including any function of a public nature. Bribery of foreign public officials also falls within the scope of the U.K. Bribery Act 2010. An individual found in violation of the U.K. Bribery Act 2010 faces imprisonment of up to ten years. In addition, individuals can be subject to an unlimited fine, as can commercial organizations for failure to prevent bribery.

There are also international privacy laws that impose restrictions on the collection, use, storage, disclosure, transfer and other processing of personal information, including health information. For example, the GDPR imposes stringent data protection requirements, including, for example, more robust disclosures to individuals and a strengthened individual data rights regime, shortened timelines for data breach notifications, limitations on retention of information, increased requirements pertaining to special categories of data, such as health data, and additional obligations regarding third-party processors in connection with the processing of the personal data. The GDPR also imposes strict rules on the transfer of personal data out of the European Union to the United States and other third countries. In addition, the GDPR provides that European Union member states may make their own further laws and regulations limiting the processing of personal data, including genetic, biometric or health data. All of these laws may impact our business. Our failure to comply with these privacy laws or significant changes in the laws restricting our ability to obtain required patient information could significantly impact our business and our future business plans.

For more information regarding the risks related to privacy laws that apply to us, please see "Risk Factors—Risks Related to Our Business and Products—We are subject to stringent privacy laws, information security policies and contractual obligations governing the use, processing and cross-border transfer of personal information and our data privacy and security policies."

U.S. Health Reform

Changes in healthcare policy could increase our costs and subject us to additional regulatory requirements that may interrupt commercialization of our current and future solutions. Changes in healthcare policy could increase our costs, decrease our revenue and impact sales of and reimbursement for our current and future products. The Affordable Care Act substantially changes the way healthcare is financed by both governmental and private insurers, and significantly impacts our industry. The United States and some foreign jurisdictions are considering or have enacted a number of legislative and regulatory proposals to change the healthcare system in ways that could affect our ability to sell our products profitably. Among policy makers and payors in the United States and elsewhere, there is significant interest in promoting changes in healthcare systems with the stated goals of containing healthcare costs, improving quality or expanding access. Current and future legislative 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 products. 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 products.

The implementation of the Affordable Care Act in the United States, for example, has changed healthcare financing and delivery by both governmental and private insurers substantially, and affected medical device manufacturers significantly. The Affordable Care Act imposed, among other things, a 2.3% federal excise tax, with limited exceptions, on any entity that manufactures or imports Class I, II and III medical devices offered for sale in the United States that began on January 1, 2013. Although this excise tax was in effect during the years 2013–2015, there was in effect a moratorium on the medical device excise tax through the end of 2019. The excise tax was repealed effective January 1, 2020. The Affordable Care Act also provided incentives to programs that increase the federal government’s comparative effectiveness research, and implemented payment system reforms including a national pilot program on payment bundling to encourage hospitals, physicians and other providers to improve the coordination, quality and efficiency of certain healthcare services through bundled payment models. Additionally, the Affordable Care Act has expanded eligibility criteria for Medicaid programs and created a new Patient-Centered Outcomes Research Institute to oversee, identify priorities in, and conduct comparative clinical effectiveness research, along with funding for such research. We do not yet know the full impact that the Affordable Care Act will have on our business. There have been judicial, executive and Congressional challenges to certain aspects of the Affordable Care Act, and we expect additional challenges and amendments in the future. Moreover, the Trump administration and the U.S. Congress may take further action regarding the Affordable Care Act, including, but not limited to, repeal or replacement. Most recently, the Tax Cuts and Jobs Act was enacted, which, among other things, removes penalties for not complying with the individual mandate to carry health insurance, effective as of January 1, 2019.

On December 14, 2018, a Texas U.S. District Court Judge ruled that the Affordable Care Act is unconstitutional in its entirety because the “individual mandate” was repealed by Congress as part of the Tax Cuts and Jobs Act. Additionally, on December 18, 2019, the U.S. Court of Appeals for the 5th Circuit upheld the District Court ruling that the individual mandate was unconstitutional and remanded the case back to the District Court to determine whether the remaining provisions of the Affordable Care Act are invalid as well. On March 2, 2020, the United States Supreme Court granted the petitions for writs of certiorari to review this case, and has allotted one hour for oral arguments, which are expected to occur in the fall.

In addition, other legislative changes have been proposed and adopted since the Affordable Care Act was enacted. For example, the Budget Control Act of 2011, among other things, included reductions to CMS payments to providers of 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 unless additional Congressional action is taken. The Coronavirus Aid, Relief and Economic Security Act, or CARES Act, which was signed into law in March 2020 and is designed to provide financial support and resources to individuals and businesses affected by the COVID-19 pandemic, suspended the 2% Medicare sequester from May 1, 2020 through December 31, 2020, and extended the sequester by one year, through 2030. Additionally, the American Taxpayer Relief Act of 2012,

among other things, reduced CMS payments to several providers, including hospitals, and increased the statute of limitations period for the government to recover overpayments to providers from three to five years.

We believe that there will continue to be proposals by legislators at both the federal and state levels, regulators and third-party payors to reduce costs while expanding individual healthcare benefits. Certain of these changes could impose additional limitations on the rates we will be able to charge for our current and future products or the amounts of reimbursement available for our current and future products from governmental agencies or third-party payors. Current and future healthcare reform legislation and policies could have a material adverse effect on our business and financial condition.

Coverage and Reimbursement

In both U.S. and non-U.S. markets, our ability to successfully commercialize and achieve market acceptance of our products depends, in significant part, on the availability of adequate financial coverage and reimbursement from third-party payors, including governmental payors (such as the Medicare and Medicaid programs in the United States), managed care organizations and private health insurers. Third-party payors decide which treatments they will cover and establish reimbursement rates for those treatments. Third-party payors in the United States generally do not provide reimbursement for our products. Rather, we expect certain components of our AcQMap System to continue to be purchased by hospitals and other providers who will then seek reimbursement from third-party payors for the procedures performed using our products. Reimbursement systems in international markets vary significantly by country and by region within some countries, and reimbursement approvals must be obtained on a country-by-country basis. In many international markets, a product must be approved for reimbursement before it can be approved for sale in that country. Further, many international markets have government-managed healthcare systems that control reimbursement for new devices and procedures. In most markets there are private insurance systems as well as government-managed systems. While third-party payors currently cover and provide reimbursement for procedures using our currently cleared or approved products, third-party payor reimbursement policies may change in the future.

Third-party payors are increasingly examining the cost effectiveness of products, in addition to their safety and efficacy, when making coverage and payment decisions. Third-party payors have also instituted initiatives to limit the growth of healthcare costs using, for example, price regulation or controls and competitive pricing programs. Some third-party payors also require demonstrated superiority, on the basis of randomized clinical trials, or pre-approval of coverage, for new or innovative devices or procedures before they will reimburse healthcare providers who use such devices or procedures. Additionally, no uniform policy for coverage and reimbursement exists in the United States, and coverage and reimbursement can differ significantly from payor to payor. Third-party payors often rely upon Medicare coverage policy and payment limitations in setting their own reimbursement rates, but also have their own methods and approval process apart from Medicare determinations. It is uncertain whether our current products or any planned or future products will be viewed as sufficiently cost effective to warrant coverage and adequate reimbursement levels for procedures using such products.

Employees

As of May 14, 2020, we had 219 full-time employees. We believe that the success of our business will depend, in part, on our ability to attract and retain qualified personnel. None of our employees are represented by a labor union or are a party to a collective bargaining agreement.

Facilities

We lease approximately 50,800 square feet of office space for our corporate headquarters and manufacturing facility located in Carlsbad, California under a noncancelable operating lease that expires on December 31, 2022, with the option to renew for a period of an additional five years upon the expiration date of this lease. We also lease approximately 3,900 square feet of office space in Brussels, Belgium under a

noncancelable operating lease that expires on December 31, 2021, with the option to renew for a period of an additional three years upon the expiration date of this lease. We believe that these facilities are sufficient to meet our current and anticipated needs in the near term and that additional space can be obtained on commercially reasonable terms as needed.

Legal Proceedings

From time to time, we are involved in various legal proceedings arising from the normal course of our business activities. We are not presently a party to any litigation the outcome of which, we believe, if determined adversely to us, would individually or taken together have a material adverse effect on our business, operating results, cash flows, or financial condition. We have received, and may from time to time receive, letters from third parties alleging patent infringement, violation of employment practices or trademark infringement, and we may in the future participate in litigation to defend ourselves. The results of any current or future litigation cannot be predicted with certainty, and regardless of the outcome, litigation can have an adverse impact on us because of defense and settlement costs, diversion of management resources and other factors.

MANAGEMENT

Executive Officers and Directors

The following table sets forth information, as of March 31, 2020, regarding our executive officers and directors.

Name	Age	Title
Executive Officers		
Vince Burgess	55	President, Chief Executive Officer and Director
Gary W. Doherty	54	Chief Financial Officer
John Barnickel	52	Chief Commercial Officer
Charlie Piscitello	57	Chief People Officer
Graydon Beatty, Ph.D.	63	Chief Technology Officer
Tim Corvi	52	Vice President, Research & Development
Steven McQuillan	57	Senior Vice President, Regulatory and Clinical Affairs
Rick Kimes	58	Senior Vice President, Operations
Peter Elia	49	Chief Strategy & Business Development Officer
Tom Sohn	45	Senior Vice President, General Counsel & Secretary
Non-Employee Directors		
R. Scott Huennekens	55	Executive Director and Chairman
David Bonita, M.D.(3)	44	Director
Andrew ElBardissi, M.D.(2)	38	Director
Jim Hinrichs(1)	52	Director
Shahzad Malik, MB BChir(1)(2)	53	Director
Aditya Puri(4)	49	Director
Christoph Scharf, M.D.	53	Director

(1) Member of the audit committee.
(2) Member of the compensation committee.
(3) Member of the corporate governance and nominating committee.
(4) Mr. Puri will resign from our board of directors effective immediately prior to the effectiveness of the registration statement of which this prospectus forms a part, as Mr. Puri is an Investment Partner at Xeraya Capital, whose policy prohibits Mr. Puri from serving on the board of directors of one of the firm's public portfolio companies.

Executive Officers

Vince Burgess. Mr. Burgess has served as our President and Chief Executive Officer since October 2017 and a member of our board of directors since June 2013. Since September 2010, Mr. Burgess has also served as a Venture Partner at OrbiMed Advisors, an investment company focused on the healthcare industry. From 2002 to 2010, Mr. Burgess held various leadership positions at Volcano Corporation, where he was part of the founding team. He also serves on the boards of a number of private medical technology companies. Mr. Burgess received a B.S. in Business Administration and Entrepreneurship from the University of Southern California and an M.B.A. from University of California, Los Angeles.

We believe Mr. Burgess' management experience in the medical device industry, his extensive experience as a venture capital investor and as a member of the boards of directors of multiple private medical technology companies and his extensive understanding of our business, operations, and strategy qualify him to serve on our board of directors.

Gary W. Doherty. Mr. Doherty has served as our Chief Financial Officer since November 2017 and has been with Acutus since October 2015. Mr. Doherty previously held various leadership positions at Volcano Corporation from August 2003 to October 2015, where he most recently served as Group Plant Controller from October 2010 to October 2015. Prior to this, he served as the Director of Financial Management with Digirad,

Inc. from August 2001 to August 2003, and served as Corporate Controller for Palomar Technologies, Inc., from May 2000 to August 2001. Mr. Doherty received a B.S. in Business Administration, Finance from San Diego State University.

John Barnickel. Mr. Barnickel has served as our Chief Commercial Officer since March 2020. Prior to joining Acutus, Mr. Barnickel served as Vice President, Pacific Region for Medtronic plc's Cardiac and Vascular Group from July 2006 to March 2020. Mr. Barnickel has also held various commercial roles in the medical device industry, including serving as Regional Manager for Guidant Corporation, which was acquired by Boston Scientific Corporation in 2006, from 1998 to 2006 and Division Manager, Western Region for C.R. Bard, Inc., which was acquired by Becton, Dickinson and Company in 2017, from 1993 to 1998. Mr. Barnickel received a B.S. in Business Administration, Finance from California State University, East Bay and an M.B.A. from the University of California, Davis, Graduate School of Management.

Charlie Piscitello. Mr. Piscitello has served as our Chief People Officer since July 2019. Prior to joining Acutus, Mr. Piscitello served as Chief People Officer for PETCO, a pet specialty retailer, from March 2007 to March 2018. Prior to this, he served as Vice President, Human Resources for Boston Scientific Corporation, from August 2004 to March 2007. Mr. Piscitello earned a bachelor's degree in communication from Marquette University.

Graydon Beatty, Ph.D. Dr. Beatty has served as our Chief Technology Officer since September 2011. Prior to joining Acutus, Dr. Beatty served as co-Founder, Director, and Chief Technical Officer at Endocardial Solutions, Inc., a cardiac mapping and navigation company which was acquired by St. Jude Medical, Inc. in 2004, from May 1992 to July 2010. Dr. Beatty also served as Senior Principle Engineer at Cardiac Pacemakers, Inc., an implantable device company, now Guidant Corporation, from September 1989 to October 1991 and Senior Engineer at Medical Devices, Inc., an electronic pain-control company, from July 1987 to September 1989. Dr. Beatty earned his B.S. degree in Electrical Engineering from the University of Minnesota, M.S. degree in Biomedical Engineering from the University of Wisconsin, and Ph.D. degree in Biomedical Engineering from the University of Minnesota.

Tim Corvi. Mr. Corvi has served as our Vice President, Research & Development since July 2011. Prior to joining Acutus, Mr. Corvi served as Director of Engineering at Ablation Frontiers LLC, which was acquired by Medtronic plc in 2009, from January 2008 to July 2011 and Sr. Program Manager of R&D at ALARIS Medical Systems, Inc., which was acquired by Cardinal Health, Inc. in 2004, from September 2002 to December 2007. Mr. Corvi holds a B.S. in Mechanical Engineering from the University of California, San Diego.

Steven McQuillan. Mr. McQuillan has served as our Senior Vice President, Regulatory and Clinical Affairs since September 2015. Prior to joining Acutus, Mr. McQuillan served as Senior Vice President, Regulatory and Clinical Affairs of St. Jude Medical, Inc., a medical device company, from January 2014 to September 2015 and as Vice President, Clinical Operations and Regulatory Affairs of Spinal Modulation, Inc., a medical device company, from March 2012 to January 2014. Mr. McQuillan received a B.A. in Engineering Statistics and a B.A. in Biostatistics from the University of Minnesota.

Rick Kimes. Mr. Kimes has served as our Senior Vice President of Operations since October 2019. Prior to joining Acutus, Mr. Kimes served as Operations Consultant for Tandem Diabetes Care, Inc. from November 2018 to October 2019. Mr. Kimes was SVP of Operations for REVA Medical, Inc., a medical device company, from January 2016 to November 2018, and held consulting roles with various medical device companies, including Breg, Inc., from May 2013 to January 2016. Mr. Kimes also served as SVP of Operations at Volcano Corporation from June 2009 to May 2013. Mr. Kimes received a B.S., Mechanical Engineering from the University of Utah.

Peter Elia. Mr. Elia has served as our Chief Strategy & Business Development Officer since September 2019 and has been with Acutus since September 2018. Prior to joining Acutus, Mr. Elia served as Vice President Business and Market Development at Biotronik, Inc. from May 2008 to September 2018. Prior to joining Biotronik, Inc, Mr. Elia served as Vice President of Sales at Boston Scientific Corporation from September 1997 to May 2008. Mr. Elia received a B.S. in Kinesiology from San Diego State University.

Tom Sohn. Mr. Sohn has served as our Senior Vice President, General Counsel & Secretary since March 2020. Prior to joining Acutus, Mr. Sohn served as Vice President, General Counsel and Secretary of Breg, Inc., an orthopedic solutions provider, from June 2013 to October 2019. Prior to this, Mr. Sohn previously served as Sr. Director, Legal Affairs of NuVasive, Inc., from August 2011 to May 2013 and as Sr. Legal Counsel, Securities and Corporate Development for Websense, Inc. from October 2006 to August 2011. From 2004 to 2006, Mr. Sohn practiced corporate law at DLA Piper, LLP, specializing in public and private financings, mergers and acquisitions and corporate governance matters. Mr. Sohn received a B.A. in organizational leadership from the University of Michigan, Ann Arbor and a Juris Doctorate from the University of San Diego School of Law.

Non-Employee Directors

R. Scott Huennekens. Mr. Huennekens has served as our Executive Chairman of our board of directors since July 2019. Mr. Huennekens also serves as member of the board of directors of Envista Holdings Corporation, NuVasive, Inc. and ViewRay, Inc., and was previously on the board of REVA Medical, Inc. Mr. Huennekens was the President, Chief Executive Officer and Chairman of the Board for Verb Surgical, an independent start-up company formed by Google and Johnson & Johnson to develop surgical platforms including advanced surgical robotics, from August 2015 to December 2018. Prior to joining Verb Surgical in 2015, Mr. Huennekens was President, Chief Executive Officer and Board Member of Volcano Corporation for 13 years. Mr. Huennekens was President and Chief Executive Officer at Digirad Corporation from 1997 to 2002 and held various management roles at Baxter Healthcare from 1993 to 1997. Mr. Huennekens received a Bachelor of Science degree in Business Administration from the University of Southern California, and a Master of Business Administration degree from Harvard Graduate School of Business.

We believe Mr. Huennekens is qualified to serve as the Executive Chairman of our board of directors due to his background as a public company Chief Executive Officer, his extensive experience as an investor in medical technology companies and as a member of the boards of directors of multiple public and private companies.

David P. Bonita, M.D. Dr. Bonita has served as a member of our board of directors since March 2016. Dr. Bonita has also served as a member of the board of directors of IMARA Inc. since March 2019 and Tricida, Inc. since January 2014 and has previously served on the boards of ViewRay Inc. and SI-BONE, Inc. As of February 2020, Dr. Bonita is a member of OrbiMed Advisors. From June 2004 to February 2020, Dr. Bonita held other positions at OrbiMed Advisors. Dr. Bonita has also worked as a corporate finance analyst in the healthcare investment banking groups of Morgan Stanley and UBS. He has published scientific articles in peer-reviewed journals based on signal transduction research performed at Harvard Medical School. He received his B.A. in biology from Harvard University and his joint M.D./M.B.A. from Columbia University.

We believe Dr. Bonita is qualified to serve on our board of directors due to his background as a physician and his extensive experience as an investor in medical technology companies.

Andrew ElBardissi, M.D. Dr. ElBardissi has served as a member of our board of directors since July 2017. Dr. ElBardissi is a Partner at Deerfield Management. Previously, he served as a Principal at Longitude Capital Management Co., LLC, a private investment firm that focuses on venture growth investments in drug development and medical technology, from January 2014 to January 2017. Prior to that, Dr. ElBardissi served as an Associate in J.P. Morgan’s Healthcare Investment Banking practice from June 2011 to July 2013. Dr. ElBardissi received a B.S. in biology, (Phi Beta Kappa) from the Schreyer Honors College at the Pennsylvania State University, an M.P.H. in quantitative methods from Harvard University, an M.B.A. from Harvard Business School and an M.D. from the Mayo Clinic College of Medicine.

We believe Dr. ElBardissi is qualified to serve on our board of directors due to his background as a practicing physician, his extensive experience as an investor in medical technology companies and as a member of the boards of directors of multiple private companies.

Jim Hinrichs. Mr. Hinrichs has served as a member of our board of directors and chair of our Audit Committee, since October 2019. Mr. Hinrichs is also a member of the board of directors of Integer Holdings Corporation and Orthofix Medical, Inc., two leading medical device companies. Mr. Hinrichs has over 25 years of corporate finance experience and previously served as Executive Vice President and Chief Financial Officer of Alere, Inc., a publicly traded, global diagnostics company, from April 2015 until its sale to Abbott Labs for approximately $8 billion in October 2017. Prior to joining Alere, Inc., Mr. Hinrichs served as Chief Financial Officer of CareFusion Corp., a publicly traded medical device company, from December 2010 until its sale to Becton Dickenson for $12 billion in March of 2015. Before that, Mr. Hinrichs held various financial leadership positions at CareFusion, Cardinal Health and Merck & Co. He holds graduate and undergraduate degrees in business from Carnegie-Mellon University.

We believe Mr. Hinrichs is qualified to serve on our board of directors due to his background as a public company Chief Financial Officer, his extensive experience as an investor in medical technology companies and as a member of the boards of directors of multiple public and private companies.

Shahzad Malik, MB BChir. Dr. Malik has served as a member of our board of directors since December 2011. Dr. Malik is also a member of the board of directors of Iterum Therapeutics plc. Since April 1999, Dr. Malik has served as a General Partner at Advent Life Sciences, a venture capital firm that focuses on life sciences investments. Prior to that, Dr. Malik served as an Associate at McKinsey & Company and previously was a practicing interventional cardiologist in Britain's NHS. Dr. Malik received a MA in Physiological Sciences from the University of Oxford and an MB BChir in medicine from the University of Cambridge.

We believe Dr. Malik is qualified to serve on our board of directors due to his background as a practicing physician and his extensive experience as an investor in life sciences and medical device companies.

Aditya Puri. Mr. Puri has served as a member of our board of directors since March 2016. Mr. Puri previously served on the board of directors of medical device companies ConforMIS Inc. and ViewRay, Inc. Since October 2012, Mr. Puri has served as an Investment Partner at Xeraya Capital, which, among other mandates, is the exclusive life sciences investments platform for Khazanah Nasional Berhad, the Malaysian government's strategic investment fund. Mr. Puri has almost 25 years of experience in life science and technology industries, encompassing business unit leadership, international expansion, and corporate and venture capital investing roles in organizations that include Yankee Group, a global technology research and consulting company, and Boston Scientific. Mr. Puri received a B.S. from the University of Southern Maine, and an M.B.A from the MIT Sloan School of Management. He has also passed all parts of the U.S. Uniform CPA Examination.

Mr. Puri will resign from our board of directors effective immediately prior to the effectiveness of the registration statement of which this prospectus forms a part, as Mr. Puri is an Investment Partner at Xeraya Capital, whose policy prohibits Mr. Puri from serving on the board of directors of one of the firm's public portfolio companies.

Christoph Scharf, M.D. Dr. Scharf has served as a member of our board of directors since September 2011. Dr. Scharf is a practicing physician with a specialty in Internal Medicine and Cardiology, and since 2005, he has worked in a private electrophysiology practice in Klinik im Park, Zurich. Dr. Scharf co-founded our company in 2011. Dr. Scharf received an M.D. from the University of Zurich Medical School and attended the University of Michigan for his electrophysiology fellowship.

We believe Dr. Scharf is qualified to serve on our board of directors due to his role as a co-founder of our company, background as a practicing physician and extensive knowledge of our business.

Family Relationships

There are no family relationships among any of our directors or executive officers.

Executive Officers

Each of our executive officers serves at the discretion of our board of directors and holds office until his or her successor is duly elected and qualified or until his or her earlier resignation or removal.

Board of Directors

Our board of directors currently consists of eight sitting members. The current members of our board of directors were elected pursuant to our current amended and restated certificate of incorporation and under the provisions of our amended and restated voting agreement, which requires the stockholders who are party to the agreement to vote their respective shares of our capital stock to elect directors.

The provisions of our amended and restated voting agreement relating to the election of our directors will terminate and the provisions of our current certificate of incorporation by which our directors were elected will be amended and restated in connection with this offering. After the completion of this offering, the number of directors will be fixed by our board of directors, subject to the terms of our amended and restated certificate of incorporation and amended and restated bylaws. Each of our current directors will continue to serve as a director until the election and qualification of his or her successor, or until his or her earlier death, resignation or removal.

Our amended and restated certificate of incorporation will provide that our board of directors will be divided into three classes with staggered three-year terms. Only one class of directors will be elected at each annual meeting of stockholders, with the other classes continuing for the remainder of their respective three-year terms. Our current directors will be divided among the three classes as follows:

- the Class I directors will be , and their terms will expire at the annual meeting of stockholders to be held in 2021;
- the Class II directors will be , and their terms will expire at the annual meeting of stockholders to be held in 2022; and
- the Class III directors will be , and their terms will expire at the annual meeting of stockholders to be held in 2023.

At each annual meeting of stockholders, upon the expiration of the term of a class of directors, the successor to each such director in the class will be elected to serve from the time of election and qualification until the third annual meeting following his or her election and until his or her successor is duly elected and qualified, in accordance with our amended and restated certificate of incorporation. Any additional directorships resulting from an increase in the number of directors will be distributed among the three classes so that, as nearly as possible, each class will consist of one third of our directors.

This classification of our board of directors may have the effect of delaying or preventing changes in control of our company.

Director Independence

Upon the completion of this offering, we anticipate that our common stock will be listed on . Under the rules of , independent directors must comprise a majority of a listed company's board of directors within one year of the completion of this offering. In addition, the rules of require that, subject to specified exceptions, each member of a listed company's audit, compensation and corporate governance and nominating committees be independent. Audit committee members and compensation committee members must also satisfy the independence criteria set forth in Rule 10A-3 and Rule 10C-1, respectively, under the Securities Exchange Act of 1934, as amended, or the Exchange Act. Under the rules of , 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.

To be considered to be independent for purposes of Rule 10A-3 and under the rules of , 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.

To be considered independent for purposes of Rule 10C-1 and under the rules of , the board of directors must affirmatively determine that each member of the compensation committee is independent, including a consideration of all factors specifically relevant to determining whether the director has a relationship to the company which is material to that director's ability to be independent from management in connection with the duties of a compensation committee member, including, but not limited to: (i) the source of compensation of such director, including any consulting, advisory or other compensatory fee paid by the company to such director; and (ii) whether such director is affiliated with the company, a subsidiary of the company or an affiliate of a subsidiary of the company.

Our board of directors undertook a review of its composition, the composition of its committees and the independence of our directors and considered whether any 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. Based upon information requested from and provided by each director concerning his background, employment and affiliations, including family relationships, our board of directors has determined that , representing of our eight directors, do not have a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director and that each of these directors is "independent" as that term is defined under the rules of .

In making these determinations, our board of directors considered the current and prior relationships that each non-employee director has with our company and all other facts and circumstances our board of directors deemed relevant in determining their independence, including the beneficial ownership of our capital stock by each non-employee director, and the transactions involving them described in the section titled "Certain Relationships and Related Party Transactions."

Corporate Governance

Our board of directors is currently chaired by Mr. Huennekens. As a general policy, our board of directors believes that separation of the positions of Chair of our board of directors and Chief Executive Officer reinforces the independence of our board of directors from management, creates an environment that encourages objective oversight of management's performance and enhances the effectiveness of our board of directors as a whole. As such, Mr. Burgess serves as our President and Chief Executive Officer while Mr. Huennekens serves as the Executive Chair of our board of directors but is not an officer. We currently expect and intend the positions of Chair of our board of directors and President and Chief Executive Officer to continue to be held by two individuals in the future.

Board Committees

Our board of directors has an audit committee, a compensation committee and a corporate governance and nominating committee, each of which has the composition and the responsibilities described below.

Audit Committee

Upon the effectiveness of the registration statement of which this prospectus forms a part, the members of our audit committee will be Mr. Hinrichs, Dr. Malik and . Mr. Hinrichs will be the chair of our audit committee and will be our audit committee financial expert, as that term is defined under the SEC rules implementing Section 407 of the Sarbanes-Oxley Act, and possesses financial sophistication, as defined under

the rules of . Our audit committee will oversee our corporate accounting and financial reporting process and assist our board of directors in monitoring our financial systems. Our audit committee will also:

- select and hire the independent registered public accounting firm to audit our consolidated financial statements;
- help to ensure the independence and performance of the independent registered public accounting firm;
- approve audit and non-audit services and fees;
- review our consolidated financial statements and discuss with management and the independent registered public accounting firm our annual audited and quarterly consolidated financial statements, the results of the independent audit and the quarterly reviews and the reports and certifications regarding internal control over financial reporting and disclosure controls;
- prepare the audit committee report that the SEC requires to be included in our annual proxy statement;
- review reports and communications from the independent registered public accounting firm;
- review the adequacy and effectiveness of our internal controls and disclosure controls and procedure;
- review our policies on risk assessment and risk management;
- review and monitor conflicts of interest situations, and approve or prohibit any involvement in matters that may involve a conflict of interest or taking of a corporate opportunity;
- review related party transactions; and
- establish and oversee procedures for the receipt, retention and treatment of accounting related complaints and the confidential submission by our employees of concerns regarding questionable accounting or auditing matters.

Our audit committee will operate under a written charter, to be effective prior to the completion of this offering, which will satisfy the applicable rules of the SEC and the listing standards of .

Compensation Committee

Upon the effectiveness of the registration statement of which this prospectus forms a part, the members of our compensation committee will be Dr. Malik, Dr. ElBardissi and . Dr. Malik will be the chair of our compensation committee. Our compensation committee will oversee our compensation policies, plans and benefits programs. The compensation committee will also:

- oversee our overall compensation philosophy and compensation policies, plans and benefit programs;
- review and approve or recommend to the board of directors for approval compensation for our executive officers and directors;
- prepare the compensation committee report that the SEC will require to be included in our annual proxy statement; and
- administer our equity compensation plans.

Our compensation committee will operate under a written charter, to be effective prior to the completion of this offering, which will satisfy the applicable rules of the SEC and the listing standards of .

Corporate Governance and Nominating Committee

Upon the effectiveness of the registration statement of which this prospectus forms a part, the members of our corporate governance and nominating committee will be Dr. Bonita, and . Dr. Bonita will be the chair of our corporate governance and nominating committee. Our corporate governance and nominating

committee will oversee and assist our board of directors in reviewing and recommending nominees for election as directors. Specifically, the corporate governance and nominating committee will:

- identify, evaluate and make recommendations to our board of directors regarding nominees for election to our board of directors and its committees;
- consider and make recommendations to our board of directors regarding the composition of our board of directors and its committees;
- review developments in corporate governance practices;
- evaluate the adequacy of our corporate governance practices and reporting; and
- evaluate the performance of our board of directors and of individual directors.

Our corporate governance and nominating committee will operate under a written charter, to be effective prior to the completion of this offering, which will satisfy the applicable rules of the SEC and the listing standards of .

Code of Business Conduct and Ethics

Our board of directors has adopted a code of business conduct and ethics that applies to all of our employees, officers and directors, including those officers responsible for financial reporting. Following the completion of this offering, our code of business conduct and ethics will be available on our website at www.acutusmedical.com. We intend to disclose any amendments to the code, or any waivers of its requirements, on our website to the extent required by the applicable rules and exchange requirements. The information contained on, or that can be accessible through, our website is not a part of this prospectus and the inclusion of our website address in this prospectus is an inactive textual reference only.

Limitation on Liability and Indemnification Matters

Our board of directors expects to adopt an amended and restated certificate of incorporation, which will become effective immediately prior to the completion of this offering, and will contain provisions that limit the liability of our directors for monetary damages to the fullest extent permitted by Delaware law. Consequently, our directors will not be personally liable to us or our stockholders for monetary damages for any breach of fiduciary duties as directors, except liability for:

- any breach of the director's duty of loyalty to us or our stockholders;
- any act or omission not in good faith or that involves intentional misconduct or a knowing violation of law;
- unlawful payments of dividends or unlawful stock repurchases or redemptions as provided in Section 174 of the Delaware General Corporation Law; or
- any transaction from which the director derived an improper personal benefit.

Our board of directors expects to adopt an amended and restated certificate of incorporation and amended and restated bylaws, which will become effective immediately prior to the completion of this offering, and will provide that we are required to indemnify our directors and officers, in each case to the fullest extent permitted by Delaware law. Our amended and restated bylaws also will provide that we are obligated to advance expenses incurred by a director or officer in advance of the final disposition of any action or proceeding, and permits us to secure insurance on behalf of any officer, director, employee or other agent for any liability arising out of his or her actions in that capacity regardless of whether we would otherwise be permitted to indemnify him or her under Delaware law. We have entered, and expect to continue to enter, into agreements to indemnify our directors, executive officers and other employees as determined by our board of directors. With specified exceptions, these agreements provide for indemnification for related expenses including, among other things, attorneys' fees, judgments, fines and settlement amounts incurred by any of these individuals in any action or proceeding. Insofar as indemnification for liabilities

arising under the Securities Act may be permitted to our directors, officers and controlling persons pursuant to the foregoing provisions, or otherwise, we have been advised that, in the opinion of the SEC, such indemnification is against public policy as expressed in the Securities Act, and is, therefore, unenforceable. We believe that these bylaw provisions and indemnification agreements are necessary to attract and retain qualified persons as directors and officers. We also maintain directors' and officers' liability insurance.

The limitation of liability and indemnification provisions in our amended and restated certificate of incorporation and amended and restated bylaws may discourage stockholders from bringing a lawsuit against our directors and officers for breach of their fiduciary duty. They may also reduce the likelihood of derivative litigation against our directors and officers, even though an action, if successful, might benefit us and our stockholders. Further, a stockholder's investment may be adversely affected to the extent that we pay the costs of settlement and damages.

Compensation Committee Interlocks and Insider Participation

None of our executive officers serves as a member of the board of directors or compensation committee, or other committee serving an equivalent function, of any other entity that has one or more of its executive officers serving as a member of our board of directors or its compensation committee. None of the current members of the compensation committee of our board of directors has been one of our employees within the past five years.

Director Compensation

Prior to this offering, we have not implemented a formal policy with respect to compensation payable to our non-employee directors. Other than as set forth in the table and described more fully below, we did not pay any compensation, including equity awards, to any of our non-employee directors in 2019. We reimburse our directors for expenses associated with attending meetings of our board of directors and its committees. Following the completion of this offering, we expect to implement an annual cash and equity compensation program for our non-employee directors. In addition, from time to time we have granted equity awards to some of our directors.

The following table presents the total compensation each of our non-employee directors received during the year ended December 31, 2019.

	Fees Earned or Paid in Cash ($)	Stock Awards ($)(1)	All Other Compensation ($)	Total ($)
R. Scott Huennekens(2)	132,750	7,587,887	153,250	7,873,887
David Bonita, M.D.	—	—	—	—
Andrew ElBardissi, M.D.	—	—	—	—
Jim Hinrichs(3)	10,500	—	1,750	12,250
Shahzad Malik, MB BChir	—	—	—	—
Aditya Puri	—	—	—	—
Christoph Scharf, M.D.	—	—	—	—

(1) These figures reflect the aggregate grant date fair value of restricted stock units granted in the fiscal year. As required by SEC rules, the amounts shown exclude the impact of estimated forfeitures related to service-based vesting conditions. The figure included here for Mr. Huennekens represents the grant date value of a performance-based restricted stock unit with respect to 5,518,463 shares of our common stock granted on June 30, 2019, subject to his continued service through designated vesting dates and occurrence of an initial public offering or change in control within ten years of the date of grant. As attainment of the performance conditions for this award were not considered probable, no compensation expense related to these awards has been recorded for the year ended December 31, 2019. While SEC rules generally require disclosure of stock awards subject to performance conditions based on the value at grant date, taking into account the probability of the performance conditions being met as of December 31, 2019, we are reporting the value that would have been recorded if an initial public offering had been considered probable at the time of grant, considering the fact that this offering will satisfy that condition. As of December 31, 2019, stock awards outstanding to our directors included only the aforementioned performance-based restricted stock unit award with respect to 5,518,463 shares of our common stock for Mr. Huennekens.

(2) Mr. Huennekens joined our board of directors in July 2019 as an independent director and our Executive Chairman. The figure in the "All Other Compensation" column for Mr. Huennekens represents the amount paid to Mr. Huennekens for consulting services from March through June 2019, prior to joining our board of directors. Pursuant to his Executive Chairman Agreement, described below under "—Executive Chairman Compensation," Mr. Huennekens was paid at a rate of $500 an hour for service in 2019 as Chairman of our board.

(3) Mr. Hinrichs joined our board of directors in October 2019 as an independent director, Mr. Hinrichs was paid a cash retainer of $3,500 per month for service in 2019 as a member of the board and chair of the audit committee. In addition, Mr. Hinrichs was paid $1,750 for services provided as a consultant in advance of his appointment to the board.

Directors who are also our employees receive no additional compensation for their service as directors. During 2019, Mr. Burgess, who is one of our directors, was also an employee of our company. See the section titled "Executive Compensation—Summary Compensation Table" for additional information about the compensation for Mr. Burgess.

Upon the completion of this offering, directors who are also full-time officers or employees of our company will receive no additional compensation for serving as directors, and directors who are not full-time officers or employees of our company, or non-employee directors, will be compensated as discussed under "—Non-Employee Director Compensation Policy."

Executive Chairman Compensation

We have entered into an Executive Chairman Agreement with Mr. Huennekens under which we have agreed to pay him at a rate of $500 per hour for his service as Executive Chairman of our Board. Pursuant to this agreement, we granted Mr. Huennekens a restricted stock unit award on June 30, 2019 with respect to 5,518,463 shares of our common stock. This award is subject to Mr. Huennekens' continued service through designated vesting dates over a period ending on March 1, 2022 and occurrence of an initial public offering or change in control with respect to the Company within ten years of the date of grant.

Mr. Huennekens' Executive Chairman Agreement provides that in the event that Mr. Huennekens' service is terminated by us without cause or by Mr. Huennekens without good reason, then, subject to Mr. Huennekens' waiver and release in a form reasonably satisfactory to the Company, his equity compensation awards will become vested and exercisable to the extent they would have become vested and exercisable if he had continued service to the Company for the 12-month period following the date of termination. The agreement also provides that in the event of a change in control (as defined in our 2011 Equity Incentive Plan), Mr. Huennekens' equity compensation awards will become fully vested and exercisable.

Non-Employee Director Compensation Policy

Each non-employee director other than Mr. Huennekens will receive an annual cash retainer in recognition of his or her service to the board, along with an additional annual cash retainer for service as a chairperson or a member of each standing committee of our board on which the director serves.

Position	Annual Cash Retainer
Board Member	$ 40,000
Committee Chair	
Audit	$ 20,000
Compensation	$ 14,000
Corporate Governance and Nominating	$ 10,000
Committee Member	
Audit	$ 10,000
Compensation	$ 7,000
Corporate Governance and Nominating	$ 5,000

Each non-employee director other than Mr. Huennekens will receive an annual equity award with a grant date value of $100,000 in recognition of his or her continuing service to the board, in each case effective on the date of our annual shareholder meeting. Each annual equity award will vest in full after one year. In addition, each new non-employee director will receive an initial equity award with a grant date value of $200,000 at the commencement of their service on our board of directors. Each initial equity award will vest over a three-year period, with 1/3 vesting after one year, and the remainder vesting monthly. Each of these grants will be made up of 70% options and 30% restricted stock units, by value.

EXECUTIVE COMPENSATION

Summary Compensation Table

This discussion contains forward looking statements that are based on our current plans, considerations, expectations and determinations regarding future compensation programs. Actual compensation programs that we adopt may differ materially from currently planned programs as summarized in this discussion. As an "emerging growth company" as defined in the JOBS Act, we are not required to include a Compensation Discussion and Analysis section and have elected to comply with the scaled disclosure requirements applicable to emerging growth companies.

The following table provides information regarding the total compensation for services rendered in all capacities that was earned by our principal executive officer and our two other most highly compensated executive officers who were serving as executive officers as of December 31, 2019. These individuals are considered our named executive officers for 2019.

Name and Principal Position	Year	Salary ($)(1)	Bonus ($)(2)	Option Awards ($)(3)	Non-Equity Incentive Plan Compensation ($)	All Other Compensation ($)	Total ($)
Vince Burgess	2019	382,243	150,000	—	—	73	532,316
President and Chief Executive Officer							
Gary W. Doherty	2019	305,462	60,000	691,982	—	435	1,057,879
Chief Financial Officer							
Steven McQuillan	2019	309,000	92,700	314,780	—	435	716,915
Senior Vice President, Regulatory and Clinical Affairs							

(1) Mr. Burgess converted from a contractor to an employee of Acutus in October 2019. The figure for Mr. Burgess for 2019 reflects fees of $312,500 for services as a contractor and a salary of $69,743 for services as an employee.

(2) The figures for 2019 represent bonuses payable to them under our short-term cash incentive bonus program for executives, as described under "—Short-Term Cash Incentive Program," below.

(3) These figures reflect the aggregate grant date fair value of stock options granted in the fiscal year, computed in accordance with the provisions of FASB ASC 718. Assumptions used in the calculation of these amounts are included in the notes to our consolidated financial statements included elsewhere in this registration statement. As required by SEC rules, the amounts shown exclude the impact of estimated forfeitures related to service-based vesting conditions.

Short-Term Cash Incentive Program

We generally provide each of our executive officers an opportunity to receive annual cash incentive payments under our short-term cash incentive program. The amount of any cash incentive payable under this program is based on a target incentive amount for each named executive officer.

For 2019, the target incentive amount and actual year-end payments for Mr. Burgess, Mr. Doherty and Mr. McQuillan under our 2019 short-term cash incentive program were as follows:

Named Executive Officer	Target Award ($)	Actual Award ($)
Vince Burgess	200,000	150,000
Gary W. Doherty	80,000	60,000
Steven McQuillan	92,700	92,700

Pension Benefits and Nonqualified Deferred Compensation

We do not provide a pension plan for our employees, and none of our named executive officers participated in a nonqualified deferred compensation plan in 2019.

Outstanding Equity Awards at 2019 Year-End

The following table sets forth information regarding outstanding stock options and stock awards held by our named executive officers as of December 31, 2019:

	Option Awards(1)					
Name	Grant Date	Vesting Commencement Date	Number of Securities Underlying Unexercised Options (#) Exercisable	Number of Securities Underlying Unexercised Options (#) Unexercisable	Option Exercise Price(2) ($)	Option Expiration Date
Vince Burgess	9/19/2013	7/1/2013	350,000	—	$ 0.42	9/19/2023
	9/22/2017	9/19/2017	158,327	123,144(3)	$ 0.83	9/22/2027
	10/17/2018	1/1/2018	1,544,186	1,985,383(4)	$ 1.06	10/17/2028
Gary W. Doherty	4/11/2016	10/19/2015	130,000	—	$ 0.79	4/8/2026
	2/14/2018	2/14/2018	229,840	271,631(3)	$ 1.06	2/14/2028
	9/19/2018	9/19/2018	127,746	281,043(3)	$ 1.06	9/19/2028
	9/10/2019	9/10/2019	—	691,982(3)	$ 1.375	9/10/2029
Steven McQuillan	4/11/2016	9/22/2015	539,288	—	$ 0.79	4/8/2026
	4/11/2016	4/8/2016	301,240	27,385(3)	$ 0.79	4/8/2026
	9/19/2017	9/14/2017	251,804	195,848(3)	$ 1.06	9/19/2027
	9/10/2019	9/10/2019	—	314,780(3)	$ 1.375	9/10/2029

(1) Each of the outstanding equity awards was granted pursuant to our 2011 Plan.
(2) The exercise price for each option is the fair market value of our common stock on the date of grant, as determined by our board of directors.
(3) This option vests over four years from the vesting commencement date, with 1/4 vesting on the first anniversary of the vesting commencement date, and the remainder vesting in 36 equal monthly installments, subject to continued service through each such vesting date.
(4) This option vests over four years from the vesting commencement date, with 1/16 vesting on each quarterly anniversary of the vesting commencement date, subject to continued service through each such vesting date.

Employment Agreements with Our Named Executive Officers

Vince Burgess

We are party to an employment agreement dated as of October 14, 2019 with Mr. Burgess, our President and Chief Executive Officer. This agreement does not have a specific term and provides that Mr. Burgess is an at-will employee.

Mr. Burgess' current base salary is $400,000 and his current annual target under our annual cash incentive program is 50% of his annual base salary. Mr. Burgess is eligible for severance benefits under his current employment agreement, subject to his execution of a general release in our favor, as more fully described in "—Potential Payments upon Termination or Change of Control."

Gary W. Doherty

Prior to the completion of this offering, we intend to enter into a continuing employment agreement with Mr. Doherty, our Chief Financial Officer. The employment agreement is not expected to have a specific term and will provide that Mr. Doherty is an at-will employee.

Mr. Doherty's current base salary is $320,000 and his current annual target under our annual cash incentive program is 25% of his annual base salary. We expect that Mr. Doherty will be eligible for severance benefits, subject to his execution of a general release in our favor, as more fully described in "—Potential Payments upon Termination or Change of Control."

Steven McQuillan

We are party to an employment agreement dated as of September 6, 2016 with Mr. McQuillan, our Senior Vice President, Regulatory and Clinical Affairs. This agreement does not have a specific term and provides that Mr. McQuillan is an at-will employee.

Mr. McQuillan's current base salary is $309,000 and his current annual target under our annual cash incentive program is 30% of his annual base salary. Mr. McQuillan is eligible for severance benefits under his current employment agreement, subject to his execution of a general release in our favor, as more fully described in "—Potential Payments upon Termination or Change of Control."

Potential Payments upon Termination or Change of Control

We provide the following severance benefits to our named executive officers in the event of a qualifying termination of employment under the terms of their employment agreements.

Vince Burgess

In the event of a qualifying termination in the absence of a change in control, Mr. Burgess has the right to receive 12 months of base salary severance and paid COBRA continuation premiums, along with a pro-rated bonus at the target opportunity for the year of termination, all subject to Mr. Burgess' general release of the Company and its affiliates and agreement not to disparage the Company or solicit its employees.

In the event of a qualifying termination in connection with a change in control, Mr. Burgess has the right to receive 18 months of base salary severance, target bonus and paid COBRA continuation premiums, along with a pro-rated bonus at the target opportunity for the year of termination and accelerated vesting of any outstanding equity awards, all subject to Mr. Burgess' general release of the Company and its affiliates and agreement not to disparage the Company or solicit its employees.

In the event that Mr. Burgess remains employed with a successor employer through the six-month anniversary of a change in control, his Company equity awards will all become wholly vested, with any performance conditions deemed satisfied at the 100% level.

Gary W. Doherty

We expect to provide Mr. Doherty with nine months of base salary severance in the event of a termination without cause in the absence of a change in control, or 18 months of base salary and pro-rated bonus for the year of termination in the event of a termination without cause in connection with a change in control.

Steven McQuillan

In the event of a qualifying termination in the absence of a change in control, Mr. McQuillan has the right to receive six months of base salary severance and paid COBRA continuation premiums, along with a pro-rated bonus at the target opportunity for the year of termination, all subject to Mr. McQuillan's general release of the Company and its affiliates and agreement not to disparage the Company or solicit its employees.

In the event of a qualifying termination in connection with a change in control, Mr. McQuillan has the right to receive 12 months of base salary severance, target bonus and COBRA continuation premium reimbursements, along with a pro-rated bonus at the target opportunity for the year of termination and accelerated vesting of any outstanding equity awards, all subject to Mr. McQuillan's general release of the Company and its affiliates and agreement not to disparage the Company or solicit its employees.

Equity Awards

In the event of a merger or change in control in which the successor does not assume or substitute for an option or other award outstanding under our 2011 Plan (as defined below), then each option or other award outstanding under our 2011 Plan, will become fully vested. In addition, as described in more detail under "Employee Benefit and Stock Plans—2011 Equity Incentive Plan," our board of directors has broad discretion under the 2011 Plan with respect to treatment of awards outstanding under that plan in connection with a merger or change in control.

Employee Benefit and Stock Plans

2020 Equity Incentive Plan

Prior to the effectiveness of this offering, we expect that our board of directors will adopt, and our stockholders will approve, our 2020 Equity Incentive Plan, or our 2020 Plan. The 2020 Plan will be effective on the business day immediately prior to the effective date of the registration statement of which this prospectus forms a part. Our 2020 Plan will provide for the grant of incentive stock options, within the meaning of Section 422 of the Code, to our employees and any of our parent and subsidiary corporations' employees, and for the grant of nonstatutory stock options, restricted stock, restricted stock units, stock appreciation rights, performance units and performance shares to our employees, directors and consultants and our subsidiary corporation's employees and consultants.

Authorized Shares. We expect that a total of shares of our common stock will be reserved for issuance pursuant to our 2020 Plan. In addition, the shares reserved for issuance under our 2020 Plan will also include: (i) those shares reserved but unissued under our 2011 Plan as of the effective date of the 2020 Plan; and (ii) shares of our common stock subject to awards granted under our 2011 Plan that, after the date of stockholder approval of the 2020 Plan, expire or otherwise terminate without having been exercised in full or are forfeited to or repurchased by us (provided that the maximum number of shares that may be added to the 2020 Plan pursuant to (i) and (ii) is shares). The number of shares available for issuance under our 2020 Plan will also include an annual increase on the first day of each fiscal year during the term of the plan, beginning with our 2020 fiscal year, equal to the least of:

- shares;
- 4% of the outstanding shares of common stock as of the last day of our immediately preceding fiscal year; or
- such other amount as our board of directors may determine.

If an award expires or becomes unexercisable without having been exercised in full, is surrendered pursuant to an exchange program, or, with respect to restricted stock, restricted stock units, performance units or performance shares, is forfeited or repurchased due to failure to vest, the unpurchased shares (or for awards other than stock options or stock appreciation rights, the forfeited or repurchased shares) will become available for future grant or sale under our 2020 Plan.

With respect to stock appreciation rights, the net shares issued will cease to be available under the 2020 Plan and all remaining shares will remain available for future grant or sale under the 2020 Plan. Shares used to pay the exercise price of an award or satisfy the tax withholding obligations related to an award will become available for future grant or sale under our 2020 Plan. To the extent an award is paid out in cash rather than shares, such cash payment will not result in reducing the number of shares available for issuance under our 2020 Plan.

Plan Administration. Our board of directors or one or more committees appointed by our board of directors will administer our 2020 Plan. In addition, if we determine it is desirable to qualify transactions under the 2020 Plan as exempt under Rule 16b-3 of the Exchange Act, or Rule 16b-3, such transactions will be structured to

satisfy the requirements for exemption under Rule 16b-3. Subject to the provisions of our 2020 Plan, the administrator will have the power to administer our 2020 Plan and make all determinations deemed necessary or advisable for administering the 2020 Plan, such as the power to determine the fair market value of our common stock, select the service providers to whom awards may be granted, determine the number of shares covered by each award, approve forms of award agreements for use under the 2020 Plan, determine the terms and conditions of awards (such as the exercise price, the times or times at which the awards may be exercised, any vesting acceleration or waiver or forfeiture restrictions, and any restriction or limitation regarding any award or the shares relating thereto), construe and interpret the terms of our 2020 Plan and awards granted under it, to prescribe, amend, and rescind rules relating to our 2020 Plan, including creating sub-plans, and to modify or amend each award, such as the discretionary authority to extent the post-termination exercisability period of awards (provided that no option or stock appreciation right will be extended past its original maximum term, and to allow a participant to defer the receipt of payment of cash or the delivery of shares that would otherwise be due to such participant under an award. The administrator also will have the authority to institute an exchange program by which: (i) outstanding awards may be surrendered or cancelled in exchange for awards of the same type which may have a higher or lower exercise price and/or different terms, awards of a different type and/or cash; (ii) participants have the opportunity to transfer outstanding awards to a financial institution or other person or entity selected by the administrator; or (iii) the exercise price of an outstanding award is increased or reduced. The administrator's decisions, interpretations, and other actions will be final and binding on all participants.

Stock Options. Stock options may be granted under our 2020 Plan. The exercise price of options granted under our 2020 Plan must at least be equal to the fair market value of our common stock on the date of grant. The term of an incentive stock option may not exceed 10 years, except that with respect to any participant who owns more than 10% of the voting power of all classes of our outstanding stock, the term must not exceed five years and the exercise price must equal at least 110% of the fair market value on the grant date. The administrator will determine the methods of payment of the exercise price of an option, which may include cash, shares or other property acceptable to the administrator, as well as other types of consideration permitted by applicable law. After the termination of service of an employee, director or consultant, he or she may exercise his or her option for the period of time stated in his or her option agreement. Generally, if termination is due to death or disability, the option will remain exercisable for 12 months. In all other cases, the option will generally remain exercisable for three months following the termination of service. However, in no event may an option be exercised later than the expiration of its term. Subject to the provisions of our 2020 Plan, the administrator determines the other terms of options.

Stock Appreciation Rights. Stock appreciation rights may be granted under our 2020 Plan. Stock appreciation rights allow the recipient to receive the appreciation in the fair market value of our common stock between the exercise date and the date of grant. Stock appreciation rights may not have a term exceeding 10 years. After the termination of service of an employee, director or consultant, he or she may exercise his or her stock appreciation right for the period of time stated in his or her option agreement. However, in no event may a stock appreciation right be exercised later than the expiration of its term. Subject to the provisions of our 2020 Plan, the administrator determines the other terms of stock appreciation rights, including when such rights become exercisable and whether to pay any increased appreciation in cash or with shares of our common stock, or a combination thereof, except that the per share exercise price for the shares to be issued pursuant to the exercise of a stock appreciation right will be no less than 100% of the fair market value per share on the date of grant.

Restricted Stock. Restricted stock may be granted under our 2020 Plan. Restricted stock awards are grants of shares of our common stock that vest in accordance with terms and conditions established by the administrator. The administrator will determine the number of shares of restricted stock granted to any employee, director or consultant and, subject to the provisions of our 2020 Plan, will determine the terms and conditions of such awards. The administrator may impose whatever conditions for lapse of the restriction on the shares it determines to be appropriate (for example, the administrator may set restrictions based on the achievement of specific performance goals or continued service to us); provided, however, that the administrator, in its sole discretion,

may accelerate the time at which any restrictions will lapse or be removed. Recipients of restricted stock awards generally will have voting and dividend rights with respect to such shares upon grant without regard to the restriction, unless the administrator provides otherwise. Shares of restricted stock as to which the restrictions have not lapsed are subject to our right of repurchase or forfeiture.

Restricted Stock Units. Restricted stock units may be granted under our 2020 Plan. Restricted stock units are bookkeeping entries representing an amount equal to the fair market value of one share of our common stock. Subject to the provisions of our 2020 Plan, the administrator will determine the terms and conditions of restricted stock units, including the vesting criteria (which may include accomplishing specified performance criteria or continued service to us) and the form and timing of payment. Notwithstanding the foregoing, the administrator, in its sole discretion, may accelerate the time at which any restricted stock units will vest.

Performance Units and Performance Shares. Performance units and performance shares may be granted under our 2020 Plan. Performance units and performance shares are awards that will result in a payment to a participant only if performance goals established by the administrator are achieved or the awards otherwise vest. The administrator will establish organizational or individual performance goals or other vesting criteria in its discretion, which, depending on the extent to which they are met, will determine the number and/or the value of performance units and performance shares to be paid out to participants. After the grant of a performance unit or performance share, the administrator, in its sole discretion, may reduce or waive any performance criteria or other vesting provisions for such performance units or performance shares.

Performance units shall have an initial dollar value established by the administrator prior to the grant date. Performance shares shall have an initial value equal to the fair market value of our common stock on the grant date. The administrator, in its sole discretion, may pay earned performance units or performance shares in the form of cash, in shares or in some combination

Outside Directors. Our 2020 Plan will provide that all outside (non-employee) directors will be eligible to receive all types of awards (except for incentive stock options) under our 2020 Plan. Prior to the completion of this offering, we intend to implement a formal policy pursuant to which our outside directors will be eligible to receive equity awards under our 2020 Plan. Our 2020 Plan includes a maximum annual limit of $500,000 of cash compensation and equity awards that may be paid, issued or granted to an outside director (other than the chair of our board of directors) in any fiscal year. For purposes of this limitation, the value of equity awards is based on the grant date fair value (determined in accordance with GAAP). Any cash compensation paid or equity awards granted to a person for his or her services as an employee, or for his or her services as a consultant (other than as an outside director), will not count for purposes of the limitation. The maximum limit does not reflect the intended size of any potential compensation or equity awards to our outside directors.

Non-Transferability of Awards. Unless the administrator provides otherwise, our 2020 Plan generally does not allow for the transfer of awards and only the recipient of an award may exercise an award during his or her lifetime. If the administrator makes an award transferable, such award will contain such additional terms and conditions as the administrator deems appropriate.

Certain Adjustments. In the event of certain changes in our capitalization, to prevent diminution or enlargement of the benefits or potential benefits available under our 2020 Plan, the administrator will adjust the number and class of shares that may be delivered under our 2020 Plan and/or the number, class and price of shares covered by each outstanding award and the numerical share limits set forth in our 2020 Plan. In the event of our proposed liquidation or dissolution, the administrator will notify participants as soon as practicable and all awards will terminate immediately prior to the consummation of such proposed transaction.

Merger or Change in Control. Our 2020 Plan provides that in the event of a merger or change in control, as defined under our 2020 Plan, each outstanding award will be treated as the administrator determines, without a participant’s consent. The administrator is not required to treat all awards, all awards held by a participant, or all awards of the same type, similarly.

In the event that a successor corporation or its parent or subsidiary does not assume or substitute an equivalent award for any outstanding award, then such award will fully vest, all restrictions on such award will lapse, all performance goals or other vesting criteria applicable to such award will be deemed achieved at 100% of target levels and such award will become fully exercisable, if applicable, for a specified period prior to the transaction, unless specifically provided for otherwise under the applicable award agreement or other written agreement with the participant. The award will then terminate upon the expiration of the specified period of time. If an option or stock appreciation right is not assumed or substituted, the administrator will notify the participant in writing or electronically that such option or stock appreciation right will be exercisable for a period of time determined by the administrator in its sole discretion and the option or stock appreciation right will terminate upon the expiration of such period.

In addition, in the event of a change in control, each outside director's options and stock appreciation rights, if any, will vest fully and become immediately exercisable, all restrictions on his or her restricted stock and restricted stock units will lapse and all performance goals or other vesting requirements for his or her performance shares and units will be deemed achieved at 100% of target levels, and all other terms and conditions met.

Forfeiture and Clawback. All awards granted under our 2020 Plan will be subject to recoupment under any clawback policy that we are required to adopt under applicable law. In addition, the administrator will be able to provide in an award agreement that the recipient's rights, payments and benefits with respect to such award will be subject to reduction, cancellation, forfeiture or recoupment upon the occurrence of specified events. In the event of any accounting restatement, the recipient of an award will be required to repay a portion of the proceeds received in connection with the settlement of an award earned or accrued under certain circumstances.

Amendment, Termination. The administrator will have the authority to amend, suspend or terminate the 2020 Plan provided such action will not impair the existing rights of any participant. Our 2020 Plan will automatically terminate in 2029, unless we terminate it sooner.

2020 Employee Stock Purchase Plan

Prior to the effectiveness of this offering, we expect that our board of directors will adopt, and our stockholders will approve, our 2020 ESPP. Our 2020 ESPP will be effective on the business day immediately prior to the effective date of the registration statement of which this prospectus forms a part. We believe that allowing our employees to participate in our 2020 ESPP will provide them with a further incentive towards promoting our success and accomplishing our corporate goals.

Authorized Shares. A total of shares of our common stock will be available for sale under our 2020 ESPP. The number of shares of our common stock that will be available for sale under our 2020 ESPP also includes an annual increase on the first day of each fiscal year beginning with our 2021 fiscal year, equal to the least of:

- 1% of the outstanding shares of our common stock on the last day of the previous fiscal year;
- shares; or
- such other amount as may be determined by our board of directors.

Plan Administration. Our board of directors, or a committee appointed by our board of directors will administer our 2020 ESPP and have full but non-exclusive authority to interpret the terms of our 2020 ESPP and determine eligibility to participate, subject to the conditions of our 2020 ESPP, as described below. We expect our compensation committee to administer our 2020 ESPP. The administrator will have full and exclusive discretionary authority to construe, interpret and apply the terms of the 2020 ESPP, to delegate ministerial duties to any of our employees, to designate separate offerings under the 2020 ESPP, to designate our subsidiaries and

affiliates as participating in the 2020 ESPP, to determine eligibility, to adjudicate all disputed claims filed under the 2020 ESPP and to establish procedures that it deems necessary or advisable for the administration of the 2020 ESPP, such as adopting such procedures, sub-plans and appendices to the enrollment agreement as are necessary or appropriate to permit participation in the 2020 ESPP by employees who are foreign nationals or employed outside the U.S. The administrator's findings, decisions and determinations will be final and binding on all participants to the full extent permitted by law.

Eligibility. Generally, all of our employees will be eligible to participate if they are customarily employed by us, or any participating subsidiary, for at least 20 hours per week and more than five months in any calendar year. The administrator will have the discretion prior to an enrollment date for all options granted on such enrollment date in an offering, to determine that an employee who: (i) has not completed at least two years of service (or a lesser period of time determined by the administrator) since his or her last hire date; (ii) customarily works not more than 20 hours per week (or a lesser period of time determined by the administrator); (iii) customarily works not more than five months per calendar year (or a lesser period of time determined by the administrator); and (iv) is a highly compensated employee within the meaning of Section 414(v) of the Code or is an officer or subject to disclosure requirements under Section 16(a) of the Exchange Act, is or is not eligible to participate in such offering period.

However, an employee may not be granted rights to purchase shares of our common stock under our 2020 ESPP if such employee:

- immediately after the grant would own capital stock possessing 5% or more of the total combined voting power or value of all classes of our capital stock; or
- holds rights to purchase shares of our common stock under our 2020 ESPP or any other employee stock purchase plans that exceed $25,000 worth of shares of our common stock in a calendar year.

Offering Periods. Our ESPP will include a component that allows us to make offerings intended to qualify under Section 423 of the Code and a component that allows us to make offerings not intended to qualify under Section 423 of the Code to designated companies, as described in our ESPP. Our ESPP will provide for six-month offering periods. The offering periods will be scheduled to start on the first trading day on or after January 1st and July 1st of each year, beginning on January 1, 2021. Each offering period will consist of one six-month purchase period, which will commence with one exercise date and end on the date immediately prior to the next exercise date.

Contributions. Our ESPP will permit participants to purchase shares of our common stock through payroll deductions of up to % of their eligible compensation. Notwithstanding the foregoing, a participant will be able to purchase a maximum of shares of our common stock during a purchase period.

Exercise of Purchase Right. Amounts deducted and accumulated by the participant will be used to purchase shares of our common stock at the end of each six-month purchase period. The purchase price of the shares will be 85% of the lower of the fair market value of our common stock on the first trading day of each offering period or on the exercise date. Participants will be able to end their participation at any time during an offering period and will be paid their accrued contributions that have not yet been used to purchase shares of our common stock. Participation will end automatically upon termination of employment with us.

Non-Transferability. A participant will not be able to transfer rights granted under our ESPP. If our compensation committee permits the transfer of rights, it may only be done by will, the laws of descent and distribution or as otherwise provided under our ESPP.

Merger or Change in Control. Our ESPP will provide that in the event of a merger or change in control, as defined under our ESPP, a successor corporation may assume or substitute each outstanding purchase right. If the successor corporation refuses to assume or substitute for the outstanding purchase right, the offering period then in progress will be shortened, and a new exercise date will be set that will be before the date of the proposed

merger or change in control. The administrator will notify each participant that the exercise date has been changed and that the participant's option will be exercised automatically on the new exercise date unless prior to such date the participant has withdrawn from the offering period.

Amendment; Termination. The administrator will have the authority to amend, suspend or terminate our ESPP, except that, subject to certain exceptions described in our ESPP, no such action may adversely affect any outstanding rights to purchase shares of our common stock under our ESPP. Our ESPP automatically will terminate in fiscal year 2029 unless we terminate it sooner.

2011 Equity Incentive Plan, as Amended

Our 2011 Plan was originally adopted by our board of directors and approved by our stockholders in March 2011. Our 2011 Plan was most recently amended in September 2019.

Our 2011 Plan allows us to provide incentive stock options, within the meaning of Section 422 of the Code, nonstatutory stock options, stock appreciation rights, restricted stock awards and restricted stock units (each, an award, and the recipient of such award, a participant) to eligible employees, directors, officers and consultants of ours and any parent or subsidiary of ours. It is expected that as of one business day prior to the effectiveness of the registration statement of which this prospectus forms a part, our 2011 Plan will be terminated and we will not grant any additional awards under our 2011 Plan thereafter. However, our 2011 Plan will continue to govern the terms and conditions of the outstanding awards previously granted under our 2011 Plan.

Authorized Shares. Our 2011 Plan will be terminated in connection with this offering, and accordingly, no further awards will be available for issuance under the 2011 Plan following the completion of this offering. Our 2011 Plan will continue to govern outstanding awards granted thereunder. As of December 31, 2019, options to purchase 19,850,309 shares of our common stock and 5,518,463 restricted stock units remained outstanding under our 2011 Plan. In the event that an outstanding option or other right for any reason expires or is canceled, the shares allocable to the unexercised portion of such option or other right shall be added to the number of shares then available for issuance under the 2020 Plan once adopted by our board of directors and our stockholders.

Plan Administration. Our board of directors or a committee of our board (the administrator) administers our 2011 Plan. Subject to the provisions of the 2011 Plan, the administrator has the full authority and discretion to take any actions it deems necessary or advisable for the administration of the 2011 Plan. All decisions, interpretations and other actions of the administrator are final and binding on all participants in the 2011 Plan.

Options. Stock options have been granted under our 2011 Plan. Subject to the provisions of our 2011 Plan, the administrator determines the term of an option, the number of shares subject to an option, and the time period in which an option may be exercised.

The term of an option is stated in the applicable award agreement, but the term of an option may not exceed 10 years from the grant date. The administrator determines the exercise price of options, which generally may not be less than 100% of the fair market value of our common stock on the grant date, unless expressly determined in writing by the administrator on the option's grant date. However, an incentive stock option granted to an individual who directly or by attribution owns more than 10% of the total combined voting power of all of our classes of stock or of any our parent or subsidiary may have a term of no longer than five years from the grant date and will have an exercise price of at least 110% of the fair market value of our common stock on the grant date. In addition, to the extent that the aggregate fair market value of the shares with respect to which incentive stock options are exercisable for the first time by an employee during any calendar year (under all our plans and any parent or subsidiary) exceeds $100,000, such options will be treated as nonstatutory stock options.

The administrator determines how a participant may pay the exercise price of an option, and the permissible methods are generally set forth in the applicable award agreement. If a participant's status as a "service provider"

(as defined in our 2011 Plan) terminates, that participant may exercise the vested portion of his or her option for the period of time stated in the applicable award agreement. Vested options generally will remain exercisable for 30 days or such longer period of time as set forth in the applicable award agreement if a participant's status as a service provider terminates for a reason other than death or disability. If a participant's status as a service provider terminates due to death or disability, vested options generally will remain exercisable for six months from the date of termination (or such other longer period as set forth in the applicable award agreement). In no event will an option remain exercisable beyond its original term. If a participant does not exercise his or her option within the time specified in the award agreement, the option will terminate. Except as described above, the administrator has the discretion to determine the post-termination exercisability periods for an option.

Transferability of Awards. Unless our administrator provides otherwise, our 2011 Plan generally does not allow for the transfer or assignment of options or stock purchase rights, except by will or by the laws of descent and distribution. Shares issued upon exercise of an option will be subject to such terms and conditions as the administrator may determine, including rights of first refusal and other transfer restrictions.

Certain Adjustments. In the event of a subdivision of our outstanding stock, a declaration of a dividend payable in shares, a combination or consolidation of our outstanding stock into a lesser number of shares, a reclassification, or any other increase or decrease in the number of issued shares of stock effected without receipt of consideration by us, the 2011 Plan will be appropriately adjusted by the administrator as to the class and maximum number of securities subject to the 2011 Plan and the class, number of securities and price per share of common stock subject to outstanding awards under the 2011 Plan, provided that our administrator will make any adjustments as may be required by Section 25102(o) of the California Corporations Code.

Merger or Change in Control. Our 2011 Plan provides that, in the event that we are a party to a merger or change in control, outstanding options and stock purchase rights may be assumed or substituted by the successor corporation or a parent or subsidiary thereof. In the event the successor corporation refuses to assume or substitute for the option or stock purchase right, then the vesting of such awards will be fully accelerated and the administrator will notify the holder in writing or electronically that such awards will be fully exercisable and vested for a period as determined by the administrator, and such awards will terminate upon expiration of such period.

In the event of a merger or change in control, our 2011 Plan provides that each outstanding award will be treated as the administrator determines without a participant's consent, including, without limitation, that: (i) upon written notice to the participant, awards will terminate upon or immediately prior to the consummation of such merger or change in control; (ii) outstanding awards will vest and become exercisable, realizable or payable, or restrictions applicable to an award will lapse, in whole or in part prior to or upon consummation of such merger or change in control, and, to the extent the administrator determines, terminate upon or immediately prior to the effectiveness of such merger or change in control; or (iii)(1) the termination of an award in exchange for an amount of cash and/or property, if any, equal to the amount that would have been attained upon the exercise of such award or realization of the participant's rights as of the date of the occurrence of the transaction (and, for the avoidance of doubt, if as of the date of the occurrence of the transaction the administrator determines in good faith that no amount would have been attained upon the exercise of such award or realization of the participant's rights, then such award may be terminated by the Company without payment), or (2) the replacement of such award with other rights or property selected by the administrator in its sole discretion. In taking any of these actions, the administrator will not be obligated to treat all awards, all awards held by a participant, or all awards of the same type, similarly.

Amendment; Termination. Our board of directors may amend, suspend or terminate our 2011 Plan at any time, provided that such action does not impair a participant's rights under outstanding awards without such participant's written consent. As noted above, upon completion of this offering, our 2011 Plan will be terminated and no further awards will be granted thereunder. All outstanding awards will continue to be governed by their existing terms.

401(k) Plan

We maintain a 401(k) retirement savings plan, or the 401(k) Plan, for the benefit of our employees, including our named executive officers, who satisfy certain eligibility requirements. Under the 401(k) Plan, eligible employees may elect to defer a portion of their compensation, within the limits prescribed by the Code, on a pre-tax or after-tax (Roth) basis, through contributions to the 401(k) Plan. The 401(k) Plan authorizes employer safe harbor contributions. The 401(k) plan is intended to qualify under Sections 401(a) and 501(a) of the Code. As a tax-qualified retirement plan, pre-tax contributions to the 401(k) Pan and earnings on those pre-tax contributions are not taxable to the employees until distributed from the 401(k) Plan, and earnings on Roth contributions are not taxable when distributed from the 401(k) Plan. We do not match contributions made by our employees or make discretionary contributions under this plan.

Limitation of Liability and Indemnification

Our amended and restated certificate of incorporation and amended and restated bylaws, each to be effective immediately prior to the completion of this offering, will provide that we will indemnify our directors and officers, and may indemnify our employees and other agents, to the fullest extent permitted by Delaware law. Delaware law prohibits our amended and restated certificate of incorporation from limiting the liability of our directors for the following:

- any breach of the director's duty of loyalty to the corporation or its stockholders;
- any act or omission not in good faith or that involves intentional misconduct or a knowing violation of law;
- unlawful payments of dividends or unlawful stock repurchases or redemptions; or
- any transaction from which the director derived an improper personal benefit.

Such limitation of liability does not apply to liabilities arising under federal securities laws and does not affect the availability of equitable remedies such as injunctive relief or rescission.

Our amended and restated bylaws that will be in effect on the completion of this offering will also provide that, on satisfaction of certain conditions, we will advance expenses incurred by a director or officer in advance of the final disposition of any action or proceeding, and permit us to secure insurance on behalf of any officer, director, employee or other agent for any liability arising out of his or her actions in that capacity regardless of whether we would otherwise be permitted to indemnify him or her under the provisions of Delaware law. We have entered and expect to continue to enter into agreements to indemnify our directors and executive officers. With certain exceptions, these agreements provide for indemnification for related expenses, including attorneys' fees, judgments, fines and settlement amounts incurred by any of these individuals in connection with any action, proceeding or investigation. We believe that these amended and restated certificate of incorporation and amended and restated bylaw provisions and indemnification agreements are necessary to attract and retain qualified persons as directors and officers. We also maintain customary directors' and officers' liability insurance.

The limitation of liability and indemnification provisions in our amended and restated certificate of incorporation and amended and restated bylaws may discourage stockholders from bringing a lawsuit against our directors for breach of their fiduciary duty. They may also reduce the likelihood of derivative litigation against our directors and officers, even though an action, if successful, might benefit us and other stockholders. Further, a stockholder's investment may be adversely affected to the extent that we pay the costs of settlement and damage awards against directors and officers as required by these indemnification provisions.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted for directors, executive officers or persons controlling us, we have been informed that, in the opinion of the SEC, such indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS

Other than compensation arrangements, including employment, termination of employment and change in control arrangements, with our directors and executive officers, including those discussed in the sections titled "Management" and "Executive Compensation" and the registration rights described in the section titled "Description of Capital Stock—Registration Rights," the following is a description of each transaction since January 1, 2017 and each currently proposed transaction in which:

- the amounts involved exceeded or will exceed $120,000; and
- any of our directors, executive officers or holders of more than 5% of our common stock, or any member of the immediate family of the foregoing persons, had or will have a direct or indirect material interest.

Compensation arrangements for our directors and named executive officers are described elsewhere in this prospectus.

Sales of Securities

2018 Convertible Notes and Warrants

On June 7, 2018, we sold and issued $22.8 million principal amount of convertible promissory notes, or the 2018 Convertible Notes. Purchasers of the 2018 Convertible Notes included venture capital funds that beneficially own more than 5% of our outstanding capital stock and/or are represented on our board of directors, and one of our other directors. The 2018 Convertible Notes accrued interest at a rate of 10% per annum. The 2018 Convertible Notes were subsequently automatically converted into an aggregate of 18,325,558 shares of our Series D convertible preferred stock at a price of $1.3712 per share.

In connection with the issuance of the 2018 Convertible Notes, we also issued warrants to purchase up to 4,880,943 shares of our common stock at a price of $0.01 per share, or the 2018 Warrants. Recipients of the 2018 Warrants included venture capital funds that beneficially own more than 5% of our outstanding capital stock and/or are represented on our board of directors.

The following table presents the principal amount of 2018 Convertible Notes purchased and the number of shares of our Series D convertible preferred stock received on conversion of the 2018 Convertible Notes by related parties, as well as the number of 2018 Warrants issued to each of these entities.

Investor	Principal Amount of 2018 Convertible Notes	Shares of Series D Convertible Preferred Stock	2018 Warrants
Deerfield Private Design Fund III, L.P.(1)	$ 4,750,000	3,815,276	1,574,183
OrbiMed Private Investments IV, LP(2)	$ 4,710,775	3,783,770	586,741
AMXeraya Ltd.(3)	$ 4,000,000	3,212,864	1,246,004
Entities affiliated with Advent Life Sciences(4)	$ 1,802,461	1,447,765	—
Christoph Scharf, M.D.(5)	$ 120,163	96,516	—

(1) Dr. ElBardissi, a member of our board of directors, is a member of the private transaction team of Deerfield Management.
(2) Mr. Burgess is a venture partner at OrbiMed Advisors, and Dr. Bonita is a member of OrbiMed Advisors. Mr. Burgess is our President and Chief Executive officer and is a member of our board of directors. Dr. Bonita is a member of our board of directors.
(3) Mr. Puri, a member of our board of directors, is an investment partner at Xeraya Capital.
(4) Dr. Malik, a member of our board of directors, is a general partner of Advent Life Sciences.
(5) Dr. Scharf is a member of our board of directors and one of our co-founders.

2019 Convertible Notes

On May 20, 2019, we sold and issued $37.0 million in aggregate principal amount of convertible promissory notes, or the 2019 Convertible Notes. Purchasers of the 2019 Convertible Notes included venture capital funds that beneficially own more than 5% of our outstanding capital stock and/or are represented on our board of directors. The 2019 Convertible Notes accrued interest at a rate of 13% per annum. The 2019 Convertible Notes were subsequently automatically converted into an aggregate of 21,625,369 shares of our Series D convertible preferred stock at a price of $1.714 per share.

The following table presents the principal amount of 2019 Convertible Notes purchased and the number of shares of our Series D convertible preferred stock received on conversion of the 2019 Convertible Notes by related parties.

Investor	Principal Amount of 2019 Convertible Notes	Shares of Series D Convertible Preferred Stock
OrbiMed Private Investments IV, LP(1)	$ 20,000,000	11,689,391
Deerfield Private Design Fund III, L.P.(2)	$ 7,000,000	4,091,286
AMXeraya Ltd.(3)	$ 4,000,000	2,337,878
Entities affiliated with Advent Life Sciences(4)	$ 500,000	292,233

(1) Mr. Burgess is a venture partner at OrbiMed Advisors and Dr. Bonita is a member of OrbiMed Advisors. Mr. Burgess is our President and Chief Executive officer and is a member of our board of directors. Dr. Bonita is a member of our board of directors.
(2) Dr. ElBardissi, a member of our board of directors, is a member of the private transaction team of Deerfield Management.
(3) Mr. Puri, a member of our board of directors, is an investment partner at Xeraya Capital.
(4) Dr. Malik, a member of our board of directors, is a general partner of Advent Life Sciences.

2019 Warrants to Purchase Preferred Stock

In connection with our entry into the 2019 Credit Agreement (as defined below), each of OrbiMed Royalty Opportunities II, LP, or ORO II, and Deerfield Private Design Fund III, L.P. received a warrant to purchase up to 2,042,007 shares of our Series C convertible preferred stock at a price of $1.714 per share. Each of ORO II and Deerfield Private Design Fund III, L.P., together with their respective affiliates, are holders of 5% or more of our capital stock. These warrants were subsequently automatically converted into warrants to purchase an equal number of shares of our Series D convertible preferred stock at a price of $1.714 per share.

2019 Credit Agreement

On May 20, 2019, we entered into a credit agreement, or the 2019 Credit Agreement, between us, the lenders party thereto from time to time, ORO II as origination agent and Wilmington Trust, National Association as administrative agent. As of December 31, 2019, we had $40.0 million in aggregate principal amount of long-term debt outstanding under the 2019 Credit Agreement, and the lenders under the 2019 Credit Agreement were ORO II and Deerfield Private Design Fund III, L.P. Each of ORO II and Deerfield Private Design Fund III, L.P., together with their respective affiliates, are holders of 5% or more of our capital stock. Mr. Burgess is a venture partner at OrbiMed Advisors and Dr. Bonita is a member of OrbiMed Advisors. Mr. Burgess is our President and Chief Executive officer and is a member of our board of directors. Dr. Bonita is a member of our board of directors. Dr. ElBardissi, a member of our board of directors, is a member of the private transaction team of Deerfield Management.

Consulting Agreements

Vince Burgess

Prior to his appointment as our President and Chief Executive Officer, Mr. Burgess provided services to us as an outside consultant. For the years ended December 31, 2019, 2018 and 2017, we paid Mr. Burgess $0.4 million, $0.4 million and less than $0.1 million, respectively, for the consulting services.

Peter Elia

We are party to a consulting agreement with Elia Health Sciences, Inc., or the Elia Consulting Agreement. Mr. Elia, our Chief Strategy & Business Development Officer, is the Chief Executive Officer of Elia Health Sciences, Inc. Under the Elia Consulting Agreement, Elia Health Sciences, Inc. provides services as a market development consultant, including by engaging in peer-to-peer physician engagement, establishing national accounts and contracts, and providing guidance, strategic planning and implementation for site selection and planning. For the years ended December 31, 2019 and 2018, we paid Elia Health Sciences, Inc. a total of $0.3 million and $0.1 million, respectively, for services performed under the Elia Consulting Agreement.

Right of First Refusal

Pursuant to certain of our equity compensation plans and certain agreements with our stockholders, including an amended and restated first refusal and co-sale agreement dated June 12, 2019, we have a right to purchase shares of our capital stock that stockholders propose to sell to other parties. Since January 1, 2017, we have waived our right of first refusal in connection with the sale of certain shares of our capital stock by certain holders of more than 5% of our capital stock, resulting in the purchase of such shares by certain holders of more than 5% of our capital stock in a series of transactions. Our right of first refusal will terminate upon the completion of this offering.

Investors' Rights Agreement

In June 2019, in connection with our Series D convertible preferred stock financing, we entered into an amended and restated investors' rights agreement with certain holders of our convertible preferred stock, including entities with which certain of our directors are affiliated. Under our amended and restated investors' rights agreement, certain holders of our capital stock have the right to demand that we file a registration statement or request that their shares of our capital stock be covered by a registration statement that we are otherwise filing. See the section titled "Description of Capital Stock—Registration Rights" for additional information regarding these registration rights. The agreement also provides these holders pro rata participation rights and information rights, which will terminate upon completion of this offering.

Voting Agreement

We are party to an amended and restated voting agreement under which certain holders of our capital stock, including the holders of more than 5% of our outstanding capital stock, have agreed as to the manner in which they will vote their shares of our capital stock on certain matters, including with respect to the election of directors. Upon the completion of this offering, the amended and restated voting agreement will terminate, and none of our stockholders will have any special rights regarding the election or designation of members of our board of directors.

Indemnification Agreements

We have entered into indemnification agreements with each of our directors and executive officers. These agreements, among other things, require us to indemnify each director and executive officer to the fullest extent permitted by Delaware law, including indemnification of expenses such as attorneys' fees, judgments, penalties,

fines and settlement amounts incurred by the director or officer in any action or proceedings, including any action or proceeding by or in right of us, arising out of the person's service as a director or officer. Insofar as indemnification for liabilities arising under the Securities Act may be permitted to our directors, officers and controlling persons pursuant to the foregoing provisions, or otherwise, we have been advised that, in the opinion of the SEC, such indemnification is against public policy as expressed in the Securities Act, and is, therefore, unenforceable.

Equity Grants to Executive Officers and Directors

We have granted options and restricted stock units to our named executive officers and certain of our non-employee directors as more fully described in the sections titled "Director Compensation" and "Executive Compensation."

Policies and Procedures for Related Party Transactions

Our board of directors has approved a policy, effective immediately prior to the completion of this offering, that our executive officers, directors, nominees for election as a director, beneficial owners of more than 5% of any class of our common stock and any members of the immediate family of any of the foregoing persons are not permitted to enter into a related person transaction with us without the prior consent of our audit committee. Any request for us to enter into a transaction with an executive officer, director, nominee for election as a director, beneficial owner of more than 5% of any class of our common stock or any member of the immediate family of any of the foregoing persons in which the amount involved exceeds $120,000 and such person would have a direct or indirect interest must first be presented to our audit committee for review, consideration and approval. In approving or rejecting any such proposal, our audit committee is to consider the material facts of the transaction, including, but not limited to, whether the transaction is on terms no less favorable than terms generally available to an unaffiliated third party under the same or similar circumstances and the extent of the related person's interest in the transaction. We did not have a formal review and approval policy for related party transactions at the time of any of the transactions described above. However, all of the transactions described above were entered into after presentation, consideration and approval by our board of directors.

PRINCIPAL STOCKHOLDERS

The following table sets forth the beneficial ownership of our common stock as of December 31, 2019 by:

- each person, or group of affiliated persons, who is known by us to beneficially own more than 5% of our common stock;
- each of the named executive officers;
- each of our directors; and
- all of our current executive officers and directors as a group.

We have determined beneficial ownership in accordance with the rules of the SEC, and thus it represents sole or shared voting or investment power with respect to our securities. Unless otherwise indicated below, to our knowledge, the persons and entities named in the table have sole voting and sole investment power with respect to all shares that they beneficially owned, subject to community property laws where applicable. The information does not necessarily indicate beneficial ownership for any other purpose, including for purposes of Sections 13(d) and 13(g) of the Exchange Act.

We have based our calculation of the percentage of beneficial ownership prior to this offering on 164,101,086 shares of our common stock outstanding as of December 31, 2019, which includes 157,333,629 shares of our common stock resulting from the automatic conversion of all outstanding shares of our convertible preferred stock into our common stock immediately prior to the completion of this offering, as if this conversion had occurred as of December 31, 2019. We have based our calculation of the percentage of beneficial ownership after this offering on shares of our common stock outstanding immediately after the completion of this offering, assuming no exercise by the underwriters of their option to purchase additional shares. We have deemed shares of our common stock subject to stock options or warrants that are currently exercisable or exercisable within 60 days of December 31, 2019, to be outstanding and to be beneficially owned by the person holding the stock option for the purpose of computing the percentage ownership of that person. We did not deem these shares outstanding, however, for the purpose of computing the percentage ownership of any other person.

Unless otherwise indicated, the address of each beneficial owner listed in the table below is c/o Acutus Medical, Inc., 2210 Faraday Ave., Suite 100, Carlsbad, CA 92008.

Name of Beneficial Owner	Shares Beneficially Owned Prior to this Offering		Shares Beneficially Owned After this Offering	
	Shares	Percentage	Shares	Percentage
5% and Greater Stockholders:				
Entities affiliated with OrbiMed Advisors LLC(1)	52,466,129	31.4%		
Entities affiliated with Deerfield Management Company(2)	31,855,040	18.9%		
Advent Life Sciences Fund I LP(3)	15,725,229	9.6%		
AMXeraya Ltd.(4)	14,089,628	8.5%		
Revelation Alpine, LLC(5)	10,291,476	6.3%		
CVF 2018, LLC(6)	9,918,319	6.0%		
Named Executive Officers and Directors:				
Vince Burgess(7)	2,284,840	1.4%		
Gary W. Doherty(8)	525,515	*		
Steven McQuillan(9)	1,124,677	*		
R. Scott Huennekens	—	*		
David Bonita, M.D.(1)	52,466,129	31.4%		
Andrew ElBardissi, M.D.(2)	—	*		
Jim Hinrichs(10)	145,857	*		
Shahzad Malik, MB BChir(3)	15,725,229	9.6%		
Aditya Puri(4)	14,089,628	8.5%		
Christoph Scharf, M.D.	3,586,130	2.2%		
All executive officers and directors as a group (17 persons)(11)	92,292,860	52.9%		

* Represents ownership of less than 1%.

(1) Consists of: (i) 36,797,976 shares held by OrbiMed Private Investments IV, LP, or OPI IV; (ii) 12,434,260 shares held by OrbiMed Royalty Opportunities II, LP, or ORO II; (iii) 586,741 shares issuable to OPI IV pursuant to a warrant exercisable within 60 days of December 31, 2019; and (iv) 2,647,152 shares issuable to ORO II pursuant to a warrant exercisable within 60 days of December 31, 2019. OrbiMed Capital GP IV LLC, or GP IV, is the general partner of OPI IV. OrbiMed Advisors LLC, or OrbiMed Advisors, is the managing member of GP IV. OrbiMed ROF II LLC, or ROF II, is the general partner of ORO II and OrbiMed Advisors is the managing member of ROF II. By virtue of such relationships, GP IV, ROF II and OrbiMed Advisors may be deemed to have voting and investment power with respect to the shares held by OPI IV and ORO II and as a result may be deemed to have beneficial ownership of such shares. David Bonita, a member of OrbiMed Advisors, is a member of the Company's board of directors. OrbiMed Advisors exercises investment and voting power through a management committee comprised of Carl L. Gordon, Sven H. Borho, and Jonathan T. Silverstein. Each of GP IV, ROF II, OrbiMed Advisors, Carl L. Gordon, Sven H. Borho, Jonathan T. Silverstein and David Bonita disclaims beneficial ownership of the shares held by each of OPI IV and ORO II, except to the extent of its or his pecuniary interest therein if any. The address for OrbiMed Advisors is 601 Lexington Avenue, 54th floor, New York, New York 10022.

(2) Consists of: (i) 21,416,574 shares held by Deerfield Private Design Fund III, L.P.; (ii) 6,217,131 shares held by Deerfield Special Situations Fund, L.P.; (iii) 3,918,761 shares issuable to Deerfield Private Design Fund III, L.P. pursuant to warrants exercisable within 60 days of December 31, 2019; and (iv) 302,574 shares issuable to Deerfield Special Situations Fund, L.P. pursuant to warrants exercisable within 60 days of December 31, 2019. Deerfield Mgmt, L.P. is the general partner of Deerfield Special Situations Fund, L.P. Deerfield Mgmt III, L.P. is the general partner of Deerfield Private Design Fund III, L.P. (collectively with Deerfield Special Situations Fund, L.P., the Deerfield Funds). Deerfield Management Company, L.P. is the investment manager of each of the Deerfield Funds. Mr. James E. Flynn is the sole member of the general partner of each of Deerfield Mgmt, L.P. Deerfield Mgmt III, L.P. and Deerfield Management Company, L.P. Deerfield Mgmt, L.P. may be deemed to beneficially own the shares held by Deerfield Special Situations Fund, L.P. Deerfield Mgmt III, L.P. may be deemed to beneficially own the shares held by Deerfield Private Design III, L.P. Each of Deerfield Management Company, L.P. and Mr. James E. Flynn may be deemed to beneficially own the securities held by the Deerfield Funds. The address of the Deerfield Funds is 780 Third Avenue, 37th Floor, New York, NY 10017.

(3) Consists of: (i) 15,088,894 shares held by Advent Life Sciences Fund I LP; and (ii) 636,335 shares held by Advent Life Sciences LLP. Advent Life Sciences LLP is the manager of Advent Life Sciences Fund I LP and has voting and dispositive power over the shares held by Advent Life Sciences Fund I LP. Dr. Malik, who is a member of our board of directors, is a general partner of Advent Life Sciences LLP, and may be deemed to have voting and dispositive power over the shares held by Advent Life Sciences LLP. The mailing address of Advent Life Sciences LLP and Advent Life Sciences Fund I LP is 158-160 North Gower Street, London, United Kingdom NW1 2ND.

(4) Consists of: (i) 12,843,624 shares held by AMXeraya Ltd., or Xeraya; and (ii) 1,246,004 shares issuable to Xeraya pursuant to a warrant exercisable within 60 days of December 31, 2019. Pulau Manukan Ventures Labuan Ltd. is the holding company of Xeraya and may therefore be deemed to share beneficial ownership of the shares held by Xeraya. Aditya Puri, an Investment Partner at Xeraya Capital, is a member of the Company's board of directors. Fares Zahir, a director of Xeraya, has the voting and dispositive power with respect to the shares held by Xeraya. Each of Mr. Puri and Mr. Zahir disclaim beneficial ownership of the shares held by Xeraya. The principal address of Xeraya is Lot 26.03-26.08, Level 26, GTower, No. 199, Jalan Tun Razak, 50400, Kuala Lumpur, Malaysia.

(5) Consists of: (i) 10,027,751 shares held by Revelation Alpine, LLC and (ii) 263,725 shares issuable to Revelation Alpine, LLC pursuant to a warrant exercisable within 60 days of December 31, 2019. Revelation Alpine GP, LLC is the manager of Revelation Alpine, LLC. Revelation Alpine GP, LLC, through three managing members, composed of Scott Halsted, Zachary Scott, and Michael Boggs, has voting and dispositive authority over the shares held. Revelation Alpine, LLC, Revelation Alpine GP, LLC and each of the managing members disclaim beneficial ownership of the shares, except, in each case, to the extent of such person or entity's pecuniary interest therein. The address for each of these entities is 255 California Street, 12th Floor, San Francisco, CA 94111.

(6) Richard H. Robb, manager of CVF 2018, LLC, exercises voting and investment power with respect to the shares held by CVF 2018, LLC. The address of CVF 2018, LLC is 222 N. LaSalle Street, Suite 2000, Chicago, IL 60601.

(7) Consists of 2,284,840 shares underlying options exercisable within 60 days of December 31, 2019.

(8) Consists of 525,515 shares underlying options exercisable within 60 days of December 31, 2019.

(9) Consists of 1,124,677 shares underlying options exercisable within 60 days of December 31, 2019.

(10) Consists of shares held of record by Hinrichs Joint Revocable Trust DTD 9/20/2013.

(11) Includes: (i) 6,063,201 shares underlying options exercisable within 60 days of December 31, 2019; and (ii) 4,479,897 shares issuable pursuant to warrants exercisable within 60 days of December 31, 2019.

DESCRIPTION OF CAPITAL STOCK

The following summary describes our capital stock and the material provisions of our amended and restated certificate of incorporation and our amended and restated bylaws, which will become effective immediately prior to the completion of this offering, the amended and restated investors rights agreement to which we and certain of our stockholders are parties, and of the Delaware General Corporation Law, or DGCL. This summary does not purport to be complete and is qualified in its entirety by the provisions of our amended and restated certificate of incorporation, amended and restated bylaws and amended and restated investors rights agreement, copies of which have been filed as exhibits to the registration statement of which this prospectus is a part.

General

Upon the filing of our amended and restated certificate of incorporation to be effective immediately prior to the completion of this offering, our authorized capital stock will consist of shares of common stock, par value $0.001 per share, and shares of convertible preferred stock, par value $0.001 per share.

Immediately prior to the completion of this offering, all the outstanding shares of our convertible preferred stock will automatically convert into an aggregate of shares of our common stock.

Based on shares of common stock outstanding as of December 31, 2019, and after giving effect to the automatic conversion of all of our outstanding convertible preferred stock into an aggregate of shares of common stock immediately prior to the completion of this offering and the issuance of shares of common stock in this offering, there will be shares of common stock outstanding upon the closing of this offering. As of December 31, 2019, we had 111 stockholders of record. As of December 31, 2019, there were 19,850,309 shares of common stock subject to outstanding options.

Common Stock

Voting Rights

Each holder of our common stock is entitled to one vote for each share on all matters submitted to a vote of the stockholders, including the election of directors. Our stockholders do not have cumulative voting rights in the election of directors. Accordingly, holders of a majority of the voting shares are able to elect all of the directors.

Dividends

Subject to preferences that may be applicable to any then outstanding convertible preferred stock, holders of our common stock are entitled to receive dividends, if any, as may be declared from time to time by our board of directors out of legally available funds. We do not have any plans to pay dividends to our stockholders.

Liquidation

In the event of our liquidation, dissolution or winding up, holders of our common stock will be entitled to share ratably in the net assets legally available for distribution to stockholders after the payment of all of our debts and other liabilities and the satisfaction of any liquidation preference granted to the holders of any then outstanding shares of convertible preferred stock.

Rights and Preferences

Holders of our common stock have no preemptive, conversion, subscription or other rights, and there are no redemption or sinking fund provisions applicable to our common stock. The rights, preferences and privileges of the holders of our common stock are subject to and may be adversely affected by the rights of the holders of shares of any series of our convertible preferred stock that we may designate in the future.

Fully Paid and Nonassessable

All of our outstanding shares of common stock are, and the shares of common stock to be issued in this offering will be, fully paid and nonassessable.

Preferred Stock

Immediately prior to the completion of this offering, all outstanding shares of our convertible preferred stock will be automatically converted into shares of our common stock. Upon the completion of this offering, our board of directors will have the authority, without further action by our stockholders, to issue up to shares of preferred stock in one or more series and to fix the rights, preferences, privileges and restrictions thereof. These rights, preferences and privileges could include dividend rights, conversion rights, voting rights, rights and terms of redemption, liquidation preferences, sinking fund provisions and the number of shares constituting, or the designation of, such series, any or all of which may be greater than the rights of common stock. The issuance of our preferred stock could adversely affect the voting power of holders of common stock and the likelihood that such holders will receive dividend payments and payments upon our liquidation. In addition, the issuance of preferred stock could have the effect of delaying, deferring or preventing a change in control of our company or other corporate action. Immediately after completion of this offering, no shares of preferred stock will be outstanding, and we have no present plan to issue any shares of preferred stock.

Options

As of December 31, 2019, we had outstanding options to purchase an aggregate of 19,850,309 shares of our common stock, with a weighted-average exercise price of $0.98 per share.

Warrants

The following table sets forth information about outstanding warrants to purchase shares of our stock as of December 31, 2019.

Class of Stock Underlying Warrants	Number of Shares of Stock Exercisable Prior to this Offering	Number of Shares of Common Stock Underlying Warrants on an As-Converted Basis	Weighted-Average Exercise Price Per Share Prior to this Offering	Weighted-Average Exercise Price Per Share on an As-Converted Basis
Series D convertible preferred stock, par value $0.001 per share	4,346,557	4,346,557	$ 1.714	$ 1.714
Common stock, par value $0.001 per share	4,955,017	4,955,017	$ 0.018	$ 0.018
Total	9,301,574	9,301,574		

The warrants to purchase shares of our Series D convertible preferred stock (which will be automatically converted into warrants to purchase shares of our common stock immediately prior to the completion of this offering) will expire upon the earlier of the expiration date set forth in each warrant, which are various dates between July 2028 and May 2029, our acquisition or a sale of all or substantially all our assets.

The warrants to purchase shares of our common stock will expire upon the earlier of the expiration date set forth in each warrant, which are various dates between January 2025 and June 2028, our acquisition, or a sale of all or substantially all our assets.

Restricted Stock Units

As of December 31, 2019, we had 5,518,463 outstanding restricted stock units, which were subject to performance and time-based vesting conditions, of which units will vest upon the effectiveness of the registration statement of which this prospectus forms a part.

Registration Rights

After the completion of this offering, under our amended and restated investors' agreement, as amended, the holders of shares of common stock or their transferees have the right to require us to register the offer and sale of their shares, or to include their shares in any registration statement we file, in each case as described below.

Demand Registration Rights

After the completion of this offering, the holders of up to shares of our common stock will be entitled to certain demand registration rights. At any time beginning six months after the consummation of this offering, the holders of at least 50% of the shares having registration rights then outstanding can request that we file a registration statement to register the offer and sale of their shares. We are only obligated to effect up to two such registrations. Each such request for registration must cover securities the anticipated aggregate gross proceeds of which, before deducting underwriting discounts and expenses, is at least $20.0 million. These demand registration rights are subject to specified conditions and limitations, including the right of the underwriters to limit the number of shares included in any such registration under certain circumstances. If we determine that it would be materially detrimental to us and our stockholders to effect such a demand registration, we have the right to defer such registration, not more than twice in any twelve-month period, for a period of up to 90 days.

Form S-3 Registration Rights

After the completion of this offering, the holders of up to shares of our common stock will be entitled to certain Form S-3 registration rights. At any time when we are eligible to file a registration statement on Form S-3, the holders of the shares having these rights then outstanding can request that we register the offer and sale of their shares of our common stock on a registration statement on Form S-3 so long as the request covers securities the anticipated aggregate public offering price of which is at least $5.0 million. These stockholders may make an unlimited number of requests for registration on a registration statement on Form S-3. However, we will not be required to effect a registration on Form S-3 if we have effected two such registrations within the twelve-month period preceding the date of the request. These Form S-3 registration rights are subject to specified conditions and limitations, including the right of the underwriters to limit the number of shares included in any such registration under certain circumstances. Additionally, if we determine that it would be seriously detrimental to us and our stockholders to effect such a demand registration, we have the right to defer such registration, not more than twice in any twelve-month period, for a period of up to 90 days.

Piggyback Registration Rights

After the completion of this offering, the holders of up to shares of our common stock will be entitled to certain "piggyback" registration rights. If we propose to register the offer and sale of shares of our common stock under the Securities Act, all holders of these shares then outstanding can request that we include their shares in such registration, subject to certain marketing and other limitations, including the right of the underwriters to limit the number of shares included in any such registration under certain circumstances. As a result, whenever we propose to file a registration statement under the Securities Act, other than with respect to: (i) a registration related to any employee benefit plan or a corporate reorganization or other transaction covered by Rule 145 promulgated under the Securities Act; (ii) a registration relating to the offer and sale of debt

securities; (iii) a registration on any registration form that does not permit secondary sales; or (iv) a registration pursuant to the demand or Form S-3 registration rights described in the preceding two paragraphs above, the holders of these shares are entitled to notice of the registration and have the right, subject to certain limitations, to include their shares in the registration.

Expenses of Registration

We will pay all expenses relating to any demand registrations, Form S-3 registrations and piggyback registrations, subject to specified exceptions.

Termination

The registration rights terminate upon the earliest of: (i) the date that is three years after the completion of this offering; (ii) immediately prior to the closing of certain liquidation events; and (iii) as to a given holder of registration rights, the date after the completion of this offering when such holder of registration rights can sell all of such holder's registrable securities during any ninety-day period pursuant to Rule 144 promulgated under the Securities Act.

Anti-Takeover Effects of Provisions of Our Amended and Restated Certificate of Incorporation, Our Amended and Restated Bylaws and Delaware Law

Some provisions of Delaware law and our amended and restated certificate of incorporation and our amended and restated bylaws that will be in effect immediately prior to the completion of this offering contain provisions that could make the following transactions more difficult: acquisition of us by means of a tender offer; acquisition of us by means of a proxy contest or otherwise; or removal of our incumbent officers and directors. It is possible that these provisions could make it more difficult to accomplish or could deter transactions that stockholders may otherwise consider to be in their best interest or in our best interests, including transactions that might result in a premium over the market price for our shares.

These provisions, summarized below, are expected to discourage coercive takeover practices and inadequate takeover bids. These provisions are also designed to encourage persons seeking to acquire control of us to first negotiate with our board of directors. We believe that the benefits of increased protection of our potential ability to negotiate with the proponent of a non-friendly or unsolicited proposal to acquire or restructure us outweigh the disadvantages of discouraging these proposals because negotiation of these proposals could result in an improvement of their terms.

Preferred Stock

Our amended and restated certificate of incorporation will contain provisions that permit our board of directors to issue, without any further vote or action by the stockholders, shares of preferred stock in one or more series and, with respect to each such series, to fix the number of shares constituting the series and the designation of the series, the voting rights (if any) of the shares of the series and the powers, preferences or relative, participation, optional and other special rights, if any, and any qualifications, limitations or restrictions, of the shares of such series.

Classified Board

Our amended and restated certificate of incorporation will provide that our board of directors is divided into three classes, designated Class I, Class II and Class III. Each class will be an equal number of directors, as nearly as possible, consisting of one third of the total number of directors constituting the entire board of directors. The term of initial Class I directors shall terminate on the date of the 2021 annual meeting, the term of the initial Class II directors shall terminate on the date of the 2022 annual meeting, and the term of the initial Class III

directors shall terminate on the date of the 2023 annual meeting. At each annual meeting of stockholders beginning in 2021, successors to the class of directors whose term expires at that annual meeting will be elected for a three-year term.

Removal of Directors

Our amended and restated certificate of incorporation will provide that stockholders may only remove a director for cause by a vote of no less than a majority of the shares present in person or by proxy at the meeting and entitled to vote.

Director Vacancies

Our amended and restated certificate of incorporation will authorize only our board of directors to fill vacant directorships.

No Cumulative Voting

Our amended and restated certificate of incorporation will provide that stockholders do not have the right to cumulate votes in the election of directors.

Special Meetings of Stockholders

Our amended and restated certificate of incorporation and amended and restated bylaws will provide that, except as otherwise required by law, special meetings of the stockholders may be called only by an officer at the request of a majority of our board of directors, by the Chair of our board of directors or by our Chief Executive Officer.

Advance Notice Procedures for Director Nominations

Our bylaws will provide that stockholders seeking to nominate candidates for election as directors at an annual or special meeting of stockholders must provide timely notice thereof in writing. To be timely, a stockholder's notice generally will have to be delivered to and received at our principal executive offices before notice of the meeting is issued by the secretary of the company, with such notice being served not less than 90 nor more than 120 days before the meeting. Although the amended and restated bylaws will not give the board of directors the power to approve or disapprove stockholder nominations of candidates to be elected at an annual meeting, the amended and restated bylaws may have the effect of precluding the conduct of certain business at a meeting if the proper procedures are not followed or may discourage or deter a potential acquirer from conducting a solicitation of proxies to elect its own slate of directors or otherwise attempting to obtain control of the company.

Action by Written Consent

Our amended and restated certificate of incorporation and amended and restated bylaws will provide that any action to be taken by the stockholders must be effected at a duly called annual or special meeting of stockholders and may not be effected by written consent.

Amending our Certificate of Incorporation and Bylaws

Our amended and restated certificate of incorporation may be amended or altered in any manner provided by the DGCL. Our amended and restated bylaws may be adopted, amended, altered or repealed by stockholders only upon approval of at least majority of the voting power of all the then outstanding shares of the common stock, except for any amendment of the above provisions, which would require the approval of a two-thirds majority of our then outstanding common stock. Additionally, our amended and restated certificate of incorporation will provide that our bylaws may be amended, altered or repealed by the board of directors.

Authorized but Unissued Shares

Our authorized but unissued shares of common stock and preferred stock will be available for future issuances without stockholder approval, except as required by the listing standards of , and could be utilized for a variety of corporate purposes, including future offerings to raise additional capital, acquisitions and employee benefit plans. The existence of authorized but unissued and unreserved common stock and preferred stock could render more difficult or discourage an attempt to obtain control of the company by means of a proxy contest, tender offer, merger or otherwise.

Exclusive Jurisdiction

Our amended and restated certificate of incorporation will provide that, unless we consent to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall be the sole and exclusive forum for any derivative action or proceeding brought on our behalf, any action asserting a claim of breach of fiduciary duty, any action asserting a claim arising pursuant to the DGCL, any action regarding our amended and restated certificate of incorporation or our amended and restated bylaws, or any action asserting a claim against us that is governed by the internal affairs doctrine. Our amended and restated certificate of incorporation will provide further that the federal district courts of the United States of America will be the exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act.

Business Combinations with Interested Stockholders

We are governed by Section 203 of the DGCL. Subject to certain exceptions, Section 203 of the DGCL prohibits a public Delaware corporation from engaging in a business combination (as defined in such section) with an "interested stockholder" (defined generally as any person who beneficially owns 15% or more of the outstanding voting stock of such corporation or any person affiliated with such person) for a period of three years following the time that such stockholder became an interested stockholder, unless: (i) prior to such time the board of directors of such corporation approved either the business combination or the transaction that resulted in the stockholder becoming an interested stockholder; (ii) upon consummation of the transaction that resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of such corporation at the time the transaction commenced (excluding for purposes of determining the voting stock of such corporation outstanding (but not the outstanding voting stock owned by the interested stockholder) those shares owned (1) by persons who are directors and also officers of such corporation and (2) by 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 (iii) at or subsequent to such time the business combination is approved by the board of directors of such corporation and authorized at a meeting of stockholders (and not by written consent) by the affirmative vote of at least 66 2/3% of the outstanding voting stock of such corporation not owned by the interested stockholder.

Our amended and restated certificate of incorporation and our amended and restated bylaws will provide that we must indemnify our directors and officers to the fullest extent authorized by the DGCL. We are expressly authorized to, and do, carry directors' and officers' insurance providing coverage for our directors, officers and certain employees for some liabilities. We believe that these indemnification provisions and insurance are useful to attract and retain qualified directors and executive directors.

The limitation on liability and indemnification provisions in our certificate of incorporation and bylaws may discourage stockholders from bringing a lawsuit against directors for breach of their fiduciary duty. These provisions may also have the effect of reducing the likelihood of derivative litigation against directors and officers, even though such an action, if successful, might otherwise benefit us and our stockholders. In addition, your investment may be adversely affected to the extent we pay the costs of settlement and damage awards against directors and officers pursuant to these indemnification provisions.

Limitations on Liability and Indemnification Matters

For a discussion of liability and indemnification, see the section titled “Management—Limitation on Liability and Indemnification Matters.”

Exchange Listing

We intend to apply to list our common stock on under the symbol “ .”

Transfer Agent and Registrar

The transfer agent and registrar for our common stock is . The transfer agent and registrar’s address is .

SHARES ELIGIBLE FOR FUTURE SALE

Prior to the completion of this offering, there has been no public market for our common stock, and we cannot predict the effect, if any, that market sales of shares of our common stock or the availability of shares of our common stock for sale will have on the market price of our common stock prevailing from time to time. Future sales of our common stock in the public market, or the availability of such shares for sale in the public market, could adversely affect market prices prevailing from time to time. As described below, only a limited number of shares will be available for sale shortly after the completion of this offering due to contractual and legal restrictions on resale. Nevertheless, sales of our common stock in the public market after such restrictions lapse, or the perception that those sales may occur, could adversely affect the prevailing market price at such time and our ability to raise equity capital in the future.

Upon completion of this offering, based on the number of shares of our capital stock outstanding as of December 31, 2019, we will have a total of shares of common stock outstanding (including all shares of our convertible preferred stock on an as-converted basis). Of these outstanding shares, all the shares of common stock sold in this offering, plus any shares sold upon exercise of the underwriters' option to purchase additional shares, will be freely tradable, unless purchased by our affiliates.

The remaining outstanding shares of our common stock will be deemed "restricted securities" as defined in Rule 144. Restricted securities may be sold in the public market only if they are registered or if they qualify for an exemption from registration under Rule 144 or Rule 701 under the Securities Act, which rules are summarized below. In addition, holders of all or substantially all of our equity securities have entered into or will enter into lock-up agreements with the underwriters under which they have agreed, subject to specific exceptions, not to sell any of our stock for at least 180 days following the date of this prospectus, as described below. As a result of these agreements, based on the number of shares of our capital stock outstanding as of December 31, 2019, subject to the provisions of Rule 144 or Rule 701, these restricted securities will be available for sale in the public market as follows:

- beginning on the date of this prospectus, all shares of common stock sold in this offering will be immediately available for sale in the public market; and
- beginning 181 days after the date of this prospectus, additional shares of common stock will become eligible for sale in the public market, of which shares will be held by affiliates and will be subject to the volume and other restrictions of Rule 144, as described below.

Lock-Up Agreements

Our officers, directors and the holders of substantially all of our capital stock, options, warrants and restricted stock units have entered into or will enter into lock-up agreements with the underwriters, subject to certain exceptions, not to dispose of or hedge any of their common stock or securities convertible into or exchangeable for shares of common stock during the period from the date of this prospectus continuing through the date 180 days after the date of this prospectus, except with the prior consent of J.P. Morgan Securities LLC and BofA Securities, Inc. See the section titled "Underwriting" for additional information.

Rule 144

In general, under Rule 144 as currently in effect, once we have been subject to the public company reporting requirements of Section 13 or Section 15(d) of the Exchange Act for at least 90 days, a person who is not deemed to have been one of our affiliates for purposes of the Securities Act 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, including the holding period of any prior owner other than our affiliates, is entitled to sell those shares without complying with the manner of sale, volume limitation or notice provisions of Rule 144, subject to compliance with the public information requirements of Rule 144. If such a person has beneficially owned the shares proposed to be sold for

at least one year, including the holding period of any prior owner other than our affiliates, then that person would be entitled to sell those shares without complying with any of the requirements of Rule 144.

In general, under Rule 144, as currently in effect, and upon expiration of the lock-up agreements described above, our affiliates or persons selling shares on behalf of our affiliates are entitled to sell within 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 shares immediately after this offering, assuming no exercise of the underwriters' option to purchase additional shares; or
- the average weekly trading volume of our common stock during the four calendar weeks preceding the filing of a notice on Form 144 with respect to that sale,

provided, in each case, that we have been subject to the Exchange Act periodic reporting requirements for at least 90 days before the sale. Sales under Rule 144 by our affiliates or persons selling shares on behalf of our affiliates are also subject to certain manner of sale provisions and notice requirements and to the availability of current public information about us.

Rule 701

Rule 701 generally allows a stockholder who purchased shares of our common stock pursuant to a written compensatory plan or contract and who is not deemed to have been an affiliate of our company during the immediately preceding 90 days to sell these shares in reliance upon Rule 144, but without being required to comply with the public information, holding period, volume limitation or notice provisions of Rule 144. Rule 701 also permits affiliates of our company to sell their Rule 701 shares under Rule 144 without complying with the holding period requirements of Rule 144. All holders of Rule 701 shares, however, are required by that rule to wait until 90 days after the date of this prospectus before selling those shares pursuant to Rule 701.

Registration Rights

After the completion of this offering, the holders of up to shares of our common stock will be entitled to certain rights with respect to the registration of such shares under the Securities Act. The registration of these shares of our common stock under the Securities Act would result in these shares becoming eligible for sale in the public market without restriction under the Securities Act immediately upon the effectiveness of such registration, subject to the Rule 144 limitations applicable to affiliates. See the section titled "Description of Capital Stock—Registration Rights" for a description of these registration rights.

Stock and Option Plans

Following the completion of this offering, we intend to file a registration statement on Form S-8 under the Securities Act to register shares of our common stock issued or reserved for issuance under our 2020 Plan and 2020 ESPP. The registration statement on Form S-8 will become effective immediately upon filing, and shares covered by such registration statement will thereupon be eligible for sale in the public markets, subject to vesting restrictions, the lock-up agreements described above and Rule 144 limitations applicable to affiliates. See the section titled "Executive Compensation—Employee Benefit and Stock Plans" for additional information.

MATERIAL U.S. FEDERAL INCOME AND ESTATE TAX CONSEQUENCES FOR NON-U.S. HOLDERS OF OUR COMMON STOCK

The following are the material U.S. federal income and estate tax consequences of the ownership and disposition of our common stock acquired in this offering by a ''Non-U.S. Holder'' that does not own, and has not owned, actually or constructively, more than 5% of our common stock. You are a Non-U.S. Holder if for U.S. federal income tax purposes you are a beneficial owner of our common stock that is:

- a nonresident alien individual;
- a foreign corporation; or
- a foreign estate or trust.

You are not a Non-U.S. Holder if you are a nonresident alien individual present in the United States for 183 days or more in the taxable year of disposition, or if you are a former citizen or former resident of the United States for U.S. federal income tax purposes. If you are such a person, you should consult your tax adviser regarding the U.S. federal income tax consequences of the ownership and disposition of our common stock.

If you are a partnership (including an entity or arrangement treated as a partnership) for U.S. federal income tax purposes, the U.S. federal income tax treatment of a partner will generally depend on the status of the partner, your activities and certain determinations made at the partner level.

This discussion is based on the Internal Revenue Code of 1986, as amended to the date hereof (the ''Code''), administrative pronouncements, judicial decisions and final, temporary and proposed Treasury regulations, changes to any of which subsequent to the date of this prospectus may affect the tax consequences described herein, possibly with retroactive effect. 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 effect of the Medicare contribution tax on net investment income or the alternative minimum tax. In addition, it does not address consequences relevant to Non-U.S. Holders subject to special rules, including 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; 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; ''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; and persons subject to special tax accounting rules as a result of any item of gross income with respect to the stock being taken into account in an applicable financial statement.

This discussion does not address any tax consequences arising under the laws of any state, local or foreign jurisdiction. Prospective holders are urged to consult their tax advisers with respect to the particular tax consequences to them of owning and disposing of our common stock, including the consequences under the laws of any state, local or foreign jurisdiction.

Dividends

As discussed under ''Dividend Policy'' above, we do not currently expect to make distributions on our common stock. In the event that we do make distributions of cash or other property, those distributions generally 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. To the extent those distributions exceed our current and accumulated earnings and profits, they will constitute a return of capital, which will first reduce your basis in our common stock, but not below zero, and then will be treated as gain from the sale of our common stock, as described below under ‘‘—Gain on Disposition of Our Common Stock.’’

Dividends paid to you generally will be subject to U.S. federal withholding tax at a 30% rate or a reduced rate specified by an applicable income tax treaty. In order to obtain a reduced rate of withholding, you will be required to provide a properly executed Internal Revenue Service (‘‘IRS’’) Form W-8BEN or W-8BEN-E (or other applicable form) certifying your entitlement to benefits under a treaty.

If dividends paid to you are effectively connected with your conduct of a trade or business in the United States (and, if required by an applicable income tax treaty, are attributable to a permanent establishment or fixed base maintained by you in the United States), you will generally be taxed on the dividends in the same manner as a “United States Person” as defined under the code, or a U.S. person. In this case, you will be exempt from the withholding tax discussed in the preceding paragraph, although you will be required to provide a properly executed IRS Form W-8ECI in order to claim an exemption from withholding.

Instead, the effectively connected dividends will generally be subject to regular U.S. income tax as if you were a U.S. person. If, for U.S. federal income tax purposes, you are treated as a corporation, effectively connected dividends may also be subject to an additional ‘‘branch profits tax’’ imposed at a rate of 30% (or a lower treaty rate).

You should consult your tax adviser with respect to other U.S. tax consequences of the ownership and disposition of our common stock, including the possible imposition of a branch profits tax at a rate of 30% (or a lower treaty rate) if you are a corporation.

Gain on Disposition of Our Common Stock

Subject to the discussions below under ‘‘—Information Reporting and Backup Withholding’’ and ‘‘—FATCA,’’ you generally will not be subject to U.S. federal income or withholding tax on gain realized on a sale or other taxable disposition of our common stock unless:

- the gain is effectively connected with your conduct of a trade or business in the United States (and, if required by an applicable income tax treaty, is attributable to a permanent establishment or fixed base maintained by you in the United States); or
- we are or have been a ‘‘United States real property holding corporation,’’ as defined in the Code, at any time within the five-year period preceding the disposition or your holding period, whichever period is shorter, and our common stock has ceased to be regularly traded on an established securities market as defined by applicable Treasury regulations.

We will be a United States real property holding corporation at any time that the fair market value of our ‘‘United States real property interests,’’ as defined in the Code and applicable Treasury Regulations, equals or exceeds 50% of the aggregate fair market value of our worldwide real property interests and our other assets used or held for use in a trade or business (all as determined for U.S. federal income tax purposes). We believe that we are not, and do not anticipate becoming, a United States real property holding corporation.

If you recognize gain on a sale or other disposition of our common stock that is effectively connected with your conduct of a trade or business in the United States (and if required by an applicable income tax treaty, is attributable to a permanent establishment or fixed base maintained by you in the United States), you will generally be taxed on such gain in the same manner as a U.S. person. You should consult your tax adviser with respect to other U.S. tax consequences of the ownership and disposition of our common stock, including the possible imposition of a branch profits tax at a rate of 30% (or a lower treaty rate) if you are a corporation.

Information Reporting and Backup Withholding

Information returns are required to be filed with the IRS in connection with payments of dividends on our common stock. Unless you comply with certification procedures to establish that you are not a U.S. person, information returns may also be filed with the IRS in connection with the proceeds from a sale or other disposition of our common stock. You may be subject to backup withholding on payments on our common stock or on the proceeds from a sale or other disposition of our common stock unless you comply with certification procedures to establish that you are not a U.S. person or otherwise establish an exemption. Your provision of a properly executed applicable IRS Form W-8 certifying your non-U.S. status will permit you to avoid backup withholding. Amounts withheld under the backup withholding rules are not additional taxes and may be refunded or credited against your U.S. federal income tax liability, if any, provided the required information is timely furnished to the IRS.

FATCA

Provisions of the Code commonly referred to as ‘‘FATCA’’ require withholding of 30% on payments of dividends on our common stock and, subject to the discussion of proposed U.S. Treasury regulations below, of gross proceeds of dispositions of our common stock to ‘‘foreign financial institutions’’ (which is broadly defined for this purpose and in general includes investment vehicles) and certain other non-U.S. entities unless various U.S. information reporting and due diligence requirements (generally relating to ownership by U.S. persons of interests in or accounts with those entities) have been satisfied, or an exemption applies. An intergovernmental agreement between the United States and an applicable foreign country may modify these requirements. In addition, regulations proposed by the U.S. Treasury Department (the preamble to which indicates that taxpayers may rely on the regulations pending their finalization) would eliminate the requirement under FATCA of withholding on gross proceeds. If FATCA withholding is imposed, a beneficial owner that is not a foreign financial institution generally may obtain a refund of any amounts withheld by filing a U.S. federal income tax return (which may entail significant administrative burden). You should consult your tax adviser regarding the effects of FATCA on your investment in our common stock.

Federal Estate Tax

Individual Non-U.S. Holders (as specifically defined for U.S. federal estate tax purposes) and entities the property of which is potentially includible in such an individual’s gross estate for U.S. federal estate tax purposes (for example, a trust funded by such an individual and with respect to which the individual has retained certain interests or powers), should note that, absent an applicable treaty exemption, our common stock will be treated as U.S.-situs property subject to U.S. federal estate tax.

UNDERWRITING

We are offering the shares of common stock described in this prospectus through a number of underwriters. J.P. Morgan Securities LLC and BofA Securities, Inc. are acting as joint book-running managers of the offering and as representatives of the underwriters. We will enter into an underwriting agreement with the underwriters. Subject to the terms and conditions of the underwriting agreement, we will agree to sell to the underwriters, and each underwriter will severally agree to purchase, at the public offering price less the underwriting discounts and commissions set forth on the cover page of this prospectus, the number of shares of common stock listed next to its name in the following table:

Name	Number of Shares
J.P. Morgan Securities LLC	
BofA Securities, Inc.	
William Blair & Company, L.L.C.	
Canaccord Genuity LLC	
BTIG, LLC	
Total	

The underwriters will be committed to purchase all the shares of common stock offered by us if they purchase any shares. The underwriting agreement will also provide that if an underwriter defaults, the purchase commitments of non-defaulting underwriters may also be increased or the offering may be terminated.

The underwriters propose to offer the common stock directly to the public at the initial public offering price set forth on the cover page of this prospectus and to certain dealers at that price less a concession not in excess of $ per share. After the initial offering of the shares to the public, if all of the shares of common stock are not sold at the initial public offering price, the underwriters may change the offering price and the other selling terms. Sales of shares made outside of the United States may be made by affiliates of the underwriters.

The underwriters have an option to buy up to additional shares of common stock from us to cover sales of shares by the underwriters which exceed the number of shares specified in the table above. The underwriters have 30 days from the date of this prospectus to exercise this option to purchase additional shares. If any shares are purchased with this option to purchase additional shares, the underwriters will purchase shares in approximately the same proportion as shown in the table above. If any additional shares of common stock are purchased, the underwriters will offer the additional shares on the same terms as those on which the shares are being offered.

The underwriting fee is equal to the public offering price per share of common stock less the amount paid by the underwriters to us per share of common stock. The underwriting fee is $ per share. The following table shows the per share and total underwriting discounts and commissions to be paid to the underwriters assuming both no exercise and full exercise of the underwriters' option to purchase additional shares.

	Without Exercise of Option to Purchase Additional Shares	With Full Exercise of Option to Purchase Additional Shares
Per Share	$	$
Total	$	$

We estimate that the total expenses of this offering, including registration, filing and listing fees, printing fees and legal and accounting expenses, but excluding the underwriting discounts and commissions, will be approximately $. We have agreed to reimburse the underwriters for expenses relating to the clearance of this offering with the Financial Industry Regulatory Authority, Inc. in an amount up to $35,000.

A prospectus in electronic format may be made available on the web sites maintained by one or more underwriters, or selling group members, if any, participating in the offering. The underwriters may agree to allocate a number of shares to underwriters and selling group members for sale to their online brokerage account holders. Internet distributions will be allocated by the representatives to underwriters and selling group members that may make Internet distributions on the same basis as other allocations.

We have agreed that we will not, subject to certain exceptions, for a period of 180 days after the date of this prospectus: (i) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, hedge, lend, or otherwise transfer or dispose of, directly or indirectly, or submit to, or file with, the Securities and Exchange Commission a registration statement under the Securities Act relating to, any shares of our common stock or any securities convertible into or exercisable or exchangeable for our common stock, or publicly disclose the intention to undertake any of the foregoing; or (ii) enter into any swap, hedging, or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of our common stock or any such other securities, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of common stock or such other securities, in cash or otherwise, in each case without the prior written consent of J.P. Morgan Securities LLC and BofA Securities, Inc.

Our directors and executive officers, and substantially all of our securityholders have entered into lock-up agreements with the underwriters prior to the commencement of this offering pursuant to which each of these persons or entities, with limited exceptions, for a period of 180 days after the date of this prospectus, may not, without the prior written consent of J.P. Morgan Securities LLC and BofA Securities, Inc.: (i) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend, or otherwise transfer or dispose of, directly or indirectly, any shares of our common stock or any securities convertible into or exercisable or exchangeable for our common stock (including without limitation, common stock or such other securities which may be deemed to be beneficially owned by the securityholder in accordance with the rules and regulations of the Securities and Exchange Commission and securities which may be issued upon exercise of a stock option or warrant); or (ii) enter into any hedging, swap or other agreement or transaction that transfers, in whole or in part, any of the economic consequences of ownership of our common stock or such other securities, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of common stock or such other securities, in cash or otherwise; (iii) make any demand for or exercise any right with respect to the registration of any shares of our common stock or any security convertible into or exercisable or exchangeable for our common stock; or (iv) publicly disclose the intention to do any of the foregoing.

The restrictions described in the immediately preceding paragraph do not apply to, among other items:

(i) transfer shares of our common stock or any security convertible into or exercisable or exchangeable for our common stock:

(1) as a bona fide gift or gifts, or for bona fide estate planning purposes,

(2) by will, other testamentary document or intestacy,

(3) to any trust for the direct or indirect benefit of the signatory or the immediate family of the signatory, or if the signatory is a trust, to a trustor or beneficiary of the trust or to the estate of a beneficiary of such trust

(4) to a partnership, limited liability company or other entity of which the signatory and/or the signatory's immediate family are the legal and beneficial owner of all of the outstanding equity securities or similar interests,

(5) to a nominee or custodian of a person or entity to whom a disposition or transfer would be permissible under clauses (1) through (4) above,

(6) if the signatory is a corporation, partnership, limited liability company, trust or other business entity, to another corporation, partnership, limited liability company, trust or other business entity that is an affiliate of the signatory, or to any investment fund or other entity controlling, controlled by, managing or managed by or under common control with the signatory or affiliates of the signatory or as part of a distribution to members or shareholders of the signatory,

(7) by operation of law, such as pursuant to a qualified domestic order, divorce settlement, divorce decree, separation agreement or other similar court order, provided no public filing or announcement shall be made voluntarily during the 180-day lockup period in connection with such transfer or disposition,

(8) to the Company from an employee of the Company upon death, disability or termination of employment, in each case, of such employee, provided that such contractual arrangement is either pursuant to a stock incentive plan or other equity award plan described herein, and provided further that no public filing, report or announcement reporting a change in beneficial ownership shall be required or shall be voluntarily made within 60 days after the date the signatory ceases to provide services to the Company,

(9) as part of a sale of the signatory's common stock acquired in this offering (other than any Company-directed securities acquired in this offering by an officer or director of the Company or in open market transactions after the closing date for this offering,

(10) to the Company in connection with the vesting, settlement, or exercise of restricted stock units, options, warrants or other rights to purchase shares of our common stock (including, in each case, by way of "net" or "cashless" exercise), including for the payment of exercise price and tax and remittance payments due as a result of the vesting, settlement, or exercise of such restricted stock units, options, warrants or rights, provided that any such shares of common stock received upon such exercise, vesting or settlement shall be subject to the terms of a lock-up agreement, and provided further that any such restricted stock units, options, warrants or rights are held pursuant to an agreement or equity awards granted under any stock incentive plan or other equity award plan described herein, and provided further that no public filing, report or announcement reporting a change in beneficial ownership of shares of common stock shall be required or shall be voluntarily made during the 45 days after the date hereof, or

(11) pursuant to a bona fide third-party tender offer, merger, consolidation or other similar transaction that is approved by the board of directors of the Company and made to all holders of the Company's capital stock involving a transfer (whether by tender offer, merger, consolidation or other similar transaction), in one transaction or a series of related transactions, to a person or group of affiliated persons, of shares of capital stock of the Company if, after such transfer, such person or group of affiliated persons would hold more than 50% of the outstanding voting securities of the Company (or the surviving entity); provided that in the event that such tender offer, merger, consolidation or other similar transaction is not completed, the signatory's shares of common stock or any security convertible into or exercisable or exchangeable for our common stock shall remain subject to the lock-up agreement;

provided that (A) in the case of any transfer or distribution pursuant to clauses (i)(1), (2), (3), (4), (5), (6) and (7), such transfer shall not involve a disposition for value and each donee, devisee, transferee or distributee shall execute and deliver to the representatives a lock-up agreement substantially in the form of the above-described lock-up agreement and (B) in the case of any transfer or distribution pursuant to clauses (i)(1), (2), (3), (4), (5), (6) and (7), no filing by any party (donor, donee, devisee, transferor, transferee, distributer or distributee) under the Exchange Act, or other public announcement shall be required or shall be made voluntarily in connection with such transfer or distribution (other than a filing on a Form 5 made after the expiration of the 180-day lock-up period);

(ii) exercise (a) options to purchase shares of our common stock granted under any stock incentive plan or other equity award plan described herein or (b) warrants to acquire shares of our common stock or preferred stock described herein; provided the exercise is made on a cash basis (or in accordance with clause (i)(9)), and provided further that any shares of our common stock or securities convertible into or exercisable or exchangeable for our common stock received pursuant to clause (ii)(a) and (b) shall be subject to the terms of the lock-up agreement;

(iii) receive shares of our common stock upon the vesting or settlement of restricted stock units described herein pursuant to any stock incentive plan or other equity award plan described herein; provided that the payment of any tax and remittance payments due as a result of the vesting or settlement thereof is made on a cash basis or in accordance with paragraph (i)(9), and provided further that the underlying shares of common stock shall continue to be subject to the terms of the lock-up agreement;

(iv) convert outstanding convertible preferred stock, warrants to acquire convertible preferred stock or convertible securities into shares of our common stock or warrants to acquire shares of our common stock; provided that any such shares of common stock or warrants received upon such conversion shall be subject to the terms of the lock-up agreement; and

(v) establish trading plans pursuant to Rule 10b5-1 under the Exchange Act for the transfer of shares of our common stock; provided that (1) such plans do not provide for the transfer of common stock during the 180-day lock-up period and (2) no filing by any party under the Exchange Act or other public announcement shall be required or made voluntarily in connection with such trading plan.

The representatives, in their sole discretion, may release shares of our common stock and other securities subject to the lock-up agreements described above in whole or in part at any time. When determining whether or not to release shares of our common stock and other securities from lock-up agreements, the representatives will consider, among other factors, the holder's reasons for requesting the release, the number of shares for which the release is being requested and market conditions at the time of the request. In the event of such a release or waiver for one of our directors or officers, the representatives shall provide us with notice of the impending release or waiver at least three business days before the effective date of such release or waiver and we will announce the impending release or waiver by issuing a press release at least two business days before the effective date of the release or waiver.

We have agreed to indemnify the underwriters against certain liabilities, including liabilities under the Securities Act.

We intend to apply to list our shares of common stock on the under the trading symbol " ."

In connection with this offering, the underwriters may engage in stabilizing transactions, which involves making bids for, purchasing and selling shares of common stock in the open market for the purpose of preventing or retarding a decline in the market price of the common stock while this offering is in progress. These stabilizing transactions may include making short sales of the common stock, which involves the sale by the underwriters of a greater number of shares of common stock than they are required to purchase in this offering, and purchasing shares of common stock on the open market to cover positions created by short sales. Short sales may be "covered" shorts, which are short positions in an amount not greater than the underwriters' option to purchase additional shares referred to above, or may be "naked" shorts, which are short positions in excess of that amount. The underwriters may close out any covered short position either by exercising their option to purchase additional shares, in whole or in part, or by purchasing shares in the open market. In making this determination, the underwriters will consider, among other things, the price of shares available for purchase in the open market compared to the price at which the underwriters may purchase shares through the option to purchase additional shares. 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 the common stock in the open market that could adversely affect investors who purchase in this offering. To the extent that the underwriters create a naked short position, they will purchase shares in the open market to cover the position.

The underwriters have advised us that, pursuant to Regulation M of the Securities Act, they may also engage in other activities that stabilize, maintain or otherwise affect the price of the common stock, including the imposition of penalty bids. This means that if the representatives of the underwriters purchase common stock in the open market in stabilizing transactions or to cover short sales, the representatives can require the underwriters that sold those shares as part of this offering to repay the underwriting discount received by them.

These activities may have the effect of raising or maintaining the market price of the common stock or preventing or retarding a decline in the market price of the common stock, and, as a result, the price of the common stock may be higher than the price that otherwise might exist in the open market. If the underwriters commence these activities, they may discontinue them at any time. The underwriters may carry out these transactions on the , in the over-the-counter market or otherwise.

Prior to this offering, there has been no public market for our common stock. The initial public offering price will be determined by negotiations between us and the representatives of the underwriters. In determining the initial public offering price, we and the representatives of the underwriters expect to consider a number of factors including:

- the information set forth in this prospectus and otherwise available to the representatives;
- our prospects and the history and prospects for the industry in which we compete;
- an assessment of our management;
- our prospects for future earnings;
- the general condition of the securities markets at the time of this offering;
- the recent market prices of, and demand for, publicly traded common stock of generally comparable companies; and
- other factors deemed relevant by the underwriters and us.

Neither we nor the underwriters can assure investors that an active trading market will develop for shares of our common stock, or that the shares will trade in the public market at or above the initial public offering price.

Other Relationships

Certain of the underwriters and their affiliates have provided in the past to us and our affiliates and may provide from time to time in the future certain commercial banking, financial advisory, investment banking and other services for us and such affiliates in the ordinary course of their business, for which they have received and may continue to receive customary fees and commissions. In addition, from time to time, certain of the underwriters and their affiliates may effect transactions for their own account or the account of customers, and hold on behalf of themselves or their customers, long or short positions in our debt or equity securities or loans, and may do so in the future.

Selling Restrictions

Other than in the United States, no action has been taken by us or the underwriters that would permit a public offering of the securities offered by this prospectus in any jurisdiction where action for that purpose is required. The securities offered by this prospectus may not be offered or sold, directly or indirectly, nor may this prospectus or any other offering material or advertisements in connection with the offer and sale of any such

securities be distributed or published in any jurisdiction, except under circumstances that will result in compliance with the applicable rules and regulations of that jurisdiction. Persons into whose possession this prospectus comes are advised to inform themselves about and to observe any restrictions relating to the offering and the distribution of this prospectus. This prospectus does not constitute an offer to sell or a solicitation of an offer to buy any securities offered by this prospectus in any jurisdiction in which such an offer or a solicitation is unlawful.

Notice to Prospective Investors in the European Economic Area and the United Kingdom

In relation to each Member State of the European Economic Area and the United Kingdom (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 offers of shares may be made to the public in that Relevant State at any time under the following exemptions under the Prospectus Regulation:

(i) to any legal entity which is a qualified investor as defined under the Prospectus Regulation;

(ii) to fewer than 150 natural or legal persons (other than qualified investors as defined under the Prospectus Regulation), subject to obtaining the prior consent of the underwriters; or

(iii) in any other circumstances falling within Article 1(4) of the Prospectus Regulation,

provided that no such offer of shares shall require the Company or any underwriter to publish a prospectus pursuant to Article 3 of the Prospectus Regulation or supplement a prospectus pursuant to Article 23 of the Prospectus Regulation and each person who initially acquires any shares or to whom any offer is made will be deemed to have represented, acknowledged and agreed to and with each of the underwriters and the Company that it is a "qualified investor" within the meaning of Article 2(e) of the Prospectus Regulation. In the case of any shares being offered to a financial intermediary as that term is used in the Prospectus Regulation, each such financial intermediary will be deemed to have represented, acknowledged and agreed that the shares acquired by it in the offer have not been acquired on a non-discretionary basis on behalf of, nor have they been acquired with a view to their offer or resale to, persons in circumstances which may give rise to an offer of any shares to the public other than their offer or resale in a Relevant State to qualified investors as so defined or in circumstances in which the prior consent of the underwriters have been obtained to each such proposed offer or resale.

For the purposes of this provision, the expression an "offer to the public" in relation to 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.

Notice to Prospective Investors in the United Kingdom

In addition, in the United Kingdom, this document is being distributed only to, and is directed only at, and any offer subsequently made may only be directed at persons who are "qualified investors" (as defined in the Prospectus Regulation): (i) who have professional experience in matters relating to investments falling within Article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, as amended, or the Order; and/or (ii) who are high net worth companies (or persons to whom it may otherwise be lawfully communicated) falling within Article 49(2)(a) to (d) of the Order (all such persons together being referred to as "relevant persons") or otherwise in circumstances which have not resulted and will not result in an offer to the public of the shares in the United Kingdom within the meaning of the Financial Services and Markets Act 2000.

Any person in the United Kingdom that is not a relevant person should not act or rely on the information included in this document or use it as basis for taking any action. In the United Kingdom, any investment or investment activity that this document relates to may be made or taken exclusively by relevant persons.

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 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.

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 does not constitute a prospectus within the meaning of, and 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 FINMA (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 document relates to an Exempt Offer in accordance with the Markets Rules 2012 of the Dubai Financial Services Authority, or DFSA. This document is intended for distribution only to persons of a type specified in the Markets Rules 2012 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 supplement nor taken steps to verify the information set forth herein and has no responsibility for this document. The securities to which this document relates may be illiquid and/or subject to restrictions on their resale. Prospective purchasers of the securities offered should conduct their own due diligence on the securities. If you do not understand the contents of this document you should consult an authorized financial advisor.

In relation to its use in the DIFC, this document is strictly private and confidential and is being distributed to a limited number of investors and must not be provided to any person other than the original recipient, and may not be reproduced or used for any other purpose. The interests in the securities may not be offered or sold directly or indirectly to the public in the DIFC.

Notice to Prospective Investors in the United Arab Emirates

The shares have not been, and are not being, publicly offered, sold, promoted or advertised in the United Arab Emirates (including the Dubai International Financial Centre) other than in compliance with the laws of the United Arab Emirates (and the Dubai International Financial Centre) governing the issue, offering and sale of securities. Further, this prospectus does not constitute a public offer of securities in the United Arab Emirates (including the Dubai International Financial Centre) and is not intended to be a public offer. This prospectus has not been approved by or filed with the Central Bank of the United Arab Emirates, the Securities and Commodities Authority or the Dubai Financial Services Authority.

Notice to Prospective Investors in Australia

This prospectus:

- does not constitute a disclosure document or a prospectus under Chapter 6D.2 of the Corporations Act 2001 (Cth), or the Corporations Act;
- has not been, and will not be, lodged with the Australian Securities and Investments Commission, or ASIC, as a disclosure document for the purposes of the Corporations Act and does not purport to include the information required of a disclosure document for the purposes of the Corporations Act; and
- may only be provided in Australia to select investors who are able to demonstrate that they fall within one or more of the categories of investors, available under section 708 of the Corporations Act, or Exempt Investors.

The shares may not be directly or indirectly offered for subscription or purchased or sold, and no invitations to subscribe for or buy the shares may be issued, and no draft or definitive offering memorandum, advertisement or other offering material relating to any shares may be distributed in Australia, except where disclosure to investors is not required under Chapter 6D of the Corporations Act or is otherwise in compliance with all applicable Australian laws and regulations. By submitting an application for the shares, you represent and warrant to us that you are an Exempt Investor.

As any offer of shares under this document will be made without disclosure in Australia under Chapter 6D.2 of the Corporations Act, the offer of those securities for resale in Australia within 12 months may, under section 707 of the Corporations Act, require disclosure to investors under Chapter 6D.2 if none of the exemptions in section 708 applies to that resale. By applying for the shares you undertake to us that you will not, for a period of 12 months from the date of issue of the shares, offer, transfer, assign or otherwise alienate those shares to investors in Australia except in circumstances where disclosure to investors is not required under Chapter 6D.2 of the Corporations Act or where a compliant disclosure document is prepared and lodged with ASIC.

Notice to Prospective Investors in Japan

The shares have not been and will not be registered pursuant to Article 4, Paragraph 1 of the Financial Instruments and Exchange Act. Accordingly, none of the shares nor any interest therein may be offered or sold, directly or indirectly, in Japan or to, or for the benefit of, any “resident” of Japan (which term as used herein means any person resident in Japan, including any corporation or other entity organized under the laws of Japan), or to others for re-offering or resale, directly or indirectly, in Japan or to or for the benefit of a resident of Japan, except pursuant to an exemption from the registration requirements of, and otherwise in compliance with, the Financial Instruments and Exchange Act and any other applicable laws, regulations and ministerial guidelines of Japan in effect at the relevant time.

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 the Laws of Hong Kong), or the SFO, of Hong Kong and any rules made thereunder; or (ii) in other circumstances which do not result in the document being a "prospectus" as defined in the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) of Hong Kong, or the CO, or which do not constitute an offer to the public within the meaning of the CO. 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 SFO and any rules made thereunder.

Notice to Prospective Investors in Singapore

Each representative has acknowledged that this prospectus has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, each representative has represented and agreed that it has not offered or sold any shares or caused the shares to be made the subject of an invitation for subscription or purchase and will not offer or sell any shares or cause the shares to be made the subject of an invitation for subscription or purchase, and has not circulated or distributed, nor will it circulate or distribute, this prospectus or any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the shares, 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 the 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:

(i) 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

(ii) 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:

(1) 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;

(2) where no consideration is or will be given for the transfer;

(3) where the transfer is by operation of law;

(4) as specified in Section 276(7) of the SFA; or

(5) as specified in Regulation 37A of the Securities and Futures (Offers of Investments) (Securities and Securities-based Derivatives Contracts) Regulations 2018.

Singapore SFA Product Classification—In connection with Section 309B of the SFA and the CMP Regulations 2018, unless otherwise specified before an offer of the shares, the Company has determined, and

hereby notifies all relevant persons (as defined in Section 309A(1) of the SFA), that the shares are "prescribed capital markets products" (as defined in the CMP Regulations 2018) and Excluded Investment Products (as defined in MAS Notice SFA 04-N12: Notice on the Sale of Investment Products and MAS Notice FAA-N16: Notice on Recommendations on Investment Products).

Notice to Prospective Investors in Bermuda

Shares may be offered or sold in Bermuda only in compliance with the provisions of the Investment Business Act of 2003 of Bermuda which regulates the sale of securities in Bermuda. Additionally, non-Bermudian persons (including companies) may not carry on or engage in any trade or business in Bermuda unless such persons are permitted to do so under applicable Bermuda legislation.

Notice to Prospective Investors in Saudi Arabia

This document may not be distributed in the Kingdom of Saudi Arabia except to such persons as are permitted under the Offers of Securities Regulations as issued by the board of the Saudi Arabian Capital Market Authority, or CMA, pursuant to resolution number 2-11-2004 dated 4 October 2004 as amended by resolution number 1-28-2008, as amended. The CMA does not make any representation as to the accuracy or completeness of this document and expressly disclaims any liability whatsoever for any loss arising from, or incurred in reliance upon, any part of this document. Prospective purchasers of the securities offered hereby should conduct their own due diligence on the accuracy of the information relating to the securities. If you do not understand the contents of this document, you should consult an authorized financial adviser.

Notice to Prospective Investors in the British Virgin Islands

The shares are not being and may not be offered to the public or to any person in the British Virgin Islands for purchase or subscription by or on behalf of the Company. The shares may be offered to companies incorporated under the BVI Business Companies Act, 2004 (British Virgin Islands), or BVI Companies, but only where the offer will be made to, and received by, the relevant BVI Company entirely outside of the British Virgin Islands.

Notice to Prospective Investors in China

This prospectus will not be circulated or distributed in the PRC and the shares will not be offered or sold, and will not be offered or sold to any person for re-offering or resale directly or indirectly to any residents of the PRC except pursuant to any applicable laws and regulations of the PRC. Neither this prospectus nor any advertisement or other offering material may be distributed or published in the PRC, except under circumstances that will result in compliance with applicable laws and regulations.

Notice to Prospective Investors in Korea

The shares have not been and will not be registered under the Financial Investments Services and Capital Markets Act of Korea and the decrees and regulations thereunder, or the FSCMA, and the shares have been and will be offered in Korea as a private placement under the FSCMA. None of the shares may be offered, sold or delivered directly or indirectly, or offered or sold to any person for re-offering or resale, directly or indirectly, in Korea or to any resident of Korea except pursuant to the applicable laws and regulations of Korea, including the FSCMA and the Foreign Exchange Transaction Law of Korea and the decrees and regulations thereunder, or the FETL. The shares have not been listed on any of the securities exchanges in the world including, without limitation, the Korea Exchange in Korea. Furthermore, the purchaser of the shares shall comply with all applicable regulatory requirements (including but not limited to requirements under the FETL) in connection with the purchase of the shares. By the purchase of the shares, the relevant holder thereof will be deemed to represent and warrant that if it is in Korea or is a resident of Korea, it purchased the shares pursuant to the applicable laws and regulations of Korea.

Notice to Prospective Investors in Malaysia

No prospectus or other offering material or document in connection with the offer and sale of the shares has been or will be registered with the Securities Commission of Malaysia, or Commission, for the Commission's approval pursuant to the Capital Markets and Services Act 2007. Accordingly, this prospectus and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the shares may not be circulated or distributed, nor may the shares be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Malaysia other than: (i) a closed end fund approved by the Commission; (ii) a holder of a Capital Markets Services License; (iii) a person who acquires the shares, as principal, if the offer is on terms that the shares may only be acquired at a consideration of not less than RM250,000 (or its equivalent in foreign currencies) for each transaction; (iv) an individual whose total net personal assets or total net joint assets with his or her spouse exceeds RM3 million (or its equivalent in foreign currencies), excluding the value of the primary residence of the individual; (v) an individual who has a gross annual income exceeding RM300,000 (or its equivalent in foreign currencies) per annum in the preceding twelve months; (vi) an individual who, jointly with his or her spouse, has a gross annual income of RM400,000 (or its equivalent in foreign currencies), per annum in the preceding twelve months; (vii) a corporation with total net assets exceeding RM10 million (or its equivalent in a foreign currencies) based on the last audited accounts; (viii) a partnership with total net assets exceeding RM10 million (or its equivalent in foreign currencies); (ix) a bank licensee or insurance licensee as defined in the Labuan Financial Services and Securities Act 2010; (x) an Islamic bank licensee or takaful licensee as defined in the Labuan Financial Services and Securities Act 2010; and (xi) any other person as may be specified by the Commission; provided that, in the each of the preceding categories (i) to (xi), the distribution of the shares is made by a holder of a Capital Markets Services License who carries on the business of dealing in securities. The distribution in Malaysia of this prospectus is subject to Malaysian laws. This prospectus does not constitute and may not be used for the purpose of public offering or an issue, offer for subscription or purchase, invitation to subscribe for or purchase any securities requiring the registration of a prospectus with the Commission under the Capital Markets and Services Act 2007.

Notice to Prospective Investors in Taiwan

The shares have not been and will not be registered with the Financial Supervisory Commission of Taiwan pursuant to relevant securities laws and regulations and may not be sold, issued or offered within Taiwan through a public offering or in circumstances which constitutes an offer within the meaning of the Securities and Exchange Act of Taiwan that requires a registration or approval of the Financial Supervisory Commission of Taiwan. No person or entity in Taiwan has been authorized to offer, sell, give advice regarding or otherwise intermediate the offering and sale of the shares in Taiwan.

Notice to Prospective Investors in South Africa

Due to restrictions under the securities laws of South Africa, no "*offer to the public*" (as such term is defined in the South African Companies Act, No. 71 of 2008 (as amended or re-enacted), or the South African Companies Act) is being made in connection with the issue of the shares in South Africa. Accordingly, this document does not, nor is it intended to, constitute a "*registered prospectus*" (as that term is defined in the South African Companies Act) prepared and registered under the South African Companies Act and has not been approved by, and/or filed with, the South African Companies and Intellectual Property Commission or any other regulatory authority in South Africa. The shares are not offered, and the offer shall not be transferred, sold, renounced or delivered, in South Africa or to a person with an address in South Africa, unless one or other of the following exemptions stipulated in section 96 (1) applies:

Section 96 (1)(a)	the offer, transfer, sale, renunciation or delivery is to: (i) persons whose ordinary business, or part of whose ordinary business, is to deal in securities, as principal or agent; (ii) the South African Public Investment Corporation; (iii) persons or entities regulated by the Reserve Bank of South Africa; (iv) authorised financial service providers under South African law; (v) financial institutions recognised as such under South African law; (vi) a wholly-owned subsidiary of any person or entity contemplated in (iii), (iv) or (v), acting as agent in the capacity of an authorized portfolio manager for a pension fund, or as manager for a collective investment scheme (in each case duly registered as such under South African law); or (vii) any combination of the person in (i) to (vi); or
Section 96 (1)(b)	the total contemplated acquisition cost of the securities, for any single addressee acting as principal is equal to or greater than ZAR1,000,000 or such higher amount as may be promulgated by notice in the Government Gazette of South Africa pursuant to section 96(2)(a) of the South African Companies Act.

Information made available in this prospectus should not be considered as "advice" as defined in the South African Financial Advisory and Intermediary Services Act, 2002.

LEGAL MATTERS

Davis Polk & Wardwell LLP, Menlo Park, California will pass upon the validity of the shares of common stock offered by this prospectus. Cooley LLP, San Diego, California is acting as counsel for the underwriters.

EXPERTS

The consolidated financial statements of Acutus Medical, Inc. as of December 31, 2019 and 2018, and for each of the years in the two-year period ended December 31, 2019, have been included herein and in the registration statement in reliance upon the report of KPMG LLP, independent registered public accounting firm, appearing elsewhere herein, and upon the authority of said firm as experts in accounting and auditing. The audit report covering the December 31, 2019 and 2018 consolidated financial statements contains an explanatory paragraph that states that the Company has incurred operating losses since inception and expects to continue to incur significant operating losses for at least the next several years that raise substantial doubt about its ability to continue as a going concern. The consolidated financial statements do not include any adjustments that might result from the outcome of that uncertainty. The audit report covering the December 31, 2019 consolidated financial statements also refers to a change to the method of accounting for leases.

The consolidated financial statements of Rhythm Xience, Inc. as of December 31, 2018 and for the year then ended included in this prospectus have been so included in reliance on the report of Meuwissen, Flygare, Kadrlik & Associates, P.A., independent auditors, given upon 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 common stock offered by this prospectus. This prospectus, which constitutes a part of the registration statement, does not include all of the information contained in the registration statement, some of which is contained in exhibits to the registration statement as permitted by the rules and regulations of the SEC. You should refer to the registration statement and its exhibits for additional information. Whenever we make references in this prospectus to any of our contracts, agreements or other documents, such references are not necessarily complete and you should refer to the exhibits attached to the registration statement for copies of the actual contract, agreement or other document.

You can read our SEC filings, including the registration statement and its exhibits, at the SEC’s web site at www.sec.gov.

When we complete this offering, we will be subject to the information reporting requirements of the Exchange Act, and we will file annual, quarterly and special reports, proxy statements and other information with the SEC. These reports, proxy statements and other information will be available at the website of the SEC referred to above. We also maintain a website at www.acutusmedical.com where you may access these materials free of charge as soon as reasonably practicable after they are electronically filed with, or furnished to, the SEC. The information contained on, or that can be accessible through, our website is not a part of this prospectus and the inclusion of our website address in this prospectus is an inactive textual reference only.

INDEX TO FINANCIAL STATEMENTS

Acutus Medical, Inc. and Subsidiaries
Consolidated Financial Statements
for the years ended December 31, 2019 and 2018

Rhythm Xience, Inc.
Financial Statements
for the years ended December 31, 2018 and 2017

Rhythm Xience, Inc.
Financial Statements
for the three months ended March 31, 2019 and 2018

Unaudited Pro Forma Condensed Combined Financial Information

Report of Independent Registered Public Accounting Firm

To the Stockholders and Board of Directors
Acutus Medical, Inc.:

Opinion on the Consolidated Financial Statements

We have audited the accompanying consolidated balance sheets of Acutus Medical, Inc. and subsidiaries (the Company) as of December 31, 2019 and 2018, the related consolidated statements of operations and comprehensive loss, convertible preferred stock and stockholders' deficit, and cash flows for each of the years in the two-year period ended December 31, 2019, and the related notes (collectively, 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, 2019 and 2018, and the results of its operations and its cash flows for each of the years in the two-year period ended December 31, 2019, in conformity with U.S. generally accepted accounting principles.

Going Concern

The accompanying consolidated financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in Note 1 to the consolidated financial statements, the Company has incurred operating losses since inception and expects to continue to incur significant operating losses for at least the next several years that raise substantial doubt about its ability to continue as a going concern. Management's plans in regard to these matters are also described in Note 1. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

Change in Accounting Principle

As discussed in Note 2 to the consolidated financial statements, the Company has changed its method of accounting for leases as of January 1, 2019 due to the adoption of Accounting Standards Codification 842, *Leases*.

Basis for Opinion

These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these 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 in accordance with the standards of the PCAOB and in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit 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/ KPMG LLP

We have served as the Company's auditor since 2015.

San Diego, California
May 14, 2020

ACUTUS MEDICAL, INC. AND SUBSIDIARIES
Consolidated Balance Sheets
(in thousands, except share and per share amounts)

	December 31, 2019	December 31, 2018	Pro Forma December 31, 2019 (unaudited)
ASSETS:			
Current assets:			
Cash and cash equivalents	$ 9,452	$ 9,625	
Marketable securities	62,351	8,120	
Restricted cash	150	150	
Accounts receivable	263	164	
Inventory	8,424	3,003	
Prepaid expenses and other current assets	1,816	877	
Total current assets	82,456	21,939	
Property and equipment, net	4,427	3,922	
Operating lease right-of-use asset, net	2,341	—	
Intangible assets, net	4,110	—	
Goodwill	12,026	—	
Other assets	95	87	
Total assets	$ 105,455	$ 25,948	
LIABILITIES, CONVERTIBLE PREFERRED STOCK AND STOCKHOLDERS' DEFICIT			
Current liabilities:			
Accounts payable	$ 3,882	$ 1,597	
Accrued liabilities	10,076	5,149	
Contingent consideration, short-term	8,200	—	
Operating lease liabilities, short-term	833	—	
Common and preferred stock warrant liability	8,919	6,842	
Short-term debt	—	11,274	
Total current liabilities	31,910	24,862	
Operating lease liabilities, long-term	2,054	—	
Long-term debt	38,244	14,591	
Contingent consideration, long-term	5,700	—	
Total liabilities	77,908	39,453	
Commitments and contingencies (Note 11)			
Convertible preferred stock			
Series A convertible preferred stock, $0.001 par value; 3,848,696 and 6,490,577 shares authorized as of December 31, 2019 and 2018, respectively; 3,804,152 and 3,778,356 shares issued and outstanding as of December 31, 2019 and 2018, respectively; liquidation preference of $3,245 and $3,223 as of December 31, 2019 and 2018, respectively; no shares issued and outstanding as of December 31, 2019, pro forma (unaudited)	3,059	3,059	
Series B convertible preferred stock, $0.001 par value; 30,032,100 and 35,343,594 shares authorized as of December 31, 2019 and 2018, respectively; 30,032,100 shares issued and outstanding as of each of December 31, 2019 and 2018; liquidation preference of $41,294 as of each of December 31, 2019 and 2018; no shares issued and outstanding as of December 31, 2019, pro forma (unaudited)	40,685	40,685	
Series C convertible preferred stock, $0.001 par value; 48,184,000 and 43,800,000 shares authorized as of December 31, 2019 and 2018, respectively; 43,757,292 shares issued and outstanding as of each of December 31, 2019 and 2018; liquidation preference of $75,000 as of each of December 31, 2019 and 2018; no shares issued and outstanding as of December 31, 2019, pro forma (unaudited)	74,575	74,575	
Series D convertible preferred stock, $0.001 par value; 90,000,000 shares authorized as of December 31, 2019; 79,740,085 issued and outstanding as of December 31, 2019; none authorized, issued or outstanding as of December 31, 2018; liquidation preference of $136,675 as of December 31, 2019, no liquidation preference as of December 31, 2018; no shares issued and outstanding as of December 31, 2019, pro forma (unaudited)	135,039	—	
Stockholders' deficit			
Common stock, $0.001 par value; 220,000,000 and 111,508,000 shares authorized as of December 31, 2019 and 2018, respectively; 6,767,457 and 6,385,612 shares issued and outstanding as of December 31, 2019 and 2018, respectively; shares issued and outstanding as of December 31, 2019, pro forma (unaudited)	7	6	
Additional paid-in capital	33,246	30,145	
Accumulated deficit	(259,034)	(161,995)	
Accumulated other comprehensive (loss) income	(30)	20	
Total stockholders' deficit	(225,811)	(131,824)	
Total liabilities, convertible preferred stock and stockholders' deficit	$ 105,455	$ 25,948	$

The accompanying notes are an integral part of these consolidated financial statements.

ACUTUS MEDICAL, INC. AND SUBSIDIARIES
Consolidated Statements of Operations and Comprehensive Loss
(in thousands, except share and per share amounts)

	Year Ended December 31,	
	2019	2018
Revenue	$ 2,836	$ 2,166
Costs and operating expenses:		
Cost of products sold	9,243	7,510
Research and development	23,029	19,077
Research and development—license acquired	15,000	—
Selling, general and administrative	26,847	13,330
Impairment of property and equipment	786	—
Change in fair value of contingent consideration	500	—
Total costs and operating expenses	75,405	39,917
Loss from operations	(72,569)	(37,751)
Other income (expense):		
Change in fair value of warrant liability and embedded derivative	(1,919)	(4,298)
Loss on issuance of convertible notes and warrants	—	(924)
Loss on debt extinguishment	(1,447)	—
Interest income	1,164	297
Interest expense	(22,268)	(5,231)
Total other income (expense), net	(24,470)	(10,156)
Loss before income taxes	(97,039)	(47,907)
Income tax benefit	—	—
Net loss	$ (97,039)	$ (47,907)
Other comprehensive income (loss):		
Unrealized gain (loss) on marketable securities	46	(1)
Foreign currency translation adjustment	(96)	(43)
Comprehensive loss	$ (97,089)	$ (47,951)
Net loss per common share, basic and diluted	$ (14.85)	$ (9.03)
Weighted-average shares outstanding, basic and diluted	6,534,469	5,307,392
Pro forma net loss per common share, basic and diluted (unaudited)	$	
Pro forma weighted-average shares outstanding, basic and diluted (unaudited)		

The accompanying notes are an integral part of these consolidated financial statements.

ACUTUS MEDICAL, INC. AND SUBSIDIARIES
Consolidated Statements of Convertible Preferred Stock and Stockholders' Deficit
(in thousands, except share amounts)

	Series A Convertible Preferred Stock		Series B Convertible Preferred Stock		Series C Convertible Preferred Stock		Series D Convertible Preferred Stock		Common Stock		Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Income (Loss)	Total Stockholders' Deficit
	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount				
Balance as of December 31, 2017	**6,420,238**	**$ 5,270**	**35,343,594**	**$47,804**	**43,757,292**	**$74,575**	**—**	**$ —**	**3,872,569**	**$ 4**	**$ 4,691**	**$ (113,876)**	**$ 64**	**$ (109,11**
Cumulative-effect adjustment for adoption of ASU 2016-09	—	—	—	—	—	—	—	—	—	—	212	(212)	—	–
Unrealized loss on marketable securities	—	—	—	—	—	—	—	—	—	—	—	—	(1)	(
Foreign currency translation adjustment	—	—	—	—	—	—	—	—	—	—	—	—	(43)	(4
Conversion of preferred stock to common stock	(2,641,882)	(2,211)	(5,311,494)	(7,119)	—	—	—	—	1,590,668	2	9,328	—	—	9,33
2018 Convertible Notes—beneficial conversion feature	—	—	—	—	—	—	—	—	—	—	13,495	—	—	13,49
Stock-based compensation	—	—	—	—	—	—	—	—	—	—	2,071	—	—	2,07
Stock option exercises	—	—	—	—	—	—	—	—	922,375	—	348	—	—	34
Net loss	—	—	—	—	—	—	—	—	—	—	—	(47,907)	—	(47,90
Balance as of December 31, 2018	**3,778,356**	**$ 3,059**	**30,032,100**	**$40,685**	**43,757,292**	**$74,575**	**—**	**$ —**	**6,385,612**	**$ 6**	**$ 30,145**	**$ (161,995)**	**$ 20**	**$ (131,82**
Unrealized gain on marketable securities	—	—	—	—	—	—	—	—	—	—	—	—	46	4
Foreign currency translation adjustment	—	—	—	—	—	—	—	—	—	—	—	—	(96)	(9
Issuance of Series A preferred stock for cashless warrant exercise	25,796	—	—	—	—	—	—	—	—	—	—	—	—	–
Issuance of Series D convertible preferred stock for cash, net of issuance costs of $1,636	—	—	—	—	—	—	39,789,158	66,563	—	—	—	—	—	–
Issuance of Series D convertible preferred stock for 2018 Convertible Notes and 2019 Convertible Notes	—	—	—	—	—	—	39,950,927	68,476	—	—	—	—	—	–
Stock-based compensation	—	—	—	—	—	—	—	—	111,452	—	2,994	—	—	2,99
Stock option exercises	—	—	—	—	—	—	—	—	270,393	1	107	—	—	10
Net loss	—	—	—	—	—	—	—	—	—	—	—	(97,039)	—	(97,03
Balance as of December 31, 2019	**3,804,152**	**$ 3,059**	**30,032,100**	**$40,685**	**43,757,292**	**$74,575**	**79,740,085**	**$135,039**	**6,767,457**	**$ 7**	**$ 33,246**	**$ (259,034)**	**$ (30)**	**$ (225,81**

The accompanying notes are an integral part of these consolidated financial statements.

ACUTUS MEDICAL, INC. AND SUBSIDIARIES
Consolidated Statements of Cash Flows
(in thousands)

	Year Ended December 31,	
	2019	**2018**
Cash flows from operating activities		
Net loss	$ (97,039)	$(47,907)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation expense	2,280	2,121
Amortization of intangible assets	250	—
Stock-based compensation expense	2,994	2,071
Accretion of discounts on marketable securities, net of amortization of premiums	(153)	(99)
Amortization of debt issuance costs	17,579	3,316
Amortization of right-of-use assets	637	—
Research and development—license acquired	15,000	—
Loss on issuance of convertible notes and warrants	—	924
Loss on debt extinguishment	1,447	—
Change in fair value of warrant liability and embedded derivative	1,919	4,298
Impairment of property and equipment	786	—
Change in fair value of contingent consideration	500	—
Changes in operating assets and liabilities, net of effect from business combination:		
Accounts receivable	(96)	26
Inventory	(5,421)	523
Prepaid expenses and other current assets	(928)	(386)
Other assets	(8)	1
Accounts payable	2,111	18
Accrued liabilities	2,901	1,314
Lease liabilities	(745)	—
Net cash used in operating activities	(55,986)	(33,780)
Cash flows from investing activities		
Purchases of available-for-sale marketable securities	(68,735)	(14,304)
Maturities of available-for-sale marketable securities	14,700	11,600
Purchases of property and equipment	(3,395)	(2,038)
Purchase of research and development license	(10,000)	—
Cash paid, net of cash acquired for the Rhythm Xience Acquisition	(3,000)	—
Net cash used in investing activities	(70,430)	(4,742)
Cash flows from financing activities		
Proceeds from issuance of debt and warrants	77,000	37,815
Repayment of debt	(15,000)	(600)
Payments of issuance and extinguishment costs related to debt	(2,332)	(149)
Proceeds from issuance of convertible preferred stock, net of issuance costs	66,563	—
Proceeds from stock option exercises	108	348
Net cash provided by financing activities	126,339	37,414
Effect of exchange rate changes on cash, cash equivalents and restricted cash	(96)	(43)
Net change in cash, cash equivalents and restricted cash	(173)	(1,151)
Cash, cash equivalents and restricted cash, at the beginning of the period	9,775	10,926
Cash, cash equivalents and restricted cash, at the end of the period	**$ 9,602**	**$ 9,775**
Supplemental disclosure of cash flow information:		
Cash paid for income taxes	$ —	$ —
Cash paid for interest	$ 3,593	$ 493
Supplemental disclosure of noncash investing and financing activities:		
Issuance of Series D convertible preferred stock for 2018 Convertible Notes and 2019 Convertible Notes	$ 68,476	$ —
Accrued purchase of research and development—license	$ 5,000	$ —
Change in unrealized (gain) loss on marketable securities	$ (46)	$ 1
2018 Convertible Notes—beneficial conversion feature	$ —	$ 13,495
Right-of-use assets exchanged for operating lease liabilities	$ 2,978	$ —
Unpaid purchases of property, plant and equipment	$ 174	$ —

The accompanying notes are an integral part of these consolidated financial statements.

Acutus Medical, Inc. and Subsidiaries
Notes to Consolidated Financial Statements

Note 1—Organization and Description of Business

Acutus Medical, Inc. (the "Company") is an arrhythmia management company focused on improving the way cardiac arrhythmias are diagnosed and treated. The Company designs, manufactures and markets a complete set of tools for catheter-based ablation procedures to treat various arrhythmias. The Company's product portfolio includes novel access sheaths, transseptal crossing tools, diagnostic and mapping catheters, ablation catheters, mapping and imaging consoles and accessories, as well as supporting algorithms and software programs. The Company was incorporated in the state of Delaware on March 25, 2011, and is located in Carlsbad, California.

Going Concern, Liquidity and Capital Resources

The Company has limited revenue, has incurred operating losses since inception and expects to continue to incur significant operating losses for at least the next several years and may never become profitable. As of December 31, 2019 and 2018, the Company had an accumulated deficit of $259.0 million and $162.0 million, respectively, and working capital of $50.5 million and working capital deficit of $2.9 million, respectively. The Company has historically funded its operations primarily through the sale of debt and equity securities, as well as other indebtedness.

The Company evaluated whether there are any conditions and events, considered in the aggregate, that raise substantial doubt about its ability to continue as a going concern over the next twelve months through May 2021. The Company's cash requirements include, but are not limited to, investments in additional sales and marketing and product research and development resources, capital expenditures and working capital requirements. The Company has concluded that there is substantial doubt about its ability to continue as a going concern within one year after the date that the consolidated financial statements are issued.

Beginning in early March 2020, the COVID-19 pandemic and the measures imposed to contain this pandemic have disrupted and are expected to continue to impact the Company's business. The magnitude of the impact of the COVID-19 pandemic on the Company's productivity, results of operations and financial position, and its disruption to the Company's business and clinical programs and timelines, will depend, in part, on the length and severity of these restrictions and on the Company's ability to conduct business in the ordinary course.

The accompanying consolidated financial statements have been prepared assuming the Company will continue to operate as a going concern, which contemplates the realization of assets and settlement of liabilities in the normal course of business, and do not include any adjustments to reflect the possible future effects on the recoverability and classification of assets or the amounts and classifications of liabilities that may result from uncertainty related to its ability to continue as a going concern.

In order to proceed with the Company's business plan, the Company will need to raise substantial additional funds through one or more of the following: issuance of additional debt, equity or both. Until such time, if ever, the Company can generate revenue sufficient to achieve profitability, the Company expects to finance its operations through equity or debt financings, which may not be available to the Company on the timing needed or on terms that the Company deems to be favorable. To the extent that the Company raises additional capital through the sale of equity or convertible debt securities, the ownership interest of its stockholders will be diluted, and the terms of these securities may include liquidation or other preferences that adversely affect the rights of common stockholders. Debt financing and preferred equity financing, if available, may involve agreements that include covenants limiting or restricting the Company's ability to take specific actions, such as incurring additional debt, making acquisitions or capital expenditures or declaring dividends. If the Company is unable to maintain sufficient financial resources, its business, financial condition and results of operations will be materially and adversely affected. The Company may be required to delay, limit, reduce or terminate its product discovery and development activities or future commercialization efforts. There can be no assurance that the Company will be able to obtain the needed financing on acceptable terms or at all.

Acutus Medical, Inc. and Subsidiaries
Notes to Consolidated Financial Statements

In June and July 2019, the Company completed an equity financing pursuant to which the Company issued 79,740,085 shares of its Series D convertible preferred stock in a private placement (the "Series D Preferred Stock Issuance"). The Series D Preferred Stock Issuance was comprised of: (i) 39,789,158 shares at $1.714 per share for cash proceeds of $66.6 million, net of issuance costs of $1.6 million; and (ii) 39,950,927 shares at $1.3712 per share (including a 20% discount) for the conversion of the Company's convertible notes issued in 2018 (the "2018 Convertible Notes") and related accrued interest and $1.714 per share for the conversion of the Company's convertible notes issued in 2019 (the "2019 Convertible Notes") and related accrued interest, in an aggregate amount of $68.5 million, including the fair value of the embedded derivative of $6.3 million relating to the 20% discount for the conversion of the 2018 Convertible Notes.

Note 2—Summary of Significant Accounting Policies

Unaudited Pro Forma Financial Information

Immediately prior to the completion of an initial public offering ("IPO") of the Company's common stock, all outstanding shares of the Company's convertible preferred stock will automatically convert into shares of its common stock and all warrants to purchase shares of its convertible preferred stock will automatically convert into warrants to purchase shares of its common stock. Pro forma basic and diluted net loss per common share has been computed to give effect to the automatic conversion of all outstanding shares of the Company's convertible preferred stock and the automatic conversion of all of its outstanding warrants to purchase shares of its convertible preferred stock into warrants to purchase shares of its common stock. The unaudited pro forma net loss per common share for the year ended December 31, 2019 has been computed using the weighted-average number of shares of common stock outstanding, including the pro forma effect of the automatic conversion of all outstanding shares of the Company's convertible preferred stock into shares of its common stock and the automatic conversion of all of its outstanding warrants to purchase shares of its convertible preferred stock into warrants to purchase shares of its common stock, as if the IPO had occurred at the beginning of the period or their issuance dates, if later. The unaudited pro forma net loss per common share does not include the shares of common stock expected to be sold in, and related proceeds to be received from, the IPO.

Basis of Presentation

The consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP").

Principles of Consolidation

The consolidated financial statements include the accounts of Acutus Medical, Inc. and its wholly-owned subsidiaries Acutus Medical NV ("Acutus NV"), which was incorporated under the laws of Belgium in August 2013, and Rhythm Xience, Inc. ("Rhythm Xience"), which was acquired on June 18, 2019. All intercompany balances and transactions have been eliminated in consolidation.

Use of Estimates and Assumptions

The preparation of the consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, expenses and disclosures of contingent assets and liabilities. The most significant estimates and assumptions in the Company's consolidated financial statements include, but are not limited to, revenue recognition, useful lives of intangible assets, assessment of impairment of goodwill, provisions for income taxes, measurement of operating lease liabilities, and the fair value of common stock, stock options, warrants, embedded derivative in convertible

notes, intangible assets, contingent consideration and goodwill. These estimates and assumptions are based on current facts, historical experience and various other factors 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 and the recording of expenses that are not readily apparent from other sources. Actual results could differ from those estimates.

Segments

Operating segments are identified as components of an enterprise about which separate discrete financial information is available for evaluation by the chief operating decision maker in making decisions regarding resource allocation and assessing performance. The Company views its operations and manages its business in one operating segment.

Cash and Cash Equivalents and Restricted Cash

The Company considers all highly liquid investments with maturities of three months or less when purchased to be cash equivalents. All of the Company's cash equivalents have liquid markets and high credit ratings. The Company maintains its cash in bank deposits and other accounts, the balances of which, at times and as of December 31, 2019 and 2018, exceeded federally insured limits.

Restricted cash serves as collateral for the Company's corporate credit card program. The following table reconciles cash and restricted cash in the consolidated balance sheets to the totals shown on the consolidated statements of cash flows (in thousands).

	December 31,	
	2019	2018
Cash and cash equivalents	$9,452	$9,625
Restricted cash	150	150
Total cash, cash equivalents and restricted cash	$9,602	$9,775

Marketable Securities

The Company considers its debt securities to be available-for-sale securities. Available-for-sale securities are classified as cash equivalents, short-term or long-term based on the maturity date at time of purchase and their availability to meet current operating requirements. Marketable securities that mature in three months or less from the date of purchase are classified as cash equivalents. Marketable securities, excluding cash equivalents, that mature in one year or less are classified as short-term available-for-sale securities and are reported as a component of current assets.

Securities that are classified as available-for-sale are measured at fair value with temporary unrealized gains and losses reported in other comprehensive loss, and as a component of stockholders' deficit until their disposition or maturity. See "Fair Value Measurements" below. The Company reviews all available-for-sale securities at each period end to determine if they remain available-for-sale based on the Company's current intent and ability to sell the security if it is required to do so. Realized gains and losses from the sale of marketable securities, if any, are calculated using the specific-identification method.

Marketable securities are subject to a periodic impairment review. The Company may recognize an impairment charge when a decline in the fair value of investments below the cost basis is determined to be other-

than-temporary. In determining whether a decline in market value is other-than-temporary, various factors are considered, including the cause, duration of time and severity of the impairment, any adverse changes in the investees' financial condition and the Company's intent and ability to hold the security for a period of time sufficient to allow for an anticipated recovery in market value. Declines in value judged to be other-than-temporary are included in the Company's consolidated statements of operations and comprehensive loss. There were no marketable securities deemed to be impaired as of December 31, 2019 or 2018.

Concentrations of Credit Risk and Off-Balance Sheet Risk

Financial instruments that potentially subject the Company to credit risk consist principally of cash, cash equivalents, restricted cash, accounts receivable and marketable securities. Cash and restricted cash are maintained in accounts with financial institutions, which, at times may exceed the Federal depository insurance coverage of $0.25 million. The Company has not experienced losses on these accounts and management believes, based upon the quality of the financial institutions, that the credit risk with regard to these deposits is not significant. The Company's marketable securities portfolio consists primarily of investments in money market funds, commercial paper and short-term high credit quality corporate debt securities.

Revenue from Contracts with Customers

The Company accounts for revenue earned from contracts with customers under Accounting Standards Codification ("ASC") 606, *Revenue from Contracts with Customers* ("ASC 606"). The core principle of the revenue standard is that a company should recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the company expects to be entitled in exchange for those goods or services. The following five steps are applied to achieve that core principle:

- Step 1: Identify the contract with the customer.
- Step 2: Identify the performance obligations in the contract.
- Step 3: Determine the transaction price.
- Step 4: Allocate the transaction price to the performance obligations in the contract.
- Step 5: Recognize revenue when, or as, the company satisfies a performance obligation.

The Company places its medical diagnostic equipment, AcQMap System, at customer sites under loan agreements and generates revenue from disposable products used with the AcQMap System. Disposable products include AcQMap Catheters and AcQGuide Steerable Sheaths. The Company provides the disposable products in exchange for consideration, which occurs when a customer submits a purchase order and the Company provides disposables at the agreed upon prices in the invoice. Generally, customers purchase disposable products using separate purchase orders after the equipment has been provided to the customer for free with no binding agreement or requirement to purchase any disposable products. The Company has elected the practical expedient and accounting policy election to account for the shipping and handling as activities to fulfill the promise to transfer the disposable products and not as a separate performance obligation. The following table sets forth the Company's revenue for disposables and systems/service for the years ended December 31, 2019 and 2018 (in thousands):

	Year Ended December 31,	
	2019	2018
Disposables	$ 2,817	$ 2,160
Systems/service	19	6
Total revenue	$ 2,836	$ 2,166

Acutus Medical, Inc. and Subsidiaries
Notes to Consolidated Financial Statements

Systems/service revenue for 2019 and 2018 was comprised solely of revenue from service agreements with the Company's customers, as the AcQMap systems were loaned to customers in 2019 and 2018 without charge.

The Company's contracts for disposable products only include fixed consideration. There are no discounts, rebates, returns or other forms of variable consideration. Customers are generally required to pay within 30 to 60 days.

The delivery of disposable products are performance obligations satisfied at a point in time. The disposable products are shipped Free on Board ("FOB") shipping point or FOB destination. For disposable products that are shipped FOB shipping point, the customer has the significant risks and rewards of ownership and legal title to the assets when the disposable products leave the Company's shipping facilities, thus the customer obtains control and revenue is recognized at that point in time. Revenue is recognized on delivery for disposable products shipped via FOB destination.

The Company's contracts with customers generally have an expected duration of one year or less, and therefore the Company has elected the practical expedient in ASC 606 to not disclose information about its remaining performance obligations. Any incremental costs to obtain contracts are recorded as selling, general and administrative expense as incurred due to the short duration of the Company's contracts. The Company's contract balances consisted solely of accounts receivable as of December 31, 2019 and 2018.

The following table provides revenue by geographic location for the years ended December 31, 2019 and 2018 (in thousands):

	Year Ended December 31,	
	2019	2018
United States	$ 738	$ 461
Europe	2,098	1,705
Total revenue	$2,836	$2,166

Inventory

Inventory is comprised of raw materials, direct labor and manufacturing overhead and is stated at the lower of cost (first-in, first-out basis) or net realizable value. For the years ended December 31, 2019 and 2018, the Company recorded a write-down of $0.7 million and $0.1 million, respectively, for excess and obsolete inventory based on management's review of inventories on hand, compared to estimated future usage and sales, shelf-life and assumptions about the likelihood of obsolescence.

Accounts Receivable

Trade accounts receivable are recorded net of allowances for uncollectible accounts. The Company evaluates the collectability of its accounts receivable based on various factors including historical experience, the length of time the receivables are past due and the financial health of the customer. The Company reserves specific receivables if collectability is no longer reasonably assured. Based upon the assessment of these factors, the Company did not record an allowance for uncollectible accounts as of December 31, 2019 or 2018.

Property and Equipment, Net

Property and equipment are recorded at cost. Depreciation and amortization are provided using the straight-line method over the estimated useful lives of the related assets, generally three to five years, or, in the case of leasehold improvements, over the lesser of the useful life of the related asset or the lease term.

Acutus Medical, Inc. and Subsidiaries
Notes to Consolidated Financial Statements

Intangible Assets

Intangible assets consist of acquired developed technology, acquired in-process technology, trademarks and trade names and a customer-related intangible which were acquired as part of the acquisition of Rhythm Xience in June 2019. The Company determines the appropriate useful life of its finite-lived intangible assets by performing an analysis of expected cash flows of the acquired assets. Finite-lived intangible assets are amortized over their estimated useful lives using the straight-line method, which approximates the pattern in which the economic benefits are consumed. Acquired in-process technology is currently an indefinite-lived intangible asset, and will be classified as such until completion or abandonment of the associated research and development efforts. If the research and development efforts are completed, amortization for in-process technology will begin upon the approval of the technology. Indefinite-lived intangible assets are tested for impairment at least annually and are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Indefinite-lived intangible assets are impaired if their estimated fair values are less than their carrying value.

Goodwill

Goodwill represents the excess of the purchase price of an entity over the estimated fair value of the assets acquired and liabilities assumed, and it is presented as goodwill in the accompanying consolidated balance sheets. Under ASC 350, *Intangibles – Goodwill and Other* ("ASC 350"), goodwill is not amortized but is subject to periodic impairment testing. ASC 350 requires that an entity assign its goodwill to reporting units and test each reporting unit's goodwill for impairment at least on an annual basis and between annual tests if an event occurs or circumstances change that would more likely than not reduce the fair value of a reporting unit below its carrying amount. In the evaluation of goodwill for impairment, which is performed annually during the fourth quarter, the Company first assesses qualitative factors to determine whether the existence of events or circumstances led to a determination that it was more likely than not that the fair value of a reporting unit is less than its carrying amount. If, after assessing the totality of events or circumstances, it is determined that it is more likely than not that the fair value of a reporting unit is less than its carrying amount, the Company is required to perform the quantitative goodwill impairment test. The Company has one reporting unit. For the year ended December 31, 2019, the qualitative testing did not indicate any impairment for the carrying amount of goodwill.

Impairment of Long-Lived Assets

The Company reviews long-lived assets, including property and equipment and finite-lived intangible assets, for impairment whenever events or changes in business circumstances indicate that the carrying amount of the assets may not be fully recoverable. An impairment loss is recognized when the asset's carrying value exceeds the total undiscounted cash flows expected from its use and eventual disposition. The amount of the impairment loss is determined as the excess of the carrying value of the asset over its fair value. For the year ended December 31, 2019, the Company recorded a $0.8 million impairment of its property and equipment resulting from the release of a second generation of the Company's AcQMap System. For the year ended December 31, 2019, the Company did not have an impairment of the intangible assets. The Company determined that there was no impairment of property and equipment for the year ended December 31, 2018.

Foreign Currency Translation and Transactions

The assets, liabilities and results of operations of Acutus NV are measured using their functional currency, the Euro, which is the currency of the primary foreign economic environment in which this subsidiary operates. Upon consolidating this entity with the Company, its assets and liabilities are translated to U.S. dollars at currency exchange rates as of the balance sheet date and its revenues and expenses are translated at the weighted-

average currency exchange rates during the applicable reporting periods. Translation adjustments resulting from the process of translating this entity's financial statements are reported in accumulated other comprehensive (loss) income in the consolidated balance sheets and foreign currency translation adjustment in the consolidated statements of operations and comprehensive loss.

Leases

Effective January 1, 2019, the Company accounts for its leases under ASC 842, *Leases* ("ASC 842"). Under this guidance, arrangements meeting the definition of a lease are classified as operating or financing leases, and are recorded on the consolidated balance sheet as both a right-of-use asset and a lease liability, calculated by discounting fixed lease payments over the lease term at the rate implicit in the lease or the Company's incremental borrowing rate. Lease liabilities are increased by interest and reduced by payments each period, and the right-of-use asset is amortized over the lease term. For operating leases, interest on the lease liability and the amortization of the right-of-use asset results in straight-line rent expense over the lease term. Variable lease expenses are recorded when incurred.

In calculating the right-of-use asset and lease liability, the Company elects to combine lease and non-lease components. The Company excludes short-term leases having initial terms of 12 months or less from the new guidance as an accounting policy election.

The Company accounted for leases prior to January 1, 2019 under ASC 840, *Leases*. For the year ended December 31, 2018, the Company recognized lease incentives and rent escalations included in the base price of the rent payments in the Company's operating leases on a straight-line basis over the lease term. Deferred rent is included in accrued liabilities in the accompanying consolidated balance sheet for the year ended December 31, 2018.

Cost of Products Sold

Cost of products sold includes raw materials, direct labor, manufacturing overhead, shipping and receiving costs and other less significant indirect costs related to the production of the Company's products.

Research and Development

The Company is actively engaged in new product research and development efforts. Research and development expenses consist primarily of salaries and employee-related costs (including stock-based compensation) for personnel directly engaged in research and development activities, clinical trial expenses, equipment costs, material costs, allocated rent and facilities costs and depreciation. Research and development expenses also include payments for the asset acquisition from Biotronik SE & Co. KG and VascoMed GmbH (collectively, the "Biotronik Parties") for certain licenses of patents, technology, know-how rights and equipment (the "Biotronik Asset Acquisition").

Research and development expenses relating to possible future products are expensed as incurred. The Company also accrues and expenses costs for activities associated with clinical trials performed by third parties as incurred. All other costs relative to setting up clinical trial sites are expensed as incurred. Clinical trial site costs related to patient enrollment are accrued as patients are entered into the trials.

Selling, General and Administrative

Selling, general and administrative ("SG&A") expenses consist primarily of salaries and employee-related costs (including stock-based compensation) for personnel in sales, executive, finance and other administrative

functions, allocated rent and facilities costs, legal fees relating to intellectual property and corporate matters, professional fees for accounting and consulting services, marketing costs and insurance costs. The Company expenses all SG&A costs as incurred.

Fair Value Measurements

Fair value measurements are based on the premise that 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 liability. As a basis for considering such assumptions, the following three-tier fair value hierarchy has been used in determining the inputs used in measuring fair value:

Level 1—Quoted prices in active markets for identical assets or liabilities.

Level 2—Observable inputs other than Level 1 prices for similar assets or liabilities that are directly or indirectly observable in the marketplace.

Level 3—Unobservable inputs which are supported by little or no market activity and that are financial instruments whose values are determined using pricing models, discounted cash flow methodologies or similar techniques, as well as instruments for which the determination of fair value requires significant judgment or estimation.

Financial instruments measured at fair value are classified in their entirety based on the lowest level of input that is significant to the fair value measurement. Management's assessment of the significance of a particular input to the fair value measurement in its entirety requires judgment and considers factors specific to the asset or liability. The use of different assumptions and/or estimation methodologies may have a material effect on estimated fair values. Accordingly, the fair value estimates disclosed or initial amounts recorded may not be indicative of the amount that the Company or holders of the instruments could realize in a current market exchange. There were no transfers made among the three levels in the fair value hierarchy for the years ended December 31, 2019 and 2018.

As of December 31, 2019 and 2018, the Company's cash (excluding cash equivalents which are recorded at fair value on a recurring basis), restricted cash, accounts receivable, accounts payable and accrued expenses were carried at cost, which approximates the fair values due to the short-term nature of the instruments.

The carrying amount of the Company's long-term debt approximates fair value due to its variable market interest rate and management's opinion that current rates and terms that would be available to the Company with the same maturity and security structure would be essentially equivalent to that of the Company's long-term debt. Certain features of the convertible notes were determined to be an embedded derivative requiring separate measurement from the loan host instrument.

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The following tables classify the Company's financial assets and liabilities measured at fair value on a recurring basis into the fair value hierarchy as of December 31, 2019 and 2018 (in thousands):

	Fair Value Measured as of December 31, 2019			
	Quoted Prices in Active Markets for Identical Assets or Liabilities (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Fair Value as of December 31, 2019
Assets included in:				
Cash and cash equivalents				
Money market securities	$ 8,901	$ —	$ —	$ 8,901
Investments available-for-sale at fair value				
Corporate debt securities	—	28,224	—	28,224
Asset-backed securities	—	17,121	—	17,121
U.S. treasury securities	—	5,032	—	5,032
Commercial paper	—	11,974	—	11,974
Total fair value	$ 8,901	$ 62,351	$ —	$ 71,252
Liabilities included in:				
Contingent consideration	$ —	$ —	$ 13,900	$ 13,900
Common and preferred stock warrant liability	—	—	8,919	8,919
Total fair value	$ —	$ —	$ 22,819	$ 22,819

	Fair Value Measured as of December 31, 2018			
	Quoted Prices in Active Markets for Identical Assets or Liabilities (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Fair Value as of December 31, 2018
Assets included in:				
Cash and cash equivalents				
Money market securities	$ 5,529	$ —	$ —	$ 5,529
Commercial paper	—	1,694	—	1,694
Investments available-for-sale at fair value				
Corporate debt securities	—	2,730	—	2,730
Commercial paper		5,390	—	5,390
Total fair value	$ 5,529	$ 9,814	$ —	$ 15,343
Liabilities included in:				
Common and preferred stock warrant liability	$ —	$ —	$ 6,842	$ 6,842
Embedded derivative in convertible notes(1)	—	—	5,568	5,568
Total fair value	$ —	$ —	$ 12,410	$ 12,410

(1) Included in short-term debt on the consolidated balance sheet.

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The fair value of the Company's money market funds is determined using quoted market prices in active markets for identical assets.

The Company's portfolio of marketable securities is comprised of commercial paper, asset-backed securities, U.S. treasury securities, and short-term highly liquid, high credit quality corporate debt securities. The fair value for the available-for-sale marketable securities is determined based on trade prices in active markets for identical assets (Level 1 inputs) or valuation models using inputs that are observable either directly or indirectly (Level 2 inputs), such as quoted prices for similar assets or liabilities, yield curve, volatility factors, credit spreads, default rates, loss severity, current market and contractual prices for the underlying instruments or debt, broker and dealer quotes, as well as other relevant economic measures.

The following table presents changes in Level 3 liabilities measured at fair value for the years ended December 31, 2019 and 2018 (in thousands):

	Common and Preferred Stock Warrant Liability	Embedded Derivative in 2018 Convertible Notes	Contingent Consideration	Total
Balance, January 1, 2018	$ —	$ —	$ —	$ —
Issuance of preferred stock warrants	347	—	—	347
Issuance of common stock warrants	5,357	—	—	5,357
Issuance of convertible notes	—	2,408	—	2,408
Change in fair value	1,138	3,160	—	4,298
Balance, December 31, 2018	6,842	5,568	—	12,410
Issuance of preferred stock warrants in conjunction with debt	872	—	—	872
Conversion of convertible notes	—	(6,282)	—	(6,282)
Fair value of contingent consideration – Rhythm Xience acquisition	—	—	13,400	13,400
Change in fair value	1,205	714	500	2,419
Balance, December 31, 2019	$ 8,919	$ —	$ 13,900	$22,819

Unrealized gains and losses associated with liabilities within the Level 3 category include changes in fair value that were attributable to both observable (e.g., changes in market interest rates) and unobservable (e.g., changes in unobservable long-dated volatilities) inputs. In June 2019, the convertible notes were converted into shares of the Company's Series D convertible preferred stock.

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The fair value of the common stock and preferred stock warrants issued by the Company has been estimated using a Monte Carlo simulation in 2018 and in the first quarter of 2019 and as an output of the Hybrid Method for the remaining quarters of 2019. The underlying equity included in the Monte Carlo simulation and the Hybrid Method was determined based on the equity value implied from the preferred stock transactions and from examination of income and market approaches for measurement dates in which a preferred transaction was not applicable. Additionally, the expected IPO value was considered in the determination of the equity value. The fair value of the warrants was impacted by the model selected as well as assumptions surrounding unobservable inputs including the underlying equity value, risk-free interest rate, expected dividend yield, contractual term and expected volatility. The weighted-average (in aggregate) significant unobservable inputs (Level 3 inputs) used in measuring the common and preferred stock warrant liabilities as of December 31, 2019 and 2018 were as follows:

	December 31,	
	2019	2018
Risk-free interest rate	1.59% -1.60%	2.63%
Expected dividend yield	—	—
Contractual term in years	0.7 - 1.0	1.1
Expected volatility	60.0% - 110.5%	75.0%

The fair value of the contingent consideration from the acquisition of Rhythm Xience represents the estimated fair value of future payments due to the sellers of Rhythm Xience based on the achievement of certain milestones and revenue-based targets in certain years. The initial fair value of the revenue-based contingent consideration was calculated through the use of a Monte Carlo simulation using revenue projections for the respective earn-out period, corresponding targets and approximate timing of payments as outlined in the purchase agreement. The analyses used the following assumptions: (i) expected term; (ii) risk-adjusted net sales or earnings; (iii) risk-free interest rate; and (iv) expected volatility of earnings. Estimated payments, as determined through the respective model, were further discounted by a credit spread assumption to account for credit risk. The fair value of the milestones-based contingent consideration was determined by probability weighting and discounting to the respective valuation date at the Company's cost of debt. The Company's cost of debt was determined by performing a synthetic credit rating for the Company and selecting yields based on companies with a similar credit rating. The contingent consideration is revalued to fair value each period, and any increase or decrease is recorded in operating loss. The fair value of the contingent consideration may be impacted by certain unobservable inputs, most significantly with regard to discount rates, expected volatility and historical and projected performance. Significant changes to these inputs in isolation could result in a significantly different fair value measurement. The weighted-average (in aggregate) significant unobservable inputs (Level 3 inputs) used in measuring the contingent consideration from the acquisition of Rhythm Xience as of June 18, 2019 (acquisition date) and December 31, 2019 were as follows:

	December 31, 2019	June 18, 2019 (Acquisition Date)
Risk-free interest rate	1.60%	1.80%
Expected term in years	1.0 - 2.0	1.0 - 2.0
Expected volatility	11.8%	11.6%

For the year ended December 31, 2018, the fair value of the embedded derivative in the 2018 Convertible Notes has been estimated using the Black-Scholes option pricing model. The underlying equity included in the Black-Scholes option pricing model was valued based on preferred stock transactions and from examination of income and market approaches for measurement dates in which a preferred transaction was not applicable. Additionally, the expected IPO value was considered in the determination of the equity value. The fair value of

the embedded derivative was impacted by the model selected as well as assumptions surrounding unobservable inputs including the underlying equity value, risk free interest rate, expected dividend yield, the expected term and expected volatility. As of June 12, 2019 (conversion date), the fair value of the embedded derivative of $6.3 million was based on the difference between the fair value of the Series D convertible preferred stock issued upon the conversion of the 2018 Convertible Notes of $31.4 million, or $1.714 per share, and the discounted conversion price of $25.1 million, or $1.3712 per share. A summary of the weighted-average (in aggregate) significant unobservable inputs (Level 3 inputs) used in measuring the embedded derivative in the 2018 Convertible Notes as of December 31, 2018 is as follows:

	December 31, 2018
Risk-free interest rate	2.51%
Expected dividend yield	—
Expected term in years	0.3
Expected volatility	75.0%

Stock-Based Compensation

The Company accounts for all stock-based payments to employees and non-employees, including grants of stock options, restricted stock awards ("RSAs") and restricted stock units with non-market performance and service conditions ("PSUs") to be recognized in the consolidated financial statements, based on their respective grant date fair values. The Company estimates the fair value of stock option grants using the Black-Scholes option pricing model. The RSAs and PSUs are valued based on the fair value of the Company's common stock on the date of grant. The assumptions used in calculating the fair value of stock-based awards represent management's best estimates and involve inherent uncertainties and the application of management's judgment. The Company expenses stock-based compensation related to stock options and RSAs over the requisite service period. As the PSUs have a performance condition, compensation expense is recognized for each vesting tranche over the respective requisite service period of each tranche if and when the Company's management deems it probable that the performance conditions will be satisfied. The Company may recognize a cumulative true-up adjustment related to PSUs once a condition becomes probable of being satisfied if the related service period had commenced in a prior period. All stock-based compensation costs are recorded in cost of products sold, research and development expense or SG&A expense in the consolidated statements of operations and comprehensive loss based upon the respective employee's or non-employee's roles within the Company. Forfeitures are recorded as they occur. See also "Note 15—Stock-Based Compensation" below.

Income Taxes

Income taxes are recorded in accordance with ASC 740, *Income Taxes* ("ASC 740"), which provides for deferred taxes using an asset and liability approach. The Company recognizes deferred tax assets and liabilities for the expected future tax consequences of events that have been included in the consolidated financial statements or tax returns. Deferred tax assets and liabilities are determined based on the difference between the financial statement and tax bases of assets and liabilities using enacted tax rates in effect for the year in which the differences are expected to reverse, and net operating loss ("NOL") carryforwards and research and development ("R&D") tax credit carryforwards. Valuation allowances are provided, if based upon the weight of available evidence, it is more likely than not that some or all of the deferred tax assets will not be realized.

The Company accounts for uncertain tax positions in accordance with the provisions of ASC 740. When uncertain tax positions exist, the Company recognizes the tax benefit of tax positions to the extent that the benefit would more likely than not be realized assuming examination by the taxing authority. The determination as to whether the tax benefit will more likely than not be realized is based upon the technical merits of the tax position as well as consideration of the available facts and circumstances. To date, there have been no interest or penalties charged in relation to the unrecognized tax benefits.

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Warrant Liability

The Company accounts for certain common stock warrants and convertible preferred stock warrants outstanding as a liability, in accordance with ASC 815, *Derivatives and Hedging* ("ASC 815"), at fair value. This liability is subject to re-measurement at each reporting period until exercised, and any change in fair value is recognized in the consolidated statements of operations and comprehensive loss.

Asset Acquisitions (Research and Development—License Acquired)

The Company accounts for asset acquisitions, where substantially all of the fair value of the assets acquired is concentrated in a group of similar assets (i.e., intellectual property) and therefore the acquisitions do not constitute a business, in accordance with ASC 805, *Business Combinations* ("ASC 805"), under the asset acquisition method. Under the asset acquisition method of accounting, the Company is required to fair value the assets transferred. The cost of the assets acquired, including transaction costs, is allocated to the individual assets acquired based on their relative fair values and does not give rise to goodwill.

Business Combinations

The Company accounts for business acquisitions using the acquisition method of accounting based on ASC 805, which requires recognition and measurement of all identifiable assets acquired and liabilities assumed at their fair value as of the date control is obtained. The Company determines the fair value of assets acquired and liabilities assumed based upon its best estimates of the acquisition-date fair value of assets acquired and liabilities assumed in the acquisition. Goodwill represents the excess of the purchase price over the fair value of the net tangible and identifiable intangible assets acquired. Subsequent adjustments to fair value of any contingent consideration are recorded to the Company's consolidated statements of operations and comprehensive loss.

Recently Adopted Accounting Pronouncements

In May 2014, the Financial Accounting Standards Board ("FASB") issued ASC 606. This guidance applies to any entity that either enters into contracts with customers to transfer goods or services or enters into contracts for the transfer of nonfinancial assets unless those contracts are within the scope of other standards. The core principle of this guidance is that an entity should recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. This guidance supersedes existing revenue recognition guidance, including most industry-specific guidance, as well as certain related guidance on accounting for contract costs. The Company early adopted ASC 606 on January 1, 2018 using the full retrospective method. The adoption of this guidance did not have a material impact on the Company's consolidated financial statements.

In January 2016, the FASB issued ASU No. 2016-01, *Financial Instruments—Overall*, that amends certain aspects of recognition, measurement, presentation and disclosure of financial instruments. The new guidance changes the current accounting guidance related to: (i) the classification and measurement of certain equity investments; (ii) the presentation of changes in the fair value of financial liabilities measured under the fair value option that are due to instrument-specific credit risk; and (iii) certain disclosures associated with the fair value of financial instruments. The Company adopted this ASU on January 1, 2018. The adoption of this ASU did not have a material impact on the Company's consolidated financial statements.

In February 2016, the FASB issued ASC 842 in order to increase transparency and comparability among organizations by, among other provisions, recognizing lease assets and lease liabilities on the balance sheet for

those leases classified as operating leases under previous U.S. GAAP. For public companies, ASC 842 is effective for fiscal years beginning after December 15, 2018 (including interim periods within those periods) using a modified retrospective approach and early adoption is permitted. In transition, entities may also elect a package of practical expedients that must be applied in its entirety to all leases commencing before the adoption date, unless the lease is modified, and permits entities to not reassess (a) the existence of a lease, (b) lease classification or (c) determination of initial direct costs, as of the adoption date, which effectively allows entities to carryforward accounting conclusions under previous U.S. GAAP. In July 2018, the FASB issued ASU No. 2018-11, *Leases (Topic 842): Targeted Improvements*, which provides entities an optional transition method to apply the guidance under ASC 842 as of the adoption date, rather than as of the earliest period presented. The Company adopted ASC 842 on January 1, 2019, using the optional transition method by recording a right-of-use asset of approximately $3.0 million, a lease liability of $3.6 million and eliminated deferred rent of approximately $0.6 million; there was no effect on opening accumulated deficit, and the Company continues to account for leases in the prior period consolidated financial statements under ASC 840. In adopting the new standard, the Company elected to apply the practical expedients regarding the identification of leases, lease classification, indirect costs and the combination of lease and non-lease components.

In March 2016, the FASB issued ASU No. 2016-09, *Compensation-Stock Compensation (Topic 718)*, which simplifies several aspects of the accounting for share-based payment transactions, including the income tax consequences, classification of awards as either equity or liabilities, and classification on the statement of cash flows. The Company adopted this ASU on January 1, 2018 and elected to account for forfeited awards as they occur. The adoption of this guidance had an impact of approximately $0.2 million which was recorded in accumulated deficit as of January 1, 2018.

In October 2016, the FASB issued ASU No. 2016-16, *Income Taxes: Intra-Entity Transfers of Assets Other Than Inventory*. ASU No. 2016-16 required an entity to recognize the income tax consequences of an intra-entity transfer of an asset other than inventory when the transfer occurs. The amendments eliminate the exception for an intra-entity transfer of an asset other than inventory. The amendments in ASU No. 2016-16 are effective for non-public business entities for annual periods beginning after December 15, 2018, and interim periods within annual periods beginning after December 15, 2018. The Company adopted ASU No. 2016-16 on January 1, 2019 and there was no impact from the adoption.

In November 2016, the FASB issued ASU No. 2016-18, *Statement of Cash Flows (Topic 230): Restricted Cash*, which clarifies the presentation of restricted cash in the statement of cash flows. Under ASU No. 2016-18, restricted cash is included with cash and cash equivalents when reconciling the beginning-of-period and end-of-period total amounts shown on the statement of cash flows. The Company adopted ASU No. 2016-18 as of January 1, 2018. The adoption of this ASU did not have a material impact on the Company's consolidated financial statements.

In January 2017, the FASB issued ASU No. 2017-04, *Intangibles-Goodwill and Other: Simplifying the Test for Goodwill Impairment.* ASU No. 2017-04 eliminated the second step in goodwill impairment testing, which required that goodwill impairment losses be measured as the difference between the implied value of a reporting unit's goodwill and its carrying amount. Under the new guidance, goodwill impairment losses are measured as the excess of a reporting unit's carrying amount, including goodwill and related goodwill tax effects, over its fair value. The Company early adopted ASU No. 2017-04 as of January 1, 2019. The adoption of this ASU did not have a material impact on the Company's consolidated financial statements.

In July 2017, the FASB issued ASU No. 2017-11, *Earnings Per Share (Topic 260); Distinguishing Liabilities from Equity (Topic 480)*; *Derivatives and Hedging* (Topic 815): (Part I) Accounting for Certain Financial Instruments with Down Round Features, (Part II) Replacement of the Indefinite Deferral for

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Mandatorily Redeemable Financial Instruments of Certain Nonpublic Entities and Certain Mandatorily Redeemable Noncontrolling Interests with a Scope Exception. This ASU simplifies the accounting for certain financial instruments with down round features, a provision in an equity-linked financial instrument (or embedded feature) that provides a downward adjustment of the current exercise price based on the price of future equity offerings. Down round features are common in warrants, preferred shares and convertible debt instruments issued by private companies and early-stage public companies. This update requires companies to disregard the down round feature when assessing whether the instrument is indexed to its own stock, for purposes of determining liability or equity classification. This ASU is effective for fiscal years beginning after December 15, 2018, and interim periods within those fiscal years. Early adoption is permitted, including adoption in any interim period. The amendments in Part I should be applied: (i) retrospectively to outstanding financial instruments with a down round feature by means of a cumulative-effect adjustment to the consolidated balance sheet as of the beginning of the first fiscal year and interim periods; and (ii) retrospectively to outstanding financial instruments with a down round feature for each prior reporting period presented. The Company's adoption of this ASU on January 1, 2019 did not have a material impact on the Company's consolidated financial statements.

In June 2018, the FASB issued ASU No. 2018-07, *Improvements to Nonemployee Share-Based Payment Accounting*, which simplifies the accounting for share-based payments granted to nonemployees for goods and services. Under the ASU, most of the guidance about such payments to nonemployees would be aligned with the requirements for share-based payments granted to employees. The Company adopted ASU No. 2018-07 as of January 1, 2018. The adoption of this ASU did not have a material impact on the Company's consolidated financial statements.

In January 2017, the FASB issued ASU No. 2017-01, *Business Combinations (Topic 805): Clarifying the Definition of a Business*. The amendments in this update clarify the definition of a business with the objective of adding guidance to assist entities with evaluating whether transactions should be accounted for as acquisitions (or disposals) of assets or businesses. The definition of a business affects many areas of accounting including acquisitions, disposals, goodwill and consolidation. The guidance is effective for fiscal periods beginning after December 15, 2017, including interim periods within those periods. The Company adopted ASU No. 2017-01 on January 1, 2018. The adoption of this guidance did not have a material impact on the Company's consolidated financial statements.

In August 2018, the FASB issued ASU No. 2018-13, *Fair Value Measurement (Topic 820): Disclosure Framework—Changes to the Disclosure Requirements for Fair Value Measurement*, which makes a number of changes meant to add, modify or remove certain disclosure requirements associated with the movement amongst or hierarchy associated with Level 1, Level 2 and Level 3 fair value measurements. This guidance is effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2019. Early adoption is permitted upon issuance of the update. The Company adopted ASU No. 2018-13 as of January 1, 2019. The adoption of this ASU did not have a material impact on the Company's consolidated financial statements.

Accounting Pronouncements to Be Adopted

In June 2016, the FASB issued ASU No. 2016-13, *Financial Instruments – Credit Losses (Topic 326)*. The ASU sets forth a "current expected credit loss" model which requires the Company to measure all expected credit losses for financial instruments held at the reporting date based on historical experience, current conditions and reasonable supportable forecasts. This replaces the existing incurred loss model and is applicable to the measurement of credit losses on financial assets measured at amortized cost, available-for-sale debt securities and applies to certain off-balance sheet credit exposures. This ASU is effective for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years, with early adoption permitted. Recently,

the FASB issued an ASU to delay adoption for smaller reporting companies to calendar year 2023. The Company is currently assessing the impact of the adoption of this ASU on its consolidated financial statements.

In December 2019, the FASB issued ASU No. 2019-12, *Income Taxes (Topic 740): Simplifying the Accounting for Income Taxes*, which is intended to simplify various aspects related to accounting for income taxes. ASU No. 2019-12 removes certain exceptions to the general principles in ASC 740 and also clarifies and amends existing guidance to improve consistent application. This guidance is effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2020, with early adoption permitted. The Company is currently evaluating the impact of this standard on its consolidated financial statements.

In March 2020, the FASB issued ASU No. 2020-04, *Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting*, which provides temporary optional guidance to ease the potential burden in accounting for reference rate reform. The new guidance provides optional expedients and exceptions for applying U.S. GAAP to transactions affected by reference rate reform if certain criteria are met. These transactions include: contract modifications, hedging relationships and sale or transfer of debt securities classified as held-to-maturity. Entities may apply the provisions of the new standard as of the beginning of the reporting period when the election is made (i.e., as early as the first quarter 2020). Unlike other topics, the provisions of this update are only available until December 31, 2022, when the reference rate replacement activity is expected to have been completed. The Company is currently evaluating the impact of this standard on its consolidated financial statements and has yet to elect an adoption date.

Note 3—Asset Acquisition and Business Combination

Biotronik Asset Acquisition

In July 2019, the Company entered into a License and Distribution Agreement with the Biotronik Parties to obtain certain licenses to the Biotronik Parties' patents, whereby the Company acquired certain manufacturing equipment and obtained from the Biotronik Parties a license under certain patents and technology to develop, commercialize, distribute and manufacture the AcQBlate Force ablation catheters and Qubic Force device. In exchange for the rights granted to the Company, the Company made cash payments totaling $10.0 million, and will issue Series D convertible preferred stock with an implied value of $5.0 million (approximately 2.7 million shares) on or before March 2020. In accordance with ASC 805, the Biotronik Asset Acquisition is accounted for as an asset acquisition as substantially all of the $15.0 million value transferred to Biotronik was allocated to intellectual property. On the acquisition date, the products licensed had not yet received regulatory approval and the intellectual property did not have an alternative use. Accordingly, the $15.0 million paid to Biotronik was immediately charged to research and development expense—licensed acquired in the consolidated statement of operations and comprehensive loss. As of December 31, 2019, the Company recorded an accrual of $5.0 million for the shares of Series D convertible preferred stock that will be issued in 2020.

Additional contingent milestone payments of up to $10.0 million are to be made to the Biotronik Parties contingent upon certain regulatory approvals and first commercial sale. In further consideration of the rights granted, beginning with the Company's first commercial sale of the first force sensing ablation catheter within the licensed product line, the Company will also make per unit royalty payments. The Company has determined that as of the acquisition date and as of December 31, 2019, the contingent milestone and royalty payments are not probable and estimable and therefore have not been recorded as a liability. Upon regulatory approval of our force sensing ablation catheter in Europe, the milestone payments will be capitalized and amortized, and the royalty payments will be recorded as cost of products sold as sales of catheters are recognized.

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Rhythm Xience Business Combination

On June 18, 2019 (the "Acquisition Date"), the Company acquired an integrated family of transseptal crossing and steerable introducer systems through its acquisition of Rhythm Xience for $3.0 million in cash in exchange for all of the stock of Rhythm Xience (the "Rhythm Xience Acquisition"). The cash payment did not include the potential $17.0 million in earn out consideration, of which $2.0 million was paid with the issuance of Series D convertible preferred stock in February 2020 and the remainder is to be paid based on the achievement of certain regulatory milestones and revenue milestones. In accordance with ASC 805, the Rhythm Xience Acquisition is accounted for as a business combination.

Purchase Price Allocation

The following table summarizes the allocation of the purchase price to the assets acquired and liabilities assumed for the Rhythm Xience Acquisition (in thousands):

Accounts receivable, net	$ 3
Prepaid expenses and other current assets	8
Property and equipment, net	3
Intangible assets	4,360
Goodwill	12,026
Contingent consideration	(13,400)
Cash consideration	$ 3,000

The Company recorded $12.0 million of goodwill that arose out of synergies from the Rhythm Xience Acquisition. The Company does not expect goodwill to be deductible for tax purposes.

As part of Rhythm Xience Acquisition, the Company recorded a contingent consideration liability for potential additional payments due to the sellers of Rhythm Xience if certain regulatory approval milestones and revenue milestones are achieved. The contingent consideration liability of $13.4 million is based on the fair value of the contingent consideration liability at the acquisition date. The Company recorded a $0.5 million increase to the fair value of the contingent consideration liability from June 18, 2019 to December 31, 2019 which is included in change in fair value of contingent consideration in its consolidated statement of operations and comprehensive loss for the year ended December 31, 2019.

From the Acquisition Date to December 31, 2019, the Company recorded revenue and net loss for Rhythm Xience of $0.1 million and $1.0 million, respectively.

Pro Forma (Unaudited)

The following unaudited pro forma financial information presents results of operations as if the Rhythm Xience Acquisition had occurred on January 1, 2018 (in thousands):

	Year Ended December 31,	
	2019	2018
Revenue	$ 2,933	$ 2,235
Net loss	$(97,850)	$(48,945)

For purposes of the pro forma disclosures above, the primary adjustments for the year ended December 31, 2019 include the elimination of transaction costs of $0.2 million, the income tax benefit of Rhythm Xience of

$0.1 million and interest expense of $0.1 million, and the inclusion of amortization of the intangible assets of $0.2 million.

For purposes of the pro forma disclosures above, the primary adjustments for the year ended December 31, 2018 include the elimination of interest expense of $0.1 million and the inclusion of amortization of the intangible assets of $0.4 million.

For the year ended December 31, 2019, the Company recorded acquisition costs of $0.2 million for the Rhythm Xience Acquisition, which are recorded in SG&A expense in the consolidated statement of operations and comprehensive loss.

Note 4—Marketable Securities

Marketable securities consisted of the following as of December 31, 2019 and 2018 (in thousands):

	December 31, 2019			
	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
Available-for-sale securities—short-term:				
Corporate debt securities	$ 28,204	$ 20	$ —	$ 28,224
Asset-backed securities	17,108	13	—	17,121
U.S. treasury securities	5,020	12	—	5,032
Commercial paper	11,974	—	—	11,974
Total available-for-sale securities	$ 62,306	$ 45	$ —	$ 62,351

	December 31, 2018			
	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
Available-for-sale securities—cash equivalents:				
Commercial paper	$ 1,694	$ —	$ —	$ 1,694
Total available-for-sale securities—cash equivalents	1,694	—	—	1,694
Available-for-sale securities—short-term:				
Corporate debt securities	2,731	—	(1)	2,730
Commercial paper	5,390	—	—	5,390
Total available-for-sale securities—short-term	8,121	—	(1)	8,120
Total available-for-sale securities	$ 9,815	$ —	$ (1)	$ 9,814

As of December 31, 2019, all of the Company’s available-for-sale securities mature in one year or less.

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Note 5—Inventory

Inventory as of December 31, 2019 and 2018 consisted of the following (in thousands):

	December 31, 2019	December 31, 2018
Raw materials	$5,492	$1,032
Work in process	1,605	1,720
Finish goods	1,327	251
Total inventory	$8,424	$3,003

Note 6—Property and Equipment, Net

The Company's property and equipment, net, consisted of the following as of December 31, 2019 and 2018 (in thousands):

	December 31, 2019	December 31, 2018
Medical diagnostic equipment	$ 5,492	$ 3,928
Furniture and fixtures	159	146
Office equipment	1,321	922
Laboratory equipment and software	2,807	2,217
Leasehold improvements	507	493
Construction in process	306	101
Total property and equipment	10,592	7,807
Less: accumulated depreciation	(6,165)	(3,885)
Property and equipment, net	$ 4,427	$ 3,922

Property and equipment includes certain medical diagnostic equipment, AcQMap Systems, located at customer premises. The Company retains the ownership of the equipment and has the right to remove the equipment if it is not being used according to expectations.

Depreciation expense was $2.3 million and $2.1 million for the years ended December 31, 2019 and 2018, respectively. For the year ended December 31, 2019, the Company recorded a $0.8 million impairment of its property and equipment. The Company did not record an impairment of property and equipment for the year ended December 31, 2018.

Note 7—Goodwill and Intangible Assets

The table below summarizes goodwill and intangible assets activities as of December 31, 2019 and 2018 (in thousands):

	Goodwill	Intangible Assets
Balance as of December 31, 2018	$ —	$ —
Rhythm Xience Acquisition	12,026	4,360
Amortization expense	—	(250)
Balance as of December 31, 2019	$12,026	$ 4,110

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The table below summarizes the Company's intangible assets as of December 31, 2019 (dollars in thousands):

	Estimated Useful Life (in years)	Weighted-Average Remaining Life (in years)	Intangible Assets	Accumulated Amortization	December 31, 2019
Developed technology	10	9.5	$ 3,600	$ (180)	$ 3,420
In-process technology	indefinite		600	—	600
Trademarks and trade names	0.5	—	60	(60)	—
Customer-related intangible	5	4.5	100	(10)	90
Total			$ 4,360	$ (250)	$ 4,110

Acquired in-process technology is currently an indefinite-lived intangible asset, and will be classified as such until completion or abandonment of the associated research and development efforts. If the research and development efforts are completed, amortization for in-process technology will begin upon the approval of the technology. The Company recorded $0.3 million of amortization expense related to the above intangible assets for the year ended December 31, 2019.

The following table shows the remaining amortization expense associated with amortizable intangible assets as of December 31, 2019 (in thousands):

	Developed Technology	Customer-Related Intangible	Total Amortization
December 31, 2020	$ 360	$ 20	$ 380
December 31, 2021	360	20	380
December 31, 2022	360	20	380
December 31, 2023	360	20	380
December 31, 2024	360	10	370
Thereafter	1,620	—	1,620
Total	$ 3,420	$ 90	$ 3,510

Note 8—Accrued Liabilities

Accrued liabilities consisted of the following as of December 31, 2019 and 2018 (in thousands):

	December 31, 2019	December 31, 2018
Biotronik Asset Acquisition—accrued purchase price	$ 5,000	$ —
Payroll and related expense	3,785	2,349
Interest	—	1,399
Deferred rent	—	652
Deferred revenue	311	318
Other	980	431
Total accrued liabilities	$10,076	$5,149

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Note 9—Debt

Outstanding debt as of December 31, 2019 and 2018 consisted of the following (in thousands):

	December 31, 2019	December 31, 2018
2019 Credit Agreement(1)	$44,550	$ —
2018 Convertible Notes(2)	—	28,383
2018 Term Loan(3)	—	15,638
Total debt, gross	44,550	44,021
Less: Unamortized debt discount and fees	(6,306)	(18,156)
Total debt, net	38,244	25,865
Less: Short-term debt	—	(11,274)
Long-term debt	$38,244	$ 14,591

(1) The 2019 Credit Agreement includes final payment fees of $4.6 million.
(2) The 2018 Convertible Notes includes the fair value of the embedded derivative liability of $5.6 million.
(3) The 2018 Term Loan includes a final payment fee of $0.6 million.

2019 Credit Agreement

On May 20, 2019, the Company entered into a Credit Agreement (the "2019 Credit Agreement"). The 2019 Credit Agreement provided the Company with a senior term loan facility in aggregate principal amount of $70.0 million, of which the Company borrowed $40.0 million upon closing. Of the remaining amount of the facility, $10.0 million is available for borrowing by the Company on or prior to June 30, 2020 and $20.0 million is available for borrowing by the Company on or prior to December 31, 2020, in each case subject to the achievement of specified trailing revenue levels. The 2019 Credit Agreement bears interest per annum at 7.75% plus LIBOR for such interest period and the principal amount of term loans outstanding under the 2019 Credit Agreement is due on May 20, 2024. The 2019 Credit Agreement provides for final payment fees of an additional $4.6 million that are due upon prepayment or on the maturity date or upon acceleration.

Upon the occurrence and during an event of default, which includes but is not limited to payment default, covenant default or the occurrence of a material adverse change, the lenders may declare all outstanding principal and accrued and unpaid interest immediately due and payable, all unfunded commitments would be terminated, there would be an increase in the applicable interest rate by 10.0% per annum, and the lenders would be entitled to exercise their other rights and remedies provided for under the 2019 Credit Agreement. Additionally, the lenders may request repayment of a portion of obligations outstanding under the 2019 Credit Agreement to the extent of the Company's receipt of any (i) net casualty proceeds or (ii) net asset sales proceeds, as defined. These acceleration and early payment features are an embedded derivative that is separately measured from the loan host instrument and classified with the loan host instrument.

In connection with the issuance of the 2019 Credit Agreement, the Company issued liability-classified warrants with a fair value of $0.9 million to purchase 4,084,014 shares of Series C convertible preferred stock at $1.714 per share. These warrants were subsequently automatically converted into warrants to purchase an equal number of shares of the Company's Series D convertible preferred stock at a price of $1.714 per share.

The initial recognition of the warrant liability and direct fees of $1.2 million and final payment fees of $4.6 million for the 2019 Credit Agreement resulted in a discount of $6.7 million, which is being amortized to interest expense over the term of the 2019 Credit Agreement using the effective interest method.

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The Company's obligations under the 2019 Credit Agreement are secured by substantially all of its assets, including its intellectual property, and is guaranteed by Acutus NV. The 2019 Credit Agreement contains customary affirmative and negative covenants, including with respect to the Company's ability to enter into fundamental transactions, incur additional indebtedness, grant liens, pay any dividend or make any distributions to its holders, make investments and merge or consolidate with any other person or engage in transactions with its affiliates, but does not include any financial covenants, other than a minimum liquidity requirement. As of and for the year ended December 31, 2019, the Company was in compliance with all such covenants.

2019 Convertible Notes

On May 20, 2019, the Company sold and issued $37.0 million in aggregate principal amount of convertible promissory notes (the "2019 Convertible Notes"). The 2019 Convertible Notes bore interest at 13% per annum and were due on December 31, 2019. The 2019 Convertible Notes, including accrued interest, automatically convert into preferred stock at the lowest price per share paid by a cash investor in a qualified equity financing of at least $23.0 million (excluding the principal of any debt that is cancelled or converted into preferred stock in the equity financing), which occurred on June 12, 2019 (see *"—Conversion of Convertible Notes"* below). In accordance with ASC 480, *Distinguishing Liabilities from Equity*, the 2019 Convertible Notes were recorded as share-settled debt at fair value. As the 2019 Convertible Notes converted to Series D convertible preferred stock on June 12, 2019, the initial proceeds of $37.0 million is the fair value and the settlement value of the 2019 Convertible Notes.

2018 Term Loan

On July 31, 2018, the Company entered into a loan and security agreement with investors for a $15.0 million secured term loan credit facility, with an interest rate of the greater of: (i) 8.95% and (ii) 7.04% plus the 30-day month-end U.S. LIBOR rate maturing on July 1, 2023 (the "2018 Term Loan"). The 2018 Term Loan provided for a final payment fee of an additional $0.6 million (the "Final Fee") due upon prepayment or on the maturity date, and prepayment penalties. Interest was payable on a monthly basis. The Company was obligated to make equal quarterly principal payments beginning on September 1, 2020 or September 1, 2021 in the event of certain financings, as defined in the 2018 Term Loan.

Upon the occurrence and during an event of default, which includes but is not limited to payment default, covenant default or the occurrence of a material adverse change, the lenders may declare all outstanding principal and accrued and unpaid interest immediately due and payable, all unfunded commitments would be terminated, there would be an increase in the applicable interest rate by 5.0% per annum, and the lenders would be entitled to exercise their other rights and remedies provided for under the 2018 Term Loan.

The Company's obligations under the 2018 Term Loan were secured by substantially all of its assets, excluding intellectual property, and subject to certain exceptions and limitations. The 2018 Term Loan contained customary covenants. For the years ended December 31, 2019 and 2018, the Company was in compliance with all such covenants.

In connection with the entry into the 2018 Term Loan, the Company issued liability-classified warrants with a fair value of $0.3 million to purchase 262,543 shares of Series C convertible preferred stock at $1.714 per share. These warrants were subsequently automatically converted into warrants to purchase an equal number of shares of the Company's Series D convertible preferred stock at a price of $1.714 per share.

The initial recognition of the warrant liability, the Final Fee and direct fees of $0.1 million for the 2018 Term Loan resulted in a discount of $1.1 million, which was being amortized to interest expense over the term of the 2018 Term Loan using the effective interest method.

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In May 2019, in connection with the entry into the 2019 Credit Agreement, the Company paid $16.2 million for the extinguishment of the 2018 Term Loan, including the principal and accrued interest, the Final Fee and a prepayment penalty. The Company recorded a loss on extinguishment of debt of $1.4 million related to the write-off of deferred financing fees of $0.9 million, the prepayment penalty of $0.5 million and fees of approximately $61,000.

2018 Convertible Notes

On June 7, 2018, the Company sold and issued convertible notes payable to certain of the Company's investors for total proceeds of $22.8 million (the "2018 Convertible Notes"). The 2018 Convertible Notes bore interest at 10% per annum and were originally due on June 7, 2019, but were converted to Series D convertible preferred stock on June 12, 2019. In connection with issuance of the 2018 Convertible Notes, the Company issued liability-classified warrants with a fair value of $5.4 million to purchase 4,880,943 shares of common stock.

In accordance with ASC 470-20, *Debt with Conversions and Other Options*, the beneficial conversion feature (the "BCF"), which provides the holder with the ability to convert the principal and interest of the 2018 Convertible Notes into Series C convertible preferred stock, or preferred stock issued in the Next Equity Financing, as defined in the 2018 Convertible Notes, at maturity or upon a change in control of the Company, is recorded as additional paid-in capital. The BCF of $13.5 million was recorded at its issuance date intrinsic value, limited to the gross proceeds of the 2018 Convertible Notes less the initial warrant fair value by individual lender.

The 2018 Convertible Notes, including accrued interest, automatically convert into preferred stock at 80% of the lowest price per share paid by a cash investor in an equity financing of at least $20 million (excluding the principal of any debt that is cancelled or converted into preferred stock in the equity financing) (the "Automatic Conversion Feature"). In accordance with ASC 815-15, *Embedded Derivatives*, the Automatic Conversion Feature, a bifurcated embedded derivative, was recorded at its fair value of $2.4 million and classified with the 2018 Convertible Notes on the consolidated balance sheet. Changes in the fair value were recognized in change in fair value of warrant liability and embedded derivative in the consolidated statements of operations and comprehensive loss at the end of each reporting period.

The Company recorded a loss on the issuance of the 2018 Convertible Notes and warrants of $0.9 million for the excess fair value of the Automatic Conversion Feature after allocating the gross proceeds of the 2018 Convertible Notes to the initial fair value of the warrants and the BCF by lender.

The initial recognition of the warrant liability, the BCF and the Automatic Conversion Feature (excluding the loss on the issuance of convertible notes and warrants) resulted in a discount of $20.3 million on the 2018 Convertible Notes, which was amortized to interest expense over the term of the 2018 Convertible Notes using the effective interest method.

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The following table summarizes the aggregate values recorded for the 2018 Convertible Notes at issuance and as of December 31, 2018 (in thousands):

	At Issuance	December 31, 2018
Liability component:		
Principal	$ 22,815	$ 22,815
Unamortized discounts and fees	(20,336)	(17,109)
Net carrying amount of the liability component	2,479	5,706
Embedded derivative liability	2,408	5,568
Total	$ 4,887	$ 11,274
Warrant liability	$ 5,357	$ 6,480
Equity component:		
BCF recorded in additional paid-in capital	$ 13,495	$ 13,495

In June 2019, the 2018 Convertible Notes were converted to Series D convertible preferred stock in accordance with the Automatic Conversion Feature. See *"—Conversion of Convertible Notes"* below.

2015 Loan

On January 30, 2015, the Company entered into a Loan and Security Agreement to borrow up to $10.0 million. During 2018, the Company repaid the remaining principal balance as of December 31, 2017 of $0.6 million.

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Conversion of Convertible Notes

In June 2019, in conjunction with the Series D Preferred Stock Issuance, the 2019 Convertible Notes and the 2018 Convertible Notes, along with accrued interest thereon, were converted into shares of Series D convertible preferred stock. As such, the convertible noteholders received an aggregate of 39,950,927 shares of Series D convertible preferred stock for the conversion of all outstanding 2019 Convertible Notes and 2018 Convertible Notes at a conversion price of $1.714 per share and $1.3712 per share (including the 20% discount provided for in the 2018 Convertible Notes), respectively. The following table provides the shares issued upon conversion:

				Conversion on June 12, 2019			
	Stated Interest Rate	Conversion Price	Conversion Price Per Share	Face Value (in thousands)	Accrued Interest (in thousands)	Total Conversion Amount (in thousands)	Shares Issued
2019 Convertible Notes	13%	Lowest price paid by cash investor in 2019 Series D Preferred Stock Issuance	$ 1.714	$ 37,000	$ 66	$ 37,066	21,625,369
2018 Convertible Notes	10%	80% of lowest price paid by cash investor in 2019 Series D Preferred Stock Issuance	$ 1.371	22,815	2,313	25,128	18,325,558
Total				**$ 59,815**	**$ 2,379**	**$ 62,194**	**39,950,927**

Upon the conversion of the 2018 Convertible Notes, the embedded derivative included in the 2018 Convertible Notes with a fair value of $6.3 million has been included in Series D convertible preferred stock in the accompanying consolidated balance sheet.

Note 10—Operating Leases

The Company leases approximately 50,800 square feet of office space for its corporate headquarters and manufacturing facility in Carlsbad, California under a noncancelable operating lease that expires on December 31, 2022. The lease is subject to variable charges for common area maintenance and other costs that are determined annually based on actual costs. The base rent is subject to an annual increase each year. The Company has a renewal option for an additional five-year term upon the expiration date of the lease, which has been excluded from the calculation of the right-of-use asset as it is not reasonably certain to be exercised.

The Company also leases approximately 3,900 square feet of office space in Zaventem, Belgium under a noncancelable operating lease that expires on December 31. 2021. The lease is subject to variable charges that are determined annually for common area maintenance and other costs based on actual costs, and base rent is subject to an annual increase each year based on an index rate. The Company has a renewal option for an additional three-year term upon the expiration date of the lease, which has been included in the calculation of the right-of-use asset as it is reasonably certain to be exercised.

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The following table summarizes quantitative information about the Company's operating leases for the year ended December 31, 2019 (dollars in thousands):

	Year Ended December 31, 2019
Operating cash flows from operating leases	$ 972
Right-of-use assets exchanged for operating lease liabilities	$ 2,978
Weighted-average remaining lease term—operating leases	3.2 years
Weighted-average discount rate—operating leases	7.0%

The following table provides the components of the Company's lease cost (in thousands):

	Year Ended December 31, 2019
Operating leases	
Operating lease cost	$ 864
Variable lease cost	234
Operating lease expense	1,098
Short-term lease rent expense	—
Total lease cost	$ 1,098

For the year ended December 31, 2018, the Company recorded approximately $0.8 million in rent expense.

As of December 31, 2019, future minimum payments under the non-cancelable operating leases were as follows (in thousands):

Year ending December 31, 2020	$1,013
Year ending December 31, 2021	1,044
Year ending December 31, 2022	1,074
Year ending December 31, 2023	51
Year ending December 31, 2024	51
Total	3,233
Less: present value discount	(346)
Operating lease liabilities	$2,887

As of December 31, 2018, future minimum payments under the non-cancelable operating leases were as follows (in thousands):

Year ending December 31, 2019	$ 986
Year ending December 31, 2020	1,013
Year ending December 31, 2021	1,044
Year ending December 31, 2022	1,024
Total	$4,067

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Note 11—Commitments and Contingencies

The Company is not a party to any material legal proceedings and is not aware of any pending or threatened claims. From time to time however, the Company may be subject to various legal proceedings and claims that arise in the ordinary course of its business activities.

Note 12—Warrants

As of December 31, 2019 and 2018, the outstanding warrants to purchase the Company's common stock were comprised of the following:

	Equity Upon Exercise	Exercise Price	Expiration Date	2019	2018
Warrants issued in 2012	Series A convertible preferred	$ 0.85	3/16/19	—	70,340
Warrants issued in 2015	Common stock	$ 0.54	1/30/25	74,074	74,074
Warrants issued with 2018 Convertible Notes	Common stock	$ 0.01	6/7/28	4,880,943	4,880,943
Warrants issued with 2018 Term Loan	Series D convertible preferred	$ 1.71	7/31/28	262,543	262,543
Warrants issued with 2019 Credit Agreement	Series D convertible preferred	$ 1.71	5/20/29	4,084,014	—
Total Warrants				9,301,574	5,287,900

The Company's warrant activity for the years ended December 31, 2019 and 2018 is as follows:

	Warrants	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Life (in years)
Balance—December 31, 2017	144,414	$ 0.54	7.1
Granted	5,143,486	0.10	9.4
Balance—December 31, 2018	5,287,900	$ 0.11	9.3
Granted	4,084,014	1.71	8.5
Exercised	(70,340)	0.85	5.1
Balance—December 31, 2019	9,301,574	$ 0.81	8.4

Warrants Classified as Liabilities

During 2019, in connection with the Company's entry into the 2019 Credit Agreement, the Company issued warrants to purchase 4,084,014 shares of its Series C convertible preferred stock with an exercise price of $1.714 per share. These warrants were subsequently automatically converted into warrants to purchase an equal number of shares of the Company's Series D convertible preferred stock at a price of $1.714 per share. During 2018, in connection with the issuance of the 2018 Convertible Notes and the 2018 Term Loan, the Company issued ten-year warrants to purchase 4,880,943 shares of common stock with an exercise price of $0.01 per share and 262,543 shares of Series C convertible preferred stock with an exercise price of $1.714 per share, respectively. The warrants for Class C convertible preferred stock were subsequently automatically converted into warrants to purchase an equal number of shares of the Company's Series D convertible preferred stock at a price of $1.714 per share.

The Company's warrants provide the holder the option to purchase a specified number of shares for a specified price. The holder may exercise the warrant in cash or exercise pursuant to a cashless exercise whereby a calculated number of shares are withheld upon exercise to satisfy the exercise price. The warrants do not provide the holder any voting rights until the warrants are exercised. In the event of conversion of the Company's convertible preferred stock into common shares, the warrants become exercisable into common shares of the Company's stock, subject to certain adjustments.

In accordance with ASC 815, other than the warrants issued in 2012 and 2015, the warrants are recorded as liabilities at fair value at the issuance date. Changes in the fair value are recognized in change in fair value of warrant liability and embedded derivative in the consolidated statements of operations and comprehensive loss at the end of each reporting period.

Warrants Classified as Equity

In accordance with ASC 815, the warrants issued in 2012 and 2015 do not meet the definition of a derivative and are classified in stockholders' deficit in the consolidated balance sheets.

Note 13—Convertible Preferred Stock

As of December 31, 2019 and 2018, the Company's Amended and Restated Certificate of Incorporation authorized the issuance of 172,064,796 and 85,634,171 shares of convertible preferred stock, par value $0.001 per share, respectively, consisting of: (i) 3,848,696 and 6,490,577 shares of Series A convertible preferred stock, respectively; (ii) 30,032,100 and 35,343,594 shares of Series B convertible preferred stock, respectively; (iii) 48,184,000 and 43,800,000 shares of Series C convertible preferred stock, respectively; and (iv) 90,000,000 and no shares of Series D convertible preferred stock, respectively.

In June and July 2019, the Company completed an equity financing pursuant to which the Company issued 79,740,085 shares of Series D convertible preferred stock in a private placement. The Series D Preferred Stock Issuance was comprised of: (i) 39,789,158 shares at $1.714 per share for net cash proceeds of $68.2 million; (ii) 18,325,558 shares at $1.3712 per share (including a 20% discount) for the conversion of the outstanding 2018 Convertible Notes (and related accrued interest) of $25.1 million; and (iii) 21,625,369 shares at $1.714 per share for the conversion of the outstanding 2019 Convertible Notes (and related accrued interest) of $37.1 million. Upon the conversion of the 2018 Convertible Notes, the embedded derivative with a fair value of $6.3 million immediately prior to the conversion was included in Series D convertible preferred stock in the consolidated balance sheet.

In March 2019, the Company issued 25,796 shares of Series A convertible preferred stock in exchange for 70,340 outstanding warrants in a cashless warrant exercise.

In June 2018, in connection with the issuance of the 2018 Convertible Notes, the Company amended and restated its Certificate of Incorporation to provide for a special mandatory conversion providing that for each five shares of Series A, Series B and Series C convertible preferred stock held by holders who did not participate in the 2018 Term Loan, such shares would automatically convert into one share of common stock (the "Mandatory Conversion"). The Mandatory Conversion resulted in the issuance of 1,590,668 shares of common stock in exchange for the cancellation and retirement of 2,641,882 and 5,311,494 shares of Series A and Series B convertible preferred stock, respectively.

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Redemption

The convertible preferred stock is not unconditionally redeemable at the option of the holder thereof. However, the convertible preferred stock is contingently redeemable upon certain liquidation events. As redemption by the holders is not solely within the control of the Company, all of the outstanding convertible preferred stock is classified as temporary equity in the consolidated balance sheets.

Dividends

The holders of shares of convertible preferred stock are entitled to receive dividends, out of any assets legally available therefore, prior and in preference to any declaration or payment of any dividend on the common stock of the Company, at the applicable dividend rate, payable on a *pro rata*, *pari passu* basis when, as and if declared by the Company's board of directors. The dividend rate is $0.07 per annum for each share of Series A convertible preferred stock, $0.11 per annum for each share of Series B convertible preferred stock and $0.14 per annum for each share of Series C convertible preferred stock and Series D convertible preferred stock, as adjusted. The dividend rights are not cumulative.

Liquidation

The holders of the Series D convertible preferred stock are entitled to receive a liquidation preference prior to any distribution to the holders of Series A convertible preferred stock, Series B convertible preferred stock and Series C convertible preferred stock (collectively the "Junior Preferred Stock") and the holders of common stock, in the amount of the original issue price plus declared but unpaid dividends on such shares (the "Series D Liquidation Preference"). The holders of the Junior Preferred Stock are entitled to receive a liquidation preference prior to any distribution to the holders of common stock, after payment of the Series D Liquidation Preference, in the amount of the applicable original issue price plus declared but unpaid dividends on such shares.

Conversion

Each share of preferred stock is convertible, at the option of the holder thereof, at any time after the date of issuance of such share, into such number of fully paid and nonassessable shares of the Company's common stock as is determined by dividing the original issue price, as adjusted, for such series by the applicable conversion price for such series in effect on the date the certificate is surrendered for conversion. The initial conversion price per share for each series of convertible preferred stock is the original issue price applicable to such series as follows:

Series	Conversion Price
Series A convertible preferred stock	$ 0.853
Series B convertible preferred stock	$ 1.375
Series C convertible preferred stock	$ 1.714
Series D convertible preferred stock	$ 1.714

Each share of convertible preferred stock will automatically be converted into fully-paid, non-assessable shares of common stock at the conversion rate at the time in effect for such series of preferred stock immediately upon: (i) the date, or the occurrence of an event, specified by vote or written consent or agreement of the requisite investors; or (ii) the closing of the sale of shares of common stock to the public, at a price of at least $5.142 per share, as adjusted, in a firm-commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, resulting in at least $50 million of net proceeds to the Company.

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Voting Rights

Holders of convertible preferred stock have the right to one vote for each share of common stock into which such preferred stock could then be converted, and with respect to such vote, such holder has full voting rights and powers equal to the voting rights and powers of the holders of common stock.

As long as any shares of Series D convertible preferred stock are outstanding, the holders of such shares of Series D convertible preferred stock (voting exclusively as a separate series) are entitled to elect one director. As long as any shares of Series C convertible preferred stock are outstanding, the holders of such shares of Series C convertible preferred stock (voting exclusively as a separate series) are entitled to elect three directors. As long as any shares of Series A convertible preferred stock or Series B convertible preferred stock are outstanding, the holders of such shares (voting together as a single class and not as separate series, and on an as converted basis) are entitled to elect four directors. The holders of outstanding common stock are entitled to elect one director. The holders of convertible preferred stock and common stock (voting together as a single class and not as separate series, and on an as-converted basis) are entitled to elect any remaining directors.

Any director may be removed during his or her term of office, either with or without cause, by, and only by, the affirmative vote of the holders of the shares of the class or series of stock entitled to elect such director or directors, given either at a special meeting of such stockholders duly called for that purpose or pursuant to a written consent of stockholders, and any vacancy thereby created may be filled by the holders of that class or series of stock represented at the meeting or pursuant to written consent.

Note 14—Stockholders' Deficit

As of December 31, 2019 and 2018, the Company's Amended and Restated Certificate of Incorporation authorized the issuance of 220,000,000 and 111,508,000 shares of common stock, $0.001 par value per share, respectively. Each share of common stock is entitled to one voting right. Common stock owners are entitled to dividends when funds are legally available and declared by the Board.

During the years ended December 31, 2019 and 2018, stock options to acquire 270,393 and 922,375 shares, respectively, were exercised for shares of common stock. The Company received $0.1 million and $0.3 million for the exercise price of the stock options for the years ended December 31, 2019 and 2018, respectively.

Note 15—Stock-Based Compensation

The Company's 2011 Equity Incentive Plan (the "2011 Plan") permits the granting of incentive stock options, non-statutory stock options, restricted stock, restricted stock units and other stock-based awards to employees, directors, officers and consultants. As of December 31, 2019, 37,516,162 shares of common stock were authorized for issuance under the 2011 Plan and 9,970,601 shares remain available for issuance under the 2011 Plan.

Stock Options

The stock options generally vest over four years and have a ten-year contractual term. The fair value of each employee and non-employee stock option grant is estimated on the date of grant using the Black-Scholes option pricing model. The Company is a private company and lacks company-specific historical and implied volatility information. Therefore, it estimates its expected stock volatility based on the historical volatility of a publicly traded set of peer companies. Due to the lack of historical exercise history, the expected term of the Company's stock options has been determined using the "simplified" method for awards. The risk-free interest rate is determined by reference to the U.S. Treasury yield curve in effect at the time of grant of the award for time

periods approximately equal to the expected term of the award. Expected dividend yield is zero based on the fact that the Company has never paid cash dividends and does not expect to pay any cash dividends in the foreseeable future.

The following assumptions were used to estimate the fair value of stock option for the years ended December 31, 2019 and 2018:

	December 31,	
	2019	2018
Risk-free interest rate	1.6% - 2.1%	2.4% - 3.2%
Expected dividend yield	—	—
Expected term in years	6.38 - 10.00	7.0
Expected volatility	80.0%	77.0% - 80.0%

The following table summarizes stock option activity during the years ended December 31, 2019 and 2018:

	Stock Options	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Life (in years)	Aggregate Intrinsic Value (in thousands)
Outstanding as of December 31, 2017	10,583,984	$ 0.63	7.5	
Options granted	7,203,413	1.06		
Options exercised	(922,375)	0.38		$ 578
Options forfeited	(1,427,717)	0.72		
Outstanding as of December 31, 2018	15,437,305	$ 0.84	8.0	$ 6,012
Options granted	5,252,798	1.37		
Options exercised	(270,393)	0.40		$ 264
Options forfeited	(569,401)	1.01		
Outstanding as of December 31, 2019	19,850,309	$ 0.98	7.7	$ 7,857
Options vested and exercisable as of December 31, 2019	10,152,187	$ 0.76	6.4	$ 6,196
Options expected to vest in future periods	9,698,122	$ 1.20	6.1	$ 5,003

The aggregate intrinsic value in the above table is calculated as the difference between the fair value of the Company's common stock and the exercise price of the stock options. The weighted-average grant date fair value per share for the stock option grants during the years ended December 31, 2019 and 2018 was $1.00 and $0.79, respectively. As of December 31, 2019, the total unrecognized compensation related to unvested stock option awards granted was $7.9 million, which the Company expects to recognize over a weighted-average period of approximately 2.76 years.

Acutus Medical, Inc. and Subsidiaries
Notes to Consolidated Financial Statements

Restricted Stock

The Company's RSA activity for the years ended December 31, 2109 and 2018 was as follows:

	Number of Shares	Weighted-Average Grant Date Fair Value
Unvested as of December 31, 2017	—	$ —
Unvested as of December 31, 2018	—	$ —
Granted	111,452	1.38
Vested	(111,452)	1.38
Unvested as of December 31, 2019	—	$ —

The following table summarizes the total stock-based compensation expense for the stock options and RSAs recorded in the consolidated statements of operations and comprehensive loss for the years ended December 31, 2019 and 2018 (in thousands):

	Year Ended December 31,	
	2019	2018
Cost of products sold	$ 209	$ 215
Research and development	656	564
Selling, general and administrative	2,129	1,292
Total stock-based compensation	$2,994	$2,071

Performance-Based Restricted Stock Units

During the year ended December 31, 2019, the Company granted 5,518,463 PSUs, with a grant date fair value of $1.38. Vesting of the PSUs is dependent upon the satisfaction of both a service condition and a performance condition, which is an initial public offering or a change of control. As the performance conditions for the PSU were not considered probable, no compensation expense related to these awards has been recorded for the year ended December 31, 2019.

Note 16—Net Loss Per Common Share

Basic net loss per common share is computed by dividing net loss attributable to common stockholders by the weighted-average number of shares of common stock outstanding for the period. Diluted net loss per common share excludes the potential impact of the Company's convertible notes, convertible preferred stock, common stock options and warrants because their effect would be anti-dilutive due to the Company's net loss. Since the Company had a net loss in the periods presented, basic and diluted net loss per common share are the same.

Acutus Medical, Inc. and Subsidiaries
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The table below provides potentially dilutive securities not included in the calculation of the diluted net loss per common share because to do so would be anti-dilutive:

	2019	2018
Shares issuable upon conversion of Series A convertible preferred stock	3,804,152	3,778,356
Shares issuable upon conversion of Series B convertible preferred stock	30,032,100	30,032,100
Shares issuable upon conversion of Series C convertible preferred stock	43,757,292	43,757,292
Shares issuable upon conversion of Series D convertible preferred stock	79,740,085	—
Shares issuable upon exercise of stock options	19,850,309	15,437,305
Shares issuable upon exercise of common stock warrants	4,955,017	4,955,017
Shares issuable upon exercise of preferred stock warrants	4,346,557	332,883
Shares issuable upon conversion of convertible notes(1)	—	17,573,097
Total	186,485,512	115,866,050

(1) Assuming the conversion of the aggregate principal amount, plus accrued interest, of the 2018 Convertible Notes into shares of the Company's common stock on December 31, 2018. See Note 9 for additional information regarding the 2018 Convertible Notes.

For the year ended December 31, 2019, the PSUs are not included in the above table as awards with performance conditions are not included in the calculation of diluted earnings per share until the performance conditions for the PSU are considered probable.

Pro Forma Net Loss Per Common Share (Unaudited)

Basic and diluted pro forma net loss per common share is computed to give effect to the automatic conversion of all convertible preferred stock using the if converted method as though the conversion had occurred as of December 31, 2019. Pro forma net loss per common share does not give effect to potential dilutive securities where the impact would be anti-dilutive.

The following table represents the calculation of basic and diluted pro forma net loss per common share for the year ended December 31, 2019:

	Pro Forma December 31, 2019 (unaudited)
Net loss, as reported and available to common stockholders	$
Weighted-average shares of common stock outstanding used to compute net loss per common share, basic and diluted	
Pro forma adjustments to reflect conversion of convertible preferred stock	$
Weighted-average shares to compute pro forma net loss per common share, basic and diluted	
Pro forma net loss common share, basic and diluted	$

Acutus Medical, Inc. and Subsidiaries
Notes to Consolidated Financial Statements

Due to net losses for the year ended December 31, 2019, basic and diluted pro forma net loss per common share were the same, as the effect of potentially dilutive securities would have been anti-dilutive. The following common share equivalent securities have been excluded from the calculation of diluted weighted-average common shares outstanding because the effect is anti-dilutive for the period presented:

	Pro Forma December 31, 2019 (unaudited)
Shares issuable upon exercise of stock options	
Shares issuable upon exercise of common stock warrants	
Total	

Note 17—401(k) Retirement Plan

The Company has a 401(k) retirement savings plan that provides retirement benefits to substantially all full-time U.S. employees. Eligible employees may contribute a percentage of their annual compensation, subject to Internal Revenue Service limitations. The Company did not provide any contributions to the 401(k) retirement savings plan for the years ended December 31, 2019 and 2018.

Note 18—Income Taxes

No provision for federal or state income taxes has been recorded for the years ended December 31, 2019 and 2018. Current income taxes are based upon the year's income taxable for federal, state and foreign tax reporting purposes. Deferred income taxes (benefits) are provided for certain income and expenses, which are recognized in different periods for tax and financial reporting purposes. Deferred tax assets and liabilities are computed for differences between the consolidated financial statements and tax bases of assets and liabilities that will result in taxable or deductible amounts in the future based on enacted tax laws and rates applicable to the period in which the differences are expected to affect taxable income, and NOL carryforwards and R&D tax credit carryforwards.

A reconciliation of the expected tax computed at the U.S. statutory federal income tax rate to the total benefit for income taxes for the years ended December 31, 2019 and 2018 is as follows (dollars in thousands):

	Year Ended December 31,			
	2019		2018	
Income tax benefit at federal statutory rate	$(20,378)	21.00%	$(10,060)	21.00%
Adjustments for tax effects of:				
State taxes, net	(1,315)	1.35%	(330)	0.69%
Permanent adjustments	820	(0.84)%	765	(1.60)%
Interest expense	230	(0.24)%	230	(0.48)%
Derivatives	150	(0.15)%	663	(1.38)%
R&D credit	(53)	0.05%	(698)	1.46%
Unrecognized tax benefit	16	(0.02)%	(221)	0.46%
Valuation allowance	20,500	(21.11)%	9,998	(20.87)%
Rate change	223	(0.23)%	(439)	0.92%
Other	(193)	0.19%	92	(0.20)%
Income tax benefit	$ —	—%	$ —	—%

Acutus Medical, Inc. and Subsidiaries
Notes to Consolidated Financial Statements

Significant components of the Company's deferred tax assets and liabilities as of December 31, 2019 and 2018 were as follows (in thousands):

	December 31, 2019	December 31, 2018
Deferred tax assets:		
Net operating losses	$ 45,455	$ 31,387
Stock-based compensation	720	294
Research and development tax credit	3,116	3,074
Accrued vacation	187	139
Accrued expenses	484	324
IRC 263A	239	141
Intangible assets	3,047	644
Lease liability	605	—
Other	153	37
Total gross deferred tax assets	54,006	36,040
Valuation allowance	(52,949)	(32,111)
Net deferred tax asset	1,057	3,929
Deferred tax liabilities:		
Property and equipment	(450)	(61)
Prepaid expenses	(122)	(66)
Right-of-use assets	(485)	—
Debt discount	—	(3,802)
Total deferred tax liabilities	(1,057)	(3,929)
Net deferred tax assets (liabilities)	$ —	$ —

In assessing the realizability of deferred tax assets as of December 31, 2019 and 2018, management considered whether it is more likely than not that some portion or all of the deferred tax assets will be realized. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income during the periods in which those temporary differences become deductible or the NOL carryforwards and R&D tax credit carryforwards will be used. The Company has determined it is more likely than not that its deferred tax assets will not be realized. Accordingly, a valuation allowance has been recorded as of December 31, 2019 and 2018, to fully offset the net deferred tax assets of $52.9 million and $32.1 million, respectively.

As of December 31, 2019, the Company had approximately $199.9 million of NOL carryforwards available for federal tax purposes which begin to expire in December 31, 2031. As a result of the Tax Act of 2017, for U.S. income tax purposes, NOLs generated prior to December 31, 2017 can still be carried forward for up to 20 years, but NOLs generated after December 31, 2017 carryforward indefinitely, but are limited to 80% utilization against taxable income. Of the total federal NOL of $199.9 million, $106.1 million will begin to expire in 2031 and $93.8 million will not expire but will only offset 80 percent of future taxable income.

As of December 31, 2019, the Company also had approximately $32.5 million of state NOL carryforwards. The state NOLs begin to expire in December 31, 2031.

As of December 31, 2019, the Company had approximately $0.7 million of NOL carryforwards available for foreign tax purposes. Belgium NOLs do not expire.

Acutus Medical, Inc. and Subsidiaries
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As of December 31, 2019, the Company had approximately $1.9 million of R&D credit carryforwards available for federal tax purposes, which begin to expire in December 31, 2031. As of December 31, 2019, the Company also had approximately $3.2 million of R&D credit carryforwards for California. The state research credits do not expire.

NOL carryforwards may be subject to a substantial annual limitation due to ownership change limitations that may have occurred or that could occur in the future, as required by Section 382 of the Internal Revenue Code of 1986, as amended (the "Code"), as well as similar state and foreign provisions. These ownership changes may limit the amount of NOL and R&D credit carryforwards that can be used annually to offset future taxable income and tax, respectively. In general, an "ownership change" as defined by Section 382 of the Code results from a transaction or series of transactions over a three-year period resulting in an ownership change of more than 50% of the outstanding stock of a company by certain stockholders. The Company has not completed a study to assess whether an ownership change has occurred or whether there have been multiple ownership changes since the Company's formation due to the complexity and cost associated with such study, and the fact that there may be additional such ownership changes in the future.

The Company conducts intensive research and experimentation activities, generating R&D tax credits for Federal and state purposes under section 41 of the Code. The Company has not performed a formal study validating these credits claimed in the tax returns. Once a study is prepared, the amount of R&D tax credits available could vary from what was originally claimed on the tax returns.

The following table summarizes the changes to unrecognized tax benefits as of December 31, 2019 and 2018 (in thousands):

	December 31,	
	2019	2018
Balance as of beginning of year	$1,523	$1,752
Decreases related to prior year tax positions	(493)	(379)
Increases related to current year tax positions	509	150
Balance as of end of year	$1,539	$1,523

As of December 31, 2019, the Company has unrecognized tax benefits of approximately $1.5 million of which approximately $1.3 million will affect the effective tax rate if recognized when the Company no longer has a valuation allowance offsetting its deferred tax assets.

The Company does not anticipate that there will be a significant change in unrecognized tax benefits over the next 12 months.

The Company is subject to U.S. federal and various state tax as well as Belgium tax jurisdictions. Since the Company formed in 2011, all filed tax returns are subject to examination. Generally, the tax years remain open for examination by the federal statute under a three-year statute of limitation; however, states generally keep their statutes open for four years. However, the Company's tax years from inception are subject to examination by the United States and California taxing authorities due to the carry forward of unused NOLs and R&D credits.

The Company's practice is to recognize interest and/or penalties related to income tax matters in income tax benefit. The Company had no accrual for interest and penalties on its consolidated balance sheets and has not recognized interest and/or penalties in its consolidated statements of operations and comprehensive loss for the years ended December 31, 2019 and 2018.

Acutus Medical, Inc. and Subsidiaries
Notes to Consolidated Financial Statements

Note 19—Related Party Transactions

The Company licenses certain patent rights from a director and shareholder. The license agreement provides for royalty payments to the shareholder of 3% of net product sales, as defined in the agreement. Royalties earned during the years ended December 31, 2019 and 2018 were $41,000 and $12,000, respectively. Additionally, the director and shareholder also works for one of the Company's customers and can significantly influence the customer to purchase the Company's product. The Company recorded sales of $0.3 million and $0.2 million to this customer for the years ended December 31, 2019 and 2018, respectively.

The Company has a consulting agreement with a director and chairman of the Company's board of directors. For the year ended December 31, 2019, the Company recorded $0.2 million in SG&A expense in the consolidated statements of operations and comprehensive loss, for the consulting services.

The Company has a consulting agreement with an officer of the Company. For the years ended December 31, 2019 and 2018, the Company recorded $0.3 million and $0.1 million, respectively, included in SG&A expense in the consolidated statements of operations and comprehensive loss, for the consulting services.

The Company had a consulting arrangement with a current director and officer of the Company, prior to his full-time employment. For the years ended December 31, 2019 and 2018, the Company recorded $0.4 million and $0.4 million, respectively, included in SG&A expense in the consolidated statements of operations and comprehensive loss, for the consulting services.

Multiple preferred stock shareholders entered into the 2018 and 2019 Convertible Notes that also contained detached warrants. Additionally, Orbimed Royalty Opportunities II, LP and Deerfield Private Design Fund II, L.P. entered into the 2019 Credit Agreement with the Company in 2019 for a total of $70.0 million with $40.0 million being drawn as of December 31, 2019. For the years ended December 31, 2019 and 2018, the Company recorded $21.4 million and $4.5 million, respectively, in interest expense related to these debt agreements.

Note 20—Subsequent Events

The Company has completed an evaluation of all subsequent events through May 14, 2020 to ensure that these consolidated financial statements include appropriate disclosure of events both recognized in the consolidated financial statements and events which occurred but were not recognized in the consolidated financial statements. Except as described below, the Company has concluded that no subsequent event has occurred that requires disclosure.

Beginning in early March 2020, the COVID-19 pandemic and the measures imposed to contain this pandemic have disrupted and are expected to continue to impact the Company's business. For example, on March 19, 2020, the Executive Department of the State of California issued Executive Order N-33-20, ordering all individuals in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors. The Company's primary operations are located in Carlsbad, California. As a result of such order, the majority of the Company's employees have telecommuted, which may impact certain of its operations over the near term and long term. Moreover, beginning in March 2020, access to hospitals and other customer sites has been restricted to essential personnel, which has negatively impacted the Company's ability to install AcQMap consoles and workstations in new accounts and for the Company's sales representatives and mappers to promote the use of the Company's products with physicians. Moreover, hospitals and other therapeutic centers have suspended many elective procedures, resulting in a significantly reduced volume of procedures using the Company's products. In addition, all clinical

trials in Europe have been suspended with follow-ups for clinical trials done via telecom, and the Company believes enrollment timing in the Company's planned clinical trials will be slowed due to COVID-19 driven delayed access to enrollment sites. As a result of the interruptions to the Company's business due to COVID-19, the Company has enacted a cash conservation program, which includes delaying certain non-critical capital expenditures and other projects and implementing a hiring freeze and temporary compensation and headcount reductions throughout its organization. The magnitude of the impact of the COVID-19 pandemic on the Company's productivity, results of operations and financial position, and its disruption to the Company's business and clinical programs and timelines, will depend, in part, on the length and severity of these restrictions and on the Company's ability to conduct business in the ordinary course. Quarantines, shelter-in-place and similar government orders have also impacted, and may continue to impact, the Company's third-party manufacturers and suppliers, and could in turn adversely impact the availability or cost of materials, which could disrupt the Company's supply chain.

In February 2020, the Company issued 1,166,861 shares of its Series D convertible preferred stock and paid cash of $2.5 million in connection with a contingent consideration payment related to the Rhythm Xience Acquisition.

In February 2020, the Company issued 2,655,337 shares of its Series D convertible preferred stock with an implied value of $5.0 million for the final purchase consideration of the Biotronik Asset Acquisition.

In May 2020, the Company entered into bi-lateral distribution agreements with Biotronik (the "Bi-Lateral Distribution Agreements"). Pursuant to the Bi-Lateral Distribution Agreements, the Company obtained a non-exclusive license to distribute a range of Biotronik's products and accessories in the United States, Canada, China, Hong Kong and multiple Western European countries under the Company's private label. Moreover, if an investigational device exemption, or IDE, clinical trial is required for these products to obtain regulatory approval in the United States, or a clinical trial is required for these products to obtain regulatory approval in China, the Company will obtain an exclusive distribution right in such territories for a term of up to five years commencing on the date of regulatory approval if the Company covers the cost of the IDE or other clinical trial and the Company conducts such study within a specified period. Biotronik also agreed to distribute the Company's products and accessories in Germany, Japan, Mexico, Switzerland and multiple countries in Asia-Pacific, Eastern Europe, the Middle East and South America. The Company also granted Biotronik a co-exclusive right to distribute these products in Hong Kong. Each party will pay to the other party specified transfer prices on the sale of the other party's products and, accordingly, will earn a distribution margin on the sale of the other party's products.

Independent Auditor's Report

Stockholders and Acutus
Rhythm Xience, Inc.
Eden Prairie, Minnesota

We have audited the accompanying financial statements of Rhythm Xience, Inc. (a Delaware corporation), which comprise the balance sheets as of December 31, 2018 and 2017, and the related statements of operations, stockholders' equity (deficit), and cash flows for the twelve months ended December 31, 2018 and 2017, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of the financial statements that are free from material misstatement whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express opinions on these financial statements based on our audits; we conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our qualified audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Rhythm Xience, Inc. as of December 31, 2018 and 2017, and the results of its operations and its cash flows for the twelve months ended December 31, 2018 and 2017 in accordance with accounting principles generally accepted in the United States of America.

/s/ Meuwissen, Flygare, Kadrlik & Associates, P.A.

May 6, 2020

RHYTHM XIENCE, INC.
Balance Sheets

	December 31, 2018	December 31, 2017
ASSETS:		
Current assets:		
Cash	$ 964,952	$ 30,394
Accounts receivable	11,498	27,913
Inventories	98,920	19,500
Prepaid expenses	32,161	23,596
Total current assets	1,107,531	101,403
Property and equipment, net of accumulated depreciation	3,882	6,342
Security deposit	7,917	7,917
Total noncurrent assets	11,799	14,259
Total assets	$ 1,119,330	$ 115,662
LIABILITIES AND STOCKHOLDERS' EQUITY (DEFICIT)		
Current liabilities:		
Accounts payable	38,890	256,802
Accrued expenses	118,332	23,139
Total current liabilities	157,222	279,941
Long-term debt	3,173,291	905,084
Total liabilities	3,330,513	1,185,025
Stockholders' equity (deficit):		
Common stock, $0.001 par value; 7,500,000 shares authorized, 3,750,000 shares issued and outstanding	3,750	3,750
Additional paid-in capital	2,246,351	2,246,351
Retained deficit	(4,461,284)	(3,319,464)
Total stockholders' equity (deficit)	(2,211,183)	(1,069,363)
Total liabilities and stockholders' equity (deficit)	$ 1,119,330	$ 115,662

See independent auditor's report and notes to the financial statements.

RHYTHM XIENCE, INC.
Statements of Operations

	Twelve Months Ended December 31,	
	2018	2017
Sales, net	$ 69,340	$ 47,782
Cost of sales	49,176	30,716
Gross profit	20,164	17,066
Operating expenses	1,030,947	1,165,796
Operating loss	(1,010,783)	(1,148,730)
Other income (expense):		
Interest expense	(131,037)	(30,280)
Net loss	$ (1,141,820)	$ (1,179,010)

See independent auditor's report and notes to the financial statements.

RHYTHM XIENCE, INC.
Statements of Stockholders' Equity (Deficit)

	Common Stock				
	Number of Shares	Par Value	Additional Paid-in Capital	Retained Deficit	Total Stockholders' Equity (Deficit)
Balance, December 31, 2016	3,640,000	$ 3,640	$ 2,136,461	$ (2,140,454)	$ (353)
Stock issued	110,000	110	109,890	—	110,000
Net loss	—	—	—	(1,179,010)	(1,179,010)
Balance, December 31, 2017	3,750,000	$ 3,750	$ 2,246,351	$ (3,319,464)	$ (1,069,363)
Net loss	—	—	—	(1,141,820)	(1,141,820)
Balance, December 31, 2018	3,750,000	$ 3,750	$ 2,246,351	$ (4,461,284)	$ (2,211,183)

See independent auditor's report and notes to the financial statements.

RHYTHM XIENCE, INC.
Statements of Cash Flows

	Twelve Months Ended December 31,	
	2018	**2017**
Cash flows from operating activities		
Net loss	$ (1,141,820)	$ (1,179,010)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:		
Depreciation	2,460	3,561
Changes in operating assets and liabilities:		
Accounts receivable	16,415	(27,913)
Prepaid expenses and other current assets	(8,565)	(13,851)
Inventory	(79,420)	(19,500)
Accounts payable and accrued expenses	(122,719)	227,964
Net cash used in operating activities	(1,333,649)	(1,008,749)
Cash flows used in investing activities		
Purchases of property and equipment	—	(600)
Net cash used in investing activities	—	(600)
Cash flows provided by financing activities		
Proceeds from notes payable	2,268,207	905,084
Issuance of common stock	—	110,000
Net cash provided by financing activities	2,268,207	1,015,084
Net change in cash	934,558	5,735
Cash at the beginning of the period	30,394	24,659
Cash at the end of the period	**$ 964,952**	**$ 30,394**

See independent auditor’s report and notes to the financial statements.

Rhythm Xience, Inc.
Notes to Financial Statements

Note 1—Organization

Rhythm Xience, Inc. (the "Company"), is a medical device company specializing in catheter-based rhythm management solutions based in Minnesota with operations also in California. As developer and innovator, the solutions are clinically based and procedurally focused towards recognizing and resolving the challenges facing Electrophysiologists and healthcare facilities.

Note 2—Summary of Significant Accounting and Reporting Policies

Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Management has identified inventories, income taxes, and fixed assets as areas where significant estimates and assumptions have been made in preparing the financial statements. Actual results could differ from these estimates.

Concentrations of Credit Risk

Financial instruments that potentially subject the Company to concentrations of credit risk consist principally of temporary cash investments and trade accounts receivable. The Company maintains its cash balances in a financial institution located in Minneapolis, Minnesota. The balances are insured by the Federal Deposit Insurance Corporation ("FDIC") up to $250,000 per company per financial institution. At times, during the twelve months ended December 31, 2018 and 2017, the Company had bank balances in excess of FDIC limits. The Company has not experienced any losses from such accounts.

Accounts Receivable

The accounts receivable balances are generally uncollateralized and comprised of credit and non-credit receivables. The accounts are typically paid within 45 days. Management provides for probable uncollectible amounts through a charge to earnings and a credit to a valuation allowance based on its assessment of the current status of individual accounts. Balances that are still outstanding after management has used reasonable collection efforts are written off through a charge to the valuation allowance and a credit to accounts receivable. There was no allowance for doubtful accounts for the twelve months ended December 31, 2018 and 2017, respectively. Management believes that accounts receivable is stated at estimated net realizable value.

Advertising

The company expenses advertising costs as they are incurred. Total advertising expense for the twelve months ended December 31, 2018 and 2017 was $29,696, and $54,328, respectively.

Inventories

Inventories are valued at the lower of cost (first-in, first-out method) or net realizable value.

Property and Equipment

Building, equipment, and leasehold improvements are carried at historical cost. Major additions and betterments are charged to the property accounts while replacements, maintenance, and repairs that do not improve or extend the life of the respective assets are expensed currently.

Rhythm Xience, Inc.
Notes to Financial Statements

Depreciation is computed on the double declining method, using estimated useful lives ranging from five to seven years for financial reporting purposes.

Income Taxes

The company files a federal income tax return and various state income tax returns. Income taxes are provided for the tax effects of transactions reported in the financial statements and consist of taxes currently due plus deferred taxes related primarily to differences between the bases of certain assets and liabilities for financial and tax reporting. The deferred taxes represent the future tax return consequences of those differences, which will be either deductible or taxable when the assets and liabilities are recovered or settled. The Company recognizes deferred tax assets to the extent that it believes that these assets are more likely than not to be realized. In making such a determination, the Company considers all available positive and negative evidence, including future reversals of existing taxable temporary differences, projected future taxable income, tax-planning strategies, and results of recent operations. If the Company determines that it would be able to realize the deferred tax assets in the future in excess of their net recorded amount, it would make an adjustment to the deferred tax asset valuation allowance, which would reduce the provision for income taxes. The federal and state income tax returns of the company for 2016 and after are subject to examination by the tax authority, generally for three years after the filing date.

Shipping and Handling Costs

The Company classifies freight billed to certain customers as sales revenue and the related freight costs as cost of sales.

Subsequent Events

Management has evaluated subsequent events through May 6, 2020, the date the financial statements were available to be issued.

Note 3—Concentrations

For the twelve months ended December 31, 2018 and 2017, one customer comprised 100%, and 88% of sales, respectively. At December 31, 2018 and 2017, the same customer comprised 100% of accounts receivable. Management believes that these amounts will be collected.

For the twelve months ended December 31, 2018, a vendor comprised 15% of expenses and with two other vendors comprised 92% of accounts payable. For the twelve months ended December 31, 2017, another vendor comprised 26% of expenses and at December 31, 2017, comprised of 97% of accounts payable. Management believes these vendors could be replaced without any material effect on operations.

Note 4—Property and Equipment

As of December 31, 2018 and 2017, property and equipment consist of the following:

	December 31,	
	2018	2017
Computer equipment	$ 1,648	$ 1,648
Office equipment and furniture	15,924	15,924
Less: accumulated depreciation	(13,690)	(11,230)
Property and equipment, net	$ 3,882	$ 6,342

Rhythm Xience, Inc.
Notes to Financial Statements

Total depreciation expense for the twelve months ended December 31, 2018 and 2017 was $2,460, and $3,561, respectively.

Note 5—Accrued Expenses

Accrued expenses at December 31, 2018 and 2017 were as follows:

	December 31, 2018	December 31, 2017
Accrued compensation	$ 16,195	$ 15,580
Accrued interest	100,542	5,196
Accrued sales tax	1,595	2,363
Total accrued expenses	$ 118,332	$ 23,139

Note 6—Leasing Arrangements

On August 1, 2015, the company leased its office space under a forty-eight-month operating lease, expiring on July 31, 2019, calling for monthly base rent payments of $2,382 to $2,603, increasing annually, and its share of operating expenses. Total rent paid for the twelve months ended December 31, 2018 and 2017, was $48,672, and $45,768, respectively.

The following is the total remaining minimum lease payments through July 2019:

Year Ending December 31,	Amount
2019	$ 18,219

Note 7—Notes Payable and Related Parties

Long-term notes payable as of December 31, 2018 and 2017 consist of the following:

	December 31, 2018	December 31, 2017
Convertible note payable, including interest at 8%, due June 2021	$ 843,750	$ —
Convertible note payable, including interest at 8%, due June 2021	281,250	—
Convertible note payable, including interest at 8%, due August 2021	375,000	—
Related party note payable, including compounding interest at 6%, due December 2021	220,275	206,608
Related party note payable, including compounding interest at 6%, due December 2021 (W)	770,516	698,476
Convertible note payable, including interest at 8%, due December 2021	112,500	—
Note payable, including interest at 6%, due December 2021 (W)	10,000	—
Note payable, including interest at 6%, due December 2021 (W)	10,000	—
Convertible note payable, including interest at 6%, due March 2022	50,000	—
Related party convertible note, including interest at 6%, due March 2022	250,000	—
Convertible note payable, including interest at 6%, due March 2022	250,000	—
Total notes payable	$ 3,173,291	$ 905,084

Rhythm Xience, Inc.
Notes to Financial Statements

The following is a summary of principal maturities of long-term debt:

Years Ending December 31,	
2020	$ —
2021	2,623,291
2022	550,000
Total principal payments	$ 3,173,291

Note 8—Stock Purchase Warrants

The Company has notes payable with stock purchase warrants, marked with a (W) in the previous table. The number of shares is set at a maximum of 20% of the principal amount of loan. The warrants are exercisable prior to the earlier of the tenth anniversary of the effective date or a deemed liquidation event. The exercise price is $1 per share of common stock. No warrants have been exercised as of December 31, 2018 and 2017.

Note 9—Convertible Subordinated Notes

In 2018, the Company issued $1,612,500 of 8% convertible subordinated notes due 2021 in a private offering. The notes are governed by debentures dated 2018. The notes bear interest at the rate of 8% and are convertible prior to December 2021 only upon specified events and during specified periods and, thereafter, at any time, in each case at various conversion rates.

In 2018, the Company also issued $550,000 of 6% convertible subordinated notes due 2022 in a private offering. The notes are governed by debentures dated 2018. The notes bear interest at the rate of 6% and are convertible prior to March 2022 only upon specified events and during specified periods and, thereafter, at any time, in each case at conversion rate equal to eighty percent of the per share price of the Series A Preferred Stock of the Company sold. No notes have been converted as of December 31, 2018 and 2017.

Note 10—Research and Development Costs

Research and development costs are charged under operating expenses in the statements of operations. Total research and development costs for the twelve months ended December 31, 2018 and 2017 were $113,022, and $379,714, respectively.

Note 11—Deferred Tax Asset and Valuation Allowance

The Company has federal and state income tax net operating loss (“NOL”) carryforwards of $3,297,000, which will expire between 2034 and 2038, as of December 31, 2018. The Company believes that it is more likely than not that the benefit from certain NOL carryforwards will not be realized. In recognition of this risk, the Company has provided a valuation allowance on the deferred tax assets related to these NOL carryforwards as of December 31, 2018 and 2017, because of this, no tax provision has been recorded in the financial statements. The Company intends to continue maintaining a full valuation allowance on the deferred tax assets until there is sufficient evidence to support the reversal of all or some portion of these allowances. Release of the valuation allowance would result in the recognition of certain deferred tax assets and a decrease to income tax expense for the period(s) the release is recorded. However, the exact timing and amount of the valuation allowance release are subject to change on the basis of the level of profitability that the Company is able to actually achieve. Further, a portion of the carryforwards may expire before being applied to reduce future income tax liabilities.

Rhythm Xience, Inc.
Notes to Financial Statements

The Company's total deferred tax assets and deferred tax asset valuation allowances at December 31, 2018 and 2017, are as follows:

	December 31, 2018	December 31, 2017
Total deferred tax assets	$ 1,015,000	$ 1,027,000
Less valuation allowance	(1,015,000)	(1,027,000)
Net deferred tax asset	$ —	$ —

Note 12—Subsequent Event and Escrow

In early 2019, the unrelated party made an escrow payment in the amount of $500,000 towards the acquisition of the Company.

On June 14, 2019, in anticipation of the sale of the Company, the key employee exercised his vested options. The stock was valued at $2.84 per share at the time of exercise, based on a 5% discount rate and anticipated stream of future payments related to the sale in the amount of $18,955. The remaining shares will not be vested due to the sale of the Company.

On June 18, 2019, a total of $1,762,500 of convertible debt plus $146,662 of accumulated interest was converted to equity in anticipation of the sale. All stock purchase warrants were exercised on June 18, 2019, prior to closing.

On June 18, 2019, all of the outstanding shares of stock of Rhythm Xience, Inc. were acquired by an unrelated party. At the time of closing, all long-term debt referenced in Note 7 was paid in full. In addition, one note paid at closing required a $400,000 premium payment at time of early payment.

On January 31, 2020, the stockholders and State of Delaware approved the dissolution of the Company.

RHYTHM XIENCE, INC.
Balance Sheets

	March 31, 2019 (Unaudited)	December 31, 2017
ASSETS:		
Current assets:		
Cash	$ 773,878	$ 964,952
Accounts receivable	18,993	11,498
Restricted cash	500,000	—
Inventories	57,000	98,920
Prepaid expenses	12,813	32,161
Total current assets	1,362,684	1,107,531
Property and equipment, net of accumulated depreciation	3,390	3,882
Security deposit	7,917	7,917
Total noncurrent assets	11,307	11,799
Total assets	$ 1,373,991	$ 1,119,330
LIABILITIES AND STOCKHOLDERS' EQUITY (DEFICIT)		
Current liabilities:		
Accounts payable	189,540	38,890
Accrued expenses	147,996	118,332
Escrow	500,000	—
Total current liabilities	837,536	157,222
Long-term debt	3,201,014	3,173,291
Total liabilities	4,038,550	3,330,513
Stockholders' equity (deficit):		
Common stock, $0.001 par value; 7,500,000 shares authorized, 3,750,000 shares issued and outstanding	3,750	3,750
Additional paid-in capital	2,246,351	2,246,351
Retained deficit	(4,914,660)	(4,461,284)
Total stockholders' equity (deficit)	(2,664,559)	(2,211,183)
Total liabilities and stockholders' equity (deficit)	$ 1,373,991	$ 1,119,330

See notes to the financial statements.

RHYTHM XIENCE, INC.
Statements of Operations
(Unaudited)

	Three Months Ended March 31,	
	2019	2018
Sales, net	$ 60,109	$ 28,590
Cost of sales	44,524	15,857
Gross profit	15,585	12,733
Operating expenses	413,651	210,144
Operating loss	(398,066)	(197,411)
Other income (expense):		
Interest expense	(55,310)	—
Insurance refund	—	1,460
Total other income (expense)	(55,310)	1,460
Net loss	$ (453,376)	$ (195,951)

See notes to the financial statements.

RHYTHM XIENCE, INC.
Statements of Stockholders' Equity (Deficit)
(Unaudited)

	Common Stock				
	Number of Shares	Par Value	Additional Paid-in Capital	Retained Deficit	Total Stockholders' Equity (Deficit)
Balance, December 31, 2017	3,750,000	$ 3,750	$ 2,246,351	$ (3,319,464)	$ (1,069,363)
Net loss	—	—	—	(195,951)	(195,951)
Balance, March 31, 2018	3,750,000	$ 3,750	$ 2,246,351	$ (3,515,415)	$ (1,265,314)
Balance, December 31, 2018	3,750,000	$ 3,750	$ 2,246,351	$ (4,461,284)	$ (2,211,183)
Net loss	—	—	—	(453,376)	(453,376)
Balance, March 31, 2019	3,750,000	$ 3,750	$ 2,246,351	$ (4,914,660)	$ (2,664,559)

See notes to the financial statements.

RHYTHM XIENCE, INC.
Statements of Cash Flows
(Unaudited)

	Three Months Ended March 31,	
	2019	**2018**
Cash flows from operating activities		
Net loss	$ (453,376)	$ (195,951)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:		
Depreciation	492	931
Changes in operating assets and liabilities:		
Accounts receivable	(7,495)	4,425
Prepaid expenses and other current assets	19,348	4,570
Inventory	41,920	15,000
Accounts payable and accrued expenses	180,314	(223,632)
Other current liabilities	500,000	(19,879)
Net cash used in operating activities	281,203	(414,536)
Cash flows provided by financing activities		
Proceeds from notes payable	27,723	591,177
Net cash provided by financing activities	27,723	591,177
Net change in cash	308,926	176,641
Cash at the beginning of the period	964,952	30,394
Cash at the end of the period	**$ 1,273,878**	**$ 207,035**

See notes to the financial statements.

Rhythm Xience, Inc.
Notes to Financial Statements

Note 1—Organization

Rhythm Xience, Inc. (the "Company"), is a medical device company specializing in catheter-based rhythm management solutions based in Minnesota with operations also in California. As developer and innovator, the solutions are clinically based and procedurally focused towards recognizing and resolving the challenges facing Electrophysiologists and healthcare facilities.

Note 2—Summary Of Significant Accounting And Reporting Policies

Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Management has identified inventories, income taxes, and fixed assets as areas where significant estimates and assumptions have been made in preparing the financial statements. Actual results could differ from these estimates.

Concentrations of Credit Risk

Financial instruments that potentially subject the Company to concentrations of credit risk consist principally of temporary cash investments and trade accounts receivable. The Company maintains its cash balances in a financial institution located in Minneapolis, Minnesota. The balances are insured by the Federal Deposit Insurance Corporation (FDIC) up to $250,000 per company per financial institution. At times, during the three months ended March 31, 2019 and 2018, the Company had bank balances in excess of FDIC limits. The Company has not experienced any losses from such accounts.

Accounts Receivable

The accounts receivable balances are generally uncollateralized and comprised of credit and non-credit receivables. The accounts are typically paid within 45 days. Management provides for probable uncollectible amounts through a charge to earnings and a credit to a valuation allowance based on its assessment of the current status of individual accounts. Balances that are still outstanding after management has used reasonable collection efforts are written off through a charge to the valuation allowance and a credit to accounts receivable. There was no allowance for doubtful accounts for the three months ended March 31, 2019 and 2018, respectively. Management believes that accounts receivable is stated at estimated net realizable value.

Restricted Cash

During the three months ended March 31, 2019, an unrelated party made an escrow payment in the amount of $500,000 towards the acquisition of the Company.

Advertising

The company expenses advertising costs as they are incurred. Total advertising expense for the three months ended March 31, 2019 and 2018 was $32,478, and $11,400, respectively.

Inventories

Inventories are valued at the lower of cost (first-in, first-out method) or net realizable value.

Rhythm Xience, Inc.
Notes to Financial Statements

Property and Equipment

Building, equipment, and leasehold improvements are carried at historical cost. Major additions and betterments are charged to the property accounts while replacements, maintenance, and repairs that do not improve or extend the life of the respective assets are expensed currently.

Depreciation is computed on the double declining method, using estimated useful lives ranging from five to seven years for financial reporting purposes.

Income Taxes

The company files a federal income tax return and various state income tax returns. Income taxes are provided for the tax effects of transactions reported in the financial statements and consist of taxes currently due plus deferred taxes related primarily to differences between the bases of certain assets and liabilities for financial and tax reporting. The deferred taxes represent the future tax return consequences of those differences, which will be either deductible or taxable when the assets and liabilities are recovered or settled. The Company recognizes deferred tax assets to the extent that it believes that these assets are more likely than not to be realized. In making such a determination, the Company considers all available positive and negative evidence, including future reversals of existing taxable temporary differences, projected future taxable income, tax-planning strategies, and results of recent operations. If the Company determines that it would be able to realize the deferred tax assets in the future in excess of their net recorded amount, it would make an adjustment to the deferred tax asset valuation allowance, which would reduce the provision for income taxes. The federal and state income tax returns of the company for 2016 and after are subject to examination by the tax authority, generally for three years after the filing date.

Shipping and Handling Costs

The Company classifies freight billed to certain customers as sales revenue and the related freight costs as cost of sales.

Subsequent Events

Management has evaluated subsequent events through May 11, 2020, the date the financial statements were available to be issued.

Note 3—Concentrations

For the three months ended March 31, 2019 and 2018, one customer comprised 59% and 100% of sales, respectively. At March 31, 2019 and December 31, 2018, the same customer comprised 100% of accounts receivable. Management believes that these amounts will be collected.

For the three months ended March 31, 2019 and 2018, two vendors comprised 38% and 7% of expenses, respectively, and 84% and 71% of accounts payable, respectively. Management believes these vendors could be replaced without any material effect on operations.

Rhythm Xience, Inc.
Notes to Financial Statements

Note 4—Property and Equipment

As of March 31, 2019 and December 31, 2018, property and equipment consist of the following:

	March 31, 2019	December 31, 2018
Computer equipment	$ 1,648	$ 1,648
Office equipment and furniture	15,924	15,924
Less: accumulated depreciation	(14,182)	(13,690)
Property and equipment, net	$ 3,390	$ 3,882

Total depreciation expense for the three months ended March 31, 2019 and 2018 was $492, and $931, respectively.

Note 5—Accrued Expenses

Accrued expenses at March 31, 2019 and December 31, 2018 were as follows:

	March 31, 2019	December 31, 2018
Accrued compensation	$ 14,740	$ 16,195
Accrued interest	128,127	100,542
Accrued sales tax	5,129	1,595
Total accrued expenses	$147,996	$ 118,332

Note 6—Leasing Arrangements

On August 1, 2015, the company leased its office space under a forty-eight-month operating lease, expiring on July 31, 2019, calling for monthly base rent payments of $2,382 to $2,603, increasing annually, and its share of operating expenses. Total rent paid for the three months ended March 31, 2019 and 2018, was $13,059, and $16,027, respectively.

Rhythm Xience, Inc.
Notes to Financial Statements

Note 7—Notes Payable and Related Parties

Long-term notes payable as of March 31, 2019 and December 31, 2018 consist of the following:

	March 31, 2019	December 31, 2018
Convertible note payable, including interest at 8%, due June 2021	$ 843,750	$ 843,750
Convertible note payable, including interest at 8%, due June 2021	281,250	281,250
Convertible note payable, including interest at 8%, due August 2021	375,000	375,000
Related party note payable, including compounding interest at 6%, due December 2021	224,693	220,275
Related party note payable, including compounding interest at 6%, due December 2021 (W)	793,821	770,516
Convertible note payable, including interest at 8%, due December 2021	112,500	112,500
Note payable, including interest at 6%, due December 2021 (W)	10,000	10,000
Note payable, including interest at 6%, due December 2021 (W)	10,000	10,000
Convertible note payable, including interest at 6%, due March 2022	50,000	50,000
Related party convertible note, including interest at 6%, due March 2022	250,000	250,000
Convertible note payable, including interest at 6%, due March 2022	250,000	250,000
Total notes payable	$ 3,201,014	$ 3,173,291

The following is a summary of principal maturities of long-term debt:

Years Ending March 31,	
2020	$ —
Years Ending March 31,	
2021	—
2022	3,201,014
Total principal payments	$ 3,201,014

Note 8—Stock Purchase Warrants

The Company has notes payable with stock purchase warrants, marked with a (W) in the previous table. The number of shares is set at a maximum of 20% of the principal amount of loan. The warrants are exercisable prior to the earlier of the tenth anniversary of the effective date or a deemed liquidation event. The exercise price is $1 per share of common stock. No warrants have been exercised as of March 31, 2019.

Note 9—Convertible Subordinated Notes

In 2018, the Company issued $1,612,500 of 8% convertible subordinated notes due 2021 in a private offering. The notes are governed by debentures dated 2018. The notes bear interest at the rate of 8% and are convertible prior to December 2021 only upon specified events and during specified periods and, thereafter, at any time, in each case at various conversion rates.

In 2018, the Company also issued $550,000 of 6% convertible subordinated notes due 2022 in a private offering. The notes are governed by debentures dated 2018. The notes bear interest at the rate of 6% and are convertible prior to March 2022 only upon specified events and during specified periods and, thereafter, at any time, in each case at conversion rate equal to eighty percent of the per share price of the Series A Preferred Stock of the Company sold. No notes have been converted as of March 31, 2019.

Rhythm Xience, Inc.
Notes to Financial Statements

Note 10—Research and Development Costs

Research and development costs are charged under operating expenses in the statements of operations. Total research and development costs for the three months ended March 31, 2019 and 2018 were $125,260, and $0, respectively.

Note 11—Subsequent Event and Escrow

On June 18, 2019, all of the outstanding shares of stock of Rhythm Xience, Inc. were acquired by an unrelated party. During the three months ended March 31, 2019, the unrelated party made an escrow payment in the amount of $500,000 towards the acquisition of the Company.

UNAUDITED PRO FORMA CONDENSED COMBINED FINANCIAL INFORMATION

The following unaudited pro forma condensed combined financial information was prepared using the acquisition method of accounting under U.S. generally accepted accounting principles, ("U.S. GAAP"), and gives effect to the acquisition by Acutus Medical, Inc. ("Acutus" or the "Company") of Rhythm Xience, Inc. ("Rhythm Xience"), which we refer to as the "Rhythm Xience Acquisition". The Agreement and Plan of Merger (the "Merger Agreement") governs the transaction, which was accounted for as a business combination in accordance with Accounting Standards Codification 805, *Business Combinations* ("ASC 805").

Acutus was determined to be the accounting acquirer based upon the terms of the Merger Agreement and other factors including that Acutus stockholders own 100% of the voting interests of the combined company immediately following the closing of the transaction.

The following unaudited pro forma condensed combined financial information is based on the Company's historical consolidated financial statements and Rhythm Xience's historical financial statements as adjusted to give effect to Acutus' acquisition of Rhythm Xience, which closed on June 18, 2019. The unaudited pro forma condensed combined statement of operations for the year ended December 31, 2019 gives effect to the transaction as if it had occurred on January 1, 2019.

Rhythm Xience's assets and liabilities were measured and recognized at their fair values as of the transaction date, and combined with the assets, liabilities and results of operations of Acutus after the consummation of the transaction.

The unaudited pro forma condensed combined financial information is based on the assumptions and adjustments that are described in the accompanying notes. The application of the acquisition method of accounting is dependent upon certain valuations.

The unaudited pro forma condensed combined financial information does not give effect to the potential impact of current financial conditions, regulatory matters, operating efficiencies or other savings or expenses that may be associated with the integration of the two companies. The unaudited pro forma condensed combined financial information has been prepared for illustrative purposes only and is not necessarily indicative of the results of operations in future periods or the results that actually would have been realized had Acutus and Rhythm Xience been a combined company during the specified period. The actual results reported in periods following the transaction may differ significantly from those reflected in this unaudited pro forma condensed combined financial information presented herein for a number of reasons, including, but not limited to, differences between the assumptions used to prepare this pro forma financial information.

The assumptions and estimates underlying the unaudited adjustments to the pro forma condensed combined financial information is described in the accompanying notes, which should be read together with the unaudited pro forma condensed combined financial information.

The unaudited pro forma condensed combined financial information should be read together with Acutus' historical consolidated financial statements and Rhythm Xience's historical financial statements included elsewhere in this prospectus.

PRO FORMA CONDENSED COMBINED STATEMENT OF OPERATIONS
YEAR ENDED DECEMBER 31, 2019
(in thousands, except share and per share amounts)

	Acutus year ended December 31, 2019	Rhythm Xience January 1, 2019 to June 18, 2019	Pro Forma Adjustment	Notes	2019 Pro Forma Combined
Revenue	$ 2,836	$ 97	$ —		$ 2,933
Costs and operating expenses:					
Cost of products sold	9,243	70	—		9,313
Research and development	23,029	—	—		23,029
Research and development—license acquired	15,000	—	—		15,000
Selling, general and administrative	26,847	1,011	(216)	2(a)	27,691
			(141)	2(b)	
			190	2(c)	
Impairment of property and equipment	786	—	—		786
Change in fair value of contingent consideration	500	—	—		500
Total costs and operating expenses	75,405	1,081	(167)		76,319
Loss from operations	(72,569)	(984)	167		(73,386)
Other income (expense):					
Change in fair value of warrant liability and embedded derivative	(1,919)	—	—		(1,919)
Loss on debt extinguishment	(1,447)	—	—		(1,447)
Interest income	1,164	2	—		1,166
Interest expense	(22,268)	(55)	55	2(d)	(22,268)
Other income	—	4	—		4
Total other income (expense), net	(24,470)	(49)	55		(24,464)
Loss before income taxes	(97,039)	(1,033)	222		(97,850)
Income tax benefit	—	140	(140)	2(e)	—
Net loss	$ (97,039)	$ (893)	$ (82)		$ (97,850)
Net loss per common share, basic and diluted	$ (14.85)				$ (14.97)
Weighted-average shares outstanding, basic and diluted	6,534,469				6,534,469

NOTES TO THE UNAUDITED PRO FORMA CONDENSED COMBINED FINANCIAL INFORMATION

Note 1—Description of Transaction and Basis of Presentation

The unaudited pro forma condensed combined financial information was prepared in accordance with U.S. GAAP and pursuant to the rules and regulations of SEC Regulation S-X, and present the pro forma results of operations of the combined companies based upon the historical data of Acutus and Rhythm Xience.

For purposes of the unaudited pro forma condensed combined financial information, the accounting policies of Acutus and Rhythm Xience are aligned with no differences.

Description of Transaction

On June 18, 2019, the Company acquired Rhythm Xience, a medical device company specializing in catheter-based rhythm management solutions, for $3.0 million in cash. The cash payment did not include the potential $17.0 million in earn out consideration to be paid based on the achievement of certain regulatory milestones and revenue milestones. In accordance with ASC 805, the Rhythm Xience Acquisition is accounted for as a business combination.

Purchase Price Allocation

The following table summarizes the allocation of the purchase price to the assets acquired and liabilities assumed for the Rhythm Xience Acquisition (in thousands):

	June 18, 2019
Accounts receivable, net	$ 3
Prepaid expenses and other current assets	8
Property and equipment, net	3
Intangible assets	4,360
Goodwill	12,026
Contingent consideration	(13,400)
Cash consideration	$ 3,000

As part of the Rhythm Xience Acquisition, the Company recorded a contingent consideration liability of $13.4 million based on the fair value of the contingent consideration liability at the acquisition date. The Company recorded a $0.5 million increase to the fair value of the contingent consideration liability from June 18, 2019 to December 31, 2019, which is included in change in fair value of contingent consideration in the Company's consolidated statements of operations and comprehensive loss for the year ended December 31, 2019.

Note 2—Pro Forma Adjustments

The following adjustments have been reflected in the unaudited pro forma condensed combined financial information:

(a) Represents the elimination of the 2019 Acutus transaction expenses recognized in the period prior to the closing of the transaction on June 18, 2019.

(b) Represents the elimination of the 2019 Rhythm Xience transaction expenses recognized in the period prior to the closing of the transaction on June 18, 2019.

NOTES TO THE UNAUDITED PRO FORMA CONDENSED COMBINED FINANCIAL INFORMATION

(c) Represents the amortization of intangible assets for the period prior to the closing of the transaction on June 18, 2019 (in thousands, except years):

	Estimated Useful Lives (Years)	Balances	2019 Pro Forma Amortization of Intangible Assets
Developed technology	10	$ 3,600	$ 180
In-process technology	Indefinite	600	
Trademarks and trade names	0.5	60	—
Customer-related intangible	5	100	10
Total		$ 4,360	$ 190

(d) Represents the elimination of the 2019 interest expenses related to Rhythm Xience's debt that was not assumed in the transaction.

(e) Represents the elimination of Rhythm Xience's income tax benefit as Acutus has a full valuation allowance on its net deferred tax assets.

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Shares

Common Stock

Prospectus

J.P. Morgan **BofA Securities** **William Blair**

Canaccord Genuity **BTIG**

, 2020

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 13. Other Expenses of Issuance and Distribution

The following table sets forth the expenses to be incurred in connection with the offering described in this Registration Statement, other than underwriting discounts and commissions, all of which will be paid by us. All amounts are estimates except the Securities and Exchange Commission's registration fee, the Financial Industry Regulatory Authority, Inc.'s filing fee and the listing fee.

	Amount Paid or to Be Paid
SEC registration fee	$ *
FINRA filing fee	*
listing fee	*
Printing and engraving expenses	*
Legal fees and expenses	*
Accounting fees and expenses	*
Transfer agent and registrar fees	*
Miscellaneous expenses	*
Total	$ *

* To be provided by amendment.

Item 14. Indemnification of Officers and Directors

Section 145 of the Delaware General Corporation Law provides, in effect, that any person made a party to any action by reason of the fact that he is or was a director, officer, employee or agent of ours may, and in certain cases must, be indemnified by us against, in the case of a non-derivative action, judgments, fines, amounts paid in settlement, and reasonable expenses (including attorneys' fees) incurred by him as a result of such action, and in the case of a derivative action, against expenses (including attorneys' fees), if in either type of action he acted in good faith and in a manner he reasonably believed to be in or not opposed to our best interests. This indemnification does not apply: (i) in a derivative action, to matters as to which it is adjudged that the director, officer, employee or agent is liable to us, unless upon court order it is determined that, despite such adjudication of liability, but in view of all the circumstances of the case, he is fairly and reasonably entitled to indemnity for expenses; and (ii) in a non-derivative action, to any criminal proceeding in which such person had no reasonable cause to believe his conduct was unlawful.

Article XI of our current amended and restated certificate of incorporation and Article of the amended and restated certificate of incorporation that our board of directors expects to approve and we expect our stockholders to approve in connection with this offering will provide for the indemnification of directors to the fullest extent permissible under Delaware law.

Article V of our current bylaws and Article of the amended and restated bylaws that our board of directors expects to approve and we expect our stockholders to approve in connection with this offering will provide for the indemnification of officers, directors and third parties to the fullest extent permissible under Delaware law.

We have entered into indemnification agreements with certain of our directors, executive officers and others, in addition to indemnification provided for in our bylaws. Prior to the completion of this offering, we expect to enter into new indemnification agreements with each of our directors, executive officers and certain other officers, which will contain similar provisions. Insofar as indemnification for liabilities arising

under the Securities Act may be permitted to our directors, officers and controlling persons pursuant to the foregoing provisions, or otherwise, we have been advised that, in the opinion of the SEC, such indemnification is against public policy as expressed in the Securities Act, and is, therefore, unenforceable.

The Underwriting Agreement (Exhibit 1.1 hereto) provides for indemnification by the underwriters of us and our executive officers and directors, and by us of the underwriters for certain liabilities, including liabilities arising under the Securities Act.

We have purchased and intend to maintain insurance on behalf of any person who is or was a director or officer against any loss arising from any claim asserted against him or her and incurred by him or her in any such capacity, subject to certain exclusions. Prior to the completion of this offering, we will procure additional insurance to provide coverage to our directors and officers against loss arising from claims relating to, among other things, public securities matters.

See also the undertakings set out in response to Item 17 herein.

Item 15. Recent Sales of Unregistered Securities

We have issued and sold the following securities since January 1, 2017:

(i) In June 2018, we issued warrants exercisable for up to 4,880,943 shares of our common stock at a price of $0.01 per share to five accredited investors (including certain holders of 5% or more of our capital stock and entities affiliated with certain of our directors).

(ii) In June 2018, we issued $22,815,231.50 in principal amount of convertible promissory notes to a total of eight accredited investors (including certain holders of 5% or more of our capital stock, entities affiliated with certain of our directors and Christoph Scharf, M.D., one of our directors), which notes were subsequently amended and converted into an aggregate of 18,325,558 shares of our Series D convertible preferred stock at a price of $1.3712 per share.

(iii) In July 2018, we issued warrants exercisable for up to 262,543 shares of our Series C convertible preferred stock at a price of $1.714 per share. These warrants were subsequently automatically converted to warrants to purchase up to 262,543 shares of our Series D convertible preferred stock at a price of $1.714 per share.

(iv) In May 2019, we issued warrants exercisable for up to 4,084,014 shares of our Series C convertible preferred stock at a price of $1.714 per share to two accredited investors (including certain holders of 5% or more of our capital stock and entities affiliated with certain of our directors). These warrants were subsequently automatically converted to warrants to purchase up to 4,084,014 shares of our Series D convertible preferred stock at a price of $1.714 per share.

(v) In May 2019, we issued $37,000,000.00 in principal amount of convertible promissory notes to a total of seven accredited investors (including certain holders of 5% or more of our capital stock and entities affiliated with certain of our directors), which notes were subsequently converted into an aggregate of 21,625,369 shares of our Series D convertible preferred stock at a price of $1.714 per share.

(vi) In June 2019, we sold an aggregate of 39,789,158 shares of our Series D convertible preferred stock at a price of $1.714 per share for an aggregate purchase price of $68,198,650.42.

(vii) On June 18, 2019, we entered into an acquisition agreement under which we acquired all of the stock of Rhythm Xience, Inc. Pursuant to that agreement, in February 2020 we issued 1,166,861 shares of our Series D convertible preferred stock with an implied value of $2,197,199 to the former owners of Rhythm Xience, Inc. in connection with the achievement of certain regulatory and revenue milestones.

(viii) On July 2, 2019 we entered into a license agreement with Biotronik SE & Co. KG and VascoMed GmbH. Pursuant to that agreement, we issued 2,655,337 shares of our Series D convertible preferred stock, with an implied value of $5,000,000, to Biotronik in February 2020.

(ix) From January 1, 2017 through May 14, 2020, we granted to certain employees, consultants and directors options to purchase an aggregate of 23,286,085 shares of our common stock under our 2011 Plan, at exercise prices ranging from $0.79 to $1.523 per share.

(x) From January 1, 2017 through May 14, 2020, we issued an aggregate of 1,398,011 shares of our common stock upon the exercise of options granted under our 2011 Plan, at exercise prices ranging from $0.19 to $1.06 per share, for an aggregate exercise price of $533,424.

None of the foregoing transactions involved any underwriters, underwriting discounts, or commissions, or any public offering. The sales of the above securities were deemed to be exempt from registration under the Securities Act in reliance on Section 4(a)(2) of the Securities Act (and Regulation D promulgated thereunder) or Rule 701 promulgated under Section 3(b) of the Securities Act as transactions by an issuer not involving a public offering or transactions pursuant to compensatory benefit plans and contracts relating to compensation as provided under such Rule 701. The recipients of securities in each such transaction represented their intention to acquire the securities for investment only and not with a view to or for sale in connection with any distribution thereof and appropriate legends were affixed to the share certificates and warrants issued in such transactions. All recipients had adequate access, through their relationships with us, to information about us.

Item 16. Exhibits and Financial Statement Schedules

(a) Exhibits.

See the Exhibit Index immediately preceding the signature page hereto for a list of exhibits filed as part of this registration statement on Form S-1, which Exhibit Index is incorporated herein by reference.

(b) Financial Statement Schedules.

All other schedules have been omitted because the information required to be set forth therein is not applicable or is shown in the consolidated financial statements or related notes.

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.

(i) Insofar as indemnification for liabilities arising under the Securities Act 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 SEC such indemnification is against public policy as expressed in the Act 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 and will be governed by the final adjudication of such issue.

(ii) 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.

EXHIBIT INDEX

Exhibit Number	Description
1.1*	Form of Underwriting Agreement
2.1	Acquisition Agreement, dated May 31, 2019, among the Registrant, Rhythm Xience, Inc., the sellers listed on Schedule I thereto and Harold Wodlinger, as the Sellers' Agent
3.1	Amended and Restated Certificate of Incorporation of the Registrant, as currently in effect
3.2*	Form of Amended and Restated Certificate of Incorporation of the Registrant, to be in effect immediately prior to the completion of this offering
3.3	Amended and Restated Bylaws of the Registrant, as currently in effect.
3.4*	Form of Amended and Restated Bylaws of the Registrant, to be in effect immediately prior to the completion of this offering
4.1	Amended and Restated Investors' Rights Agreement, dated June 12, 2019, among the Registrant and certain of its stockholders
4.2*	Specimen common stock certificate of the Registrant
4.3	Form of warrant to purchase common stock, dated January 30, 2015, issued by the Registrant to various parties, together with a schedule of material differences
4.4	Form of warrant to purchase common stock, dated June 7, 2018, issued by the Registrant to various parties, together with a schedule of material differences
4.5	Form of warrant to purchase convertible preferred stock, dated July 31, 2018, issued by the Registrant to various parties, together with a schedule of material differences
4.6	Form of warrant to purchase convertible preferred stock, dated May 20, 2019, issued by the Registrant to various parties, together with a schedule of material differences
5.1*	Opinion of Davis Polk & Wardwell LLP
10.1	Credit Agreement, dated May 20, 2019, among the Registrant, the lenders from time to time party thereto, Wilmington Trust, National Association as Administrative Agent and OrbiMed Royalty Opportunities II, LP, as Origination Agent
10.2	Pledge and Security Agreement, dated May 20, 2019, between the Registrant and Wilmington Trust, National Association
10.3#	License and Distribution Agreement, dated July 2, 2019, among the Registrant, Biotronik SE & Co. KG and VascoMed GmbH

Exhibit Number	Description
10.4*#	Bi-Lateral Distribution Agreement, dated May 11, 2020, between the Registrant and Biotronik SE & Co. KG (Acutus as distributor)
10.5*#	Bi-Lateral Distribution Agreement, dated May 11, 2020, between the Registrant and Biotronik SE & Co. KG (Biotronik as distributor)
10.6#	License Agreement, dated May 10, 2011, between the Registrant and Dr. Christoph Scharf
10.7	First Amendment to License Agreement, dated September 30, 2011, between the Registrant and Dr. Christoph Scharf
10.8#	Master License Agreement, dated March 11, 2014, between the Registrant and Biotectix, LLC
10.9#	Exclusive Patent License Agreement, dated April 21, 2014, between the Registrant and Regents of the University of Minnesota
10.10	First Amendment to Exclusive Patent License Agreement, dated October 20, 2014, between the Registrant and Regents of the University of Minnesota
10.11	Lease Agreement, dated January 22, 2015, as amended, between the Registrant and Carlsbad 2210, LLC
10.12*†	Form of Indemnification Agreement between the Registrant and each of its directors and executive officers
10.13†	2011 Equity Incentive Plan, as amended, and forms of agreements thereunder
10.14*†	2020 Equity Incentive Plan and forms of agreements thereunder, to be in effect upon the completion of this offering
10.15*†	2020 Employee Stock Purchase Plan, to be in effect upon the completion of this offering
10.16†	Executive Incentive Compensation Plan
10.17†	Executive Chairman Agreement, dated June 30, 2019, between the Registrant and Scott Huennekens
10.18†	Restricted Stock Unit Award Agreement, dated June 30, 2019 (2011 Equity Incentive Plan) (Scott Huennekens)
10.19†	Employment Agreement, dated October 14, 2019, between the Registrant and Vince Burgess
10.20†	Offer Letter, dated September 24, 2015, between the Registrant and Gary W. Doherty
10.21†	Employment Agreement, dated September 6, 2016, between the Registrant and Steven McQuillan
21.1	Subsidiaries of the Registrant
23.1*	Consent of KPMG LLP
23.2*	Consent of Meuwissen, Flygare, Kadrlik & Associates, P.A.
23.3*	Consent of Davis Polk & Wardwell LLP (included in Exhibit 5.1)
24.1*	Power of Attorney (included in signature page to this Form S-1)

* To be filed by amendment.
† Indicates management contract or compensatory plan.
# Portions of the exhibit have been omitted as the Registrant has determined that: (i) the omitted information is not material; and (ii) the omitted information would likely cause competitive harm to the Registrant if publicly disclosed.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in Carlsbad, State of California, on , 2020.

ACUTUS MEDICAL, INC.

By: _____
Vince Burgess
President, Chief Executive Officer and Director

POWER OF ATTORNEY

We, the undersigned officers and directors of Acutus Medical, Inc., hereby severally constitute and appoint Vince Burgess, Gary W. Doherty and Tom Sohn, and each of them singly (with full power to each of them to act alone), our true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution in each of them for him and in his name, place and stead, and in any and all capacities, 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, this registration statement has been signed by the following persons in the capacities and on the dates indicated:

Signature	Title	Date
_____ Vince Burgess	President, Chief Executive Officer and Director (Principal Executive Officer)	, 2020
_____ Gary W. Doherty	Chief Financial Officer (Principal Financial Officer)	, 2020
_____ R. Scott Huennekens	Chairman of the Board	, 2020
_____ David Bonita, M.D.	Director	, 2020
_____ Andrew ElBardissi, M.D.	Director	, 2020
_____ Jim Hinrichs	Director	, 2020
_____ Shahzad Malik, MB BChir	Director	, 2020

Signature	Title	Date
_____ Aditya Puri	Director	, 2020
_____ Christoph Scharf, M.D.	Director	, 2020

Exhibit 2.1

ACQUISITION AGREEMENT

by and among

ACUTUS MEDICAL, INC.,

RHYTHM XIENCE, INC.,

THE SELLERS
listed on Schedule I hereto,

And

HAROLD WODLINGER
the Sellers' Agent

dated as of

May 31, 2019

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ACQUISITION AGREEMENT

This Acquisition Agreement (this "**Agreement**"**),** dated as of May 31, 2019, is entered into by and among Acutus Medical, Inc., a Delaware corporation **(**"**Buyer**"**),** Rhythm Xience, Inc., a Delaware corporation (the "**Company**"**),** the parties identified on Schedule I (the "**Sellers**"**),** and Harold Wodlinger as the "**Sellers' Agent**"**.**

RECITALS

WHEREAS, the Sellers collectively own 100% of the fully diluted capital stock of the Company, including all convertible debt, options, and warrants of the Company, as set forth on Schedule I;

WHEREAS, the parties wish to enter into this Agreement pursuant to which the Sellers will sell and Buyer will acquire 100% ownership of the Company, subject to and conditioned upon the terms and conditions of this Agreement; and

WHEREAS, the parties desire to make certain representations, warranties, covenants and other agreements in connection with the transactions contemplated by this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS

Capitalized terms in this Agreement shall have the meanings specified herein.

"**510(k)s**" has the meaning set forth in Section 4.16(b).

"**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

"**Agreement**" has the meaning set forth in the preamble.

"**Annual Financial Statements**" has the meaning set forth in Section 4.6(a).

"**Anti-Bribery Laws**" has the meaning set forth in Section 4.21(a).

"**Base Closing Date Cash Consideration**" means an amount equal to $3,000,000, of which $500,000 has been paid prior to the Closing pursuant to the Summary of Proposed Terms dated on or about March 9, 2019 by and between the Company and Buyer.

"**Business**" means the research, design, development, testing, processing, manufacture, packaging, labeling, storage, marketing, promotion, sale, distribution, import and export of Company Products as conducted, and contemplated to be conducted, as of the date hereof.

"**Business Copyrights**" has the meaning set forth in Section 4.12(b).

"**Business Day**" means any day except (a) Saturday, Sunday, or (b) any other day on which commercial banks located in Carlsbad, California or Minneapolis, Minnesota are authorized or required by Law to be closed for business.

"**Business Domain Names**" has the meaning set forth in Section 4.12(b).

"**Business IP**" has the meaning set forth in Section 4.12(b).

"**Business Marks**" has the meaning set forth in Section 4.12(b).

"**Business Patents**" has the meaning set forth in Section 4.12(b).

"**Buyer**" has the meaning set forth in the preamble.

"**Buyer Indemnified Parties**" has the meaning set forth in Section 9.2.

"**Buyer Stock**" means either (a) if the Buyer Series D Financing closes prior to any Contingent Payment becoming payable, then the number of shares of Series D Preferred Stock of Buyer equal to the quotient of (x) $2,000,000 divided by (y) the cash price per share of the Series D Preferred Stock (such quotient rounded down to the nearest whole number), with the terms of such stock substantially as contemplated by the Series D Term Sheet; or (b) if no Buyer Series D Financing closes prior to any Contingent Payment becoming payable, then 1,167,000 shares of the Series C Preferred Stock of Buyer; *provided, however,* that if Buyer's initial public offering occurs prior to any Contingent Payment becoming payable, then "Buyer Stock" shall mean the number of shares of the common stock of the Buyer equal to the quotient of (x) $2,000,000 divided by (y) the cash price per share of the Series C Preferred Stock or the Series D Preferred Stock, whichever was more recently sold by the Buyer in an equity financing (such quotient rounded down to the nearest whole number).

"**Buyer Series D Financing**" means an equity financing pursuant to which the Buyer issues and sells shares of its Series D Preferred Stock in a transaction or series transactions with aggregate gross proceeds of at least $20,000,000, on terms substantially as contemplated by the Series D Term Sheet.

"**Change of Control**" means (i) the acquisition of the Company by means of any transaction or series of related transactions (including, without limitation, any stock acquisition, reorganization, merger or consolidation) other than acquisition of shares

issued in an IPO or a transaction or series of transactions in which the holders of the voting securities of the Company outstanding immediately prior to such transaction continue to retain (either by such voting securities remaining outstanding or by such voting securities being converted into voting securities of the surviving entity), as a result of shares in the Company held by such holders prior to such transaction, more than 50% of the total voting power represented by the voting securities of the Company or such surviving entity outstanding immediately after such transaction or series of transactions, or (ii) a sale, lease, exclusive license or other conveyance or transfer of all or substantially all of the assets of the Company.

"**Closing**" means the closing of the purchase and sale transaction referred to in Section 2.1.

"**Closing Cash**" means as of the Closing Date, all cash and cash equivalents held by the Company, determined in accordance with GAAP.

"**Closing Date**" means the date on which the Closing occurs.

"**Closing Date Cash Consideration**" means an amount equal to (i) the Base Closing Date Cash Consideration, *minus* (ii) the amount of Closing Indebtedness, *minus* (iii) the amount of Transaction Expenses, *plus* (iv) the amount of Closing Cash.

"**Closing Indebtedness**" means, as of the Closing Date, without duplication the following: (i) any indebtedness of the Company for borrowed money or issued in substitution for or exchange of indebtedness for borrowed money (including interest and prepayment penalties or obligations computed as though payment is being made as of the Closing), (ii) any indebtedness of the Company evidenced by any note, bond, debenture or other debt security, (iii) any indebtedness for the deferred purchase price of property or services with respect to which the Company is liable, contingently or otherwise, as obligor or otherwise (including any earnouts, holdbacks, etc.), (iv) any guarantees of indebtedness or any indebtedness guaranteed in any manner by the Company (including guarantees in the form of an agreement to repurchase or reimburse, whether on a contingent basis or otherwise), (v) any liabilities under capitalized leases with respect to which the Company is liable, contingently or otherwise, as obligor, guarantor or otherwise, or with respect to which liabilities the Company assures a creditor against loss, (vi) any indebtedness secured by a Encumbrance on the Company's assets, (vii) any accounts payable, determined in accordance with GAAP, (viii) any accruals (including any Tax accruals and any accrued but unpaid payroll obligations) recorded or required to be recorded in accordance with GAAP and (ix) any payments required to be paid to Company personnel, consultants officers and/or directors following a Change of Control as a result of, or contingent upon the occurrence of, such Change of Control (excluding any Transaction Expenses).

"**Closing Statement**" has the meaning set forth in Section 2.5(a).

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Company**" has the meaning set forth in the preamble.

"**Company Bylaws**" means the bylaws of the Company, dated as of March 28, 2014.

"**Company Certificate of Incorporation**" means the certificate of incorporation of the Company, dated as of March 11, 2014.

"**Company Convertible Securities**" means any securities, including convertible promissory notes, that may be converted into shares of the capital stock of the Company.

"**Company Option Plan**" means the Company's 2016 Stock Incentive Plan.

"**Company Options**" means any options (including commitments to grant options) to purchase or otherwise acquire any shares of the capital stock of the Company held by any Person (whether or not vested), including stock options granted under the Company Option Plan.

"**Company Products**" means (a) existing market-released products of the Company, including the Lancer device and the Guider and Flextra catheters; (b) subsequent RF-enabled products developed by Buyer or the Company that utilize or incorporate any of the existing, or pending, Intellectual Property Rights of the Company as of the Closing Date, and (c) any products designed, developed, manufactured, or sold by or on behalf of the Buyer or the Company that are iterations or derivatives of existing market-released products of the Company, including prospective radio-frequency (RF)-enabled Guider and Flextra catheters.

"**Company Warrants**" means any warrants or other rights (including commitments to grant such rights) to purchase or otherwise acquire any shares of the capital stock of the Company held by any Person (whether or not vested), other than Company Options and Company Convertible Securities.

"**Confidential Information**" means information regarding (i) the terms of the transactions contemplated under this Agreement and the other Transaction Documents, (ii) any information with respect to the Business that the Company has treated as proprietary and that it does not in the ordinary course of business disclose to any Person outside the Company concerning the businesses and affairs of the Company, and (iii) any confidential information regarding Buyer or its business, in each case excluding any information that (a) is in the public domain at the time of disclosure, (b) is published or otherwise comes into the public domain after its disclosure through no violation of this Agreement, (c) is disclosed to the recipient by a third party not under an obligation of confidence, or (d) is already known by the recipient at the time of its disclosure as evidenced by written documentation of the recipient existing prior to such disclosure.

"**Consent**" means any consent, approval, ratification, waiver, notice or other authorization.

"**Contract**" means any written or oral contract, agreement, lease, instrument, or other document or commitment, arrangement, undertaking, practice, or authorization that is binding on any Person or its property under any applicable Law.

"**Copyrights**" has the meaning set forth in Section 4.12(a).

"**Direct Claim**" has the meaning set forth in Section 9.5(c).

"**Disclosure Schedules**" means the Disclosure Schedules delivered by the Sellers and the Company pursuant to this Agreement.

"**Discussion Period**" has the meaning set forth in Section 2.5(c).

"**Dollars**" or "**$**" means the lawful currency of the United States.

"**Employee Benefit Plan**" means any plan, program, agreement, policy or arrangement with respect to employees, that is (a) an employee welfare benefit plan within the meaning of Section 3(1) of ERISA, (b) an employee pension benefit plan within the meaning of Section 3(2) of ERISA, (c) a stock bonus, stock purchase, stock option, restricted stock, stock appreciation right, profit sharing or similar equity-based plan or agreement, or (d) any other employment, deferred-compensation, retirement, severance, retention, change-in-control, leave, vacation, welfare-benefit, bonus, incentive or fringe-benefit plan, program, agreement or arrangement.

"**Encumbrance**" means any lien, pledge, mortgage, deed of trust, security interest, charge, claim, easement, encroachment or other similar encumbrance or restriction of any kind.

"**Environmental Claim**" means any action, suit, claim, investigation or other legal proceeding by any Person alleging liability of whatever kind or nature (including liability or responsibility for the costs of enforcement proceedings, investigations, cleanup, governmental response, removal or remediation, natural resources damages, property damages, personal injuries, medical monitoring, penalties, contribution, indemnification and injunctive relief) arising out of, based on or resulting from: (a) the presence, Release of, or exposure to, any Hazardous Materials; or (b) any actual or alleged non-compliance with any Environmental Law or term or condition of any Environmental Permit.

"**Environmental Law**" means any applicable Law, and any Governmental Order or binding agreement with any Governmental Authority: (a) relating to pollution (or the cleanup thereof) or the protection of natural resources, endangered or threatened species, human or worker health or safety (as it relates to exposure to Hazardous Materials), or the environment (including ambient air (indoor or outdoor), soil, soil gas, surface water or groundwater, or subsurface strata); or (b) concerning the presence of, exposure to, or the management, manufacture, use, containment, storage, recycling, reclamation, reuse, treatment, generation, discharge, transportation, processing, production, disposal or remediation of any Hazardous Materials. The term "Environmental Law" includes, without limitation, the following (including their implementing regulations and any state analogs): the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§ 9601 et seq.; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste

Amendments of 1984, 42 U.S.C. §§ 6901 et seq.; the Federal Water Pollution Control Act of 1972, as amended by the Clean Water Act of 1977, 33 U.S.C. §§ 1251 et seq.; the Toxic Substances Control Act of 1976, as amended, 15 U.S.C. §§ 2601 et seq.; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§ 11001 et seq.; the Clean Air Act of 1966, as amended by the Clean Air Act Amendments of 1990, 42 U.S.C. §§ 7401 et seq.; and the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. §§ 651 et seq.

"**Environmental Notice**" means any written directive, notice of violation or infraction, or notice respecting any Environmental Claim relating to actual or alleged non-compliance with any Environmental Law or any term or condition of any Environmental Permit.

"**Environmental Permit**" means any Permit, letter, clearance, consent, waiver, closure, or exemption, decision or other action required under or issued, granted, given, authorized by or made by a Governmental Authority pursuant to Environmental Law.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended.

"**Escrow Agent**" means the escrow agent selected by Buyer and reasonably acceptable to Sellers' Agent.

"**Escrow Agreement**" means the escrow agreement, to be entered into by Buyer, Sellers' Agent, and the Escrow Agent at the Closing, in form and substance reasonably acceptable to such parties, pursuant to which the Holdback Amount and certain Set-Off Amounts will be held in escrow in accordance with Section 2.6.

"**Estimated Closing Cash**" has the meaning set forth in Section 2.2.

"**Estimated Closing Date Cash Consideration**" has the meaning set forth in Section 2.2.

"**Estimated Closing Date Consideration Statement**" has the meaning set forth in Section 2.2.

"**Estimated Closing Indebtedness**" has the meaning set forth in Section 2.2.

"**Estimated Transaction Expenses**" has the meaning set forth in Section 2.2.

"**Excluded Contracts**" means (i) non-exclusive Contracts concerning "off-the-shelf" or similar software (including software-based services) that is available on commercially reasonable terms, (ii) standard non-disclosure, confidentiality, assignment and material transfer Contracts, in each case entered into in the ordinary course of business, (iii) Contracts that have expired on their own terms or were terminated, without material surviving obligations, and (iv) purchase orders and associated terms and conditions for which the underlying goods or services have been delivered or received.

"**FDA**" has the meaning set forth in Section 4.16(a).

"**FDA Clearance Milestone**" has the meaning set forth in Section 2.6.

"**FDA Laws**" has the meaning set forth in Section 4.16(a).

"**Final Cash**" means the Closing Cash as finally determined pursuant to Section 2.5.

"**Final Indebtedness**" means the Closing Indebtedness as finally determined pursuant to Section 2.5.

"**Final Transaction Expenses**" means the Transaction Expenses as finally determined pursuant to Section 2.5.

"**Financial Statements**" has the meaning set forth in Section 4.6(a).

"**Foreign Device Laws**" has the meaning set forth in Section 4.16(a).

"**Fundamental Representations**" has the meaning set forth in Section 9.1.

"**GAAP**" means United States generally accepted accounting principles in effect from time to time.

"**Governmental Authority**" means any, United States or foreign, federal, state or local government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations or orders of such organization or authority have the force of Law), or any arbitrator, court or tribunal of competent jurisdiction.

"**Governmental Order**" means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority.

"**Hassett Employment Agreement**" means the employment agreement between Buyer and James Hassett, current President and CEO of the Company, entered into contemporaneously herewith, which shall be effective upon Closing.

"**Hazardous Materials**" means: (a) any material, substance, chemical, waste, product, derivative, compound, mixture, solid, liquid, mineral or gas, in each case, whether naturally occurring or man-made, that is hazardous, acutely hazardous, toxic, or words of similar import or regulatory effect under Environmental Laws; and (b) any petroleum or petroleum-derived products, radon, radioactive materials or wastes, asbestos in any form, lead or lead-containing materials, urea formaldehyde foam insulation and polychlorinated biphenyls.

"**Health Care Laws**" means any Law relating to healthcare regulatory matters and Programs, (but expressly excludes state Privacy Laws re), including (a) 42 U.S.C. §§

1320a-7, 7a and 7b, which are commonly referred to as the "Federal Fraud Statutes," (b) 42 U.S.C. § 1395nn, which is commonly referred to as the "Stark Statute," (c) 31 U.S.C. §§ 3729-3733, which is commonly referred to as the "Federal False Claims Act," (d) HIPAA, (e) the Occupational Safety and Health Act and all regulations promulgated under such legislation, (f) the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 321 et seq., as amended and all regulations promulgated thereunder, (g) applicable Laws of the United States Drug Enforcement Administration and all regulations promulgated thereunder, (h) the Physician Payments Sunshine Law, 42 U.S.C. § 13207h and applicable state sunshine reporting Laws, and (i) applicable state anti-kickback, fee-splitting and patient brokering laws.

"**HIPAA**" means 42 U.S.C. §§ 1320d through 1320d-8 and 42 C.F.R. §§ 160, 162 and 164, which is commonly referred to as the Health Insurance Portability and Accountability Act of 1996 and the Health Information Technology for Economic and Clinical Health Act, as the same may be amended, modified or supplemented from time to time, and any successor statute thereto, and any and all rules or regulations promulgated from time to time thereunder.

"**Indemnified Party**" has the meaning set forth in Section 9.4.

"**Indemnifying Party**" has the meaning set forth in Section 9.4.

"**Independent Auditors**" has the meaning set forth in Section 2.5(c).

"**Insurance Policies**" has the meaning set forth in Section 4.13.

"**Intellectual Property**" has the meaning set forth in Section 4.12(a).

"**Interim Financial Statements**" has the meaning set forth in Section 4.6.

"**Investor Documents**" means (i) the preferred stock purchase agreement and related agreements contemplated by the Series D Term Sheet, if the Buyer Stock is Buyer's Series D Preferred Stock; or (ii) the Buyer's Series C Preferred Stock Purchase Agreement and related agreements contemplated thereby, in substantially the form provided by Buyer to the Company prior to the date hereof, if the Buyer Stock is Buyer's Series C Preferred Stock; or (iii) a standard Common Stock Purchase Agreement and related agreements contemplated thereby if the Buyer Stock is Buyer's Common Stock.

"**IP Contract**" has the meaning set forth in Section 4.12(f).

"**Knowledge**" or any other similar knowledge qualification (i) as it relates to the Company means the actual knowledge of the officers and directors of the Company and those persons listed on Section 1.01(a) of the Disclosure Schedules and such knowledge as any of the foregoing persons would reasonably be expected to obtain following the exercise of reasonable inquiry of their direct reports and (ii) as it relates to the Sellers means (a) for purposes of the representations and warranties set forth in Article III of the Agreement, the actual knowledge of such Seller and such knowledge as any Seller would reasonably be expected to obtain following the exercise of reasonable inquiry and (b) for all other purposes in the Agreement means the actual knowledge of such Seller.

"**Law**" means any applicable federal, state, or local statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, consent decree or rule of law enacted, promulgated, entered into or imposed by any Governmental Authority.

"**Licensed Patents**" means the Business Patents licensed to the Company as designated on Section 4.12(b)(1) of the Disclosure Schedules.

"**Losses**" means all actual, out-of-pocket losses, damages, liabilities, interest, judgments, sanctions, fines, penalties, amounts paid in settlements, costs or expenses, including court costs and reasonable attorneys' and experts' fees.

"**Marks**" has the meaning set forth in Section 4.12(a).

"**Material Adverse Effect**" means any event, occurrence, fact, condition or change that, individually or in the aggregate, is or could reasonably be expected to be materially adverse to (a) the financial condition, business, assets, liabilities, properties or results of operation of the Business or the Company, or (b) the ability of the Sellers or the Company to perform their respective obligations under this Agreement; *provided, however,* that "Material Adverse Effect" shall not include any event, occurrence, fact, condition or change, directly or indirectly, arising out of or attributable to: (i) general economic or political conditions; (ii) conditions generally affecting the industry in which the Business operates; (iii) any changes in financial, banking or securities markets in general, including any disruption thereof and any decline in the price of any market index or any change in prevailing interest rates; (iv) acts of war (whether or not declared), armed hostilities or terrorism, or the escalation or worsening thereof; (v) any changes in applicable Laws or accounting rules (including GAAP); (vi) the public announcement or completion of the transactions contemplated by this Agreement (*provided* that no such announcement shall be in violation of the terms hereof); (vii) any actions required or permitted by this Agreement; (viii) any natural disaster or acts of God; or (ix) any failure by the Business to meet any internal or published projections, forecasts or revenue or earnings predictions (*provided* that the underlying causes of such failures (subject to the other provisions of this definition) shall not be excluded); except in the case of (i), (ii), (iii), (iv), (v) or (viii) above to the extent the same has a disproportionate effect on the Company or the Business as compared to other Persons in the industry in which the Business or the Company operates.

"**Material Contracts**" has the meaning set forth in Section 4.9(a).

"**Net Revenue**" has the meaning set forth in Section 2.6(a).

"**Objection Notice**" has the meaning set forth in Section 2.5(b).

"**Open Source**" means software or similar subject matter which is subject to a license agreement such as the GNU General Public License, GNU Lesser General Public License, BSD License, MIT License, Common Public License and other licenses approved as open source licenses by the Open Source Initiative.

"**Outside Date**" has the meaning set forth in Section 10.1(d).

"**Patents**" has the meaning set forth in Section 4.12(a).

"**Permits**" means all permits, licenses, franchises, approvals, authorizations, consents or other similar requirements of any Governmental Authority.

"**Permitted Encumbrances**" has the meaning set forth in Section 4.10(a).

"**Person**" means an individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, trust, association or other entity.

"**Personal Data**" means personally identifying information including "protected health information" as that term is defined under HIPAA, a natural person's name, social security number or tax identification number, driver's license number, passport number, credit card number, or bank information.

"**Personal Data Obligations**" means any of the Company's written notices, policies, Contracts and terms of use as published on its web site or agreed to by the Company with employees, consumers or customers, clinical trial participants, IRBs or other Persons regarding privacy, security or confidentiality of Personal Data.

"**PMAs**" has the meaning set forth in Section 4.16(b).

"**Privacy Laws**" means any data and privacy protection Laws in force in that govern the collection, storage, use, disclosure, processing and/or transfer of any Personal Data.

"**Program**" means any and all third party payors and third party payor programs, whether private, commercial or governmental, including, but not limited to, any federal or state reimbursement program, including any Medicare, Medicaid, Medicaid waiver program, TRICARE program, "Federal Health care programs" as defined in 42 U.S.C. § 1320a-7b(f) and private insurance programs.

"**Real Property**" means the real property leased or subleased by the Company, together with all buildings, structures and facilities located thereon.

"**Registered**" has the meaning set forth in Section 4.12(b).

"**Release**" means any release, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, abandonment, or disposing or allowing to escape or migrate into or through the environment (including ambient air (indoor or outdoor), surface water, groundwater, land surface or subsurface strata or within any building, structure, facility or fixture).

"**Released Seller Claims**" has the meaning set forth in Section 7.9.

"**Representative**" means, with respect to any Person, any and all directors, officers, employees, consultants, financial advisors, counsel, accountants and other agents of such Person.

"**Seller Indemnified Parties**" has the meaning set forth in Section 9.2(f).

"**Shares**" means the issued and outstanding shares of the capital stock of the Company.

"**Sellers' Agent**" has the meaning set forth in the preamble.

"**Series D Term Sheet**" means the term sheet attached hereto as Exhibit B.

"**Set-Off Amount**" has the meaning set forth in Section 2.6(c).

"**Straddle Period**" means a taxable year or period beginning on or prior to and ending after the Closing Date.

"**Tax Return**" means any return, declaration, report, claim for refund, information return or statement or other document required to be filed with respect to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

"**Taxes**" means all federal, state, local, foreign and other income, gross receipts, sales, use, production, ad valorem, transfer, franchise, registration, profits, license, lease, service, service use, withholding, payroll, employment, unemployment, estimated, excise, severance, environmental, stamp, occupation, premium, property (real or personal), real property gains, windfall profits, customs, duties or other taxes, fees, assessments or charges of any kind whatsoever, together with any interest, additions or penalties with respect thereto and any interest in respect of such additions or penalties.

"**Third-Party Claim**" has the meaning set forth in Section 9.5(a).

"**Trade Secrets**" has the meaning set forth in Section 4.12(a).

"**Transaction Documents**" means this Agreement and all other documents delivered pursuant to or under this Agreement.

"**Transaction Expenses**" means, as of the Closing, all unpaid out-of-pocket expenses (including all fees and expenses of counsel, accountants, investment bankers, experts and consultants to a party hereto and its Affiliates) payable by the Company (including expenses payable by the Company to or on behalf of the Sellers or Sellers' Agent) in connection with, or related to, the authorization, preparation, negotiation, execution and performance of this Agreement and the transactions contemplated hereby, including any change-of-control payments, transaction bonuses, severance payments, or other similar contingent payments.

ARTICLE II
PURCHASE AND SALE OF SHARES

Section 2.1 Purchase and Sale of Shares. Subject to the satisfaction or waiver of the conditions set forth in Article VIII and the other terms and conditions of this Agreement, each Seller agrees to sell, assign, transfer and deliver to Buyer on the Closing Date, and Buyer agrees to purchase from such Seller on the Closing Date, all of such Seller's Shares, free and clear of all Encumbrances, such that Buyer will acquire 100% ownership of the Company from the Sellers.

Section 2.2 Pre-Closing Deliverables. No later than three (3) Business Days before the Closing Date, the Company and the Sellers' Agent, on behalf of the Sellers, shall deliver the following to Buyer, each certified by an officer of the Company and the Sellers' Agent:

(a) a written statement (the "**Estimated Closing Date Cash Consideration Statement**") setting forth good faith estimates of the amount of Closing Indebtedness (the "**Estimated Closing Indebtedness**"), the amount of Transaction Expenses (the "**Estimated Transaction Expenses**"), and the amount of Closing Cash (the "**Estimated Closing Cash**"), along with the resulting estimated amount of the Closing Date Cash Consideration (the "**Estimated Closing Date Cash Consideration**");

(b) a schedule, in the form and consistent with the parameters set forth in Exhibit A, specifying the allocation of the Estimated Closing Date Cash Consideration, the Post-Closing Stock Issuance, and the Contingent Payments among the Sellers, along with the other information contemplated by Exhibit A, (the "**Consideration Allocation Schedule**"); and

(c) a memorandum specifying the payments amounts (determined in accordance with the Estimated Closing Date Cash Consideration Statement and the Consideration Allocation Schedule) and wire transfer instructions for all Closing Date payments to be made by Buyer and/or the Company relating to: (A) payment of the Estimated Closing Date Cash Consideration in accordance with the Consideration Allocation Schedule; and (B) payment of any Closing Indebtedness and Transaction Expenses to be paid off on the Closing Date (the "**Funds Flow Memorandum**").

Section 2.3 Closing; Closing Deliverables.

(a) Subject to the terms and conditions hereof, the Closing shall take place via the electronic transmittal of executed document at a time and date to be specified by the Buyer, the Company, and the Sellers' Agent, which shall be no sooner than May 31, 2019 and no later than the fifth Business Day after the satisfaction or waiver of the conditions set forth in Article VIII (other than those that by their terms are to be satisfied or waived at the Closing), unless otherwise agreed in writing by the Buyer, the Company, and the Sellers' Agent.

(b) At the Closing, each Seller shall deliver to Buyer a duly executed assignment of its Shares, in form and substance reasonably satisfactory to Buyer, effectuating the assignment of the Shares to Buyer, free and clear of all Encumbrances.

(c) At the Closing, the Company shall deliver or have delivered to Buyer:

(i) copies of all consents, waivers and approvals (if any) obtained by the Company with respect to the consummation of the transactions contemplated hereby;

(ii) written resignations, effective as of the Closing Date, of all officers and directors of the Company, in form and substance reasonably satisfactory to Buyer;

(iii) a copy of the Company Certificate of Incorporation, certified as of a date not more than five (5) Business Days prior to the Closing Date by the Secretary of State of the State of Delaware;

(iv) a certificate of good standing of the Company, issued as of a date not more than five (5) Business Days prior to the Closing Date by the Secretary of State of the State of Delaware;

(v) a certificate of good standing of the Company, issued as of a date not more than five (5) Business Days prior to the Closing Date by the Secretary of State of the State of Minnesota and any other jurisdiction set forth in Section 4.1;

(vi) a certificate of the secretary, assistant secretary or other authorized representative of the Company, dated as of the Closing Date, in form and substance reasonably satisfactory to Buyer, as to the following matters: (A) no amendments to the Company Certificate of Incorporation since the date of the certified copy thereof referenced above in Section 2.3(c)(iii); (B) the Company Certificate of Incorporation and Company Bylaws in effect as of the Closing; (C) the resolutions of the board of directors and the stockholders of the Company authorizing the execution and performance of this Agreement and the consummation of the transactions contemplated hereby; and (D) that the Company Bylaws and resolutions have not been amended or modified in any respect and remain in full force and effect as of the Closing Date;

(vii) a certificate and related notice to the IRS, each dated as of the Closing Date and in form and substance reasonably satisfactory to Buyer, satisfying each of the requirements of Treasury Regulations Section 1.897-2(h) and Treasury Regulations Section 1.1445-2(c)(3);

(viii) payoff letters from each holder of Closing Indebtedness, in form and substance reasonably satisfactory to Buyer, evidencing the aggregate amount of Closing Indebtedness (including any interest accrued thereon and any prepayment or similar penalties and expenses associated with the prepayment of such Closing Indebtedness on the Closing Date), and containing an agreement that

if such aggregate amount so identified is paid to such lender on the Closing Date, such Closing Indebtedness shall be repaid in full and that any related Encumbrances shall be released (such letter, "**Pay-Off Letters**"**);**

(ix) evidence, in form and substance reasonably satisfactory to Buyer, of the release of all Encumbrances on the assets of the Company other than (A) Permitted Encumbrances and (B) Encumbrances referenced in the Payoff Letters; and

(x) the certificate referred to in Section 8.2(e) hereof.

(d) At the Closing, Buyer shall take the following actions:

(i) pay the Estimated Closing Indebtedness in accordance with the Pay-Off Letters and Funds Flow Memorandum;

(ii) pay the Estimated Transaction Expenses in accordance with the Funds Flow Memorandum;

(iii) pay to the Sellers an aggregate amount equal to the Estimated Closing Date Cash Consideration, in cash by wire transfer of immediately available funds using the wire instructions set forth in the Funds Flow Memorandum, with each Seller's portion of the Estimated Closing Date Cash Consideration paid to such Seller in accordance with the Consideration Allocation Schedule;

(iv) deliver or cause to be delivered to the Company a certificate of the secretary, assistant secretary or other authorized representative of the Buyer, dated as of the Closing Date, in form and substance reasonably satisfactory to the Company, as to the resolutions of the board of directors of Buyer authorizing the execution and performance of this Agreement and the consummation of the transactions contemplated hereby and that such resolutions have not been amended or modified in any respect and remain in full force and effect as of the Closing Date; and

(v) deliver the certificate referred to in Section 8.3(d) hereof.

Section 2.4 Treatment of Options, Warrants. Buyer will not assume, or pay any consideration in respect of, any Company Options or Company Warrants. The Company and the Sellers shall cause all Company Options and Company Warrants to be exercised or terminated prior to the Closing, so that none are outstanding as of the Closing.

Section 2.5 Closing Date Cash Consideration Adjustment.

(a) Closing Statement Preparation. The Buyer will prepare and deliver to the Sellers' Agent within sixty (60) days after the Closing Date a statement (the "**Closing Statement**"**)** which sets forth (i) an unaudited balance sheet of the Company as of the

Closing Date, (ii) a calculation of Closing Indebtedness, (iii) a calculation of Closing Cash, and (iv) a calculation of the Transaction Expenses. The Closing Statement and the calculations and determinations related thereto will be prepared in good faith from the Company's books and records and calculated in accordance with GAAP consistent with the Company's past accounting methods and practices.

(b) Closing Statement Review. Within thirty (30) days following Buyer's delivery of the Closing Statement, the Sellers' Agent may give Buyer a written notice stating the Sellers' objections to the Closing Statement (an "**Objection Notice**"**).** If the Sellers' Agent does not give Buyer an Objection Notice within such thirty (30) day period, then the Closing Statement will be conclusive and binding upon the parties and the Closing Indebtedness, the Closing Cash, the Transaction Expenses as set forth in the Closing Statement will constitute the Final Cash, the Final Indebtedness, and the Final Transaction Expenses.

(c) Independent Auditor Review. In the event that Buyer and the Sellers' Agent fail to resolve all of the issues set forth in the Objection Notice within thirty (30) days after Buyer receives the Objection Notice (the "**Discussion Period**"**),** Buyer and the Sellers' Agent will negotiate in good faith to resolve such dispute. If Buyer and the Sellers' Agent, notwithstanding such good faith effort, fail to resolve such dispute within fifteen (15) days after the Sellers' Agent notifies Buyer of Sellers' Agent's objections, then (i) Buyer and the Sellers' Agent will retain a firm of certified public accountants designated by Buyer and reasonably acceptable to the Sellers' Agent (the "**Independent Auditors**"**)** to make the determination of the Final Cash, the Final Indebtedness, and the Final Transaction Expenses in accordance with the terms of this Agreement within the thirty (30) day period following thereafter, and (ii) Buyer and the Sellers' Agent will each provide the Independent Auditors with their respective determinations of the Closing Cash, the Closing Indebtedness, and the Transaction Expenses. The Independent Auditors will consider only those items and amounts in Buyer's and the Sellers' Agent's respective determinations of the Closing Indebtedness, Closing Cash and the Transaction Expenses that are identified as being items and amounts to which Buyer and the Sellers' Agent have been unable to agree. In resolving any such disputed item or amount, the Independent Auditors may not assign a value to any item or amount that is higher than the highest value for such item or amount claimed by either party or lower than the lowest value for such item or amount claimed by either party. The Independent Auditors' determination of the Final Indebtedness, Final Cash and the Final Transaction Expenses will be based on the definitions of "Closing Indebtedness," "Closing Cash" and the "Transaction Expenses" contained in this Agreement. Assuming compliance with the immediately preceding sentence, the determination of the Final Indebtedness, Final Cash and the Final Transaction Expenses by the Independent Auditors will be conclusive and binding upon the parties. If the Sellers' Agent delivers an Objection Notice, the fees, costs and expenses of the Independent Auditor shall be paid (i) by the Sellers if the items covered thereby are resolved in favor of Buyer or (ii) by Buyer if the items covered thereby are resolved in favor of the Sellers. If the items referred to therein are resolved in part in favor of the Sellers and in part in favor of Buyer, such fees, costs and expenses shall be allocated between the Sellers and Buyer in inverse proportion as the Sellers and Buyer may prevail on matters resolved by the Independent Auditors, which proportionate allocations shall be determined by the Independent Auditors.

(d) Adjustment Payment. Upon the determination, in accordance with this Section 2.5, of the Final Indebtedness, the Final Cash and the Final Transaction Expenses, the Closing Date Cash Consideration will be recalculated using such finally determined amounts in lieu of the estimates of such amounts used in the calculation of the Estimated Closing Date Cash Consideration payable at Closing, as follows:

(i) If the Closing Date Cash Consideration as recalculated pursuant to this Section 2.5 is greater than the Estimated Closing Date Cash Consideration, then Buyer will pay the Sellers such excess amount within five (5) Business Days after the determination of the Final Indebtedness, Final Cash and the Final Transaction Expenses. Such payment will be made by wire transfer or delivery of other immediately available hinds to the Sellers in accordance with the applicable percentages set forth in the Consideration Allocation Schedule, using the wire instructions for each Seller set forth in the Funds Flow Memorandum.

(ii) If the Closing Date Cash Consideration as recalculated pursuant to this Section 2.5 is equal to the Estimated Closing Date Consideration payable at Closing, then no farther payment shall be payable by Buyer or the Sellers under this Section 2.5.

(iii) If the Closing Date Cash Consideration as recalculated pursuant to this Section 2.5 is less than the Estimated Closing Date Consideration, then the Sellers will pay to Buyer such deficiency (to an account to-be-designated in writing by Buyer) within ten (10) Business Days after the determination of the Final Cash, the Final Indebtedness, and the Final Transaction Expenses. Each Seller will be severally, and not jointly, liable for amounts payable to Buyer pursuant to this Section 2.5; *provided, however,* that Buyer may in its sole discretion set any such deficiency off against any Contingent Payments pursuant to Section 2.6.

(iv) Any adjustments made pursuant to this Section 2.5 shall be treated as an adjustment to the Base Closing Date Cash Consideration, except to the extent that applicable Tax law does not permit such treatment.

Section 2.6 Contingent Payments.

(a) On the dates and in the manner required by Section 2.6(b), the Sellers shall become entitled to and Buyer shall make the contingent payments set forth below (collectively, the "**Contingent Payments**"), in each case to the extent such payment is earned and becomes payable in accordance with its particular terms:

(i) Regulatory Milestone Payments. The following Contingent Payments (the "**Regulatory Milestone Payments**") are contingent on the achievement, prior to the expiration of the Second Revenue Success Period, of the applicable regulatory milestone set forth below:

(A) A single cash payment of $2,500,000 payable, if ever, upon Buyer and/or Company's receipt of CE mark clearance of the RF-enabled Guider and Flextra catheters (the "**CE Mark Clearance Milestone**"); and

(B) A single cash payment of $2,500,000 payable, if ever, upon Buyer and/or Company's receipt of FDA clearance to market the RF-enabled Guider and Flextra catheters (the "**FDA Clearance Milestone**" and together with the CE Mark Clearance Milestone, each, a "**Regulatory Milestone**").

(ii) Revenue Success Payments. The following Contingent Payments (the "**Revenue Success Payments**") are contingent on certain post-Closing revenues as set forth below:

(A) One or more quarterly cash payments, if any, capped at a maximum of $5,000,000 in the aggregate, calculated by multiplying (x) 0.8 by (y) Net Revenues during the two-year period following the Closing Date (the "**First Revenue Success Period**"); *provided however* that the First Revenue Success Period shall automatically terminate upon achievement of such $5,000,000 maximum.

(B) One or more quarterly cash payments, if any, capped at a maximum of $5,000,000 in the aggregate, calculated by multiplying (x) 0.5 by (y) Net Revenues during the 12-month period following the expiration (or early termination) of the First Revenue Success Period (the "**Second Revenue Success Period**"); *provided, however,* that the Second Revenue Success Period shall automatically be extended for an additional 12 months if James Hassett is not a service provider to the Buyer as of the final day of the initial 12-month period.

(iii) Related Definition. "**Net Revenue**" means, with respect to the applicable post-Closing period, the aggregate amount invoiced by the Company or Buyer from the sales of Company Products to third parties (including distributors) *minus* (a) credits, allowances, discounts and rebates to, and chargebacks from the account of, such third parties; (b) freight, transportation and insurance costs; (c) cash, quantity and trade discounts, rebates and other price reductions; (d) sales, use, value-added and other direct Taxes; and (e) customs duties, tariffs, surcharges and other governmental charges. Net revenues shall be adjusted upward on a dollar for dollar basis for product that is provided to customers at below commercial market pricing, *provided* that Company Products provided at no cost to any third party in connection with clinical and non-clinical research and trials, sales samples, or other similar arrangements shall not be included in Net Revenue. If Company Products are bundled with one or more products that are not Company Products and sold for a single price, then for purposes of calculating the revenue payments set forth above, the Net Revenue attributable to such bundle will be calculated based on the trailing 12-month

average selling price for the Company Products included as part of such bundle. In the case that a trailing 12-month selling price has yet to be established, this price will be based on the average selling price published in an industry marketing report.

(b) Payment Timing and Mechanics.

(i) Regulatory Milestone Payments. Any Regulatory Milestone Payments shall be allocated among the Sellers in accordance with the Consideration Allocation Schedule, and shall be made by Buyer within 30 days following achievement of the applicable regulatory milestone, by wire transfer to the accounts specified for each Seller by the Sellers' Agent.

(ii) Revenue Success Payments. Any Revenue Success Payments shall be allocated among the Sellers in accordance with the Consideration Allocation Schedule, and shall be made by Buyer no later than the end of the first month following the end of the quarter during which the Revenue Success Payment amounts were earned, by wire transfer to the accounts specified for each Seller by the Sellers' Agent; *provided, however,* that the first $500,000 earned in respect of the First Revenue Success Period (the "**Holdback Amount**") shall be held back in escrow, pursuant to the Escrow Agreement, until the expiration of an additional 18 month hold-back period commencing on the end of the quarter during which such Revenue Success Payment amounts were earned.

(c) Right of Set-Off. Notwithstanding anything to the contrary in this Agreement, the obligation of Buyer to make any payments under this Section 2.6 shall be qualified in its entirety by the right of Buyer to reduce the amount of any such payments to recover (i) any Losses for which any Seller is liable pursuant to Article IX; or (ii) any amounts payable by any Seller pursuant to Section 2.5(d)(iii) (any such amount, the "**Set-Off Amount**"); *provided, however,* that if the liability of the Sellers has not been finally determined or agreed to by Buyer and the Sellers' Agent, then Buyer shall have the claimed Set-Off Amount deposited and held in escrow pursuant to the Escrow Agreement until such final determination or agreement.

(d) Other Buyer Obligations; Related Provisions.

(i) During the period following the Closing until the expiration of the Second Revenue Success Period, Buyer shall deliver quarterly written status reports to the Sellers' Agent, regarding (A) the achievement of the Regulatory Milestone Payments; and (B) the calculation of any Revenue Success Payments due in respect of the applicable quarter. Such quarterly reports shall be delivered to the Sellers' Agent by the end of the first month following the end of the applicable quarter, and shall constitute Confidential Information hereunder.

(ii) Buyer will make the work papers and back-up materials used in preparing the calculation of any Revenue Success Payments available to Sellers' Agent and its accountants and other representatives at reasonable times and upon

reasonable notice, but no more than two times in any twelve month rolling basis. Sellers' Agent may object to the calculation of any Revenue Success Payments on the basis that it was not prepared in accordance with GAAP or that the calculation of any Revenue Success Payments contained mathematical errors. If Sellers' Agent has any objections to the calculation of any Revenue Success Payments, Sellers' Agent will deliver a statement describing such objections to Buyer within twenty (20) days after receiving the calculation of any Revenue Success Payments. Buyer and Sellers' Agent will attempt in good faith to resolve any such objections. If Buyer and Sellers' Agent do not reach a resolution of all objections within thirty (30) days after Buyer has received the statement of objections, Buyer and Sellers' Agent jointly will engage the Independent Auditors to resolve any remaining objections. The Independent Auditors will resolve such objections and determine, in accordance with this Section 2.6(d)(ii), the amounts to be included in the calculation of any Revenue Success Payments. The Parties will provide the Independent Auditors, within ten (10) days of its selection, with a definitive statement of the position of each Party with respect to each unresolved objection. Buyer will provide the Independent Auditors access to the books and records of the Company. The Independent Auditors will have thirty (30) days to carry out a review of the unresolved objections and prepare a written statement of its determination regarding each unresolved objection. The determination of the Independent Auditor will be set forth in writing and will be conclusive and binding upon the Parties. Buyer will revise the determination of the calculation of any Revenue Success Payments as appropriate to reflect the resolution of Sellers' Agent's objections pursuant to this Section 2.6(d)(ii). The fees, costs and expenses of the Independent Auditor shall be paid (i) by the Sellers if the items covered thereby are resolved in favor of Buyer or (ii) by Buyer if the items covered thereby are resolved in favor of the Sellers. If the items referred to therein are resolved in part in favor of the Sellers and in part in favor of Buyer, such fees, costs and expenses shall be allocated between the Sellers and Buyer in inverse proportion as the Sellers and Buyer may prevail on matters resolved by the Independent Auditors, which proportionate allocations shall be determined by the Independent Auditors.

(iii) The Sellers acknowledge that after the Closing (A) Buyer shall have sole discretion over all matters relating to the Company, the Business, and the Company Products, including, but not limited to, any research, development, manufacturing, clinical trial design, site selection, regulatory, quality standards, legal, Intellectual Property, marketing, and sales decisions; and (B) neither Buyer nor the Company will owe any fiduciary duty or express or implied duty to any Seller; *provided however,* that Buyer will use "Post-Closing Commercially Reasonable Efforts" (as defined below) to achieve the regulatory and revenue milestones set forth in Section 2.6(a) until the achievement or expiration thereof; and *provided further,* that Buyer shall not take any action specifically and primarily intended to reduce the amount of the regulatory and revenue milestone payments to be paid to Sellers.

(iv) In the event, prior to the expiration of the Second Revenue Success Period, that the Buyer is acquired by or merged with an entity and the acquired/combined entity fails to assume the obligations to use Post-Closing Commercially Reasonable Efforts to timely achieve the regulatory and revenue milestones above, then the remaining portion of any unpaid Contingent Payments, whether or not yet earned, must be paid in full to the Sellers.

(v) In the event Buyer, or if the Buyer is acquired or merged with another entity (other than pursuant to an acquisition of shares issued in an IPO or a transaction or series of transactions in which the holders of the voting securities of the Buyer outstanding immediately prior to such transaction continue to retain (either by such voting securities remaining outstanding or by such voting securities being converted into voting securities of the surviving entity), as a result of shares in the Company held by such holders prior to such transaction, more than 50% of the total voting power represented by the voting securities of the Buyer or such surviving entity outstanding immediately after such transaction or series of transactions), and thereafter Buyer or such successor entity to the Buyer, as applicable, is declared bankrupt as finally adjudicated or determined in a federal bankruptcy court at a time when any Contingent Payments are or may become payable (whether or not yet earned), then the Buyer or such successor entity to the Buyer, as applicable, and Sellers' Agent shall in good faith negotiate for (a) the sale of the intellectual property, tooling, and remaining inventory of the Company in existence as of the Closing Date or (b) a nonexclusive license for the intellectual property of the Company in existence as of the Closing Date, in either case to the Sellers (or one or more of them as they may agree, or to an entity created by them).

(vi) For purposes of this Section 2.6, "**Post-Closing Commercially Reasonable Efforts**" shall mean that measure of good faith efforts and resources that a similarly situated company acting in good faith to achieve the regulatory and revenue milestones described herein would normally commit to activities or products of a similar potential value, stage of research or development, life cycle and commercial potential, taking into account all relevant factors that a similarly situated company would normally and in good faith take into account, including issues of safety and efficacy, product profile, difficulty, feasibility, timelines, and costs associated with the development or manufacture, the competitiveness of alternative products, patent or other proprietary positions (including patent coverage and regulatory exclusivity), the regulatory requirements involved and the potential profitability.

(vii) In connection with the forgoing, the Sellers and the Sellers' Agent hereby expressly acknowledge the contingent and uncertain nature of the Contingent Payments, and the possibility that no Contingent Payments may become payable under this Section 2.5, despite Buyer's use of Post-Closing Commercially Reasonable Efforts in accordance with the terms hereof.

(e) Limits on Assignability / Transferability. Except by will, the applicable Laws of intestacy or other operation of applicable Law, the right of any Seller to receive such person's portion of any Contingent Payments shall not be assignable or transferable without Buyer's written consent (which shall not be unreasonably withheld, conditioned or delayed) and neither Buyer, the Company, nor the Sellers' Agent shall give effect to any purported assignment or transfer made in contravention of this sentence.

Section 2.7 Contingent Issuance of Buyer Stock. Promptly following and contingent upon the occurrence of the earlier of: (a) the date the first Contingent Payment, if any, becomes payable, or (b) March 31, 2020, Buyer shall issue to Sellers the Buyer Stock in accordance with the Consideration Allocation Schedule. In connection therewith and as a condition thereto, each Seller shall deliver to Buyer signed counterparts to the applicable Investor Documents.

Section 2.8 Withholding Tax. Buyer shall be entitled to deduct and withhold from any payments made hereunder all Taxes that Buyer may be required to deduct and withhold under any provision of Tax Law; *provided, however*, that Buyer shall, except with respect to payments in the nature of compensation to be made to employees or former employees, provide reasonable notice to the Sellers' Agent regarding the amount of such withholding prior to making any such deduction or withholding, and shall reasonably cooperate with the Sellers' Agent in efforts to obtain reduction of or relief from such deduction or withholding. All such withheld amounts shall be paid over to the appropriate Governmental Authority and treated as delivered to the applicable payees hereunder.

ARTICLE III
REPRESENTATIONS AND WARRANTIES OF EACH SELLER

Except as set forth in the Disclosure Schedules, each Seller represents and warrants to Buyer as follows:

Section 3.1 Authority of the Seller. If the Seller is an entity, the Seller is duly organized, validly existing and in good standing under the Laws of its jurisdiction of organization as set forth on Section 3.1 of the Disclosure Schedules. The Seller has all necessary power and authority to enter into this Agreement, to carry out the Seller's obligations hereunder and to consummate the transactions contemplated hereby. This Agreement has been duly executed and delivered by the Seller, and (assuming due authorization, execution and delivery by Buyer and the Company) this Agreement constitutes a legal, valid and binding obligation of the Seller, enforceable against the Seller in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity).

Section 3.2 No Conflicts; Consents. The execution, delivery and performance by the Seller of this Agreement and the other Transaction Documents to which it is a party, and the consummation by the Seller of the transactions contemplated hereby and

thereby, do not and will not: (a) result in a material violation or breach of any provision of any Law or Governmental Order applicable to the Seller; or (b) require the consent, notice or other action by any Person under, conflict with, result in a violation or material breach of or the creation of any Encumbrance, constitute a material default or an event that, with or without notice or lapse of time or both, would constitute a material default under or result in the acceleration of any Material Contract to which the Seller is a party. No consent, approval, Permit, Governmental Order, declaration or filing with, or notice to, any Governmental Authority is required by or with respect to the Seller in connection with the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.

Section 3.3 Legal Proceedings; Governmental Orders.

(a) There are no actions, suits, claims, investigations or other legal proceedings pending or, to the Seller's Knowledge, threatened against or by the Seller and relating to the Seller's ownership of the Shares or status as an equity owner of the Company, challenging the validity or enforceability of this Agreement or seeking to enjoin or prohibit consummation of the transactions contemplated hereby.

(b) There are no outstanding Governmental Orders and no unsatisfied judgments, penalties or awards against or affecting the Seller and relating to the Seller's ownership of the Shares or status as an equity owner of the Company, challenging the validity or enforceability of this Agreement or seeking to enjoin or prohibit consummation of the transactions contemplated hereby.

(c) The Seller has no existing claim against the Company, nor is aware of any circumstances in existence which may give rise to such a claim.

Section 3.4 Ownership of Shares. The Shares, Company Options, Company Warrants, and/or Company Convertible Securities, as applicable, owned by the Seller are set forth next to the Seller's name on Schedule I. The Seller is, and has been at all times up to and until the Closing, the sole legal and beneficial owner of such Shares, Company Options, Company Warrants, and/or Company Convertible Securities, and such ownership is free and clear of all Encumbrances. The Seller has not granted (and there do not exist) any subscriptions, options, rights, warrants, calls, voting agreements, commitments or arrangements of any kind with respect to such Shares, Company Options, Company Warrants, and/or Company Convertible Securities. At Closing, Buyer will obtain good and valid title to the Seller's Shares, of record and beneficially, free and clear of any Encumbrance, other than an Encumbrance created by Buyer. As of the Closing, the Seller will hold no other securities, voting rights, economic interests, profits interests or other equity interests in the Company that the Seller legally or beneficially owns or has any rights or interests in or with respect to the Company other than the Shares.

Section 3.5 Brokers. Except as set forth in Section 3.5 of the Disclosure Schedules, no broker, finder or investment banker is entitled to any brokerage, finder's or other similar fee or commission in connection with the transactions contemplated by this Agreement or any other Transaction Document based upon arrangements made by or on behalf of the Seller.

Section 3.6 Legal Counsel. The Seller understands and agrees that (a) Dorsey & Whitney LLP (the "**Company Counsel**") represents only the Company and is not representing or advising any of the Sellers in the transactions contemplated by this Agreement and (b) the Seller has been advised to seek independent counsel regarding this Agreement, the Transaction Documents and the transactions contemplated hereby and thereby and have been afforded the opportunity to do so.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Except as set forth in the Disclosure Schedules, the Company represents and warrants to Buyer:

Section 4.1 Organization and Qualification of the Company. The Company is a corporation duly incorporated, validly existing and in good standing under the Laws of the State of Delaware and has all necessary organizational power and authority to own, operate or lease the properties and assets now owned, operated or leased by it and to carry on its business as it is currently conducted. Section 4.1 of the Disclosure Schedules sets forth each jurisdiction in which the Company is licensed or qualified to do business, and the Company is duly licensed or qualified to do business and is in good standing in each jurisdiction in which the properties owned or leased by it or the operation of its business as currently conducted makes such licensing or qualification necessary, except where the failure to be so licensed, qualified or in good standing would not have a Material Adverse Effect.

Section 4.2 Authority of the Company. The Company has all necessary corporate power and authority to enter into this Agreement, to carry out its obligations hereunder and to consummate the transactions contemplated hereby. The execution and delivery by the Company of this Agreement, the performance by the Company of its obligations hereunder and the consummation by the Company of the transactions contemplated hereby have been duly authorized by all requisite organizational action on the part of the Company. This Agreement has been duly executed and delivered by the Company, and (assuming due authorization, execution and delivery by Buyer and the Sellers) this Agreement constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity). Listed on Section 4.2 of the Disclosure Schedules are the names of all individuals who are duly elected as directors of the Company and duly appointed as officers of the Company.

Section 4.3 Capitalization.

(a) The Shares owned by each of the Sellers are as set forth on Section 4.3(a) of the Disclosure Schedules, and such Shares constitute all of the issued and outstanding equity interests in the Company. The Shares have been duly authorized and validly issued and are fully paid and nonassessable, were issued in compliance with all applicable Laws, and were not issued in violation of, and are not subject to, any preemptive rights or any other agreement, arrangement or commitment to which the Company is party.

(b) Except as set forth on Section 4.3(b) of the Disclosure Schedules, there are no outstanding or authorized options, warrants, rights, subscriptions, claims of any character, agreements, obligations, convertible or exchangeable securities, or other commitments contingent or otherwise, relating to the capital stock of, or other equity or voting interest in, the Company, pursuant to which the Company is or may become obligated to issue, deliver or sell or cause to be issued, delivered or sold, shares of capital stock of or other equity or voting interests in, the Company or any securities convertible into, exchangeable for, or evidencing the right to subscribe for or acquire, any shares of the capital stock of or other equity or voting interests in, the Company.

(c) There are no outstanding or authorized stock appreciation, phantom stock, profit participation or similar rights with respect to the capital stock of, or other equity or voting interests in, the Company.

(d) There are no authorized or outstanding bonds, debentures, notes or other indebtedness the holders of which have the right to vote with the Company's stockholders on any matter.

(e) There are no proxies and no voting agreements or voting trusts or other voting arrangements with respect to any capital stock of, or other equity or voting interests in, the Company.

Section 4.4 No Subsidiaries. The Company does not own, or have any ownership interest in, any other Person.

Section 4.5 No Conflicts; Consents. True and correct copies of the Company Certificate of Incorporation and Company Bylaws as currently in effect have been delivered to the Buyer. The execution, delivery and performance by the Company of this Agreement and the consummation of the transactions contemplated hereby do not and will not: (a) result in a violation or breach of any provision of the Company Certificate of Incorporation or Company Bylaws; (b) result in a violation or breach of any provision of any Law or Governmental Order applicable to the Company; or (c) require the consent, notice or other action by any Person under, conflict with, result in a violation or breach of or the creation of any Encumbrance, constitute a default or an event that, with or without notice or lapse of time or both, would constitute a default under or result in the acceleration or create in any party the right to accelerate, terminate, modify or cancel any Material Contract, except in the case of clause (c) as set forth in Section 4.5 of the Disclosure Schedules and other than, in the case of clauses (a) and (b) any such violations or breaches that individually or in the aggregate have not been and would not reasonably be expected to be material to the Company, and would not reasonably be expected to

affect the ability of the Company to perform its obligations under this Agreement or prevent or materially impede or delay the consummation of the transactions contemplated by this Agreement. No consent, approval, Permit, Governmental Order, declaration or filing with, or notice to, any Governmental Authority is required by or with respect to the Company in connection with the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby, except for such consents, approvals, Permits, Governmental Orders, declarations, filings or notices as are set forth in Section 4.5 of the Disclosure Schedules.

Section 4.6 Financial Statements.

(a) The Company has made available to Buyer unaudited balance sheet and statements of income and cash flows for the Company as of and for the fiscal years ended on December 31, 2017 and December 31, 2018 (the "**Annual Financial Statements**"), and the unaudited balance sheet and statements of income and cash flows for the Company as of and for the period ended on March 31, 2019 (the "**Interim Financial Statements**", and together with the Annual Financial Statements, the "**Financial Statements**"). Except as otherwise noted in the Financial Statements, the Financial Statements present fairly, in all material respects, the financial condition of the Company as of the dates thereof and the results of operations and cash flows for the periods then ended, except that the Interim Financial Statements do not contain footnotes and are subject to normal year-end adjustments. Except as may be indicated in the notes thereto, the Financial Statements have been prepared from, and are in accordance with, the books and records of the Company, which books and records are complete and correct in all material respects and have been regularly kept and maintained in accordance with GAAP on a consistent basis and the Company's normal and customary practices.

(b) The accounts receivable and other receivables reflected on the Financial Statements and those arising in the ordinary course of business after the date thereof, (i) have arisen from bona fide transactions in the ordinary course of business and (ii) are collectible and not subject to valid counterclaims or setoffs other than adjustments, allowances and modifications in the ordinary course of business of the Company, in accordance with GAAP and consistent with past practice.

(c) All inventory of the Business, whether or not reflected in the Interim Financial Statements, consists of a quality and quantity usable and, with respect to finished goods only, salable in the ordinary course of business, in accordance with GAAP and consistent with past practice, except for obsolete, damaged, defective or slow-moving items that have been written off or written down to fair market value or for which adequate reserves have been established. All such inventory will be owned by the Company as of the Closing Date free and clear of all Encumbrances other than Permitted Encumbrances, and no inventory is held on a consignment basis. The quantities of each item of inventory (whether raw materials, work-in-process or finished goods) are not excessive, but are reasonable in the present circumstances of the Business.

(d) Section 4.6(d) of the Disclosure Schedules sets forth a full and complete list of all bank accounts and safe deposit boxes of the Company, the number of each such

account or box, and the names of the Persons authorized to draw on such accounts or to access such boxes. All cash in such accounts is held in demand deposits and is not subject to any restriction as to withdrawal other than customary restrictions due to bank policies not specific to the Company.

Section 4.7 Undisclosed Liabilities. The Company has no material liabilities of the type that would be required to be reflected in balance sheets under GAAP, except (i) those which are reflected or reserved against in the Financial Statements; (ii) those which have been incurred in the ordinary course of business since March 31, 2019 and which are not in the aggregate material in amount (to the extent such liabilities are included as Closing Indebtedness); (iii) the Transaction Expenses; and (iv) contractual and other liabilities incurred in the ordinary course of business that are not required by GAAP to be reflected on a balance sheet and that are not in the aggregate material; and (v) those arising in the ordinary course under unexpired Material Contracts for which neither the Company or counterparty to such contract has alleged or is in breach.

Section 4.8 Absence of Certain Changes, Events and Conditions. Except as contemplated by this Agreement or as set forth on Section 4.8 of the Disclosure Schedules, from March 31, 2019 until the date of this Agreement, the Business and the Company have operated in the ordinary course of business and there has not been, with respect to the Business or the Company, any:

(a) event, occurrence or development that has had or would reasonably be expected to have a Material Adverse Effect;

(b) amendment of the Company Certificate of Incorporation or Company Bylaws or other organizational documents of the Company;

(c) split, combination or reclassification of any Shares or other equity interests in the Company;

(d) issuance, sale or other disposition of any Shares or other equity interests in the Company, or grant of any options, warrants or other rights to purchase or obtain (including upon conversion, exchange or exercise) any Shares or other equity interests in the Company;

(e) declaration or payment of any dividends or distributions on or in respect of, or redemption, purchase or acquisition of, any Shares or other equity interests in the Company;

(f) material change in any method of accounting or accounting practice, except as required by GAAP or as disclosed in the notes to the Financial Statements;

(g) incurrence, assumption or guarantee of any indebtedness for borrowed money, except unsecured current obligations and liabilities incurred in the ordinary course of business;

(h) sale or other disposition of any of the assets shown or reflected on the balance sheet in the Interim Financial Statements, except in the ordinary course of business;

(i) transfer, assignment or grant of any license or sublicense of any material rights under or with respect to any Business IP;

(j) material damage, destruction or loss (whether or not covered by insurance) to its property;

(k) any material capital expenditures;

(l) imposition of any Encumbrance other than Permitted Encumbrances upon any properties, capital stock or assets, tangible or intangible;

(m) acquisition by merger or consolidation with, or by purchase of a substantial portion of the assets or stock of, or by any other manner, any business or any Person or any division thereof;

(n) adoption of any plan of merger, consolidation, reorganization, liquidation or dissolution or filing of a petition in bankruptcy under any provisions of federal or state bankruptcy Law or consent to the filing of any bankruptcy petition against it under any similar Law;

(o) action by or on behalf of the Company to make, change or rescind any material Tax election, amend any material Tax Return or claim a refund of Taxes, settle, compromise any Tax claim liability, or change any material Tax accounting or reporting method or policies; or

(p) any agreement to do any of the foregoing, or any action or omission that would result in any of the foregoing.

Section 4.9 Material Contracts.

(a) Section 4.9(a) of the Disclosure Schedules lists each of the following Contracts of the Company related to the Business, other than Excluded Contracts (together with all leases required to be listed in Section 4.10(b) of the Disclosure Schedules, the "**Material Contracts**"):

(i) each agreement (A) involving aggregate consideration in excess of $50,000 or (B) requiring performance by any party more than one (1) year from the date hereof, in each case of (A) and (B) which cannot be cancelled by the Company without penalty or without more than 90 days' notice;

(ii) all agreements that relate to the sale of any of the assets related to the Business for consideration in excess of $50,000;

(iii) all agreements that relate to the acquisition or disposition of any business, a material amount of stock or assets of any other Person or any real property (whether by merger, sale of stock, sale of assets or otherwise);

(iv) all agreements that relate to any Business IP;

(v) all broker, distributor, dealer, manufacturer's representative, franchise, agency, sales promotion, market research, marketing consulting and advertising agreements;

(vi) any agreements with independent contractors or consultants (or similar arrangements);

(vii) all agreements with employees or other service providers that are not terminable by the Company at will with no penalty or payment;

(viii) all licenses of Intellectual Property by a third party to the Company (except for Contracts of commercially available "off-the-shelf' or similar software (including software-based services) with an aggregate purchase price and/or annual license fee no greater than $10,000);

(ix) all IP Contracts;

(x) all agreements relating to indebtedness (including guarantees) of the Company or the Business;

(xi) all agreements with any Governmental Authority;

(xii) all agreements that would limit or purport to limit the ability of the Company to compete in any line of business or with any Person or in any geographic area or during any period of time;

(xiii) all agreements that would require the Company to purchase its total requirements of any product or service from a third party or that contain "take or pay" provisions;

(xiv) any agreements that would provide for any joint venture, partnership or similar arrangement by the Company;

(xv) all agreements between or among the Company or the Sellers on the one hand and any Seller or the Company on the other hand;

(xvi) all agreements relating to the use, possession or control of Personal Data by or on behalf of the Company other than in the ordinary course of business;

(xvii) all agreements that require the consent or approval of any third party for the consummation of the transactions contemplated herein, or to prevent

a breach of or default under, or a termination or modification of the terms of such agreement in connection with the consummation of the transactions contemplated herein; and

(xviii) any agreement not otherwise disclosed in Section 4.9 of the Disclosure Schedules which is material to the Business and not entered into in the ordinary course of business.

(b) The Company has made available to Buyer a correct and complete copy of each Material Contract, including all amendments, material waivers or modifications thereto. Each Material Contract is in full force and effect and (i) as of the date hereof, is the legal, valid and binding obligation of the Company, (ii) as of the Closing Date, will be the legal, valid and binding obligation of the Company, and (iii) to the Knowledge of the Company, is the legal, valid and binding obligation of the other parties thereto, enforceable against each of them in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity). The Company is not in material default under, or in material breach or violation of, and an event has not occurred that (with or without notice, lapse of time or both) could reasonably be expected to constitute a material default by the Company under any such Material Contract other than the performance of its obligations under this Agreement as described in Section 4.5 of the Disclosure Schedules. To the Knowledge of the Company, no other party to any such Material Contract is in material default under any such Material Contract. The Company has not received any written notice or, to the Knowledge of the Company or the Sellers, oral notice from any counterparties in connection with any of the Material Contracts of (A) any material breach or default under any Material Contract, (B) the fact that any such party will terminate, not renew, cancel or substantially decrease its business with the Company, or (C) any claim for damages or indemnification with respect to the products or performance of services pursuant to any Material Contract.

Section 4.10 Title to Assets; Sufficiency of Assets; Real Property.

(a) Except with respect to Intellectual Property (as to which all representations are contained in Section 4.12), as of the date hereof, the Company has good and valid title to, or a valid leasehold interest in, all of its assets (tangible and intangible), rights and properties related to the Business. As of the Closing Date, the Company will have good and valid title to, or a valid leasehold interest in, all of its assets (tangible and intangible), rights and properties used to conduct the Business (other than Licensed Patents), and no Affiliate of the Company, or Seller or Affiliate thereof, will own any assets that are necessary or material to the Business as currently conducted by the Company. All such assets, rights and properties (including leasehold interests) are free and clear of Encumbrances except for the following (collectively referred to as "**Permitted Encumbrances**"):

(i) liens for Taxes not yet due and payable or which are being contested in good faith;

(ii) mechanics, carriers', workmen's, repairmen's, supplier's, landlord's or other like liens arising or incurred in the ordinary course of business and securing obligations that are not delinquent and that will be paid and discharged in the ordinary course of business;

(iii) easements, rights of way, zoning ordinances and other similar encumbrances affecting Real Property, that, singularly or in the aggregate, will not materially interfere with the ownership, use or operation of such Real Property by the Company; and

(iv) Encumbrances that will be removed prior to or in connection with the Closing.

(b) Section 4.10(b) of the Disclosure Schedules lists the street address of each parcel of Real Property used in connection with the Business, and identifies all Real Property leases relating thereto. The Company owns no Real Property.

(c) All tangible assets that are necessary to conduct the Business, taken as a whole, are generally in operating condition in repair adequate for the purposes for which such assets are presently used, except for ordinary wear and tear or immaterial defects which do not materially adversely affect use and operation in the ordinary course of business, and have been maintained in accordance with normal industry practices.

Section 4.11 Privacy, Security and Information Technology.

(a) The Company has made available or delivered to Buyer true, correct and complete copies of all Personal Data Obligations relating to the Company Products. To the Knowledge of the Company, such Personal Data Obligations do not contain any representations or statements that were materially inaccurate, misleading, unfair or deceptive when made.

(b) To the Knowledge of the Company, the Company is in compliance in all material respects with all applicable Privacy Laws and Personal Data Obligations governing its use of all Personal Data of any natural person, including, without limitation, employees, clinical trial participants, and patients that has been collected or otherwise obtained by or on behalf of the Company.

(c) To the Knowledge of the Company, neither the execution nor delivery of this Agreement, the contemplated transactions, or the performance of the Company's obligations hereunder, or the transfer of any Personal Data to Buyer will violate any applicable Laws, including HIPAA, or any of the Company's Personal Data Obligations.

(d) To the Knowledge of the Company, the Company has not, in the past three (3) years, experienced any material loss, damage, or unauthorized access, disclosure, use or breach of security of any Personal Data in the Company's possession, custody or

control. To the Knowledge of the Company, in the past three (3) years, no person who holds or processes Personal Data on behalf of the Company has experienced any material loss, damage, or unauthorized access, disclosure, use or breach of security of any of the Company's Personal Data in the third party's possession, custody or control that would have required notice to any third person under applicable Law or any Personal Data Obligations or that caused a material loss or disruption to the Company.

(e) To the Knowledge of the Company, the information technology systems used by the Company is fully functional and operate and perform in a manner that permits it to conduct the Business as currently conducted and as currently planned to be conducted within reasonable and customary industry standards. To the Knowledge of the Company, the Company has taken commercially reasonable actions, consistent with current reasonable and customary industry standards, to protect the confidentiality, integrity, operation and security of the information technology systems used by the Company (and all information and transactions stored or contained therein or transmitted thereby) against any unauthorized use, access, interruption, modification, corruption, or vulnerability. To the Knowledge of the Company, in the 12-month period prior to the date hereof, there has been no failure, breakdown or continued substandard performance of any information technology system that has caused a material disruption or interruption of the Company's operations that was not cured within a reasonable period of time.

Section 4.12 Intellectual Property.

(a) As used herein, the term "**Intellectual Property**" means all intellectual property rights arising under the laws of the United States or any other jurisdiction, including the following: (i) trade names, trademarks and service marks (registered and unregistered), trade dress and similar rights and applications to register any of the foregoing (collectively, "**Marks**"); (ii) patents, patent applications, patentable inventions and rights in respect of utility models or industrial designs and invention disclosures (collectively, "**Patents**"); (iii) copyrights, copyrightable works, whether registered or unregistered, and registrations and applications therefor (collectively, "**Copyrights**"); and (iv) trade secrets, know-how, inventions, discoveries, methods, processes, technical data, specifications, research and development information, technology, data bases and other proprietary or confidential information, including customer lists, in each case that derives economic value (actual or potential) from not being generally known to other persons who can obtain economic value from its disclosure, but excluding any Copyrights or Patents that cover or protect any of the foregoing (collectively, "**Trade Secrets**").

(b) Section 4.12(b)(1) of the Disclosure Schedules sets forth a list of all Registered Marks related to the Business owned by or exclusively licensed to the Company (collectively, "**Business Marks**"), Section 4.12(b)(2) of the Disclosure Schedules sets forth a list of all Registered Patents related to the Business owned by or exclusively licensed to the Company (collectively, "**Business Patents**"), Section 4.12(b)(3) of the Disclosure Schedules sets forth a list of all Registered Copyrights related to the Business owned by or exclusively licensed to the Company (collectively,

"**Business Copyrights**"), and Section 4.12(b)(4) of the Disclosure Schedules sets forth a list of all domain names related to the Business owned by or exclusively licensed to the Company (collectively, "**Business Domain Names**", and, together with the Business Marks, the Business Patents, and the Business Copyrights, the "**Business IP**"). As used herein, the term "**Registered**" means (a) in reference to Marks, that such Marks have been filed and are still pending or become registered and remain in good standing, (b) in reference to Patents, that such Patents have been filed and are still pending or become issued and remain in good standing, and (c) in reference to Copyrights, that such Copyrights have been filed and are still pending or have become registered and remain in good standing.

(c) The Company owns, and as of the Closing Date the Company will own, exclusively, all right, title and interest to the Business IP (other than the Business IP licensed to the Company as of the date hereof or as of the Closing Date), free and clear of all Encumbrances other than Permitted Encumbrances, and the Company has not received any written or, to the Knowledge of the Company, oral notice or claim challenging the Company's ownership of any of such Business IP. All Business IP (excluding any pending applications and domain names included in the Business IP) is, to the Knowledge of the Company, valid and enforceable and, except as set forth on Section 4.12(c)(1) of the Disclosure Schedules, no adverse written notice or claim challenging the validity or enforceability or alleging the misuse of any Registered Business IP has been received by the Company. To the Knowledge of the Company, all pending applications for issuance of Business Patents and all pending applications to register Business Marks are in good standing and without challenge by any third party except as set forth on the Disclosure Schedules. The Company has the sole and exclusive right to bring actions for infringement or unauthorized use of the Business IP owned by the Company, and after the Closing Date, the Company will have, the sole and exclusive right to bring actions for infringement or unauthorized use of the Business IP owned by the Company as of the Closing Date. Except as set forth on Section 4.12(c)(2) of the Disclosure Schedules, with respect to all Business IP owned by the Company, and to the Knowledge of the Company with respect to all Business IP licensed to the Company, there are no filings, payments or other actions that were required to have been or are required to be made or taken on or prior to the date hereof that were not timely made or taken, including the payment of any registration, maintenance or renewal fees or the filing of any responses to office actions, documents, applications or certificates, for the purposes of complying with legal requirements to obtain, maintain, preserve or renew any material Business IP. The Company has taken such steps to protect its rights in the Business IP and maintain the confidentiality of all of the Trade Secrets related to the Business as are consistent with reasonably prudent business practices employed by similarly situated businesses operating in the same industry as the Company. To the Knowledge of the Company, no otherwise enforceable Trade Secrets related to the Business have been disclosed other than to employees, consultants, representatives, collaborators and agents of the Company and other third parties who are bound by written and enforceable confidentiality or non-disclosure agreements.

(d) Except as set forth on Section 4.12(d)(1) of the Disclosure Schedules, all founders, directors, officers, employees, agents, consultants or contractors of the

Company who are inventors of any Business Patent or are authors of any Business Copyright: (i) is a party to a valid and enforceable agreement (A) under which the Company is deemed to be the original owner/author of all property rights therein; and (B) which includes a provision presently, irrevocably and completely assigning to the Company all right, title and interest in such work or whereby such employee, agent, consultant, or contractor agrees to assign all right, title and interest in such work; or (ii) has executed a present, irrevocable, valid and enforceable assignment or an agreement to assign in favor of the Company all right, title and interest in such work. No past or present founder, directors, officers, employee, agent, consultant or contractor of the Company who has contributed to or participated in the creation or development of any patentable invention, Trade Secret, or copyrightable material or work of authorship or other work product on behalf of the Company, in each case relating to the Business (i) except as set forth on Section 4.12(d)(2) of the Disclosure Schedules, is in breach of any term of any agreement relating to Business IP; (ii) has any ownership interest, license, permission or other right in or to any such Business IP or (iii) has any right to any payment relating to his or her participation in the development, creation or assignment of such Business IP. As of the Closing Date, all founders, directors, officers, employees, agents, consultants or contractors of the Company that have contributed to or participated in the creation or development of any Business IP, have executed all documents necessary for Company to secure, maintain, prosecute and exercise its rights therein, including executing all inventor declarations and assignments associated with the Business Patents.

(e) To the Knowledge of the Company, the Company owns or possesses adequate licenses or other valid rights to use, and, to the Knowledge of the Company, as of the Closing Date the Company will own or possess adequate licenses or other valid rights to use, all of the Intellectual Property that is necessary for the conduct of the Business. None of the Business IP owned by the Company or, to the Knowledge of the Company, licensed to the Company is subject to any outstanding order, judgment, or stipulation restricting the use or exploitation thereof by the Company. To the extent that the Business IP includes any licenses, such licenses are not negated or altered by the sale of Company to Buyer in accordance with this Agreement, and such licenses shall be fully paid up as of the Closing Date.

(f) Except as set forth on Section 4.12(f) of the Disclosure Schedules, the Company has not granted to any third party any rights under any Business IP (each such Contract, an "**IP Contract**"), other than Excluded Contracts.

(g) The Company has not received any written or, to the Knowledge of the Company, oral notice or claim asserting or suggesting that the operation of the Business, and the development, use, manufacture, marketing, distribution, import or sale of the Company Products as conducted and as contemplated to be conducted by the Company as of the Closing Date, infringes, misappropriates, dilutes or violates any Intellectual Property of any third party. To the Knowledge of the Company, no third party is misappropriating or infringing any Intellectual Property owned by or licensed to the Company and the Company has not made any oral or written accusations to any third party, including, but not limited to, cease and desist letters, regarding any actual or

potential infringement or misappropriation of any Intellectual Property owned by or licensed to the Company. To the Knowledge of the Company, at no time during the conception of or reduction to practice of any Business Patent was any inventor to any Business Patent operating under any grants from any Governmental Authority or other third party, performing research sponsored by any Governmental Authority or other third party which would obligate such Person to grant licenses or assign to such Governmental Authority or other third party any Business Patent.

(h) The Company is not subject to any agreement with any standards body or other similar entity that would obligate the Company to grant licenses to any Person with respect to, or otherwise impair or limit such member's control of, any Business IP.

Section 4.13 Insurance. Section 4.13 of the Disclosure Schedules sets forth a list, as of the date hereof, of all insurance policies related to the Business that are maintained by the Company (collectively, the "**Insurance Policies**") and true and complete copies of such Insurance Policies have been made available to Buyer. Such Insurance Policies are in full force and effect on the date of this Agreement and all premiums due on such Insurance Policies have been timely paid and the Company is otherwise in compliance in all material respects with the terms of such policies. The Company has not received any written notice of cancellation of, premium increase with respect to, or alteration of coverage under, any of such Insurance Policies. There are no material disputes with the underwriters of any such policies or any material claims pending under such policies as to which coverage has been questioned, denied or disputed by the underwriters of such policies.

Section 4.14 Legal Proceedings; Governmental Orders.

(a) Other than as set forth on Section 4.14(a) of the Disclosure Schedules, there are no actions, suits, claims, investigations or other legal proceedings pending or, to the Knowledge of the Company or the Sellers, threatened against or by the Company affecting any of the properties or assets related to the Business or challenging the enforceability of this Agreement.

(b) There are no outstanding Governmental Orders and no unsatisfied judgments, penalties or awards against or affecting the Company or any of the properties or assets related to the Business.

Section 4.15 Compliance with Laws; Permits.

(a) The Company is and has been in compliance in all material respects with all Laws applicable to the Business or the properties or assets specifically related to the Business.

(b) All Permits required for the Company to conduct the Business have been obtained by it, are valid and in full force and effect and have been and are being complied with in all material respects. No suspension, cancellation or material modification of any Permit is pending or, to the Knowledge of the Company, is threatened. A true, correct and complete list of all such material Permits is set forth in Section 4.15(b) of the Disclosure Schedules.

(c) None of the representations and warranties contained in Section 4.15 shall be deemed to relate to regulatory matters governed by Section 4.16, environmental matters (which are governed by Section 4.17), employee benefits matters (which are governed by Section 4.18), employment matters (which are governed by Section 4.19) or Tax matters (which are governed by Section 4.20).

Section 4.16 Regulatory Matters.

(a) The Company has not received any warning letter from the U.S. Food and Drug Administration ("**FDA**") or any other Governmental Authority or other similar communication, including any oral communication, from the FDA or other Governmental Authority alleging or asserting noncompliance with any Health Care Laws. The Company has not received any verbal or written notification from the FDA or any other Governmental Authority (i) that any product approval or clearance is withdrawn or materially modified or that such an action is under consideration, (ii) contesting the uses of or the labeling and promotion of any such products, (iii) with respect to any other asserted or alleged violations, criminal proceedings, investigations or enforcement actions under any Health Care Law, or (iv) otherwise alleging or asserting noncompliance with any Health Care Law. Without limiting the foregoing, the Company is, and as of the Closing Date the Company will be, in compliance, in all material respects, with all current applicable statutes, rules, regulations, or orders administered or issued by the FDA ("**FDA Laws**") or comparable foreign Governmental Authority in connection with the Business ("**Foreign Device Laws**") including, but not limited to, the FDA's Quality System Regulation, 21 C.F.R. Part 820, Medical Device Reporting under 21 C.F.R. 803, Registration and Listing under 21 C.F.R 807, Unique Device Identification under 21 C.F.R 830. The Company does not have Knowledge of any facts which furnish any reasonable basis for any Form FDA-483 observations or regulatory or warning letters from the FDA, Section 305 notices, or other similar communications from the FDA or any other Governmental Authority. There have been no recalls, corrections, repairs, replacements, refunds, safety alerts (or other notice relating to an alleged lack of safety, efficacy or regulatory compliance of any of the Company Products), detentions, withdrawals, seizures, termination or suspension of manufacturing, or other adverse regulatory actions requested or, to the Knowledge of the Company, threatened relating to the Company or the Company Products, and no field notifications, field corrections or alerts, or, to the Knowledge of the Company, no facilities where any such products are produced, processed, packaged or stored and the Company has within the last five (5) years, either voluntarily or at the request of any Governmental Authority, initiated or participated in a recall, correction, repair, replacement, refund, safety alert (or other notice relating to an alleged lack of safety, efficacy or regulatory compliance of any of the Company Products), detention, withdrawal, seizure, termination or suspension of manufacturing or provided post-sale warnings regarding any of the Company Products. The Company does not have Knowledge of any facts which are reasonably likely to cause (1) the recall, market withdrawal or replacement of any of the Company Products sold or intended to be sold by the Company; (2) a change in the marketing classification or a material change in the labeling of any such product, or (3) a termination or suspension of the marketing of such product.

(b) To the Knowledge of the Company, the Company Products, where required, have been and are being designed, tested, manufactured, marketed, sold and distributed in all material respects under relevant EU/Medical device directive (MDD) requirements (council directive 93/42/EEC, as amended 9/21/2007 or thereafter),valid pre-market notifications under Section 510(k) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. § 360(k), and 21 C.F.R. Part 807, Subpart E ("**510(k)s**"), or pre-market approval applications approved by the FDA in accordance with 21 U.S.C. § 360e and 21 C.F.R. Part 814 ("**PMAs**"), and in a manner materially compliant with 21 C.F.R. Part 820. To the Knowledge of the Company, clinical investigations, where required, have been performed under valid investigational device exemptions (21 C.F.R. Part 812), and, if applicable, under the EU clinical trials directive 2001/20/EC and amendments. All 510(k)s, PMAs for the Company Products are exclusively owned by the Company, and as of the Closing Date will be exclusively owned by the Company, and to the Knowledge of the Company, the FDA is not considering suspending, or revoking any such 510(k)s, PMAs or changing the marketing classification or labeling of any such products. There is no material false information or material omission in any product application to the FDA or comparable foreign Governmental Authority, or any document required to be maintained by FDA or comparable foreign Governmental Authority. Neither the Company nor, to the Knowledge of the Company, any of its founders, directors, officers, employees, or agents acting for the Company, has committed any act, made any statement or failed to make any statement, relating to any Product or the development or manufacturing thereof that would reasonable be expected to provide a basis for the FDA to invoke its policy with respect to "Fraud, Untrue Statements of Material Facts, Bribery, and Illegal Gratuities" set forth in 56 Fed. Reg. 46191 (September 10, 1991) and any amendments thereto.

(c) The Company maintains documentation showing that components supplied to the Company related to the Company Products are manufactured in accordance with the Company's specifications therefor. The processes used to produce the Company Products are accurately described in documents maintained by the Company and such documents have been made available to Buyer. To the Knowledge of the Company, such processes are adequate to ensure that commercial quantities of Company Products confirm to the specifications established therefore and are (i) of merchantable quality, (ii) salable in the ordinary course of business, (iii) free from defects in design, material and workmanship, and (iv) suitable for their intended purposes and efficacy.

(d) To the Knowledge of the Company, the Company is in material compliance with all Health Care Laws applicable to the maintenance, compilation and filing of reports, including Medical Device Reports (as defined in 21 C.F.R. Part 803) and reports of corrections and removals (as described in 21 C.F.R. Part 806), with regard to the Company Products, and all applicable Laws that require reporting of payments or transfers of value provided to health care providers, including, but not limited to, the Physician Payments Sunshine Law, 42 U.S.C. § 1320a-7h, and applicable state sunshine reporting Laws. All documentation, correspondence, reports, data, analyses and

certifications relating to or regarding any of the Company Products filed or delivered by or on behalf of the Company to any Governmental Authority were true and accurate in all material respects on the date filed or furnished (or were corrected in or supplemented by a subsequent filing) and remains true and accurate.

(e) To the Knowledge of the Company, all of the Company Products, including all components, packaging, labeling and promotional materials or oral representations for such products, comply in all material respects with applicable Health Care Laws.

(f) To the Knowledge of the Company, all preclinical animal testing and clinical trials relating to any Company Products funded by, sponsored by, or conducted by the Company have been and are being conducted and comply with experimental protocols, procedures and controls, accepted professional scientific standards, including good clinical practices, and applicable Laws.

(g) Neither the Company nor any officer, director or employee of the Company (i) is currently or has been excluded, suspended, debarred from participating or is otherwise ineligible to participate in any federal health care program (as defined in 42 U.S.C. §1320a-7b(f)), (ii) has been sanctioned by any such federal health care program, or (iii) has been subject to sanction pursuant to 42 U.S.C. §1320a-7a or 1320a-8 or been convicted of a crime described at 42 U.S.C. §1320a-7b. To the Knowledge of the Company, no such exclusions, suspensions, debarments or sanctions are threatened nor is there any basis for such exclusions, suspensions, debarments or sanctions.

Section 4.17 Environmental Matters.

(a) The Company is and has for the past three (3) years been in compliance in all material respects with all Environmental Laws and has not received from any Person any (i) Environmental Notice or Environmental Claim, or (ii) written request for information pursuant to Environmental Law, the subject matter of which, in the case of (i) and (ii) above, remains unresolved and would reasonably be expected to result in a material liability.

(b) The Company has obtained and is in material compliance with all Environmental Permits (each of which is disclosed in Section 4.17(b) of the Disclosure Schedules) necessary for the ownership, lease, operation or use of the Business, except for any such failure to obtain or comply that would reasonably be expected to result in a material liability.

(c) To the Company's Knowledge, there has been no Release of Hazardous Materials by the Company in contravention of Environmental Laws. The Company has not at any time prior to the Closing Date, used, manufactured or stored reportable quantities of Hazardous Materials at any Real Property currently operated or leased by the Company in connection with the Business. The Company has not received in writing any Environmental Notice that any Real Property currently operated or leased in connection with the Business (including soils, groundwater, surface water, buildings and

other structure located on any such real property) has been contaminated with any Hazardous Material which would reasonably be expected to result in an material Environmental Claim against, or a material violation of Environmental Laws or term of any Environmental Permit by, the Company.

Section 4.18 Employee Benefit Matters.

(a) Set forth on Section 4.18(a) of the Disclosure Schedules is a list of all Employee Benefit Plans established, maintained or contributed to by the Company except for (i) at-will employment or services agreements providing no requirement for a termination notice period, severance or other post-termination benefits (other than benefits continuation coverage required by Law), in which case only forms of such agreements will be scheduled, and (ii) individual Company Option and other equity award agreements, in which case only forms of such individual agreements shall be scheduled, unless such individual agreements provide acceleration of vesting of awards in a manner not provided for under the applicable form(s) or that otherwise materially differ from such forms. The Company made available to Buyer copies of each current Employee Benefit Plan, as well as its form at-will employment or services agreements and form equity award agreements.

(b) The Company (including all employers, whether or not incorporated, that are treated together with the Company as a single employer within the meaning of Section 414 of the Code) does not maintain or contribute to, and has not maintained or contributed to in the six (6) years prior to Closing, an Employee Benefit Plan that is either (i) subject to Title IV of ERISA, (ii) a "multiemployer plan" within the meaning of Section 3(37) of ERISA, (iii) subject to the minimum binding standards of Section 412 of the Code or Section 302 of ERISA, (iv) a "welfare benefit trust" or "voluntary employees beneficiary association" within the meaning of Sections 419, 419A or 501(a)(9) of the Code. The Company has not incurred any withdrawal liability under Title IV of ERISA that has not been satisfied in full. No Employee Benefit Plan is a multiple employer plan within the meaning of Section 413(c) of the Code. No Employee Benefit Plan is a "multiple employer welfare arrangement" as defined in Section 3(40) of ERISA.

(c) Each Employee Benefit Plan conforms to and has been operated and administered in compliance in all material respects with the requirements of ERISA, the Code and all other applicable Laws. There are no pending or, to the Knowledge of the Company, threatened, claims (other than routine claims for benefits) or lawsuits against or with respect to any Employee Benefit Plans. The Company does not have Knowledge of any governmental audit or examination of any Employee Benefit Plan or of any facts which would reasonably lead it to believe that any such audit or examination is pending or threatened.

(d) All amounts required to have been paid as contributions to any Employee Benefit Plan have been paid within the time prescribed by applicable Laws and the applicable plan documents or have been accrued on the Company's Financial Statements. The Company has not been delinquent in any material respect as to premiums, reimbursements, accruals, contributions or payments to or in respect of any Employee Benefit Plan.

(e) The Company has not made any promises or incurred any liability under any Employee Benefit Plan or otherwise to provide post-termination or retiree health or other welfare benefits to employees (or to their spouses or dependents) or to anyone else, except as specifically required by applicable Laws.

(f) The Company is not a party to and does not have any obligation under any Employee Benefit Plan to compensate any person for excise Taxes payable pursuant Section 409A of the Code.

(g) Neither Buyer's purchase of the Shares from the Sellers nor any other transaction contemplated by this Agreement (either alone or in conjunction with any other event) will (i) result in any payment becoming due to any current or former employee under any Employee Benefit Plan or otherwise, (ii) increase any benefits otherwise payable under any Employee Benefit Plan or (iii) result in any acceleration of the time of payment, funding or vesting of any such benefits. No payment or benefit that could be made by the Company will be characterized as a parachute payment within the meaning of Section 280G of the Code. Neither the Company nor any of its subsidiaries has any obligation to gross-up or indemnify any individual with respect to any excise Taxes under Section 4999 of the Code.

(h) The Company does not have any plan or commitment to establish any new Employee Benefit Plan, to modify any Employee Benefit Plan (except to the extent required by applicable Law or to conform any such Employee Benefit Plan to the requirements of any applicable Law, in each case as previously disclosed to Buyer in writing, or as required by this Agreement), or to adopt or enter into any Employee Benefit Plan.

(i) The Company is not bound by any collective bargaining agreement to maintain any Employee Benefit Plan.

Section 4.19 Employment Matters.

(a) Section 4.19(a) of the Disclosure Schedules sets forth a true, correct and complete listing of the current employees of the Business, and sets forth for each such person, the following: (a) title or position (including whether full or part-time), (b) location (city and state), (c) hire date, (d) current annual salary if salaried or hourly rate of pay if paid hourly, (e) annual commission, bonus or other incentive-based compensation targets, (i) the rate and amount of such compensation paid to each such employee for the current fiscal year, and (g) status as exempt or non-exempt. Section 4.19(a) of the Disclosure Schedules lists all current employees of the Business, if any, who are out on a leave of absence (whether related to disability, under the Family and Medical Leave Act, or otherwise). Section 4.19(a) of the Disclosure Schedule also lists all individuals who provide services to the Company as an independent contractor, including, for each: (a) the start date of services, (b) the proposed end date of services, and (c) the rate of compensation.

(b) The Company is in compliance in all material respects with all applicable Laws pertaining to employment and employment practices and there are no actions, suits, claims, investigations or other legal proceedings against the Company pending, or to the Knowledge of the Company, threatened to be brought or filed, by or with any Governmental Authority or arbitrator in connection with any alleged employment of any person.

(c) Except as set forth on Section 4.19(c) of the Disclosure Schedules and other than for customary "at will" employment arrangements and offer letters, the Company does not have any written employment contracts.

(d) As of the date hereof: (a) the Company is not delinquent in the payment (i) to or on behalf of its past or present employees or other persons of any wages, salaries, commissions, bonuses, benefit plan contributions or other compensation for all periods prior to the date hereof, or (ii) of any amount which is due and payable to any state or state fund pursuant to any workers' compensation statute, rule or regulation or any amount which is due and payable to any workers' compensation claimant; (b) there are no collective bargaining agreements currently in effect between the Company and labor unions or organizations representing any employees; (c) no such collective bargaining agreement is currently being negotiated by Company; (d) to the Knowledge of the Company, there are no union organizational drives in progress and there has been no formal or informal request to Company for such collective bargaining or for an employee election from any union or from the National Labor Relations Board; and (e) to the Knowledge of the Company, no dispute exists between Company and any of its sales representatives related to the Business between any such sales representatives with respect to territory, commissions, products or any other terms of their representation.

(e) Except set forth on Section 4.19(e) of the Disclosure Schedules, no Company employees or other service providers will be entitled to any severance or other payment in connection with the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby.

(f) The Company has not extended to any of its employees or other service providers any loans or credit.

Section 4.20 Taxes. Except as set forth in Section 4.20 of the Disclosure Schedules:

(a) The Company has timely filed with the appropriate taxing authorities (taking into account any valid extensions) all Tax Returns required to be filed by the Company. Such Tax Returns are true, complete and correct in all material respects. The Company is not currently the beneficiary of any extension of time within which to file any such Tax Return other than extensions of time to file Tax Returns obtained in the ordinary course of business. All Taxes due and owing by the Company, whether or not shown on such Tax Returns, have been timely paid in full. All Taxes not yet due and owing have been accrued and adequately disclosed and fully provided for in accordance with GAAP on the Financial Statements.

(b) The Company has withheld and paid all Taxes required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, customer, shareholder or other party, and has complied in all material respects with all information reporting and backup withholding required by applicable Law.

(c) No written claim has been made by any taxing authority in any jurisdiction where the Company does not file Tax Returns that it is, or may be, subject to Tax by that jurisdiction.

(d) No extensions or waivers of statutes of limitations have been given or requested with respect to any Taxes of the Company, which such extension or waiver is still in effect.

(e) All deficiencies asserted, or assessments made, against the Company as a result of any examinations by any taxing authority have been fully paid or resolved.

(f) The Company is not a party to any audit or court or administrative proceeding by any taxing authority. There are no such pending or to the Knowledge of the Company, threatened audits or court or administrative proceedings by any taxing authority.

(g) There are no Encumbrances for Taxes (other than Permitted Encumbrances) upon the assets of the Business.

(h) The Company does not have any liability for Taxes of any Person under Treasury Regulations Section 1.1502-6 (or similar provision of state, local or foreign Law), as transferee or successor, by contract or otherwise (other than agreements, arrangements, understandings or practices entered into in the ordinary course of business the primary purpose of which does not relate to Tax).

(i) The Company is not a party to, or bound by, any Tax indemnity, Tax sharing, Tax allocation or similar agreement, arrangement, understanding or practice (other than agreements, arrangements, understandings or practices entered into in the ordinary course of business the primary purpose of which does not relate to Tax).

(j) The Company has not participated in any “reportable transaction” or “listed transaction” within the meaning of Treasury Regulation Section 1.6011-4 or 301.6112-1 or any similar provision of state, local or non-U.S. Tax Law.

(k) The Company does not have permanent establishment in any country other than the country of its organization, as defined in any applicable Tax treaty between the United States and such other country.

(l) The Company is not, nor has it been, a "distributing corporation" or a "controlled corporation" in a distribution intended to qualify under Section 355(a) of the Code during the five (5) year period preceding the date hereof.

(m) No power of attorney currently in force has been granted with respect to any matter relating to the Taxes of the Company that will be in force for any taxable period beginning after the Closing Date.

(n) The Company has not been included in any "consolidated," "unitary," or "combined" Tax Return provided for under the Law of the United States, any non-U. S. jurisdiction or any state or locality with respect to Taxes for any taxable period for which the statute of limitations has not expired.

(o) The Company will not be required to include a material item of income in, or exclude any material item of deduction from taxable income for any taxable period (or portion thereof) ending after the Closing Date as a result of the following that occurred or exists prior to the Closing Date: (i) a "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state, local or non-U.S. Tax Law), (ii) an installment sale or open transaction, (iii) a prepaid amount, (iv) change in accounting method of the Company pursuant to Section 481 of the Code or similar provision of the Code or the corresponding Tax Laws of any nation, state or locality, or (v) an election under Section 108(i) of the Code, or (vii) similar items.

Section 4.21 Questionable Payments.

(a) The Company (its officers and directors and, to the Knowledge of the Company, any employees, representatives, agents, consultants, or distributors), has not: (i) used or is using any funds for any illegal contribution, gift, entertainment or other unlawful expense relating to political activity; (ii) used or is using any funds for any direct or indirect unlawful payment to any foreign or domestic Governmental Authority, government official or employee; (iii) violated or is violating any provision of, or any rule or regulation issued under, (A) the US Foreign Corrupt Practices Act of 1977, 15 U.S.C. §§ 78dd-l, et seq., (B) the US Travel Act, 18 U.S.C. § 1952, (C) any applicable Law enacted in any applicable jurisdiction in connection with, or arising under, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, or (D) any other Law, rule, regulation, or other legally binding measure of any foreign or domestic jurisdiction of similar effect or that relates to bribery or corruption (collectively, "**Anti-Bribery Laws**"); (iv) failed to maintain in all material respects complete and accurate books and records as required by applicable Anti-Bribery Laws; (v) established or maintained, or is maintaining, any unlawful fund of corporate monies or other properties; (vi) made, offered to make, promised to make, ratified or authorized the payment or giving, directly or indirectly, of any unlawful bribe, rebate, payoff, influence payment, kickback or other unlawful payment, gift or anything of value to a foreign or domestic government official or employee to secure or attempt to secure any improper business advantage (within the meaning of such term under any applicable Anti-Bribery Law) or to obtain or retain business in each case in violation of the Anti-Bribery Laws; or (vii) otherwise taken any action that has caused, or would reasonably be expected to cause the Company to be in violation of any applicable Anti-Bribery Law.

(b) There is no proceeding (i) excluding any sealed proceeding, pending or received, (ii) in the case of a sealed proceeding, to the Knowledge of the Company, pending or received, or (iii) in the case of any proceeding, to the Knowledge of the Company, threatened, in each case against the Company, that could reasonably be expected to result in any liability on the part of the Company under any Anti-Bribery Laws to which the Company is subject. The Company is not (and, as it relates to the Company's business activities, each of its respective directors, officers, executives, employees, agents, distributors, consultants or other representatives is not), party to or otherwise subject to the terms of any Corporate Integrity Agreement, Non-prosecution Agreement, Deferred Prosecution Agreement or any other arrangement similar to any of the foregoing arising from or otherwise relating to the Anti-Bribery Laws.

Section 4.22 Brokers. Except as set forth in Section 4.22 of the Disclosure Schedules, no broker, finder or investment banker is entitled to any brokerage, finder's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of the Company.

Section 4.23 Customers and Suppliers. Section 4.23 of the Disclosure Schedule sets forth an accurate and complete list of (a) the 10 largest customers by revenue collectively during the years ended December 31, 2018 and 2017, and the amount of revenues accounted for by each such customer during that period, and (b) the 10 largest suppliers from whom the Company purchased products, services or other tangible or intangible property or license rights collectively during the years ended December 31, 2018 and 2017, and the dollar amount accounted for by each such supplier during that period. There exists no actual, and the Company has no Knowledge of any threatened, termination, cancellation or material limitation of, or any material change in, the business relationship of the Company with any customer, supplier, group of customers or group of suppliers listed in Section 4.23 of the Disclosure Schedules. No customer of the Company has any right to any credit or refund for products sold or services rendered or to be rendered by the Company pursuant to any Contract with or practice of the Company other than pursuant to the Company's normal course return policy.

Section 4.24 Relationships with Affiliates. No securityholder, director, officer or other Affiliate of the Company has any interest in any property (whether real, personal or mixed and whether tangible or intangible) used in or pertaining to the Company's Business. Except as disclosed on Section 4.24 of the Disclosure Schedules, no securityholder, director, officer or other Affiliate of the Company has (of record or as a beneficial owner) an equity interest or any other financial or profit interest in a Person that (a) has business dealings or a financial interest in any transaction with the Company; or (b) is engaged in competition with the Company with respect to any line of the products or services of the Company in any market presently served by the Company, except for less than 1% of the outstanding capital stock of any competing business that is publicly traded on any recognized exchange or in the over-the-counter market. No securityholder, director, officer or other Affiliate of the Company is a party to any Contract with, or has any claim or right against, the Company.

ARTICLE V
REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to the Sellers and the Company as follows:

Section 5.1 **Organization and Authority of Buyer.** Buyer is a corporation duly organized, validly existing and in good standing under the Laws of Delaware. Buyer has all necessary organizational power and authority to enter into this Agreement, to carry out its obligations hereunder and to consummate the transactions contemplated hereby. The execution and delivery by Buyer of this Agreement, the performance by Buyer of its obligations hereunder and the consummation by Buyer of the transactions contemplated hereby have been duly authorized by all requisite organizational action on the part of Buyer. This Agreement has been duly executed and delivered by Buyer, and (assuming due authorization, execution and delivery by the Company and the Sellers) this Agreement constitutes a legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity).

Section 5.2 **No Conflicts; Consents.** The execution, delivery and performance by Buyer of this Agreement, and the consummation of the transactions contemplated hereby, do not and will not: (a) result in a violation or breach of any provision of any of the articles of incorporation, bylaws or other similar charter documents of Buyer; (b) result in a violation or breach of any provision of any Law or Governmental Order applicable to Buyer; or (c) require the consent, notice or other action by any Person under, conflict with, result in a violation or breach of, constitute a default under or result in the acceleration of any material agreement to which Buyer is a party, except in the case of clauses (a) or (c) for any such violations, breaches, conflicts, defaults, or accelerations that, individually, or in the aggregate, have not been and would not reasonably be expected to be material to Buyer, and would not reasonably be expected to affect the ability of Buyer to perform its obligations under this Agreement or prevent or materially impede or delay the consummation of the transactions contemplated by this Agreement. No consent, approval, Permit, Governmental Order, declaration or filing with, or notice to, any Governmental Authority is required by or with respect to Buyer in connection with the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.

Section 5.3 **Investment Purpose.** Buyer is acquiring the Shares solely for its own account for investment purposes and not with a view to, or for offer or sale in connection with, any distribution thereof. Buyer acknowledges that the Shares are not registered under the Securities Act of 1933, as amended, or any state securities laws, and that the Shares may not be transferred or sold except pursuant to the registration provisions of the Securities Act of 1933, as amended or pursuant to an applicable

exemption therefrom and subject to state securities laws and regulations, as applicable. Buyer is able to bear the economic risk of holding the Shares for an indefinite period (including total loss of its investment), and has sufficient knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risk of its investment.

Section 5.4 Brokers. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Buyer.

Section 5.5 Sufficiency of Funds. Buyer has sufficient cash on hand or other sources of immediately available funds to enable it to make payment of the Closing Date Cash Consideration and consummate the transactions contemplated by this Agreement.

Section 5.6 Legal Proceedings. There are no actions, suits, claims, investigations or other legal proceedings pending or, to Buyer's knowledge, threatened against or by Buyer or any Affiliate of Buyer that challenge or seek to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement.

ARTICLE VI
CONDUCT BY THE COMPANY AND THE SELLERS PRIOR TO THE CLOSING DATE

Section 6.1 Conduct of Business.

(a) Conduct of Business. During the period from the date hereof and continuing until the earlier of the termination of this Agreement pursuant to its terms or the Closing Date, the Company shall, and the Sellers shall cause the Company to, except as otherwise expressly contemplated by this Agreement or to the extent that Buyer shall otherwise consent in writing (which consent shall not be unreasonably withheld, delayed or conditioned), (i) carry on the Business in the usual, regular and ordinary course, in substantially the same manner as previously conducted and in compliance in all material respects with all applicable Laws, (ii) pay its debts and Taxes prior to delinquency and pay or perform other material obligations when due, and (iii) use commercially reasonable efforts to preserve intact the Company's present business organization and retain its employees and other service providers.

(b) Required Buyer Consents. In addition, without limiting the generality of Section 6.1(a), except as permitted or contemplated by the terms of this Agreement, and except as provided in Schedule 6.1(b), without the prior written consent of Buyer (which consent shall not be unreasonably withheld, delayed or conditioned), during the period from the date hereof and continuing until the earlier of the termination of this Agreement pursuant to its terms or the Closing Date, the Company and the Sellers shall not do any of the following, and, with respect to the Business, the Company shall not permit any of its Affiliates to do any of the following:

(i) Cause, permit or propose any amendments to the organizational documents of the Company;

(ii) Permit or facilitate in any way any transfer, sale, assignment or Encumbrance of or with respect to any of the Shares;

(iii) Adopt a voluntary plan of complete or partial liquidation or dissolution;

(iv) Cause the Company to declare, set aside or pay any dividends on or make any other distributions (whether in cash, stock, equity securities or property) in respect of any capital stock of the Company or split, combine or reclassify any such capital stock or issue or authorize the issuance of any other securities of the Company in respect of, in lieu of or in substitution for any capital stock;

(v) Cause the Company to issue, deliver, sell, authorize, pledge or otherwise encumber any shares of capital stock, or any securities convertible into shares of capital stock, or subscriptions, rights, warrants or options to acquire any shares of capital stock or any securities convertible into shares of capital stock, or enter into other agreements or commitments of any character obligating it to issue any such securities or rights (*provided*, that if Buyer does consent to any of the foregoing, any new holder of Company stock resulting from any such transaction will be required to execute a joinder to this Agreement and become bound as a Seller hereunder);

(vi) Cause the Company to acquire or agree to acquire by merging or consolidating with, or by purchasing any material equity or voting interest in or a material portion of the assets of, or by any other manner, any business or any Person or division thereof;

(vii) Sell, lease, license, encumber or otherwise dispose of any material properties or assets of the Company or the Business or enter into any written or oral agreement with a third party with respect to the distribution or sale of any Company Products;

(viii) Enter into any written or oral agreement pursuant to which the Company is licensing, sublicensing or otherwise granting rights to a third party with respect to the Business IP;

(ix) Cause the Company to (A) incur any indebtedness for borrowed money or guarantee any such indebtedness of another Person, (B) issue or sell any debt securities or options, warrants, calls or other rights to acquire any debt securities of the Company, guarantee any debt securities of another Person, or (C) enter into any “keep well” or other agreement to maintain any financial statement condition of any other Person (other than any wholly-owned subsidiary of it);

(x) Enter into or renew any contracts containing any non-competition, exclusivity or other similar material restrictions on the Company or the Business, other than any contracts which automatically renew and which have previously been provided to Buyer;

(xi) Cause the Company to purchase, redeem or otherwise acquire, directly or indirectly, any shares of its capital stock, except repurchases of unvested shares in connection with the termination of the employment or consulting relationship with any employee or consultant pursuant to stock option or purchase agreements or other similar agreements;

(xii) Make any material Tax election, including but not limited to an entity classification election, or Tax accounting method change;

(xiii) Cause the Company to make any material loans, advances or capital contributions to, or investments in, any other Person, other than employee advances made in the ordinary course of business;

(xiv) Except as required by GAAP, make any material change in its methods or principles of accounting;

(xv) Settle or compromise any income Tax liability or consent to any extension or waiver of any limitation period with respect to any material Tax;

(xvi) Other than in the ordinary course of business and consistent with past practice, or pursuant to agreements, policies, or arrangements outstanding or existing on the date hereof, or as may be required by applicable Laws (including amending arrangements as necessary or desirable to comply with Section 409A of the Code), adopt or materially amend any Employee Benefit Plan (other than the adoption of employment arrangements pursuant to at-will agreements with new employees), or enter into any collective bargaining agreement, or pay any special bonus or special remuneration (cash, equity or otherwise) to any employee or other service provider (including rights to severance or indemnification of its directors, officers, employees or consultants);

(xvii) Other than in the ordinary course of business and consistent with past practice, or pursuant to agreements, policies, or arrangements outstanding or existing on the date hereof, or as may be required by applicable Laws (including amending arrangements as necessary or desirable to comply with Section 409A of the Code), grant any severance or termination pay (cash, equity or otherwise) to any employee or other service provider of the Company, or adopt any new severance plan, or amend or modify or alter in any respect any severance plan, agreement or arrangement existing on the date hereof;

(xviii) Accelerate, beyond the normal collection cycle, the collection of accounts receivable or the purchase of inventory;

(xix) Make, accelerate or defer any capital expenditures other than any such expenditures as are necessary to prevent the destruction, removal, wasting, deterioration or impairment of its assets;

(xx) (A) conclude or agree to any corrective action plans, consents, decrees, actions or orders, or (B) cancel, compromise or settle any claim that is related to or affects the Company or the Business, or waive or release any material rights of the Company; or

(xxi) Cancel or terminate any Insurance Policies or cause any of the coverage thereby to lapse, unless simultaneously with such termination, cancellation or lapse, replacement policies providing, to the extent reasonably available, coverage equal to or greater than the coverage under the canceled, terminated or lapsed policies for substantially similar premiums are in full force and effect.

Section 6.2 Notice of Certain Occurrences. During the period from the date hereof and continuing until the earlier of the termination of this Agreement pursuant to its terms or the Closing Date, the Company (and Sellers, as applicable) shall give prompt written notice to Buyer, and Buyer shall give prompt written notice to the Company and the Sellers' Agent, of the occurrence or non-occurrence of any event or condition that would reasonably be expected to result in the nonfulfillment of any of the conditions to the other Party's obligations hereunder.

ARTICLE VII
ADDITIONAL AGREEMENTS

Section 7.1 Commercially Reasonable Efforts to Close. From the date hereof and until the Closing Date and subject to the terms and conditions of this Agreement, the parties shall use commercially reasonable efforts to take all actions and to do all things necessary, proper, or advisable in order to consummate and make effective the transactions contemplated by this Agreement (including the satisfaction, but not waiver, of the conditions to Closing set forth in Article VIII).

Section 7.2 Director and Officer Indemnification and Insurance.

(a) Buyer agrees that all rights to indemnification, advancement of expenses and exculpation by the Company now existing in favor of each Person who becomes prior to the Closing Date, an officer, director or stockholder of the Company (each, an "**Indemnitee**"), as provided in the Company Certificate of Incorporation and Company Bylaws, in each case as in effect on the date of this Agreement, or pursuant to any other agreements in effect on the date hereof and disclosed in Section 7.2(a) of the Disclosure Schedules, or arising under applicable Law, shall survive the Closing Date and shall continue in full force and effect in accordance with their respective terms. Neither the Company nor Buyer shall, and each shall cause their respective Affiliates not to, amend or terminate the Company Certificate of Incorporation or Company Bylaws in a manner that provides for rights of indemnification, advancement of expenses and exculpation by

the Company in favor of any Indemnitee that are less advantageous to such Persons when compared to the rights available to such Persons under the Company Certificate of Incorporation and Company Bylaws as of immediately prior to the Closing.

(b) In the event Buyer, the Company or any of their respective successors or assigns (i) consolidates with or merges into any other Person and shall not be the continuing or surviving entity in such consolidation or merger or (ii) transfers all or substantially all of its properties and assets to any Person, then, and in either such case, proper provision shall be made so that the successors and assigns of Buyer or the Company, as the case may be, shall assume all of the obligations set forth in this Section 7.2.

(c) Prior to the Closing, the Company shall purchase directors' and officers' liability insurance coverage for the Company's directors and officers which shall provide such directors and officers with coverage for six (6) years following the Closing of not less than the existing coverage under, and have other terms not materially less favorable on the whole to, the insured persons than the directors' and officers' liability insurance coverage presently maintained by the Company. Following the Closing, the Buyer shall cause the Company to refrain from taking any act that would cause such coverage to cease to remain in full force and effect.

(d) The obligations of Buyer and the Company under this Section 7.2 shall not be terminated or modified in such a manner as to adversely affect any officer, director, member, manager, partner or similar covered Person of the Company to whom this Section 7.2 applies without the consent of such affected Person (it being expressly agreed that the Persons to whom this Section 7.2 applies shall be third-party beneficiaries of this Section 7.2, each of whom may enforce the provisions of this Section 7.2 directly as if they were parties hereto).

Section 7.3 Public Announcements; Confidentiality; Access to Information.

(a) Public Announcements. Buyer and the Sellers' Agent shall mutually agree on a press release with respect to the transactions contemplated by this Agreement and no party shall, without the prior written consent of the Buyer and the Sellers' Agent, issue any press release or otherwise make any public statements with respect to this Agreement or the transactions contemplated hereby, except as such party reasonably believes after consultation with its outside counsel, may be required by: (a) Law; (b) the SEC; (c) the Securities Act or the Exchange Act; or (d) any listing agreement with the New York Stock Exchange, the Financial Industry Regulatory Authority or any national securities exchange to which the party is subject.

(b) Confidentiality. The Sellers and Sellers' Agent will treat and hold as such all of the Confidential Information and refrain from using any of the Confidential Information (except in connection with this Agreement and the transactions contemplated hereby). From the Closing Date, at the request and option of Buyer, the Sellers and Sellers' Agent shall destroy or deliver to Buyer any tangible embodiments (and all

copies) of the Confidential Information that are in such party's possession (except to the extent reasonably required to be retained in connection with such party's rights or obligations relating to this Agreement or the transactions contemplated hereby). In the event that any Seller or the Sellers' Agent is requested or required (by oral question or request for information or documents in any legal proceeding, interrogatory, subpoena, civil investigative demand, or similar process) to disclose any Confidential Information following the Closing, such party will, to the extend allowed by Law, notify Buyer promptly of the request or requirement so that Buyer may seek an appropriate protective order or waive compliance with the provisions of this Section 7.3(a). If such protective order is not obtained, or if and to the extent Buyer waives such prohibition, such party may make such disclosure that, in the reasonable opinion of such party's counsel, is legally required to be disclosed. Notwithstanding anything herein to the contrary, each party to this Agreement (and each employee, representative, and other agent of such party) may disclose to any and all Persons, without limitation, the Agreement and the transactions contemplated hereby for Tax reporting, legal advice and other similar purposes.

(c) Access to Information. The Company will afford Buyer and Buyer's accountants, counsel and other Representatives reasonable access during normal business hours, upon reasonable advanced notice, to its properties, books, records and personnel to obtain all information concerning the Business, including the status of development efforts related to the Company Products, properties, results of operations and personnel, in each case solely for purposes of this Agreement, as Buyer may reasonably request; *provided*, *however*, that the Company may restrict the foregoing access to the extent that (i) any Law, treaty, rule or regulation of any Governmental Authority applicable to the Company or the Business requires the Company to restrict or prohibit access to any such properties or information, or (ii) such access would, in the reasonable judgment of the Company, compromise or constitute a waiver of any attorney-client privilege of the Company. Any access to the Company's properties shall be subject to the Company's reasonable security measures and insurance requirements and shall not include the right to perform any "invasive" testing.

Section 7.4 Books and Records.

(a) In order to facilitate the resolution of any claims made by or against or incurred by the Sellers after the Closing, for a period of three (3) years after the Closing, the Company shall, and Buyer shall cause the Company to:

(i) retain the books and records of the Company relating to periods prior to the Closing in a manner reasonably consistent with the prior practices of the Company; and

(ii) upon reasonable notice by a Seller, afford the Representatives of the Seller reasonable access (including the right to make, at the Seller's expense, photocopies), during normal business hours, to such books and records.

Section 7.5 Third Party Consents. Each of the Company and Sellers shall use commercially reasonable efforts to obtain all Consents prior to the prior to the Closing Date. Notwithstanding anything to the contrary herein, if the lessor or licensor under any lease of Real Property conditions its grant of a consent (including by threatening to exercise a "recapture" or other termination right) upon, or otherwise requires in response to a notice or consent request regarding this Agreement, the payment of a consent fee, "profit sharing" payment or other consideration (including increased rent payments), or the provision of additional security (including a guaranty), Buyer shall be solely responsible for making all such payments or providing all such additional security following the Closing, and such amounts shall be considered Transaction Expenses.

Section 7.6 Further Assurances. Following the Closing, each of the parties hereto shall, and shall cause their respective Affiliates to, execute and deliver such additional documents, instruments, conveyances and assurances, and take such further actions as may be reasonably required to carry out the provisions hereof and give effect to the transactions contemplated by this Agreement.

Section 7.7 Transfer Taxes. All transfer, documentary, sales, use, stamp, registration, value added and other such Taxes and fees (including any penalties and interest) incurred in connection with this Agreement shall be borne and paid fifty percent by the Sellers, on the one hand, and fifty percent by Buyer, on the other, when due. Each party shall, at its own expense, timely file any Tax Return or other document with respect to such Taxes or fees (and Buyer and the Sellers' Agent shall cooperate with respect thereto as necessary).

Section 7.8 Tax Treatment.

(a) The Company shall, at its expense, prepare or cause to be prepared and file or cause to be filed (taking into account all applicable extensions) with the applicable Tax authority any Tax Returns required to be filed by or with respect to Company for taxable years or periods ending on or before the Closing Date that are due on or before the Closing Date. Such income Tax Returns shall be prepared in a manner consistent with the Company's past practice unless otherwise required by applicable Law. In addition, the Company shall pay on or prior to the due date, any amount due and payable on such Tax Return.

(b) Buyer shall file or cause to be filed when due all Tax Returns of the Company required to be filed after the Closing Date. The Buyer shall pay any such Tax reflected thereon, subject to Buyer's right to indemnification pursuant to Article IX. All such Tax Returns for a taxable period (or portion of a Straddle Period) ending on or before the Closing Date (a "**Pre-Closing Tax Period**") shall be prepared in a manner consistent with the Company's past practice unless otherwise required by applicable Law. Buyer shall provide the Sellers' Agent with a copy of each proposed income or other material Tax Return for a Pre-Closing Tax Period for review and comment at least fifteen (15) Business Days for income Tax Returns and ten (10) Business Days for other material Tax Returns prior to the filing of such Tax Return and shall revise such Tax Return to

reflect any reasonable comments of the Sellers' Agent that are received within five (5) Business Days prior to the filing of such Tax Return. All Tax deductions related to Transaction Expenses, Company Options, or any other compensatory amounts or transaction expenses that are paid or accrued on or before the Closing Date shall be reported on the income Tax Returns of the Company for the taxable period ending on the Closing Date to the extent permitted under applicable Law.

(c) Unless required by Law, Buyer shall not (i) file any amended Tax Returns, (ii) make or change any Tax elections with respect to a Pre-Closing Tax Period, (iii) extend or waive any statute of limitations or other period for the assessment of any Tax that relates to a Pre-Closing Tax Period, (iv) apply to any taxing authority for any binding or non-binding opinion, ruling, or other determination, or voluntarily initiate any discussion or make any voluntary disclosure with any taxing authority, with respect to the Company in relation to any act, matter, or transaction that occurred on or before the Closing Date or that relates to any Pre-Closing Tax Period, (v) report any Tax deduction related to Transaction Expenses, Company Options, or any other compensatory amounts or transaction expenses that are paid or accrued on or before the Closing Date pursuant to the "next day rule" under Treasury Regulations section 1.1502-76(b)(l)(ii)(B) or elect to ratably allocate items pursuant to Treasury Regulations section 1.1502-76(b)(2) (or any similar provision of applicable Law), (vi) file any Tax Return for any Pre-Closing Tax Period for the Company in a jurisdiction where the Company have not previously filed Tax Returns for any Tax period without the prior written consent of the Sellers' Agent (not to be unreasonably withheld, conditioned, or delayed).

(d) The Buyer and the Sellers' Agent shall cooperate, and shall cause their respective Affiliates (including the Company), officers, employees, agents, auditors and representatives reasonably to cooperate, with each other in preparing and filing all Tax Returns of the Company, resolving all disputes relating to Taxes of the Company, and handling all proceedings, examinations, and audits relating to Tax matters of the Company, including maintaining and making available all records necessary in connection with such Tax Returns, disputes and Tax matters.

(e) All Taxes and Tax liabilities with respect to the income, property or operations of the Company that relate to a Straddle Period shall be apportioned between the Buyer and the Sellers as follows: (i) in the case of Taxes other than income, sales and use and withholding Taxes, on a per-diem basis and (ii) in the case of income, sales and use and withholding Taxes, as determined from the books and records of the Company as though the taxable year of the Company.

(f) The Sellers shall be entitled to receive from Buyer or the Company all refunds of Taxes (and any credits or offsets in lieu of refunds of Taxes) with respect to a Pre-Closing Tax Period. Promptly upon receipt of any refund of Taxes, or the application of any credit or offset in lieu of Taxes, and in no event later than five (5) days after receipt by Buyer or the Company, Buyer will, and will cause the Company to, deliver and pay over, by wire transfer of immediately available funds, such refund of Taxes to the Sellers' Agent for distribution to the Sellers on a pro rata basis (based on each such Seller's Shares).

Section 7.9 Release and Waiver. Effective as of and subject to the Closing, each Seller, for itself and on behalf of its Affiliates, agents, representatives, attorneys, assigns, dependents, heirs, executors, and administrators, hereby irrevocably and unconditionally releases, acquits and forever discharges the Company from any and all claims, rights, demands, actions, suits, damages, losses, expenses, liabilities, indebtedness, and causes of action, of whatever kind or nature that existed or arose from the beginning of time through the Closing, regardless of whether known or unknown, and regardless of whether asserted by the Seller to date (the "**Released Seller Claims**"); *provided*, *however*, that the foregoing shall not apply to (i) claims arising under or in connection with this Agreement or the transactions contemplated hereby, (ii) any rights to indemnification or exculpation provided for in the Company Certificate of Incorporation, the Company Bylaws or otherwise in effect as of the date hereof, or claims with respect thereto, (iii) claims under any "tail" insurance policy or other insurance policy of the Company, or (iv) any claims which may not otherwise be released as a matter of applicable Law, which rights and obligations set forth in clauses (i)–(iv) are not released and shall be preserved. Each Seller further agrees and covenants not to participate in any action or proceeding against the Company based upon any of the Released Seller Claims. Each Seller (a) understands that the release contained in this Section 7.9 is binding on the Seller and its Affiliates, agents, representatives, attorneys, assigns, dependents, heirs, executors, and administrators and (b) represents and warrants that (i) it has had the opportunity to consult with counsel of its choice, (ii) it is fully informed of the nature and contents of this release and (iii) it has entered into this release freely and without any threat or coercion whatsoever.

ARTICLE VIII
CONDITIONS

Section 8.1 Conditions to the Obligations of Each Party. The respective obligations of each party to this Agreement to close shall be subject to the satisfaction at or prior to the Closing Date of the following conditions:

(a) No Adverse Actions. No action or proceeding shall have been instituted or threatened before any Governmental Authority to restrain or prohibit, or to obtain substantial damages in respect of this Agreement or the consummation of the transactions contemplated herein which, in the reasonable opinion of such party, makes it inadvisable to consummate such transactions.

(b) Buyer's Financing. Buyer shall have completed a financing, whether in one transaction or a series of transactions, and whether in the form of debt, equity or combination thereof, pursuant to which Buyer receives aggregate gross proceeds of at least $30,000,000.

(c) Escrow. The Buyer, the Sellers' Agent, and the Escrow Agent shall have entered into the Escrow Agreement.

Section 8.2 Additional Conditions to the Obligations of Buyer. The obligations of Buyer to close shall be subject to the satisfaction at or prior to the Closing Date of the following conditions:

(a) Representations and Warranties True at Closing. The representations and warranties of the Company and the Sellers contained in this Agreement shall be true and correct in all material respects as of the date hereof and as of the Closing Date (except that the representations and warranties made as of a specified date shall be true and correct only as of such date). Notwithstanding the foregoing, the representations and warranties in Section 3.3(c) and Section 4.3 shall be true and correct in all respects as of the date hereof and as of the Closing Date.

(b) Compliance with Agreement. Each of the covenants, agreements and obligations required by this Agreement to be performed or complied with by the Sellers or the Company on or before the Closing Date pursuant to the terms hereof shall have been duly performed or complied with in all material respects.

(c) No Material Adverse Effect. Between the date hereof and the Closing Date, there shall have been no Material Adverse Effect.

(d) Deliverables. Buyer shall have received the deliverables required to be delivered by the Sellers, the Sellers' Agent, and/or the Company, as applicable, pursuant to Section 2.2 and Section 2.3.

(e) Closing Certificate. Buyer shall have received a certificate signed by the Company and the Sellers and dated as of the Closing Date certifying as to the satisfaction of the conditions set forth in Section 8.2(a) and Section 8.2(b) hereof.

(f) Arrangements with respect to Convertible Securities. There shall be no Convertible Securities outstanding, other than Convertible Securities which are promissory notes that will be paid-off at the Closing and for which the noteholder has signed and delivered a Pay-Off Letter including a waiver of any conversion rights.

(g) Arrangements with respect to Options, Warrants. There shall be no Company Options or Company Warrants outstanding.

(h) Hassett Employment. The Hassett Employment Agreement shall not have been materially breached, terminated, or repudiated by James Hassett.

(i) Contract Consents, Modifications, and Terminations. The Company shall have obtained the contractual consents, modifications, and terminations, each in form reasonably acceptable to the Buyer, as set forth on Schedule 8.2(i).

Section 8.3 Additional Conditions to the Obligations of the Sellers and the Company. The respective obligations of the Sellers and the Company to close shall be subject to the satisfaction at or prior to the Closing Date of the following conditions:

(a) Representations and Warranties True at Closing. The representations and warranties of Buyer contained in this Agreement shall be true and correct in all material respects as of the date hereof and as of the Closing Date, or in case of representations and warranties made as of a specified date earlier than the Closing Date, on and as of such earlier date.

(b) Compliance with Agreement. Each of the covenants, agreements and obligations required by this Agreement to be performed or complied with by Buyer on or before the Closing Date pursuant to the terms hereof shall have been duly performed or complied with in all material respects.

(c) Closing Deliverables. The Sellers shall have received the closing deliverables required to be delivered by Buyer pursuant to Section 2.3(d).

(d) Closing Certificate. The Sellers' Agent shall have received a certificate signed by Buyer and dated as of the Closing Date certifying as to the satisfaction of the conditions set forth in Section 8.3(a) and Section 8.3(b) hereof.

(e) Hassett Employment. The Hassett Employment Agreement shall not have been materially breached, terminated, or repudiated by Buyer.

ARTICLE IX
INDEMNIFICATION

Section 9.1 Survival. Subject to the limitations and other provisions of this Agreement, the representations and warranties contained herein shall survive the Closing and shall remain in full force and effect, and a claim for indemnification relating to the representations and warranties contained herein may be made (subject to the limitations set forth hereinafter) until the date that is one (1) year after the Closing Date; *provided*, *however*, that for purposes of claims for indemnification pursuant to Section 9.2(a) or Section 9.3(a):

(a) the representations or warranties set forth in Section 3.1 (Authority of the Seller), Section 3.3(c) (Ownership of Shares), Section 3.5 (Brokers), Section 4.1 (Organization and Qualification of the Company), Section 4.2 (Authority of the Company), Section 4.3 (Capitalization), Section 4.4 (Subsidiaries), Section 4.12 (Intellectual Property), Section 4.22 (Brokers), Section 5.1 (Organization and Authority of Buyer), Section 5.4 (Brokers) and Section 5.5 (Sufficiency of Funds) (collectively, the "**Fundamental Representations**") shall survive the Closing until the expiration of the Second Revenue Success Period and the payment of any Contingent Payments that have become payable.

(b) Section 4.16 (Regulatory Matters) and Section 4.20 (Taxes) shall survive until the 60th day following the expiration of the applicable statute of limitations.

Each covenant and agreement shall survive the Closing for the period as contemplated by its terms. Notwithstanding the foregoing, any claims asserted in good faith with

reasonable specificity and in writing by notice from the non-breaching party to the breaching party prior to the expiration date of the applicable survival period shall not thereafter be barred by the expiration of such survival period and such claims shall survive until finally resolved.

Section 9.2 Indemnification by the Sellers. Subject to the other terms and conditions of this Article IX, following the Closing Date, each Seller shall severally, and not jointly, on a pro rata basis (based on each such Seller's Shares) save, defend, indemnify and hold harmless each of Buyer and its Affiliates and its and their respective directors, officers, members, managers, partners and employees (collectively, the "**Buyer Indemnified Parties**") against, and hold the Buyer Indemnified Parties harmless from and against, and reimburse and compensate the Buyer Indemnified Parties for, any and all Losses, regardless of whether or not a third party claim is involved, that are incurred or sustained by, or imposed upon, the Buyer Indemnified Parties based upon, arising out of, with respect to or by reason of:

(a) any breach of or inaccuracy in any of the representations or warranties of a Seller or the Company contained in Article III or Article IV of this Agreement or in any certificate or instrument delivered by or on behalf of a Seller or the Company pursuant to this Agreement;

(b) (i) any breach or non-fulfillment of any covenant, agreement or obligation to be performed by such Seller at any time pursuant to this Agreement or (ii) any breach or non- fulfillment of any covenant, agreement or obligation to be performed by the Company prior to the Closing pursuant to this Agreement;

(c) any Losses attributable to Taxes (or the non-payment thereof) of, or attributable to, (A) the Company for all Pre-Closing Tax Periods (as apportioned pursuant to Section 7.8(e) with respect to any Straddle Period), and (B) any Person (other than the Company) for which the Company may be liable as a transferee or successor, by contract or otherwise, which Tax is related to the operations of the Company on or prior to the Closing Date or an action, omission, event or transaction occurring before the Closing, *provided*, that any indemnification pursuant to this Section 9.2(c) shall not include any Taxes arising as a result of any action taken by Buyer or its Affiliates on the Closing Date, after the Closing, outside the ordinary course of business, resulting from Buyer's breach of any provision of this Agreement relating to Taxes, or that are included in the calculation of Closing Indebtedness or Transaction Expenses;

(d) any Closing Indebtedness and Transaction Expenses, to the extent not included in the calculation of Estimated Closing Date Consideration provided by the Company pursuant to Section 2.2;

(e) any inaccuracy in any information set forth in the Consideration Allocation Schedule or Funds Flow Memorandum; and

(f) any claims of personal injury, bodily injury or property damage arising from or related to the Company Products, in connection with any device or other product manufactured or sold by the Company prior to the Closing.

Section 9.3 Indemnification by Buyer. Subject to the other terms and conditions of this Article IX, Buyer shall save, defend, indemnify and hold harmless each Seller and the Seller's Affiliates and its and their respective directors, officers, members, managers, partners and employees, heirs, executors and administrators (collectively, the "**Seller Indemnified Parties**") against, and hold the Seller Indemnified Parties harmless from and against, and reimburse and compensate the Buyer Indemnified Parties for, any and all Losses, regardless of whether or not a third party claim is involved, that are incurred or sustained by, or imposed upon, the Seller Indemnified Parties based upon, arising out of, with respect to or by reason of:

(a) any breach of or inaccuracy in any of the representations or warranties of Buyer contained in this Agreement or in any certificate or instrument delivered by or on behalf of Buyer pursuant to this Agreement;

(b) any breach or non-fulfillment of any covenant, agreement or obligation to be performed by (i) Buyer at any time pursuant to this Agreement or (ii) the Company from and after the Closing pursuant to this Agreement.

Section 9.4 Certain Limitations. The party making a claim for indemnification under this Article IX is referred to as the "**Indemnified Party**" and the party against whom such claims are asserted under this Article IX is referred to as the "**Indemnifying Party**". The indemnification provided for in Section 9.2 and Section 9.2(f) shall be subject to the following limitations:

(a) The Sellers shall not be liable for any Losses pursuant to Section 9.2(a) unless and until the aggregate amount of all Losses for which the Buyer Indemnified Parties are entitled to indemnification therefor exceeds $50,000 (the "**Claim Threshold Amount**"), in which case the Buyer Indemnified Parties shall be entitled to indemnification for all Losses incurred by such Buyer Indemnified Parties regardless of the Claim Threshold Amount; *provided*, *however*, that the limitation set forth in this Section 9.4(a) shall not apply to Losses arising from fraud, willful misconduct or intentional misrepresentation on the part of any Seller in connection with the transactions contemplated by this Agreement.

(b) The amount of all Losses for which the Sellers shall be liable pursuant to Section 9.2(a) shall be limited to $3,000,000, and the Holdback Amount and setoff against the Contingent Payments pursuant to Section 2.6(c) represent the sole and exclusive source of recovery for all Losses for which the Sellers shall be liable pursuant to Section 9.2(a), in each case other than Losses arising from fraud, willful misconduct or intentional misrepresentation on the part of the Company or any Seller in connection with the transactions contemplated by this Agreement. Notwithstanding any provision of this Agreement to the contrary, the liability of a Seller for indemnification under this Article IX shall not exceed a maximum amount equal to the amount actually received by such

Seller under this Agreement, except in the case of fraud, willful misconduct, or intentional misrepresentation by such Seller, which shall not be capped against such Seller.

(c) The amount of all Losses for which Buyer shall be liable pursuant to Section 9.3(a) shall be limited to $2,000,000, other than Losses arising from fraud, willful misconduct or intentional misrepresentation on the part of Buyer in connection with the transactions contemplated by this Agreement.

(d) Payments by an Indemnifying Party pursuant to Section 9.2 or Section 9.2(f) in respect of any Loss shall be limited to the amount of any liability or damage that remains after deducting therefrom any (i) insurance proceeds or other collateral sources of recovery, (ii) indemnity, contribution or other similar payment actually received by the Indemnified Party (or the Company) in respect of any such claim, and (iii) net cash Tax benefit actually realized by the Indemnified Party with respect to the taxable year in which the Loss was incurred or the immediately succeeding taxable year, after deducting all related reasonable and out-of-pocket attorneys' fees, expenses and other costs of recovery (including any deductible amount) and any resultant increase in insurance premiums.

(e) Notwithstanding anything to the contrary contained herein, the Sellers shall not be liable for any Losses related to or arising from the ability of Buyer, the Company or any of their Affiliates to utilize any Tax attribute of the Company following the Closing.

(f) In no event shall any Indemnifying Party be liable to any Indemnified Party for (i) any punitive or special damages or any incidental or consequential damages that were not reasonably foreseeable or (ii) any punitive damages relating to the breach or alleged breach of this Agreement, in each case except to the extent awarded to a third party.

(g) Notwithstanding anything in this Agreement to the contrary, for purposes of the indemnification obligations under this Article IX, all of the representations and warranties set forth in this Agreement, or any certificate or schedule, that are qualified as to "material," "materiality," "Material Adverse Effect" or words of similar import or effect shall be deemed to have been made without any such qualification for the purposes of determining the amount of any Losses resulting from, arising out of, or relating to any such breach, inaccuracy or misrepresentation.

(h) Each Indemnified Party shall take, and cause its Affiliates to take, all reasonable steps to mitigate any Loss upon becoming aware of any event or circumstance that would be reasonably expected to, or does, give rise thereto.

Section 9.5 Indemnification Procedures.

(a) **Third-Party Claims.** If any Indemnified Party receives notice of any pending or potential action, suit, claim or other legal proceeding by any Person who is not a party to this Agreement or an Affiliate of a party to this Agreement or a

representative of the foregoing (a "**Third-Party Claim**") against such Indemnified Party with respect to which the Indemnifying Party is obligated to provide indemnification under this Agreement, the Indemnified Party shall give the Indemnifying Party prompt written notice thereof. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits rights or defenses by reason of such failure. Such notice by the Indemnified Party shall describe the Third-Party Claim in reasonable detail, shall include copies of all material written evidence thereof and shall indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained by the Indemnified Party. The Indemnifying Party shall have the right to participate in, or by delivering written notice and an acknowledgment of liability for the Third-Party Claim to the Indemnified Party within thirty (30) days of receipt of notice of such Third-Party Claim, to assume the defense of any Third-Party Claim at the Indemnifying Party's expense and by the Indemnifying Party's own counsel, and the Indemnified Party shall cooperate in good faith in such defense. In the event that the Indemnifying Party assumes the defense of any Third-Party Claim, subject to Section 9.5(b), it shall have the right to take such action as it deems necessary to avoid, dispute, defend, appeal or make counterclaims pertaining to any such Third-Party Claim in the name and on behalf of the Indemnified Party; *provided*, *however*, that if (i) the Indemnifying Party elects not to compromise or defend such Third-Party Claim, (ii) the Indemnifying Party fails to notify the Indemnified Party in writing within thirty (30) days of its receipt of notice of such Third-Party Claim of its election to defend as provided in this Agreement, (iii) the Indemnifying Party fails to use reasonable best efforts to actively and diligently, with legal counsel reasonably acceptable to the Indemnified Party, conduct the defense of the action, (iv) such Third-Party Claim seeks an injunction or other equitable remedies in respect of the Indemnified Party or its business; (v) such Third-Party Claim is reasonably likely to result in liabilities that, taken with other then existing claims under this Article IX would not be fully indemnified hereunder; (vi) the Indemnified Party has been advised by counsel that an actual or potential conflict exists between the Indemnified Party and the Indemnifying Party in connection with the defense of such Third-Party Claim; (vii) such Third-Party Claim seeks a finding or admission of a violation of Law or violation of the rights of any Person by the Indemnified Party; or (viii) such Third-Party Claim relates to Intellectual Property, the Indemnified Party may, but shall not be obligated to, subject to Section 9.5(b), retain separate counsel of its choosing, defend such Third-Party Claim and have the sole power to direct and control such defense (all at the cost and expense of the Indemnifying Parties) and seek indemnification for any and all Losses based upon, arising from or relating to such Third-Party Claim. In the event that the Indemnifying Party defends against a Third-Party Claim, the Indemnified Party shall have the right, at its own cost and expense, to participate in the defense of such Third-Party Claim with counsel selected by it subject to the Indemnifying Party's right to control the defense thereof; *provided*, *however*, that if such Indemnified Party shall have reasonably concluded that a conflict or potential conflict exists between the Indemnified Party and the Indemnifying Party or there may be defenses available to the Indemnified Party that are contrary to, or inconsistent with, those available to the Indemnifying Party, then, in each such event, the fees and expenses of not more than one additional counsel for the Indemnified Party shall be borne by the

Indemnifying Party. The Sellers and Buyer shall cooperate with each other in all reasonable respects in connection with the defense of any Third-Party Claim, including making available (subject to the provisions of Section 7.3) records relating to such Third-Party Claim and furnishing, without expense (other than reimbursement of actual out-of-pocket expenses) to the defending party, management employees of the non-defending party as may be reasonably necessary for the preparation of the defense of such Third-Party Claim.

(b) **Settlement of Third-Party Claims.** Notwithstanding any other provision of this Agreement, the Indemnifying Party shall not enter into settlement of any Third-Party Claim without the prior written consent of the Indemnified Party (which consent shall not be unreasonably withheld or delayed), except as provided in this Section 9.5(b). If a firm offer is made to settle a Third-Party Claim without leading to liability or the creation of a financial or other obligation on the part of the Indemnified Party and provides, in customary form, for the unconditional release of each Indemnified Party from all liabilities and obligations in connection with such Third-Party Claim and the Indemnifying Party desires to accept and agree to such offer, the Indemnifying Party shall give written notice to that effect to the Indemnified Party. If the Indemnified Party fails to consent to such firm offer within ten (10) calendar days after its receipt of such notice, the Indemnified Party may continue to contest or defend such Third-Party Claim and in such event, the maximum liability of the Indemnifying Party as to such Third-Party Claim shall not exceed the amount of such settlement offer. If the Indemnified Party fails to consent to such firm offer and also fails to assume defense of such Third-Party Claim, the Indemnifying Party may settle the Third-Party Claim upon the terms set forth in such firm offer to settle such Third-Party Claim. If the Indemnified Party has assumed the defense pursuant to Section 9.5(a), it shall not agree to any settlement without the written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

(c) **Direct Claims.** Any claim by an Indemnified Party on account of a Loss which does not result from a Third-Party Claim (a "**Direct Claim**") shall be asserted by the Indemnified Party giving the Indemnifying Party prompt written notice thereof. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits rights or defenses by reason of such failure. Such notice by the Indemnified Party shall describe the Direct Claim in reasonable detail, shall include copies of all material written evidence thereof and shall indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained by the Indemnified Party. The Indemnifying Party shall have thirty (30) calendar days after its receipt of such notice to respond in writing to such Direct Claim. During such thirty (30) calendar day period, the Indemnified Party shall allow the Indemnifying Party and its professional advisors to investigate the matter or circumstance alleged to give rise to the Direct Claim, and whether and to what extent any amount is payable in respect of the Direct Claim and the Indemnified Party shall assist the Indemnifying Party's investigation by giving such information and assistance (including access to the Company's premises and personnel and the right to examine and copy any accounts, documents or records) as the Indemnifying Party or any of its professional advisors may reasonably request. If the

Indemnifying Party does not so respond within such thirty (30)-calendar day period, the Losses identified in the notice of Direct Claim will be conclusively deemed a liability of the Indemnifying Party under Section 9.2 or Section 9.3, as applicable. If the Indemnifying Party disputes its liability with respect to such Direct Claim or the estimated amount of such Losses pursuant to this Section 9.5(c) within forty-five (45) days following receipt of notice of such Direct Claim, the Parties shall attempt in good faith to resolve such dispute; *provided*, that if such dispute has not been resolved within seventy-five (75) days following receipt of notice of such Direct Notice, then the Indemnifying Party and the Indemnified Party may seek legal redress in accordance with ARTICLE XI.

Section 9.6 Tax Treatment of Indemnification Payments. All indemnification payments made under this Agreement shall be treated by the parties as an adjustment to the Closing Date Cash Consideration for Tax purposes, unless otherwise required by Law.

Section 9.7 Exclusive Remedies. Subject to Section 11.13 and Section 2.5, the parties acknowledge and agree that their sole and exclusive remedy with respect to any and all claims (other than claims arising from fraud, willfull misconduct or intentional misrepresentation in connection with the transactions contemplated by this Agreement) for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement, shall be pursuant to the indemnification provisions set forth in this Article IX. Nothing in this Section 9.7 shall limit any Person's right to seek and obtain any equitable relief to which any Person shall be entitled pursuant to Section 11.13 or to seek any remedy on account of fraud, willful misconduct or intentional misrepresentation.

ARTICLE X
TERMINATION

Section 10.1 Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by the mutual written consent of Buyer and the Sellers' Agent, on behalf of all of the Sellers and the Company;

(b) by Buyer, if (i) there shall have been a breach in any material respect of any representation and warranty in this Agreement of the Company or any Seller, or (ii) the Company or any Seller shall not have performed or complied in any material respect with any material covenant or material agreement of the Company or the Seller contained in this Agreement, such that the conditions set forth in Section 8.2(a) and Section 8.2(b) (as applicable) would be incapable of being satisfied by the Outside Date (as defined below);

(c) by the Sellers' Agent, on behalf of all of the Sellers and the Company, if (i) there shall have been a breach in any material respect of any representation and warranty in this Agreement of Buyer, or (ii) Buyer shall not have performed or complied in any material respect with any material covenant or material agreement of Buyer, such that the conditions set forth in Section 8.3(a) and Section 8.3(b) (as applicable) would be incapable of being satisfied by the Outside Date;

(d) by Buyer or the Sellers' Agent, on behalf of all of the Sellers and the Company, if the Closing shall not have occurred before the date that is four weeks after the date of this Agreement (the "**Outside Date**"); *provided*, *however*, that the right to terminate this Agreement under this Section 10.1(d) shall not be available to the Buyer or the Sellers' Agent, as may be applicable, if its willful action or willfull failure to act has been a principal cause of or resulted in the failure of the Closing to occur on or before such date and such action or failure to act constitutes a breach of this Agreement;

(e) by Buyer or by the Sellers' Agent, on behalf of all of the Sellers and the Company, if a Governmental Authority shall have issued an order, decree or ruling or taken any other action (including the failure to have taken an action), in any case having the effect of permanently restraining, enjoining or otherwise prohibiting the Closing, which order, decree, ruling or other action is final and nonappealable; or

(f) by Buyer or the Sellers' Agent, on behalf of all of the Sellers and the Company, if any Governmental Authority of competent jurisdiction shall have issued a Governmental Order permanently restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement and such Governmental Order shall have become final and non-appealable; *provided* that the right to terminate this Agreement pursuant to this Section 10.1(f) shall not be available to any party unless such party shall have used its reasonable best efforts to oppose any such Governmental Order and to have such Governmental Order vacated or made inapplicable.

Section 10.2 Procedure and Effect of Termination. If either Buyer or the Sellers' Agent, on behalf of all of the Sellers and the Company, desires to terminate this Agreement pursuant to Section 10.1, such party shall give written notice of such termination to the other party. In the event that this Agreement shall be terminated pursuant to Section 10.1, this Agreement shall be of no further force or effect and all further obligations of the parties under this Agreement (other than under Section 7.3(a), Section 7.3(b), this Section 10.2 and Article XI) shall be terminated without further liability of any party to the other; *provided*, *however*, that nothing herein shall relieve any party from liability for breach of any representation, warranty, covenant or agreement hereunder occurring prior to such termination. Nothing contained in this Agreement shall prevent any party from electing not to exercise any right it may have to terminate this Agreement and, instead, seeking any remedies, including equitable relief (including specific performance), to which it would otherwise be entitled in the event of breach of any other party hereto.

ARTICLE XI
MISCELLANEOUS

Section 11.1 Expenses. Except as otherwise expressly provided herein, all costs and expenses, including fees and disbursements of counsel, financial advisors and accountants, incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such costs and expenses, whether or not the Closing shall have occurred.

Section 11.2 Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given:

(a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient; or (d) on the third Business Day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 11.2):

If to the Sellers' Agent, the Sellers, or to the Company prior to Closing:

Harold Wodlinger
1208 - 5444 Yonge Street
Toronto, Ontario M2N 6J4
Canada
E-mail: [ ]

with a copy to:

Dorsey & Whitney LLP
Suite 1500
50 South Sixth Street
Minneapolis, MN 55402
Attention: [ ]
E-mail: [ ]

If to Buyer, or to the Company after Closing:

Acutus Medical, Inc.
2210 Faraday Ave.
Suite 100
Carlsbad, CA 92008
Attn: President and CEO

with a copy to:

Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304
Facsimile: [ ]
Attention: [ ]
E-mail: [ ]

Section 11.3 Interpretation. For purposes of this Agreement: (a) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (x) to Articles, Sections, Disclosure Schedules and Exhibits mean the Articles and Sections of, and Disclosure Schedules and Exhibits attached to, this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof; and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The Disclosure Schedules and Exhibits referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

Section 11.4 Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

Section 11.5 Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

Section 11.6 Entire Agreement. This Agreement and the other Transaction Documents constitute the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein and therein, and supersede all prior and contemporaneous representations, warranties, understandings and agreements, both written and oral with respect to such subject matter In the event of any inconsistency between the statements in the body of this Agreement and those in the other Transaction Documents and the Disclosure Schedules (other than an exception expressly set forth as such in the Disclosure Schedules), the statements in the body of this Agreement will control.

Section 11.7 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. No party may assign its rights or obligations hereunder without the prior written consent of the other parties, which consent shall not be unreasonably withheld or delayed. No assignment shall relieve the assigning party of any of its obligations hereunder. Buyer agrees that, at Closing, Sellers may assign 3% of their rights to the Contingent Payments and 3% of the Buyer Stock to NG Advisors, the investment

banker for the Company, *provided* that for the avoidance of doubt NG Advisors must deliver signed counterparts to the applicable Investor Agreements prior to receiving any shares of Buyer Stock.

Section 11.8 No Third-party Beneficiaries. Except as provided in Section 3.6, which is for the benefit of the Company Counsel, Section 7.2, which is for the benefit of the Indemnitees covered thereby, and Article IX, which is for the benefit of the Indemnified Parties covered thereby, this Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement; *provided*, that the foregoing shall not limit the Sellers' Agent right to enforce this Agreement on behalf of the Sellers.

Section 11.9 Amendment and Modification; Waiver. This Agreement may be amended, modified or supplemented only by an agreement in writing signed by Buyer, the Company and the Sellers' Agent. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

Section 11.10 Sellers' Agent.

(a) Harold Wodlinger is hereby appointed, authorized and empowered to act as the representative of the Sellers hereunder, with full power of substitution, to the extent and in the manner set forth in this Agreement, and Sellers' Agent, by his signature below, agrees to serve in such capacity. Each Seller hereby designates the Sellers' Agent as the representative of the Seller for purposes of this Agreement, and approval of this Agreement by such persons shall constitute ratification and approval of such designation on the terms set forth herein. Such designation and appointment is irrevocable by action of any Seller. All decisions, actions, consents and instructions by the Sellers' Agent with respect to this Agreement shall be binding upon all of the Sellers with respect to their interests as Sellers. Buyer shall be entitled to rely on any decision, action, consent or instruction of the Sellers' Agent as being the decision, action, consent or instruction of the Sellers, and Buyer is hereby relieved from any liability to any Person for acts done by them in accordance with any such decision, act, consent or instruction. By way of amplification and not limitation, as Sellers' Agent, the Sellers' Agent shall be authorized and empowered, as agent of and on behalf of all Sellers (only with respect to their interests as Sellers), to give and receive notices and communications as provided herein, to administer the provisions of this Agreement (including the provisions of Article IX), to object (or refrain from objecting) to any claims, to agree to, negotiate, enter into

settlements and compromises of, and demand arbitration and comply with orders of courts and awards of arbitrators with respect to, such claims or Losses, to waive after the Closing any breach or default of Buyer of any obligation to be performed by it under this Agreement, to receive service of process on behalf of each Seller in connection with any claims against such Seller arising under or in connection with this Agreement, any document or instrument provided for hereby or any of the transactions contemplated hereby or under any Transaction Document, to engage attorneys, accountants, agents or consultants in connection with the performance of any of its duties, obligations or rights, and pay any fees related thereto, and to take all other actions that are either (i) necessary, appropriate or desirable in the judgment of the Sellers' Agent for the accomplishment of the foregoing or (ii) specifically mandated by the terms of this Agreement. Notices or communications to or from the Sellers' Agent shall constitute notice to or from the Sellers, other than Buyer.

(b) The Sellers' Agent may resign at any time, and in the event of the death, incapacity or resignation of the Sellers' Agent, a new Sellers' Agent shall be appointed by the vote or written consent of Sellers holding a majority of the Shares immediately prior to the Closing. Notice of such vote or a copy of the written consent appointing such new Sellers' Agent shall be sent to Buyer and, after the Closing, to the Company, such appointment to be effective upon the later of the date indicated in such consent and the date such consent is received by Buyer and, after the Closing, the Company; *provided* that until such notice is received, Buyer and the Company, as applicable, shall be entitled to rely on the decisions, actions, consents and instructions of the prior Sellers' Agent as described herein. The Sellers' Agent may charge a reasonable fee for his, her or its services; *provided*, that all fees and expenses incurred by the Sellers' Agent in performing his, her or its duties hereunder (including legal fees and expenses related thereto) and any indemnification in favor of the Sellers' Agent shall be borne by the Sellers pro rata in accordance with their proportion of the total Shares.

(c) In dealing with this Agreement and any notice, instrument, agreement or document relating hereto, and in exercising or failing to exercise all or any of the powers conferred upon the Sellers' Agent hereunder, (i) the Sellers' Agent and his, her or its agents, counsel, accountants and other representatives shall not assume any, and shall not incur any, responsibility whatsoever (in each case, to the extent permitted by applicable Law) to any Seller, Buyer, or the Company, including by reason of any error in judgment or other act or omission performed or omitted hereunder or in connection with this Agreement or any such other agreement, instrument or document, except to the extent such actions shall have been determined by a court of competent jurisdiction to have constituted fraud, willful misconduct or intentional misrepresentation, and (ii) the Sellers' Agent shall be entitled to rely in good faith on the advice of counsel, public accountants or other independent experts experienced in the matter at issue, and any error in judgment or other act or omission of the Sellers' Agent pursuant to such advice shall in no event subject the Sellers' Agent to liability to any Seller, Buyer or the Company. Except in cases where a court of competent jurisdiction has made such a finding, the Sellers shall on a pro rata basis (based on each such Seller's Shares) indemnify, defend and hold harmless the Sellers' Agent, its Affiliates and Representatives from and against any and all Losses and liabilities arising out of and in connection with his or its activities as the Sellers' Agent under this Agreement or otherwise.

(d) The Sellers' Agent shall not have any duties or responsibilities other than those expressly set forth in this Agreement, and no implied covenants, functions, responsibilities, duties or liabilities shall be read into this Agreement or shall otherwise exist against the Sellers' Agent. The Sellers' Agent shall be entitled to rely, and shall be fully protected in relying, upon any statements furnished to it by the Company, any Seller, or Buyer, or any other evidence deemed by the Sellers' Agent to be reliable. The Sellers' Agent may seek the advice of legal counsel in the event of any dispute or question as to the construction of any of the provisions of this Agreement or any other Transaction Document or its duties hereunder or thereunder, and it shall incur no liability in its capacity as Sellers' Agent to Buyer or any Seller and shall be fully protected with respect to any action taken, omitted or suffered by it in accordance with the advice of such counsel.

(e) The grant of authority provided for in this (i) is coupled with an interest and is being granted, in part, as an inducement to Buyer to enter into this Agreement, and shall be irrevocable and survive the dissolution, liquidation or bankruptcy of the Company or the death, incompetency, liquidation or bankruptcy of any Seller, shall be binding on any successor thereto and (ii) shall survive the assignment by any Seller of the whole or any portion of his, her or its interest hereunder.

(f) In connection with the performance of its obligations hereunder, the Sellers' Agent shall have the right, at any time and from time to time to select and engage, at the cost and expense of the Sellers, attorneys, accountants, investment bankers, advisors, consultants and clerical personnel and obtain such other professional and expert assistance, and maintain such records, as it may deem necessary or desirable and incur other out-of-pocket expenses related to performing its services hereunder.

(g) All of the immunities and powers granted to the Sellers' Agent under this Agreement shall survive the Closing and/or any termination of this Agreement.

Section 11.11 Dispute Resolution. Each of the parties irrevocably agrees that any claims, disputes, or other matters arising out of or relating to this Agreement shall be resolved by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, then in effect (the "**Rules**"). The decision of arbitration will be final and conclusive upon the parties, and judgment upon the award rendered by the arbitrator may be entered in any court having competent jurisdiction. The arbitration proceedings will be held in Dallas, Texas. The arbitration proceedings shall be conducted before one neutral arbitrator, appointed in accordance with the Rules who has been actively engaged in the practice of corporate and business law for at least 15 years, and shall proceed under any expedited procedures of the Rules. The arbitrator will determine whether to permit discovery by the Parties and the scope and procedures thereof. The arbitrator's decision will be in writing. The arbitrator's compensation, and the administrative costs of the arbitration, will be borne by the parties in the manner set forth in the arbitration award, as determined by the arbitrator.

Section 11.12 Waiver of Jury Trial. EACH OF THE PARTIES TO THIS AGREEMENT HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT, OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS OF ANY PARTY HERETO IN NEGOTIATION, ADMINISTRATION, PERFORMANCE OR ENFORCEMENT HEREOF.

Section 11.13 Specific Performance. The parties agree that irreparable damage would be suffered in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. Accordingly, the parties shall be entitled to specific performance of the terms hereof, including an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement, this being in addition to any other remedy to which the applicable party is entitled at law or in equity. Each party further hereby waives (a) any defense in any action for specific performance that a remedy at law would be adequate and (b) any requirement under any law to show actual damages or post security as a prerequisite to obtaining equitable relief.

Section 11.14 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

Section 11.15 Attorney Client Privilege.

(a) Buyer and the Company agree and acknowledge that the Company Counsel has represented the Company in connection with the transactions contemplated by this Agreement (the "**Acquisition Engagement**") and with various other matters during the period prior to the Closing.

(b) Effective upon the Closing, the Company shall, without the necessity of farther documentation of transfer, be deemed to have irrevocably assigned and transferred to the Sellers' Agent all of its right and title to and interest in all communications with, and work product of, the Company Counsel together with all written or other materials consisting of, containing, summarizing or embodying such communications and work product, in each case to the extent solely related to the Acquisition Engagement; *provided, however,* that (i) such assignment shall not be deemed to waive any attorney-client privilege of the Company applicable to such communications or work product in respect of any third party (including any Governmental Authority) and (ii) without first giving prior written notice to the Company, which may, at its own cost, promptly seek an appropriate protective order, the Sellers' Agent shall not, and shall cause each Shareholder not to, waive any such privilege in respect of a third party.

(c) If the Sellers or the Sellers' Agent so desire, and without the need for any consent or waiver by the Company or Buyer, the Company Counsel shall be permitted to

represent the Sellers and/or the Sellers' Agent after the Closing in connection with any matter related to the Acquisition Engagement or any disagreement or dispute relating thereto, including without limitation any such matter involving any negotiation, transaction or dispute ("dispute" includes litigation, arbitration or other adversary proceeding) with Buyer, the Company or any of their respective agents or Affiliates.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

ACUTUS MEDICAL, INC.

By: /s/ Vince Burgess
Name: Vince Burgess
Title: President & CEO

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

RHYTHM XIENCE, INC.

By: /s/ James A. Hassett
Name: James A. Hassett
Title: President/CEO

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

JAMES HASSETT

/s/ James Hassett

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

KEN GUYEN

/s/ Ken Guyen

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

NISSEI MEDITEC, INC.

By: /s/ Hiroki Matsumoto
Name: Hiroki Matsumoto
Title: President

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

YAMASHITA MEDICAL INSTRUMENTS, CO, LTD

By: /s/ Naota Yamashita
Name: Naota Yamashita
Title: President
Date: 5/23/2019

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

NIHON VINYL CORD INC.

By: /s/ Masaru Kuroki
Name: Masaru Kuroki
Title: President

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

HIROKI MATSUMOTO

/s/ Hiroki Matsumoto May 24, 2019

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

IGAN INVESTMENT FUND I, LP
By its general manager,
IGAN MANAGEMENT I, LP
By its general manager
IGAN VENTURES INC.

By: /s/ Sam Ifergan
Name: Sam Ifergan
Title: CEO

IGAN INVESTMENT FUND I EXTENSION, LP
By its general manager,
IGAN MANAGEMENT EXTENSION, LP
By its general manager
IGAN VENTURES INC.

By: /s/ Sam Ifergan
Name: Sam Ifergan
Title: CEO

IGAN PARTNERS INC.

By: /s/ Sam Ifergan
Name: Sam Ifergan
Title: CEO

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

695527 ONTARIO LTD

By: /s/ Harold Wodlinger
Name: Harold Wodlinger
Title: President

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

SELLERS' AGENT, solely as Sellers' Agent

Harold Wodlinger

By: /s/ Harold Wodlinger
Name:
Title:

Schedule I

Schedule 8.2(i) Certain Contract Consents, Modifications, Terminations

Exhibit A

Exhibit B

AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
ACUTUS MEDICAL, INC.

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

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

DOES HEREBY CERTIFY:

FIRST: That the name of this corporation is Acutus Medical, Inc. and that this corporation was originally incorporated pursuant to the General Corporation Law on March 25, 2011 under the name Acutus Medical, Inc.

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

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

ARTICLE I

The name of this corporation is Acutus Medical, Inc.

ARTICLE II

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

ARTICLE III

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

ARTICLE IV

A. Authorization of Stock. This corporation is authorized to issue two classes of stock to be designated, respectively, common stock and preferred stock. The total number of shares that this corporation is authorized to issue is 356,064,796. The total number of shares of common stock authorized to be issued is 200,000,000, par value $0.001 per share (the "Common Stock"). The total number of shares of preferred stock authorized to be issued is 156,064,796, par value $0.001 per share (the "Preferred Stock"), of which 3,848,696 shares are designated as "Series A Preferred Stock", 30,032,100 shares are designated as "Series B Preferred Stock", 48,184,000 shares are designated as "Series C Preferred Stock"; and 74,000,000 shares are designated as "Series D Preferred Stock".

B. Rights, Preferences and Restrictions of Preferred Stock. The rights, preferences, privileges and restrictions granted to and imposed on the Preferred Stock are as set forth below in this Article IV(B).

1. Dividend Provisions.

(a) The holders of shares of Preferred Stock shall be entitled to receive dividends, out of any assets legally available therefor, prior and in preference to any declaration or payment of any dividend (payable other than in Common Stock or other securities and rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of Common Stock of this corporation) on the Common Stock of this corporation, at the applicable Dividend Rate (as defined below), payable on a *pro rata*, *pari passu* basis when, as and if declared by this corporation's Board of Directors (the "Board"). Such dividends shall not be cumulative. The holders of the outstanding Preferred Stock can waive any dividend preference that such holders shall be entitled to receive under this Section 1, so long as such waiver applies equally to all series of Preferred Stock, upon the affirmative vote or written consent of the holders of at least sixty-five percent (65%) of the shares of Preferred Stock then outstanding (voting together as a single class and not as separate series, and on an as-converted basis) (the "Requisite Investors").

(b) For purposes of this Amended and Restated Certificate of Incorporation (the "Restated Certificate"):

(i) "Affiliate" shall mean, with respect to any specified entity, any other entity which, directly or indirectly, controls, is controlled by, or is under common control with such specified entity, including, without limitation, any general partner, officer, director or manager of such person and any venture capital fund now or hereafter existing that is controlled by one or more general partners or managing members of, is under common investment management with, shares the same management or advisory company with or is otherwise affiliated with such entity.

(ii) "Dividend Rate" shall mean $0.07 per annum for each share of Series A Preferred Stock, $0.11 per annum for each share of Series B Preferred Stock, $0.14 for each share of Series C Preferred Stock, and $0.14 for each share of Series D Preferred Stock (in each case, as adjusted for any stock splits, stock dividends, combinations, subdivisions, recapitalizations or the like).

(iii) "Junior Preferred Stock" shall mean the Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock.

(c) After payment of such dividends pursuant to section 1(a), any additional dividends or distributions shall be distributed among all holders of Common Stock in proportion to the number of shares of Common Stock held by each such holder.

2. Liquidation Preference.

(a) General Liquidation Preference.

(i) In the event of any Liquidation Event (as defined below), either voluntary or involuntary, the holders of Series D Preferred Stock shall be entitled to receive, prior and in preference to any distribution of the proceeds of such Liquidation Event (the "Proceeds") to the holders of Junior Preferred Stock, the Common Stock, or any other series or class of capital stock by reason of their ownership thereof, an amount per share equal to the greater of: (A) the sum of the applicable Original Issue Price (defined below) for such Series D Preferred Stock, plus declared but unpaid dividends on such share (the "Series D Liquidation Preference"); or (B) the amount payable per share of Series D Preferred Stock on an as-converted to Common Stock basis. If, upon the occurrence of such event, the Proceeds thus distributed among the holders of the Series D Preferred Stock shall be insufficient to permit the payment to such holders of the full aforesaid preferential amounts, then the entire Proceeds legally available for distribution shall be distributed ratably among the holders of the Series D Preferred Stock on a pro rata and *pari passu* basis in proportion to the full preferential amount that each such holder is otherwise entitled to receive under this subsection 2(a)(i).

(ii) In the event of any Liquidation Event, either voluntary or involuntary, the holders of Junior Preferred Stock shall be entitled to receive, after payment in full to the holders of Series D Preferred Stock of the Series D Liquidation Preference set forth above, but prior and in preference to any distribution of the Proceeds to the holders of the Common Stock or any other series or class of capital stock by reason of their ownership thereof, an amount per share equal to the greater of (A) the sum of the respective Original Purchase Price of such share of Junior Preferred Stock plus any declared but unpaid dividends on such share of Junior Preferred Stock (collectively, the "Junior Preferred Liquidation Preference" and together with the Series D Liquidation Preference, the "Liquidation Preference") or (B) the amount payable per such share of Junior Preferred Stock on an as-converted to Common Stock basis. If, upon the occurrence of such event, the Proceeds thus distributed among the holders of the Junior Preferred Stock shall be insufficient to permit the payment to such holders of the full aforesaid preferential amounts, then the entire Proceeds legally available for distribution shall be distributed ratably among the holders of the Junior Preferred Stock on a pro rata and *pari passu* basis in proportion to the full preferential amount that each such holder is otherwise entitled to receive under this subsection 2(a)(ii).

(iii) Upon completion of the distribution required by subsections (i) and (ii) of this Section 2(a), all of the remaining Proceeds available for distribution to stockholders shall be distributed among the holders of Common Stock pro rata based on the number of shares of Common Stock held by each holder.

(iv) For purposes of this Restated Certificate, "Original Issue Price" shall mean $0.853 per share for each share of the Series A Preferred Stock, $1.375 per share for each share of the Series B Preferred Stock, $1.714 per share for each share of the Series C Preferred Stock, and $1.714 per share for each share of the Series D Preferred Stock (in each case, as adjusted for any stock splits, stock dividends, combinations, subdivisions, recapitalizations or the like with respect to such series of Preferred Stock).

(b) Notwithstanding the above, for purposes of determining the amount each holder of shares of Preferred Stock is entitled to receive with respect to a Liquidation Event, each such holder of shares of a series of Preferred Stock shall be deemed to have converted (regardless of whether such holder actually converted) such holder's shares of such series into shares of Common Stock immediately prior to the Liquidation Event if, as a result of an actual conversion, such holder would receive, in the aggregate, an amount greater than the amount that would be distributed to such holder if such holder did not convert such series of Preferred Stock into shares of Common Stock. If any such holder shall be deemed to have converted shares of Preferred Stock into Common Stock pursuant to this paragraph, then such holder shall not be entitled to receive any distribution that would otherwise be made to holders of Preferred Stock that have not converted (or have not been deemed to have converted) into shares of Common Stock.

(c) (i) For purposes of this Section 2, a "Liquidation Event" shall include:

(A) the closing of the sale, transfer or other disposition of all or substantially the assets of this corporation and its subsidiaries taken as a whole, except where such sale, transfer, or other disposition is to a wholly-owned subsidiary of this corporation,

(B) the consummation of the merger or consolidation of this corporation with or into another entity or (2) any subsidiary of this corporation with or into another entity wherein this corporation issues shares of its capital stock in connection therewith, except, in the case of either of clause (1) or (2), a merger or consolidation in which the holders of capital stock of this corporation immediately prior to such merger or consolidation continue to hold at least a majority of the voting power of the capital stock of this corporation or the surviving or acquiring entity,

(C) the closing of the transfer (whether by merger, consolidation or otherwise), in one transaction or a series of related transactions, to a person or group of affiliated persons (other than an underwriter of this corporation's securities), of this corporation's securities if, after such closing, such person or group of affiliated persons would hold a majority of the outstanding voting stock of this corporation (or the surviving or acquiring entity),

(D) a liquidation, dissolution or winding up of this corporation,

(E) the grant of an irrevocable, exclusive, worldwide license to all or substantially all of the assets or intellectual property of this corporation and its subsidiaries taken as a whole to a third party, or

(F) (1) this corporation's filing of or the filing against it of a petition in bankruptcy or a petition to take advantage of any insolvency act, (2) the adjudication of this corporation as bankrupt, (3) this corporation's filing of a petition or answer seeking reorganization or arrangement under any bankruptcy laws or any other similar law or statute of the United States of America or any other jurisdiction or (4) this corporation's consent to the appointment of a receiver for itself or for the whole or any substantial part of its property;

provided, however, that a transaction shall not constitute a Liquidation Event if its sole purpose is to change the state of this corporation's incorporation or to create a holding company that will be owned in substantially the same proportions by the persons who held this corporation's securities immediately prior to such transaction. Notwithstanding the prior sentence, the sale of stock for capital raising purposes shall not be deemed a "Liquidation Event." The treatment of any particular transaction or series of related transactions as a Liquidation Event pursuant to subsections (A), (B), (C) or (E) of this Section 2(c)(i) may be waived by the vote or written consent of the Requisite Investors.

(ii) In any Liquidation Event, if Proceeds received by this corporation or its stockholders is other than cash, its value will be deemed its fair market value as determined in good faith by the Board and the Requisite Investors. Notwithstanding the foregoing, any securities shall be valued as follows:

(A) Securities not subject to investment letter or other similar restrictions on free marketability covered by (B) below:

(1) If traded on a securities exchange, the value shall be deemed to be the average of the closing prices of the securities on such exchange over the ten (10) trading day period ending five (5) trading days prior to the closing of the Liquidation Event unless another method is set forth in the definitive agreements governing such Liquidation Event, in which case the method set forth in the definitive agreements governing such Liquidation Event shall be used;

(2) If actively traded over-the-counter, the value shall be deemed to be the average of the closing bid or sale prices (whichever is applicable) over the ten (10) trading day period ending five (5) trading days prior to the closing of the Liquidation Event unless another method is set forth in the definitive agreements governing such Liquidation Event, in which case the method set forth in the definitive agreements governing such Liquidation Event shall be used; and

(3) If there is no active public market, the value shall be the fair market value thereof, as determined in good faith by the Board and the Requisite Investors, unless another method is set forth in the definitive agreements governing such Liquidation Event, in which case the method set forth in the definitive agreements governing such Liquidation Event shall be used.

(B) The method of valuation of securities subject to investment letter or other restrictions on free marketability (other than restrictions arising solely by virtue of a stockholder's status as an affiliate or former affiliate) shall be to make an appropriate discount from the market value determined as above in (A) (1), (2) or (3) to reflect the approximate fair market value thereof, as mutually determined in good faith by the Board and the Requisite Investors.

(iii) In the event the requirements of this Section 2 are not complied with, this corporation shall forthwith either:

(A) cause the closing of such Liquidation Event to be postponed until such time as the requirements of this Section 2 have been complied with; or

(B) cancel such transaction, in which event the rights, preferences and privileges of the holders of the Preferred Stock shall revert to and be the same as such rights, preferences and privileges existing immediately prior to the date of the first notice referred to in subsection 2(c)(iv) hereof.

(iv) This corporation shall give each holder of record of Preferred Stock written notice of such impending Liquidation Event not later than ten (10) days prior to the stockholders' meeting called to approve such transaction, or ten (10) days prior to the closing of such transaction, whichever is earlier, and shall also notify such holders in writing of the final approval of such transaction. The first of such notices shall describe the material terms and conditions of the impending transaction and the provisions of this Section 2, and this corporation shall thereafter give such holders prompt notice of any material changes. The transaction shall in no event take place sooner than ten (10) days after this corporation has given the first notice provided for herein or sooner than ten (10) days after this corporation has given notice of any material changes provided for herein; provided, however, that subject to compliance with the General Corporation Law such periods may be shortened or waived upon the written consent of the Requisite Investors.

(d) Notwithstanding anything to the contrary contained herein, in the event of a Liquidation Event that provides for any of the cash, securities or other consideration payable in connection with such Liquidation Event to be contingent or deferred (in the form of earnout or milestone payments or other performance-based payments, but not escrow payments or other purchase price adjustments and similar arrangements in order to satisfy any representation and warranty, indemnification, guarantee or similar obligations of the corporation's securityholders in connection with such Liquidation Event) (the amount of such contingent or deferred consideration being the "Earn-Out Consideration," and the amount of such escrow payments or other purchase price adjustments and similar arrangements being the "Escrow Consideration",) (i) the portion of such consideration that is not the Earn-Out Consideration or the Escrow Consideration (the "Initial Consideration") shall be allocated among the holders of capital stock of this corporation in accordance with subsection 2(a) hereof as if the Initial Consideration were the only consideration payable in connection with such Liquidation

Event, and (ii) the Earn-Out Consideration, upon its payment, shall be allocated among the holders of capital stock of this corporation in accordance with subsection 2(a) hereof after taking into account the previous payment of the Initial Consideration, any previous payment of the Earn-Out Consideration and any previous release of Escrow Consideration as part of the same transaction. For the avoidance of doubt, any Escrow Consideration shall not constitute Earn-Out Consideration or Initial Consideration, and upon payment of any Escrow Consideration, it shall be allocated among the holders of capital stock of this corporation in accordance with subsection 2(a) hereof after taking into account the previous payment of the Initial Consideration and, if any, the Earn-Out Consideration as part of the same transaction. For the avoidance of doubt, subsection 2(b) shall apply to any Liquidation Event, including without limitation any Liquidation Event in which there is Earn-Out Consideration or Escrow Consideration; provided, however, that the effect of subsection 2(b) (i.e., whether Preferred Stock shall be deemed to have converted into Common Stock for purposes of determining the amount each holder of Preferred Stock is entitled to receive with respect to the Liquidation Event) shall be determined only after actual payment of such Earn-Out Consideration or Escrow Consideration.

3. Redemption. The Preferred Stock is not redeemable at the option of the holder thereof.

4. Conversion. The holders of the Preferred Stock shall have conversion rights as follows (the "Conversion Rights"):

(a) Right to Convert. Each share of Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share, at the office of this corporation or any transfer agent for such stock, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the applicable Original Issue Price for such series by the applicable Conversion Price for such series (the conversion rate for a series of Preferred Stock into Common Stock is referred to herein as the "Conversion Rate" for such series), determined as hereafter provided, in effect on the date the certificate is surrendered for conversion. The initial "Conversion Price" per share for each series of Preferred Stock shall be the Original Issue Price applicable to such series; provided, however, that the Conversion Price for the Preferred Stock shall be subject to adjustment as set forth in subsection 4(d).

(b) Automatic Conversion. Each share of Preferred Stock shall automatically be converted into fully-paid, non-assessable shares of Common Stock at the Conversion Rate at the time in effect for such series of Preferred Stock immediately upon (i) the date, or the occurrence of an event, specified by vote or written consent or agreement of the Requisite Investors or (ii) the closing of the sale of shares of Common Stock to the public at a price of at least $5.142 per share (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Common Stock), in a firm-commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, resulting in at least $50,000,000 of net proceeds to this corporation (a "Qualified IPO").

(c) Mechanics of Conversion. Before any holder of Preferred Stock shall be entitled to voluntarily convert the same into shares of Common Stock, he, she or it shall

(i) surrender the certificate or certificates therefor, duly endorsed, at the office of this corporation or of any transfer agent for the Preferred Stock, or (ii) notify this corporation or its transfer agent that such certificate or certificates have been lost, stolen or destroyed and execute an agreement satisfactory to this corporation to indemnify this corporation from any loss incurred by it in connection with such certificates, and shall give written notice to this corporation at its principal corporate office, of the election to convert the same. This corporation shall, as soon as practicable thereafter, issue and deliver at such office to such holder of Preferred Stock, or to the nominee or nominees of such holder (provided that prior notice is given to the Company of such nominee or nominees), a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled as aforesaid. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock as of such date. If the conversion is in connection with an underwritten offering of securities registered pursuant to the Securities Act of 1933, as amended, the conversion may, at the option of any holder tendering Preferred Stock for conversion, be conditioned upon the closing with the underwriters of the sale of securities pursuant to such offering, in which event the persons entitled to receive the Common Stock upon conversion of the Preferred Stock shall not be deemed to have converted such Preferred Stock until immediately prior to the closing of such sale of securities. If the conversion is pursuant to the automatic conversion provisions of subsection 4(b), such conversion shall be deemed to have been made on the conversion date described in the stockholder consent approving such conversion or on the date of effectiveness of the Qualified IPO, and the persons entitled to receive shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holders of such shares of Common Stock as of such date. On the date of an automatic conversion pursuant to subsection 4(b) or a deemed conversion pursuant to subsection 2(b), the outstanding shares of Preferred Stock shall be converted automatically without any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to this corporation or its transfer agent, that notice from this corporation shall not have been received by any holder of record of shares of Preferred Stock, or that the certificates evidencing such shares of Common Stock shall not then be actually delivered to such holder; and provided, further, that this corporation shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such automatic conversion unless either the certificates evidencing such shares of Preferred Stock are delivered to this corporation or its transfer agent as provided above, or the holder notifies this corporation or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the corporation to indemnify this corporation from any loss incurred by it in connection with such certificates.

(d) Conversion Price Adjustments of Preferred Stock for Certain Dilutive Issuances, Splits and Combinations. The Conversion Price of the Preferred Stock shall be subject to adjustment from time to time as follows:

(i) (A) If this corporation shall issue, on or after the Filing Date, any Additional Stock (as defined below) without consideration or for a consideration per share less than the Conversion Price applicable to a series of Preferred Stock in effect immediately prior to the issuance of such Additional Stock, the Conversion Price for such series

in effect immediately prior to each such issuance shall forthwith (except as otherwise provided in this clause (i)) be adjusted to a price determined by multiplying such Conversion Price by a fraction, the numerator of which shall be the number of shares of Preferred Stock outstanding immediately prior to such issuance plus the number of shares of capital stock that the aggregate consideration received by this corporation for such issuance would purchase at such Conversion Price; and the denominator of which shall be the number of shares of Preferred Stock outstanding immediately prior to such issuance plus the number of shares of such Additional Stock. In the event that this corporation issues or sells, or is deemed to have issued or sold shares of Additional Stock that results in an adjustment to a Conversion Price pursuant to the provisions of this Section 4(d) (the "First Dilutive Issuance"), and this corporation then issues or sells, or is deemed to have issued or sold, shares of Additional Stock in a subsequent issuance other than the First Dilutive Issuance that would result in further adjustment to a Conversion Price (a "Subsequent Dilutive Issuance") pursuant to the same instruments as the First Dilutive Issuance, then and in each such case upon a Subsequent Dilutive Issuance the applicable Conversion Price for each series of Preferred Stock shall be reduced to the applicable Conversion Price that would have been in effect had the First Dilutive Issuance and each Subsequent Dilutive Issuance all occurred on the closing date of the First Dilutive Issuance.

(B) No adjustment of the Conversion Price for the Preferred Stock shall be made in an amount less than one-tenth of one cent ($0.001) per share. Except to the limited extent provided for in subsections (E)(3) and (E)(4), no adjustment of such Conversion Price pursuant to this subsection 4(d)(i) shall have the effect of increasing the Conversion Price above the Conversion Price in effect immediately prior to such adjustment.

(C) In the case of the issuance of Additional Stock for cash, the consideration shall be deemed to be the amount of cash paid therefor before deducting any reasonable discounts , commissions or other expenses allowed, paid or incurred by this corporation for any underwriting or otherwise in connection with the issuance and sale thereof.

(D) In the case of the issuance of the Additional Stock for a consideration in whole or in part other than cash, the consideration other than cash shall be deemed to be the fair market value thereof as determined by the Board and the Requisite Investors irrespective of any accounting treatment.

(E) In the case of the issuance of options to purchase or rights to subscribe for Common Stock, securities by their terms convertible into or exchangeable for Common Stock or options to purchase or rights to subscribe for such convertible or exchangeable securities, the following provisions shall apply for purposes of determining the number of shares of Additional Stock issued and the consideration paid therefor:

(1) The aggregate maximum number of shares of Common Stock deliverable upon exercise (assuming the satisfaction of any conditions to exercisability, including without limitation, the passage of time, but without taking into account potential antidilution adjustments) of such options to purchase or rights to subscribe for Common Stock shall be deemed to have been issued at the time such options or rights were issued and for a consideration equal to the consideration (determined in the manner provided in subsections 4(d)(i)(C) and (d)(i)(D)), if any, received by this corporation upon the issuance of such options or rights plus the minimum exercise price provided in such options or rights (without taking into account potential antidilution adjustments) for the Common Stock covered thereby.

(2) The aggregate maximum number of shares of Common Stock deliverable upon conversion of, or in exchange (assuming the satisfaction of any conditions to convertibility or exchangeability, including, without limitation, the passage of time, but without taking into account potential antidilution adjustments) for, any such convertible or exchangeable securities or upon the exercise of options to purchase or rights to subscribe for such convertible or exchangeable securities and subsequent conversion or exchange thereof shall be deemed to have been issued at the time such securities were issued or such options or rights were issued and for a consideration equal to the consideration, if any, received by this corporation for any such securities and related options or rights (excluding any cash received on account of accrued interest or accrued dividends), plus the minimum additional consideration, if any, to be received by this corporation (without taking into account potential antidilution adjustments) upon the conversion or exchange of such securities or the exercise of any related options or rights (the consideration in each case to be determined in the manner provided in subsections 4(d)(i)(C) and (d)(i)(D)).

(3) In the event of any change in the number of shares of Common Stock deliverable or in the consideration payable to this corporation upon exercise of such options or rights or upon conversion of or in exchange for such convertible or exchangeable securities, the Conversion Price of the Preferred Stock, to the extent in any way affected by or computed using such options, rights or securities, shall be recomputed to reflect such change, but no further adjustment shall be made for the actual issuance of Common Stock or any payment of such consideration upon the exercise of any such options or rights or the conversion or exchange of such securities.

(4) Upon the expiration of any such options or rights, the termination of any such rights to convert or exchange or the expiration of any options or rights related to such convertible or exchangeable securities, the Conversion Price of the Preferred Stock, to the extent in any way affected by or computed using such options, rights or securities or options or rights related to such securities, shall be recomputed to reflect the issuance of only the number of shares of Common Stock (and convertible or exchangeable securities that remain in effect) actually issued upon the exercise of such options or rights, upon the conversion or exchange of such securities or upon the exercise of the options or rights related to such securities.

(5) The number of shares of Additional Stock deemed issued and the consideration deemed paid therefor pursuant to subsections 4(d)(i)(E)(l) and (2) shall be appropriately adjusted to reflect any change, termination or expiration of the type described in either subsection 4(d)(i)(E)(3) or (4).

(ii) "Additional Stock" shall mean any shares of Common Stock issued (or deemed to have been issued pursuant to subsection 4(dXi)(E)) by this corporation on or after the Filing Date other than:

(A) Common Stock issued or issuable pursuant to a transaction described in subsection 4(d)(iii) hereof;

(B) Common Stock and options, warrants or other rights to purchase Common Stock issued or issuable to employees, directors, consultants and other service providers for the primary purpose of soliciting or retaining their services pursuant to plans or agreements approved by the Requisite Investors;

(C) Common Stock issued or issuable pursuant to a firm underwritten public offering;

(D) Common Stock issued or issuable pursuant to the conversion or exercise of convertible or exercisable securities outstanding on the Filing Date, in each case only if in accordance with the terms of such securities and not as a result of any amendment or modification thereto after the Filing Date;

(E) Common Stock issued or deemed issued pursuant to subsection 4(d)(i)(E) as a result of a decrease in the Conversion Price of any series of Preferred Stock resulting from the operation of Section 4(d);

(F) Common Stock issued or issuable upon conversion of the Preferred Stock;

(G) Common Stock issued or issuable to suppliers, customers and other commercial partners, provided such issuances are pursuant to plans or agreements approved by the Requisite Investors and are primarily for non-equity financing purposes;

(H) Common Stock issued or issuable pursuant to the acquisition of another corporation by this corporation by merger, purchase of substantially all of the assets or other reorganization or to a joint venture agreement, provided such issuances are approved by the Requisite Investors;

(I) Common Stock issued or issuable to banks, equipment lessors, real property Lessors, financial institutions or other persons engaged in the business of making loans pursuant to a debt financing, commercial leasing or real property leasing transaction, provided such issuances are approved by the Requisite Investors;

(J) Common Stock issued or issuable in connection with sponsored research, collaboration, technology license, development, OEM, marketing or other similar agreements or strategic partnerships, provided such issuances are pursuant to plans or agreements approved by the Requisite Investors and are primarily for non-equity financing purposes; or

(K) Common Stock that is issued or issuable with the approval of each of (1) the Board; (2) the Requisite Investors; and (3) a majority of the shares of Series C Preferred Stock and Series D Preferred Stock (voting together as a single class, on an as-converted to Common Stock basis), which approval specifically states that it shall not be Additional Stock.

(iii) In the event this corporation should at any time or from time to time after the Filing Date fix a record date for the effectuation of a split or subdivision of the outstanding shares of Common Stock or the determination of holders of Common Stock entitled to receive a dividend or other distribution payable in additional shares of Common Stock or other securities or rights convertible into, or entitling the holder thereof to receive directly or indirectly, additional shares of Common Stock (hereinafter referred to as "Common Stock Equivalents") without payment of any consideration by such holder for the additional shares of Common Stock or the Common Stock Equivalents (including the additional shares of Common Stock issuable upon conversion or exercise thereof), then, as of such record date (or the date of such dividend distribution, split or subdivision if no record date is fixed), the Conversion Price of the Preferred Stock shall be appropriately decreased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be increased in proportion to such increase of the aggregate of shares of Common Stock outstanding and those issuable with respect to such Common Stock Equivalents with the number of shares issuable with respect to Common Stock Equivalents determined from time to time in the manner provided for deemed issuances in subsection 4(d)(i)(E).

(iv) If the number of shares of Common Stock outstanding at any time after the Filing Date is decreased by a combination of the outstanding shares of Common Stock, then, following the record date of such combination, the Conversion Price for the Preferred Stock shall be appropriately increased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be decreased in proportion to such decrease in outstanding shares.

(e) Other Distributions. In the event this corporation shall declare a distribution payable in securities of other persons, evidences of indebtedness issued by this corporation or other persons, assets (excluding cash dividends) or options or rights not referred to in subsection 4(d)(iii), then, in each such case for the purpose of this subsection 4(e), the holders of the Preferred Stock shall be entitled to a proportionate share of any such distribution as though they were the holders of the number of shares of Common Stock of this corporation into which their shares of Preferred Stock are convertible as of the record date fixed for the determination of the holders of Common Stock of this corporation entitled to receive such distribution.

(f) Recapitalizations. If at any time or from time to time there shall be a recapitalization of the Common Stock (other than a subdivision, combination or merger or sale of assets transaction provided for elsewhere in this Section 4 or in Section 2) provision shall be made so that the holders of the Preferred Stock shall thereafter be entitled to receive upon conversion of the Preferred Stock the number of shares of stock or other securities or property of this corporation or otherwise, to which a holder of Common Stock deliverable upon conversion of the Preferred Stock immediately before that change would have been entitled on such recapitalization. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 4 with respect to the rights of the holders of the Preferred Stock after the recapitalization to the end that the provisions of this Section 4 (including adjustment of the Conversion Price then in effect and the number of shares purchasable upon conversion of the Preferred Stock) shall be applicable after that event as nearly equivalently as may be practicable.

(g) No Fractional Shares and Certificate as to Adjustments.

(i) No fractional shares shall be issued upon the conversion of any share or shares of the Preferred Stock and the aggregate number of shares of Common Stock to be issued to particular stockholders, shall be rounded down to the nearest whole share and the corporation shall pay in cash the fair market value of any fractional shares as of the time when entitlement to receive such fractions is determined. Whether or not fractional shares would be issuable upon such conversion shall be determined on the basis of the total number of shares of Preferred Stock the holder is at the time converting into Common Stock and the number of shares of Common Stock issuable upon such conversion.

(ii) Upon the occurrence of each adjustment or readjustment of the Conversion Price of Preferred Stock pursuant to this Section 4, this corporation, at its expense, shall promptly compute such adjustment or readjustment in accordance with the terms hereof and prepare and furnish to each holder of Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. This corporation shall, upon the written request at any time of any holder of Preferred Stock, promptly furnish or cause to be furnished to such holder a like certificate setting forth (A) such adjustment and readjustment, (B) the Conversion Price for such series of Preferred Stock at the time in effect, and (C) the number of shares of Common Stock and the amount, if any, of other property that at the time would be received upon the conversion of a share of Preferred Stock.

(h) Notices of Record Date. In the event of any taking by this corporation of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend (other than a cash dividend) or other distribution, this corporation shall mail to each holder of Preferred Stock, at least ten (10) days prior to the date specified therein, a notice specifying the date on which any such record is to be taken for the purpose of such dividend or distribution, and the amount and character of such dividend or distribution. The notice provisions set forth in this section may be shortened or waived prospectively or retrospectively by the consent or vote of the Requisite Investors.

(i) Reservation of Stock Issuable Upon Conversion. This corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of the Preferred Stock, such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of the Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Preferred Stock, in addition to such other remedies as shall be available to the holder of such Preferred Stock, this corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to this Restated Certificate.

(j) Waiver of Adjustment to Conversion Price. Notwithstanding anything herein to the contrary, any downward adjustment of the Conversion Price of any series of Preferred Stock may be waived, either prospectively or retroactively and either generally or in a particular instance, by the consent or vote of the holders of a majority of outstanding shares of such series of Preferred Stock. Any such waiver shall bind all future holders of shares of such series of Preferred Stock.

5. Voting Rights.

(a) General Voting Rights. The holder of each share of Preferred Stock shall have the right to one vote for each share of Common Stock into which such Preferred Stock could then be converted, and with respect to such vote, such holder shall have full voting rights and powers equal to the voting rights and powers of the holders of Common Stock, and shall be entitled, notwithstanding any provision hereof, to notice of any stockholders' meeting in accordance with the Bylaws of this corporation, and except as provided by law or in subsection 5(b) below with respect to the election of directors by the separate class vote of the holders of Common Stock, shall be entitled to vote, together with holders of Common Stock, with respect to any question upon which holders of Common Stock have the right to vote. Fractional votes shall not, however, be permitted and any fractional voting rights available on an as-converted basis (after aggregating all shares into which shares of Preferred Stock held by each holder could be converted) shall be rounded to the nearest whole number (with one half being rounded upward).

(b) Voting for the Election of Directors.

(i) As long as any shares of Series D Preferred Stock are outstanding (as adjusted for recapitalizations), the holders of such shares of Series D Preferred Stock (voting exclusively as a separate series) shall be entitled to elect one (1) director (the "Series D Director") of this corporation at any election of directors.

(ii) As long as any shares of Series C Preferred Stock are outstanding (as adjusted for recapitalizations,) the holders of such shares of Series C Preferred Stock (voting exclusively as a separate series) shall be entitled to elect three (3) directors (the "Series C Directors") of this corporation at any election of directors.

(iii) As long as any shares of Series A Preferred Stock or Series B Preferred Stock are outstanding (as adjusted for recapitalizations), the holders of such shares of Series A Preferred Stock and Series B Preferred Stock (voting together as a single class and not as separate series, and on an as-converted basis) shall be entitled to elect four (4) directors of this corporation at any election of directors (such directors collectively with the Series D Director and the Series C Directors, the "Preferred Directors")

(iv) The holders of outstanding Common Stock shall be entitled to elect one (1) director of this corporation at any election of directors.

(v) The holders of Preferred Stock and Common Stock (voting together as a single class and not as separate series, and on an as-converted basis) shall be entitled to elect any remaining directors of this corporation.

(vi) Any vacancy shall be filled by the holders of shares entitled to appoint such director or directors pursuant to this Section 5(b), in the manner set forth herein. Any director may be removed during his or her term of office, either with or without cause, by, and only by, the affirmative vote of the holders of the shares of the class or series of stock entitled to elect such director or directors, given either at a special meeting of such stockholders duly called for that purpose or pursuant to a written consent of stockholders, and any vacancy thereby created may be filled by the holders of that class or series of stock represented at the meeting or pursuant to written consent.

6. Protective Provisions.

(a) Preferred Stock. So long as any shares of Preferred Stock originally issued remain outstanding, this corporation shall not (by amendment, merger, consolidation or otherwise) without first obtaining the approval (by vote or written consent, as provided by law) of the Requisite Investors (in addition to any other vote required by law or this Restated Certificate), take any of the actions below, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

(i) alter, remove or otherwise modify the rights, preferences or privileges of any series of the Preferred Stock;

(ii) consummate a Liquidation Event;

(iii) amend this corporation's Certificate of Incorporation or Bylaws;

(iv) increase or decrease (other than by redemption or conversion) the total number of authorized shares of Common Stock or Preferred Stock or designated shares of any series of Preferred Stock;

(v) authorize or issue any equity security (including any other security convertible into or exercisable for any such equity security) having a preference over, or being on a parity with, the rights, preferences or privileges of any series of the Preferred Stock, other than the issuance of any authorized but unissued shares of Preferred Stock designated in this Restated Certificate (including any security convertible into or exercisable for such shares of Preferred Stock);

(vi) redeem, purchase or otherwise acquire (or pay into or set aside for a sinking fund for such purpose) any share or shares of Preferred Stock or Common Stock; provided, however, that this restriction shall not apply to the repurchase of shares (i) from employees, officers, directors, consultants or other persons performing services for this corporation or any subsidiary pursuant to agreements under which this corporation has the option to repurchase such shares upon the occurrence of certain events, such as the termination of employment or service, or (ii) pursuant to a right of first refusal held by this corporation (including without limitation a right of first refusal assigned to this corporation);

(vii) change the authorized number of directors of this corporation;

(viii) pay or declare any dividend or distribution on any shares of capital stock of the corporation;

(ix) increase the number of shares of capital stock of the corporation reserved for issuance to employees, directors, consultants and other service providers (including but not limited to those reserved for issuance under equity incentive plans, arrangements or agreements);

(x) effect any material change to the nature of the business of this corporation as presently conducted or as proposed to be conducted as of the Filing Date, except as approved by the Board;

(xi) appoint or remove the auditors of this corporation or change this corporation's fiscal year end, except as approved by the Board;

(xii) issue or cause to be issued any securities of any subsidiary of this corporation to any person or entity other than this corporation;

(xiii) incur (or permit any subsidiary to incur) any indebtedness for borrowed money;

(xiv) grant any lien or security interest on any assets of this corporation or any of its subsidiaries;

(xv) issue any additional shares of Preferred Stock;

(xvi) establish or modify any equity incentive plan, option plan or similar incentive plan, agreement or arrangement for issuance of capital stock of this corporation (or rights exercisable for or convertible into such capital stock) to employees, directors, consultants or other service providers;

(xvii) make (or permit any subsidiary to make) any loans or advances to any person;

(xviii) enter into or become a party to any transaction with any director, officer or employee of this corporation or any Affiliate or immediate family member of any such person, other than for transactions made in the ordinary course of business and pursuant to reasonable requirements of the corporation's business upon fair and reasonable terms that are approved by the Board; or

(xix) any change of domicile of this corporation or any of its subsidiaries to a jurisdiction outside the United States.

(b) Series C Preferred Stock. So long as any shares of Series C Preferred Stock originally issued remain outstanding, this corporation shall not (by amendment, merger, consolidation or otherwise) without first obtaining the approval (by vote or written consent, as provided by law) of a majority of the shares of Series C Preferred Stock (in addition to any other vote required by law or this Restated Certificate), take any of the actions below, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

(i) increase or decrease the authorized number of shares of Series C Preferred Stock;

(ii) alter, change or waive any term or provision of this Restated Certificate or the Bylaws of the corporation so as to affect the Series C Preferred Stock adversely without so affecting all of the series of Preferred Stock;

(iii) adversely alter, change or waive the rights, preferences or privileges of the Series C Preferred Stock set forth herein; it being understood that neither of the following items shall in and of itself constitute an adverse alteration, change or waiver of the rights, preferences or privileges of the Series C Preferred Stock set forth herein: (a) any amendment to this Restated Certificate authorizing a new series of equity security pursuant to Section B.6(a)(v) of this Article Fourth in connection with a bona fide financing, and providing the shares issued in such financing with a dividend right or liquidation preference, anti-dilution protection, the right to elect one (1) or more directors of the corporation, series-specific protective provisions and other rights afforded to the Preferred Stock as a class, and (b) any conversion of the shares of Series C Preferred Stock pursuant to this Restated Certificate; and

(iv) authorize or execute any action or enter into any agreement with respect to the foregoing.

(c) Series D Preferred Stock. So long as any shares of Series D Preferred Stock originally issued remain outstanding, this corporation shall not (by amendment, merger, consolidation or otherwise) without first obtaining the approval (by vote or written consent, as provided by law) of a majority of the shares of Series D Preferred Stock (in addition to any other vote required by law or this Restated Certificate), take any of the actions below, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

(i) increase or decrease the authorized number of shares of Series D Preferred Stock;

(ii) alter, change or waive any term or provision of this Restated Certificate or the Bylaws of the corporation so as to affect the Series D Preferred Stock adversely without so affecting all of the series of Preferred Stock;

(iii) adversely alter, change or waive the rights, preferences or privileges of the Series D Preferred Stock set forth herein; it being understood that neither of the following items shall in and of itself constitute an adverse alteration , change or waiver of the rights, preferences or privileges of the Series D Preferred Stock set forth herein: (a) any amendment to this Restated Certificate authorizing a new series of equity security pursuant to Section B.6(a)(v) of this Article Fourth in connection with a bona fide financing, and providing the shares issued in such financing with a dividend right or liquidation preference, anti-dilution protection, the right to elect one (1) or more directors of the corporation, series-specific protective provisions and other rights afforded to the Preferred Stock as a class, and (b) any conversion of the shares of Series D Preferred Stock pursuant to this Restated Certificate; and

(iv) authorize or execute any action or enter into any agreement with respect to the foregoing.

For purposes of certainty, in no event shall the holders of any series of Preferred Stock have a separate series vote over any actions of the corporation set forth in Article IV.B.6(a) of this Restated Certificate, or of any operating decision of the corporation, except as granted to: (X) the holders of Series C Preferred Stock pursuant to clauses (i)–(iv) of this Article IV, Section B.6(b) of this Restated Certificate; and (Y) the holders of Series D Preferred Stock pursuant to clauses (i)–(iv) of this Article IV, Section B.6(c) of this Restated Certificate.

7. Status of Converted Stock. In the event any shares of Preferred Stock shall be converted pursuant to Section 4 hereof, the shares so converted shall be cancelled and shall not be issuable by this corporation.

8. Notices. Any notice required by the provisions of this Article IV(B) to be given to the holders of shares of Preferred Stock shall be deemed given (i) if deposited in the United States mail, postage prepaid, and addressed to each holder of record at his, her or its address appearing on the books of this corporation, (ii) if such notice is provided by electronic transmission in a manner permitted by Section 232 of the General Corporation Law, or (iii) if such notice is provided in another manner then permitted by the General Corporation Law.

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

1. Dividend Rights. Subject to the prior rights of holders of all classes of stock at the time outstanding having prior rights as to dividends, the holders of the Common Stock shall be entitled to receive, when, as and if declared by the Board, out of any assets of this corporation legally available therefor, any dividends as may be declared from time to time by the Board.

2. Liquidation Rights. Upon the liquidation, dissolution or winding up of this corporation, the assets of this corporation shall be distributed as provided in Section 2 of Article IV(B) hereof.

3. Redemption. The Common Stock is not redeemable at the option of the holder.

4. Voting Rights. The holder of each share of Common Stock shall have the right to one vote for each such share, and shall be entitled to notice of any stockholders' meeting in accordance with the Bylaws of this corporation, and shall be entitled to vote upon such matters and in such manner as may be provided by law. The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the stock of this corporation entitled to vote, irrespective of the provisions of Section 242(b)(2) of the General Corporation Law.

ARTICLE V

Except as otherwise provided in this Restated Certificate, in furtherance and not in limitation of the powers conferred by statute, the Board is expressly authorized to make, repeal, alter, amend and rescind any or all of the Bylaws of this corporation.

ARTICLE VI

The number of directors of this corporation shall be determined in the manner set forth in the Bylaws of this corporation.

ARTICLE VII

Elections of directors need not be by written ballot unless the Bylaws of this corporation shall so provide.

ARTICLE VIII

Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws of this corporation may provide. The books of this corporation may be kept (subject to any provision contained in the statutes) outside the State of Delaware at such place or places as may be designated from time to time by the Board or in the Bylaws of this corporation.

ARTICLE IX

To the fullest extent permitted by the General Corporation Law, a director of this corporation shall not be personally liable to this corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to this corporation or its stockholders, (ii) for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the General Corporation Law, or (iv) for any transaction from which the director derived any improper personal benefit. If the General Corporation Law is amended after approval by the stockholders of this Article IX to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of this corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law as so amended.

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

ARTICLE X

This corporation reserves the right to amend, alter, change or repeal any provision contained in this Restated Certificate, in the manner now or hereafter prescribed by statute, and

all rights conferred upon stockholders herein are granted subject to this reservation; provided, however, that such reservation does not override any vote required by law or required by the express provisions of this Restated Certificate.

ARTICLE XI

To the fullest extent permitted by applicable law, this corporation is authorized to provide indemnification of (and advancement of expenses to) directors, officers, employees and agents of this corporation (and any other persons to which General Corporation Law permits this corporation to provide indemnification) through Bylaw provisions, agreements with such persons, vote of stockholders or disinterested directors or otherwise, in excess of the indemnification and advancement otherwise permitted by Section 145 of the General Corporation Law, subject only to limits created by applicable General Corporation Law (statutory or non-statutory), with respect to actions for breach of duty to this corporation, its stockholders , and others.

Any amendment, repeal or modification of the foregoing provisions of this Article XI shall not adversely affect any right or protection of a director, officer, employee , agent or other person existing at the time of, or increase the liability of any such person with respect to any acts or omissions of such person occurring prior to, such amendment, repeal or modification.

ARTICLE XII

To the fullest extent permitted by law, this corporation renounces any interest or expectancy of this corporation in, or in being offered an opportunity to participate in, an Excluded Opportunity (as defined below). An "Excluded Opportunity" is any matter, transaction or interest that is presented to, or acquired, created or developed by, or which otherwise comes into the possession of, (i) any director of this corporation who is not an employee of this corporation or any of its subsidiaries, or (ii) any holder of Preferred Stock or any partner, member, director, stockholder, employee or agent of any such holder, other than someone who is an employee of this corporation or any of its subsidiaries (collectively, "Covered Persons"), unless such matter, transaction or interest is presented to, or acquired, created or developed by, or otherwise comes into the possession of, a Covered Person expressly and solely in such Covered Person's capacity as a director of this corporation.

* * *

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

FOURTH: That said Amended and Restated Certificate of Incorporation, which restates and integrates and further amends the provisions of this corporation's Certificate of Incorporation, has been duly adopted in accordance with Sections 242 and 245 of the General Corporation Law.

IN WITNESS WHEREOF, this Amended and Restated Certificate of Incorporation has been executed by a duly authorized officer of this corporation on this 12th day of June, 2019.

/s/ Vincent Burgess

Vincent Burgess, President

Exhibit 3.3

BYLAWS OF

ACUTUS MEDICAL, INC.

Adopted March 25, 2011

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BYLAWS

ARTICLE I — MEETINGS OF STOCKHOLDERS

1.1 ***Place of Meetings***. Meetings of stockholders of Acutus Medical, Inc. (the "***Company***") shall be held at any place, within or outside the State of Delaware, determined by the Company's board of directors (the "***Board***"). The Board may, in its sole discretion, determine that a meeting of stockholders shall not be held at any place, but may instead be held solely by means of remote communication as authorized by Section 211(a)(2) of the Delaware General Corporation Law (the "***DGCL***"). In the absence of any such designation or determination, stockholders' meetings shall be held at the Company's principal executive office.

1.2 ***Annual Meeting***. An annual meeting of stockholders shall be held for the election of directors at such date and time as may be designated by resolution of the Board from time to time. Any other proper business may be transacted at the annual meeting. The Company shall not be required to hold an annual meeting of stockholders, *provided* that (i) the stockholders are permitted to act by written consent under the Company's certificate of incorporation and these bylaws, (ii) the stockholders take action by written consent to elect directors and (iii) the stockholders unanimously consent to such action or, if such consent is less than unanimous, all of the directorships to which directors could be elected at an annual meeting held at the effective time of such action are vacant and are filled by such action.

1.3 ***Special Meeting***. A special meeting of the stockholders may be called at any time by the Board, Chairperson of the Board, Chief Executive Officer or President (in the absence of a Chief Executive Officer) or by one or more stockholders holding shares in the aggregate entitled to cast not less than 10% of the votes at that meeting.

If any person(s) other than the Board calls a special meeting, the request shall:

(i) be in writing;

(ii) specify the time of such meeting and the general nature of the business proposed to be transacted; and

(iii) be delivered personally or sent by registered mail or by facsimile transmission to the Chairperson of the Board, the Chief Executive Officer, the President (in the absence of a Chief Executive Officer) or the Secretary of the Company.

The officer(s) receiving the request shall cause notice to be promptly given to the stockholders entitled to vote at such meeting, in accordance with these bylaws, that a meeting will be held at the time requested by the person or persons calling the meeting. No business may be transacted at such special meeting other than the business specified in such notice to stockholders. Nothing contained in this paragraph of this **section 1.3** shall be construed as limiting, fixing, or affecting the time when a meeting of stockholders called by action of the Board may be held.

1.4 ***Notice of Stockholders' Meetings***. Whenever stockholders are required or permitted to take any action at a meeting, a written notice of the meeting shall be given which shall state the place, if any, date and hour of the meeting, the means of remote communications, if any, by which stockholders

and proxy holders may be deemed to be present in person and vote at such meeting, the record date for determining the stockholders entitled to vote at the meeting, if such date is different from the record date for determining stockholders entitled to notice of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Except as otherwise provided in the DGCL, the certificate of incorporation or these bylaws, the written notice of any meeting of stockholders shall be given not less than 10 nor more than 60 days before the date of the meeting to each stockholder entitled to vote at such meeting as of the record date for determining the stockholders entitled to notice of the meeting.

1.5 ***Quorum***. Except as otherwise provided by law, the certificate of incorporation or these bylaws, at each meeting of stockholders the presence in person or by proxy of the holders of shares of stock having a majority of the votes which could be cast by the holders of all outstanding shares of stock entitled to vote at the meeting shall be necessary and sufficient to constitute a quorum. Where a separate vote by a class or series or classes or series is required, a majority of the outstanding shares of such class or series or classes or series, present in person or represented by proxy, shall constitute a quorum entitled to take action with respect to that vote on that matter, except as otherwise provided by law, the certificate of incorporation or these bylaws.

If, however, such quorum is not present or represented at any meeting of the stockholders, then either (i) the chairperson of the meeting, or (ii) the stockholders entitled to vote at the meeting, present in person or represented by proxy, shall have the power to adjourn the meeting from time to time, in the manner provided in **section 1.6**, until a quorum is present or represented.

1.6 ***Adjourned Meeting; Notice***. Any meeting of stockholders, annual or special, may adjourn from time to time to reconvene at the same or some other place, and notice need not be given of the adjourned meeting if the time, place, if any, thereof, and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the Company may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 30 days, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. If after the adjournment a new record date for stockholders entitled to vote is fixed for the adjourned meeting, the Board shall fix a new record date for notice of such adjourned meeting in accordance with Section 213(a) of the DGCL and **section 1.10** of these bylaws, and shall give notice of the adjourned meeting to each stockholder of record entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned meeting.

1.7 ***Conduct of Business***. Meetings of stockholders shall be presided over by the Chairperson of the Board, if any, or in his or her absence by the Vice Chairperson of the Board, if any, or in the absence of the foregoing persons by the Chief Executive Officer, or in the absence of the foregoing persons by the President, or in the absence of the foregoing persons by a Vice President, or in the absence of the foregoing persons by a chairperson designated by the Board, or in the absence of such designation by a chairperson chosen at the meeting. The Secretary shall act as secretary of the meeting, but in his or her absence the chairperson of the meeting may appoint any person to act as secretary of the meeting. The chairperson of any meeting of stockholders shall determine the order of business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of business.

1.8 ***Voting***. The stockholders entitled to vote at any meeting of stockholders shall be determined in accordance with the provisions of **section 1.10** of these bylaws, subject to Section 217 (relating to voting rights of fiduciaries, pledgors and joint owners of stock) and Section 218 (relating to voting trusts and other voting agreements) of the DGCL.

Except as may be otherwise provided in the certificate of incorporation, each stockholder entitled to vote at any meeting of stockholders shall be entitled to one vote for each share of capital stock held by such stockholder which has voting power upon the matter in question. Voting at meetings of stockholders need not be by written ballot and, unless otherwise required by law, need not be conducted by inspectors of election unless so determined by the holders of shares of stock having a majority of the votes which could be cast by the holders of all outstanding shares of stock entitled to vote thereon which are present in person or by proxy at such meeting. If authorized by the Board, such requirement of a written ballot shall be satisfied by a ballot submitted by electronic transmission (as defined in **section 7.2** of these bylaws), *provided* that any such electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the stockholder or proxy holder.

Except as otherwise required by law, the certificate of incorporation or these bylaws, in all matters other than the election of directors, the affirmative vote of a majority of the voting power of the shares present in person or represented by proxy at the meeting and entitled to vote on the subject matter shall be the act of the stockholders. Except as otherwise required by law, the certificate of incorporation or these bylaws, directors shall be elected by a plurality of the voting power of the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors. Where a separate vote by a class or series or classes or series is required, in all matters other than the election of directors, the affirmative vote of the majority of shares of such class or series or classes or series present in person or represented by proxy at the meeting shall be the act of such class or series or classes or series, except as otherwise provided by law, the certificate of incorporation or these bylaws.

1.9 ***Stockholder Action by Written Consent Without a Meeting***. Unless otherwise provided in the certificate of incorporation, any action required by the DGCL to be taken at any annual or special meeting of stockholders of a corporation, or any action which may be taken at any annual or special meeting of such stockholders, may be taken without a meeting, without prior notice, and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted.

An electronic transmission (as defined in **section 7.2**) consenting to an action to be taken and transmitted by a stockholder or proxy holder, or by a person or persons authorized to act for a stockholder or proxy holder, shall be deemed to be written, signed and dated for purposes of this section, *provided* that any such electronic transmission sets forth or is delivered with information from which the Company can determine (i) that the electronic transmission was transmitted by the stockholder or proxy holder or by a person or persons authorized to act for the stockholder or proxy holder and (ii) the date on which such stockholder or proxy holder or authorized person or persons transmitted such electronic transmission.

In the event that the Board shall have instructed the officers of the Company to solicit the vote or written consent of the stockholders of the Company, an electronic transmission of a stockholder written consent given pursuant to such solicitation may be delivered to the Secretary or the President of the Company or to a person designated by the Secretary or the President. The Secretary or the President of the Company or a designee of the Secretary or the President shall cause any such written consent by electronic transmission to be reproduced in paper form and inserted into the corporate records.

Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for notice of such meeting had been the date that written consents signed by a sufficient number of

holders to take the action were delivered to the Company as provided in Section 228 of the DGCL. In the event that the action which is consented to is such as would have required the filing of a certificate under any provision of the DGCL, if such action had been voted on by stockholders at a meeting thereof, the certificate filed under such provision shall state, in lieu of any statement required by such provision concerning any vote of stockholders, that written consent has been given in accordance with Section 228 of the DGCL.

1.10 ***Record Dates***. In order that the Company may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board and which record date shall not be more than 60 nor less than 10 days before the date of such meeting. If the Board so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination.

If no record date is fixed by the Board, the record date for determining stockholders entitled to notice of and to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; *provided, however,* that the Board may fix a new record date for determination of stockholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance with the provisions of Section 213 of the DGCL and this Section 1.10 at the adjourned meeting.

In order that the Company may determine the stockholders entitled to consent to corporate action in writing without a meeting, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and which date shall not be more than 10 days after the date upon which the resolution fixing the record date is adopted by the Board. If no record date has been fixed by the Board, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting, when no prior action by the Board is required by law, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Company in accordance with applicable law. If no record date has been fixed by the Board and prior action by the Board is required by law, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting shall be at the close of business on the day on which the Board adopts the resolution taking such prior action.

In order that the Company may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than 60 days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto.

1.11 ***Proxies***. Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to corporate action in writing without a meeting may authorize another person or persons to act for such stockholder by proxy authorized by an instrument in writing or by a transmission

permitted by law filed in accordance with the procedure established for the meeting, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. The revocability of a proxy that states on its face that it is irrevocable shall be governed by the provisions of Section 212 of the DGCL.

1.12 ***List of Stockholders Entitled to Vote***. The officer who has charge of the stock ledger of the Company shall prepare and make, at least ten days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting; *provided, however,* if the record date for determining the stockholders entitled to vote is less than 10 days before the meeting date, the list shall reflect the stockholders entitled to vote as of the tenth day before the meeting date, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. The Company shall not be required to include electronic mail addresses or other electronic contact information on such list. Such list shall be open to the examination of any stockholder for any purpose germane to the meeting for a period of at least ten days prior to the meeting: (i) on a reasonably accessible electronic network, *provided* that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the Company's principal place of business. In the event that the Company determines to make the list available on an electronic network, the Company may take reasonable steps to ensure that such information is available only to stockholders of the Company. If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be examined by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting.

ARTICLE II — DIRECTORS

2.1 ***Powers***. The business and affairs of the Company shall be managed by or under the direction of the Board, except as may be otherwise provided in the DGCL or the certificate of incorporation.

2.2 ***Number of Directors***. The Board shall consist of one or more members, each of whom shall be a natural person. Unless the certificate of incorporation fixes the number of directors, the number of directors shall be determined from time to time by resolution of the Board. No reduction of the authorized number of directors shall have the effect of removing any director before that director's term of office expires.

2.3 ***Election, Qualification and Term of Office of Directors***. Except as provided in **section 2.4** of these bylaws, and subject to **sections 1.2** and **1.9** of these bylaws, directors shall be elected at each annual meeting of stockholders. Directors need not be stockholders unless so required by the certificate of incorporation or these bylaws. The certificate of incorporation or these bylaws may prescribe other qualifications for directors. Each director shall hold office until such director's successor is elected and qualified or until such director's earlier death, resignation or removal.

2.4 ***Resignation and Vacancies***. Any director may resign at any time upon notice given in writing or by electronic transmission to the Company. A resignation is effective when the resignation is delivered unless the resignation specifies a later effective date or an effective date determined upon the happening of an event or events. A resignation which is conditioned upon the director failing to receive a specified vote for reelection as a director may provide that it is irrevocable. Unless otherwise provided in

the certificate of incorporation or these bylaws, when one or more directors resign from the Board, effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective.

Unless otherwise provided in the certificate of incorporation or these bylaws:

(i) Vacancies and newly created directorships resulting from any increase in the authorized number of directors elected by all of the stockholders having the right to vote as a single class may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director.

(ii) Whenever the holders of any class or classes of stock or series thereof are entitled to elect one or more directors by the provisions of the certificate of incorporation, vacancies and newly created directorships of such class or classes or series may be filled by a majority of the directors elected by such class or classes or series thereof then in office, or by a sole remaining director so elected.

If at any time, by reason of death or resignation or other cause, the Company should have no directors in office, then any officer or any stockholder or an executor, administrator, trustee or guardian of a stockholder, or other fiduciary entrusted with like responsibility for the person or estate of a stockholder, may call a special meeting of stockholders in accordance with the provisions of the certificate of incorporation or these bylaws, or may apply to the Court of Chancery for a decree summarily ordering an election as provided in Section 211 of the DGCL.

If, at the time of filling any vacancy or any newly created directorship, the directors then in office constitute less than a majority of the whole Board (as constituted immediately prior to any such increase), the Court of Chancery may, upon application of any stockholder or stockholders holding at least 10% of the voting stock at the time outstanding having the right to vote for such directors, summarily order an election to be held to fill any such vacancies or newly created directorships, or to replace the directors chosen by the directors then in office as aforesaid, which election shall be governed by the provisions of Section 211 of the DGCL as far as applicable.

A director elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office and until such director's successor is elected and qualified, or until such director's earlier death, resignation or removal.

2.5 ***Place of Meetings; Meetings by Telephone***. The Board may hold meetings, both regular and special, either within or outside the State of Delaware.

Unless otherwise restricted by the certificate of incorporation or these bylaws, members of the Board, or any committee designated by the Board, may participate in a meeting of the Board, or any committee, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

2.6 ***Conduct of Business***. Meetings of the Board shall be presided over by the Chairperson of the Board, if any, or in his or her absence by the Vice Chairperson of the Board, if any, or in the absence of the foregoing persons by a chairperson designated by the Board, or in the absence of such designation by a chairperson chosen at the meeting. The Secretary shall act as secretary of the meeting, but in his or her absence the chairperson of the meeting may appoint any person to act as secretary of the meeting.

2.7 ***Regular Meetings***. Regular meetings of the Board may be held without notice at such time and at such place as shall from time to time be determined by the Board.

2.8 ***Special Meetings; Notice***. Special meetings of the Board for any purpose or purposes may be called at any time by the Chairperson of the Board, the Chief Executive Officer, the President, the Secretary or any two directors.

Notice of the time and place of special meetings shall be:

(i) delivered personally by hand, by courier or by telephone;

(ii) sent by United States first-class mail, postage prepaid;

(iii) sent by facsimile; or

(iv) sent by electronic mail,

directed to each director at that director's address, telephone number, facsimile number or electronic mail address, as the case may be, as shown on the Company's records.

If the notice is (i) delivered personally by hand, by courier or by telephone, (ii) sent by facsimile or (iii) sent by electronic mail, it shall be delivered or sent at least 24 hours before the time of the holding of the meeting. If the notice is sent by United States mail, it shall be deposited in the United States mail at least four days before the time of the holding of the meeting. Any oral notice may be communicated to the director. The notice need not specify the place of the meeting (if the meeting is to be held at the Company's principal executive office) nor the purpose of the meeting.

2.9 ***Quorum; Voting***. At all meetings of the Board, a majority of the total authorized number of directors shall constitute a quorum for the transaction of business. If a quorum is not present at any meeting of the Board, then the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting.

The vote of a majority of the directors present at any meeting at which a quorum is present shall be the act of the Board, except as may be otherwise specifically provided by statute, the certificate of incorporation or these bylaws.

If the certificate of incorporation provides that one or more directors shall have more or less than one vote per director on any matter, every reference in these bylaws to a majority or other proportion of the directors shall refer to a majority or other proportion of the votes of the directors.

2.10 ***Board Action by Written Consent Without a Meeting***. Unless otherwise restricted by the certificate of incorporation or these bylaws, any action required or permitted to be taken at any meeting of the Board, or of any committee thereof, may be taken without a meeting if all members of the Board or committee, as the case may be, consent thereto in writing or by electronic transmission and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

2.11 ***Fees and Compensation of Directors***. Unless otherwise restricted by the certificate of incorporation or these bylaws, the Board shall have the authority to fix the compensation of directors.

2.12 ***Removal of Directors.***

Unless otherwise restricted by statute, the certificate of incorporation or these bylaws, any director or the entire Board may be removed, with or without cause, by the holders of a majority of the shares then entitled to vote at an election of directors.

No reduction of the authorized number of directors shall have the effect of removing any director prior to the expiration of such director's term of office.

ARTICLE III — COMMITTEES

3.1 ***Committees of Directors***. The Board may designate one or more committees, each committee to consist of one or more of the directors of the Company. The Board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board or in these bylaws, shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Company, and may authorize the seal of the Company to be affixed to all papers that may require it; but no such committee shall have the power or authority to (i) approve or adopt, or recommend to the stockholders, any action or matter (other than the election or removal of directors) expressly required by the DGCL to be submitted to stockholders for approval, or (ii) adopt, amend or repeal any bylaw of the Company.

3.2 ***Committee Minutes***. Each committee shall keep regular minutes of its meetings and report the same to the Board when required.

3.3 ***Meetings and Actions of Committees***. Meetings and actions of committees shall be governed by, and held and taken in accordance with, the provisions of:

(i) **section 2.5** (Place of Meetings; Meetings by Telephone);

(ii) **section 2.7** (Regular Meetings);

(iii) **section 2.8** (Special Meetings; Notice);

(iv) **section 2.9** (Quorum; Voting);

(v) **section 2.10** (Board Action by Written Consent Without a Meeting); and

(vi) **section 7.5** (Waiver of Notice)

with such changes in the context of those bylaws as are necessary to substitute the committee and its members for the Board and its members. *However*:

(i) the time of regular meetings of committees may be determined either by resolution of the Board or by resolution of the committee;

(ii) special meetings of committees may also be called by resolution of the Board; and

(iii) notice of special meetings of committees shall also be given to all alternate members, who shall have the right to attend all meetings of the committee. The Board may adopt rules for the government of any committee not inconsistent with the provisions of these bylaws.

Any provision in the certificate of incorporation providing that one or more directors shall have more or less than one vote per director on any matter shall apply to voting in any committee or subcommittee, unless otherwise provided in the certificate of incorporation or these bylaws.

3.4 ***Subcommittees***. Unless otherwise provided in the certificate of incorporation, these bylaws or the resolutions of the Board designating the committee, a committee may create one or more subcommittees, each subcommittee to consist of one or more members of the committee, and delegate to a subcommittee any or all of the powers and authority of the committee.

ARTICLE IV — OFFICERS

4.1 ***Officers***. The officers of the Company shall be a President and a Secretary. The Company may also have, at the discretion of the Board, a Chairperson of the Board, a Vice Chairperson of the Board, a Chief Executive Officer, one or more Vice Presidents, a Chief Financial Officer, a Treasurer, one or more Assistant Treasurers, one or more Assistant Secretaries, and any such other officers as may be appointed in accordance with the provisions of these bylaws. Any number of offices may be held by the same person.

4.2 ***Appointment of Officers***. The Board shall appoint the officers of the Company, except such officers as may be appointed in accordance with the provisions of **section 4.3** of these bylaws.

4.3 ***Subordinate Officers***. The Board may appoint, or empower the Chief Executive Officer or, in the absence of a Chief Executive Officer, the President, to appoint, such other officers and agents as the business of the Company may require. Each of such officers and agents shall hold office for such period, have such authority, and perform such duties as are provided in these bylaws or as the Board may from time to time determine.

4.4 ***Removal and Resignation of Officers***. Any officer may be removed, either with or without cause, by an affirmative vote of the majority of the Board at any regular or special meeting of the Board or, except in the case of an officer chosen by the Board, by any officer upon whom such power of removal may be conferred by the Board.

Any officer may resign at any time by giving written notice to the Company. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice. Unless otherwise specified in the notice of resignation, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the Company under any contract to which the officer is a party.

4.5 ***Vacancies in Offices***. Any vacancy occurring in any office of the Company shall be filled by the Board or as provided in **section 4.3**.

4.6 ***Representation of Shares of Other Corporations***. Unless otherwise directed by the Board, the President or any other person authorized by the Board or the President is authorized to vote, represent and exercise on behalf of the Company all rights incident to any and all shares of any other corporation or corporations standing in the name of the Company. The authority granted herein may be exercised either by such person directly or by any other person authorized to do so by proxy or power of attorney duly executed by such person having the authority.

4.7 ***Authority and Duties of Officers***. Except as otherwise provided in these bylaws, the officers of the Company shall have such powers and duties in the management of the Company as may be designated from time to time by the Board and, to the extent not so provided, as generally pertain to their respective offices, subject to the control of the Board.

ARTICLE V — INDEMNIFICATION

5.1 ***Indemnification of Directors and Officers in Third Party Proceedings***. Subject to the other provisions of this **Article V**, the Company shall indemnify, to the fullest extent permitted by the DGCL, as now or hereinafter in effect, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a "***Proceeding***") (other than an action by or in the right of the Company) by reason of the fact that such person is or was a director or officer of the Company, or is or was a director or officer of the Company serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such Proceeding if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful. The termination of any Proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had reasonable cause to believe that such person's conduct was unlawful.

5.2 ***Indemnification of Directors and Officers in Actions by or in the Right of the Company***. Subject to the other provisions of this **Article V**, the Company shall indemnify, to the fullest extent permitted by the DGCL, as now or hereinafter in effect, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Company to procure a judgment in its favor by reason of the fact that such person is or was a director or officer of the Company, or is or was a director or officer of the Company serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Company; except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Company unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

5.3 ***Successful Defense***. To the extent that a present or former director or officer of the Company has been successful on the merits or otherwise in defense of any action, suit or proceeding described in **section 5.1** or **section 5.2**, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith.

5.4 ***Indemnification of Others***. Subject to the other provisions of this **Article V**, the Company shall have power to indemnify its employees and agents to the extent not prohibited by the DGCL or other applicable law. The Board shall have the power to delegate to such person or persons the determination of whether employees or agents shall be indemnified.

5.5 ***Advanced Payment of Expenses***. Expenses (including attorneys' fees) incurred by an officer or director of the Company in defending any Proceeding shall be paid by the Company in advance of the final disposition of such Proceeding upon receipt of a written request therefor (together with documentation reasonably evidencing such expenses) and an undertaking by or on behalf of the person to repay such amounts if it shall ultimately be determined that the person is not entitled to be indemnified under this **Article V** or the DGCL. Such expenses (including attorneys' fees) incurred by former directors and officers or other employees and agents of the Company or by persons serving at the request of the Company as directors, officers, employees or agents of another corporation, partnership, joint venture, trust or other enterprise may be so paid upon such terms and conditions, if any, as the Company deems appropriate. The right to advancement of expenses shall not apply to any Proceeding for which indemnity is excluded pursuant to these bylaws, but shall apply to any Proceeding referenced in **section 5.6(ii)** or **5.6(iii)** prior to a determination that the person is not entitled to be indemnified by the Company.

5.6 ***Limitation on Indemnification***. Subject to the requirements in **section 5.3** and the DGCL, the Company shall not be obligated to indemnify any person pursuant to this **Article V** in connection with any Proceeding (or any part of any Proceeding):

(i) for which payment has actually been made to or on behalf of such person under any statute, insurance policy, indemnity provision, vote or otherwise, except with respect to any excess beyond the amount paid;

(ii) for an accounting or disgorgement of profits pursuant to Section 16(b) of the Securities Exchange Act of 1934, as amended, or similar provisions of federal, state or local statutory law or common law, if such person is held liable therefor (including pursuant to any settlement arrangements);

(iii) for any reimbursement of the Company by such person of any bonus or other incentive-based or equity-based compensation or of any profits realized by such person from the sale of securities of the Company, as required in each case under the Securities Exchange Act of 1934, as amended (including any such reimbursements that arise from an accounting restatement of the Company pursuant to Section 304 of the Sarbanes-Oxley Act of 2002 (the "***Sarbanes-Oxley Act***"), or the payment to the Company of profits arising from the purchase and sale by such person of securities in violation of Section 306 of the Sarbanes-Oxley Act), if such person is held liable therefor (including pursuant to any settlement arrangements);

(iv) initiated by such person, including any Proceeding (or any part of any Proceeding) initiated by such person against the Company or its directors, officers, employees, agents or

other indemnitees, unless (a) the Board authorized the Proceeding (or the relevant part of the Proceeding) prior to its initiation, (b) the Company provides the indemnification, in its sole discretion, pursuant to the powers vested in the Company under applicable law, (c) otherwise required to be made under **section 5.7** or (d) otherwise required by applicable law; or

(v) if prohibited by applicable law.

5.7 ***Determination; Claim***. If a claim for indemnification or advancement of expenses under this **Article V** is not paid by the Company or on its behalf within 90 days after receipt by the Company of a written request therefor, the claimant shall be entitled to an adjudication by a court of competent jurisdiction of his or her entitlement to such indemnification or advancement of expenses. To the extent not prohibited by law, the Company shall indemnify such person against all expenses actually and reasonably incurred by such person in connection with any action for indemnification or advancement of expenses from the Company under this **Article V**, to the extent such person is successful in such action. In any such suit, the Company shall, to the fullest extent not prohibited by law, have the burden of proving that the claimant is not entitled to the requested indemnification or advancement of expenses.

5.8 ***Non-Exclusivity of Rights***. The indemnification and advancement of expenses provided by, or granted pursuant to, this **Article V** shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under the certificate of incorporation or any statute, bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office. The Company is specifically authorized to enter into individual contracts with any or all of its directors, officers, employees or agents respecting indemnification and advancement of expenses, to the fullest extent not prohibited by the DGCL or other applicable law.

5.9 ***Insurance***. The Company may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Company, or is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Company would have the power to indemnify such person against such liability under the provisions of the DGCL.

5.10 ***Survival***. The rights to indemnification and advancement of expenses conferred by this **Article V** shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

5.11 ***Effect of Repeal or Modification***. Any amendment, alteration or repeal of this **Article V** shall not adversely affect any right or protection hereunder of any person in respect of any act or omission occurring prior to such amendment, alteration or repeal.

5.12 ***Certain Definitions***. For purposes of this **Article V**, references to the "***Company***" shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this **Article V** with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation if its separate existence had continued. For purposes of

this **Article V**, references to "***other enterprises***" shall include employee benefit plans; references to "***fines***" shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to "***serving at the request of the Company***" shall include any service as a director, officer, employee or agent of the Company which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner such person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "***not opposed to the best interests of the Company***" as referred to in this **Article V**.

ARTICLE VI — STOCK

6.1 ***Stock Certificates; Partly Paid Shares***. The shares of the Company shall be represented by certificates, *provided* that the Board may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the Company. Every holder of stock represented by certificates shall be entitled to have a certificate signed by, or in the name of the Company by the Chairperson of the Board or Vice-Chairperson of the Board, or the President or a Vice-President, and by the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary of the Company representing the number of shares registered in certificate form. Any or all of the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Company with the same effect as if such person were such officer, transfer agent or registrar at the date of issue. The Company shall not have power to issue a certificate in bearer form.

The Company may issue the whole or any part of its shares as partly paid and subject to call for the remainder of the consideration to be paid therefor. Upon the face or back of each stock certificate issued to represent any such partly paid shares, or upon the books and records of the Company in the case of uncertificated partly paid shares, the total amount of the consideration to be paid therefor and the amount paid thereon shall be stated. Upon the declaration of any dividend on fully paid shares, the Company shall declare a dividend upon partly paid shares of the same class, but only upon the basis of the percentage of the consideration actually paid thereon.

6.2 ***Special Designation on Certificates***. If the Company is authorized to issue more than one class of stock or more than one series of any class, then the powers, the designations, the preferences, and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate that the Company shall issue to represent such class or series of stock; *provided* that, except as otherwise provided in Section 202 of the DGCL, in lieu of the foregoing requirements there may be set forth on the face or back of the certificate that the Company shall issue to represent such class or series of stock, a statement that the Company will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights. Within a reasonable time after the issuance or transfer of uncertificated stock, the Company shall send to the registered owner thereof a written notice containing the information required to be set forth or stated on certificates pursuant to this **section 6.2** or Sections 156, 202(a) or 218(a) of the DGCL or with respect to this **section 6.2** a statement that the Company will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series

thereof and the qualifications, limitations or restrictions of such preferences and/or rights. Except as otherwise expressly provided by law, the rights and obligations of the holders of uncertificated stock and the rights and obligations of the holders of certificates representing stock of the same class and series shall be identical.

6.3 ***Lost Certificates***. Except as provided in this **section 6.3**, no new certificates for shares shall be issued to replace a previously issued certificate unless the latter is surrendered to the Company and cancelled at the same time. The Company may issue a new certificate of stock or uncertificated shares in the place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the Company may require the owner of the lost, stolen or destroyed certificate, or such owner's legal representative, to give the Company a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate or uncertificated shares.

6.4 ***Dividends***. The Board, subject to any restrictions contained in the certificate of incorporation or applicable law, may declare and pay dividends upon the shares of the Company's capital stock. Dividends may be paid in cash, in property, or in shares of the Company's capital stock, subject to the provisions of the certificate of incorporation.

The Board may set apart out of any of the funds of the Company available for dividends a reserve or reserves for any proper purpose and may abolish any such reserve.

6.5 ***Stock Transfer Agreements***. The Company shall have power to enter into and perform any agreement with any number of stockholders of any one or more classes of stock of the Company to restrict the transfer of shares of stock of the Company of any one or more classes owned by such stockholders in any manner not prohibited by the DGCL.

6.6 ***Registered Stockholders***. The Company:

(i) shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends and to vote as such owner;

(ii) shall be entitled to hold liable for calls and assessments the person registered on its books as the owner of shares; and

(iii) shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of another person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of Delaware.

6.7 ***Transfers***. Transfers of record of shares of stock of the Company shall be made only upon its books by the holders thereof, in person or by an attorney duly authorized, and, if such stock is certificated, upon the surrender of a certificate or certificates for a like number of shares, properly endorsed or accompanied by proper evidence of succession, assignation or authority to transfer.

ARTICLE VII — MANNER OF GIVING NOTICE AND WAIVER

7.1 ***Notice of Stockholder Meetings***. Notice of any meeting of stockholders, if mailed, is given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the Company's records. An affidavit of the Secretary or an Assistant Secretary of the Company or of the transfer agent or other agent of the Company that the notice has been given shall, in the absence of fraud, be *prima facie* evidence of the facts stated therein.

7.2 ***Notice by Electronic Transmission***. Without limiting the manner by which notice otherwise may be given effectively to stockholders pursuant to the DGCL, the certificate of incorporation or these bylaws, any notice to stockholders given by the Company under any provision of the DGCL, the certificate of incorporation or these bylaws shall be effective if given by a form of electronic transmission consented to by the stockholder to whom the notice is given. Any such consent shall be revocable by the stockholder by written notice to the Company. Any such consent shall be deemed revoked if:

(i) the Company is unable to deliver by electronic transmission two consecutive notices given by the Company in accordance with such consent; and

(ii) such inability becomes known to the Secretary or an Assistant Secretary of the Company or to the transfer agent, or other person responsible for the giving of notice.

However, the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action.

Any notice given pursuant to the preceding paragraph shall be deemed given:

(i) if by facsimile telecommunication, when directed to a number at which the stockholder has consented to receive notice;

(ii) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice;

(iii) if by a posting on an electronic network together with separate notice to the stockholder of such specific posting, upon the later of (A) such posting and (B) the giving of such separate notice; and

(iv) if by any other form of electronic transmission, when directed to the stockholder.

An affidavit of the Secretary or an Assistant Secretary or of the transfer agent or other agent of the Company that the notice has been given by a form of electronic transmission shall, in the absence of fraud, be *prima facie* evidence of the facts stated therein.

An "***electronic transmission***" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

Notice by a form of electronic transmission shall not apply to Sections 164, 296, 311, 312 or 324 of the DGCL.

7.3 ***Notice to Stockholders Sharing an Address***. Except as otherwise prohibited under the DGCL, without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the Company under the provisions of the DGCL, the certificate of incorporation or these bylaws shall be effective if given by a single written notice to stockholders who share an address if consented to by the stockholders at that address to whom such notice is given. Any

such consent shall be revocable by the stockholder by written notice to the Company. Any stockholder who fails to object in writing to the Company, within 60 days of having been given written notice by the Company of its intention to send the single notice, shall be deemed to have consented to receiving such single written notice.

7.4 ***Notice to Person with Whom Communication is Unlawful***. Whenever notice is required to be given, under the DGCL, the certificate of incorporation or these bylaws, to any person with whom communication is unlawful, the giving of such notice to such person shall not be required and there shall be no duty to apply to any governmental authority or agency for a license or permit to give such notice to such person. Any action or meeting which shall be taken or held without notice to any such person with whom communication is unlawful shall have the same force and effect as if such notice had been duly given. In the event that the action taken by the Company is such as to require the filing of a certificate under the DGCL, the certificate shall state, if such is the fact and if notice is required, that notice was given to all persons entitled to receive notice except such persons with whom communication is unlawful.

7.5 ***Waiver of Notice***. Whenever notice is required to be given under any provision of the DGCL, the certificate of incorporation or these bylaws, a written waiver, signed by the person entitled to notice, or a waiver by electronic transmission by the person entitled to notice, whether before or after the time of the event for which notice is to be given, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders need be specified in any written waiver of notice or any waiver by electronic transmission unless so required by the certificate of incorporation or these bylaws.

ARTICLE VIII — GENERAL MATTERS

8.1 ***Fiscal Year***. The fiscal year of the Company shall be fixed by resolution of the Board and may be changed by the Board.

8.2 ***Seal***. The Company may adopt a corporate seal, which shall be in such form as may be approved from time to time by the Board. The Company may use the corporate seal by causing it or a facsimile thereof to be impressed or affixed or in any other manner reproduced.

8.3 ***Annual Report***. The Company shall cause an annual report to be sent to the stockholders of the Company to the extent required by applicable law. If and so long as there are fewer than 100 holders of record of the Company's shares, the requirement of sending an annual report to the stockholders of the Company is expressly waived (to the extent permitted under applicable law).

8.4 ***Construction; Definitions***. Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the DGCL shall govern the construction of these bylaws. Without limiting the generality of this provision, the singular number includes the plural, the plural number includes the singular, and the term "***person***" includes both a corporation and a natural person.

ARTICLE IX — AMENDMENTS

These bylaws may be adopted, amended or repealed by the stockholders entitled to vote. However, the Company may, in its certificate of incorporation, confer the power to adopt, amend or repeal bylaws upon the directors. The fact that such power has been so conferred upon the directors shall not divest the stockholders of the power, nor limit their power to adopt, amend or repeal bylaws.

A bylaw amendment adopted by stockholders which specifies the votes that shall be necessary for the election of directors shall not be further amended or repealed by the Board.

ACUTUS MEDICAL, INC.

AMENDED AND RESTATED INVESTORS' RIGHTS AGREEMENT

June 12, 2019

THIS AMENDED AND RESTATED INVESTORS' RIGHTS AGREEMENT (the "Agreement") is made as of the twelfth of June, 2019, by and among **Acutus Medical, Inc.**, a Delaware corporation (the "Company"), and the investors listed on Schedule A hereto, each of which is herein referred to as an "Investor" and collectively as the "Investors."

RECITALS

WHEREAS, the Company and certain of the Investors (the "Prior Investors") holding shares of the Company's Series A Preferred Stock, par value $0.001 per share (the "Series A Preferred Stock"), Series B Preferred Stock, par value $0.001 per share (the "Series B Preferred Stock"), and/or Series C Preferred Stock, par value $0.001 per share (the "Series B Preferred Stock") previously entered into an Amended and Restated Investors' Rights Agreement, dated March 14, 2016 (as further amended pursuant to an amendment dated June 7, 2018, the "Prior Agreement");

WHEREAS, the Company and certain of the Investors (the "New Investors") are parties to that certain Series D Preferred Stock Purchase Agreement of even date herewith (the "Series D Purchase Agreement"); and

WHEREAS, in order to induce the New Investors to purchase the Company's Series D Preferred Stock, par value $0.001 per share (the "Series D Preferred Stock," and collectively with the Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock the "Preferred Stock"), and invest funds in the Company pursuant to the Series D Agreement, the Company and the Prior Investors desire to amend and restate the Prior Agreement as set forth herein, and the Investors and the Company hereby agree that this Agreement shall govern the rights of the Investors to cause the Company to register shares of Common Stock, par value $0.001 per share (the "Common Stock"), issued or issuable to them and certain other matters as set forth herein;

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. Registration Rights. The Company covenants and agrees as follows:

1.1 Definitions. For purposes of this Agreement:

(a) The term "Act" means the Securities Act of 1933, as amended.

(b) The term "Affiliate" means, with respect to any specified entity, any other entity which, directly or indirectly, controls, is controlled by, or is under common control with such specified entity, including, without limitation, any general partner, officer, director or manager of such person and any venture capital fund now or hereafter existing that is controlled by one or more general partners or managing members of, is under common investment management with, shares the same management or advisory company with or is otherwise affiliated with such entity.

(c) The term "Common Holders" has the meaning ascribed to such term in the Co-Sale Agreement.

(d) The term "Co-Sale Agreement" means that certain Amended and Restated First Refusal and Co-Sale Agreement of even date herewith, by and among the Company, the Common Holders and the Investors (as defined therein).

(e) The term "Form S-3" means such form under the Act as in effect on the date hereof or any registration form under the Act subsequently adopted by the SEC that permits inclusion or incorporation of substantial information by reference to other documents filed by the Company with the SEC.

(f) The term "Free Writing Prospectus" means a free-writing prospectus, as defined in Rule 405 as promulgated by the SEC under the Act.

(g) The term "Holder" means any person owning or having the right to acquire Registrable Securities or any assignee thereof in accordance with Section 1.11 hereof, and shall include, without limitation, Square 1 Bank.

(h) The term "Initial Offering" means the Company's first firm commitment underwritten public offering of its Common Stock under the Act.

(i) The term "1934 Act" means the Securities Exchange Act of 1934, as amended.

(j) The terms "Preferred Director" and "Preferred Directors" have the meanings ascribed to such terms in the Voting Agreement.

(k) The terms "register," "registered," and "registration" refer to a registration effected by preparing and filing a registration statement or similar document in compliance with the Act, and the declaration or ordering of effectiveness of such registration statement or document.

(l) The term "Registrable Securities" means (i) the Common Stock issuable or issued upon conversion of the Preferred Stock, (ii) any Common Stock of the Company issued as (or issuable upon the conversion or exercise of any warrant, right or other security that is issued as) a dividend or other distribution with respect to, or in exchange for, or in replacement of, the shares or warrants referenced in (i) above or (iii) or (iv) below, (iii) shares of Common Stock issuable or issued upon the exercise of those certain warrants issued under the Note and Warrant Purchase Agreement dated as of June 7, 2018, and (iv) the Common Stock issuable or issued upon conversion of the shares of preferred stock issuable or issued upon the exercise of those certain warrants issued under the Credit Agreement dated as of May 10, 2019, excluding in all cases, however, any Registrable Securities sold by a person in a transaction in which his rights under this Section 1 are not validly assigned in accordance with this Agreement or which have previously been registered or which have been sold to the public either pursuant to a registration statement or Rule 144. In addition, the number of shares of Registrable Securities outstanding shall equal the aggregate of the number of shares of Common Stock outstanding that are, and the number of shares of Common Stock issuable pursuant to then exercisable or convertible securities that are, Registrable Securities.

(m) The term "Restated Certificate" shall mean the Company's Amended and Restated Certificate of Incorporation, as amended and/or restated from time to time.

(n) The term "Rule 144" shall mean Rule 144 as promulgated by the SEC under the Act.

(o) The term "Rule 1441b)(1)(i)" shall mean subsection (b)(1)(i) of Rule 144 as promulgated by the SEC under the Act as it applies to persons who have held shares for more than one (1) year.

(p) The term "Rule 405" shall mean Rule 405 as promulgated by the SEC under the Act.

(q) The term "SEC" shall mean the Securities and Exchange Commission.

(r) The term "Series D Director" has the meaning ascribed to such term in the Voting Agreement.

(s) The term "Square 1 Bank" shall mean Square 1 Bank.

(t) The term "Voting Agreement" means that certain Amended and Restated Voting Agreement of even date herewith, by and among the Company, the Key Holders (as defined therein) and the Investors (as defined therein).

1.2 Request for Registration.

(a) Subject to the conditions of this Section 1.2, if the Company shall receive at any time after the earlier of (i) five (5) years after the date of this Agreement or (ii) six (6) months after the effective date of the Initial Offering, a written request from the Holders of at least fifty percent (50%) of the Registrable Securities then outstanding (for purposes of this Section 1.2, the "Initiating Holders") that the Company file a registration statement under the Act covering the registration of Registrable Securities with an anticipated aggregate offering price of at least $20,000,000, then the Company shall, within twenty (20) days of the receipt thereof, give written notice of such request to all Holders, and subject to the limitations of this Section 1.2, use all commercially reasonable efforts to effect, as soon as practicable, the registration under the Act of all Registrable Securities that the Holders request to be registered in a written request received by the Company within ten (10) days of the mailing of the Company's notice pursuant to this Section 1.2(a).

(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 1.2, and the Company shall include such information in the written notice referred to in Section 1.2(a). 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 (unless otherwise agreed by at least fifty percent

(50%) of the Initiating Holders, such Holder and the Company) 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 those Initiating Holders holding at least fifty percent (50%) 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 1.2, if the underwriter advises the Company that marketing factors require a limitation on the number of securities 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 pro rata based on the number of Registrable Securities held by all such Holders (including the Initiating Holders). In no event shall any Registrable Securities be excluded from such underwriting unless all other securities are first excluded. Any Registrable Securities excluded or withdrawn from such underwriting shall be withdrawn from the registration.

(c) Notwithstanding the foregoing, the Company shall not be required to effect a registration pursuant to this Section 1.2:

(i) in any particular jurisdiction in which the Company would be required to execute a general consent to service of process in effecting such registration, unless the Company is already subject to service in such jurisdiction and except as may be required under the Act; or

(ii) after the Company has effected two (2) registrations pursuant to this Section 1.2, and such registrations have been declared or ordered effective; or

(iii) during the period starting with the date sixty (60) days prior to the Company's good faith estimate of the date of the filing of and ending on a date one hundred eighty (180) days following the effective date of a Company-initiated registration subject to Section 1.3 below, provided that the Company is actively employing in good faith all commercially reasonable efforts to cause such registration statement to become effective; or

(iv) if the Initiating Holders propose to dispose of Registrable Securities that may be registered on Form S-3 pursuant to Section 1.4 hereof; or

(v) if the Company shall furnish to all Holders requesting a registration statement pursuant to this Section 1.2 a certificate signed by the Company's President or Chairman of the Board of Directors stating that in the good faith judgment of the Board of Directors of the Company, it would be materially 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 ninety (90) days after receipt of the request of the Initiating Holders, provided that such right 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 the account of itself or any other stockholder during such ninety (90) day period (other than a registration relating solely to the sale of securities of participants in a Company stock plan, a registration relating to a corporate

reorganization or transaction under Rule 145 of the Act, a registration on any form that does not include substantially the same information as would be required to be included in a registration statement covering the sale of the Registrable Securities, or a registration in which the only Common Stock being registered is Common Stock issuable upon conversion of debt securities that are also being registered); or

(vi) If the Initiating Holders do not request that such offering be firmly underwritten by underwriters selected by the Initiating Holders (subject to the consent of the Company); or

(vii) If the Company and the Initiating Holders are unable to obtain the commitment of the underwriter described in clause (c)(vi) above to firmly underwrite the offer.

1.3 Company Registration.

(a) If (but without any obligation to do so) the Company proposes to register (including for this purpose a registration effected by the Company for stockholders other than the Holders) any of its stock or other securities under the Act in connection with the public offering of such securities (other than a registration relating to a demand pursuant to Section 1.2, a registration relating solely to the sale of securities of participants in a Company stock plan, a registration relating to the offer and sale of debt securities, a registration relating to a corporate reorganization or transaction under Rule 145 of the Act, a registration on any form that does not include substantially the same information as would be required to be included in a registration statement covering the sale of the Registrable Securities, or a registration in which the only Common Stock being registered is Common Stock issuable upon conversion of debt securities that are also being registered), the Company shall, at such time, promptly give each Holder written notice of such registration. Upon the written request of each Holder given within ten (10) days after mailing of such notice by the Company in accordance with Section 3.5, the Company shall, subject to the provisions of Section 1.3(c), use all commercially reasonable efforts to cause to be registered under the Act all of the Registrable Securities that each such Holder requests to be registered.

(b) Right to Terminate Registration. The Company shall have the right to terminate or withdraw any registration initiated by it under this Section 1.3 prior to the effectiveness of such registration whether or not any Holder has elected to include securities in such registration. The expenses of such withdrawn registration shall be borne by the Company in accordance with Section 1.7 hereof.

(b) Underwriting Requirements. In connection with any offering involving an underwriting of shares of the Company's capital stock, the Company shall not be required under this Section 1.3 to include any of the Holders' securities in such underwriting unless they accept the terms of the underwriting as agreed upon between the Company and the underwriters selected by the Company (or by other persons entitled to select the underwriters) and enter into an underwriting agreement in customary form with such underwriters, and then only in such quantity as the underwriters determine in their sole discretion will not jeopardize the success of the offering by the Company. If the total amount of securities, including Registrable

Securities, requested by stockholders to be included in such offering exceeds the amount of securities sold other than by the Company that the underwriters determine in their sole discretion is compatible with the success of the offering, then the Company shall be required to include in the offering only that number of such securities, including Registrable Securities, that the underwriters determine in their sole discretion will not jeopardize the success of the offering. In no event shall any Registrable Securities be excluded from such offering unless all other stockholders' securities have been first excluded. In the event that the underwriters determine that less than all of the Registrable Securities requested to be registered can be included in such offering, then the Registrable Securities that are included in such offering shall be apportioned pro rata among the selling Holders based on the number of Registrable Securities held by all selling Holders or in such other proportions as shall mutually be agreed to by all such selling Holders. Notwithstanding the foregoing, in no event shall (i) the amount of securities of the selling Holders included in the offering be reduced below thirty percent (30%) of the total amount of securities included in such offering, unless such offering is the Initial Offering, in which case the selling Holders may be excluded if the underwriters make the determination described above and no other stockholder's securities are included in such offering or (ii) any securities held by a Common Holder be included in such offering if any Registrable Securities held by any Holder (and that such Holder has requested to be registered) are excluded from such offering. For purposes of the preceding sentence concerning apportionment, for any selling stockholder that is a Holder of Registrable Securities and that is a venture capital fund, partnership or corporation, the Affiliates and affiliated venture capital funds, partners, retired partners and stockholders of such Holder, or the estates and family members of any such partners and retired partners and any trusts for the benefit of any of the foregoing persons shall be deemed to be a single "selling Holder," and any pro rata reduction with respect to such "selling Holder" shall be based upon the aggregate amount of Registrable Securities owned by all such related entities and individuals.

1.4 Form S-3 Registration. In case the Company shall receive from the Holders of at least forty percent (40%) of the Registrable Securities (for purposes of this Section 1.4, the "S-3 Initiating Holders") a written request or requests that the Company effect a registration on Form S 3 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 shall:

(a) promptly give written notice of the proposed registration, and any related qualification or compliance, to all other Holders; and

(b) use all commercially reasonable efforts to effect, as soon as practicable, 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 Holders' Registrable Securities as are specified in such request, together with all or such portion of the Registrable Securities of any other Holders joining in such request as are specified in a written request given within ten (10) 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 1.4:

(i) if Form S-3 is not available for such offering by the Holders;

(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 (net of any underwriters' discounts or commissions) of less than $5,000,000;

(iii) if the Company shall furnish to all Holders requesting a registration statement pursuant to this Section 1.4 a certificate signed by the Company's President or Chairman of the Board of Directors stating that in the good faith judgment of the Board of Directors of the Company, it would be materially 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 ninety (90) days after receipt of the request of the S-3 Initiating Holders, provided that such right 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 the account of itself or any other stockholder during such ninety (90) day period (other than a registration relating solely to the sale of securities of participants in a Company stock plan, a registration relating to a corporate reorganization or transaction under Rule 145 of the Act, a registration on any form that does not include substantially the same information as would be required to be included in a registration statement covering the sale of the Registrable Securities, or a registration in which the only Common Stock being registered is Common Stock issuable upon conversion of debt securities that are also being registered);

(iv) 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 pursuant to this Section 1.4; or

(v) 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) If the S-3 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 1.4 and the Company shall include such information in the written notice referred to in Section 1.4(a). The provisions of Section 1.2(b) shall be applicable to such request (with the substitution of Section 1.4 for references to Section 1.2).

(d) Subject to the foregoing, the Company shall file a registration statement covering the Registrable Securities and other securities so requested to be registered as soon as practicable after receipt of the request or requests of the S-3 Initiating Holders. Registrations effected pursuant to this Section 1.4 shall not be counted as requests for registration effected pursuant to Section 1.2.

1.5 Obligations of the Company. Whenever required under this Section 1 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 commercially reasonable efforts to cause such registration statement to become effective, and, upon the request of the Holders of at least fifty percent (50%) of the Registrable Securities registered thereunder, keep such registration statement effective for (i) in the case of a registration pursuant to Section 1.2, a period of up to one hundred twenty (120) days or, if earlier, until the distribution contemplated in the Registration Statement has been completed, or (ii) in the case of a registration pursuant to Section 1.4, a period of up to two (2) years or, if earlier, until the distribution contemplated in the Registration Statement has been completed or all Registrable Securities covered such Registration Statement may be sold under Rule 144 (without any volume or manner of sale limitations);

(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 Act with respect to the disposition of all securities covered by such registration statement for the period set forth above in clause (a);

(c) furnish to the Holders such number of copies of a prospectus, including a preliminary prospectus and any Free Writing Prospectus, in conformity with the requirements of the Act, and such other documents as they may reasonably request in order to facilitate the disposition of Registrable Securities owned by them;

(d) use all commercially 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 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 of such offering, provided that 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 or Free Writing Prospectus (to the extent prepared by or on behalf of the Company) relating thereto is required to be delivered under the 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 or incomplete in the light of the circumstances then existing, and, at the request of any such Holder, the Company will, as soon as reasonably practicable, file and furnish to all such Holders a supplement or amendment to such prospectus or Free Writing Prospectus (to the extent prepared by or on behalf of the Company) so that, as thereafter delivered to the purchasers of such Registrable Securities, such prospectus will not contain an untrue statement of a material fact or omit to state any fact necessary to make the statements therein not misleading or incomplete in light of the circumstances under which they were made;

(g) cause all such Registrable Securities registered pursuant to this Section 1 to be listed on a national exchange or trading system and on each securities exchange and trading system on which similar securities issued by the Company are then listed;

(h) provide a transfer agent and registrar for all Registrable Securities registered pursuant to this Agreement and a CUSIP number for all such Registrable Securities, in each case not later than the effective date of such registration; and

(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.

Notwithstanding the provisions of this Section 1, the Company shall be entitled to postpone or suspend, for a reasonable period of time, the filing, effectiveness or use of, or trading under, any registration statement if the Company shall determine that any such filing or the sale of any securities pursuant to such registration statement would in the good faith judgment of the Board of Directors of the Company:

(i) materially impede, delay or interfere with any material pending or proposed financing, acquisition, corporate reorganization or other similar transaction involving the Company for which the Board of Directors of the Company has authorized negotiations;

(ii) materially or adversely impair the consummation of any pending or proposed material offering or sale of any class of securities by the Company; or

(iii) require disclosure of material nonpublic information that, if disclosed at such time, would be materially harmful to the interests of the Company and its stockholders; provided, however, that during any such period all executive officers and directors of the Company are also prohibited from selling securities of the Company (or any security of any of the Company's subsidiaries or affiliates).

In the event of the suspension of effectiveness of any registration statement pursuant to this Section 1.5, the applicable time period during which such registration statement is to remain effective shall be extended by that number of days equal to the number of days the effectiveness of such registration statement was suspended.

1.7 Information from Holder. It shall be a condition precedent to the obligations of the Company to take any action pursuant to this Section 1 with respect to the Registrable Securities of any selling Holder that such Holder shall furnish to the Company such information regarding itself, the Registrable Securities held by it, and the intended method of disposition of such securities as shall be reasonably required to effect the registration of such Holder's Registrable Securities.

1.9 Expenses of Registration. All expenses (other than underwriting discounts and commissions incurred in connection with registrations, filings or qualifications pursuant to Sections 1.2, 1.3 and 1.4), including, without limitation, all registration, filing and qualification fees, printers' and accounting fees, fees and disbursements of counsel for the Company and the reasonable fees and disbursements of one counsel for the selling Holders shall be borne by the Company. Notwithstanding the foregoing, the Company shall not be required to pay for any expenses of any registration proceeding begun pursuant to Section 1.2 or Section 1.4 if the registration request is subsequently withdrawn at the request of the Holders of at least fifty percent (50%) of the Registrable Securities to be registered (in which cases all participating Holders shall bear such expenses pro rata based upon the number of Registrable Securities that were to be included in the withdrawn registration), unless, in the case of a registration requested under Section 1.2, the Holders of at least fifty percent (50%) of the Registrable Securities agree to forfeit their right to one demand registration pursuant to Section 1.2 and provided, however, that if at the time of such withdrawal, the Holders have learned of a material adverse change in the condition, business or prospects of the Company from that known or reasonably available (upon request from the Company or otherwise) to the Holders at the time of their request and have withdrawn the request with reasonable promptness following disclosure by the Company of such material adverse change, then the Holders shall not be required to pay any of such expenses and shall retain their rights pursuant to Sections 1.2 and 1.4 (that is, the withdrawn request shall not count against the numerical limitations set forth in Section 1.2(c)(ii) or Section 1.4(b)(iv)).

1.11 Delay of Registration. 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 1.

1.12 Indemnification. In the event any Registrable Securities are included in a registration statement under this Section 1:

(a) To the extent permitted by law, the Company will indemnify and hold harmless each Holder, the partners, members, officers, directors and stockholders of each Holder, legal counsel and accountants for each Holder, any underwriter (as defined in the Act) for such Holder and each person, if any, who controls such Holder or underwriter within the meaning of Section 15 of the Act or the 1934 Act, against any losses, claims, damages or liabilities (joint or several) to which they may become subject under the Act, the 1934 Act, any state securities laws or any rule or regulation promulgated under the Act, the 1934 Act, or any state securities laws, insofar as such losses, claims, damages, or liabilities (or actions in respect thereof) arise out of or are based upon or relate to any of the following statements, omissions or violations (collectively a "Violation"): (i) any untrue statement or alleged untrue statement of a material fact contained in such registration statement, including any preliminary prospectus, final prospectus, or Free Writing Prospectus contained therein or any amendments or supplements thereto, any issuer information (as defined in Rule 433 of the Act) filed or required to be filed pursuant to Rule 433(d) under the Act or any other document incident to such registration prepared by or on behalf of the Company or used or referred to by the Company, (ii) the omission or alleged omission to state in such registration statement 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 Act, the 1934 Act, any state securities laws or any rule or regulation promulgated under the Act, the 1934 Act or any state securities laws, applicable to the Company and relating to action or inaction required of the Company in connection with any offering covered by such registration, qualification or compliance, and the Company will reimburse each such Holder, underwriter, controlling person or other aforementioned 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 as such expenses are incurred; provided, however, that the indemnity agreement contained in this subsection 1.9(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 that occurs in reliance upon and in conformity with written information furnished expressly for use in connection with such registration by any such Holder, underwriter, controlling person or other aforementioned person.

(b) To the extent permitted by law, each selling Holder, severally and not jointly, will indemnify and hold harmless the Company, each of its directors, each of its officers who has signed the registration statement, each person, if any, who controls the Company within the meaning of the Act, legal counsel and accountants for the Company, any underwriter, any other Holder selling securities in such registration statement and any controlling person of any such underwriter or other Holder, against any losses, claims, damages or liabilities (joint or several) to which any of the foregoing persons may become subject, under the Act, the 1934 Act, any state securities laws or any rule or regulation promulgated under the Act, the 1934 Act or any state securities laws, insofar as such losses, claims, damages or liabilities (or actions in respect thereto) arise out of or are based upon any Violation, in each case to the extent (and only to the extent) that such Violation occurs in reliance upon and in conformity with written information furnished by such Holder expressly for use in connection with such registration; and each such Holder will reimburse any person intended to be indemnified pursuant to this subsection 1.9(b) for any legal or other expenses reasonably incurred by such person in connection with investigating or defending any such loss, claim, damage, liability or action as such expenses are incurred; provided, however, that the indemnity agreement contained in this subsection 1.9(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), and provided that in no event shall any indemnity under this subsection 1.9(b) exceed the net proceeds from the offering received by such Holder.

(c) Promptly after receipt by an indemnified party under this Section 1.9 of notice of the commencement of any action (including any governmental action) for which a party may be entitled to indemnification, such indemnified party will, if a claim in respect thereof is to be made against any indemnifying party under this Section 1.9, 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 (together with all other indemnified parties that may be represented without conflict by one counsel) shall have

the right to retain one (1) separate counsel, with the fees and expenses 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, if prejudicial to its ability to defend such action, shall relieve such indemnifying party of liability to the indemnified party under this Section 1.9 to the extent of such prejudice, but the omission to so 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 1.9. 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 that 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. Each indemnified party shall furnish such information regarding itself or the claim in question as an indemnifying party may reasonably request in writing and as shall be reasonably required in connection with defense of such claim and litigation resulting therefrom.

(d) If the indemnification provided for in this Section 1.9 is held by a court of competent jurisdiction to be unavailable to an indemnified party with respect to any loss, liability, claim, damage or expense referred to herein, then the indemnifying party, in lieu of indemnifying such indemnified party hereunder, shall contribute to the amount paid or payable by such indemnified party as a result of such loss, liability, claim, damage or expense in such proportion as is appropriate to reflect the relative fault of the indemnifying party on the one hand and the indemnified party on the other hand in connection with the statements or omissions that resulted in such loss, liability, claim, damage or expense, as well as any other relevant equitable considerations; provided, however, that (i) no contribution by any Holder, when combined with any amounts paid by such Holder pursuant to Section 1.9(b), shall exceed the net proceeds from the offering received by such Holder, except in the case of fraud or willful misconduct by such Holder and (ii) no person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) will be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation; and provided further that in no event shall a Holder's liability pursuant to this Section 1.9(d), when combined with the amounts paid or payable by such Holder pursuant to Section 1.9(b), exceed the proceeds from the offering received by such Holder (net of any expenses paid by such Holder) except in the case of fraud or willful misconduct by such Holder. The relative fault of the indemnifying party and the indemnified party shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged 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.

(e) Notwithstanding the foregoing, to the extent that the provisions on indemnification and contribution contained in the underwriting agreement entered into in connection with the underwritten public offering are in conflict with the foregoing provisions, the provisions in the underwriting agreement shall control.

(f) The obligations of the Company and Holders under this Section 1.9 shall survive the completion of any offering of Registrable Securities in a registration statement under this Section 1 and otherwise.

1.13 Reports Under the 1934 Act. With a view to making available to the Holders the benefits of Rule 144 and any other rule or regulation of the SEC that may at any time permit a Holder to sell securities of the Company to the public without registration or pursuant to a registration on Form S-3, the Company agrees to:

(a) make and keep public information available, as those terms are understood and defined in Rule 144, at all times from and after ninety (90) days after the effective date of the Initial Offering;

(b) file with the SEC in a timely manner all reports and other documents required of the Company under the Act and the 1934 Act at any time after it has become subject to such reporting requirements; and

(c) furnish to any Holder, so long as the Holder owns any Registrable Securities, forthwith upon request (i) a written statement by the Company that it has complied with the reporting requirements of Rule 144 (at any time after ninety (90) days after the effective date of the Initial Offering), the Act and the 1934 Act (at any time after it has become subject to such reporting requirements), or that it qualifies as a registrant whose securities may be resold pursuant to Form S-3 (at any time after it so qualifies), (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company and (iii) such other information as may be reasonably requested to avail any Holder of any rule or regulation of the SEC that permits the selling of any such securities without registration or pursuant to such form.

1.14 Assignment of Registration Rights. The rights to cause the Company to register Registrable Securities pursuant to this Section 1 may be assigned (but only with all related obligations) by a Holder to a transferee or assignee of such securities that (a) is an Affiliate, subsidiary, parent, partner, limited partner, retired partner or stockholder of a Holder, (b) is a Holder's family member or trust for the benefit of an individual Holder, or (c) after such assignment or transfer, holds at least five hundred thousand (500,000) shares of Registrable Securities (appropriately adjusted for any stock split, dividend, combination or other recapitalization) or such lesser amount if the transfer or assignment comprises all shares of Registrable Securities held by such Holder, provided: (i) the Company is, within a reasonable time after such transfer, furnished with 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; (ii) such transferee or assignee agrees in writing to be bound by and subject to the terms and conditions of this Agreement, including, without limitation, the provisions of Section 1.13 below; and (iii) such assignment shall be effective only if immediately following such transfer the further disposition of such securities by the transferee or assignee is restricted under the Act.

1.15 Limitations on Subsequent Registration Rights. From and after the date of this Agreement, the Company shall not, without the prior written consent of the Requisite Investors (as defined in the Restated Certificate), enter into any agreement with any holder or

prospective holder of any securities of the Company that would allow such holder or prospective holder (a) to include any of such securities in any registration filed under Section 1.2, Section 1.3 or Section 1.4 hereof, unless under the terms of such agreement, such holder or prospective holder may include such securities in any such registration only to the extent that the inclusion of such securities will not reduce the amount of the Registrable Securities of the Holders that are included or (b) to demand registration of their securities.

1.16 "Market Stand-Off" Agreement.

(a) Each Holder hereby agrees that it will not, without the prior written consent of the managing underwriter, during the one hundred eighty (180) day period commencing on the date of the final prospectus relating to the Initial Offering (or such other period as may be requested by the Company or an underwriter to accommodate regulatory restrictions on (x) the publication or other distribution of research reports and (y) analyst recommendations and opinions, including, but not limited to, the restrictions contained in FINRA Rule 2711(f)(4) or NYSE Rule 472(f)(4), or any successor provisions or amendments thereto): (i) lend, offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, or otherwise transfer or dispose of, directly or indirectly, any shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock, in each case held immediately before the effective date of the registration statement for such offering, or (ii) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of the Common Stock, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of Common Stock or other securities, in cash or otherwise. The foregoing provisions of this Section 1.13 shall apply only to the Initial Offering, shall not apply to the sale of any shares to an underwriter pursuant to an underwriting agreement, and shall only be applicable to the Holders if all officers, directors and greater than one percent (1%) stockholders of the Company enter into similar agreements. The underwriters in connection with the Initial Offering are intended third party beneficiaries of this Section 1.13 and shall have the right, power and authority to enforce the provisions hereof as though they were a party hereto. Each Holder further agrees to execute such agreements as may be reasonably requested by the underwriters in the Initial Offering that are consistent with this Section 1.13 or that are necessary to give further effect thereto. Any discretionary waiver or termination of the restrictions of any or all of such agreements by the Company or the underwriters shall apply to all Holders subject to such agreements pro rata based on the number of shares subject to such agreements. In order to enforce the foregoing covenant, the Company may impose stop-transfer instructions with respect to the Registrable Securities of each Holder (and the shares or securities of every other person subject to the foregoing restriction) until the end of such period.

(b) The holder of each certificate representing Registrable Securities by acceptance thereof agrees to comply in all respects with the provisions of this Section 1.13. Each Holder agrees not to make any sale, assignment, transfer, pledge or other disposition of all or any portion of the Registrable Securities, or any beneficial interest therein, unless and until the transferee thereof has agreed in writing for the benefit of the Company to take and hold such Registrable Securities subject to, and to be bound by, the terms and conditions set forth in this Agreement, including, without limitation, this Section 1.13, and:

(i) There is then in effect a registration statement under the Act covering such proposed disposition and the disposition is made in accordance with the registration statement; or

(ii) The Holder shall have given prior written notice to the Company of the Holder's intention to make such disposition and shall have furnished the Company with a detailed description of the manner and circumstances of the proposed disposition, and, if requested by the Company, the Holder shall have furnished the Company, at the Company's expense, with (i) an opinion of counsel or other evidence reasonably satisfactory to the Company to the effect that such disposition will not require registration of such Registrable Securities under the Act, or (ii) a "no action" letter from the SEC to the effect that the transfer of such securities without registration will not result in a recommendation by the staff of the Commission that action be taken with respect thereto, whereupon the holder of such Registrable Securities shall be entitled to transfer such Registrable Securities in accordance with the terms of the notice delivered by the Holder to the Company. The Company will not require such a legal opinion or "no action" letter (x) in any transaction in compliance with Rule 144 or (y) in any transaction in which such Holder distributes Registrable Securities to an Affiliate of such Holder for no consideration; provided that each transferee agrees in writing to be subject to the terms of this Section 1.13.

(c) Each certificate representing Registrable Securities shall (unless otherwise permitted by the provisions of this Agreement) be stamped or otherwise imprinted with a legend substantially similar to the following (in addition to any legend required under applicable state securities laws):

THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE, INCLUDING A LOCK-UP PERIOD AFTER THE EFFECTIVE DATE OF THE ISSUER'S REGISTRATION STATEMENT FILED UNDER THE ACT, AS AMENDED, AS SET FORTH IN AN AGREEMENT BETWEEN THE COMPANY AND THE ORIGINAL HOLDER OF THESE SECURITIES, A COPY OF WHICH MAY BE OBTAINED AT THE ISSUER'S PRINCIPAL OFFICE. SUCH LOCK-UP PERIOD IS BINDING ON TRANSFEREES OF THESE SHARES.

1.17 Termination of Registration Rights. No Holder shall be entitled to exercise any right provided for in this Section 1 (a) after three (3) years following the consummation of the Initial Offering, (b) as to any Holder, such earlier time after the Initial Offering at which such Holder can sell all shares held by it in compliance with Rule 144(b)(1)(i) or (c) after the consummation of a Liquidation Event, as that term is defined in the Restated Certificate, provided that if the Liquidation Event is pursuant to paragraph (A), paragraph (E) or paragraph (F) of Section B.2(c)(i) of Article Fourth of the Restated Certificate, such termination shall be effective only upon the redemption of all of the Company's then-outstanding stock.

2. Covenants of the Company.

2.1 Delivery of Financial Statements. The Company shall, upon request, deliver to each Investor (or transferee of an Investor) that holds at least 500,000 shares of Registrable Securities (appropriately adjusted for any stock split, dividend, combination or other recapitalization) (a "Major Investor"):

(c) as soon as practicable, but in any event within sixty (60) days after the end of each fiscal year of the Company, an unaudited income statement for such fiscal year, an unaudited balance sheet of the Company and statement of stockholders' equity as of the end of such year, an unaudited statement of cash flows for such year, and to the extent not delivered to the representative of any Investor in its capacity as a director on the Board of Directors, a comparison between the actual amounts as of and for such fiscal year, the comparable amounts for the prior year and the comparable amounts included in the budget and business plan of the Company for such year, and containing an explanation of any material differences between such amounts and a schedule as to the sources and applications of funds for such year, such year-end financial reports to be in reasonable detail, all such financial statements prepared in accordance with U.S. generally accepted accounting principles ("GAAP");

(b) as soon as practicable, but in any event within one hundred fifty (150) days after the end of each fiscal year of the Company, an income statement for such fiscal year, a balance sheet of the Company and statement of stockholders' equity as of the end of such year, a statement of cash flows for such year, and to the extent not delivered to the representative of any Investor in its capacity as a director on the Board of Directors, a comparison between the actual amounts as of and for such fiscal year, the comparable amounts for the prior year and the comparable amounts included in the budget and business plan of the Company for such year, and containing an explanation of any material differences between such amounts and a schedule as to the sources and applications of funds for such year, such year-end financial reports to be in reasonable detail, all such financial statements prepared in accordance with U.S. generally accepted accounting principles ("GAAP") and audited and certified by independent public accountants of nationally recognized standing selected by the Company;

(c) as soon as practicable, but in any event within forty-five (45) days after the end of each of the first three (3) quarters of each fiscal year of the Company, an unaudited income statement, statement of cash flows for such fiscal quarter and an unaudited balance sheet and a statement of stockholders' equity as of the end of such fiscal quarter, and to the extent not delivered to the representative of any Investor in its capacity as a director on the Board of Directors, a comparison between the actual amounts as of and for such quarter, the comparable amounts for the corresponding quarter of the prior year and the comparable amounts included in the budget and business plan of the Company for such quarter, with an explanation of any material differences between such amounts and a schedule as to the sources and applications of funds for such quarter, all such financial statements prepared in accordance with GAAP (except that such financial statements may (i) be subject to normal year-end audit adjustments and (ii) not contain all notes thereto that may be required in accordance with GAAP);

(d) within forty-five (45) days of the end of each month, an unaudited income statement and statement of cash flows for such month, and an unaudited balance sheet and statement of stockholders' equity as of the end of such month, all prepared in accordance with GAAP (except that such financial statements may (i) be subject to normal year-end audit adjustments and (ii) not contain all notes thereto that may be required in accordance with GAAP);

(e) as soon as practicable, but in any event at least thirty (30) days prior to the end of each fiscal year, a budget and business plan for the next fiscal year, approved by the Board of Directors and prepared on a monthly basis, including balance sheets, income statements and statements of cash flows for such months and, as soon as prepared, any other budgets or revised budgets prepared by the Company;

(f) with respect to the financial statements called for in subsections (b) and (c) of this Section 2.1, an instrument executed by the Chief Financial Officer or President of the Company certifying that such financials were prepared in accordance with GAAP consistently applied with prior practice for earlier periods (with the exception of footnotes that may be required by GAAP) and fairly present the financial condition of the Company and its results of operation for the period specified, subject to year-end audit adjustment; and

(g) such other information relating to the financial condition, business or corporate affairs of the Company as a Major Investor may from time to time reasonably request, provided, however, that the Company shall not be obligated under this subsection (g) or any other subsection of Section 2.1 to provide information that (i) it deems in good faith to be a trade secret or similar confidential information (unless such similar confidential information is covered by an enforceable confidentiality agreement), (ii) the disclosure of which would adversely affect the attorney-client privilege between the Company and its counsel, or (iii) would be received by a Holder whom the Company reasonably determines to be a competitor or an officer, employee, director or holder of more than ten percent (10%) of the outstanding capital stock of a competitor. Each Major Investor acknowledges that the information received by them pursuant to this Agreement may be confidential and subject to the confidentiality and disclosure provisions contained in Section 2.10 hereof; and

(h) if, for any period, the Company has any subsidiary whose accounts are consolidated with those of the Company, then in respect of such period the financial statements delivered pursuant to the foregoing sections shall be the consolidated and consolidating financial statements of the Company and all such consolidated subsidiaries.

2.2 Inspection. The Company shall permit each Major Investor, at such Major Investor's expense, to visit and inspect the Company's properties, to examine its books of account and records and to discuss the Company's affairs, finances and accounts with its officers, all at such reasonable times as may be requested by the Major Investor; provided, however, that the Company shall not be obligated pursuant to this Section 2.2 to provide access to any information that it reasonably considers to be a trade secret or similar confidential information (unless such similar confidential information is covered by an enforceable confidentiality agreement). Major Investors may exercise their rights under this Section 2.2 only for purposes reasonably related to their interests under this Agreement.

2.3 Termination of Information and Inspection Covenants. The covenants set forth in Sections 2.1 and 2.2 shall terminate and be of no further force or effect upon the earlier to occur of (a) the consummation of the Initial Offering, (b) when the Company first becomes subject to the periodic reporting requirements of Sections 12(g) or 15(d) of the 1934 Act, whichever event shall first occur or (c) the consummation of a Liquidation Event, as that term is defined in the Restated Certificate, provided that if the Liquidation Event is pursuant to paragraph (A), paragraph (E) or paragraph (F) of Section B.2(c)(i) of Article Fourth of the Restated Certificate, such termination shall be effective only upon the redemption of all of the Company's then-outstanding stock.

2.4 Participation Rights.

(a) Right of First Offer. Subject to the terms and conditions specified in this Section 2.4, the Company hereby grants to each Holder of Series B Preferred Stock, each Holder of Series C Preferred Stock, and each Holder of Series D Preferred Stock a right of first offer with respect to such Holder's pro rata share of future sales by the Company of its Shares (as hereinafter defined). Each Holder of Series B Preferred Stock, Series C Preferred Stock, and/or Series D Preferred Stock shall be entitled to apportion the right of first offer hereby granted it among itself and its partners and Affiliates in such proportions as it deems appropriate. Each time the Company proposes to offer any shares of, or securities convertible into or exchangeable or exercisable for any shares of, its capital stock (including, without limitation, any such shares or securities issued in connection with debt securities) ("Shares"), the Company shall first make an offering of such Shares to each Holder of Series B Preferred Stock, each Holder of Series C Preferred Stock, and each Holder of Series D Preferred Stock in accordance with the following provisions:

(i) The Company shall deliver a notice in accordance with Section 3.5 ("Notice") to the Holders of Series B Preferred Stock, the Holders of Series C Preferred Stock, and the Holders of Series D Preferred Stock stating (i) its bona fide intention to offer such Shares, (ii) the number of such Shares to be offered and (iii) the price and terms upon which it proposes to offer such Shares.

(ii) By written notification received by the Company within twenty (20) calendar days after the giving of Notice, each Holder of Series B Preferred Stock, each Holder of Series C Preferred Stock, and each Holder of Series D Preferred Stock may elect to purchase, at the price and on the terms specified in the Notice, up to that portion of such Shares that equals the proportion that the number of shares of Common Stock that are Registrable Securities issued and held by such Holder in respect of Series B Preferred Stock (assuming full conversion and exercise of all Series B Preferred Stock held by such Holder), Series C Preferred Stock (assuming full conversion and exercise of all Series C Preferred Stock held by such Holder), and Series D Preferred Stock (assuming full conversion and exercise of all Series D Preferred Stock held by such Holder) bears to the total number of shares of Common Stock that are Registrable Securities issued and held by all Holders in respect of Series B Preferred Stock (assuming full conversion and exercise of all Series B Preferred Stock then outstanding), Series C Preferred Stock (assuming full conversion and exercise of all Series C Preferred Stock then outstanding), and Series D Preferred Stock (assuming full conversion and exercise of all Series D Preferred Stock held by such Holder). The Company shall promptly, in writing, inform each Holder of Series B Preferred Stock, each Holder of Series C Preferred Stock, and each Holder of Series D Preferred Stock that elects to purchase all the shares available to it (a "Fully-Exercising New Investor") of any other applicable Holder's failure to do likewise. During the ten (10) day period commencing after such information is given, each Fully-Exercising New Investor may elect to purchase that portion of the Shares for which Holders of Series B Preferred Stock, Holders of Series C Preferred Stock, and Holders of Series D Preferred

Stock were entitled to subscribe, but which were not subscribed for by such Holders, that is equal to the proportion that the number of shares of Common Stock that are Registrable Securities issued and held by such Fully-Exercising New Investor in respect of Series B Preferred Stock (assuming full conversion and exercise of all Series B Preferred Stock held by such Fully-Exercising New Investor), Series C Preferred Stock (assuming full conversion and exercise of all Series C Preferred Stock held by such Fully-Exercising New Investor), and Series D Preferred Stock (assuming full conversion and exercise of all Series D Preferred Stock held by such Fully-Exercising New Investor) bears to the total number of shares of Common Stock issued and held by all Fully-Exercising New Investors in respect of Series B Preferred Stock (assuming full conversion and exercise of all Series B Preferred Stock held by all such Fully-Exercising New Investors), Series C Preferred Stock (assuming full conversion and exercise of all Series C Preferred Stock held by all such Fully-Exercising New Investors), and Series D Preferred Stock (assuming full conversion and exercise of all Series D Preferred Stock held by all such Fully-Exercising New Investors) who wish to purchase some of the unsubscribed shares.

(b) Right of Second Offer. Subject to the terms and conditions specified in this Section 2.4, the Company hereby grants to each Major Investor that is a Holder of Series A Preferred Stock (a "Major Series A Investor") a right of second offer with respect to such Holder's pro rata share of future sales by the Company of its Shares that Holders of Series B Preferred Stock, Holders of Series C Preferred Stock, and Holders of Series D Preferred Stock have not elected to obtain as provided in subsection 2.4(a) hereof.

(i) A Major Series A Investor shall be entitled to apportion the right of first offer hereby granted it among itself and its partners and Affiliates in such proportions as it deems appropriate. Each time the Company proposes to offer any Shares, after satisfaction of the right of first offer set forth in subsection 2.4(a), the Company shall make an offering of such Shares to each Major Series A Investor in accordance with the following provisions:

(ii) The Company shall deliver a Notice to the Major Series A Investors stating (i) its bona fide intention to offer such Shares, (ii) the number of such Shares to be offered, (iii) the price and terms upon which it proposes to offer such Shares and (iv) the number of such Shares available to the Major Series A Investors after satisfaction of the right of first offer set forth in subsection 2.4(a).

(iii) By written notification received by the Company within twenty (20) calendar days after the giving of Notice, each Major Series A Investor may elect to purchase, at the price and on the terms specified in the Notice, up to that portion of such Shares that equals the proportion that the number of shares of Common Stock that are Registrable Securities issued and held by such Major Series A Investor in respect of Series A Preferred Stock (assuming full conversion and exercise of all Series A Preferred Stock held by such Major Series A Investor) bears to the total number of shares of Common Stock of the Company then outstanding in respect of Series A Preferred Stock (assuming full conversion and exercise of all Series A Preferred Stock then outstanding). The Company shall promptly, in writing, inform each Major Series A Investor that elects to purchase all the shares available to it (a "Fully-Exercising Series A Investor") of any other Major Series A Investor's failure to do likewise. During the ten (10) day period commencing after such information is given, each Fully-

Exercising Series A Investor may elect to purchase that portion of the Shares for which Major Series A Investors were entitled to subscribe, but which were not subscribed for by the Major Series A Investors, that is equal to the proportion that the number of shares of Common Stock that are Registrable Securities issued and held by such Fully-Exercising Series A Investor in respect of Series A Preferred Stock (assuming full conversion and exercise of all Series A Preferred Stock held by such Fully-Exercising Series A Investor) bears to the total number of shares of Common Stock issued and held by all Fully-Exercising Series A Investors in respect of Series A Preferred Stock (assuming full conversion and exercise of all Series A Preferred Stock held by all such Fully-Exercising Series A Investors) who wish to purchase some of the unsubscribed shares.

(iv) If all Shares that Major Series A Investors are entitled to obtain pursuant to subsection 2.4(b) are not elected to be obtained as provided in subsection 2.4(b) hereof, the Company may, during the ninety (90) day period following the expiration of the period provided in subsection 2.4(b) hereof, offer the remaining unsubscribed portion of such Shares to any person or persons at a price not less than that, and upon terms no more favorable to the offeree than those, specified in the Notice. If the Company does not enter into an agreement for the sale of the Shares within such period, or if such agreement is not consummated within such ninety (90) day period, the rights provided under subsections 2.4(a) and 2.4(b) shall be deemed to be revived and such Shares shall not be offered unless first reoffered to the Holders of Series B Preferred Stock, Holders of Series C Preferred Stock, and Holders of Series D Preferred Stock first and the Major Series A Investors thereafter in accordance with subsections 2.4(a) and 2.4(b).

(c) The right of first offer and right of second offer in this Section 2.4 shall not be applicable to issuances of securities exempt from the definition of Additional Stock (as defined in the Restated Certificate). In addition to the foregoing, the right of first offer and right of second offer in this Section 2.4 shall not be applicable with respect to any Investor in any subsequent offering of Shares if (i) at the time of such offering, the Investor is not an "accredited investor," as that term is then defined in Rule 501(a) of the Act and (ii) such offering of Shares is otherwise being offered only to accredited investors.

(d) The rights provided in this Section 2.4 may not be assigned or transferred by any Investor; provided, however, that an Investor may assign or transfer such rights to its Affiliates.

(e) The covenants set forth in this Section 2.4 shall terminate and be of no further force or effect upon the consummation of (i) the Initial Offering or (ii) a Liquidation Event, as that term is defined in the Restated Certificate, provided that if the Liquidation Event is pursuant to paragraph (A), paragraph (E) or paragraph (F) of Section B.2(c)(i) of Article Fourth of the Restated Certificate, such termination shall be effective only upon the redemption of all of the Company's then-outstanding stock.

2.5 Proprietary Information and Inventions Agreements. The Company shall require all employees to execute and deliver a Proprietary Information and Inventions Agreement in substantially the form approved by the Company's Board of Directors. The Company shall require all consultants to execute and deliver a Consulting Agreement in substantially the form approved by the Company's Board of Directors.

2.6 Directors and Officers Insurance. The Company has as of the date hereof directors and officers insurance with a coverage amount of at least $3,000,000 from financially sound and reputable insurers. The Company will cause to be maintained at all times such directors and officers insurance required by this Section 2.6. Such policy shall not be cancelable by the Company without prior approval of the Board of Directors, including the Preferred Directors.

2.7 Employee Agreements. Unless approved by the Board of Directors of the Company (including a majority of the Preferred Directors), all future employees of the Company who shall purchase, or receive options to purchase, shares of Common Stock following the date hereof shall be required to execute stock purchase or option agreements providing for (a) vesting of shares over a four (4) year period with the first twenty five percent (25%) of such shares vesting following twelve (12) months of continued employment or services, and the remaining shares vesting in equal monthly installments over the following thirty six (36) months thereafter and (b) a one hundred and eighty (180)-day lockup period (plus an additional period of up to eighteen (18) days) in connection with the Initial Offering. The Company shall retain a right of first refusal on transfers until the Initial Offering and the right to repurchase unvested shares at cost. Sales and transfers by any holders of the Company's Common Stock shall require the prior approval of the Requisite Investors, except in the case of an individual, to a sale or assignment of shares to the individual's spouse or immediate family member (or a trust therefor) for bona fide trust planning purposes, or as otherwise permitted under the Co-Sale Agreement; provided, however, that in the event of any conflict between the foregoing and the terms of the Co-Sale Agreement, the terms of the Co-Sale Agreement shall supersede and control.

2.8 Board Matters.

(a) Except as may otherwise be determined by the Board of Directors, the Company shall cause the Board of Directors to meet at least six (6) times per year, of which at least four (4) meetings shall be in person at the Company's principal office. The Company shall cover all reasonable out-of-pocket expenses (including travel expenses) of the members and observers of the Board of Directors. The Preferred Directors designated (either individually or collectively) by each of: (i) Advent Life Sciences Fund I LP and Advent Life Sciences LLP or any of their Affiliates (together, "Advent"), (ii) OrbiMed Private Investments IV, LP or any of its Affiliates (together, "OrbiMed"), (iii) Philips Holding USA Inc. or any of its Affiliates (together, "Philips") or its assignee pursuant to Section 2.2(b)(iv) of the Voting Agreement, (iv) Deerfield Private Design Fund III, LP or any of its Affiliates (together, "DMC"), (v) AMXeraya Ltd. or any of its Affiliates (together, "Xeraya"), and (vi) the holders of a majority of the Series D Preferred Stock shall be entitled in such person's discretion to be a member of any committee of the Board of Directors. The Company (via its management) will submit reporting information one (1) week before each such meeting of the Board of Directors, and the format of such reporting information shall conform at all times to a form approved by the Board of Directors. The Company shall present to the Board of Directors all offers to invest in, merge with and/or acquire the Company, if such offers are from entities other than the Investors, as soon as practicable and in any event within seven (7) business days of the receipt of such offer(s).

(b) Additionally, the Company shall obtain the approval of the Board of Directors (including a majority of the Preferred Directors, which shall include at least one of (x) the directors elected by the holders of the Series C Preferred Stock, or (y) the Series D Director) before it does any of the following:

(i) approves or makes any material change to the Company's annual budget or business plan;

(ii) incurs unbudgeted expenditures in excess of $250,000;

(iii) agrees to effect or incur any credit lines, leases or other indebtedness over $500,000;

(iv) enters into any mortgage, lien, encumbrance or charge over its property;

(v) enters into, permits any subsidiary to enter into, or approves, any agreement for the acquisition (or sale) of any business through the purchase (or divestiture) of assets, purchase (or sale) of stock or otherwise, for any transaction valued at more than $250,000 individually or $500,000 in the aggregate in any fiscal year;

(vi) grants options to purchase shares of its capital stock;

(vii) creates or dissolves a subsidiary;

(viii) transfers, licenses or otherwise disposes of any of its intellectual property rights outside of the ordinary course of business;

(ix) appoints or terminates key executives;

(x) makes material changes to the equity holdings or compensation terms of (i) Christoph Scharf or Lam Dang or (ii) individuals who are its executives or otherwise members of its management team;

(xi) delegates any matter to a committee of the Board of Directors; or

(xii) enters into any transaction between the Company and any officer, director or other Affiliate of the Company (other than an investment in the Company by any such individuals or other Affiliates of the Company in connection with any bona fide debt or equity financing, the primary purpose of which is raising capital and participation in which has been validly offered to the Investors in accordance with Section 2.4).

2.9 Indemnification Matters. The Company hereby acknowledges that one (1) or more of the directors nominated to serve on the Board of Directors by the Investors (each a "Fund Director") may have certain rights to indemnification, advancement of expenses and/or insurance provided by one or more of the Investors and certain of their Affiliates (collectively, the "Fund Indemnitors"). The Company hereby agrees (a) that it is the indemnitor of first resort

(i.e., its obligations to any such Fund Director are primary and any obligation of the Fund Indemnitors to advance expenses or to provide indemnification for the same expenses or liabilities incurred by such Fund Director are secondary), (b) that it shall be required to advance the full amount of expenses incurred by such Fund Director and shall be liable for the full amount of all expenses, judgments, penalties, fines and amounts paid in settlement by or on behalf of any such Fund Director to the extent legally permitted and as required by the Restated Certificate or Bylaws of the Company (or any agreement between the Company and such Fund Director), without regard to any rights such Fund Director may have against the Fund Indemnitors, and (c) that it irrevocably waives, relinquishes and releases the Fund Indemnitors from any and all claims against the Fund Indemnitors for contribution, subrogation or any other recovery of any kind in respect thereof. The Company further agrees that no advancement or payment by the Fund Indemnitors on behalf of any such Fund Director with respect to any claim for which such Fund Director has sought indemnification from the Company shall affect the foregoing and the Fund Indemnitors shall have a right of contribution and/or be subrogated to the extent of such advancement or payment to all of the rights of recovery of such Fund Director against the Company.

2.10 Confidentiality.

(a) Each Investor agrees, severally and not jointly, to use the same degree of care as such Investor uses to protect its own confidential information for any information obtained pursuant to Section 2.1 or Section 2.2 hereof which the Company identifies in writing as being proprietary or confidential, and such Investor acknowledges that it will not, prior to the Company's initial public offering, unless otherwise required by law or the rules of any national securities exchange, association or marketplace, disclose, with respect to this Section 2.10(a), such information without the prior written consent of the Company, except such information that (a) was in the public domain prior to the time it was furnished to such Investor, (b) is or becomes (through no willful improper action or inaction by such Investor) generally available to the public, (c) was in its possession or known by such Investor without restriction prior to receipt from the Company, (d) was rightfully disclosed to such Investor by a third party without restriction or (e) was independently developed without any use of the Company's confidential information.

(b) The Company and each Investor agrees, severally and not jointly, that each such Investor shall keep confidential (i) the fact that any Investor is an investor in the Company, (ii) the fact that any Investor, or any designee of such Investor, is a director of the Company, is an observer to the Board of Directors of the Company, or has the right to appoint a Company director or a Board of Directors observer, (iii) the terms of the Series C Preferred Stock Purchase Agreement dated as of March 14, 2016 (the "Series C Purchase Agreement") and the Ancillary Agreements (as defined in the Series C Purchase Agreement); and (iv) the terms of the Series D Purchase Agreement and the Ancillary Agreements (as defined in the Series D Purchase Agreement). The Company and each Investor acknowledges that each such Investor shall not, prior to the Company's initial public offering, unless otherwise required by law or the rules of any national securities exchange, association or marketplace, disclose, with respect to this Section 2.10(b), such information without the Consent of the Company and each other Investor, except such information that (a) was in the public domain prior to the time it was furnished to such Investor, or (b) is or becomes (through no willful improper action or inaction by such Investor) generally available to the public.

(c) Notwithstanding Section 2.10(a) or Section 2.10(b), each Investor may disclose such proprietary or confidential information, (i) to its legal counsel, accountants, consultants and other professionals providing services to such Investor in connection with monitoring or managing its investment in the Company; (ii) to any prospective purchaser of Registrable Securities from such Investor; (iii) to any existing or prospective Affiliate of such Investor in the ordinary course of business for the sole purpose of monitoring and managing such Investor's investment in the Company and (iv) with respect to an Investor that is a limited partnership or limited liability company may disclose such proprietary or confidential information to any former partners or members who retained an economic interest in such Investor, current or prospective partner, Affiliate, member, stockholder or wholly-owned subsidiary of the partnership or any subsequent partnership under common investment management, limited partner, general partner, member, management company or advisory company of such Investor (or any employee or representative of any of the foregoing) (each of the foregoing persons, a "Permitted Disclosee") or otherwise as part of such Investor's normal reporting or review procedure, or in connection with such Investor's or its Affiliates' normal fund raising, marketing, information or reporting activities; provided, that, each Permitted Disclose set forth in the foregoing clauses (i) through (iv) is informed by such Investor that such information is proprietary or confidential and such Permitted Disclosee is directed to maintain the confidentiality of such information and agrees to be bound by the provisions of this Section 2.10 (unless otherwise bound, by law or rules of professional conduct, to treat such information confidentially). Furthermore, nothing contained herein shall prevent any Investor or any Permitted Disclosee from (i) entering into any business, entering into any agreement with a third party, or investing in or engaging in investment discussions with any other company (whether or not competitive with the Company), provided that such Investor or Permitted Disclosee does not, except as permitted in accordance with this Section 2.10, disclose any proprietary or confidential information of the Company, or any confidential information described in Section 2.10(b) with respect to any other Investor, in connection with such activities, or (ii) making any disclosures required by law, rule, regulation or court or other governmental order. The Company acknowledges that each Investor, and any of their respective representatives currently may be invested in, may invest in or may consider investments in public and private companies some of which may compete either directly or indirectly with the Company, and that the execution of this Agreement, the terms hereof and the access to confidential information hereunder shall in no way be construed to prohibit or restrict such Investor or any of their respective representatives from maintaining, making or considering such investments or from otherwise operating in the ordinary course of business.

2.11 Additional Reporting. The Company shall provide to each of Index (which shall include Index Ventures V (Jersey), L.P. or any of its Affiliates (together, "Index")), Athena Ventures II LLC ("Athena Ventures"), Advent, OrbiMed, Philips (so long as Philips has not transferred any Registrable Securities to any Philips Share Transferee) (as defined in the Voting Agreement), DMC, and Xeraya for so long as such party is a Major Investor:

(a) as soon as practicable, but in any event within thirty (30) days after the end of each calendar year, a detailed capitalization table as of December 31st of such

calendar year, on a fully-diluted basis (the "Capitalization Table"), setting out the authorized and issued capital stock of the Company on a stockholder by stockholder basis, together with details of any unexercised and/or unvested securities convertible into or exchangeable or exercisable for the Company's capital stock and detailing any transfers of such securities since the delivery of the previously delivered Capitalization Table, if any, or the date hereof in case of the delivery of the first Capitalization Table following the date hereof; and

(b) as soon as practicable, but in any event within thirty (30) days after the end of each fiscal quarter of the Company, (x) a completed Financial Metrics Schedule substantially similar to the form attached hereto as Exhibit A, and (y) the pro forma quarterly financial information and. capitalization information substantially in the form attached hereto as Exhibit B. Such Financial Metrics Schedule and financial and capitalization information shall be delivered (i) in the case of Index, via email to [ ] (or such other person as Index may indicate to the Company in writing), (ii) in the case of Advent, via email to [ ] (or such other person as Advent may indicate to the Company in writing), (iii) in the case of OrbiMed, via email to [ ] (or such other person as OrbiMed may indicate to the Company in writing), (iv) in the case of Philips, via email to [ ] (or such other person as Philips may indicate to the Company in writing), (v) in the case of DMC, via email to [ ] (or such other person as DMC may indicate to the Company in writing), (vi) in the case of Xeraya, via email to [ ] (or such other person as Xeraya may indicate to the Company in writing), and (vii) in the case of Athena Ventures, via email to [ ] (or such other person as Athena Ventures may indicate to the Company in writing).

2.12 Termination of Certain Covenants. The covenants set forth in Sections 2.5, 2.6, 2.7, 2.8, and 2.11 shall terminate and be of no further force or effect upon the consummation of (a) the Company's sale of its Common Stock or other securities pursuant to Registration Statement under the Act (other than a registration statement relating either to the sale of securities to employees of the Company pursuant to its stock option, stock purchase or similar plan or a transaction under Rule 145 of the Act) or (b) a Liquidation Event, as that term is defined in the Restated Certificate, provided that if the Liquidation Event is pursuant to paragraph (A), paragraph (E) or paragraph (F) of Section B.2(c)(i) of Article Fourth of the Restated Certificate, such termination shall be effective only upon the redemption of all of the Company's then-outstanding stock.

2.13 Right to Conduct Activities. The Company hereby acknowledges and agrees that each of the Investors, directly or indirectly, from time to time may (a) make or hold investments in companies that are or may become engaged in activities that are competitive with the Company's business, as it is currently conducted or as it may be conducted in the future, and (b) engage in other activities which may be deemed competitive with the Company's business, as it is currently conducted or as it may be conducted in the future. The Company hereby agrees that (i) neither DMC, nor any of its Affiliates, is a "competitor" of the Company for purposes of this Agreement, (ii) neither Athena, nor any of its Affiliates (together, "Athena"), is a "competitor" of the Company for purposes of this Agreement, and (iii) none of the Investors, nor any of their respective Affiliates, shall be liable to the Company for any claim arising out of, or

based upon any such activities including without limitation (A) an investment by any Investor or their respective Affiliates, directly or indirectly, in any entity competitive with the Company or (B) any other actions taken by any Investor or any of their respective Affiliates, or any partner, officer or other representative thereof, to assist any such competitive company, whether or not such action has a detrimental effect on the Company, provided that any such actions are not in violation of such Investor's obligations under this Agreement. The Company acknowledges that the Investors are in the business of venture capital investing and therefore review the business plans and related proprietary information of many enterprises, including enterprises which may have products or services which compete directly or indirectly with those of the Company. Nothing in this Agreement shall preclude, create an obligation or duty, or in any way restrict the Investors from evaluating or purchasing securities, including publicly traded securities, of a particular enterprise, or investing or participating in any particular enterprise, whether or not such enterprise has products or services which compete with those of the Company. Notwithstanding anything herein to the contrary, Philips covenants and agrees that it shall not disclose any information obtained pursuant to Section 2.1 or Section 2.2 of this Agreement to any Affiliate that is competitive with the Company or to any employee directly employed by an internal program of Philips that is competitive with the Company; and notwithstanding clause (ii) of the second sentence of this Section 2.13, Athena covenants and agrees that it shall not disclose any information obtained pursuant to Section 2.1 or Section 2.2 of this Agreement to any Affiliate that is competitive with the Company or to any employee directly employed by an internal program of Athena that is competitive with the Company.

3. Miscellaneous.

3.1 Successors and Assigns. Except as otherwise provided herein, the terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties (including transferees of any shares of Registrable Securities). Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

3.2 Governing Law. This Agreement shall be governed by and construed under the laws of the State of Delaware as applied to agreements among Delaware residents entered into and to be performed entirely within Delaware.

3.3 Counterparts; Facsimile. This Agreement may be executed and delivered by facsimile or electronic signature and in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one (1) and the same instrument.

3.4 Titles and Subtitles. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

3.5 Notices. All notices and other communications given or made pursuant hereto shall be in writing and shall be deemed effectively given upon the earlier to occur of actual receipt or: (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, or (c) three (3) business days after deposit with an internationally recognized courier, specifying the speediest delivery option possible, with written verification of receipt. All communications shall be sent to the respective parties at the addresses set forth on the signature pages attached hereto (or at such other addresses as shall be specified by notice given in accordance with this Section 3.5).

3.6 Expenses. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs and necessary disbursements in addition to any other relief to which such party may be entitled.

3.7 Entire Agreement: Amendments and Waivers. This Agreement (including the Exhibits hereto, if any) constitutes the full and entire understanding and agreement among the parties with regard to the subjects hereof and thereof. Except as otherwise provided in this Section 3.7, any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively) only with the written consent of the Company and the Requisite Investors, provided however that:

(a) Section 1.13 (only to the extent amended or altered to extend or add obligations for the Investors thereunder), Section 1.14 (as it relates to Section 1.13), Section 2.4(a) (only as it relates to the holders of the Series C Preferred Stock and Series D Preferred Stock), Section 2.4(e) (only as it relates to Section 2.4(a)), Section 2.8(b) (only to the extent amended or altered to remove the inclusion of at least one of the directors elected by the holders of the Series C Preferred Stock or Series D Preferred Stock in the voting group), Section 2.12 (as it relates to Section 2.8(b)), and this Section 3.7(a) shall not be amended or altered, and the observance of any term thereof shall not be waived, except by an affirmative vote of the Holders of at least a majority of the shares of Series C Preferred Stock and Series D Preferred Stock, voting together as a single class on an as-converted basis;

(b) Section 2.4(a) and this Section 3.7(b) may not be amended or terminated, and the observance of any term thereof may not be waived, without the written consent of the Holders representing at least sixty-five percent (65%) of the shares Series B Preferred Stock, Series C Preferred Stock, and Series D Preferred Stock voting together as a single class on an as-converted to Common Stock basis; provided, however, that in the event that the right of first offer set forth in Section 2.4(a) is waived with respect to any financing transaction of the Company (any such transaction, a "Next Financing") and any existing Holder of Preferred Stock participates in the Next Financing, then all other existing Holders of Preferred Stock shall have the right to purchase their pro rata portion of the new issuance of equity securities sold in the Next Financing unless waived or consented to by such Holder;

(c) Section 2.4(b) may not be amended or terminated and the observance of any term thereof may not be waived without the written consent of the Holders of a majority of the Registrable Securities in respect of Series A Preferred Stock;

(d) The third sentence of Section 2.8(a) and this Section 3.7(d) may be amended or waived (either generally or in a particular instance and either retroactively or prospectively) only with the written consent of the Company and the consent of: (i) Advent (solely with respect to the representation of Advent on any committee), so long as Advent is a Major Investor, (ii) OrbiMed (solely with respect to the representation of OrbiMed on any committee), so long as OrbiMed is a Major Investor, (iii) Philips (solely with respect to the representation of Philips or its assignee on any committee), so long as Philips or its assignee is a Major Investor, (iv) DMC (solely with respect to the representation of DMC on any committee), so long as DMC is a Major Investor; and (v) Xeraya (solely with respect to the representation of Xeraya on any committee), so long as Xeraya is a Major Investor;

(e) Section 2.10(b), Section 2.10(c), Section 2.13 and this Section 3.7(e) may not be amended or terminated, and the observance of any provision thereof may not be waived, with respect to any Investor without the written consent of such Investor;

(f) Notwithstanding Section 3.7(a), (i) Section 1.13 (only to the extent amended or altered to extend or add obligations for DMC) and this Section 3.7(f) may not be amended or terminated, and the observance of any provision thereof may not be waived, without the written consent of DMC and (ii) Section 1.13 (only to the extent amended or altered to extend or add obligations for Xeraya) and this Section 3.7(f) may not be amended or terminated, and the observance of any provision thereof may not be waived, without the written consent of Xeraya; and

(g) Section 2.10 and Section 2.13 may not be amended or terminated, and the observance of any provision thereof may not be waived, with respect to the permitted activities of DMC, without the written consent of DMC; and

(h) This Agreement may not be amended or terminated and the observance of any term hereof may not be waived with respect to any Investor without the written consent of such Investor unless such amendment, termination, or waiver applies to all Investors in the same fashion (it being agreed that a waiver of the provisions of Section 2.4(a) in accordance with clause (b) above or of Section 2.4(b) in accordance with clause (c) above with respect to a particular transaction shall be deemed to apply to all Investors in the same fashion if such waiver does so by its terms, notwithstanding the fact that certain Investors may nonetheless, by agreement with the Company, purchase securities in such transaction (and with respect to the waiver of the rights of the Series B Preferred Stock, Series C Preferred Stock, and Series D Preferred Stock set forth in Section 2.4(a), in accordance with the second proviso of clause (b)).

Any amendment or waiver effected in accordance with this paragraph shall be binding upon each holder of any Registrable Securities, each future holder of all such Registrable Securities and the Company. The Company shall give prompt notice of any amendment or termination hereof or waiver hereunder to any party hereto that did not consent in writing to such amendment, termination, or waiver. Upon the execution and delivery of this Agreement by (i) the Company, and (ii) the Prior Investors representing the holders of Preferred Stock sufficient to amend and restate 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.

Notwithstanding the foregoing, New Investors purchasing shares of Series D Preferred Stock in a Closing after the Primary Closing (each as defined in the Series D Purchase Agreement) pursuant to the Series D Purchase Agreement may become parties to this Agreement by executing a counterpart of this Agreement, without any amendment of this Agreement pursuant to this section or any consent or approval of any other party hereto.

3.8 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

3.9 Aggregation of Stock. All shares of Registrable Securities held or acquired by Affiliates shall be aggregated together for the purpose of determining the availability of any rights under this Agreement.

(*signature page follows*)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first above written.

ACUTUS MEDICAL, INC.

By: /s/ Vincent Burgess
Name: Vincent Burgess
Title: President and CEO

Address: 2210 Faraday Ave., Suite 100
Carlsbad, CA 92008

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first above written.

INVESTOR:

CVF 2018, LLC

By: /s/ Gerrit Adams
Name: Gerrit Adams
Title: Sr associate

Address: CVF 2018, LLC
222 N. LaSalle Suite 2000
Chicago, IL 60601

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first above written.

INVESTOR:

Opaleye L.P.

By: /s/ James Silverman
Name: James Silverman
Title: President

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first above written.

INVESTOR:

Pura Vida Master Fund Ltd.

By: /s/ Frank Litvack
Name: Frank Litvack
Title: General Partner

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first above written.

INVESTOR:

Reed Moskowitz

By: /s/ Reed Moskowitz
Name: Reed Moskowitz

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first above written.

INVESTOR

RiverRoad Capital Partners, LLC

By: /s/ Greg Lucier
Name: Greg Lucier
Title: Managing Member

Address:

Gregory T. Lucier
Managing Member
RiverRoad Capital Partners, LLC
2010 Jimmy Durante Blvd, Suite 230
Del Mar, CA 92014

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTORS:

ADVENT LIFE SCIENCES FUND I LP

By: Advent Life Sciences LLP
Its: General Partner

By: /s/ Kaasim Mahmood
Name: Kaasim Mahmood
Title: General Partner

Address: Advent Life Sciences LLP
158-160 North Gower Street
London
NW1 2ND
United Kingdom

ADVENT LIFE SCIENCES LLP

By: /s/ Kaasim Mahmood
Name: Kaasim Mahmood
Title: General Partner

Address: Advent Life Sciences LLP
158-160 North Gower Street
London
NW1 2ND
United Kingdom

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

AMXeraya Ltd.

By: /s/ Fares Zahir
Name: Fares Zahir
Title: Director

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

ATHENA VENTURES II LLC

By: /s/ David Mayhew
Name: David Mayhew
Title: Authorized Signatory
Address: 2882 Sand Hill Road, Suite 240
Menlo Park, CA 94025

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

CHRISTOPH SCHARF

/s/ Christoph Scharf

Christoph Scharf

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

DEERFIELD PRIVATE DESIGN FUND III, L.P.

By: Deerfield Mgmt III, L.P.
General Partner
By: J.E. Flynn Capital III, LLC
General Partner

By /s/ David J. Clark
Name: David J. Clark
Title: Authorized Signatory

Address: 780 Third Avenue, 37th Floor
New York, NY 10017
Attn: Lawrence Atinsky

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

ORBIMED PRIVATE INVESTMENTS IV, LP

By: OrbiMed Capital GP IV LLC
its General Partner

By: OrbiMed Advistors LLC
its Managing Member

By: /s/ Jonathan Silverstein
Name: Jonathan Silverstein
Title: Member
Address: 601 Lexington Ave.
New York, NY 10022

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTORS:

8VC Fund II, L.P.
By: 8VC GP II, LLC
Its General Partner

By: /s/ Joe Lonsdale
Name: Joe Lonsdale
Title: Managing Member
Address: Pier 5, Suite 101
San Francisco, CA 94111

8VC Entrepreneurs Fund II, L.P.
By: 8VC GP II, LLC
Its General Partner

By: /s/ Joe Lonsdale
Name: Joe Lonsdale
Title: Managing Member
Address: Pier 5, Suite 101
San Francisco, CA 94111

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

Security Pacific Finance, Ltd.

By: /s/ Martyn Russell /s/ Sam Ozanne
Name: Martyn Russell Sam Ozanne
Title: Authorized Signatories
For RBC Corporate Services (Guernsey) Limited

By: /s/ Martyn Russell /s/ Sam Ozanne
Name: Martyn Russell Sam Ozanne
Title: Authorized Signatories
For RBC Directorship Services (Guernsey) Limited

Address:
RBC Trustees (Guernsey) Limited
PO Box 48, Upland Road
St. Peter Port
Guernsey, GY13BQ

Copies to: CICA, Inc.
Attention: George Kokke, CIO
7979 Ivanhoe Ave, Suite 460
La Jolla, CA 92037

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

Robert W. Postma

By: /s/ Robert W. Postma
Name: Robert W. Postma

Address: 141 Mecox Road
PO Box 207
Water Mill, NY 11976

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

Kiernan and Mary Ellen Gallahue Family Trust dated January 21, 2004

By: /s/ Kiernan Gallahue
Name: Kiernan Gallahue
Title: Owner

Address: PO Box 684369
Park City, UT 84068

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

George P. Kokke

By: /s/ George P. Kokke

Name: George P. Kokke

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

Labrador Trust dated March 25, 2013

By: Labrador Fiduciary Management LLC, Trustee

By: Labrador Service Company LLC, Manager

By: SLUSA Inc., Managing Member

By:: /s/ Mark Oemcke

Name: Mark Oemcke,
Chief Financial Officer

Date: 6/21/2019

Addresses:

Labrador Trust dated March 25, 2013
c/o Frontier Administrative Services, LLC
270 West Pearl, Suite 103
PO BOX 2554
Jackson, WY 83001
Attention Randi Doll, Dir. of Client Services

c/o CICA, Inc.
7979 Ivanhoe Ave., Suite 460
La Jolla, CA 92037

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

By: /s/ Arin Barooah
Name: Arin Barooah
Title: Owner

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

B. Riley FBR, Inc.

By: /s/ Bryant Riley
Name: Bryant Riley
Title: Executive Officer

Address: 11100 Santa Monica Blvd. Suite 800
Los Angeles, CA 90025

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

Bansbach Capital Group, LLC

By: /s/ Louis P. Bansbach, IV
Name: Louis P. Bansbach, IV
Title: Manager

Address: 650 S. Cherry Street, Suite 1005
Glendale, CO 80246

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

By: /s/ Michael Boras
Name: Michael Boras
Title:

Address:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

By: /s/ Brian Kim
Name: Brian Kim
Title:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

By: /s/ Chris Clements
Name: Chris Clements
Title:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

By: /s/ Christopher Elia, Catherine Zoc
Name: Christopher Elia, Catherine Zoc
Title:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

David A. Durkin

By: /s/ David A. Durkin

Name: David A. Durkin

Title:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

By: /s/ David Alexander
Name: David Alexander
Title: Individual

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

Denman Street, LLC

By: /s/ John B. Berding
Name: John B. Berding
Title: Manager

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

By: /s/ Dominic Uchikura
Name: Dominic Uchikura
Title:

Address:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

Elia Family Trust dated 7/12/16

By: /s/ Peter P. Elia
Name: Peter P. Elia
Title: Trustee

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

Feldman Family Trust

By: /s/ Leon A and Roney B. Feldman
Name: Leon A and Roney B. Feldman
Title: Trustee, Feldman Family Trust

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

GREAT AMERICAN INSURANCE COMPANY

By: /s/ Stephen C. Beraha
Name: Stephen C. Beraha
Title: Assistant Vice President

Address: 301 E. Fourth St.
Cincinnati, OH 45202

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

GREAT AMERICAN LIFE INSURANCE COMPANY

By: /s/ Mark F. Muething
Name: Mark F. Muething
Title: President

Address: 301 E. Fourth St.
Cincinnati, OH 45202

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

Highland Creek Holdings, LP

By: /s/ Caesar Fonte
Name: Caesar Fonte
Title: Managing Partner

Address: 2 Highland Cree Dr.
Henderson, NV 89052

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

Hinrichs Joint Revocable Trust DTD 9/20/2013

By: /s/ James F. Hinrichs
Name: James F. Hinrichs
Title: Trustee

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

By: /s/ Jeffrey H. Cutshall
Name: Jeffrey H. Cutshall
Title:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

John B. Berding

By: /s/ John B. Berding

Name: John B. Berding

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

/s/ John Richard Rimmer

By: John Richard Rimmer
Name: John Richard Rimmer
Title: VP Sales, West

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

/s/ Joseph Haverkamp

By: Joseph Haverkamp
Name: Joseph Haverkamp
Title:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

Kwon Family 2005 Trust

By: /s/ Ohsang Kwon
Name: Ohsang Kwon
Title: Attorney-in-Fact

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

By: /s/ Lennie Clements
Name: Lennie Clements
Title:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

By: /s/ Thomas Mahala
Name: Thomas Mahala
Title:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

By: /s/ Matt Ongaro
Name: Matt Ongaro
Title: Individual

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

By: /s/ Michael Frank, Tracey Frank
Name: Michael Frank, Tracey Frank
Title: Michael and Tracey Frank JTWROS

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

By: /s/ Patrice McNicoll

Name: Patrice McNicoll

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

By: /s/ Peter Belott
Name: Peter Belott
Title:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

By: /s/ Philip Patel
Name: Philip Patel
Title:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

By: /s/ Prash Jayaraj, M.D.
Name: Prash Jayaraj, M.D.
Title: Physician

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

By: /s/ Robert Weaver
Name: Robert Weaver
Title: President

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

Schonfeld Strategic 460 Fund LLC

By: /s/ Mark Peckman
Name: Mark Peckman
Title: Authorized Signatory

Address: 460 Park Avenue, 10th Fl
New York, NY 10022

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

Smith Family Trust, dated October 31, 2001

By: /s/ Jeff Smith
Name: Jeff Smith
Title: Trustee

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

By: /s/ Thomas S. Ahern, Sr.
Name: Thomas S. Ahern, Sr.
Title: Physician

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

By: /s/ Thomas Hammett
Name: Thomas Hammett
Title:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investor's Rights Agreements as of the date first above written.

INVESTOR:

/s/ Yoel Vivas

By: Yoel Vivas
Name:
Title: CEO

Address: 16920 Bridge Crossing Circle
Delray Beach, FL 33446

EXHIBIT A

EXHIBIT B

In accordance with Instruction 2 to Item 601 of Regulation S-K, below is a schedule setting forth details in which the omitted executed warrants differ from the form of warrant that follows:

Holder
Silicon Valley Bank
Life Sciences Loans, LLC

THIS WARRANT AND THE SHARES ISSUABLE HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE **"ACT"),** OR THE SECURITIES LAWS OF ANY STATE AND, EXCEPT AS SET FORTH IN SECTIONS 5.3 AND 5.4 BELOW, MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED UNLESS AND UNTIL REGISTERED UNDER SAID ACT AND LAWS OR, IN THE OPINION OF LEGAL COUNSEL, TN FORM AND SUBSTANCE SATISFACTORY TO THE COMPANY, SUCH OFFER, SALE, PLEDGE OR OTHER TRANSFER IS EXEMPT FROM SUCH REGISTRATION.

WARRANT TO PURCHASE COMMON STOCK

Company: ACUTUS MEDICAL, INC.
Number of Shares of Common Stock: [37,037]
Warrant Price: $0.54 per share
Issue Date: January 30, 2015
Expiration Date: January 30, 2025 See also Section 5.1(b).
Credit Facility: This Warrant to Purchase Common Stock (**"Warrant"**) is issued in connection with that certain Loan and Security Agreement of even date herewith between Silicon Valley Bank and the Company (the **"Loan Agreement"**).

THIS WARRANT CERTIFIES THAT, for good and valuable consideration, [Silicon Valley Bank / LIFE SCIENCES LOANS, LLC] (together with any successor or permitted assignee or transferee of this Warrant or of any shares issued upon exercise hereof, **"Holder") is** entitled to purchase the number of fully paid and non-assessable shares of the above-stated common stock (the **"Common Stock") is** of the above-named company (the **"Company") is** at the above-stated Warrant Price, all as set forth above and as adjusted pursuant to Section 2 of this Warrant, subject to the provisions and upon the terms and conditions set forth in this Warrant. The number of fully paid and non-assessable shares (the **"Shares") is** for which this Warrant shall be exercisable shall equal the quotient derived by dividing (a) 2.00% of the aggregate Growth Capital Advances made under the Loan Agreement divided by (b) the Warrant Price, all as set forth above and as adjusted pursuant to Section 2 of this Warrant.

SECTION 1. EXERCISE.

1.1 Method of Exercise. Holder may at any time and from time to time exercise this Warrant, in whole or in part, by delivering to the Company the original of this Warrant together with a duly executed Notice of Exercise in substantially the form attached hereto as Appendix 1 and, unless Holder is exercising this Warrant pursuant to a cashless exercise set forth in Section 1.2, a check, wire transfer of same-day funds (to an account designated by the Company), or other form of payment acceptable to the Company for the aggregate Warrant Price for the Shares being purchased.

1.2 Cashless Exercise. On any exercise of this Warrant, in lieu of payment of the aggregate Warrant Price in the manner as specified in Section 1.1 above, but otherwise in accordance with the requirements of Section 1.1, Holder may elect to receive Shares equal to the value of this Warrant, or portion hereof as to which this Warrant is being exercised. Thereupon, the Company shall issue to the Holder such number of fully paid and non-assessable Shares as are computed using the following formula:

$$X = Y(A - B)/A$$

where:

X = the number of Shares to be issued to the Holder;

Y = the number of Shares with respect to which this Warrant is being exercised (inclusive of the Shares surrendered to the Company in payment of the aggregate Warrant Price);

A = the Fair Market Value (as determined pursuant to Section 1.3 below) of one Share; and

B = the Warrant Price.

1.3 Fair Market Value. If the Company' s Common Stock is then traded or quoted on a nationally recognized securities exchange, inter-dealer quotation system or over-the-counter market (a **"Trading Market"),** the fair market value of a Share shall be the closing price or last sale price of a share of Common Stock reported for the Business Day immediately before the date on which Holder delivers this Warrant together with its Notice of Exercise to the Company (or in the instance where the Warrant is exercised immediately prior to the effectiveness of the Company's initial public offering, the "price to public" per share price specified in the final prospectus relating to such offering prior to any underwriting discounts or commissions). If the Company's Common Stock is not traded in a Trading Market, the Board of Directors of the Company shall determine the fair market value of a Share in its reasonable good faith judgment.

1.4 Delivery of Certificate and New Warrant. Within a reasonable time after Holder exercises this Warrant in the manner set forth in Section 1.1 or 1.2 above, the Company shall deliver to Holder a certificate representing the Shares issued to Holder upon such exercise and, if this Warrant has not been fully exercised and has not expired, a new warrant of like tenor representing the Shares not so acquired.

1.5 Replacement of Warrant. On receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and, in the case of loss, theft or destruction, on delivery of an indemnity agreement reasonably satisfactory in form, substance and amount to the Company or, in the case of mutilation, on surrender of this Warrant to the Company for cancellation, the Company shall, within a reasonable time, execute and deliver to Holder, in lieu of this Warrant, a new warrant of like tenor and amount.

1.6 Treatment of Warrant Upon Acquisition of Company.

(a) Acquisition. For the purpose of this Warrant, **"Acquisition"** means any transaction or series of related transactions involving: (1) the closing of the sale, transfer or other disposition of all or substantially all the assets of the Company and its subsidiaries taken as a whole, except where such sale, transfer, or other disposition is to a wholly-owned subsidiary of this corporation,

(2) the consummation of the merger or consolidation of (i) the Company with or into another entity or (ii) any subsidiary of the Company with or into another entity wherein the Company issues shares of its capital stock in connection therewith, except, in the case of either of clause (i) or (ii), a merger or consolidation in which the holders of capital stock of the Company immediately prior to such merger or consolidation continue to hold at least a majority of the voting power of the capital stock of the Company or the surviving or acquiring entity, (3) the closing of the transfer (whether by merger, consolidation or otherwise), in one transaction or a series of related transactions, to a person or group of affiliated persons (other than an underwriter of the Company's securities), of the Company's securities if, after such closing, such person or group of affiliated persons would hold a majority of the outstanding voting stock of this corporation (or the surviving or acquiring entity), (4) a liquidation, dissolution or winding up of the Company, (5) the grant of an irrevocable, exclusive, worldwide license to all or substantially all of the assets or intellectual property of the Company and its subsidiaries taken as a whole to a third party, or (6) (i) the Company's filing of or the filing against it of a petition in bankruptcy or a petition to take advantage of any insolvency act, (ii) the adjudication of the Company as bankrupt, (iii) the Company's filing of a petition or answer seeking reorganization or arrangement under any bankruptcy laws or any other similar law or statute of the United States of America or any other juris diction or (iv) the Company's consent to an appointment of a receiver for itself or for the whole or any substantial part of its property; provided, however, that a transaction shall not constitute an Acquisition if its sole purpose is to change the state of the Company's incorporation or to create a holding company that will be owned in substantially the same proportions by the persons who held this corporation's securities immediately prior to such transaction. Notwithstanding the prior sentence, the sale of capital stock for capital raising purposes shall not be deemed an "Acquisition".

(b) Treatment of Warrant at Acquisition. In the event of an Acquisition in which the consideration to be received by the Company's stockholders consists solely of cash, solely of Marketable Securities or a combination of cash and Marketable Securities (a "**Cash/Public Acquisition**"), and the fair market value of one Share as determined in accordance with Section 1.3 above would be greater than the Warrant Price in effect on such date immediately prior to such Cash/Public Acquisition, and Holder has not exercised this Warrant pursuant to Section 1.1 above as to all Shares, then this Warrant shall automatically be converted into the right to receive the consideration payable in such Cash/Public Acquisition with respect to the Shares, net of the aggregate Warrant Price. In connection with the treatment of the Warrant pursuant to this Section 1.6(b), Holder shall be deemed to have restated each of the representations and warranties in Section 4 of the Warrant as the date thereof and the Company shall promptly notify the Holder of the number of Shares (or such other securities) issued upon exercise. In the event of a Cash/Public Acquisition where the fair market value of one Share as determined in accordance with Section 1.3 above would be less than the Warrant Price in effect immediately prior to such Cash/Public Acquisition, then this Warrant will expire immediately prior to the consummation of such Cash/Public Acquisition.

(c) Upon the closing of any Acquisition other than a Cash/Public Acquisition defined above, the acquiring, surviving or successor entity shall assume the obligations of this Warrant, and this Warrant shall thereafter be exercisable for the same securities and/or other property as would have been paid for the Shares issuable upon exercise of the unexercised portion of this Warrant as if such Shares were outstanding on and as of the closing of such Acquisition, subject to further adjustment from time to time in accordance with the provisions of this Warrant.

(d) As used in this Warrant, "**Marketable Securities**" means securities meeting all of the following requirements: (i) the issuer thereof is then subject to the reporting requirements of Section 13 or Section 15(d) of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), and is then current in its filing of all required reports and other information under the Act and the Exchange Act; (ii) the class and series of shares or other security of the issuer that would be received by

Holder in connection with the Acquisition were Holder to exercise this Warrant on or prior to the closing thereof is then traded in Trading Market, and (iii) following the closing of such Acquisition, Holder would not be restricted from publicly re-selling all of the issuer's shares and/or other securities that would be received by Holder in such Acquisition were Holder to exercise or convert this Warrant in full on or prior to the closing of such Acquisition, except to the extent that any such restriction (x) arises solely under federal or state securities laws, rules or regulations, and (y) does not extend beyond six (6) months from the closing of such Acquisition.

SECTION 2. ADJUSTMENTS TO THE SHARES AND WARRANT PRICE.

2.1 Stock Dividends, Splits, Etc. If the Company declares or pays a dividend or distribution on the outstanding shares of the Common Stock payable in securities or property (other than cash), then upon exercise of this Warrant, for each Share acquired, Holder shall receive, without additional cost to Holder, the total number and kind of securities and property which Holder would have received had Holder owned the Shares of record as of the date the dividend or distribution occurred. If the Company subdivides the outstanding shares of the Common Stock by reclassification or otherwise into a greater number of shares, the number of Shares purchasable hereunder shall be proportionately increased and the Warrant Price shall be proportionately decreased. If the outstanding shares of the Common Stock are combined or consolidated, by reclassification or otherwise, into a lesser number of shares, the Warrant Price shall be proportionately increased and the number of Shares shall be proportionately decreased.

2.2 Reclassification, Exchange, Combinations or Substitution. Upon any event whereby all of the outstanding shares of the Common Stock are reclassified, exchanged, combined, substituted, or replaced for, into, with or by Company securities of a different class and/or series, then from and after the consummation of such event, this Warrant will be exercisable for the number, class and series of Company securities that Holder would have received had the Shares been outstanding on and as of the consummation of such event, and subject to further adjustment thereafter from time to time in accordance with the provisions of this Warrant. The provisions of this Section 2.2 shall similarly apply to successive reclassifications, exchanges, combinations substitutions, replacements or other similar events.

2.3 Intentionally Omitted.

2.4 Intentionally Omitted.

2.5 No Fractional Share. No fractional Share shall be issuable upon exercise of this Warrant and the number of Shares to be issued shall be rounded down to the nearest whole Share. If a fractional Share interest arises upon any exercise of the Warrant, the Company shall eliminate such fractional Share interest by paying Holder in cash the amount computed by multiplying the fractional interest by (i) the fair market value (as determined in accordance with Section 1.3 above) of a full Share, less (ii) the then-effective Warrant Price.

2.6 Notice /Certificate as to Adjustments. Upon each adjustment of the Warrant Price, Common Stock and/or number of Shares, the Company, at the Company's expense, shall notify Holder in writing within a reasonable time setting forth the adjustments to the Warrant Price, class and/or number of Shares and facts upon which such adjustment is based. The Company shall, upon written request from Holder, furnish Holder with a certificate of its Chief Financial Officer, including computations of such adjustment and the Warrant Price, class and number of Shares in effect upon the date of such adjustment.

SECTION 3. REPRESENTATIONS AND COVENANTS OF THE COMPANY.

3.1 Representations and Warranties. The Company represents and warrants to, and agrees with, the Holder as follows:

(a) The initial Warrant Price referenced on the first page of this Warrant is not greater than the price per share at which shares of Company Common Stock or options to purchase shares of Company Common Stock were last sold and issued prior to the Issue Date hereof.

(b) All Shares which may be issued upon the exercise of this Warrant, shall, upon issuance, be duly authorized, validly issued, fully paid and non-assessable, and free of any liens and encumbrances except for restrictions on transfer provided for herein or under applicable federal and state securities laws. The Company covenants that it shall at all times cause to be reserved and kept available out of its authorized and unissued capital stock such number of securities as will be sufficient to permit the exercise in full of this Warrant.

(c) The Company's capitalization table attached hereto as Schedule 1 is true and complete, in all material respects, as of the Issue Date.

3.2 Notice of Certain Events. If the Company proposes at any time to:

(a) declare any dividend or distribution upon the outstanding shares of the Company's stock, whether in cash, property, stock, or other securities and whether or not a regular cash dividend;

(b) offer for subscription or sale pro rata to the holders of the outstanding shares any additional shares of any class or series of the Company's stock (other than pursuant to contractual pre-emptive rights);

(c) effect any reclassification, exchange, combination, substitution, reorganization or recapitalization of the outstanding shares of the Common Stock;

(d) effect an Acquisition or to liquidate, dissolve or wind up; or

(e) effect an initial, underwritten offering and sale of its securities to the public pursuant to an effective registration statement under the Act (the "**IPO**");

then, in connection with each such event, the Company shall give Holder:

(1) in the case of the matters referred to in (a) and (b) above, at least seven (7) Business Days prior written notice of the earlier to occur of the effective date thereof or the date on which a record will be taken for such dividend, distribution, or subscription rights (and specifying the date on which the holders of outstanding shares of the Common Stock will be entitled thereto) or for determining rights to vote, if any,

(2) in the case of the matters referred to in (c) and (d) above at least seven (7) Business Days prior written notice of the date when the same will take place (and specifying the date on which the holders of outstanding shares of the Class will be entitled to exchange their shares for the securities or other property deliverable upon the occurrence of such event and such reasonable information as Holder may reasonably require regarding the treatment of this Warrant in connection with such event giving rise to the notice); and

(3) with respect to the IPO, at least seven (7) Business Days prior written notice of the date on which the Company proposes to file its registration statement in connection therewith.

Company will also provide information requested by Holder that is reasonably necessary to enable Holder to comply with Holder's accounting or reporting requirements.

SECTION 4. REPRESENTATIONS, WARRANTIES OF THE HOLDER.

The Holder represents and warrants to the Company as follows:

4.1 Purchase for Own Account. This Warrant and the Shares to be acquired upon exercise of this Warrant by Holder are being acquired for investment for Holder's account, not as a nominee or agent, and not with a view to the public resale or distribution within the meaning of the Act. Holder also represents that it has not been formed for the specific purpose of acquiring this Warrant or the Shares.

4.2 Disclosure of Information. Holder is aware of the Company's business affairs and financial condition and has received or has had full access to all the information it considers necessary or appropriate to make an informed investment decision with respect to the acquisition of this Warrant and its underlying securities. Holder further has had an opportunity to ask questions and receive answers from the Company regarding the terms and conditions of the offering of this Warrant and its underlying securities and to obtain additional information (to the extent the Company possessed such information or could acquire it without unreasonable effort or expense) necessary to verify any information furnished to Holder or to which Holder has access.

4.3 Investment Experience. Holder understands that the purchase of this Warrant and its underlying securities involves substantial risk. Holder has experience as an investor in securities of companies in the development stage and acknowledges that Holder can bear the economic risk of such Holder's investment in this Warrant and its underlying securities and has such knowledge and experience in financial or business matters that Holder is capable of evaluating the merits and risks of its investment in this Warrant and its underlying securities and/or has a preexisting personal or business relationship with the Company and certain of its officers, directors or controlling persons of a nature and duration that enables Holder to be aware of the character, business acumen and financial circumstances of such persons.

4.4 Accredited Investor Status. Holder is an "accredited investor" within the meaning of Regulation D promulgated under the Act.

4.5 The Act. Holder understands that this Warrant and the Shares issuable upon exercise hereof have not been registered under the Act in reliance upon a specific exemption therefrom, which exemption depends upon, among other things, the bona fide nature of the Holder's investment intent as expressed herein. Holder understands that this Warrant and the Shares issued upon any exercise hereof must be held indefinitely unless subsequently registered under the Act and qualified under applicable state securities laws, or unless exemption from such registration and qualification are otherwise available. Holder is aware of the provisions of Rule 144 promulgated under the Act.

4.6 Market Stand-off Agreement. The Holder agrees that the Shares shall be subject to the Market Standoff provisions in Section 1.13 of the Amended and Restated Investor Rights Agreement dated as of June 7, 2013, by and among the Company and the persons and entities set forth therein.

4.7 No Voting Rights. Holder, as a Holder of this Warrant, will not have any voting rights until the exercise of this Warrant.

SECTION 5. MISCELLANEOUS.

5.1 Term and Automatic Conversion Upon Expiration.

(a) Term. Subject to the provisions of Section 1.6 above, this Warrant is exercisable in whole or in part at any time and from time to time on or before 6:00 PM, Pacific time, on the Expiration Date and shall be void thereafter.

(b) Automatic Cashless Exercise upon Expiration. In the event that, upon the Expiration Date, the fair market value of one Share (or other security issuable upon the exercise hereof) as determined in accordance with Section 1.3 above is greater than the Warrant Price in effect on such date, then this Warrant shall automatically be deemed on and as of such date to be exercised pursuant to Section 1.2 above as to all Shares (or such other securities) for which it shall not previously have been exercised, and the Company shall, within a reasonable time, deliver a certificate representing the Shares (or such other securities) issued upon such exercise to Holder.

5.2 Legends. The Shares (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) shall be imprinted with a legend in substantially the following form:

> THE SHARES EVIDENCED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), OR THE SECURITIES LAWS OF ANY STATE AND, EXCEPT AS SET FORTH IN THAT CERTAIN WARRANT TO PURCHASE COMMON STOCK ISSUED BY THE ISSUER TO [SILICON VALLEY BANK / LIFE SCIENCES LOANS, LLC] DATED JANUARY 30, 2015, MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED UNLESS AND UNTIL REGISTERED UNDER SAID ACT AND LAWS OR, IN THE OPINION OF LEGAL COUNSEL, IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER, SUCH OFFER, SALE, PLEDGE OR OTHER TRANSFER IS EXEMPT FROM SUCH REGISTRATION.

5.3 Compliance with Securities Laws on Transfer. This Warrant and the Shares issuable upon exercise of this Warrant (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) may not be transferred or assigned in whole or in part except in compliance with applicable federal and state securities laws by the transferor and the transferee (including, without limitation, the delivery of investment representation letters and legal opinions reasonably satisfactory to the Company, as reasonably requested by the Company). Additionally, the Company shall also not require an opinion of counsel if there is no material question as to the availability of Rule 144 promulgated under the Act.

5.4 Transfer Procedure. Subject to the provisions of Section 5.3 and upon providing the Company with written notice, [Silicon Valley Bank / LIFE SCIENCES LOANS, LLC] and any subsequent Holder may transfer all or part of this Warrant or the Shares issuable upon exercise of this Warrant (or the securities issuable directly or indirectly, upon conversion of the Shares, if any) to any transferee, provided, however, in connection with any such transfer,[Silicon Valley Bank / LIFE SCIENCES LOANS, LLC] or any subsequent Holder will give the Company notice of the portion of the Warrant being transferred with the name, address and taxpayer identification number of the transferee and

Holder will surrender this Warrant to the Company for reissuance to the transferee(s) (and Holder if applicable); and provided further, that any subsequent transferee other than SVB Financial Group shall agree in writing with the Company to be bound by all of the terms and conditions of this Warrant. Notwithstanding any contrary provision herein, at all times prior to the IPO, Holder may not, without the Company's prior written consent, transfer this Warrant or any portion hereof, or any Shares issued upon any exercise hereof, or any shares or other securities issued upon any conversion of any Shares issued upon any exercise hereof, to any person or entity who directly competes with the Company, except in connection with an Acquisition of the Company by such a direct competitor.

5.5 Notices. All notices and other communications hereunder from the Company to the Holder, or vice versa, shall be deemed delivered and effective (i) when given personally, (ii) on the third (3rd) Business Day after being mailed by first-class registered or certified mail, postage prepaid, (iii)upon actual receipt if given by facsimile or electronic mail and such receipt is confirmed in writing by the recipient, or (iv) on the first Business Day following delivery to a reliable overnight courier service, courier fee prepaid, in any case at such address as may have been furnished to the Company or Holder, as the case may be, in writing by the Company or such Holder from time to time in accordance with the provisions of this Section 5.5. All notices to Holder shall be addressed as follows until the Company receives notice of a change of address in connection with a transfer or otherwise:

[ ]
Attn: [ ]
Telephone: ([ ]) [-]
Email address: [@ .]

Notice to the Company shall be addressed as follows until Holder receives notice of a change in address:

ACUTUS MEDICAL, INC.
Attn: [ ]
10840 Thornmint Road, Suite 100
San Diego, CA 92127
Telephone: ([ ]) [-]
Facsimile: ([ ]) [-]
Email: [@ .]

With a copy (which shall not constitute notice) to:

Wilson Sonsini Goodrich & Rosati
Attn: [ ]
650 Page Mill Road
Palo Alto, CA 94304
Telephone: ([ ]) [-]
Facsimile: ([ ]) -]
Email: [@ .]

5.6 Waiver. This Warrant and any term hereof may be changed, waived, discharge d or terminated (either generally or in a particular instance and either retroactively or prospectively) only by

an instrument in writing signed by the party against which enforcement of such change, waiver, discharge or termination is sought.

5.7 Attorney's Fees. In the event of any dispute between the parties concerning the terms and provisions of this Warrant, the party prevailing in such dispute shall be entitled to collect from the other party all costs incurred in such dispute, including reasonable attorneys' fees.

5.8 Counterparts; Facsimile /Electronic Signatures. This Warrant may be executed in counterparts, all of which together shall constitute one and the same agreement. Any signature page delivered electronically or by facsimile shall be binding to the same extent as an original signature page with regards to any agreement subject to the terms hereof or any amendment thereto.

5.9 Governing Law. This Warrant shall be governed by and construed in accordance with the laws of the State of California, without giving effect to its principles regarding conflicts of law.

5.10 Headings. The headings in this Warrant are for purposes of reference only and shall not limit or otherwise affect the meaning of any provision of this Warrant.

5.11 Business Days. "**Business Day**" is any day that is not a Saturday, Sunday or a day on which Silicon Valley Bank is closed.

[Remainder of page left blank intentionally]
[Signature page follows]

IN WITNESS WHEREOF, the parties have causes this Warrant to Purchase Common Stock to be executed by their duly authorized representatices effective as of the Issue Date written above.

"COMPANY"

ACUTUS MEDICAL, INC.

By: _____
Name: _____
Title:

"HOLDER"

[Silicon Valley Bank / LIFE SCIENCE LOANS, LLC]

By:

By: _____
Name:
Title:

SCHEDULE I

In accordance with Instruction 2 to Item 601 of Regulation S-K, below is a schedule setting forth details in which the omitted executed warrants differ from the form of warrant that follows:

Holders	Number of Shares
OrbiMed Private Investments IV, LP	**586,741**
Revelation Alpine, LLC	**263,725**
Philips Holding USA Inc.	**1,210,290**
Deerfield Private Design Fund III, L.P.	**1,574,183**
AMXeraya, Ltd	**1,246,004**

THIS WARRANT AND THE UNDERLYING SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE ***"ACT"),*** OR UNDER THE SECURITIES LAWS OF ANY STATE. THESE SECURITIES MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, PLEDGED OR HYPOTHECATED EXCEPT AS PERMITTED UNDER THE ACT AND APPLICABLE STATE SECURITIES LAWS IN ACCORDANCE WITH APPLICABLE REGISTRATION REQUIREMENTS OR AN EXEMPTION THEREFROM. THE ISSUER OF THESE SECURITIES MAY REQUIRE AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE ISSUER THAT SUCH OFFER, SALE, TRANSFER, PLEDGE OR HYPOTHECATION OTHERWISE COMPLIES WITH THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS. THIS WARRANT MUST BE SURRENDERED TO THE COMPANY OR ITS TRANSFER AGENT AS A CONDITION PRECEDENT TO THE SALE, TRANSFER, PLEDGE OR HYPOTHECATION OF ANY INTEREST IN ANY OF THE SECURITIES REPRESENTED HEREBY.

WARRANT TO PURCHASE SHARES OF
COMMON STOCK
of
ACUTUS MEDICAL, INC.
Dated as of June 7, 2018
Void after the date specified in Section 7

Warrant Coverage Amount: $[ ]

Warrant to Purchase Shares of Common Stock (subject to adjustment)

THIS CERTIFIES THAT, for value received, [the ***"Holder"*****],** is entitled, subject to the provisions and upon the terms and conditions set forth herein, to purchase from Acutus Medical, Inc., a Delaware corporation (the ***"Company"),*** shares of the Company's Common Stock, $0.001 par value per share (the ***"Shares"),*** in the amounts, at such times and at the price per share set forth in Section 1. The term ***"Warrant"*** as used herein shall include this Warrant and any warrants delivered in substitution or exchange therefor as provided herein , and is issued in connection with the issuance of convertible promissory notes (the ***"Notes")*** pursuant to the Note and Warrant Purchase Agreement dated June 7, 2018 (the ***"Purchase Agreement").*** The holder of this Warrant is subject to certain restrictions set forth herein.

The following is a statement of the rights of the Holder and the conditions to which this Warrant is subject, and to which Holder, by acceptance of this Warrant, agrees:

1. **Number and Price of Shares; Exercise Period.**

(a) ***Number of Shares.*** Subject to any previous exercise of the Warrant, the Holder shall have the right to purchase up to that number of Shares equal to (x) seventy-five percent (75%) of the Holder's

Warrant Coverage Amount (as defined in the Purchase Agreement and which is set forth above), divided by (y) the lower of (i) the lowest per share purchase price paid by cash purchasers of the securities issued in the Next Equity Financing (as defined in the Notes) or (ii) $1.714, as may be adjusted pursuant hereto, prior to (or in connection with) the expiration of this Warrant as provided in Section 7.

(b) ***Exercise Price.*** The exercise price per Share shall be equal to $0.01, subject to adjustment pursuant hereto (the ***"Exercise Price").***

(c) ***Exercise Period.*** This Warrant shall be exercisable, in whole or in part, from and after the date hereof and prior to (or in connection with) the expiration of this Warrant as set forth in Section 7 (the ***"Expiration Date");*** provided that, if the fair market value of a share of Common Stock (as determined in accordance with Section 2(b) below) exceeds the Exercise Price on the Expiration Date, then this Warrant shall be deemed to have been exercised in full (to the extent not previously exercised) on a "cashless exercise" basis in accordance with Section 2(b) below at 5:00 P.M. Pacific time on the Expiration Date.

2. **Exercise of the Warrant.**

(a) ***Exercise.*** The purchase rights represented by this Warrant may be exercised at the election of the Holder, in whole or in part, in accordance with Section 1, by:

(i) the tender to the Company at its principal office (or such other office or agency as the Company may designate) of a notice of exercise in the form of Exhibit A (the ***"Notice of Exercise"),*** duly completed and executed by or on behalf of the Holder, together with the surrender of this Warrant; and

(ii) the payment to the Company of an amount equal to (x) the Exercise Price multiplied by (y) the number of Shares being purchased, by (a) wire transfer or certified cashier's or other check acceptable to the Company and payable to the order of the Company; (b) surrender and cancellation of promissory notes or other instruments representing indebtedness of the Company to the Holder; or (c) a combination of (a) and (b).

(b) ***Net Issue Exercise.*** In lieu of exercising this Warrant pursuant to Section 2(a)(ii), if the fair market value of one Share is greater than the Exercise Price (at the date of calculation as set forth below), the Holder may elect to receive a number of Shares equal to the value of this Warrant (or of any portion of this Warrant being canceled) by surrender of this Warrant at the principal office of the Company (or such other office or agency as the Company may designate) together with a properly completed and executed Notice of Exercise reflecting such election, in which event the Company shall issue to the Holder that number of Shares computed using the following formula:

$$X = \frac{Y\,(A\ 1/N\ B)}{A}$$

Where:

X	=	The number of Shares to be issued to the Holder
Y	=	The number of Shares purchasable under this Warrant or, if only a portion of the Warrant is being exercised, the portion of the Warrant being canceled (at the date of such calculation)
A	=	The fair market value of one Share (at the date of such calculation)
B	=	The Exercise Price (as adjusted to the date of such calculation)

For purposes of the calculation above, the fair market value of one Share shall be determined by the Board of Directors of the Company, acting in good faith; *provided, however,* that:

(i) where a public market exists for the Company's common stock at the time of such exercise, the fair market value per Share shall be the average of the closing bid prices of the common stock or the closing price quoted on the national securities exchange on which the common stock is listed as published in the *Wall Street Journal*, as applicable, for the ten (10) trading day period ending five (5) trading days prior to the date of determination of fair market value; and

(ii) if the Warrant is exercised in connection with the Company's initial public offering of common stock, the fair market value per Share shall be the per share offering price to the public of the Company's initial public offering.

(c) ***Stock Certificates.*** The rights under this Warrant shall be deemed to have been exercised and the Shares issuable upon such exercise shall be deemed to have been issued immediately prior to the close of business on the date this Warrant is exercised in accordance with its terms, and the person entitled to receive the Shares issuable upon such exercise shall be treated for all purposes as the holder of record of such Shares as of the close of business on such date. As promptly as reasonably practicable on or after such date, the Company shall issue and deliver to the person or persons entitled to receive the same a certificate or certificates for that number of shares issuable upon such exercise. In the event that the rights under this Warrant are exercised in part and have not expired, the Company shall execute and deliver a new Warrant reflecting the number of Shares that remain subject to this Warrant.

(d) ***No Fractional Shares or Scrip.*** No fractional shares or scrip representing fractional shares shall be issued upon the exercise of the rights under this Warrant. In lieu of such fractional share to which the Holder would otherwise be entitled, the Company shall make a cash payment equal to the Exercise Price multiplied by such fraction.

(e) ***Conditional Exercise.*** The Holder may exercise this Warrant conditioned upon (and effective immediately prior to) consummation of any transaction that would cause the expiration of this Warrant pursuant to Section 7 by so indicating in the notice of exercise.

(f) ***Reservation of Stock.*** The Company agrees during the term the rights under this Warrant are exercisable to take all reasonable action to reserve and keep available from its authorized and unissued shares of common stock for the purpose of effecting the exercise of this Warrant such number of shares as shall from time to time be sufficient to effect the exercise of the rights under this Warrant; and if at any time the number of authorized but unissued shares of common stock shall not be sufficient for purposes of the exercise of this Warrant in accordance with its terms, without limitation of such other remedies as may be available to the Holder, the Company will use all reasonable efforts to take such corporate action as may, in the opinion of counsel, be necessary to increase its authorized and unissued shares of its common stock to a number of shares as shall be sufficient for such purposes.

3. **Replacement of the Warrant.** Subject to the receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and, in the case of loss, theft or destruction, on delivery of an indemnity agreement reasonably satisfactory in form and substance to the Company or, in the case of mutilation, on surrender and cancellation of this Warrant, the Company at the expense of the Holder shall execute and deliver, in lieu of this Warrant, a new warrant of like tenor and amount.

4. **Transfer of the Warrant.**

(a) ***Warrant Register.*** The Company shall maintain a register (the ***"Warrant Register"***) containing the name and address of the Holder or Holders. Until this Warrant is transferred on the Warrant Register in accordance herewith, the Company may treat the Holder as shown on the Warrant Register as the absolute owner of this Warrant for all purposes, notwithstanding any notice to the contrary. Any Holder of this Warrant (or of any portion of this Warrant) may change its address as shown on the Warrant Register by written notice to the Company requesting a change.

(b) ***Warrant Agent.*** The Company may appoint an agent for the purpose of maintaining the Warrant Register referred to in Section 4(a), issuing the Shares or other securities then issuable upon the exercise of the rights under this Warrant; exchanging this Warrant; replacing this Warrant or conducting related activities.

(c) ***Transferability of the Warrant.*** Subject to the provisions of this Warrant with respect to compliance with the Securities Act of 1933, as amended (the ***"Securities Act"***) and limitations on assignments and transfers, including without limitation compliance with the restrictions on transfer set forth in Section 5, title to this Warrant may be transferred by endorsement (by the transferor and the transferee executing the assignment form attached as Exhibit B (the ***"Assignment Form"***) and delivery in the same manner as a negotiable instrument transferable by endorsement and delivery.

(d) ***Exchange of the Warrant upon a Transfer.*** On surrender of this Warrant (and a properly endorsed Assignment Form) for exchange, subject to the provisions of this Warrant with respect to compliance with the Securities Act and limitations on assignments and transfers, the Company shall issue to or on the order of the Holder a new warrant or warrants of like tenor, in the name of the Holder or as the Holder (on payment by the Holder of any applicable transfer taxes) may direct, for the number of shares issuable upon exercise hereof, and the Company shall register any such transfer upon the Warrant Register. This Warrant (and the securities issuable upon exercise of the rights under this Warrant) must be surrendered to the Company or its warrant or transfer agent, as applicable, as a condition precedent to the sale, pledge, hypothecation or other transfer of any interest in any of the securities represented hereby.

(e) ***Minimum Transfer.*** This Warrant may not be transferred in part unless such transfer is to a transferee who, pursuant to such transfer, receives the right to purchase at least 50,000 Shares hereunder (as adjusted from time to time in accordance with Section 5(h)).

(f) ***Taxes.*** In no event shall the Company be required to pay any tax which may be payable in respect of any transfer involved in the issue and delivery of any certificate in a name other than that of the Holder, and the Company shall not be required to issue or deliver any such certificate unless and until the person or persons requesting the issue thereof shall have paid to the Company the amount of such tax or shall have established to the satisfaction of the Company that such tax has been paid or is not payable.

5. **Restrictions on Transfer of the Warrant and Shares; Compliance with Securities Laws.**

By acceptance of this Warrant, the Holder agrees to comply with the following:

(a) ***Restrictions on Transfers.*** Subject to Section 5(b), this Warrant may not be transferred or assigned in whole or in part without the Company's prior written consent (which shall not be unreasonably withheld), and any attempt by Holder to transfer or assign any rights, duties or obligations that arise under this Warrant without such permission shall be void. Any transfer of this Warrant or the Shares (the ***"Securities")*** must be in compliance with all applicable federal and state securities laws. The Holder agrees not to make any sale, assignment, transfer, pledge or other disposition of all or any portion of the Securities, or any beneficial interest therein, unless and until the transferee thereof has agreed in writing for the benefit of the Company to take and hold such Securities subject to, and to be bound by, the terms and conditions set forth in this Warrant to the same extent as if the transferee were the original Holder hereunder, and

(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) such Holder shall have given prior written notice to the Company of such Holder's intention to make such disposition and shall have furnished the Company with a detailed description of the manner and circumstances of the proposed disposition, (B) the transferee shall have confirmed to the satisfaction of the Company in writing, substantially in the form of Exhibit A-1, that the Securities are being acquired (i) solely for the transferee's own account and not as a nominee for any other party, (ii) for investment and (iii) not with a view toward distribution or resale, and shall have confirmed such other matters related thereto as may be reasonably requested by the Company, and (C) to the extent requested by the Company, such Holder shall have furnished the

Company, at the Holder's expense, with (i) an opinion of counsel, reasonably satisfactory to the Company, to the effect that such disposition will not require registration of such Securities under the Securities Act or (ii) a "no action" letter from the Securities and Exchange Commission to the effect that the transfer of such Securities without registration will not result in a recommendation by the staff of the Securities and Exchange Commission that action be taken with respect thereto, whereupon such Holder shall be entitled to transfer such Securities in accordance with the terms of the notice delivered by the Holder to the Company.

(b) ***Permitted Transfers.*** Permitted transfers with respect to Section 5(a) include (and, for the avoidance of doubt, the Company's prior written consent and an opinion of counsel is not required for such permitted transfers) (i) a transfer not involving a change in beneficial ownership, or (ii) transactions involving the distribution without consideration of Securities by any Holder to (x) a parent, subsidiary or other affiliate of a Holder that is a corporation, (y) any of the Holder's partners, members or other equity owners, or retired partners or members, or to the estate of any of its partners, members or other equity owners or retired partners or members, or (z) a venture capital fund that is controlled by or under common control with one or more general partners or managing members of, or shares the same management company with, the Holder; *provided,* in each case, that the Holder shall give written notice to the Company of the Holder's intention to effect such disposition and shall have furnished the Company with a detailed description of the manner and circumstances of the proposed disposition.

(c) ***Investment Representation Statement.*** Unless the rights under this Warrant are exercised pursuant to an effective registration statement under the Securities Act that includes the Shares with respect to which the Warrant was exercised, it shall be a condition to any exercise of the rights under this Warrant that the Holder shall have confirmed to the satisfaction of the Company in writing, substantially in the form of Exhibit A-1, that the Shares so purchased are being acquired solely for the Holder's own account and not as a nominee for any other party, for investment and not with a view toward distribution or resale and that the Holder shall have confirmed such other matter s related thereto as may be reasonably requested by the Company.

(d) ***Securities Law Legend.*** The Securities shall (unless otherwise permitted by the provisions of this Warrant) be stamped or imprinted with a legend substantially similar to the following (in addition to any legend required by state securities laws):

> THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR UNDER THE SECURITIES LAWS OF CERTAIN STATES. THESE SECURITIES MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, PLEDGED OR HYPOTHECATED EXCEPT AS PERMITTED UNDER THE ACT AND APPLICABLE STATE SECURITIES LAWS IN ACCORDANCE WITH APPLICABLE REGISTRATION REQUIREMENTS OR AN EXEMPTION THEREFROM. THE ISSUER OF THESE SECURITIES MAY REQUIRE AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE ISSUE R THAT SUCH OFFER, SALE OR TRANSFER, PLEDGE OR HYPOTHECATION OTHERWISE COMPLIES WITH THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS. THIS CERTIFICATE MUST BE SURRENDERED TO THE COMPANY OR ITS TRANSFER AGENT AS A CONDITION PRECEDENT TO THE SALE, TRANSFER, PLEDGE OR HYPOTHECATION OF ANY INTEREST IN ANY OF THE SECURITIES REPRESENTED HEREBY.

(e) ***Market Stand-off Legend.*** The Shares issued upon exercise hereof shall also be stamped or imprinted with a legend in substantially the following form:

> THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE, INCLUDING A LOCK-UP PERIOD TN THE EVENT OF THE COMPANY'S INITIAL PUBLIC OFFERING, AS SET FORTH IN THE WARRANT PURSUANT TO WHICH THESE SHARES WERE ISSUED, A COPY OF WHICH MAY BE OBTAINED AT THE PRINCIPAL OFFICE OF THE COMPANY.

(f) ***Instructions Regarding Transfer Restrictions.*** The Holder consents to the Company making a notation on its records and giving instructions to any transfer agent in order to implement the restrictions on transfer established in this Section 5.

(g) ***Removal of Legend.*** The legend referring to federal and state securities laws identified in Section 5(d) stamped on a certificate evidencing the Shares and the stock transfer instructions and record notations with respect to such securities shall be removed and the Company shall issue a certificate without such legend to the holder of such securities if (i) such securities are registered under the Securities Act, or (ii) such holder provides the Company with an opinion of counsel reasonably acceptable to the Company to the effect that a sale or transfer of such securities may be made without registration or qualification.

(h) ***No Transfers to Bad Actors; Notice of Bad Actor Status.*** To the extent Holder is a beneficial owner of 20% or more of the Company's outstanding voting equity securities, calculated on the basis of voting power, Holder agrees not to sell, assign, transfer, pledge or otherwise dispose of any securities of the Company, or any beneficial interest therein, to any person (other than the Company) unless and until the proposed transferee confirms to the reasonable satisfaction of the Company that neither the proposed transferee nor any of its directors, executive officers, other officers that may serve as a director or officer of any company in which it invests, general partners or managing members nor any person that would be deemed a beneficial owner of those securities (in accordance with Rule 506(d) of the Securities Act) is subject to any of the "bad actor" disqualifications described in Rule 506(d)(l)(i) through (viii) under the Securities Act, except as set forth in Rule 506(d)(2) or (d)(3) under the Securities Act and disclosed, reasonably in advance of the transfer, in writing in reasonable detail to the Company. To the extent Investor is a beneficial owner of 20% or more of the Company's outstanding voting equity securities, calculated on the basis of voting power, Holder will promptly notify the Company in writing if the Holder or, to the Holder's knowledge, any person specified in Rule 506(d)(1) under the Securities Act becomes subject to any of the "bad actor" disqualifications described in Rule 506(d)(l)(i) through (viii) under the Securities Act.

6. **Adjustments.** Subject to the expiration of this Warrant pursuant to Section 7, the number and kind of shares purchasable hereunder and the Exercise Price therefor are subject to adjustment from time to time, as follows:

(a) ***Merger or Reorganization.*** If at any time there shall be any reorganization, recapitalization, merger or consolidation (a ***"Reorganization")*** involving the Company (other than as otherwise provided for herein or as would cause the expiration of this Warrant under Section 7) in which shares of the Company's stock are converted into or exchanged for securities, cash or other property, then, as a part of such Reorganization, lawful provision shall be made so that the Holder shall thereafter be entitled to receive upon exercise of this Warrant, the kind and amount of securities, cash or other property of the successor corporation resulting from such Reorganization, equivalent in value to that which a holder of the Shares deliverable upon exercise of this Warrant would have been entitled in such Reorganization if the right to purchase the Shares hereunder had been exercised immediately prior to such Reorganization. In any such case, appropriate adjustment (as determined in good faith by the Board of Directors of the successor corporation) shall be made in the application of the provisions of this Warrant with respect to the rights and interests of the Holder after such Reorganization to the end that the provisions of this Warrant shall be applicable after the event, as near as reasonably may be, in relation to any shares or other securities deliverable after that event upon the exercise of this Warrant.

(b) ***Reclassification of Shares.*** If the securities issuable upon exercise of this Warrant are changed into the same or a different number of securities of any other class or classes by reclassification, capital reorganization or otherwise (other than as otherwise provided for herein) (a ***"Reclassification"***), then, in any such event, in lieu of the number of Shares which the Holder would otherwise have been entitled to receive, the Holder shall have the right thereafter to exercise this Warrant for a number of shares of such other class or classes of stock that a holder of the number of securities deliverable upon exercise of this Warrant immediately before that change would have been entitled to receive in such Reclassification, all subject to further adjustment as provided herein with respect to such other shares.

(c) ***Subdivisions and Combinations.*** In the event that the outstanding shares of common stock are subdivided (by stock split , by payment of a stock dividend or otherwise) into a greater number of shares of such securities, the number of Shares issuable upon exercise of the rights under this Warrant immediately prior to such subdivision shall, concurrently with the effectiveness of such subdivision, be proportionately increased, and the Exercise Price shall be proportionately decreased , and in the event that the outstanding shares of common stock are combined (by reclassification or otherwise) into a lesser number of shares of such securities, the number of Shares issuable upon exercise of the rights under this Warrant immediately prior to such combination shall, concurrently

with the effectiveness of such combination, be proportionately decreased, and the Exercise Price shall be proportionately increased.

(d) ***Notice of Adjustments.*** Upon any adjustment in accordance with this Section 6, the Company shall give notice thereof to the Holder, which notice shall state the event giving rise to the adjustment, the Exercise Price as adjusted and the number of securities or other property purchasable upon the exercise of the rights under this Warrant, setting forth in reasonable detail the method of calculation of each. The Company shall, upon the written request of any Holder, furnish or cause to be furnished to such Holder a certificate setting forth (i) such adjustments, (ii) the Exercise Price at the time in effect and (iii) the number of securities and the amount, if any, of other property that at the time would be received upon exercise of this Warrant.

7. **Expiration of the Warrant.** This Warrant shall expire and shall no longer be exercisable as of the earlier of:

(a) 5:00 p.m., Pacific time, on the ten year anniversary of the issuance date of this Warrant, or, if such day is a not a Business Day, on the next Business Day; or

(b) (i) the acquisition of the Company by another entity by means of any transaction or series of related transactions to which the Company is a party (including, without limitation, any stock acquisition, reorganization, merger or consolidation, but excluding any sale of stock for capital raising purposes and any transaction effected primarily for purposes of changing the Company's jurisdiction of incorporation) other than a transaction or series of related transactions in which the holders of the voting securities of the Company outstanding immediately prior to such transaction or series of related transactions retain, immediately after such transaction or series of transactions, as a result of shares in the Company held by such holders prior to such transaction or series of transactions, at least a majority of the total voting power represented by the outstanding voting securities of the Company or such other surviving or resulting entity (or if the Company or such other surviving or resulting entity is a wholly-owned subsidiary immediately following such acquisition, its parent), or (ii) a sale, lease or other disposition of all or substantially all of the assets of the Company and its subsidiaries taken as a whole by means of any transaction or series of related transactions, except where such sale, lease or other disposition is to a wholly-owned subsidiary of the Company

The Company shall send to the Holder of this Warrant at least ten (10) days prior written notice of the date of any such event specified in clause (a) or (b), as applicable. The notice provisions set forth in this section may be shortened or waived prospectively or retrospectively by the consent of the Requisite Holders (as defined in the Notes).

As used herein, "Business Day" shall mean any day, except a Saturday, Sunday or legal holiday, on which bank institutions in the city of Palo Alto, CA are authorized or obligated by law or executive order to close.

8. **No Rights as a Stockholder.** Nothing contained herein shall entitle the Holder to any rights as a stockholder of the Company or to be deemed the holder of any securities that may at any time be issuable on the exercise of the rights hereunder for any purpose nor shall anything contained herein be construed to confer upon the Holder , as such, any right to vote for the election of directors or upon any matter submitted to stockholders at any meeting thereof, or to give or withhold consent to any corporate action (whether upon any recapitalization, issuance of stock, reclassification of stock, change of par value or change of stock to no par value, consolidation, merger, conveyance or otherwise) or to receive notice of meetings, or to receive dividends or subscription rights or any other rights of a stockholder of the Company until the rights under the Warrant shall have been exercised and the Shares purchasable upon exercise of the rights hereunder shall have become deliverable as provided herein.

9. **Market Stand-off.** The Holder of this Warrant hereby agrees that such Holder shall not sell or otherwise 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, of any common stock (or other securities) of the Company held by the Holder (other than those included in the registration) immediately prior to the Company's initial public offering during the one hundred eighty (180) day period following the effective date of the registration statement for the Company's initial public offering filed under the Securities Act (or such other period as may be requested by the

Company or an underwriter to accommodate regulatory restrictions on (i) the publication or other distribution of research reports and (ii) analyst recommendations and opinions, including , but not limited to, the restrictions contained in FINRA Rule 2711(f)(4) or NYSE Rule 472(f)(4), or any successor provisions or amendments thereto). The obligations described in this section shall not apply to a registration relating solely to employee benefit plans on Form S-1 or Form S-8 or similar forms that may be promulgated in the future, or a registration relating solely to a transaction on Form S-4 or similar forms that may be promulgated in the future. This Section 9 shall apply only to the Company's initial public offering , shall not apply to the sale of any shares to an underwriter pursuant to an underwriting agreement and shall only be applicable to the Holder if all officers, directors and greater than one percent (l%) stockholders of the Company enter into similar agreements. The Company may impose stop-transfer instructions and may stamp each certificate with a legend as substantially set forth in Section 5(e) with respect to the shares of common stock (or other securities) subject to the foregoing restriction until the end of such one hundred eighty (180) day (or other) period. The Holder agrees to execute a market stand-off agreement with the underwriters in the offering in customary form consistent with the provisions of this section.

10. **Representations and Warranties of the Holder.** By acceptance of this Warrant, the Holder represents and warrants to the Company as follows:

(a) ***No Registration.*** The Holder understands that the Securities have not been, and will not be, registered under the Securities Act by reason of a specific exemption from the registration provisions of the Securities Act, the availability of which depends upon, among other things, the *bona fide* nature of the investment intent and the accuracy of the Holder's representations as expressed herein or otherwise made pursuant hereto.

(b) ***Investment Intent.*** The Holder is acquiring the Securities for investment for its own account, not as a nominee or agent, and not with a view to, or for resale in connection with, any distribution thereof. The Holder has no present intention of selling, granting any participation in, or otherwise distributing the Securities, nor does it have any contract, undertaking, agreement or arrangement for the same.

(c) ***Investment Experience.*** The Holder has substantial experience in evaluating and investing in private placement transactions of securities in companies similar to the Company, and has such knowledge and experience in financial or business matters so that it is capable of evaluating the merits and risks of its investment in the Company and protecting its own interests.

(d) ***Speculative Nature of Investment.*** The Holder understands and acknowledges that the Company has a limited financial and operating history and that its investment in the Company is highly speculative and involves substantial risks. The Holder can bear the economic risk of its investment and is able, without impairing its financial condition, to hold the Securities for an indefinite period of time and to suffer a complete loss of its investment.

(e) ***Access to Data.*** The Holder has had an opportunity to ask questions of officers of the Company, which questions were answered to its satisfaction. The Holder believes that it has received all the information that it considers necessary or appropriate for deciding whether to acquire the Securities. The Holder understands that any such discussions, as well as any information issued by the Company, were intended to describe certain aspects of the Company's business and prospects, but were not necessarily a thorough or exhaustive description. The Holder acknowledges that any business plans prepared by the Company have been, and continue to be, subject to change and that any projections included in such business plans or otherwise are necessarily speculative in nature, and it can be expected that some or all of the assumptions underlying the projections will not materialize or will vary significantly from actual results. The foregoing does not, however, limit or modify the representations and warranties of the Company in Section 2 of the Purchase Agreement or the right of the Holder to rely thereon.

(f) ***Accredited Investor.*** The Holder is an "accredited investor" within the meaning of Regulation D, Rule 501(a), promulgated by the Securities and Exchange Commission and agrees to submit to the Company such further assurances of such status as may be reasonably requested by the Company. The Holder has furnished or made available any and all information requested by the Company or otherwise necessary to satisfy any applicable verification requirements as to "accredited investor" status. Any such information is true, correct, timely and complete.

(g) ***Residency.*** The residency of the Holder (or, in the case of a partnership or corporation, such entity's principal place of business) is correctly set forth on the signature page hereto.

(h) ***Restrictions on Resales.*** The Holder acknowledges that the Securities must be held indefinitely unless subsequently registered under the Securities Act or an exemption from such registration is available. The Holder is aware of the provisions of Rule 144 promulgated under the Securities Act, which permit resale of shares purchased in a private placement subject to the satisfaction of certain conditions, which may include, among other things, the avail ability of certain current public information about the Company; the resale occurring not less than a specified period after a party has purchased and paid for the security to be sold; the number of shares being sold during any three-month period not exceeding specified limitations; the sale being effected through a "broker's transaction," a transaction directly with a "market maker" or a "riskless principal transaction" (as those terms are defined in the Securities Act or the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder); and the filing of a Form 144 notice, if applicable. The Holder acknowledges and understands that the Company may not be satisfying the current public information requirement of Rule 144 at the time the Holder wishes to sell the Securities and that, in such event, the Holder may be precluded from selling the Securities under Rule 144 even if the other applicable requirements of Rule 144 have been satisfied. The Holder acknowledges that, in the event the applicable requirements of Rule 144 are not met, registration under the Securities Act or an exemption from registration will be required for any disposition of the Securities. The Holder understands that, although Rule 144 is not exclusive, the Securities and Exchange Commission has expressed its opinion that persons proposing to sell restricted securities received in a private offering other than in a registered offering or pursuant to Rule 144 will have a substantial burden of proof in establishing that an exemption from registration is available for such offers or sales and that such persons and the brokers who participate in the transactions do so at their own risk.

(i) ***No Public Market.*** The Holder understands and acknowledges that no public market now exists for any of the securities issued by the Company and that the Company has made no assurances that a public market will ever exist for the Company's securities.

(j) ***Brokers and Finders.*** The Holder has not engaged any brokers, finders or agents in connection with the Securities, and the Company has not incurred nor will incur, directly or indirectly, as a result of any action taken by the Holder, any liability for brokerage or finders 'fees or agents' commissions or any similar charges in connection with the Securities.

(k) ***Legal Counsel.*** The Holder has had the opportunity to review this Warrant, the exhibits and schedules attached hereto and the transactions contemplated by this Warrant with its own legal counsel. The Holder is not relying on any statements or representations of the Company or its agents for legal advice with respect to this investment or the transactions contemplated by this Warrant.

(l) ***Tax Advisors.*** The Holder has reviewed with its own tax advisors the U.S. federal, state and local and non-U.S. tax consequences of this investment and the transactions contemplated by this Warrant. With respect to such matters, the Holder relies solely on any such advisors and not on any statements or representations of the Company or any of its agents, written or oral. The Holder understands that it (and not the Company) shall be responsible for its own tax liability that may arise as a result of this investment and the transactions contemplated by this Warrant.

(m) ***No "Bad Actor" Disqualification.*** To the extent Holder is a beneficial owner of 20% or more of the Company's outstanding voting equity securities, calculated on the basis of voting power, neither (i) the Holder, (ii) any of its directors, executive officers, other officers that may serve as a director or officer of any company in which it invests, general partners or managing members , nor (iii) any beneficial owner of any of the Company's voting equity securities (in accordance with Rule 506(d) of the Securities Act) held by the Holder is subject to any of the " bad actor" disqualifications described in Rule 506(d)(I)(i) through (viii) under the Securities Act, except as set forth in Rule 506(d)(2) or (d)(3) under the Securities Act and disclosed, reasonably in advance of the acceptance of this Warrant, in writing in reasonable detail to the Company.

11. **Miscellaneous.**

(a) ***Amendments.*** Except as expressly provided herein, neither this Warrant nor any term hereof may be amended, waived, discharged or terminated other than by a written instrument referencing this Warrant and signed by the Company and the Requisite Holders; provided, that, any such amendment, waiver, discharge or termination shall apply equally to all of the Warrants issued under the Purchase Agreement (unless consented to by such disparately treated Holder). Any amendment, waiver, discharge or termination of the Warrants (or any term thereof) in accordance with the immediately preceding sentence shall apply equally to any shares of Common Stock previously issued upon exercise of any of the Warrants issued under the Purchase Agreement.

(b) ***Waivers.*** No waiver of any single breach or default shall be deemed a waiver of any other breach or default theretofore or thereafter occurring.

(c) ***Notices.*** All notices and other communications required or permitted hereunder shall be in writing and shall be mailed by registered or certified mail, postage prepaid, sent by facsimile or electronic mail (if to the Holder) or otherwise delivered by hand, messenger or courier service addressed:

(i) if to the Holder, to the Holder at the Holder's address, facsimile number or electronic mail address as shown in the Company's records, as may be updated in accordance with the provisions hereof, or until any such Holder so furnishes an address, facsimile number or electronic mail address to the Company, then to and at the address, facsimile number or electronic mail address of the last holder of this Warrant for which the Company has contact information in its records; or

(ii) if to the Company, to the attention of the President or Chief Financial Officer of the Company at the Company's address as the Company shall have furnished to the Holder, with a copy (which shall not constitute notice) to [ ], Wilson Sonsini Goodrich & Rosati, P.C., 650 Page Mill Road, Palo Alto, CA 94304.

Each such notice or other communication shall for all purposes of this Warrant be treated as effective or having been given (i) if delivered by hand, messenger or courier service, when delivered (or if sent via a nationally-recognized overnight courier service, freight prepaid, specifying next-business-day deli very, one business day after deposit with the courier), or (ii) if sent via mail, at the earlier of its receipt or five days after the same has been deposited in a regularly-maintained receptacle for the deposit of the United States mail, addressed and mailed as aforesaid, or (iii) if sent via facsimile, upon confirmation of facsimile transfer or, if sent via electronic mail, upon confirmation of delivery when directed to the relevant electronic mail address, if sent during normal business hours of the recipient, or if not sent during normal business hours of the recipient, then on the recipient's next business day. In the event of any conflict between the Company's books and records and this Warrant or any notice delivered hereunder, the Company's books and records will control absent fraud or error.

(d) ***Governing Law.*** This Warrant and all actions arising out of or in connection with this Warrant shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to the conflicts of law provisions of the State of Delaware, or of any other state.

(e) ***Jurisdiction and Venue.*** Each of the Holder and the Company irrevocably consents to the exclusive jurisdiction and venue of any court within Delaware, in connection with any matter based upon or arising out of this Warrant or the matters contemplated herein, and agrees that process may be served upon them in any manner authorized by the laws of the State of Delaware for such persons.

(f) ***Titles and Subtitles.*** The titles and subtitles used in this Warrant are used for convenience only and are not to be considered in construing or interpreting this Warrant. All references in this Warrant to sections, paragraphs and exhibits shall, unless otherwise provided, refer to sections and paragraphs hereof and exhibits attached hereto.

(g) ***Severability.*** If any provision of this Warrant becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, portions of such provision, or such provision in its

entirety, to the extent necessary, shall be severed from this Warrant, and such illegal, unenforceable or void provision shall be replaced with a valid and enforceable provision that will achieve, to the extent possible, the same economic, business and other purposes of the illegal, unenforceable or void provision. The balance of this Warrant shall be enforceable in accordance with its terms.

(h) ***Waiver of Jury Trial.*** **EACH OF THE HOLDER AND THE COMPANY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN** ANY **LEGAL PROCEEDING (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATED TO THIS WARRANT.**

(i) ***California Corporate Securities Law.*** THE SALE OF THE SECURITIES THAT ARE THE SUBJECT OF THIS WARRANT HAS NOT BEEN QUALIFIED WITH THE COMMISSIONER OF CORPORATIONS OF THE STATE OF CALIFORNIA AND THE ISSUANCE OF SUCH SECURITIES OR THE PAYMENT OR RECEIPT OF ANY PART OF THE CONSIDERATION THEREFOR PRIOR TO SUCH QUALIFICATION IS UNLAWFUL, UNLESS THE SALE OF SECURITIES IS EXEMPT FROM QUALIFICATION BY SECTION 25100, 25102, OR 25105 OF THE CALIFORNIA CORPORATIONS CODE. THE RIGHTS OF ALL PARTIES TO THIS WARRANT ARE EXPRESSLY CONDITIONED UPON THE QUALIFICATION BEING OBTAINED, UNLESS THE SALE IS SO EXEMPT.

(j) ***Rights and Obligations Survive Exercise of the Warrant.*** Except as otherwise provided herein, the rights and obligations of the Company and the Holder under this Warrant shall survive exercise of this Warrant.

(k) ***Entire Agreement.*** Except as expressly set forth herein, this Warrant (including the exhibits attached hereto) constitutes the entire agreement and understanding of the Company and the Holder with respect to the subject matter hereof and supersede all prior agreements and understandings relating to the subject matter hereof.

(signature page follows)

The Company signs this Warrant as of the date stated on the first page.

ACTUS MEDICAL, INC.

By: _____

Name: _____

Title: _____

(Signature Page to Warrant to Purchase Shares Common Stock of Acutus Medical, Inc.)

EXHIBIT A

In accordance with Instruction 2 to Item 601 of Regulation S-K, below is a schedule setting forth details in which the omitted executed warrants differ from the form of warrant that follows:

	Number of Shares
	157,526
	105,017

THIS WARRANT AND THE SHARES ISSUABLE HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), OR THE SECURITIES LAWS OF ANY STATE AND, EXCEPT AS SET FORTH IN SECTIONS 5.3 AND 5.4 BELOW, MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED UNLESS AND UNTIL REGISTERED UNDER SAID ACT AND LAWS OR, IN THE OPINION OF LEGAL COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE COMPANY, SUCH OFFER, SALE, PLEDGE OR OTHER TRANSFER IS EXEMPT FROM SUCH REGISTRATION.

WARRANT TO PURCHASE STOCK

Company:	ACUTUS MEDICAL, INC., a Delaware corporation
Number of Shares:	[105,017 / 157,526] (Subject to Section 1.7)
Type/Series of Stock:	Series C Preferred (Subject to Section 1.7)
Warrant Price:	$1.714 per share (Subject to Section 1.7)
Issue Date:	July 31, 2018
Expiration Date:	July 31, 2028 See also Section 5.1(b).
Credit Facility:	This Warrant to Purchase Stock ("**Warrant**") is issued in connection with that certain Loan and Security Agreement of even date herewith among Oxford Finance LLC, as Lender and Collateral Agent, the Lenders from time to time party thereto, and the Company (as modified, amended and/or restated from time to time, the "**Loan Agreement**").

THIS WARRANT CERTIFIES THAT, for good and valuable consideration, OXFORD FINANCE LLC ("**Oxford**" and, together with any successor or permitted assignee or transferee of this Warrant or of any shares issued upon exercise hereof, "**Holder**") is entitled to purchase the number of fully paid and non-assessable shares (the "**Shares**") of the above-stated Type/Series of Stock (the "**Class**") of the above-named company (the "**Company**") at the above-stated Warrant Price, all as set forth above and as adjusted pursuant to Section 2 of this Warrant, subject to the provisions and upon the terms and conditions set forth in this Warrant.

SECTION 1. EXERCISE.

1.1 Method of Exercise. Holder may at any time and from time to time exercise this Warrant, in whole or in part, by delivering to the Company the original of this Warrant together with a duly executed Notice of Exercise in substantially the form attached hereto as Appendix I and, unless Holder is exercising this Warrant pursuant to a cashless exercise set forth in Section 1.2, a check, wire transfer of same-day funds (to an account designated by the Company), or other form of payment acceptable to the Company for the aggregate Warrant Price for the Shares being purchased.

1.2 Cashless Exercise. On any exercise of this Warrant, in lieu of payment of the aggregate Warrant Price in the manner as specified in Section 1.1 above, but otherwise in accordance with the requirements of Section 1.1, Holder may elect to receive Shares equal to the value of this Warrant, or portion hereof as to which this Warrant is being exercised. Thereupon, the Company shall issue to the Holder such number of fully paid and non-assessable Shares as are computed using the following formula:

X = Y(A-B)/A

where:

X = the number of Shares to be issued to the Holder;

Y = the number of Shares with respect to which this Warrant is being exercised (inclusive of the Shares surrendered to the Company in payment of the aggregate Warrant Price);

A = the Fair Market Value (as determined pursuant to Section 1.3 below) of one Share; and

B = the Warrant Price.

1.3 Fair Market Value. If the Company's common stock is then traded or quoted on a nationally recognized securities exchange, inter-dealer quotation system or over-the-counter market (a "**Trading Market**") and the Class is common stock, the fair market value of a Share shall be the closing price or last sale price of a share of common stock reported for the Business Day immediately before the date on which Holder delivers this Warrant together with its Notice of Exercise to the Company. If the Company's common stock is then traded in a Trading Market and the Class is a series of the Company's convertible preferred stock, the fair market value of a Share shall be the closing price or last sale price of a share of the Company's common stock reported for the Business Day immediately before the date on which Holder delivers this Warrant together with its Notice of Exercise to the Company multiplied by the number of shares of the Company's common stock into which a Share is then convertible. If the Company's common stock is not traded in a Trading Market, the Board of Directors of the Company shall determine the fair market value of a Share in its reasonable good faith judgment.

1.4 Delivery of Certificate and New Warrant. Within a reasonable time after Holder exercises this Warrant in the manner set forth in Section 1.1 or 1.2 above, the Company shall deliver to Holder a certificate representing the Shares issued to Holder upon such exercise and, if this Warrant has not been fully exercised and has not expired, a new warrant of like tenor representing the Shares not so acquired.

1.5 Replacement of Warrant. On receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and, in the case of loss, theft or destruction, on delivery of an indemnity agreement reasonably satisfactory in form, substance and amount to the Company or, in the case of mutilation, on surrender of this Warrant to the Company for cancellation, the Company shall, within a reasonable time, execute and deliver to Holder, in lieu of this Warrant, a new warrant of like tenor and amount.

1.6 Treatment of Warrant Upon Acquisition of Company.

(a) Acquisition. For the purpose of this Warrant, "**Acquisition**" means any transaction or series of related transactions involving: (i) the sale, lease, exclusive license, or other disposition of all or substantially all of the assets of the Company (ii) any merger or consolidation of the Company into or with another person or entity (other than a merger or consolidation effected exclusively to change the Company's domicile), or any other corporate reorganization, in which the stockholders of the Company in their capacity as such immediately prior to such merger, consolidation or reorganization, own les s than a majority of the Company's (or the surviving or successor entity's) outstanding voting power immediately after such merger, consolidation or reorganization (or, if such Company stockholders beneficially own a majority of the outstanding voting power of the surviving or successor entity as of immediately after such merger, consolidation or reorganization, such surviving or successor entity is not the Company); or (iii) any sale or other transfer by the stockholders of the Company of shares representing at least a majority of the Company's then-total outstanding combined voting power.

(b) Treatment of Warrant at Acquisition. In the event of an Acquisition in which the consideration to be received by the Company's stockholders consists solely of cash, solely of Marketable Securities or a combination of cash and Marketable Securities (a "**Cash/Public Acquisition**"), either (i) Holder shall exercise

this Warrant pursuant to Section 1.1 and/or 1.2 and such exercise will be deemed effective immediately prior to and contingent upon the consummation of such Acquisition or (ii) if Holder elects not to exercise the Warrant, this Warrant will expire immediately prior to the consummation of such Acquisition.

(c) The Company shall provide Holder with written notice of its request relating to the Cash/Public Acquisition (together with such reasonable information as Holder may reasonably require regarding the treatment of this Warrant in connection with such contemplated Cash/Public Acquisition giving rise to such notice), which is to be delivered to Holder not less than seven (7) Business Days prior to the closing of the proposed Cash/Public Acquisition. In the event the Company does not provide such notice, then if, immediately prior to the Cash/Public Acquisition, the fair market value of one Share (or other security issuable upon the exercise hereof) as determined in accordance with Section 1.3 above would be greater than the Warrant Price in effect on such date, then this Warrant shall automatically be deemed on and as of such date to be exercised pursuant to Section 1.2 above as to all Shares (or such other securities) for which it shall not previously have been exercised, and the Company shall promptly notify the Holder of the number of Shares (or such other securities) issued upon such exercise to the Holder and Holder shall be deemed to have restated each of the representations and warranties in Section 4 of the Warrant as the date thereof.

(d) Upon the closing of any Acquisition other than a Cash/Public Acquisition defined above, the acquiring, surviving or successor entity shall assume the obligations of this Warrant, and this Warrant shall thereafter be exercisable for the same securities and/or other property as would have been paid for the Shares issuable upon exercise of the unexercised portion of this Warrant as if such Shares were outstanding on and as of the closing of such Acquisition, subject to further adjustment from time to time in accordance with the provisions of this Warrant.

(e) As used in this Warrant, "**Marketable Securities**" means securities meeting all of the following requirements: (i) the issuer thereof is then subject to the reporting requirements of Section 13 or Section 15(d) of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), and is then current in its filing of all required reports and other information under the Act and the Exchange Act; (ii) the class and series of shares or other security of the issuer that would be received by Holder in connection with the Acquisition were Holder to exercise this Warrant on or prior to the closing thereof is then traded in Trading Market, and (iii) following the closing of such Acquisition, Holder would not be restricted from publicly re-selling all of the issuer's shares and/or other securities that would be received by Holder in such Acquisition were Holder to exercise or convert this Warrant in full on or prior to the closing of such Acquisition, except to the extent that any such restriction (x) arises solely under federal or state securities laws, rules or regulations, and (y) does not extend beyond six (6) months from the closing of such Acquisition.

1.7 Adjustment to Class of Shares; Number of Shares; Warrant Price; Adjustments Cumulative. Upon the closing of the Next Equity Financing, the "Class" shall be Next Equity Financing Securities from and after such closing, subject to adjustment thereafter from time to time in accordance with the provisions of this Warrant and the "Warrant Price" shall be the lower of the Warrant Price then in effect and the Next Equity Financing Price from and after such closing, subject to adjustment thereafter from time to time in accordance with the provisions of this Warrant; provided, that upon such date, if any, if the Warrant Price is changed to the Next Equity Financing pursuant to this sentence, this Warrant shall be exercisable for such number of shares of such Class as shall equal (i) One Hundred Eighty Thousand Dollars ($180,000.00), divided by (ii) the Next Equity Financing Price, subject to adjustment thereafter from time to time in accordance with the provisions of this Warrant. As used herein (i) "Next Equity Financing" means the first sale or issuance by the Company on or after the Issue Date of this Warrant set forth above, in a single transaction or series of related transactions, of shares of its convertible preferred stock or other senior equity securities to one or more investors for cash for financing purposes; (ii) "Next Equity Financing Securities" means the type, class and series of convertible preferred stock or other senior equity security sold or issued by the Company in the Next Equity Financing; and (iii) "Next Equity Financing Price" means the lowest price per share for which Next Equity Financing Securities are sold or issued by the Company in the Next Equity Financing.

SECTION 2. ADJUSTMENTS TO THE SHARES AND WARRANT PRICE.

2.1 Stock Dividends, Splits, Etc. If the Company declares or pays a dividend or distribution on the outstanding shares of the Class payable in common stock or other securities or property (other than cash), then upon exercise of this Warrant, for each Share acquired, Holder shall receive, without additional cost to Holder, the total number and kind of securities and property which Holder would have received bad Holder owned the Shares of record as of the date the dividend or distribution occurred. If the Company subdivides the outstanding shares of the Class by reclassification or otherwise into a greater number of shares, the number of Shares purchasable hereunder shall be proportionately increased and the Warrant Price shall be proportionately decreased. If the outstanding shares of the Class are combined or consolidated, by reclassification or otherwise, into a lesser number of shares, the Warrant Price shall be proportionately increased and the number of Shares shall be proportionately decreased.

2.2 Reclassification, Exchange, Combinations or Substitution. Upon any event whereby all of the outstanding shares of the Class are reclassified, exchanged, combined, substituted, or replaced for, into, with or by Company securities of a different class and/or series, then from and after the consummation of such event, this Warrant will be exercisable for the number, class and series of Company securities that Holder would have received had the Shares been outstanding on and as of the consummation of such event, and subject to further adjustment thereafter from time to time in accordance with the provisions of this Warrant. The provisions of this Section 2.2 shall similarly apply to successive reclassifications, exchanges, combinations substitutions, replacements or other similar events.

2.3 Conversion of Preferred Stock. If the Class is a class and series of the Company's convertible preferred stock, in the event that all outstanding shares of the Class are converted, automatically or by action of the holders thereof, into common stock pursuant to the provisions of the Company's Certificate of Incorporation, including, without limitation, in connection with the Company's initial, underwritten public offering and sale of its common stock pursuant to an effective registration statement under the Act (the "**IPO**"), then from and after the date on which all outstanding shares of the Class have been so converted, this Warrant shall be exercisable for such number of shares of common stock into which the Shares would have been converted had the Shares been outstanding on the date of such convers ion, and the Warrant Price shall equal the Warrant Price in effect as of immediately prior to such conversion divided by the number of shares of common stock into which one Share would have been converted, all subject to further adjustment thereafter from time to time in accordance with the provisions of this Warrant.

2.4 Adjustments for Diluting Issuances. Without duplication of any adjustment otherwise provided for in this Section 2, the number of shares of common stock issuable upon conversion of the Shares shall be subject to anti-dilution adjustment from time to time in the manner set forth in the Company's Articles or Certificate of Incorporation as if the Shares were issued and outstanding on and as of the date of any such required adjustment.

2.5 No Fractional Share. No fractional Share shall be issuable upon exercise of this Warrant and the number of Shares to be issued shall be rounded down to the nearest whole Share. If a fractional Share interest arises upon any exercise of the Warrant, the Company shall eliminate such fractional Share interest by paying Holder in cash the amount computed by multiplying the fractional interest by (i) the fair market value (as determined in accordance with Section 1.3 above) of a full Share, less (ii) the then-effective Warrant Price.

2.6 Notice/Certificate as to Adjustments. Upon each adjustment of the Warrant Price, Class and/or number of Shares, the Company, at the Company's expense, shall notify Holder in writing within a reasonable time setting forth the adjustments to the Warrant Price, Class and/or number of Shares and facts upon which such adjustment is based. The Company shall, upon written request from Holder, furnish Holder with a certificate of its Chief Financial Officer, including computations of such adjustment and the Warrant Price, Class and number of Shares in effect upon the date of such adjustment.

SECTION 3. REPRESENTATIONS AND COVENANTS OF THE COMPANY.

3.1 Representations and Warranties. The Company represents and warrants to, and agrees with, the Holder as follows:

(a) The initial Warrant Price referenced on the first page of this Warrant is not greater than the price per share at which shares of the Class were last sold and issued prior to the Issue Date hereof in an arms-length transaction in which at least $500,000 of such shares were sold.

(b) All Shares which may be issued upon the exercise of this Warrant, and all securities, if any, issuable upon conversion of the Shares, shall, upon issuance, be duly authorized, validly issued, fully paid and non-assessable, and free of any liens and encumbrances except for restrictions on transfer provided for herein or under applicable federal and state securities laws. The Company covenants that it shall at all times cause to be reserved and kept available out of its authorized and unissued capital stock such number of shares of the Class, common stock and other securities as will be sufficient to permit the exercise in full of this Warrant and the conversion of the Shares into common stock or such other securities.

(c) The Company's capitalization table attached hereto as Schedule 1 is true and complete, in all material respects, as of the Issue Date.

3.2 Notice of Certain Events. If the Company proposes at any time to:

(a) declare any dividend or distribution upon the outstanding shares of the Class or common stock, whether in cash, property, stock, or other securities and whether or not a regular cash dividend;

(b) offer for subscription or sale pro rata to the holders of the outstanding shares of the Class any additional shares of any class or series of the Company's stock (other than pursuant to contractual pre-emptive rights);

(c) effect any reclassification, exchange, combination, substitution, reorganization or recapitalization of the outstanding shares of the Class;

(d) effect an Acquisition or to liquidate, dissolve or wind up; or

(e) effect an TPO;

then, in connection with each such event, the Company shall give Holder:

(1) at least seven (7) Business Days prior written notice of the date on which a record will be taken for such dividend, distribution, or subscription rights (and specifying the date on which the holders of outstanding shares of the Class will be entitled thereto) or for determining rights to vote, if any, in respect of the matters referred to in (a) and (b) above;

(2) in the case of the matters referred to in (c) and (d) above at least seven (7) Business Days prior written notice of the date when the same will take place (and specifying the date on which the holders of outstanding shares of the Class will be entitled to exchange their shares for the securities or other property deliverable upon the occurrence of such event); and

(3) with respect to the TPO, at least seven (7) Business Days prior written notice of the date on which the Company proposes to fi le its registration statement in connection therewith.

Reference is made to Section 1.6(c) whereby this Warrant will be deemed to be exercised pursuant to Section 1.2 hereof if the Company does not give written notice to Holder of a Cash/Public Acquisition as required by the terms hereof. Company will also provide information requested by Holder that is reasonably necessary to enable Holder to comply with Holder's accounting or reporting requirements.

SECTION 4. REPRESENTATIONS, WARRANTIES OF THE HOLDER.

The Holder represents and warrants to the Company as follows:

4.1 Purchase for Own Account. This Warrant and the securities to be acquired upon exercise of this Warrant by Holder are being acquired for investment for Holder's account, not as a nominee or agent, and not with a view to the public resale or distribution within the meaning of the Act. Holder also represents that it has not been formed for the specific purpose of acquiring this Warrant or the Shares.

4.2 Disclosure of Information. Holder is aware of the Company's business affairs and financial condition and has received or has had full access to all the information it considers necessary or appropriate to make an informed investment decision with respect to the acquisition of this Warrant and its underlying securities. Holder further has had an opportunity to ask questions and receive answers from the Company regarding the terms and conditions of the offering of this Warrant and its underlying securities and to obtain additional information (to the extent the Company possessed such information or could acquire it without unreasonable effort or expense) necessary to verify any information furnished to Holder or to which Holder has access.

4.3 Investment Experience. Holder understands that the purchase of this Warrant and its underlying securities involves substantial risk. Holder bas experience as an investor in securities of companies in the development stage and acknowledges that Holder can bear the economic risk of such Holder's investment in this Warrant and its underlying securities and has such knowledge and experience in financial or business matters that Holder is capable of evaluating the merits and risks of its investment in this Warrant and its underlying securities and/or has a preexisting personal or business relationship with the Company and certain of its officers, directors or controlling persons of a nature and duration that enables Holder to be aware of the character, business acumen and financial circumstances of such persons.

4.4 Accredited Investor Status. Holder is an "accredited investor" within the meaning of Regulation D promulgated under the Act.

4.5 The Act. Holder understands that this Warrant and the Shares issuable upon exercise hereof have not been registered under the Act in reliance upon a specific exemption there from, which exemption depends upon, among other things, the bona fide nature of the Holder's investment intent as expressed herein. Holder understands that this Warrant and the Shares issued upon any exercise hereof must be held indefinitely unless subsequently registered under the Act and qualified under applicable state securities laws, or un less exemption from such registration and qualification are otherwise available. Holder is aware of the provisions of Rule 144 promulgated under the Act.

4.6 Market Stand-off Agreement. The Holder agrees that the Shares shall be subject to the Market Standoff provisions in Section [ ] of the Investor Rights Agreement or similar agreement.

4.7 No Voting Rights. Holder, as a Holder of this Warrant, will not have any voting rights until the exercise of this Warrant.

SECTION 5. MISCELLANEOUS.

5.1 Term; Automatic Cashless Exercise Upon Expiration.

(a) Term. Subject to the provisions of Section 1.6 above, this Warrant is exercisable in whole or in part at any time and from time to time on or before 6:00 PM, Eastern time, on the Expiration Date and shall be void thereafter.

(b) Automatic Cashless Exercise upon Expiration. In the event that, upon the Expiration Date, the fair market value of one Share (or other security issuable upon the exercise hereof) as determined in accordance with Section 1.3 above is greater than the Warrant Price in effect on such date, then this Warrant shall

automatically be deemed on and as of such date to be exercised pursuant to Section 1.2 above as to all Shares (or such other securities) for which it shall not previously have been exercised, and the Company shall, within a reasonable time, deliver a certificate representing the Shares (or such other securities) issued upon such exercise to Holder.

5.2 Legends. Each certificate evidencing Shares (and each certificate evidencing the securities issued upon conversion of any Shares, if any) shall be imprinted with a legend in substantially the following form:

> THE SHARES EVIDENCED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), OR THE SECURITIES LAWS OF ANY STATE AND, EXCEPT AS SET FORTH IN THAT CERTAIN WARRANT TO PURCHASE STOCK ISSUED BY THE ISSUER TO OXFORD FINANCE LLC DATED JULY 31, 2018, MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED UNLESS AND UNTIL REGISTERED UNDER SAID ACT AND LAWS OR, IN THE OPINION OF LEGAL COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER, SUCH OFFER, SALE, PLEDGE OR OTHER TRANSFER IS EXEMPT FROM SUCH REGISTRATION.

5.3 Compliance with Securities Laws on Transfer. This Warrant and the Shares issued upon exercise of this Warrant (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) may not be transferred or assigned in whole or in part except in compliance with applicable federal and state securities laws by the transferor and the transferee (including, without limitation, the delivery of investment representation letters and legal opinions reasonably satisfactory to the Company, as reasonably requested by the Company). The Company shall not require Holder to provide an opinion of counsel if the transfer is to an affiliate of Holder, provided that any such transferee is an "accredited investor" as defined in Regulation D promulgated under the Act. Additionally, the Company shall also not require an opinion of counsel if there is no material question as to the availability of Rule 144 promulgated under the Act.

5.4 Transfer Procedure. After receipt by Oxford of the executed Warrant, Oxford may transfer all or part of this Warrant to one or more of Oxford's affiliates (each an "**Oxford Affiliate**"), by execution of an Assignment substantially in the form of Appendix 2. Subject to the provisions of Article 5.3 and upon providing the Company with written notice, Oxford, any such Oxford Affiliate and any subsequent Holder, may transfer all or part of this Warrant or the Shares issuable upon exercise of this Warrant (or the Shares issuable directly or indirectly, upon conversion of the Shares, if any) to any other transferee, provided however, in connection with any such transfer, the Oxford Affiliate(s) or any subsequent Holder will give the Company notice of the portion of the Warrant being transferred with the name, address and taxpayer identification number of the transferee and Holder will surrender this Warrant to the Company for reissuance to the transferee(s) (and Holder if applicable). Notwithstanding any contrary provision here in, at all times prior to the IPO, Holder may not, without the Company's prior written consent, transfer this Warrant or any portion hereof, or any Shares issued upon any exercise hereof, or any shares or other securities issued upon any conversion of any Shares issued upon any exercise hereof, to any person or entity who directly competes with the Company, except in connection with an Acquisition of the Company by such a direct competitor.

5.5 Notices. All notices and other communications hereunder from the Company to the Holder, or vice versa, shall be deemed delivered and effective (i) when given personally, (ii) on the third (3rd) Business Day after being mailed by first-class registered or certified mail, postage prepaid, (iii) upon actual receipt if given by facsimile or electronic mail and such receipt is confirmed in writing by the recipient, or (iv) on the first Business Day following delivery to a reliable overnight courier service, courier fee prepaid, in any case at such address as may have been furnished to the Company or Holder, as the case may be, in writing by the Company or such Holder from time to time in accordance with the provisions of this Section 5.5. All notices to Holder shall be addressed as follows until the Company receives notice of a change of address in connection with a transfer or otherwise:

Oxford Finance LLC
133 N. Fairfax Street
Alexandria, VA 22314
Attn: Legal Department
Telephone: ([ ]) [-]
Facsimile: ([ ]) [-]
Email: [@ .]

Notice to the Company shall be addressed as follows until Holder receives notice of a change in address:

ACUTUS MEDICAL, INC.
2210 Faraday Avenue
Suite 100
Carlsbad, CA 92008
Attn: [ ]
Fax: ([ ]) [-]
Email: [@ .]

With a copy (which shall not constitute notice) to:

Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304
Attn: [ ]
Email: [@ .]

5.6 Waiver. This Warrant and any term hereof may be changed, waived discharged or terminated (either generally or in a particular instance and either retroactively or prospectively) only by an instrument in writing signed by the party against which enforcement of such change, waiver, discharge or termination is sought.

5.7 Attorneys' Fees. In the event of any dispute between the parties concerning the terms and provisions of this Warrant, the party prevailing in such dispute shall be entitled to collect from the other party all costs incurred in such dispute, including reasonable attorneys' fees.

5.8 Counterparts; Facsimile/Electronic Signatures. This Warrant may be executed in counterparts, all of which together shall constitute one and the same agreement. Any signature page delivered electronically or by facsimile shall be binding to the same extent as an original signature page with regards to any agreement subject to the terms hereof or any amendment thereto.

5.9 Governing Law. This Warrant shall be governed by and construed in accordance with the laws of the State of California, without giving effect to its principles regarding conflict of law.

5.10 Headings. The headings in this Warrant are for purposes of reference only and shall not limit or otherwise affect the meaning of any provision of this Warrant.

5.11 Business Days. "**Business Day**" is any day that is not a Saturday Sunday or a day on which Oxford is closed.

[Remainder of page left blank intentionally]

[Signature page follows]

IN WITNESS WHEREOF, the parties have caused this Warrant to Purchase Stock to be executed by their duly authorized representatives effective as of the Issue Date written above.

"COMPANY"

ACUTUS MEDICAL, INC.

By: _____

Name: _____

Title: _____

"HOLDER"

OXFORD FINANCE LLC

By: _____

Name: _____
(Print)

Title: _____

IN WITNESS WHEREOF, the parties have caused this Warrant to Purchase Stock to be executed by their duly authorized representatives effective as of the Issue Date written above.

"COMPANY"

ACUTUS MEDICAL, INC.

By: _____

Name: _____

Title: _____

"HOLDER"

OXFORD FINANCE LLC

By: _____

Name: _____

Title: _____

[*Signature Page to Warrant to Purchase Stock*]

APPENDIX 1

Appendix 1

APPENDIX 2

Appendix 2

SCHEDULE 1

In accordance with Instruction 2 to Item 601 of Regulation S-K, below is a schedule setting forth details in which the omitted executed warrants differ from the form of warrant that follows:

Holder
OrbiMed Royalty Opportunities II, LP
Deerfield Private Design Fund III, L.P.

THIS WARRANT AND THE SECURITIES PURCHASABLE HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 AND MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED OR HYPOTHECATED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT FILED UNDER SAID ACT AND ANY APPLICABLE STATE SECURITIES LAWS, UNLESS AN EXEMPTION FROM SUCH REGISTRATION IS AVAILABLE.

ACUTUS MEDICAL, INC.

WARRANT

dated as of May 20, 2019 (the "**Issue Date**")

THIS CERTIFIES THAT, for value received, [OrbiMed Royalty Opportunities II, LP / Deerfield Private Design Fund III, L.P.] or its successors or permitted assigns (such Person and such successors and assigns each being the "**Warrant Holder**" with respect to the Warrant held by it), at any time and from time to time on any Business Day on or prior to 5:00 p.m. (New York City time), on the Expiration Date (as herein defined), is entitled (a) to subscribe for the purchase from Acutus Medical, Inc., a Delaware corporation (the "**Company**"), 2,042,007 Shares at a price per Share equal to the Exercise Price (as herein defined), and (b) to the other rights set forth herein; provided that the number of Shares issuable upon any exercise of this Warrant and the Exercise Price shall be adjusted and readjusted from time to time in accordance with Section 5. By accepting delivery hereof, the Warrant Holder agrees to be bound by the provisions hereof.

IN FURTHERANCE THEREOF, the Company irrevocably undertakes and agrees for the benefit of Warrant Holder as follows:

Section 1. Definitions and Construction.

(a) Certain Definitions. As used herein (the following definitions being applicable in both singular and plural forms):

"**Affiliate**" means, with respect to any Person, any other Person that directly or indirectly controls, is controlled by, or is under common control with such Person.

"**Appraised Value**" means at any time the fair market value thereof determined in good faith by the board of directors of the Company as of a date which is within ten (10) days of the date as of which the determination is to be made, subject to the rights of the Requisite Holders pursuant to Section 5(l).

"**Business Day**" means any day except a Saturday, Sunday or other day on which commercial banks in New York City, New York or Carlsbad, California are authorized by law to close.

"**Closing Price**" means, for any trading day with respect to a Share, (a) the last reported sale price on such day on the principal national securities exchange on which the Shares are listed or admitted to trading or, if no such reported sale takes place on any such day, the average of the closing bid and asked prices thereon, as reported in The Wall Street Journal or (b) if such Shares shall not be listed or admitted to trading on a national securities exchange, the last reported sales price on the NASDAQ National Market System or, if no such reported sale takes place on any such day, the average of the closing bid and asked prices thereon, as reported in The Wall Street Journal, or (c) if such Shares shall not be quoted on such National Market System nor listed or admitted to trading on a national securities exchange, then the average of the closing bid and asked prices, as reported by The Wall Street Journal for the over-the-counter market; provided that if clause (a), (b), or (c) applies and no price is reported in The Wall Street Journal for any trading day, then the price reported in The Wall Street Journal for the most recent prior trading day shall be deemed to be the price reported for such trading day.

"**Commission**" means the Securities and Exchange Commission or any other Federal agency administering the Securities Act at the time.

"**Credit Agreement**" means the Credit Agreement dated as of the date hereof by and among the Company, the lenders from time to time party thereto, Wilmington Trust, National Association, and Orbimed Royalty Opportunities II, LP.

"**Exchange Act**" means the Securities Exchange Act of 1934, or any successor Federal statute, and the rules and regulations of the Commission thereunder, all as the same shall be in effect at the time.

"**Exercise Amount**" means for any number of Warrant Shares as to which this Warrant is being exercised the product of (i) such number of Warrant Shares times (ii) the Exercise Price.

"**Exercise Price**" means $1.714 per Share, as adjusted from time to time pursuant to Section 5.

"**Expiration Date**" means May 20, 2029.

"**Initial Holder**" means [OrbiMed Royalty Opportunities II, LP / Deerfield Private Design Fund III, L.P.]

"**Market Price**" on any day means (a) the volume weighted average price of the daily Closing Prices per Share for the 20 consecutive trading days prior to such date or (b) if clauses (a), (b) and (c) of the definition of "Closing Price" are inapplicable, then the Appraised Value as of such day shall apply.

"**Person**" means an individual, a corporation, a partnership, an association, a trust or any other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

"**Requisite Holders**" means at any time holders of Warrant Shares and Warrants representing at least a majority of the Warrant Shares outstanding or issuable upon the exercise of all the outstanding Warrants.

"**Securities Act**" means the Securities Act of 1933, or any successor Federal statute, and the rules and regulations of the Commission thereunder, all as the same shall be in effect at the time.

"**Shares**" means, subject to Section 5(b), the Company's currently authorized Series C preferred stock (the "**Class**"), $0.001 par value, and stock of any other class or other consideration into which such currently authorized capital stock may hereafter have been changed.

"**Warrant**" means, as the context requires, this warrant and any successor warrant or warrants issued upon a whole or partial transfer or assignment of any such warrant or of any such successor warrant.

"**Warrant Shares**" means the number of Shares issued or issuable upon exercise of this Warrant as set forth in the introduction hereto, as adjusted from time to time pursuant to Section 5, or in the case of other Warrants, issuable upon exercise of those Warrants.

(b) Accounting Terms and Determinations. Unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared, in accordance with generally accepted accounting principles. When used herein, the term "financial statements" shall include the notes and schedules thereto. References to fiscal periods are to fiscal periods of the Company.

(c) Computation of Time Periods. With respect to the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding." Periods of days shall be counted in calendar days unless otherwise stated.

(d) Construction. Unless the context requires otherwise, references to the plural include the singular and to the singular include the plural references to any gender include any other gender, the part includes the whole, the term "including" is not limiting, and the term "or" has, except where otherwise indicated, the inclusive meaning represented by the phrase "and/or." The words "hereof," "herein," "hereby," "hereunder," and similar terms in this Warrant refer to this Warrant as a whole and not to any particular provision of this Warrant. Section, subsection, clause, exhibit and schedule references are to this Warrant, unless otherwise specified. Any reference to this Warrant includes any and all permitted alterations, amendments, changes, extensions, modifications, renewals or supplements thereto or thereof: as applicable.

(e) Exhibits and Schedules. All of the exhibits and schedules attached hereto shall be deemed incorporated herein by reference.

(f) No Presumption Against Any Party. Neither this Warrant nor any uncertainty or ambiguity herein or therein shall be construed or resolved using any presumption against any party hereto or thereto, whether under any rule of construction or otherwise. On the contrary, this Warrant has been reviewed by each of the parties and their counsel and, in the case of any ambiguity or uncertainty, shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of all parties hereto.

Section 2. Exercise of Warrant.

(a) Exercise and Payment. The Warrant Holder may exercise this Warrant in whole or in part, at any time or from time to time on any Business Day on or prior to the Expiration Date, by delivering to the Company a duly executed notice (a "**Notice of Exercise**") in the form of Exhibit A and

by payment to the Company of the Exercise Price per Warrant Share, at the election of the Warrant Holder, either (a) by wire transfer of immediately available funds to the account of the Company in an amount equal to the Exercise Amount, (b) if the Closing Price as of the trading day immediately prior to the date of such exercise is greater than the Exercise Price, then by receiving from the Company the number of Warrant Shares equal to (i) the number of Warrant Shares as to which this Warrant is being exercised minus (ii) the number of Warrant Shares having a value, based on the Closing Price on the trading day immediately prior to the date of such exercise (or if there is no such Closing Price, then based on the Appraised Value as of such day), equal to the Exercise Amount, or (c) any combination of the foregoing. The Company acknowledges that the provisions of clause (b) are intended, in part, to ensure that a full or partial exchange of this Warrant pursuant to such clause (b) will qualify as a conversion, within the meaning of paragraph (d)(3)(iii) of Rule 144 under the Securities Act. At the request of any Holder, the Company will accept reasonable modifications to the exchange procedures provided for in this Section in order to accomplish such intent. For all purposes of this Warrant (other than this Section 2(a)), any reference herein to the exercise of this Warrant shall be deemed to include a reference to the exchange of this Warrant into Shares in accordance with the terms of clause (b).

(b) Effectiveness and Delivery. As soon as practicable but not later than five (5) Business Days after the Company shall have received such duly completed Notice of Exercise and payment in full for the number of Warrant Shares so being exercised, the Company shall execute and deliver or cause to be executed and delivered, in accordance with such Notice of Exercise, a certificate or certificates representing the number of Shares specified in such Notice of Exercise, issued in the name of the Warrant Holder or in such other name or names of any Person or Persons designated in such Notice of Exercise. This Warrant shall be deemed to have been exercised and such Share certificate or certificates shall be deemed to have been issued, and the Warrant Holder or other Person or Persons designated in such Notice of Exercise shall be deemed for all purposes to have become a holder of record of Shares, alias of the date that such Notice of Exercise and payment shall have been received by the Company.

(c) Surrender of Warrant. The Warrant Holder shall surrender this Warrant to the Company when it delivers the Notice of Exercise, and in the event of a partial exercise of the Warrant, the Company shall execute and deliver to the Warrant Holder, at the time the Company delivers the Share certificate or certificates issued pursuant to such Notice of Exercise, a new Warrant for the unexercised portion of the Warrant, but in all other respects identical to this Warrant.

(d) Legend. Each certificate for Warrant Shares issued upon exercise of this Warrant, unless at the time of exercise such Warrant Shares are registered under the Securities Act, shall bear the following legend:

> THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 AND MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED OR HYPOTHECATED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT FILED UNDER SAID ACT AND ANY APPLICABLE STATE SECURITIES LAWS, UNLESS AN EXEMPTION FROM SUCH REGISTRATION IS AVAILABLE.

Any certificate for Warrant Shares issued at any time in exchange or substitution for any certificate bearing such legend (unless at that time such Warrant Shares are registered under the Securities Act) shall also bear such legend unless, in the written opinion of counsel selected by the holder of such certificate (who may be an employee of such holder), which counsel and opinion shall be reasonably acceptable to the Company, the Warrant Shares represented thereby need no longer be subject to restrictions on resale under the Securities Act.

(e) Fractional Shares. The Company shall not be required to issue fractions of Shares upon an exercise of the Warrant. If any fraction of a Share would, but for this restriction, be issuable upon an exercise of the Warrant, in lieu of delivering such fractional Share, the Company shall pay to the Warrant Holder, in cash, an amount equal to the same fraction times the Closing Price on the trading day immediately prior to the date of such exercise (or if there is no such Closing Price, then based on the Appraised Value as of such day).

(f) Expenses and Taxes. The Company shall pay all expenses, taxes and owner charges payable in connection with the preparation, issuance and delivery of certificates for the Warrant Shares and any new Warrants, except that if the certificates for the Warrant Shares or the new Warrants are to be registered in a name or names other than the name of the Warrant Holder, funds sufficient to pay all transfer taxes payable as a result of such transfer shall be paid by the Warrant Holder at the time of its delivery of the Notice of Exercise or promptly upon receipt of a written request by the Company for payment.

(g) Automatic Cashless Exercise. To the extent that there has not been an exercise by the Warrant Holder pursuant to Section 2(a) hereof, and provided that the Closing Price (or if there is no such Closing Price, then based on the Appraised Value as of such day) as of the trading day immediately prior to the date of such exercise exceeds the Exercise Price on the Expiration Date, then any portion of the Warrant that remains unexercised shall be exercised automatically in whole (not in part), upon the Expiration Date. Provided that the Closing Price (or if there is no such Closing Price, then based on the Appraised Value as of such day) as of the trading day immediately prior to the date of such exercise exceeds the Exercise Price on the Expiration Date, then payment by the Warrant Holder upon such automatic exercise shall be in the form of the Warrant Holder receiving from the Company the number of Warrant Shares equal to (i) the number of Warrant Shares as to which this Warrant is being automatically exercised minus (ii) the number of Warrant Shares having a value, based on the Closing Price as of the trading day immediately prior to the date of such automatic exercise (or if there is no such Closing Price, then based on the Appraised Value as of such day), equal to the Exercise Amount.

Section 3. Investment Representation. By accepting the Warrant, the Warrant Holder represents that it is acquiring the Warrant for its own account for investment purposes and not with the view to any sale or distribution, that the Warrant Holder will not offer, sell or otherwise dispose of the Warrant or the Warrant Shares except under circumstances as will not result in a violation of applicable securities laws, and that the Warrant Holder is an "accredited investor" as that term is defined in Rule 501 under the Securities Act. The Warrant Holder further represents and warrants that (i) it understands that the Warrant or the Warrant Shares has not been, and will not be, registered under the Securities Act by reason of a specific exemption from the registration provisions of the Securities Act the availability of which depends upon, among other things, the *bona fide* nature of the investment intent and the accuracy of the Holder's representations as expressed herein or otherwise made pursuant hereto; (ii) it understands and acknowledges that no public market now exists for any of the securities issued by the Company and that the Company has made no assurances that a public market will ever exist for the Company's securities; (iii) it has substantial experience in evaluating and investing in private placement transactions of securities in companies similar to the Company, and has such knowledge and experience in financial or business matters so that it is capable of evaluating the merits and risks of its investment in the Company and protecting its own interests; and (iv) it is aware of the Company's business affairs and financial condition and has received or has had full access to all the information it considers necessary or appropriate to make an informed decision with respect to the acquisition of the Warrant or the Warrant Shares.

Section 4. Validity of Warrant and Issuance of Shares.

(a) The Company represents and warrants that this Warrant has been duly authorized, is validly issued, and constitutes the valid and binding obligation of the Company.

(b) The Company further represents and warrants that on the date hereof it has duly authorized and reserved, and the Company hereby agrees that it will at all times until the Expiration Date have duly authorized and reserved, such number of Shares as will be sufficient to permit the exercise in full of the Warrant, and that all such Shares are and will be duly authorized and, when issued upon exercise of the Warrant, will be validly issued, fully paid and non-assessable, and free and clear of all security interests, claims, liens, equities and other encumbrances.

Section 5. Warrant Shares; Antidilution Provisions. The Exercise Price in effect at any time, and the number of Warrant Shares that may be purchased upon any exercise of the Warrant, shall be subject to change or adjustment as follows:

(a) Share Split; Share Reclassification. If the Company shall subdivide its outstanding Shares into a greater number of Shares, by way of a stock split, stock dividend or otherwise, or consolidate its outstanding Shares into a smaller number of Shares (any such event being herein called a "**Share Split**"), then (i) the Exercise Price shall be adjusted, effective immediately after the effective date of such Share Split, to a price determined by multiplying the Exercise Price in effect immediately prior to such effective date by a fraction, the numerator of which shall be the number of Shares outstanding on such effective date before giving effect to such Share Split and the denominator of which shall be the number of Shares outstanding after giving effect to such Share Split, and (ii) the number of Shares subject to purchase upon exercise of this Warrant shall be adjusted, effective at such time, to a number determined by multiplying the number of Shares subject to purchase immediately before such Share Split by a fraction, the numerator of which shall be the number of Shares outstanding after giving effect to such Share Split and the denominator of which shall be the number of Shares outstanding immediately before giving effect to such Share Split.

If the Shares issuable upon exercise of the Warrant are changed into the same or a different number of securities of any other class or classes by reclassification, capital reorganization, or a conversion of all outstanding shares of the relevant class or series, or otherwise, including through a conversion of all outstanding shares of the relevant class or series into shares of Common Stock upon an initial public offering of the Company's securities (a "**Share Reclassification**"), then, in any such event, in lieu of the number of Shares which the Holder would otherwise have been entitled to receive, the Holder shall have the right thereafter to exercise this Warrant for a number of shares of such other class or classes of stock that a holder of the number of securities deliverable upon exercise of this Warrant immediately before that change would have been entitled to receive in such Share Reclassification, all subject to further adjustment as provided herein with respect to such other shares.

(b) Adjustment to Class of Shares; Number of Shares; Warrant Price; Adjustments Cumulative. Upon the closing of the Next Equity Financing, the "Class" shall be Next Equity Financing Securities from and after such closing, subject to adjustment thereafter from time to time in accordance with the provisions of this Warrant and the "Exercise Price" shall be the lower of the Exercise Price then in effect and the Next Equity Financing Price from and after such closing, subject to adjustment thereafter from time to time in accordance with the provisions of this Warrant; provided, that upon such date, if any, if the Exercise Price is changed to the Next Equity Financing Price pursuant to this sentence, this Warrant shall be exercisable for such number of shares of such Class as shall equal (i) three million and five hundred thousand Dollars ($3,500,000.00), divided by (ii) the Next Equity Financing Price, subject to adjustment thereafter from time to time in accordance with the provisions of this Warrant. As used herein (i) "**Next Equity Financing**" means the first sale or issuance by the Company on or after the Issue Date of this Warrant set forth above, in a single transaction or series of related transactions, of shares of its

convertible preferred stock or other senior equity securities to one or more investors for cash for financing purposes for aggregate gross proceeds of at least $23,000,000 (excluding all proceeds from the conversion of any convertible promissory notes or cancellation of convertible promissory notes in consideration for the issuance of preferred stock); (ii) "**Next Equity Financing Securities**" means the type, class and series of convertible preferred stock or other senior equity security sold or issued by the Company in the Next Equity Financing; and (iii) "**Next Equity Financing Price**" means the lowest cash price per share for which Next Equity Financing Securities are sold or issued by the Company in the Next Equity Financing.

(c) Special Distributions. If the Company shall issue or distribute to any holder or holders of Shares evidences of indebtedness, any other securities of the Company or any cash, property or other assets (excluding a Share Split or Share Classification), whether or not accompanied by a purchase, redemption or other acquisition of Shares (any such nonexcluded event being herein called a "**Special Distribution**"), then the Warrant Holder shall be entitled to a pro-rata Share of such Special Distribution as though the Warrant Holder had fully exercised this Warrant immediately prior to the record date for such Special Distribution, and the Company shall pay or distribute such pro-rata share to Warrant Holder when paid or distributed to the holders of the Shares, or the Warrant Holder may at its option decline to accept such payment or distribution in which case the (x) the Exercise Price shall be decreased, effective immediately after the effective date of such Special Distribution, to a price determined by multiplying the Exercise Price then in effect by a fraction, the numerator of which shall be the Market Price immediately prior to such effective date less any cash and the then fair market value, as determined in good faith by the board of directors of the Company, of any evidences of indebtedness, securities or property or other assets issued or distributed in such Special Distribution with respect to one Share, and the denominator of which shall be the Market Price immediately prior to such effective date, and (y) the number of Shares subject to purchase upon exercise of this Warrant shall be increased to a number determined by multiplying the number of Shares subject to purchase immediately before such Special Distribution by a fraction, the numerator of which shall be the Exercise Price in effect immediately before such Special Distribution and the denominator of which shall be the Exercise Price in effect immediately after such Special Distribution.

(d) Corporate Reorganization. Without limiting any of the other provisions hereof, if any (i) capital reorganization; (ii) reclassification of the capital stock of the Company; (iii) merger, consolidation or reorganization or other similar transaction or series of related transactions which results in the voting securities of the Company outstanding immediately prior thereto representing immediately thereafter (either by remaining outstanding or by being converted into voting securities of the surviving or acquiring entity) less than 50% of the combined voting power of the voting securities of or economic interests in the Company or such surviving or acquiring entity outstanding immediately after such merger, consolidation or reorganization; (iv) sale, lease, license, transfer, conveyance or other dis position of all or substantially all of the assets of the Company; (v) sale of shares of capital stock of the Company, in a single transaction or series of related transactions, representing at least 50% of the voting power of the voting securities of or economic interests in the Company; or (vi) the acquisition by any "person" (together with his, her or its Affiliates) or "group" (within the meaning of Section 13(d) or 14(d) of the Exchange Act) acquires, directly or indirectly, the beneficial ownership (as such term is defined in Rule 13d-3 promulgated under the Exchange Act) of outstanding shares of capital stock and/or other equity securities of the Company, in a single transaction or series of related transactions (including, without limitation, one or more tender offers or exchange offers), representing at least 50% of the voting power of or economic interests in the then outstanding shares of capital stock of the corporation (each of (i)–(vi) above a "**Corporate Reorganization**") shall be effected, then the Company shall ensure that lawful and adequate provision shall be made whereby each Warrant Holder shall thereafter continue to have the right to purchase and receive upon the basis and upon the terms and conditions herein specified and in lieu of the Warrant Shares issuable upon exercise of the Warrants held by such Warrant Holder, the kind and amount of securities, cash or other property of the acquiring, surviving or successor entity ("**Acquirer**"), as the case

may be, resulting from such Corporate Reorganization, which a Warrant Holder of the shares deliverable upon exercise of this Warrant would have been entitled in such Corporate Reorganization if the right to purchase the shares hereunder had been exercised immediately prior to such Corporate Reorganization. In any such case, appropriate provision shall be made with respect to the rights and interests of each Warrant Holder to the end that the provisions hereof (including, without limitation, provision for adjustment of the Warrant Price) shall thereafter be applicable, as nearly equivalent as may be practicable in relation to any shares or other securities thereafter deliverable upon the exercise thereof. The Company shall not effect any such Corporate Reorganization unless prior to or simultaneously with the consummation thereof the successor corporation resulting from such consolidation or merger, or the corporation purchasing or otherwise acquiring such assets or other appropriate corporation or entity shall assume by written instrument, reasonably deemed by the board of directors of the Company and the Requisite Holders to be satisfactory in form and substance, the obligation to deliver to the holder of the Warrants, at the last address of such holder appearing on the books of the Company, such shares of stock, property or other securities, as, in accordance with the foregoing provisions, such holder may be entitled to purchase, and the other obligations under these Warrants. The provisions of this Section 5(d) shall similarly apply to successive Corporate Reorganizations.

(e) Adjustment Rules.

(i) Any adjustments pursuant to this Section 5 shall be made successively whenever any event referred to herein shall occur, except that, notwithstanding any other provision of this Section 5, no adjustment shall be made to the number of Warrant Shares to be delivered to the Warrant Holder (or to the Exercise Price) if such adjustment represents less than 1% of the number of Warrant Shares previously required to be so delivered, but any lesser adjustment shall be carried forward and shall be made at the time and together with, the next subsequent adjustment which together with any adjustments so carried forward shall amount to 1% or more of the number of Warrant Shares to be so delivered.

(ii) No adjustments shall be made pursuant to this Section 5 in respect of the issuance of Warrant Shares upon exercise of the Warrant;

(iii) If the Company shall take a record of the holders of its Shares for any purpose referred to in this Section 5, then (x) such record date shall be deemed to be the date of the issuance, sale, distribution or grant in question and (y) if the Company shall legally abandon such action prior to effecting such action, no adjustment shall be made pursuant to this Section 5 in respect of such action.

(iv) In computing adjustments under this Section 5, (A) fractional interests in Shares shall be taken into account to the nearest one-thousandth of a Share, and (B) calculations of the Exercise Price shall be carried to the nearest one-thousandth of one cent.

(f) Proceedings Prior to Any Action Requiring Adjustment. As a condition precedent to the taking of any action which would require an adjustment pursuant to this Section 5, the Company shall take any action which may be necessary, including obtaining regulatory approvals or exemptions, in order that the Company may thereafter validly and legally issue as fully paid and nonassessable all Shares which the Warrant Holder is entitled to receive upon exercise of the Warrant.

(g) Notice of Adjustment. Not less than twenty (20) days prior to the record date or effective date, as the case may be, of any action which requires or might require an adjustment or readjustment pursuant to this Section 5, the Company shall give notice to the Warrant Holder of such event, describing such event in reasonable detail and specifying the record date or effective date, as the case may be, and, if determinable, the required adjustment and computation thereof. If the required adjustment is not determinable as the time of such notice, the Company shall give notice to the Warrant Holder of such

adjustment and computation as soon as reasonably practicable after such adjustment becomes determinable. The Company will, upon the written request at any time of the Warrant Holder, furnish to such holder a like report setting forth the Exercise Price at the time in effect and showing in reasonable detail how it was calculated.

(h) Subsequent Warrants. Irrespective of any adjustments in the Exercise Price or the number of Warrant Shares issuable upon exercise of this Warrant, any successor or replacement warrants issued theretofore or thereafter may continue to express the same Exercise Price per Share and number and kind of Warrant Shares as are stated in this Warrant.

(i) Disputes. Any dispute which arises between the Warrant Holder and the Company with respect to the calculation of the adjusted Exercise Price or Warrant Shares issuable upon exercise shall be determined by the independent auditors of the Company, and such determination shall be binding upon the Company and the holders of the Warrants and the Warrant Shares if made in good faith and without manifest error.

(j) Other Actions Affecting Shares.

(i) Equitable Equivalent. In case any event shall occur as to which the provisions of this Section 5 set forth above hereof are not strictly applicable but the failure to make any adjustment would not, in the opinion of the Warrant Holder, fairly protect the purchase rights represented by this Warrant in accordance with the essential intent and principles of this Section 5, then, in each such case, at the request of the Warrant Holder, the Company shall appoint, at the Company's expense, a firm of independent investment bankers of recognized national standing (which shall be completely independent of the Company and shall be satisfactory to the holder or the Requisite Holders), which shall give their opinion upon the adjustment, if any, on a basis consistent with the essential intent and principles established in this Section 5, necessary to preserve, without dilution, the purchase rights represented by this Warrant. Upon receipt of such opinion, the Company will promptly mail a copy thereof to the holder of this Warrant and shall make the adjustments described therein.

(ii) No Avoidance. The Company shall not, by amendment of its certificate of incorporation or by-laws or through any consolidation, merger, reorganization, transfer of assets, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such action as may be necessary or appropriate in order to protect the rights of the holder of this Warrant against dilution or other impairment as if the holder was a shareholder of the Company entitled to the benefit of fiduciary duties afforded to shareholders under Delaware law.

(k) Adjustment of Par Value. If for any reason (including the operation of the adjustment provisions set forth in this Warrant), the Exercise Price on any date of exercise of this Warrant shall not be lawful and adequate consideration for the issuance of the relevant Warrant Shares, then the Company shall take such steps as are necessary (including the amendment of its certificate of incorporation so as to reduce the par value of the Shares) to cause such Exercise Price to be adequate and lawful consideration on the date the payment thereof is due, but if the Company shall fail to take such steps, then the Company acknowledges that the Warrant Holder shall have been damaged by the Company in an amount equal to an amount, which, when added to the total Exercise Price for the relevant Warrant Shares, would equal lawful and adequate consideration for the issuance of such Warrant Shares, and the Company irrevocably agrees that if the Warrant Holder shall then forgive the right to recover such damages from the Company, such forgiveness shall constitute, and Company shall accept such forgiveness as, additional lawful consideration for the issuance of the relevant Warrant Shares.

(l) Appraisal.

(i) If the Requisite Holders shall, for any reason whatsoever, disagree with the Company's determination of the Appraised Value of a Share, then such holders shall by notice to the Company (an "**Appraisal Notice**") given within sixty (60) days after the Company notifies the holders of such determination, elect to dispute such determination, and such dispute shall be resolved as set forth in clause (ii) of this Section.

(ii) The Company shall within ten (10) days after an Appraisal Notice shall have been given, engage an independent investment bank of national repute (the "**Appraiser**") selected by the Requisite Holders and retained pursuant to an engagement letter between the Company and the Appraiser with respect to such valuation in form and substance reasonably acceptable to Requisite Holders, to make an independent determination of the Appraised Value of a Share; such value shall be determined without deduction for (a) liquidity considerations, (b) minority shareholder status, or (c) any liquidation or other preference or any right of redemption in favor of any other equity securities of the Company. The costs of engagement of such investment bank for any such determination of Appraised Value shall be paid by the Company.

(m) Adjustments for Diluting Issuances. Without duplication of any adjustment otherwise provided for in this Section 5, the number of shares of common stock issuable upon conversion of the Shares shall be subject to anti-dilution adjustment from time to time in the manner set forth in the Company's Articles or Certificate of Incorporation as if the Shares were issued and outstanding on and as of the date of any such required adjustment; provided, however, that for purposes of clarification, there shall be no duplicative anti-dilution adjustment as a result of this provision.

Section 6. Registration Rights and Extension of Expiration Date. The Warrant Holder is entitled to the benefit of certain registration rights with respect to the Warrant Shares as provided in the Amended and Restated Investors' Rights Agreement, dated as of March 14, 2016, by and among the Company and the investors party thereto (as amended from time to time including pursuant to that certain Amendment No. 2 to Amended and Restated Investors' Rights Agreement, dated as of May 20, 2019, by and among the Company, the investors party thereto and the Warrant Holder, the "**Investors' Rights Agreement**"), and any subsequent holder hereof shall be entitled to such rights to the extent provided in the Investors' Rights Agreement. If the Company fails to cause any registration statement covering "Registrable Securities" (as that term is defined in the Investors' Rights Agreement) to be declared effective prior to the applicable dates set forth therein, or if any of the events specified in Section 1.2(c)(v) or Section 1.5 of the Investors' Rights Agreement occurs, and the resulting period during which the Company is not required to effect or maintain the effectiveness of a registration statement (whether alone, or in combination with any other such period) (the "**Blackout Period**") continues for more than 30 days in any 12 month period, or for more than a total of 90 days, then the Expiration Date of this Warrant shall be extended one day for each day beyond the 30-day or 90-day limits, as the case may be, that the Blackout Period continues.

Section 7. Transfer of Warrant. The Warrant Holder upon transfer of the Warrant must deliver to the Company a duly executed Warrant Assignment in the form of Exhibit B and upon surrender of this Warrant to the Company, the Company shall execute and deliver a new Warrant with appropriate changes to reflect such Assignment, in the name or names of the assignee or assignees specified in the Warrant Assignment or other instrument of assignment and, if the Warrant Holder's entire interest is not being transferred or assigned, in the name of the Warrant Holder, and upon the Company's execution and delivery of such new Warrant, this Warrant shall promptly be cancelled; and provided that any assignee shall have all of the rights of an Initial Holder hereunder. The Warrant Holder shall pay any transfer tax imposed in connection with such assignment (if any). Any transfer or exchange of this Warrant shall be

without charge to the Warrant Holder (except as provided above with respect to transfer taxes, if any) and any new Warrant issued shall be dated the date hereof.

Section 8. Assistance in Disposition of Warrant or Warrant Shares. Notwithstanding any other provision herein, in the event that it becomes unlawful for the Warrant Holder to continue to hold the Warrant, in whole or in part, or some or all of the Shares held by it, or restrictions are imposed on any the Warrant Holder by any statute, regulation or governmental authority which, in the judgment of the Warrant Holder, make it unduly burdensome to continue to hold the Warrant or such Shares, the Warrant Holder may sell or otherwise dispose of the Warrant (subject to the restrictions on transfer provided in Section 7) or its Shares, and the Company agrees to provide reasonable assistance to the Warrant Holder in disposing of the Warrant and such Shares in a prompt and orderly manner and, at the request of the Warrant Holder, to provide (and authorize the Warrant Holder to provide) financial and other information concerning the Company to any prospective purchaser of the Warrant or Shares owned by the Warrant Holder, provided that in each case each such prospective purchaser shall be subject to customary obligations of confidentiality.

Section 9. Identity of Transfer Agent. The transfer agent for the Common Stock is Wilson Sonsini Goodrich & Rosati, P.C. Upon the appointment of any subsequent transfer agent for the Shares, the Company will mail to the Warrant Holder a statement setting forth the name and address of such transfer agent.

Section 10. Covenants. The Company agrees that:

(a) Information. So long as this Warrant remains outstanding or any Initial Holder holds any Warrant Shares, the Company will deliver to the Warrant Holder (or Initial Holder):

(i) as soon as practicable, but in any event within sixty (60) days after the end of each fiscal year of the Company, an unaudited income statement for such fiscal year, an unaudited balance sheet of the Company and statement of stockholders' equity as of the end of such year, an unaudited statement of cash flows for such year, and a comparison between the actual amounts as of and for such fiscal year, the comparable amounts for the prior year and the comparable amounts included in the budget and business plan of the Company for such year, and containing an explanation of any material differences between such amounts and a schedule as to the sources and applications of funds for such year, such year end financial reports to be in reasonable detail, all such financial statements prepared in accordance with U.S. generally accepted accounting principles ("**GAAP**");

(ii) as soon as practicable, but in any event within one hundred fifty (150) days after the end of each fiscal year of the Company, an income statement for such fiscal year, a balance sheet of the Company and statement of stockholders' equity as of the end of such year, a statement of cash flows for such year, and a comparison between the actual amounts as of and for such fiscal year, the comparable amounts for the prior year and the comparable amounts included in the budget and business plan of the Company for such year, and containing an explanation of any material differences between such amounts and a schedule as to the sources and applications of funds for such year, such year end financial reports to be in reasonable detail, all such financial statements prepared in accordance with GAAP and audited and certified by independent public accountants of nationally recognized standing selected by the Company;

(iii) as soon as practicable, but in any event within forty-five (45) days after the end of each of the first three (3) quarters of each fiscal year of the Company, an unaudited income statement, statement of cash flows for such fiscal quarter and an unaudited balance sheet and a statement of stockholders' equity as of the end of such fiscal quarter, and a comparison between the actual amounts as of and for such quarter, the comparable amounts for the corresponding quarter of the prior year and the

comparable amounts included in the budget and business plan of the Company for such quarter, with an explanation of any material differences between such amounts and a schedule as to the sources and applications of funds for such quarter, all such financial statements prepared in accordance with GAAP (except that such financial statements may (i) be subject to normal year-end audit adjustments and (ii) not contain all notes thereto that may be required in accordance with GAAP);

(iv) within forty-five (45) days of the end of each month, an unaudited income statement and statement of cash flows for such month, and an unaudited balance sheet and statement of stockholders' equity as of the end of such month, all prepared in accordance with GAAP (except that such financial statements may (i) be subject to normal year-end audit adjustments and (ii) not contain all notes thereto that may be required in accordance with GAAP);

(v) as soon as practicable, but in any event at least thirty (30) days prior to the end of each fiscal year, a budget and business plan for the next fiscal year, approved by the Board of Directors and prepared on a monthly basis, including balance sheets, income statements and statements of cash flows for such months and, as soon as prepared, any other budgets or revised budgets prepared by the Company;

(vi) with respect to the financial statements called for in subsections (ii) and (iii) of this Section 10(a), an instrument executed by the Chief Financial Officer or President of the Company certifying that such financials were prepared in accordance with GAAP consistently applied with prior practice for earlier periods (with the exception of footnotes that may be required by GAAP) and fairly present the financial condition of the Company and its results of operation for the period specified, subject to year end audit adjustment; and

(vii) such other information relating to the financial condition, business or corporate affairs of the Company as a Warrant Holder may from time to time reasonably request, provided, however, that the Company shall not be obligated under this subsection (vii) or any other subsection of Section 10(a) to provide information that (i) it deems in good faith to be a trade secret or similar confidential information (unless such similar confidential information is covered by an enforceable confidentiality agreement), (ii) the disclosure of which would adversely affect the attorney-client privilege between the Company and its counsel or (iii) would be received by a Warrant Holder whom the Company reasonably determines to be a competitor or an officer, employee, director or holder of more than ten percent (10%) of the outstanding capital stock of a competitor. Each Warrant Holder acknowledges that the information received by them pursuant to this Section 10(a) may be confidential and subject to customary obligations of confidentiality; and

(viii) if, for any period, the Company has any subsidiary whose accounts are consolidated with those of the Company, then in respect of such period the financial statements delivered pursuant to the foregoing sections shall be the consolidated and consolidating financial statements of the Company and all such consolidated subsidiaries.

The financial information covenants set forth in this Section 10(a) shall terminate upon the initial public offering of the Company's securities.

(b) Maintenance of Business. The Company (i) will and will cause each of its Subsidiaries to, continue to engage in the business that the Company and its Subsidiaries are engaged in as of the date hereof and the business activities substantially related thereto, (ii) will not, and will not permit any of its Subsidiaries to, expand into any other lines of business except those lines of business in which they are engaged in as of the date hereof, and as substantially related thereto, and (iii) will preserve, renew, and keep in full force and effect, and will, and will cause each of its Subsidiaries to, preserve, renew, and keep

in full force and effect, its existence as a corporation and all material rights, privileges, and franchises necessary or desirable in the customary conduct of business, and (iv) will not, and will not permit any of its Subsidiaries to, consolidate with or merge with or into any other Person or take any action in furtherance thereof.

(c) [Reserved].

(d) Securities Filings; Rules 144 & 144A. The Company will (i) file any reports required to be filed by it under the Securities Act, the Exchange Act or the rules and regulations adopted by the Commission thereunder, (ii) use its commercially reasonable efforts to cooperate with the Warrant Holder and each holder of Warrant Shares in supplying such information concerning the Company as may be necessary for the Warrant Holder or holder of Warrant Shares to complete and file any information reporting forms currently or hereafter required by the Commission as a condition to the availability of an exemption from the Securities Act for the sale of any Warrants or Warrant Shares, (iii) take such further action as the Warrant Holder may reasonably request to the extent required from time to time to enable the Warrant Holder to sell Warrant Shares without restriction and without registration under the Securities Act within the limitation of the exemptions provided by Rule 144 or 144A under the Securities Act, as such Rules may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission, and (iv) upon the request of the Warrant Holder, deliver to the Warrant Holder a written statement as to whether it has complied with such reporting requirements; provided that this subsection (d) shall not require the Company to make any filing under the Securities Act or Exchange Act which the Company is not otherwise obligated to make.

(e) Obtaining of Governmental Approvals and Stock Exchange Listings. The Company will, at its own expense, (i) obtain and keep effective any and all permits, consents and approvals of governmental agencies and authorities which may from time to time be required of the Company in order to satisfy its obligations hereunder, and (ii) take all action which may be necessary so that the Warrant Shares, immediately upon their issuance upon the exercise of the Warrants, will be listed on each securities exchange, if any, on which the Shares are then listed.

(f) Inspection and Access. So long as this Warrant remains outstanding or any Holder holds any Warrant Shares, the Company shall permit any authorized representatives designated by the Warrant Holder (or Initial Holder) to visit and inspect any of the properties of the Company and its Subsidiaries, including its and their books of account, and to discuss its and their affairs, finances and accounts with its and their officers, all at such times as the Warrant Holder (or Initial Holder) may reasonably request.

(g) Notices Of Corporate Action. In the event of:

(i) any taking by the Company of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any distribution, or any right to subscribe for, purchase or otherwise acquire any Shares or any other securities or property, or to receive any other right, or

(ii) any capital reorganization of the Company, any reclassification or recapitalization of the capital stock of the Company, any consolidation or merger involving the Company and any other Person or any transfer of all or substantially all the assets of the Company to any other Person, or any Corporate Reorganization, or

(iii) any voluntary or involuntary dissolution, liquidation or winding- up of the Company, or

(iv) any issuance of any Shares, convertible security or option by the Company, other than (x) under the Company's equity incentive plan or (y) any Shares issued upon conversion or exercise thereof,

the Company will mail to the Warrant Holder a notice specifying (i) the date or expected date on which any such record is to be taken for the purpose of such dividend, distribution or right, and the amount and character of such dividend, distribution or right, (ii) the date or expected date on which any such reorganization, reclassification, recapitalization, consolidation, merger, transfer, dissolution, liquidation or winding-up is to take place, (iii) the time, if any such time is to be fixed, as of which the holders of record of Shares (or other securities under Section 5(b)) shall be entitled to exchange their Shares (or other securities under Section 5(b)) for the securities or other property deliverable upon such reorganization, reclassification, recapitalization, consolidation, merger, transfer, dissolution, liquidation or winding-up and a description in reasonable detail of the transaction and (iv) the date of such issuance, together with a description of the security so issued and the consideration received by the Company therefor. Such notice shall be mailed at least twenty (20) days prior to the date therein specified.

Section 11. Lost, Mutilated or Missing Warrants. Upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of any Warrant, and, in the case of loss, theft or destruction, upon receipt of indemnification satisfactory to the Company (in the case of an Initial Holder its unsecured, unbonded agreement of indemnity or affidavit of loss shall be sufficient) or, in the case of mutilation, upon surrender and cancellation of the mutilated Warrant, the Company shall execute and deliver a new Warrant of like tenor and representing the right to purchase the same aggregate number of Warrant Shares.

Section 12. Waivers; Amendments. Any provision of this Warrant may be amended or waived with (but only with) the written consent of the Company and the Requisite Holders; provided that no such amendment or waiver shall, without the written consent of the Company and the Warrant Holder, (a) change the number of Warrant Shares issuable upon exercise of the Warrant or the Exercise Price, (b) shorten the Expiration Date, or (c) amend, modify or waive the provisions of this Section or the definition of "Requisite Holders." Any amendment or waiver effected in compliance with this Section shall be binding upon the Company and the Warrant Holder. The Company shall give prompt notice to the Warrant Holder of any amendment or waiver effected in compliance with this Section. No failure or delay of the Company or the Warrant Holder in exercising any power or right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereon or the exercise of any other right or power. No notice or demand on the Company in any case shall entitle the Company to any other or future notice or demand in similar or other circumstances. The rights and remedies of the Company and the Warrant Holder hereunder are cumulative and not exclusive of any rights or remedies which it would otherwise have.

Section 13. Miscellaneous.

(a) Shareholder Rights. The Warrant shall not entitle any Warrant Holder, prior to the exercise of the Warrant, to any voting rights as a shareholder of the Company.

(b) Expenses. The Company shall pay all reasonable expenses of the Warrant Holder, including reasonable fees and disbursements of counsel, in connection with the preparation of the Warrant, any waiver or consent hereunder or any amendment or modification hereof (regardless of whether the same becomes effective), or the enforcement of the provisions hereof; provided that the Company shall not be required to pay any expenses of the Warrant Holder arising solely in connection with a transfer of the Warrant.

(c) Successors and Assigns. All the provisions of this Warrant by or for the benefit of the Company or the Warrant Holder shall bind and inure to the benefit of their respective successors and assigns.

(d) Severability. In case any one or more of the provisions contained in this Warrant shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby. The parties shall endeavor in good faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

(e) Notices. Any notice or other communication hereunder shall be in writing and shall be sufficient if sent by first-class mail or courier, postage prepaid, and addressed as follows: (a) if to the Company, addressed to the Company at its address for notices as set forth below its signature hereon or any other address as the Company may hereafter notify to the Warrant Holder and (b) if to the Warrant Holder, addressed to such address as the Warrant Holder may hereafter from time to time notify to the Company for the purposes of notice hereunder.

(f) Equitable Remedies. Without limiting the rights of the Company and the Warrant Holder to pursue all other legal and equitable rights available to such party for the other parties' failure to perform its obligations hereunder, the Company and the Warrant Holder each hereto acknowledge and agree that the remedy at law for any failure to perform any obligations hereunder would be inadequate and that each shall be entitled to specific performance, injunctive relief or other equitable remedies in the event of any such failure.

(g) Continued Effect. Rights and benefits conferred on the holders of Warrant Shares pursuant to the provisions hereof (including Section 6) shall continue to inure to the benefit of, and shall be enforceable by, such holders, notwithstanding the surrender of the Warrant to, and its cancellation by, the Company upon the full or partial exercise or repurchase hereof.

(h) Confidentiality. The Warrant Holder agrees to keep confidential any proprietary information relating to the Company delivered by the Company hereunder; provided that nothing herein shall prevent the Warrant Holder from disc losing such information: (i) to any holder of Warrants or Warrant Shares, (ii) to any Affiliate of any holder of Warrants or Warrant Shares or any actual or potential transferee of the rights or obligations hereunder that agrees to be bound by this Section 13(h), (iii) upon order, subpoena, or other process of any court or administrative agency or otherwise required by law, (iv) upon the request or demand of any regulatory agency or authority having jurisdiction over such party, (v) which has been publicly disclosed, (vi) which has been obtained from any Person that is not a party hereto or an affiliate of any such party without an accompanying duty of confidentiality and, to the knowledge of the Warrant Holder, without a breach of such Person's obligations of confidentiality, (vii) in connection with the exercise of any remedy, or the resolution of any dispute hereunder (viii) to the legal counsel or certified public accountants for any holder of Warrants or Warrant Shares, or (ix) as otherwise expressly contemplated by this Warrant.

(i) Governing Law. THIS WARRANT SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK, EXCEPT AS OTHERWISE REQUIRED BY MANDATORY PROVISIONS OF LAW.

(j) Section Headings. The section headings used herein are for convenience of reference only and shall not be construed in any way to affect the interpretation of any provisions of the Warrant.

IN WITNESS WHEREOF, the Company has caused this Warrant to be duly executed by its authorized signatory as of the day and year first above written.

ACUTUS MEDICAL, INC., a Delaware corporation

By: _____
Name:
Title:

Address for Notices:

2210 Faraday Ave. Suite 100
Carlsbad, CA 92008
[Attn:]

[Telephone: ( ) -]
[Facsimile: ( ) -]

CREDIT AGREEMENT

dated as of May 20, 2019

among

ACUTUS MEDICAL, INC.,

as the Borrower,

THE LENDERS FROM TIME TO TIME PARTY HERETO,
WILMINGTON TRUST, NATIONAL ASSOCIATION,
as the Administrative Agent,

and

ORBIMED ROYALTY OPPORTUNITIES II, LP,
as the Origination Agent

THE LOANS HEREUNDER ARE BEING ISSUED WITH ORIGINAL ISSUE DISCOUNT ("OID") FOR U.S. FEDERAL INCOME TAX PURPOSES. THE ISSUE PRICE, AMOUNT OF OID, ISSUE DATE AND YIELD TO MATURITY OF THE LOANS MAY BE OBTAINED FROM THE BORROWER BY CONTACTING THE ADDRESS OF THE BORROWER SPECIFIED ON SCHEDULE 10.2 TO THE DISCLOSURE LETTER.

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CREDIT AGREEMENT

THIS CREDIT AGREEMENT dated as of May 20, 2019 (as amended, supplemented or otherwise modified from time to time, this "Agreement"), is among ACUTUS MEDICAL, INC., a Delaware corporation (the "Borrower"), the Lenders (defined herein), ORBIMED ROYALTY OPPORTUNITIES II, LP, a Delaware limited partnership (together with its Affiliates, successors, transferees and assignees), as Origination Agent, and WILMINGTON TRUST, NATIONAL ASSOCIATION, as Administrative Agent. The Borrower and each Lender are sometimes referred to herein individually as a "Party" and collectively as the "Parties".

WITNESSETH:

WHEREAS, the Borrower has requested that the Lenders provide a senior term loan facility to the Borrower in an aggregate principal amount of $70,000,000 (with $40,000,000 available on the Closing Date, $10,000,000 available on or prior to June 30, 2020 and $20,000,000 available on or prior to December 31, 2020, subject to the terms and conditions set forth herein); and

WHEREAS, the Lenders are willing, on the terms and subject to the conditions hereinafter set forth, to extend the Commitment and make the Loans to the Borrower;

NOW, THEREFORE, the parties hereto agree as follows.

ARTICLE I
DEFINITIONS AND ACCOUNTING TERMS

SECTION 1.1 Defined Terms. The following terms (whether or not underscored) when used in this Agreement, including its preamble and recitals, shall, except where the context otherwise requires, have the following meanings (such meanings to be equally applicable to the singular and plural forms thereof):

"Administrative Agent" means Wilmington Trust, National Association, in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.

"Administrative Agent's Office" means the Administrative Agent's address and, as appropriate, account as set forth on Schedule 10.2 to the Disclosure Letter or such other address or account as the Administrative Agent may from time to time notify the Borrower and the Lenders.

"Affiliate" of any Person means any other Person which, directly or indirectly, Controls, is Controlled by or is under common Control with such Person. "Control" (and its correlatives) by any Person means (a) the power of such Person, directly or indirectly, (i) to vote 10% or more of the Voting Securities (determined on a fully diluted basis) of another Person or (ii) to direct or cause the direction of the management and policies of such other Person (whether by contract or otherwise), or (b) ownership by such Person of 10% or more of the Capital Securities of another Person.

"Agency Fee Letter" means the fee letter, dated as of the Closing Date, between the Borrower and Wilmington Trust, as Administrative Agent.

"Agents" means the Administrative Agent and the Origination Agent.

"Agreement" is defined in the preamble.

"Applicable Margin" means 7.75%.

"Applicable Percentage" means, with respect to any Lender at any time, with respect to such Lender's portion of the outstanding Loans at any time, the percentage of the outstanding principal amount of the Loans held by such Lender at such time. The initial Applicable Percentage of each Lender is set forth opposite the name of such Lender on Schedule 2.1 or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable.

"Approved Fund" means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

"Assignment and Assumption" means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 10.10(b)), and accepted by the Administrative Agent, in substantially the form of Exhibit F hereto or any other form approved by the Administrative Agent.

"Assignment Effective Date" is defined in Section 10.10(a).

"Authorized Officer" means, relative to the Borrower or any of the Subsidiaries, those of its officers, general partners or managing members (as applicable) whose signatures and incumbency shall have been certified to the Administrative Agent and the Lenders pursuant to Section 5.2.

"Benefit Plan" means any employee benefit plan, as defined in section 3(3) of ERISA, that either: (a) is a "multiemployer plan," as defined in section 3(37) of ERISA, (b) is subject to section 412 of the Code, section 302 of ERISA or Title IV of ERISA, or (c) provides welfare benefits to terminated employees, other than to the extent required by section 4980B(f) of the Code and the corresponding provisions of ERISA.

"Borrower" is defined in the preamble.

"Business Day" means any day which is neither a Saturday or Sunday nor a legal holiday on which banks are authorized or required to be closed in New York, New York.

"Capital Securities" means, with respect to any Person, all shares of, interests or participations in, or other equivalents in respect of (in each case however designated, whether voting or non-voting), of such Person's capital stock, whether now outstanding or issued after the Closing Date.

"Capitalized Lease Liabilities" means, with respect to any Person, all monetary obligations of such Person and its Subsidiaries under any leasing or similar arrangement which have been (or, in accordance with GAAP, should be) classified as capitalized leases, and for

purposes of each Loan Document the amount of such obligations shall be the capitalized amount thereof, determined in accordance with GAAP, and the stated maturity thereof shall be the date of the last payment of rent or any other amount due under such lease prior to the first date upon which such lease may be terminated by the lessee without payment of a premium or a penalty; provided, however, that all obligations of any Person that are or would have been treated as operating 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 for purposes of all financial definitions, calculations and covenants for purpose of this Agreement (whether or not such operating lease obligations 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.

"Cash Equivalent Investment" means, at any time:

(a) any direct obligation of (or unconditionally guaranteed by) the United States (or any agency or political subdivision thereof, to the extent such obligations are supported by the full faith and credit of the United States) maturing not more than one year after such time;

(b) commercial paper maturing not more than one year from the date of issue, which is issued by a corporation (other than an Affiliate of the Borrower or any of its Subsidiaries) organized under the Laws of any state of the United States or of the District of Columbia and rated A-l or higher by S&P or P-1 or higher by Moody's;

(c) any certificate of deposit, demand or time deposit or bankers acceptance, maturing not more than one year after its date of issuance, which is issued by or placed with any bank or trust company organized under the Laws of the United States (or any state thereof) and which has (i) a credit rating of A2 or higher from Moody's or A or higher from S&P and (ii) a combined capital and surplus greater than $500,000,000; or

(d) investments in money market mutual funds at least 95% of the assets of which are comprised of securities of the types described in clauses (a) through (c) of this definition.

"Casualty Event" means the damage, destruction or condemnation, as the case may be, of property of any Person or any of its Subsidiaries.

"cGCP" means the then current Good Clinical Practices that establish the national and international ethical and scientific quality standards for designing, conducting, recording and reporting clinical trials that are promulgated or endorsed for the United States by the FDA (including through ICH E6 and 21 CFR Parts 50, 54, 56 and 312) and for outside the United States by comparable Governmental Authorities.

"Change in Control" means and shall be deemed to have occurred if: (a) any "person" or "group" (within the meaning of Rule 13d-5 of the Exchange Act) shall acquire or own, directly or indirectly, beneficially or of record, determined on a fully diluted basis, more than 40% of the

Voting Securities of the Borrower; (b) a majority of the seats (other than vacant seats) on the board of directors (or equivalent) of the Borrower shall at any time be occupied by persons who were neither (i) nominated, appointed or approved by the board of directors of the Borrower nor (ii) appointed by directors so nominated, appointed or approved; or (c) the Borrower shall cease to directly own, beneficially and of record, 100% of the issued and outstanding Capital Securities of the Subsidiaries (other than directors' qualifying shares or similar shares as required by applicable law); provided that the occurrence of a Qualified IPO, in and of itself, shall not be deemed a Change in Control.

"Change in Law" means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any Law, rule, regulation or treaty; (b) any change in any Law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority; or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that, notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a "Change in Law," regardless of the date enacted, adopted or issued.

"Closing Date" means the date of the making of the Initial Loan hereunder, which in no event shall be later than May 20, 2019.

"Closing Date Certificate" means a closing date certificate executed and delivered by an Authorized Officer of the Borrower in accordance with Section 5.3.

"CMS" means the U.S. Centers for Medicare & Medicaid Services.

"Code" means the Internal Revenue Code of 1986, as amended from time to time.

"Collateral" is defined in the Security Agreement.

"Commitment" means, as to each Lender, such Lender's obligation (if any) to make Loans hereunder.

"Commitment Amount" means the Initial Commitment Amount plus the Delayed Draw Commitment Amounts.

"Commitment Fee" is defined in Section 3.11.

"Compliance Certificate" means a certificate duly completed and executed by an Authorized Officer of the Borrower, substantially in the form of Exhibit C hereto.

"Confidential Information" means any and all information or material (whether written or oral, or in electronic or other form) that, at any time before, on or after the Closing Date, has been or is provided or communicated to the Receiving Party by or on behalf of the Disclosing

Party pursuant to this Agreement or in connection with the transactions contemplated hereby, and shall include the existence and terms of this Agreement, other than any such information that is available to the Receiving Party on a non-confidential basis prior to disclosure by the Disclosing Party.

"Contingent Liability" means any agreement, undertaking or arrangement by which any Person guarantees, endorses or otherwise becomes or is contingently liable upon (by direct or indirect agreement, contingent or otherwise, to provide ftinds for payment, to supply funds to, or otherwise to invest in, a debtor, or otherwise to assure a creditor against loss) the Indebtedness of any other Person (other than by endorsements of instruments in the course of collection), or guarantees the payment of dividends or other distributions upon the Capital Securities of any other Person. The amount of any Person's obligation under any Contingent Liability shall (subject to any limitation set forth therein) be deemed to be the stated or determined amount of the outstanding debt, obligation or other liability guaranteed thereby, or if not stated or determinable, the maximum reasonably anticipated amount of such debt, obligation or other liability as determined by such Person in good faith; provided, however, that such amount shall not in any event exceed the maximum amount for which such Person may be liable under the applicable agreement, undertaking or arrangement.

"Control" is defined within the definition of "Affiliate."

"Controlled Account" is defined in Section 7.13(a).

"Convertible Notes" means the convertible promissory notes, in an aggregate original principal amount of $37,000,000, to be issued by the Borrower after the Closing Date pursuant to the documentation, in the form set forth in, and in the amounts for each investor set forth in, Exhibit H hereto.

"Copyrights" means all copyrights, whether statutory or common law, and all exclusive and nonexclusive licenses from third parties or rights to use copyrights owned by such third parties, along with any and all (a) renewals, revisions, extensions, derivative works, enhancements, modifications, updates and new releases thereof, (b) income, royalties, damages, claims and payments now and hereafter due and/or payable with respect thereto, including damages and payments for past, present or fiiture Infringements thereof, (c) rights to sue for past, present and future Infringements thereof, and (d) foreign copyrights and any other rights corresponding thereto throughout the world.

"Copyright Security Agreement" means any Copyright Security Agreement executed and delivered by the Borrower or any of the Subsidiaries in substantially the form of Exhibit C to the Security Agreement, as amended, supplemented, amended and restated or otherwise modified from time to time.

"Debtor Relief Laws" means the Bankruptcy Code of the United States and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect.

"Default" means any Event of Default or any condition, occurrence or event which, after notice or lapse of time or both, would constitute an Event of Default.

"Delayed Draw Closing Dates" means the First Delayed Draw Closing Date and the Second Delayed Draw Closing Date.

"Delayed Draw Commitment Amounts" means the First Delayed Draw Commitment Amount and the Second Delayed Draw Commitment Amount.

"Delayed Draw Commitment Termination Dates" means the First Delayed Draw Commitment Termination Date and the Second Delayed Draw Commitment Termination Date.

"Delayed Draw Loans" means the First Delayed Draw Loan and the Second Delayed Draw Loan.

"Designated Jurisdiction" means any country or territory to the extent that such country or territory is the subject of any Sanction.

"Device" means any instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory which is (a) intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease, in man or other animals, or (b) intended to affect the structure or any function of the body of man or other animals; and which does not achieve its primary intended purposes through chemical action within or on the body of man or other animals and which is not dependent upon being metabolized for the achievement of its primary intended purposes.

"Disclosing Party" means the Party disclosing Confidential Information.

"Disclosure Letter" means the disclosure letter, dated as of the Closing Date (as supplemented by the Borrower pursuant to the terms of this Agreement), delivered by the Borrower to the Administrative Agent for the benefit of the Lenders.

"Disposition" (or words of similar import such as "Dispose") means any sale, transfer, lease, license, contribution or other conveyance (including by way of merger) of, or the granting of options, warrants or other rights to, any of the Borrower's or its Subsidiaries' assets (including accounts receivable and Capital Securities of Subsidiaries, but excluding, for the avoidance of doubt, the issuance of Capital Securities of the Borrower, or sale of treasury Capital Securities of the Borrower, in each case by the Borrower) to any other Person (other than to the Borrower or any of the Guarantors) in a single transaction or series of transactions.

"Disqualified Capital Securities" shall mean any Capital Securities that, by their terms (or by the terms of any security or other Capital Securities into which they are convertible or for which they are exchangeable) or upon the happening of any event or condition, (a) mature or are mandatorily redeemable (other than solely for Qualified Capital Securities), pursuant to a sinking fund obligation or otherwise (except as a result of a Change in Control or asset sale so long as any rights of the holders thereof upon the occurrence of a Change in Control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations that are

accrued and payable and the termination of the Commitment), (b) are redeemable at the option of the holder thereof (other than solely for Qualified Capital Securities) (except as a result of a Change in Control or asset sale so long as any rights of the holders thereof upon the occurrence of a Change in Control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitment), in whole or in part, (c) provide for the scheduled payment of dividends in cash or (d) are or become convertible into or exchangeable for Indebtedness or any other Capital Securities that would constitute Disqualified Capital Securities, in each case of clauses (a) through (d), prior to the date that is 181 days after the Maturity Date; provided that if such Capital Securities are issued pursuant to a plan for the benefit of employees of the Borrower or any of its Subsidiaries, or by any such plan to such employees, such Capital Securities shall not constitute Disqualified Capital Securities solely because they may be required to be repurchased by the Borrower or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations.

"Division/Series Transaction" means, with respect to any Person that is a limited liability company organized under the Laws of the State of Delaware, that any such Person (a) divides into two or more Persons (whether or not the original Person survives such division) or (b) creates, or reorganizes into, one or more series, in each case, as contemplated under the Laws of the State of Delaware.

"Eligible Assignee" means any Person that meets the requirements to be an assignee under Section 10.10(b)(iii) and (v) (subject to such consents, if any, as may be required under Section 10.10(b)(iii)).

"Environmental Laws" means all federal, state, local or international laws, statutes, rules, regulations, codes, directives, treaties, requirements, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by any Governmental Authority, relating in any way to the environment, natural resources, Hazardous Material or health and safety matters.

"Environmental Liability" means any liability, loss, claim, suit, action, investigation, proceeding, damage, commitment or obligation, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of or affecting the Borrower or any Subsidiary directly or indirectly arising from, in connection with or based upon (a) any Environmental Law or Environmental Permit, (b) the generation, use, handling, transportation, storage, treatment, recycling, presence, disposal, Release or threatened Release of, or exposure to, any Hazardous Materials, or (c) any contract, agreement, penalty, order, decree, settlement, injunction or other arrangement (including operation of Law) pursuant to which liability is assumed, entered into, inherited or imposed with respect to any of the foregoing.

"Environmental Permit" is defined in Section 6.7(c).

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time.

"ERISA Affiliate" means, as applied to any Person, (a) any corporation that is a member of a controlled group of corporations within the meaning of section 414(b) of the Code of which that Person is a member, (b) any trade or business (whether or not incorporated) that is a member of a group of trades or businesses under common control within the meaning of section 414(c) of the Code of which that Person is a member, or (c) any member of an affiliated service group within the meaning of section 414(m) or 414(o) of the Code of which that Person, any corporation described in clause (a) above or any trade or business described in clause (b) above is a member.

"Event of Default" is defined in Section 9.1.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Excluded Accounts" is defined in Section 7.13(a).

"Existing Convertible Notes" means the convertible promissory notes, in an aggregate original principal amount of $22,815,231.50, issued by the Borrower pursuant to the Note and Warrant Purchase Agreement, dated as of June 7, 2018 (as amended, modified or supplemented), by and among the Borrower and the investors party thereto.

"Exit Fee" is defined in Section 3.8.

"FATCA" means Sections 1471 through 1474 of the Code, as of the Closing Date (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code, and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections of the Code.

"FDA" means the U.S. Food and Drug Administration and any successor entity.

"FD&C Act" means the U.S. Food, Drug, and Cosmetic Act (or any successor thereto), as amended from time to time, and the rules, regulations, guidelines, guidance documents and compliance policy guides issued or promulgated thereunder.

"Federal Funds Rate" means, for any day, the rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day.

"First Delayed Draw Closing Date" means the date of the making of the First Delayed Draw Loan hereunder, which in no event shall be later than June 30, 2020.

"First Delayed Draw Commitment Amount" as to each Lender, means its obligation to make a portion of the First Delayed Draw Loan to the Borrower pursuant to Section 2.1, in the principal amount set forth opposite such Lender's name on Schedule 2.1. The aggregate principal amount of the First Delayed Draw Commitment Amount of all of the Lenders as in effect on the Closing Date is $10,000,000.

"First Delayed Draw Commitment Termination Date" means the earliest to occur of (a) the First Delayed Draw Closing Date (immediately after the making of the First Delayed Draw Loan on such date), (b) June 30, 2020, and (c) May 20, 2019, if the Initial Loan shall not have been made hereunder prior to such date.

"First Delayed Draw Loan" is defined in Section 2.1.

"Fiscal Quarter" means a quarter ending on the last day of March, June, September or December.

"Fiscal Year" means any period of twelve consecutive calendar months ending on December 31; references to a Fiscal Year with a number corresponding to any calendar year (e.g., the "2017 Fiscal Year") refer to the Fiscal Year ending on December 31 of such calendar year.

"Foreign Lender" means a Lender that is organized under the laws of a jurisdiction outside of the United States.

"F.R.S. Board" means the Board of Governors of the Federal Reserve System or any successor thereto.

"FTC Act" means the Federal Trade Commission Act, as amended.

"Fund" means any Person (other than a natural Person) 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 activities.

"GAAP" means generally accepted accounting principles in the United States.

"Governmental Authority" means any national, supranational, federal, state, county, provincial, local, municipal, territorial or other government or political subdivision thereof, whether domestic or foreign, and any agency, authority, commission, Notified Body, ministry, instrumentality, regulatory body, court, tribunal, arbitrator, central bank or other Person exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to any such government.

"Guarantee" means the guarantee executed and delivered by an Authorized Officer of each Guarantor, substantially in the form of Exhibit D hereto, as amended, supplemented, amended and restated or otherwise modified from time to time.

"Guarantor" means any Person that signs a Guarantee, which shall include all Material Subsidiaries.

"Hazardous Material" means any material, substance, chemical, mixture or waste which is capable of damaging or causing harm to any living organism, the environment or natural resources, including all explosive, special, hazardous, polluting, toxic, industrial, dangerous,

biohazardous, medical, infectious or radioactive substances, materials or wastes, noise, odor, electricity or heat, and including petroleum or petroleum products, byproducts or distillates, asbestos or asbestos-containing materials, urea formaldehyde, polychlorinated biphenyls, radon gas, ozone-depleting substances, greenhouse gases, and all other substances or wastes of any nature regulated pursuant to any Environmental Law or as to which any Governmental Authority requires investigation, reporting or remedial action.

"Headcount" is defined in Section 7.1(a).

"Hedging Obligations" means, with respect to any Person, all liabilities of such Person under currency exchange agreements, interest rate swap agreements, interest rate cap agreements and interest rate collar agreements, and all other agreements or arrangements designed to protect such Person against fluctuations in interest rates or currency exchange rates.

"herein," "hereof," "hereto," "hereunder" and similar terms contained in any Loan Document refer to such Loan Document as a whole and not to any particular Section, paragraph or provision of such Loan Document.

"IDE" means an Investigational Device Exemption, as defined in the FD&C Act.

"Impermissible Qualification" means any qualification or exception to the opinion or certification of any independent public accountant as to any financial statement of the Borrower which (a) is of a "going concern" or similar nature other than any such qualification that is based solely on a determination that the Borrower may not have sufficient cash or other available resources to run the business, (b) relates to the limited scope of examination of matters relevant to such financial statement, or (c) relates to the treatment or classification of any item in such financial statement and which, as a condition to its removal, would require an adjustment to such item the effect of which would be to cause the Borrower to be in Default.

"including" and "include" means including without limiting the generality of any description preceding such term, and, for purposes of each Loan Document, the Parties agree that the rule of *ejusdem generis* shall not be applicable to limit a general statement, which is followed by or referable to an enumeration of specific matters, to matters similar to the matters specifically mentioned.

"Indebtedness" of any Person means:

(a) all obligations of such Person for borrowed money or advances and all obligations of such Person evidenced by bonds, debentures, notes or similar instruments;

(b) all obligations, contingent or otherwise, relative to the face amount of all letters of credit, whether or not drawn, and banker's acceptances issued for the account of such Person;

(c) all Capitalized Lease Liabilities of such Person and all obligations of such Person arising under Synthetic Leases;

(d) net Hedging Obligations of such Person;

(e) all obligations of such Person in respect of Disqualified Capital Securities;

(f) whether or not so included as liabilities in accordance with GAAP, all obligations of such Person to pay the deferred purchase price of property or services (excluding trade accounts payable in the ordinary course of business which are not overdue for a period of more than 90 days or, if overdue for more than 90 days, as to which a dispute exists and adequate reserves in conformity with GAAP have been established on the books of such Person), and indebtedness secured by (or for which the holder of such indebtedness has an existing right, contingent or otherwise, to be secured by) a Lien on property owned or being acquired by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse; and

(g) all Contingent Liabilities of such Person in respect of any of the foregoing.

The Indebtedness of any Person shall include the Indebtedness of any other Person (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such Person, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

"Indemnified Liabilities" is defined in Section 10.4.

"Indemnified Parties" is defined in Section 10.4.

"Infringement" and "Infringes" mean the misappropriation or other violation of knowhow, trade secrets, confidential information, or Intellectual Property.

"Initial Commitment Amount" as to each Lender, means its obligation to make a portion of the Initial Loan to the Borrower pursuant to Section 2.1, in the principal amount set forth opposite such Lender's name on Schedule 2.1. The aggregate principal amount of the Initial Commitment Amount of all of the Lenders as in effect on the Closing Date is $40,000,000.

"Initial Commitment Termination Date" means the earliest to occur of (a) the Closing Date (immediately after the making of the Initial Loan on such date), and (b) May 20, 2019, if the Initial Loan shall not have been made hereunder prior to such date.

"Initial Loan" is defined in Section 2.1.

"Intellectual Property" means all: (a) Patents, all patent applications and invention disclosure documents of any type, registrations and renewals, reissues, reexaminations and patent rights in any lawful form thereof; (b) Trademarks; (c) Copyrights and other works of authorship (registered or unregistered), and all applications, registrations and renewals therefor; (d) Product Agreements; (e) computer software, databases, data and documentation; (f) trade secrets and confidential business information, whether patentable or unpatentable and whether or not reduced to practice, know-how, inventions, manufacturing processes and techniques, research and development information, data and other information included in or supporting Regulatory Authorizations; (g) financial, marketing and business data, pricing and cost information, business, finance and marketing plans, customer and prospective customer lists and information, and

supplier and prospective supplier lists and information; (h) other intellectual property or similar proprietary rights; (i) copies and tangible embodiments of any of the foregoing (in whatever form or medium); and (j) any and all improvements to any of the foregoing which is owned, assigned to or could by contract be owned or assigned to the Borrower, its Subsidiaries or their respective agents.

"Interest Period" means: (a) initially, the period beginning on (and including) the date on which the Initial Loan is made hereunder pursuant to Section 2.3 and ending on (but not including) the last Business Day of the calendar month in which the Loan was made; and (b) thereafter, the period beginning on (and including) the last Business Day of the immediately preceding calendar month and ending on the earlier of (i) (but not including) the last Business Day of such calendar month and (ii) (and including) the Maturity Date.

"Investigational Application" means an authorization to commence human clinical studies or distribute an investigational product, including (a) an investigational device exemption (IDE), (b) an abbreviated IDE as specified in FDA regulations in 21 C.F.R. § 812.2(b), (c) any equivalent of a United States IDE in other countries or regulatory jurisdictions, (d) all amendments, variations, extensions and renewals thereof that may be filed with respect to the foregoing and (e) all related documents and correspondence thereto, including documents and correspondence with Institutional Review Boards (IRBs).

"Investment" means, relative to any Person, (a) any loan, advance or extension of credit made by such Person to any other Person, including the purchase by such Person of any bonds, notes, debentures or other debt securities of any other Person, (b) Contingent Liabilities in favor of any other Person, and (c) any Capital Securities held by such Person in any other Person. The amount of any Investment shall be the original principal or capital amount thereof less all returns of principal or equity thereon and shall, if made by the transfer or exchange of property other than cash, be deemed to have been made in an original principal or capital amount equal to the fair market value of such property at the time of such Investment.

"Investment Documents" means, collectively, the Loan Documents and the Lender Warrants.

"Junior Convertible Note Subordination Agreement" means that certain Junior Convertible Note Subordination Agreement, dated as of the date hereof, by and among the Administrative Agent, OrbiMed Royalty Opportunities II, LP, as agent for the holders of the Convertible Notes, the holders of the Existing Convertible Notes and the Borrower.

"Key Permits" means all Permits relating to the Products, which Permits are material to the business of the Borrower and its Subsidiaries, taken as a whole.

"knowledge" of the Borrower means the actual knowledge of any officer of the Borrower or any Subsidiary, after due inquiry.

"Laws" is defined in Section 6.18(a).

"Lender" means each Person identified as a "Lender" on the signature pages hereto and its successors and permitted assigns.

"Lender Warrants" means those certain warrants to purchase shares of the Borrower's common stock issued to the Lenders on the Closing Date and substantially in the form of Exhibit G hereto.

"Lending Office" means, as to any Lender, the office address of such Lender and, as appropriate, account of such Lender set forth on Schedule 10.2 to the Disclosure Letter or such other address or account as such Lender may from time to time notify the Borrower and the Administrative Agent.

"LIBO Rate" means the one-month London Interbank Offered Rate for deposits in U.S. Dollars at approximately 11:00 a.m. (London, England time), quoted by the Administrative Agent from the appropriate Bloomberg or Telerate page selected by the Administrative Agent (or any successor thereto or similar source determined by the Administrative Agent from time to time), which shall be that one-month London Interbank Offered Rate for deposits in U.S. Dollars in effect two Business Days prior to the first day of each Interest Period, adjusted for any reserve requirement and any subsequent costs arising from a change in governmental regulation, such rate to be rounded up to the nearest 1/16 of 1% and such rate to be reset monthly as of the first day of each Interest Period; provided that if the LIBO Rate shall be less than 2.50%, such rate shall be deemed to be 2.50% for the purposes of this Agreement. The initial LIBO Rate shall be that one-month London Interbank Offered Rate for deposits in U.S. Dollars in effect two Business Days prior to the date of the Initial Loan, which rate shall be in effect until (and including) the last day of such Interest Period; provided that if the LIBO Rate shall be less than 2.50%, such rate shall be deemed to be 2.50%. The Administrative Agent's internal records of applicable interest rates shall be determinative in the absence of manifest error.

"Lien" means any security interest, mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or otherwise), charge against or interest in property, or other priority or preferential arrangement of any kind or nature whatsoever, to secure payment of a debt or performance of an obligation.

"Liquidity" means, at any time, an amount determined for the Borrower equal to the sum of unrestricted cash-on-hand and Cash Equivalent Investments of the Borrower, to the extent held in a Controlled Account located in the United States.

"Loan Documents" means, collectively, this Agreement, any Notes, the Security Agreement, the Agency Fee Letter, each other agreement pursuant to which a Lien is granted to secure the Obligations (including any mortgages or other documents entered into pursuant to Section 7.8), any Guarantee, and each other agreement, certificate, document or instrument delivered in connection with any Loan Document, whether or not specifically mentioned herein or therein other than, for purposes of Section 4.3 and the last sentence of Section 10.14(b), the Lender Warrants.

"Loan Parties" means, collectively, the Borrower and each Guarantor.

"Loan Request" means a Loan request and certificate duly executed by an Authorized Officer of the Borrower substantially in the form of Exhibit B hereto.

"Loans" means the Initial Loan and the Delayed Draw Loans.

"Material Adverse Effect" means a material adverse effect on (a) the business, condition (financial or otherwise), operations, performance, properties or prospects of the Borrower and its Subsidiaries taken as a whole, (b) the rights and remedies of any Secured Party under any Loan Document or (c) the ability of the Borrower or any Subsidiary to perform its material Obligations under any Loan Document.

"Material Agreements" means: (a) each contract or agreement to which the Borrower or any Subsidiary is a party involving either contractual obligations to pay or has resulted in aggregate payments of more than $1,000,000, whether such payments are being made by the Borrower or any Subsidiary to a non-Affiliated Person, or by a non-Affiliated Person to the Borrower or any Subsidiary; and (b) all other contracts or agreements, individually or in the aggregate, material to the business, operations, assets, prospects, condition (financial or otherwise), performance or liabilities of the Borrower or any Subsidiary.

"Material Subsidiary" means each Subsidiary which: (a) is organized under the laws of the United States, any state thereof, or the District of Columbia; (b) holds right, title or interest in any Intellectual Property; (c) holds or maintains any material Regulatory Authorization, whether now in effect or hereafter issued by any Regulatory Agency, including any Key Permits received from the FDA and any CE mark; (d) conducts business operations other than commercial sales; (e) is party to any Material Agreement (other than (i) leases of real property and (ii) that certain Supply Agreement, dated as of September 24, 2018, by and between Acutus Medical NV and MedFact Engineering GmbH) other than any Material Agreement between such Subsidiary and the Borrower or another Subsidiary; (f) has, together with its Subsidiaries, assets with a book value or fair market value exceeding $3,000,000 in the aggregate; provided that, if at any time the aggregate book value or the aggregate fair market value of the assets attributable to all Subsidiaries that are not Material Subsidiaries exceeds $3,000,000, the Borrower (or in the event the Borrower has failed to do so within five days, the Origination Agent) shall designate sufficient Subsidiaries as "Material Subsidiaries" to eliminate such excess, and such designated Subsidiaries shall for all purposes of this Agreement constitute "Material Subsidiaries"; (g) has cash and Cash Equivalent Investments exceeding $500,000 individually for a period of more than 15 calendar days (excluding cash or Cash Equivalent Investments in Excluded Accounts); provided that, if at any time the aggregate amount of cash and Cash Equivalent Investments attributable to all Subsidiaries that are not Material Subsidiaries exceeds $500,000, the Borrower (or in the event the Borrower has failed to do so within 15 calendar days, the Origination Agent) shall designate sufficient Subsidiaries as "Material Subsidiaries" to eliminate such excess, and such designated Subsidiaries shall for all purposes of this Agreement constitute "Material Subsidiaries"; or (h) after January 1, 2020, as of the most recent Fiscal Quarter of the Borrower, for the period of four consecutive Fiscal Quarters then ended for which financial statements have been delivered pursuant to Section 7.1(b) or 7.1(c) (or, if prior to the date of the delivery of the first financial statements to be delivered pursuant to Section 7.1(b) or 7.1(c), the most recent financial statements referred to in Section 5.6), contributed greater than 10% of the Revenue Base for such period; provided that, if at any time the aggregate portion of the Revenue Base attributable to all Subsidiaries that are not Material Subsidiaries exceeds 10% of the Revenue Base for any such period, the Borrower (or in the event the Borrower has failed to do so within five days, the Origination Agent) shall designate sufficient Subsidiaries as "Material Subsidiaries" to eliminate such excess, and such designated Subsidiaries shall for all purposes of this Agreement constitute "Material Subsidiaries."

"Maturity Date" means May 20, 2024.

"Moody's" means Moody's Investors Service, Inc., and any successor thereto.

"Net Asset Sales Proceeds" means, with respect to a Disposition (other than Dispositions of inventory permitted by Section 8.8(a)) after the Closing Date by the Borrower or any Subsidiary to any Person of any assets of the Borrower or its Subsidiaries, the excess of gross cash proceeds received by the Borrower or any Subsidiary from such Disposition over all reasonable and customary costs, fees and expenses, and including Taxes payable (or estimated in good faith to be payable) by the recipient of such proceeds, incurred in connection with such Disposition which have not been paid to Affiliates of the Borrower in connection therewith, but excluding any proceeds required to be paid to a creditor (other than the Lenders) which holds a first priority Lien securing Purchase Money Indebtedness and Capitalized Lease Liabilities permitted by Section 8.3 on the property which is the subject of such Disposition.

"Net Casualty Proceeds" means, with respect to any Casualty Event, the amount of any insurance proceeds or condemnation awards received by the Borrower or any of the Subsidiaries in connection with such Casualty Event (other than proceeds that are used to repair or replace the assets subject to such Casualty Event within 180 days of receipt of such proceeds with respect to such Casualty Event with like or similar assets of substantially equal or better value and utility) in excess of $500,000, individually or in the aggregate, through the Termination Date (in each case net of all reasonable and customary collection expenses thereof and Taxes payable with respect thereto), but excluding any proceeds or awards required to be paid to a creditor (other than to the Lenders as required by the Loan Documents) which holds a first priority Lien permitted by Section 8.3(f) on the property which is the subject of such Casualty Event.

"Net Revenue" means net revenue from commercial sales of Products by the Borrower and its Subsidiaries, as determined in accordance with GAAP. Net Revenue shall be determined in a manner consistent with the methodologies, practices and procedures used in developing the Borrower's audited financial statements.

"Non-Excluded Taxes" means any Taxes other than (a) Taxes imposed on or measured by a Person's net income, and franchise Taxes with respect to any Lender imposed by any Governmental Authority under the Laws of which such Lender is organized or in which it maintains its applicable Lending Office, (b) branch profits Taxes imposed by the United States or any similar Tax imposed by any other jurisdiction described in clause (a) above, and (c) (i) any withholding Tax that is imposed by the United States on amounts payable to a Lender at the time such Lender first becomes a party to this Agreement (or designates a new Lending Office), except to the extent that such Lender (or its assignor, if any) was entitled, at the time of designation of a new Lending Office (or assignment), to receive additional amounts from the Borrower with respect to such withholding Tax pursuant to Section 4.3(a), (if) Taxes attributable to a Lender's failure to comply with Section 4.3(e) or (iii) any U.S. federal withholding Taxes or other amounts imposed or payable under FATCA.

"Note" means a promissory note of the Borrower payable to a Lender, in the form of Exhibit A hereto (as such promissory note may be amended, endorsed or otherwise modified from time to time), or such other form as agreed upon by the Administrative Agent and the Borrower, evidencing the aggregate Indebtedness of the Borrower to such Lender resulting from the outstanding amount of such Loans, and also means all other promissory notes accepted from time to time in substitution therefor or renewal thereof.

"Notified Body" means an entity licensed, authorized or approved by the applicable government agency, department or other authority to assess and certify the conformity of a Device with the requirements of the EU Medical Devices Directive or Medical Device Regulation, as may be applicable.

"Obligations" means all obligations (monetary or otherwise, whether absolute or contingent, matured or unmatured) of the Borrower and each Subsidiary arising under or in connection with a Loan Document and the principal of and premium, if any, and interest (including interest accruing during the pendency of any proceeding of the type described in Section 9.1(h), whether or not allowed in such proceeding) on the Loans.

"OFAC" means the Office of Foreign Assets Control of the United States Department of the Treasury.

"OrbiMed" means OrbiMed Royalty Opportunities II, LP and its Affiliates.

"Organic Document" means, relative to the Borrower or any Subsidiary, its certificate of incorporation, by-laws, certificate of partnership, partnership agreement, certificate of formation, limited liability agreement, operating agreement and all shareholder agreements, voting trusts and similar arrangements applicable to the Borrower's or any Subsidiary's Capital Securities.

"Origination Agent" means OrbiMed Royalty Opportunities II, LP, in its capacity as Origination Agent under any of the Loan Documents, or any successor thereto.

"Other Administrative Proceeding" means any administrative proceeding relating to a dispute involving a patent office or other relevant intellectual property registry which relates to validity, opposition, revocation, ownership or enforceability of the relevant Intellectual Property.

"Other Taxes" means any and all stamp, documentary or similar Taxes, or any other excise or property Taxes or similar levies that arise solely on account of any payment made or required to be made under any Loan Document or from the execution, delivery, registration, recording or enforcement of any Loan Document (excluding, for the avoidance of doubt, Taxes described in clauses (a), (b) or (c) of the definition of Non-Excluded Taxes).

"Outstanding Amount" means with respect to any Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of any Loans occurring on such date.

"Party" and "Parties" have the meanings set forth in the preamble.

"Patent" means any patent, any type of patent application or invention disclosure, including all divisions, continuations, continuations in-part, provisionals, continued prosecution applications, substitutions, reissues, reexaminations, inter partes review, post-grant review by or any other type of proceeding involving patents and patent applications before any patent office or other Governmental Authority, renewals, extensions, adjustments, restorations, supplemental protection certificates and patent rights in any form and other additions in connection therewith, whether in or related to the United States or any foreign country or other jurisdiction.

"Patent Security Agreement" means any Patent Security Agreement executed and delivered by the Borrower or any of the Subsidiaries in substantially the form of Exhibit A to the Security Agreement, as amended, supplemented, amended and restated or otherwise modified from time to time.

"Permits" means all permits, licenses, registrations, certificates, orders, approvals, clearances, authorizations, consents, waivers, franchises, variances and similar rights issued by or obtained from any Governmental Authority or any other Person, including those relating to Environmental Laws and Regulatory Authorizations.

"Permitted Acquisition" means (i) the Rhythm Xience Acquisition and (ii) the purchase or other acquisition (through one transaction or a series of related and substantially contemporaneous transactions) of all or substantially all of the Capital Securities (other than qualifying directors shares) in, or all or substantially all of the property of, or all or substantially all of any business or division of, any Person (other than any joint venture owned by another Person that is purchased or acquired) that, upon the consummation thereof, will be wholly owned directly by the Borrower or one or more of its wholly owned Subsidiaries (including as a result of a merger or consolidation); provided that, with respect to each Permitted Acquisition:

(a) the Borrower and each Subsidiary and any such newly-created or acquired Subsidiary shall comply with the requirements of Section 7.8;

(b) the lines of business of the Person to be (or the property of which is to be) so purchased or otherwise acquired shall be permitted pursuant to Section 8.1;

(c) in the case of a purchase or other acquisition of the Capital Securities of another Person, the board of directors (or other comparable governing body) and, if required under applicable Law, the stockholders or equity holders, of such other Person shall have duly approved such purchase or other acquisition;

(d) other than the Rhythm Xience Acquisition, (i) the total cash and non-cash consideration (in addition to that provided pursuant to clause (ii) below) paid by or on behalf of the Borrower and its Subsidiaries for any such purchase or other acquisition, when aggregated with the consideration paid by or on behalf of the Borrower and its Subsidiaries for all other Permitted Acquisitions after the Closing Date shall not exceed the aggregate amount of $500,000 in any Fiscal Year and an aggregate cumulative amount of $2,000,000 and (ii) consideration consisting of common stock of the Borrower (in addition to any consideration pursuant to clause (i) above) shall be permitted, subject to the prior written approval of the Required Lenders (such approval not to be unreasonably withheld);

(e) immediately before and after giving effect to any such purchase or other acquisition, no Default or Event of Default, shall exist or result therefrom; and

(f) other than the Rhythm Xience Acquisition, the Borrower shall have delivered to the Administrative Agent and the Lenders, at least 10 Business Days prior to the date on which any such purchase or other acquisition is to be consummated, a written notice describing such transaction, and thereafter, if requested by any Lender for any such transaction involving consideration in excess of $500,000, (i) historical financial statements of or related to the Person or assets to be acquired, (ii) twelve month projections for such Person or assets to be acquired and for the Borrower after giving effect to such transaction, and (iii) material documentation and other information relating to such transaction and reasonably requested by any Lender.

"Permitted Subordinated Indebtedness" means Indebtedness incurred after the Closing Date by the Borrower or the Subsidiaries that is (a) subordinated to the Obligations and all other Indebtedness owing from the Borrower or the Subsidiaries to the Secured Parties pursuant to a written subordination agreement satisfactory to the Required Lenders in their sole discretion and (b) in an amount and on terms approved by the Required Lenders in their sole discretion.

"Person" means any natural person, corporation, limited liability company, partnership, joint venture, association, trust or unincorporated organization, Governmental Authority or any other legal entity, whether acting in an individual, fiduciary or other capacity.

"Prime Rate" means (a) the rate of interest last quoted by *The Wall Street Journal* as the "Prime Rate" in the U.S. or, if *The Wall Street Journal* ceases to quote such rate, the per annum interest rate published by the F.R.S. Board in Federal Reserve Statistical Release H. 15 (519) (Selected Interest Rates) as the "bank prime loan" rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by the Administrative Agent) or any similar release by the F.R.S. Board (as determined by the Administrative Agent) minus (b) 1.00%; provided that if the Prime Rate shall be less than 2.50%, such rate shall be deemed to be 2.50% for the purposes of this Agreement.

"Privacy Laws" means all applicable security and privacy standards regarding protected health information under (a) the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act of 2009, including the regulations promulgated thereunder and (b) any applicable state privacy Laws.

"Product" means the Advanced Cardiac Mapping Technology ("AcQMap") and AcQMap non-contact catheter and related software and accessories developed by the Borrower, and any current or fiiture service or product (including software products and services) researched, designed, developed, manufactured, licensed, marketed, sold, performed, distributed or otherwise commercialized by the Borrower or any of its Subsidiaries, including any such product in development or which may be developed.

"Product Agreement" means each agreement, license, document, instrument, interest (equity or otherwise) or the like under which one or more parties grants or receives any right, title or interest with respect to any Product Development and Commercialization Activities in respect of one or more Products specified therein or to exclude third parties from engaging in, or otherwise restricting any right, title or interest as to any Product Development and Commercialization Activities with respect thereto, including each contract or agreement with suppliers, manufacturers, distributors, clinical research organizations, hospitals, group purchasing organizations, wholesalers, pharmacies or any other Person related to any such entity.

"Product Development and Commercialization Activities" means, with respect to any Product, any combination of research, development, manufacture, import, use, sale, importation, storage, labeling, marketing, promotion, supply, distribution, testing, packaging, purchasing or other commercialization activities, receipt of payment in respect of any of the foregoing, or like activities the purpose of which is to commercially exploit such Product.

"Publicly Reporting Company" means an issuer generally subject to the public reporting requirements of the Exchange Act.

"Purchase Money Indebtedness" means Indebtedness: (a) consisting of the deferred purchase price for equipment incurred in connection with the acquisition of such equipment, where the amount of such Indebtedness does not exceed the greater of (i) the cost of the equipment being financed and (ii) the fair market value of such equipment; and (b) incurred to finance such acquisition by the Borrower or a Subsidiary of such equipment.

"QSR" means quality systems regulation requirements related to the organizational structure, responsibilities, procedures, processes, and resources for implementing quality management for the manufacturing of Devices, as set forth in 21 CFR Part 820.

"Qualified Capital Securities" shall mean any Capital Securities that are not Disqualified Capital Securities.

"Qualified IPO" means an underwritten initial public offering of the Capital Securities of the Borrower which generates cash proceeds of at least $25,000,000 and results in a listing of the Borrower's Capital Securities on a public securities exchange.

"Receiving Party" means the Party receiving Confidential Information.

"Recipients" is defined in Section 10.14.

"Register" has the meaning specified in Section 10.10(c).

"Regulatory Agencies" means any Governmental Authority that is concerned with the use, control, safety, efficacy, reliability, manufacturing, testing, marketing, distribution, sale or other Product Development and Commercialization Activities relating to any Product of the Borrower or any of the Subsidiaries, including CMS, FDA, and all similar agencies in other jurisdictions, and includes Standard Bodies and Notified Bodies.

"Regulatory Authorizations" means all approvals, clearances, notifications, authorizations, orders, exemptions, registrations, listings, certifications, licenses and permits granted by, submitted to or filed with any Regulatory Agencies necessary for the testing, manufacture, development, distribution, use, storage, import, export, transport, promotion, marketing, sale or other commercialization of any Product in any country or jurisdiction, including any Investigational Application, IDE, premarket approval application (PMA), premarket notification submission (510(k)), and humanitarian device exemption (HDE).

"Related Parties" means, with respect to any Person, such Person's Affiliates and the stockholders, members, partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person's Affiliates.

"Release" means any releasing, disposing, discharging, injecting, spilling, leaking, leaching, pumping, pouring, dumping, depositing, emitting, escaping, emptying, seeping, dispersal, migrating or placing, including movement through, into or upon the environment or any natural or man-made structure.

"Repayment Premium" means a premium of:

(a) ten percent (10.00%) of the principal amount of any prepayment or repayment of the Borrower on the applicable Loan, if such prepayment or repayment is made or required to be made (i) with respect to the Initial Loan, on or prior to the second anniversary of the Closing Date and (ii) with respect to a Delayed Draw Loan, on or prior to the second anniversary of the applicable Delayed Draw Closing Date;

(b) five percent (5.00%) of the principal amount of any prepayment or repayment of the Borrower on the applicable Loan, if such prepayment or repayment is not required to be made prior to, and is made or required to be made after (i) with respect to the Initial Loan, the second anniversary of the Closing Date, but on or prior to the third anniversary of the Closing Date and (ii) with respect to a Delayed Draw Loan, the second anniversary of the applicable Delayed Draw Closing Date, but on or prior to the third anniversary of the applicable Delayed Draw Closing Date;

(c) two and one-half percent (2.50%) of the principal amount of any prepayment or repayment of the Borrower on the applicable Loan, if such prepayment or repayment is not required to be made prior to, and is made or required to be made after (i) with respect to the Initial Loan, the third anniversary of the Closing Date, but on or prior to the fourth anniversary of the Closing Date and (ii) with respect to a Delayed Draw Loan, the third anniversary of the applicable Delayed Draw Closing Date, but on or prior to the fourth anniversary of the applicable Delayed Draw Closing Date; or

(d) zero percent (0%) of the principal amount of any prepayment or repayment of the Borrower on the applicable Loan, if such prepayment or repayment is not required to be made on or prior to, and is made or required to be made after (i) with respect to the Initial Loan, the fourth anniversary of the Closing Date and (ii) with respect to a Delayed Draw Loan, the fourth anniversary of the applicable Delayed Draw Closing Date.

"Required Lenders" means Lenders having Total Credit Exposures representing more than 50% of the Total Credit Exposures of all Lenders; provided that so long as OrbiMed Royalty Opportunities II, LP has not assigned any Loans to a non-Affiliated Person, OrbiMed Royalty Opportunities II, LP shall be a Required Lender; provided further that so long as Deerfield Private Design Fund III, L.P. has not assigned any Loans to a non-Affiliated Person, Deerfield Private Design Fund III, L.P. shall be a Required Lender.

"Restricted Payment" means (a) the declaration or payment of any dividend (other than dividends payable solely in Capital Securities (other than Disqualified Capital Securities)) on, or the making of any payment or distribution on account of, or setting apart assets for a sinking or other analogous fund for the purchase, redemption, defeasance, retirement or other acquisition of, any class of Capital Securities of the Borrower or any Subsidiary or any warrants, options or other right or obligation to purchase or acquire any such Capital Securities, whether now or hereafter outstanding, or (b) the making of any other distribution in respect of such Capital Securities, in each case either directly or indirectly, whether in cash, property or obligations of the Borrower or any Subsidiary or otherwise.

"Revenue Base" means, with respect to any period, the Net Revenues of all Products for such period.

"Rhythm Xience Acquisition" means the Borrower's proposed acquisition of Capital Securities of Rhythm Xcience, Inc. for a purchase price of up to $20,000,000, of which consideration $3,000,000 is to be paid in cash at the closing of such acquisition, $2,000,000 is to be paid in Capital Securities of the Borrower and $15,000,000 is to be paid in cash upon achievement of certain milestones, in each case pursuant to the terms of that certain Acquisition Agreement, dated on or about the date hereof, by and among Borrower, Rhythm Xience, Inc., the parties identified on Schedule I thereto and Harold Wodlinger, as agent for the sellers, as amended, supplemented or modified from time to time.

"S&P" means Standard & Poor's Financial Services LLC, a division of S&P Global Inc., and any successor thereto.

"Sanctions" means any international economic sanction administered or enforced by the United States government (including OFAC), the United Nations Security Council, the European Union, Her Majesty's Treasury or other relevant sanctions authority.

"SEC" means the U.S. Securities and Exchange Commission.

"Second Delayed Draw Closing Date" means the date of the making of the Second Delayed Draw Loan hereunder, which in no event shall be later than December 31, 2020.

"Second Delayed Draw Commitment Amount" as to each Lender, means its obligation to make a portion of the Second Delayed Draw Loan to the Borrower pursuant to Section 2.1, in the principal amount set forth opposite such Lender's name on Schedule 2.1. The aggregate principal amount of the Second Delayed Draw Commitment Amount of all of the Lenders as in effect on the Closing Date is $20,000,000.

"Second Delayed Draw Commitment Termination Date" means the earliest to occur of (a) the Second Delayed Draw Closing Date (immediately after the making of the Second Delayed Draw Loan on such date), (b) December 31, 2020, and (c) May 20, 2019, if the Initial Loan shall not have been made hereunder prior to such date.

"Second Delayed Draw Loan" is defined in Section 2.1.

"Secured Parties" means the Lenders and the Agents.

"Security Agreement" means the Pledge and Security Agreement executed and delivered by each of the parties thereto, substantially in the form of Exhibit E hereto, as amended, supplemented, amended and restated or otherwise modified from time to time.

"Senior Convertible Note Subordination Agreement" means that certain Senior Convertible Note Subordination Agreement, to be entered into on the date of issuance of the Convertible Notes and in the form attached hereto as Exhibit J, by and among the Administrative Agent, the holders of the Convertible Notes and the Borrower.

"Solvent" means, with respect to any Person on a particular date, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (b) the present fair saleable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond its ability to pay as such debts and liabilities mature, (d) such Person is not engaged in a business or a transaction, and is not about to engage in a business or a transaction, for which the property of such Person would constitute an unreasonably small capital and (e) such Person has not executed this Agreement or any other Loan Document, or made any transfer or incurred any obligations hereunder or thereunder, with actual intent to hinder, delay or defraud either present or future creditors. The amount of Contingent Liabilities at any time shall be computed as the amount that, in light of all the facts and circumstances existing at such time, can reasonably be expected to become an actual or matured liability.

"Standard Bodies" means any of the organizations that create, sponsor or maintain safety, quality or other standards, including ISO, ANSI, CEN and SCC and the like.

"Subsidiary" means, with respect to any Person, any other Person of which more than 50% of the outstanding Voting Securities of such other Person (irrespective of whether at the time Capital Securities of any other class or classes of such other Person shall or might have voting power upon the occurrence of any contingency) is at the time directly or indirectly owned or controlled by such Person, by such Person and one or more other Subsidiaries of such Person, or by one or more other Subsidiaries of such Person. Unless the context otherwise specifically requires, the term "Subsidiary" shall be a reference to a Subsidiary of Borrower.

"Synthetic Lease" means, as applied to any Person, any lease (including leases that may be terminated by the lessee at any time) of any property (whether real, personal or mixed) (a) that is not a capital lease in accordance with GAAP and (b) in respect of which the lessee retains or obtains ownership of the property so leased for federal income Tax purposes, other than any such lease under which that Person is the lessor.

"Taxes" means all income, stamp or other taxes, duties, levies, imposts, charges, assessments, fees, deductions or withholdings, now or hereafter imposed, levied, collected, withheld or assessed by any Governmental Authority, and all interest, additions to tax, penalties or similar liabilities with respect thereto.

"Termination Date" means the date on which all Obligations (other than inchoate indemnity obligations) have been paid in full in cash and the Commitment shall have terminated.

"Third Party" means any Person other than the Borrower or any of its Subsidiaries.

"Total Credit Exposure" means, as to any Lender at any time, the Outstanding Amount of the Initial Loans and the Outstanding Amount of all Delayed Draw Loans, as applicable, in each case, of such Lender at such time.

"Trademark" means any trademark, whether registered or not, service mark, trade name, logo, symbol, trade dress, trade style, domain name, corporate name, company name, fictitious business name, certification mark, collective mark or other business identifier or indicator of source or origin, and all applications, registrations and renewals therefor, together with all of the goodwill associated therewith.

"Trademark Security Agreement" means any Trademark Security Agreement executed and delivered by the Borrower or any of the Subsidiaries substantially in the form of Exhibit B to any Security Agreement, as amended, supplemented, amended and restated or otherwise modified from time to time.

"UCC" means the Uniform Commercial Code as in effect from time to time in the State of New York; provided that, if, with respect to any financing statement or by reason of any provisions of Law, the perfection or the effect of perfection or non-perfection of the security interests granted to any Secured Party pursuant to the applicable Loan Document is governed by the Uniform Commercial Code as in effect in a jurisdiction of the United States other than New York, then "UCC" means the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions of each Loan Document and any financing statement relating to such perfection or effect of perfection or non-perfection.

"Undrawn Fee" is defined in Section 3.10.

"United States" or 'U.S." means the United States of America, its fifty states, its territories and jurisdictions, and the District of Columbia.

"Voting Securities" means, with respect to any Person, Capital Securities of any class or kind ordinarily having the power to vote for the election of directors, managers or other voting members of the governing body of such Person.

"wholly owned Subsidiary" means any direct or indirect Subsidiaries of Borrower, all of the outstanding Capital Securities of which (other than any director's qualifying shares or investments by foreign nationals mandated by applicable Laws) is owned directly or indirectly by Borrower.

"Wilmington Trust" means Wilmington Trust, National Association, in its capacity as the Administrative Agent.

SECTION 1.2 Use of Defined Terms. Unless otherwise defined or the context otherwise requires, terms for which meanings are provided in this Agreement shall have such meanings when used in each other Loan Document and the schedules attached hereto.

SECTION 1.3 Cross-References. Unless otherwise specified, references in a Loan Document to any Article or Section are references to such Article or Section of such Loan Document, and references in any Article, Section or definition to any clause are references to such clause of such Article, Section or definition.

SECTION 1.4 Accounting and Financial Determinations. Unless otherwise specified, all accounting terms used in each Loan Document shall be interpreted, and all accounting determinations and computations thereunder (including under Section 8.4 and the definitions used in such calculations) shall be made, in accordance with GAAP, as in effect from time to time, except for (i) noncompliance with FAS 123R in monthly reporting and (ii) with respect to unaudited financial statements for the absence of footnotes and subject to normal year-end adjustments; provided that, if either the Borrower or the Required Lenders request an amendment to any provision hereof to eliminate the effect of any change occurring after the date hereof in GAAP or the application thereof on the operation of such provision, regardless of whether any such notice is given before or after such change in GAAP or the application thereof, then such provision shall be interpreted on the basis of GAAP in effect and applied immediately before such change shall have become effective until such request shall have been withdrawn or such provision amended in accordance herewith; provided, further, that all obligations of any Person that are or would have been treated as operating leases for purposes of GAAP prior to the issuance by the Financial Accounting Standards Board on February 25, 2016 of the ASU shall continue to be accounted for as operating leases for purposes of all financial definitions, calculations and covenants for purpose of this Agreement (whether or not such operating lease obligations 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. Unless otherwise expressly provided, all financial covenants and defined financial terms shall be computed on a consolidated basis for the Borrower and the Subsidiaries, in each case without duplication.

ARTICLE II
COMMITMENT AND BORROWING PROCEDURES

SECTION 2.1 Commitment. On the terms and subject to the conditions of this Agreement, each Lender severally agrees to make its portion of a term loan (the "Initial Loan") to the Borrower on the Closing Date in an amount equal to (but not less than) such Lender's Initial Commitment Amount. On the terms and subject to the conditions of this Agreement, each Lender severally agrees to make its portion of a term loan (the "First Delayed Draw Loan") to the Borrower on the First Delayed Draw Closing Date in an amount equal to (but not less than)

such Lender's First Delayed Draw Commitment Amount. On the terms and subject to the conditions of this Agreement, each Lender severally agrees to make its portion of a term loan (the "Second Delayed Draw Loan") to the Borrower on the Second Delayed Draw Closing Date in an amount equal to (but not less than) such Lender's Second Delayed Draw Commitment Amount. No amounts paid or prepaid with respect to the Loans may be reborrowed.

SECTION 2.2 Borrowing Procedure. The Borrower may irrevocably request that the Initial Loan be made by delivering to the Administrative Agent a Loan Request on or before 10:00 a.m. on a Business Day at least one Business Day prior to the proposed Closing Date. The Borrower may irrevocably request that a Delayed Draw Loan be made by delivering to the Administrative Agent a Loan Request on or before 10:00 a.m. on a Business Day at least fifteen Business Days prior to the applicable proposed Delayed Draw Closing Date.

SECTION 2.3 Funding. After receipt of the Loan Request for the Initial Loan, the Administrative Agent shall promptly notify each Lender of the amount of such Lender's portion of the Initial Loan. Each Lender shall, on the Closing Date and subject to the terms and conditions hereof, make the requested proceeds of such Lender's portion of the Initial Loan available to or as instructed by the Administrative Agent. Upon satisfaction of the applicable conditions set forth in Article V, the Administrative Agent shall make all funds so received available to the Borrower by wire transfer to the account the Borrower shall have specified in its Loan Request in an amount equal to (but not less than) the Lenders' Initial Commitment Amount. After receipt of a Loan Request for a First Delayed Draw Loan, the Administrative Agent shall promptly notify each Lender of the amount of such Lender's portion of the First Delayed Draw Loan. Each Lender shall, on the First Delayed Draw Closing Date and subject to the terms and conditions hereof, make the requested proceeds of such Lender's portion of such First Delayed Draw Loan available to or as instructed by the Administrative Agent. Upon satisfaction of the applicable conditions set forth in Article V, the Administrative Agent shall make all funds so received available to the Borrower by wire transfer to the account the Borrower shall have specified in its Loan Request in an amount equal to (but not less than) the Lenders' First Delayed Draw Commitment Amount. After receipt of a Loan Request for a Second Delayed Draw Loan, the Administrative Agent shall promptly notify each Lender of the amount of such Lender's portion of the Second Delayed Draw Loan. Each Lender shall, on the Second Delayed Draw Closing Date and subject to the terms and conditions hereof, make the requested proceeds of such Lender's portion of such Second Delayed Draw Loan available to or as instructed by the Administrative Agent. Upon satisfaction of the applicable conditions set forth in Article V, the Administrative Agent shall make all funds so received available to the Borrower by wire transfer to the account the Borrower shall have specified in its Loan Request in an amount equal to (but not less than) the Lenders' Second Delayed Draw Commitment Amount.

SECTION 2.4 Reduction of the Commitment Amounts. The Initial Commitment Amount shall automatically and permanently be reduced to zero on the Initial Commitment Termination Date. Each Delayed Draw Commitment Amount shall automatically and permanently be reduced to zero on the applicable Delayed Draw Commitment Termination Date.

ARTICLE III
REPAYMENTS, PREPAYMENTS, INTEREST AND FEES

SECTION 3.1 Repayments and Prepayments; Application. The Borrower agrees that the Loans, and any fees or interest accrued or accruing thereon, shall be repaid and prepaid solely in U.S. dollars pursuant to the terms of this Article III.

SECTION 3.2 Repayments and Prepayments. The Borrower shall repay in hill the unpaid principal amount of the Loans on the Maturity Date. Prior thereto, payments and prepayments of the Loans shall be made as set forth below.

(a) The Borrower shall have the right, with at least three Business Days' notice to the Administrative Agent, at any time and from time to time to prepay any unpaid principal amount of the Loans, in whole or in part.

(b) Within three Business Days of receipt by the Borrower or any Subsidiary of any (i) Net Casualty Proceeds or (ii) Net Asset Sales Proceeds, the Borrower shall notify the Administrative Agent and Lenders thereof. If requested by the Required Lenders, the Borrower shall within three Business Days of such request make a mandatory prepayment of the Loans, in an amount equal to 100% of such Net Casualty Proceeds or Net Asset Sales Proceeds, as the case may be (or such lesser amount as the Required Lenders may specify on the date of such request), to be applied as set forth in Section 3.3.

(c) The Borrower shall repay the Loans in full immediately upon any acceleration of the Maturity Date thereof pursuant to Section 9.2 or Section 9.3, unless, pursuant to Section 9.3, only a portion of the Loans is so accelerated (in which case the portion so accelerated shall be so repaid).

SECTION 3.3 Application. Except as provided in Section 4.4(b), amounts repaid or prepaid in respect of the outstanding principal amount of the Loans pursuant to clauses (b) or (c) of Section 3.2 shall be applied pro rata to the Initial Loan and Delayed Draw Loans.

SECTION 3.4 Interest Rate. During any applicable Interest Period, the Loans shall accrue interest during such Interest Period at a rate per annum equal to the sum of (a) the Applicable Margin plus (b) the LIBO Rate for such Interest Period. The interest rate shall be recalculated and, if necessary, adjusted for each Interest Period, in each case pursuant to the terms hereof.

SECTION 3.5 Default Rate. At all times commencing upon the date any Event of Default occurs, and continuing until such Event of Default is no longer continuing, the Applicable Margin shall be increased by 10.00% per annum.

SECTION 3.6 Payment Dates. Interest accrued on the Loans shall be payable in cash, without duplication:

(a) on the Maturity Date therefor;

(b) on the date of any payment or prepayment, in whole or in part, of principal outstanding on such Loan on the principal amount so paid or prepaid;

(c) on the last Business Day of each calendar month; and

(d) on that portion of the Loans that is accelerated pursuant to Section 9.2 or Section 9.3, immediately upon such acceleration.

Interest accrued on the Loans or other monetary Obligations after the date such amount is due and payable (whether on the Maturity Date, upon acceleration or otherwise) shall be payable upon demand.

SECTION 3.7 Repayment Premium. Upon the prepayment or repayment of all or any portion of any Loans (or upon the date any such prepayment or repayment is required to be paid), whether pursuant to Section 9.2 or Section 9.3, or otherwise, the Borrower shall pay to the Administrative Agent for the account of each Lender, in cash, on the date on which such prepayment or repayment is paid or required to be paid, as the case may be, in addition to the other Obligations (including the Exit Fee, the Undrawn Fee and the Commitment Fee) so prepaid, repaid or required to be prepaid or repaid, the Repayment Premium that is applicable on such date with respect to the portion of each Loan of such Lender so prepaid, repaid or required to be prepaid or repaid.

SECTION 3.8 Exit Fee. The Borrower shall pay to the Administrative Agent for the account of each Lender, in cash (the "Exit Fee"):

(a) upon the prepayment or repayment of any portion less than all of the Loans (or upon the date any such prepayment or repayment is required to be paid), whether pursuant to Section 9.2 or Section 9.3, or otherwise, on the date on which such prepayment or repayment is paid or required to be paid, as the case may be, in addition to the other Obligations (including the Repayment Premium, Undrawn Fee and Commitment Fee, if any) so prepaid, repaid or required to be prepaid or repaid, a fee in an amount equal to five percent (5.00%) of the principal amount of the Loans of such Lender prepaid, repaid or required to be prepaid or repaid, as the case may be, on such date; plus

(b) upon the prepayment or repayment in full of the Loans (or upon the date any such prepayment or repayment is required to be paid), whether on the Maturity Date, or pursuant to Section 9.2 or Section 9.3, or otherwise, on the date on which such prepayment or repayment is paid or required to be paid, as the case may be, in addition to the other Obligations (including the Repayment Premium, Undrawn Fee and Commitment Fee, if any) so prepaid, repaid or required to be prepaid or repaid, a fee in an amount equal to five percent (5.00%) of the Commitment Amount of such Lender on the Closing Date minus any amounts paid to such Lender pursuant to subsection (a) of this Section 3.8 prior to such date.

SECTION 3.9 Administration Fee.

(a) The Borrower shall pay to the Origination Agent, in cash, a non- reiundable quarterly loan administration fee in the amount of $10,000 payable in advance, with the first payment due and payable upon the Closing Date prorated with respect to the Fiscal Quarter in which the Closing Date occurs and other payments due on the last day of each Fiscal Quarter (beginning with the last day of the Fiscal Quarter in which the Closing Date occurs); provided that if such day is not a Business Day, then such payment shall be made on the next preceding Business Day.

(b) The Borrower shall pay to the Administration Agent such fees in the amounts and at the times specified under the Agency Fee Letter.

SECTION 3.10 Undrawn Fee. The Borrower shall pay to the Administrative Agent for the account of each Lender, in cash, for its own account, a fee in an annual amount equal to 2.00% multiplied by the undrawn Delayed Draw Commitment Amounts of such Lender, payable in equal installments on the last day of each calendar month (provided that if such day is not a Business Day, then such payment shall be made on the next preceding Business Day) until the respective Delayed Draw Commitment Termination Date (and if a Delayed Draw Commitment Termination Date occurs on a date that is not the last day of a calendar month, the amount of the fee for the corresponding calendar month shall be a prorated amount for the portion of such calendar month ending on such Delayed Draw Commitment Termination Date and shall be paid on such date) (the "Undrawn Fee"). Such fee shall be fully earned and nonrefundable under any circumstances.

SECTION 3.11 Commitment Fee. The Borrower shall pay to the Administrative Agent for the account of each Lender, in cash (the "Commitment Fee"):

(a) on the Closing Date, a fully earned, non-refundable commitment fee in an amount equal to one percent (1.00%) of the Commitment Amount of such Lender on the Closing Date; and

(b) upon the prepayment or repayment of all or any portion of any Loans (or upon the date any such prepayment or repayment is required to be paid), whether on the Maturity Date, pursuant to Section 9.2 or Section 9.3, or otherwise, on the date on which such prepayment or repayment is paid or required to be paid, as the case may be, in addition to the other Obligations (including the Repayment Premium, Exit Fee and Undrawn Fee, if any) so prepaid, repaid or required to be prepaid or repaid, a fee in an amount equal to one and one-half percent (1.50%) of the Commitment Amount of such Lender on the Closing Date.

SECTION 3.12 Payments Generally. Subject to Section 9.3, all payments of principal, interest and any Prepayment Premium on the Loans and all other Obligations payable by any Loan Party under the Loan Documents shall be due, without any presentment thereof, to the Administrative Agent, at the Administrative Agent's Office. The Administrative Agent shall distribute any such payments received by it for the account of any other person to the appropriate recipient promptly following receipt. All repayments and prepayments under the Loan Documents shall be made to the Lenders on a pro rata basis.

ARTICLE IV
LIBO RATE AND OTHER PROVISIONS

SECTION 4.1 Increased Costs, Etc. The Borrower agrees to reimburse the Lenders for any increase in the cost to the Lenders of, or any reduction in the amount of any sum receivable by the Lenders in respect of, the Lenders' Commitments and the making, continuation or maintaining of the Loans hereunder that may arise in connection with any Change in Law, except for such changes with respect to increased capital costs and Taxes which are governed by Section 4.2 and Section 4.3, respectively. The Administrative Agent shall notify the Borrower in writing of the occurrence of any such event, stating the reasons therefor and the additional amount required fully to compensate the Lenders for such increased cost or reduced amount. Such additional amounts shall be payable by the Borrower directly to the Administrative Agent for the accounts of the Lenders within ten Business Days of its receipt of such notice, and such notice shall, in the absence of manifest error, be conclusive and binding on the Borrower.

SECTION 4.2 Increased Capital Costs. If any Change in Law affects or would affect the amount of capital required or expected to be maintained by any Lender or any Person controlling such Lender, and such Lender determines (in good faith but in its sole and absolute discretion) that the rate of return on its or such controlling Person's capital as a consequence of the Commitments or the Loans made by it hereunder is reduced to a level below that which such Lender or such controlling Person could have achieved but for the occurrence of any such circumstance, then upon notice from time to time by such Lender to the Borrower, die Borrower shall within ten Business Days following receipt of such notice pay directly to the Administrative Agent for the account of such Lender additional amounts sufficient to compensate such Lender or such controlling Person for such reduction in rate of return. A statement of such Lender as to any such additional amount or amounts shall, in the absence of manifest error, be conclusive and binding on the Borrower. In determining such amount, such Lender may use any method of averaging and attribution that it (in its reasonable discretion) shall deem applicable.

SECTION 4.3 Taxes. The Borrower covenants and agrees as follows with respect to Taxes:

(a) Except as required by applicable Law, any and all payments by the Borrower or any Subsidiary under each Loan Document shall be made without setoff, counterclaim or other defense, and free and clear of, and without deduction or withholding for or on account of, any Taxes. In the event that any Taxes are imposed and required to be deducted or withheld from any payment required to be made by the Borrower or any of the Subsidiaries to or on behalf of the Lenders under any Loan Document, then:

(i) if such Taxes are Non-Excluded Taxes, the amount of such payment shall be increased as may be necessary so that such payment is made, after withholding or deduction for or on account of such Non-Excluded Taxes, in an amount that is not less than the Lender would have received had no such withholding or deduction for Non-Excluded Taxes been made; and

(ii) the Borrower or such Subsidiary shall deduct or withhold the full amount of such Taxes from such payment (as increased pursuant to clause (a)(i)) and shall pay such amount to the Governmental Authority imposing such Taxes in accordance with applicable Law.

(b) In addition, the Borrower or the applicable Subsidiary shall pay all Other Taxes imposed to the relevant Governmental Authority imposing such Other Taxes in accordance with applicable Law.

(c) As promptly as practicable after the payment of any Taxes or Other Taxes required to be paid by the Borrower under Section 4.3(a) or (b), and in any event within 45 days of any such payment being due, the Borrower shall furnish to the Administrative Agent a copy of an official receipt (or a certified copy thereof) evidencing the payment of such Taxes or Other Taxes.

(d) The Borrower shall indemnify each Lender for any Non-Excluded Taxes and Other Taxes levied, imposed or assessed on (and whether or not paid directly by) such Lender whether or not such Non-Excluded Taxes or Other Taxes are correctly or legally asserted by the relevant Governmental Authority. Promptly upon having knowledge that any such Non-Excluded Taxes or Other Taxes have been levied, imposed or assessed, and promptly upon notice thereof by such Lender, the Borrower shall pay such Non-Excluded Taxes or Other Taxes directly to the relevant Governmental Authority (provided that such Lender shall not be under any obligation to provide any such notice to the Borrower). In addition, the Borrower shall indemnify each Lender for any incremental Taxes that may become payable by such Lender as a result of any failure of the Borrower to pay any Taxes when due to the appropriate Governmental Authority or to deliver to such Lender, pursuant to clause (c), documentation evidencing the payment of Taxes or Other Taxes. With respect to indemnification for Non-Excluded Taxes and Other Taxes actually paid by each Lender or the indemnification provided in the immediately preceding sentence, such indemnification shall be made within 30 days after the date such Lender makes written demand therefor. The Borrower acknowledges that any payment made to any Lender or to any Governmental Authority in respect of the indemnification obligations of the Borrower provided in this clause (d) shall constitute a payment in respect of which the provisions of clause (a) and this clause (d) shall apply.

(e) The Lender, or any assignee of Lender's rights hereunder or replacement of Lender hereunder if applicable, shall upon reasonable request of Borrower furnish to Borrower IRS Form W-9, IRS Form W-8BEN or IRS Form W-8BEN-E (or other appropriate version of IRS Form W-8), as applicable, and such other tax forms and information that it is legally permitted to provide to Borrower as necessary for tax reporting or withholding requirements of Borrower.

(f) Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 4.3 (including by the payment of additional amounts pursuant to this Section), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such reiund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest

paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (f) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (f), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (h) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such reiund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(g) For purposes of sections 1272, 1273 and 1275 of the Code and the U.S. Department of Treasury regulations thereunder, the Loans are being issued with original issue discount. Requests for information regarding the issue price, amount of original issue discount, issue date, and yield to maturity on the Loans shall be directed to the Borrower, at the address of the Borrower specified on Schedule 10.2 to the Disclosure Letter.

(h) Each party's obligations under this Section 4.3 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all other Obligations.

SECTION 4.4 Payments, Computations; Proceeds of Collateral, Etc.

(a) Unless otherwise expressly provided in a Loan Document, all payments by the Borrower pursuant to each Loan Document shall be made without setoff, deduction or counterclaim not later than 1:00 p.m on the date due in same day or immediately available fiinds, marked for attention as indicated, or in such other manner or to such other account in any United States bank as the Administrative Agent may from time to time direct in writing. Funds received after 1:00 p.m. on any day shall be deemed to have been received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. All interest and fees shall be computed on the basis of the actual number of days occurring during the period for which such interest or fee is payable over a year comprised of 360 days. Payments due on other than a Business Day shall be made on the next succeeding Business Day and such extension of time shall be included in computing interest and fees in connection with that payment.

(b) All amounts received as a result of the exercise of remedies under the Loan Documents (including from the proceeds of collateral securing the Obligations) or under applicable Law shall be applied upon receipt to the Obligations as follows:

(i) first, to the payment in full in cash of all interest (including interest accruing after the commencement of a proceeding in bankruptcy, insolvency or similar Law, whether or not permitted as a claim under such Law) and fees owing under the Loan Documents, and all costs and expenses owing to the Lenders pursuant to the terms of the Loan Documents, until paid in full in cash, (ii) second, afterpayment in full in cash of the amounts specified in clause (b)(i), to the payment of the principal amount of the Loans then outstanding, (iii) third, after payment in full in cash of the amounts specified in clauses (b)(i) and (b)(ii), to the payment of all other Obligations owing to the Lenders, and (iv) fourth, after payment in full in cash of the amounts specified in clauses (b)(i) through (b)(iii), and following the Termination Date, to the Borrower or any other Person lawfiilly entitled to receive such surplus.

(c) The obligations of the Lenders hereunder to make Loans and to make payments pursuant to Section 10.4(c) are several and not joint. The failure of any Lender to make any Loan or to make any payment under Section 10.4(c) on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan or to make its payment under Section 10.4(c).

(d) Nothing herein shall be deemed to obligate any Lender to obtain the ftinds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

(e) If any Lender shall, by exercising any right of setoff or otherwise, obtain payment in respect of any principal of or interest on its portion of any of the Loans or any Repayment Premium in connection therewith resulting in such Lender's receiving payment of a proportion of the aggregate amount of the Loans and accrued interest thereon and any Repayment Premium in connection therewith greater than its Applicable Percentage thereof as provided herein, then the Lender shall (x) notify the Administrative Agent of such fact and (y) purchase (for cash at face value) participations in the portions of the Loans of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of, accrued interest on and any Repayment Premium in connection with then- re spective portions of the Loans and other amounts owing them; provided that:

(i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this Section 4.4(e) shall not be construed to apply to (x) any payment made by or on behalf of the Borrower pursuant to and in accordance with the express terms of this Agreement or (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its portion of the Loans to any assignee or participant, other than an assignment to a Loan Party (as to which the provisions of this Section shall apply).

Each Loan Party consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Loan Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Loan Party in the amount of such participation.

SECTION 4.5 Setoff. Each Lender shall, upon the occurrence and during the continuance of any Default described in clauses (i) through (iv) of Section 9.1(h) or, upon the occurrence and during the continuance of any other Event of Default, have the right to appropriate and apply to the payment of the Obligations owing to it (whether or not then due), and (as security for such Obligations) the Borrower hereby grants to each Lender a continuing security interest in, any and all balances, credits, deposits, accounts or moneys of the Borrower then or thereafter maintained with or on behalf of such Lender. Each Lender agrees promptly to notify the Borrower after any such appropriation and application made by it; provided that the failure to give such notice shall not affect the validity of such setoff and application. The rights of each Lender under this Section 4.5 are in addition to other rights and remedies (including other rights of setoff under applicable Law or otherwise) which each Lender may have.

SECTION 4.6 LIBO Rate Not Determinable.

(a) If prior to the commencement of any Interest Period for a Loan, the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the LIBO Rate for such Interest Period, then the Administrative Agent shall give notice thereof to the Borrower as promptly as practicable and, until the Administrative Agent notifies the Borrower that the circumstances giving rise to such notice no longer exist, (i) the Loans shall bear interest calculated pursuant to Section 3.4 but using the Prime Rate instead of the LIBO Rate and (ii) the continuation of any outstanding Loan or the extension of a new Loan hereunder shall be made with interest calculated pursuant to Section 3.4 but using the Prime Rate instead of the LIBO Rate.

(b) If at any time the Administrative Agent or the Origination Agent determines (which determination shall be conclusive absent manifest error) that (i) the circumstances set forth in Section 4.6(a) have arisen and such circumstances are unlikely to be temporary or (ii) the circumstances set forth in Section 4.6(a) have not arisen but the supervisor for the administrator of the LIBO Rate has made a public statement identifying a specific date after which the LIBO Rate shall no longer be used for determining interest rates for loans, then the Administrative Agent, the Origination Agent and the Borrower shall negotiate in good faith to agree upon an alternate rate of interest to that based on the LIBO Rate that gives due consideration to the then-prevailing market convention for determining a rate of interest for syndicated loans in the United States at such time, and the Required Lenders and the Borrower shall enter into an amendment to this Agreement to reflect such alternate rate of interest and such other related changes as the Required Lenders may determine to be appropriate. Until an alternate rate of interest

shall be determined in accordance with this Section 4.6(b) (but, in the case of the circumstances described in clause (ii) of the first sentence of this Section 4.6(b), only to the extent the LIBO Rate for such Interest Period is not available or published at such time on a current basis), Section 4.6(a) shall be applicable.

ARTICLE V
CONDITIONS TO MAKING THE LOANS

SECTION 5.1 Credit Extensions. The obligation of each Lender to make its portion of the Initial Loan shall be subject to the execution and delivery of this Agreement by the Parties, the delivery of a Loan Request as requested pursuant to Section 2.3, and the satisfaction of each of the conditions precedent set forth below in this Article (other than Sections 5.17 and 5.18). The obligation of each Lender to make its portion of a Delayed Draw Loan shall be subject to the prior making of the Initial Loan, the delivery of a Loan Request as requested pursuant to Section 2.3, and the satisfaction of each of the conditions precedent set forth below in Sections 5.3, 5.8, 5.17, 5.18 and 5.21.

SECTION 5.2 Secretary's Certificate, Etc. The Administrative Agent and each Lender shall have received from the Borrower and each Subsidiary party to a Loan Document, (i) a copy of a good standing certificate, dated a date reasonably close to the Closing Date, for each such Person in such Person's jurisdiction of formation and (ii) a certificate, dated as of the Closing Date, duly executed and delivered by such Person's Secretary or Assistant Secretary, managing member or general partner, as applicable, as to:

(a) resolutions of each such Person's board of directors (or other managing body, in the case of other than a corporation) and any other corporate resolutions required by applicable Law or pursuant to such Person's Organic Documents, each of which shall be then in full force and effect, authorizing the execution, delivery and performance of each Investment Document to be executed by such Person and the transactions contemplated hereby and thereby;

(b) the incumbency and signatures of those of its officers, managers, managing member or general partner, as applicable, authorized to act with respect to each Loan Document to be executed by such Person; and

(c) each Organic Document of such Person being in full force and effect, and attaching copies thereof;

upon which certificates the Administrative Agent and each Lender may conclusively rely until it shall have received a further certificate of the Secretary, Assistant Secretary, managing member or general partner, as applicable, of any such Person canceling or amending the prior certificate of such Person.

SECTION 5.3 Closing Date Certificate. The Administrative Agent and each Lender shall have received a Closing Date Certificate, dated as of the Closing Date or Delayed Draw Closing Date, as the case may be, and duly executed and delivered by an Authorized Officer of the Borrower, in which certificate the Borrower shall certify that (a) the representations and warranties set forth in each Investment Document shall, in each case, be true and correct in all material respects (except with respect to any representation or warranty qualified by materiality

or Material Adverse Effect, which representation or warranty shall be true and correct in all respects) as of the Closing Date or Delayed Draw Closing Date, as the case may be; provided, however that those representations and warranties expressly referring to a specific date shall be true and correct in all material respects (except with respect to any representation or warranty qualified by materiality or Material Adverse Effect, which representation or warranty shall be true and correct in all respects) as of such date, (b) no Default shall have then occurred and be continuing, or would result from the Loan to be advanced on the Closing Date or Delayed Draw Closing Date, as the case may be, and (c) all of the applicable conditions set forth in this Article V have been satisfied. All documents and agreements required to be appended to the Closing Date Certificate, if any, shall be in form and substance satisfactory to the Administrative Agent and each Lender, shall have been executed and delivered by the requisite parties, and shall be in full force and effect.

SECTION 5.4 Payment of Outstanding Indebtedness, Etc.

(a) All Indebtedness identified in Schedule 8.2(b)(i) to the Disclosure Letter, together with all interest, all prepayment premiums and all other amounts due and payable with respect thereto, shall have been paid in full from the proceeds of the Loan and the commitments in respect of such Indebtedness shall have been terminated, and all Liens securing payment of any such Indebtedness shall have been released and the Administrative Agent and each Lender shall have received all Uniform Commercial Code Form UCC-3 termination statements or other instruments (including customary payoff letters) as may be suitable or appropriate in connection therewith.

(b) The Administrative Agent shall have received an executed Junior Convertible Note Subordination Agreement, in form and substance satisfactory to the Lenders, with respect to the Existing Convertible Notes.

SECTION 5.5 Delivery of Note. Each Lender shall have received a Note duly executed and delivered by an Authorized Officer of the Borrower.

SECTION 5.6 Financial Information, Etc. The Administrative Agent and the Lenders shall have received:

(a) (i) audited consolidated financial statements of the Borrower and the Subsidiaries for each of the fiscal years ended December 31, 2016 and December 31, 2017, and (ii) unaudited consolidated financial statements of the Borrower and the Subsidiaries for the fiscal year ended December 31, 2018;

(b) unaudited consolidated balance sheets of the Borrower and the Subsidiaries for each Fiscal Quarter ended after December 31, 2017 (other than the Fiscal Quarter ended March 31, 2019), together with the related consolidated statement of operations, shareholder's equity and cashflows for the twelve months then ended; and

(c) such other financial information as to the Borrower and the Subsidiaries and their respective businesses, assets and liabilities as any Lender or the Administrative Agent may reasonably request.

SECTION 5.7 Compliance Certificate. The Lenders and the Administrative Agent shall have received an initial Compliance Certificate on a pro forma basis as if the Initial Loan had been made as of March 31, 2019 and as to such items therein as any Lender reasonably requests, dated the Closing Date, duly executed (and with all schedules thereto duly completed) and delivered by the chief financial or accounting Authorized Officer of the Borrower.

SECTION 5.8 Solvency, Etc. The Lenders and the Administrative Agent shall have received a solvency certificate duly executed and delivered by the chief financial or accounting Authorized Officer of the Borrower, dated as of the Closing Date or Delayed Draw Closing Date, as the case may be, in form and substance satisfactory to the Lenders and the Administrative Agent.

SECTION 5.9 Guarantee. In case there are any Material Subsidiaries as of the Closing Date, the Lenders and the Administrative Agent shall have received executed counterparts of the Guarantee, dated as of the date hereof, duly executed and delivered by each such Material Subsidiary.

SECTION 5.10 Security Agreements. The Administrative Agent and the Lenders shall have received executed counterparts of the Security Agreement, dated as of the date hereof, duly executed and delivered by the Borrower and each Material Subsidiary, together with:

(a) certificates (in the case of Capital Securities that are securities (as defined in the UCC)) evidencing all of the issued and outstanding Capital Securities owned by the Borrower or any Guarantor in in any Subsidiaries, which certificates in each case shall be accompanied by undated instruments of transfer duly executed in blank;

(b) financing statements suitable in form for naming the Borrower and each Material Subsidiary as a debtor and the Administrative Agent as the secured party, or other similar instruments or documents to be filed under the UCC of all jurisdictions as may be necessary or, in the opinion of the Administrative Agent or any Lender, desirable to perfect the security interests of the Administrative Agent and the other Secured Parties pursuant to the Security Agreement;

(c) UCC Form UCC-3 termination statements, if any, necessary to release all Liens and other rights of any Person, except for Liens permitted pursuant to Section 8.3, (i) in any assets of the Borrower or any Subsidiary or (ii) securing any of the Indebtedness identified in Schedule 8.2(b)(i) to the Disclosure Letter, together with such other UCC Form UCC-3 termination statements as the Administrative Agent or any Lender may reasonably request from the Borrower or any Subsidiary;

(d) landlord access agreements and bailee letters in form and substance satisfactory to each of the Agents from each landlord to the Borrower or any Material Subsidiary and each other Person that has possession of any Collateral (as defined in the Security Agreement); and

(e) evidence that all deposit accounts, lockboxes, disbursement accounts, investment accounts or other similar accounts of the Borrower and each Material Subsidiary are Controlled Accounts (other than Excluded Accounts).

SECTION 5.11 Intellectual Property Security Agreements. In case the Collateral includes any Patents, any Copyrights or any Trademarks, the Administrative Agent and the Lenders shall have received, respectively, a Patent Security Agreement, a Copyright Security Agreement and a Trademark Security Agreement, as applicable, each dated as of the Closing Date, duly executed and delivered by the Borrower or any Subsidiary that, pursuant to the Security Agreement, is required to provide such intellectual property security agreements to the Administrative Agent for the benefit of the Secured Parties.

SECTION 5.12 Opinions of Counsel. The Administrative Agent and the Lenders shall have received an opinion, dated the Closing Date and addressed to the Secured Parties, from Wilson Sonsini Goodrich & Rosati, Professional Corporation, counsel to the Borrower and the Subsidiaries, in form and substance reasonably satisfactory to the Administrative Agent and the Lenders.

SECTION 5.13 Insurance. The Administrative Agent and the Lenders shall have received certified copies of the insurance policies (or binders in respect thereof), from one or more insurance companies reasonably satisfactory to the Administrative Agent and the Lenders, evidencing coverage required to be maintained pursuant to each Loan Document, with the Administrative Agent named as loss payee or additional insured, as applicable.

SECTION 5.14 Closing Fees, Expenses, Etc. Each Lender and each Agent shall have received for its own account all fees, costs and expenses due and payable pursuant to Sections 3.9, 3.11 and 10.3.

SECTION 5.15 Anti-Terrorism Laws. Each Lender and the Administrative Agent shall have received, as applicable, all documentation and other information required by bank regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the U.S. Patriot Act.

SECTION 5.16 Satisfactory Legal Form. All documents executed or submitted pursuant hereto by or on behalf of the Borrower or any Subsidiary shall be satisfactory in form and substance to each Lender and the Administrative Agent, and each Lender and the Administrative Agent shall have received all information, approvals, resolutions, opinions, documents or instruments as any Lender or the Administrative Agent may reasonably request.

SECTION 5.17 Revenue Base.

(a) The Lenders shall be satisfied that the Revenue Base for the six most recent full calendar months for which financial statements have been delivered pursuant to Section 7.1(a) immediately prior to the First Delayed Draw Closing Date was at least $10,000,000, and the Borrower shall have complied with the requirements of Section 7.1(a).

(b) The Lenders shall be satisfied that the Revenue Base for the six most recent full calendar months for which financial statements have been delivered pursuant to Section 7.1(a) immediately prior to the Second Delayed Draw Closing Date was at least $20,000,000, and the Borrower shall have complied with the requirements of Section 7.1(a).

SECTION 5.18 Disclosure Schedules to Disclosure Letter. Immediately prior to each Delayed Draw Closing Date, the Borrower shall deliver to the Administrative Agent and the Lenders updates to Schedules 6.15(a), 6.16, 6.19 and 6.22 to the Disclosure Letter, each such updated Schedule to be complete and accurate in all material respects as of such Delayed Draw Closing Date.

SECTION 5.19 Investment Documents. The Administrative Agent shall have received executed counterparts of this Agreement and the other Investment Documents, each properly executed by the Borrower and by an Authorized Officer of each other signing Loan Party and each other party to such Investment Documents.

SECTION 5.20 Convertible Notes. On the Closing Date, (i) OrbiMed shall have committed to purchase Convertible Notes in an aggregate principal amount equal to $20,000,000, (ii) Deerfield Private Design Fund III, L.P. shall have committed to purchase Convertible Notes in an aggregate principal amount equal to $7,000,000 and (iii) each investor listed on Schedule 5.20 to the Disclosure Letter hereto shall have committed to purchase the amount of Convertible Notes set forth opposite the name of such investor, in an aggregate principal amount for all such investors equal to at least $11,000,000, in each case in form satisfactory to each Lender.

SECTION 5.21 Equity Commitments. After the date hereof and on or prior to December 31, 2019, (i) the Borrower shall have entered into and consummated one or more transactions with Persons other than OrbiMed under which such Persons have purchased newly issued Series D preferred shares of the Borrower and the Borrower has received gross cash proceeds with respect to all such purchases in an amount equal to at least $23,000,000 and (ii) the Convertible Notes shall have been issued and paid for in cash by the investors therein, and the Convertible Notes and the Existing Convertible Notes shall have been converted into Capital Securities of the Borrower (other than Disqualified Capital Securities) in accordance with their terms.

Without limiting the generality of the provisions of the last paragraph of Section 10.3, for purposes of determining compliance with the conditions specified in this Article V, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

ARTICLE VI
REPRESENTATIONS AND WARRANTIES

In order to induce the Lenders and the Agents to enter into this Agreement and to make the Loans hereunder, the Borrower represents and warrants to the Lenders and the Agents that:

SECTION 6.1 Organization, Etc. Each of the Borrower and each Subsidiary (a) is validly organized and existing and in good standing under the Laws of the jurisdiction of its incorporation or organization, is duly qualified to do business and is in good standing as a foreign entity in each jurisdiction where the nature of its business requires such qualification

(unless the failure to so qualify as a foreign entity could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect), and (b) has full power and authority and holds all requisite material governmental licenses, Permits and other approvals required (i) to enter into and perform its Obligations under each Investment Document to which it is a party, and (ii) to own and hold under lease its property and to conduct its business in all material respects substantially as currently conducted by it.

SECTION 6.2 Due Authorization, Non-Contravention, Etc. The execution, delivery and performance by the Borrower and each Subsidiary of each Investment Document executed or to be executed by it to which it is a party are in each case within such Person's corporate or organizational powers, have been duly authorized by all necessary corporate or organizational action, and do not:

(a) contravene (i) the Borrower's or any Subsidiary's Organic Documents, (ii) any court decree or order binding on or affecting the Borrower or any Subsidiary or (iii) any Law or regulation binding on or affecting the Borrower or any Subsidiary; or

(b) result in (i) or require the creation or imposition of any Lien on the Borrower's or any Subsidiary's properties (except as permitted by this Agreement) or (ii) a default under any material contract, agreement, or instrument binding on or affecting the Borrower or any Subsidiary.

SECTION 6.3 Government Approval, Regulation, Etc. No authorization, approval, clearance or other action by, and no notice to or filing with, any Governmental Authority or other Person (other than those that have been, or on the Closing Date will be, duly obtained or made and which are, or on the Closing Date will be, in hill force and effect) is required for the due execution, delivery or performance by the Borrower or any Subsidiary of any Investment Document to which it is a party.

SECTION 6.4 Validity, Etc. Each Investment Document to which the Borrower or any Subsidiary is a party constitutes the legal, valid and binding obligations of such Person enforceable against such Person in accordance with its respective terms (except, in any case, as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization or similar Laws affecting creditors' rights generally and by principles of equity).

SECTION 6.5 Financial Information. The financial statements of the Borrower and the Subsidiaries iumished to the Administrative Agent and the Lenders pursuant to Sections 5.6 and 7.1 have been prepared in accordance with GAAP (except, with respect to unaudited financials, for the absence of footnotes and subject to normal year-end adjustments), consistently applied, and present fairly in all material respects the consolidated financial condition of the Persons covered thereby as at the dates thereof and the results of their operations for the periods then ended.

SECTION 6.6 No Material Adverse Change. There has been no material adverse change in the business, financial performance or condition, operations (including the results thereof, assets, properties or prospects of the Borrower and its Subsidiaries, taken as a whole, since December 31, 2018.

SECTION 6.7 Litigation, Labor Matters and Environmental Matters.

(a) Except as described on Schedule 6.7(a) to the Disclosure Letter, there are no actions, suits or proceedings by or before any arbitrator or Governmental Authority pending against or, to the knowledge of the Borrower, threatened, against or affecting the Borrower or any Subsidiary (i) as to which there is a reasonable likelihood of an adverse determination and that, if adversely determined, would reasonably be expected, individually or in the aggregate, to result in liabilities in excess of $500,000 or (ii) that would reasonably be likely to adversely affect this Agreement or the transactions contemplated hereby.

(b) There are no labor controversies pending against or, to the knowledge of the Borrower, threatened, against or affecting the Borrower or any Subsidiary (i) that would reasonably be expected, individually or in the aggregate, to result in liabilities in excess of $500,000 or (ii) that would reasonably be likely to adversely affect this Agreement or the transactions contemplated hereby.

(c) Neither the Borrower nor any Subsidiary (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any Permit under or in connection with any Environmental Law ("Environmental Permit"), (ii) is or has been subject to any Environmental Liability, (iii) has received notice of any Environmental Liability, or (iv) knows of any basis for any Environmental Liability, in each case of clauses (i) through (iv) above, which would reasonably be expected to result in liabilities to the Borrower and the Subsidiaries, taken as a whole, in excess of $500,000.

SECTION 6.8 Subsidiaries. The Borrower has no Subsidiaries except those Subsidiaries that are identified in Schedule 6.8 to the Disclosure Letter (which Schedule also identifies the direct and indirect owners of the Capital Securities of such Subsidiaries) or which are permitted to have been organized or acquired after the Closing Date in accordance with Section 8.5 and Section 8.7.

SECTION 6.9 Ownership of Properties. The Borrower and each Subsidiary owns (a) in the case of owned real property, good and marketable fee title to, and (b) in the case of owned personal property, good and valid title to, or, in the case of leased real or personal property, valid and enforceable leasehold interests (as the case may be) in, all of its properties and assets, tangible and intangible, of any nature whatsoever, free and clear in each case of all Liens or claims, except for Liens permitted pursuant to Section 8.3.

SECTION 6.10 Taxes. The Borrower and each Subsidiary has filed all federal income and other material Tax returns and reports required by Law to have been filed by it and has paid all Taxes due and owing (other than any amounts not to exceed $100,000 in the aggregate), except any such Taxes which are being diligently contested in good faith by appropriate proceedings and for which adequate reserves in accordance with GAAP have been set aside on its books.

SECTION 6.11 Benefit Plans, Etc. None of the Borrower or any of the Subsidiaries or any of their respective ERISA Affiliates sponsors, maintains, contributes to, is required to

contribute to, or has any actual or potential liability with respect to, any Benefit Plan. None of the Borrower or any of the Subsidiaries is a party to any collective bargaining agreement, and none of the employees of the Borrower or any of the Subsidiaries are subject to any collective bargaining agreement with respect to their employment with the Borrower or any of the Subsidiaries. Each "employee benefit plan" as defined in section 3(3) of ERISA that provides retirement benefits, is sponsored by the Borrower or any of their ERISA Affiliates, and is intended to be Tax qualified under section 401 of the Code has a determination letter or opinion letter from the U.S. Internal Revenue Service on which it remains entitled to rely, and no assets of any such plan are invested in Capital Securities of the Borrower. Each "employee benefit plan" (as defined in section 3(3) of ERISA) sponsored, maintained, contributed to or required to be contributed to by the Borrower or any Subsidiary has complied, both in form and in operation, in all material respects with its terms and applicable Law. Each employee benefit plan as defined in section 3(3) of ERISA that provides medical, dental, vision, or long-term disability benefits and that is sponsored by the Borrower or any of its Subsidiaries or any of their ERISA Affiliates (or under which any of these entities has any actual or potential liability) is fully insured by a third party insurance company.

SECTION 6.12 Accuracy of Information. None of the information heretofore or contemporaneously furnished in writing to the Administrative Agent or any Lender by or on behalf of the Borrower or any Subsidiary in connection with any Investment Document or any transaction contemplated hereby contains any untrue statement of a material fact, or omits to state any material fact necessary to make any information not misleading (it being recognized by the Administrative Agent and the Lenders that the projections and forecasts provided by the 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 materially from the projected or forecasted results).

SECTION 6.13 Regulations U and X. None of the Borrower or any Subsidiary is engaged in the business of extending credit for the purpose of buying or carrying margin stock, and no proceeds of the Loans will be used to purchase or carry margin stock or otherwise for a purpose which violates, or would be inconsistent with, Regulation U or Regulation X of the F.R.S. Board. Terms for which meanings are provided in Regulation U and Regulation X of the F.R.S. Board, or any regulations substituted therefor, as from time to time in effect, are used in this Section 6.13 with such meanings.

SECTION 6.14 Solvency. The Borrower, individually, and the Borrower and its Subsidiaries taken as a whole, on a consolidated basis, both before and after giving effect to each of the Loans, are Solvent.

SECTION 6.15 Intellectual Property.

(a) Schedule 6.15(a) to the Disclosure Letter sets forth a complete and accurate list as of the Closing Date or Delayed Draw Closing Date, as the case may be, of all (i) Patents, including any Patent applications, (ii) registered and material unregistered Trademarks (including domain names) and any pending registrations for Trademarks, (iii) any other registered Intellectual Property and (iv) any commercially significant unregistered Intellectual Property, in each case of clauses (i) through (iv) that are owned

by or licensed to the Borrower or any of the Subsidiaries. For each item of Intellectual Property listed on Schedule 6.15(a) to the Disclosure Letter, the Borrower has, where relevant, indicated (A) the countries in each case in which such item is registered, (B) the application numbers, (C) the registration or patent numbers, (D) with respect to the Patents, the expected expiration date of the issued Patents, (E) the owner of such item of Intellectual Property, (F) with respect to Intellectual Property owned by any Third Party that is licensed to the Borrower or any of its Subsidiaries and is material to the business of the Borrower or any of its Subsidiaries, the agreement pursuant to which that Intellectual Property is licensed to the Borrower or any Subsidiary and (G) with respect to material Intellectual Property licensed to any Third Party, the agreement pursuant to which that Intellectual Property is licensed by the Borrower or any Subsidiary.

(b) With respect to all material Intellectual Property listed, or required to be listed, on Schedule 6.15(a) to the Disclosure Letter:

(i) the Borrower or a Subsidiary owns, has a valid license or rights in any other form to all rights associated with such Intellectual Property free and clear of any and all claims challenging an aspect of inventorship or ownership or Liens, other than Liens permitted pursuant to Section 8.3, and all such Intellectual Property are in full force and effect, and have not expired, lapsed or been forfeited, cancelled or abandoned unless permitted hereunder;

(ii) each of the Borrower and the Subsidiaries, as applicable, has taken commercially reasonable actions to maintain and protect such Intellectual Property and there are no unpaid maintenance or renewal fees payable by the Borrower or any of the Subsidiaries that are currently overdue for any of such registered Intellectual Property;

(iii) there is no actual or threatened (in writing or, to the knowledge of Borrower, orally) proceeding in any court, patent office, Governmental Authority, arbitral body or elsewhere challenging the validity or enforceability of any such Intellectual Property, none of the Borrower or any of the Subsidiaries is involved in any such proceeding with any Person and none of the Intellectual Property is the subject of any Other Administrative Proceeding;

(iv) to the knowledge of the Borrower, (A) such Intellectual Property is valid, enforceable and subsisting and (B) no event has occurred, and nothing has been done or omitted to have been done, that would affect the validity or enforceability of such Intellectual Property; and

(v) each of the Borrower and each Subsidiary, as applicable, is the sole and exclusive owner of all right, title and interest in and to all such Intellectual Property that is owned by it.

(c) To the knowledge of the Borrower, no Third Party is committing any act of Infringement of any Intellectual Property listed, or required to be listed, on Schedule 6.15(a) to the Disclosure Letter.

(d) With respect to each material license agreement listed on Schedule 6.15(a) to the Disclosure Letter, such license agreement (i) is in full force and effect and is binding upon and enforceable against the Borrower and the Subsidiaries party thereto and all other parties thereto in accordance with its terms, (ii) has not been amended or otherwise modified, except as set forth on Schedule 6.15(a) to the Disclosure Letter, and (iii) has not suffered a default or breach thereunder. None of the Borrower or any of the Subsidiaries has taken or omitted to take any action that would permit any other Person party to any such material license agreement to have, and no such Person otherwise has, any defenses, counterclaims, termination rights or rights of setoff thereunder.

(e) Except as set forth on Schedule 6.15(e) to the Disclosure Letter, none of the Borrower or any of the Subsidiaries has received written notice from any Third Party alleging that the conduct of its business (including the development, manufacture, use, sale or other commercialization of any Product) Infringes any Intellectual Property of that Third Party and, to the knowledge of the Borrower, the conduct of its business and the business of the Subsidiaries (including the development, manufacture, use, sale or other commercialization of any Product) does not Infringe any Intellectual Property of any Third Party.

(f) The Borrower and the Subsidiaries have used commercially reasonable efforts and precautions to protect their respective commercially significant unregistered Intellectual Property.

SECTION 6.16 Material Agreements. Set forth on Schedule 6.16 to the Disclosure Letter is a complete and accurate list as of the Closing Date or Delayed Draw Closing Date, as the case may be, of all Material Agreements, in each case of the Borrower or any of the Subsidiaries, with an adequate description of the parties thereto, subject matter thereof and amendments and modifications thereto. As of such dates, respectively, each such Material Agreement (i) is in full force and effect and is the legal, valid and binding obligation of the Borrower and the Subsidiaries parties thereto, enforceable against the Borrower and the Subsidiaries party thereto and, to the knowledge of the Borrower and its Subsidiaries party thereto, all other parties thereto in accordance with its terms, (ii) has not been amended or otherwise modified and (iii) has not suffered a default thereunder that remains uncured. As of such dates, respectively, (A) none of the Borrower or any of the Subsidiaries is in breach or in default under any Material Agreement, nor has any of the Borrower or any of the Subsidiaries taken any action that would permit any other Person party to any Material Agreement to enforce, and no such Person otherwise has the right to enforce, any defenses, counterclaims, termination rights or rights of setoff thereunder and (B) to the knowledge of the Borrower, no such other Person party to such Material Agreement is in breach or in default thereunder.

SECTION 6.17 Permits. The Borrower and the Subsidiaries have all material Permits, including Environmental Permits, necessary or required for the ownership, operation and conduct of their business and the distribution of the Products. All such Permits are validly held and there are no material defaults thereunder.

SECTION 6.18 Regulatory Matters.

(a) The business of the Borrower and its Subsidiaries has been, and currently is, being conducted in compliance with all applicable material U.S. federal, state, provincial, territorial, local or foreign laws, statutes, ordinances, rules, regulations, guidances, judgments, orders, injunctions, decrees, arbitration awards and Key Permits issued by any Governmental Authority (collectively, "Laws"), including the FD&C Act and Privacy Laws and other similar state, provincial and foreign Laws. The Products were researched, developed, designed, distributed and validated in material compliance with all applicable Laws, including the FD&C Act, FTC Act, Privacy Laws and state laws, and have been and continue to be performed, marketed, labeled, assembled, stored, packaged and conducted in material compliance with all applicable Laws, including the FD&C Act, FTC Act, Privacy Laws and state laws. All required notices, registrations and listings, supplemental applications or notifications, reports (including reports of adverse experiences) and other required filings and Regulatory Authorizations with respect to the Products have been filed with the FDA and all other applicable Governmental Authorities.

(b) To the Borrower's knowledge, no material investigation or prosecution by any Governmental Authority with respect to the Borrower or any Subsidiary has occurred, nor is any such action pending or threatened. None of the Borrower or any of the Subsidiaries has received any written communication from any Person (including any Governmental Authority) alleging any noncompliance with any Laws or any written communication from any Governmental Authority of any material issues regarding the quality or performance of any Product, and to the knowledge of the Borrower, there is no basis for any adverse regulatory action against the Borrower or any of the Subsidiaries with respect to any Product. There have been no product recalls, safety alerts, corrections, withdrawals, clinical holds, marketing suspensions, or removals conducted, undertaken or issued by any Person, whether or not at the request, demand or order of any Governmental Authority or otherwise, with respect to any Product, and, to the Borrower's knowledge, there is no basis for the issuance of any such product recalls, safety alerts, corrections, withdrawals, clinical holds, marketing suspensions, or removals, by any Person with respect to any Products. None of the Borrower or any of the Subsidiaries has received any written notice of, and does not otherwise have knowledge of, any criminal, injunctive, seizure, detention or civil penalty actions that have at any time been commenced or threatened in writing by any Governmental Authority with respect to or in connection with any Product, or any consent decrees (including plea agreements) which relate to any Product, and, to the knowledge of the Borrower, there is no basis for the commencement for any criminal injunctive, seizure, detention or civil penalty actions by any Governmental Authority relating to any Product or for the issuance of any consent decrees.

(c) The Borrower or its applicable Subsidiary, as the case may be, owns, free and clear of all Liens, except those permitted pursuant to Section 8.3, all Key Permits, including all authorizations under the FD&C Act and state laws, and comparable laws outside the United States, necessary for the research and development and commercialization of the Products and to carry on Borrower's and each such Subsidiary's respective business. All such Key Permits are valid, and in hill force and effect and the Borrower or each such Subsidiary is in material compliance with all terms and conditions

of such Key Permits and with all filing and maintenance requirements (including any fee requirements) thereof. None of the Borrower or any of the Subsidiaries has received any written notice that any Key Permits have been or are being revoked, withdrawn, suspended or challenged.

(d) As of the Closing Date, the Borrower has made available to the Administrative Agent and the Lenders lists and, if requested, copies of all Key Permits and material correspondence submitted to or received from FDA, CMS, or other Governmental Authority (including minutes and official contact reports relating to any material communications with any Governmental Authority) in the Borrower's possession or control As of the Closing Date, the Borrower has made available to the Administrative Agent and the Lenders lists and, if requested, copies of all material adverse event reports and communications to or from the FDA (if any) and other relevant Governmental Authorities, including inspection reports, warning letters, untitled letters, and material reports, studies and other correspondence, other than opinions of counsel that are attorney-client privileged, with respect to regulatory matters relating to the Borrower and any Subsidiaries, the conduct of their business, the operation of any manufacturing facilities owned, leased or operated by the Borrower or any of the Subsidiaries, and the Products. There has been no material untrue statement of fact and no fraudulent statement made by the Borrower, any of the Subsidiaries, or any of their respective agents or representatives to the FDA, CMS, or any other Governmental Authority, and there has been no failure to disclose any material fact required to be disclosed to the FDA or any other Governmental Authority.

(e) With respect to the Products, (i) all design, manufacturing, storage, distribution, packaging, labeling, sale, recordkeeping and other activities by the Borrower or any of its Subsidiaries and their respective suppliers relating to the Products have been conducted, and are currently being conducted, in material compliance with the applicable requirements of the FD&C Act and other requirements of the FDA and all other Governmental Authorities, including the QSR, medical device reporting requirements, and adverse event reporting requirements, and (ii) none of the Borrower or any of its Subsidiaries, or, to the knowledge of the Borrower, any of their respective suppliers, has received written notice or threat of commencement of action by any Governmental Authority to withdraw its approval of or to enjoin production of any Product at any facility. Except for an immaterial amount, no Product in the inventory of the Borrower or any of its Subsidiaries is adulterated or misbranded.

(f) All manufacturing facilities owned, leased or operated by the Borrower or any of the Subsidiaries, or used in the production of any Product are and have been operated in material compliance with QSRs and all other applicable Laws. The FDA has not issued any Form 483, warning letter, or untitled letter with respect to any such facility, or otherwise alleged any material non-compliance with QSRs, nor has any other Governmental Authority issued any similar notices or warning letters. AH such facilities are operated in material compliance with other applicable federal, state and local Laws, or, for jurisdictions outside of the United States, with the applicable Laws of that jurisdiction.

(g) No right of the Borrower or any Subsidiary to receive reimbursements pursuant to any government program or private program has ever been terminated or otherwise materially adversely affected as a result of any investigation or enforcement action, whether by any Governmental Authority or other Third Party, and, to the Borrower's knowledge, none of the Borrower or any Subsidiary has been the subject of any inspection, investigation, or audit, by any Governmental Authority for the purpose of any alleged improper activity.

(h) There is no arrangement relating to the Borrower or any of its Subsidiaries providing for any rebates, kickbacks or other forms of compensation that are unlawfiil to be paid to any Person in return for the referral of business or for the arrangement for recommendation of such referrals. All billings by the Borrower or any of its Subsidiaries for their respective services have been true and correct in all material respects and, to the Borrower's knowledge, are in material compliance with all applicable Laws, including the Federal False Claims Act or any applicable state false claim or fraud Law.

(i) None of the Borrower or any of its Subsidiaries or, to the Borrower's knowledge, any individual who is an officer, director, manager, employee, stockholder, agent or managing agent of the Borrower or of any of its Subsidiaries has been convicted of, charged with or, to the Borrower's knowledge, investigated for any federal or state health program-related offense or any other offense related to healthcare or been excluded or suspended from participation in any such program or, to the Borrower's knowledge, within the past five years, has been convicted of, charged with or, to the Borrower's knowledge, investigated for a violation of Laws related to fraud, theft, embezzlement, breach of fiduciary responsibility, financial misconduct, or obstruction of an investigation, or has been subject to any judgment, stipulation, order or decree of, or criminal or civil fine or penalty imposed by, any Governmental Authority related to fraud, theft, embezzlement, breach of fiduciary responsibility, financial misconduct, or obstruction of an investigation. None of the Borrower or any of its Subsidiaries or, to the Borrower's knowledge, any individual who is an officer, director, manager, employee, stockholder, agent or managing agent of the Borrower or of any of its Subsidiaries has been convicted of any crime or engaged in any conduct that has resulted or would reasonably be expected to result in a debarment or exclusion under (i) 21 U.S.C. Section 335(a), (ii) Section 1128 of the Social Security Act or (iii) any similar applicable Law. No debarment proceedings or investigations in respect of the business of the Borrower or any of its Subsidiaries are pending or, to the Borrower's knowledge, threatened against the Borrower or any of its Subsidiaries or any individual who is an officer, director, manager, employee, stockholder, agent or managing agent of the Borrower or of any of its Subsidiaries.

(j) All studies, tests and trials conducted relating to each Product, by or on behalf of the Borrower and the Subsidiaries and, to the knowledge of the Borrower, their respective licensees, licensors and Third Party services providers and consultants, have been conducted, and are currently being conducted, in all material respects, in accordance with all applicable Laws, procedures and controls pursuant to, where applicable, QSRs, current good laboratory practices, and comparable regulations applicable outside the United States. All results of such studies, tests and trials, and all other material

information related to such studies, tests and trials, have been made available to each Lender as requested by it. To the extent necessary by applicable Law, the Borrower or its applicable Subsidiary has obtained all necessary Regulatory Authorizations, including an Investigational Application, material to the conduct of any clinical investigations conducted by or on behalf of the Borrower or such Subsidiary.

(k) To the Borrower's knowledge, none of the clinical investigators in any study, test or trial conducted by or on behalf of the Borrower or any of its Subsidiaries has been or is disqualified or otherwise sanctioned by the FDA, the U.S. Department of Health and Human Services, or any other Governmental Authority and, to the Borrower's knowledge, no such disqualification, or other sanction of any such clinical investigator is pending or threatened. None of the Borrower or any of its Subsidiaries has received any communication from the FDA or any other Governmental Authority requiring or threatening the termination or suspension of any study, test or trial conducted by, or on behalf of, the Borrower or any of its Subsidiaries.

(l) The transactions contemplated by the Investment Documents (or contemplated by the conditions to effectiveness of any Investment Document) will not impair the Borrower's or any of the Subsidiaries' ownership of or rights under (or the license or other right to use, as the case may be) any Regulatory Authorizations relating to any Product in any material manner.

SECTION 6.19 Transactions with Affiliates. Except as set forth on Schedule 6.19 to the Disclosure Letter, none of the Borrower or any Subsidiary has entered into, renewed, extended or been a party to, any transaction (including the purchase, sale, lease, transfer or exchange of property or assets of any kind or the rendering of services of any kind) with any of its Affiliates during the three-year period immediately prior to the Closing Date.

SECTION 6.20 Investment Company Act. None of the Borrower or any Subsidiary is required to register as an "investment company," as such term is defined in, or subject to regulation under, the Investment Company Act of 1940, as amended.

SECTION 6.21 OFAC. None of the Borrower, any Subsidiary or, to the knowledge of the Borrower, any Related Party (a) is currently the subject of any Sanctions, (b) is located, organized or residing in any Designated Jurisdiction, or (c) is or has been (within the previous five years) engaged in any transaction with any Person who is now or was then the subject of Sanctions or who is located, organized or residing in any Designated Jurisdiction. No Loan, nor the proceeds from any Loan, has been or will be used, directly or indirectly, to lend, contribute or provide to, or has been or will be otherwise made available to fund, any activity or business in any Designated Jurisdiction or to fund any activity or business of any Person located, organized or residing in any Designated Jurisdiction or who is the subject of any Sanctions, or in any other manner that will result in any violation by any Person (including either Agent, any Lender and any of their respective Affiliates) of Sanctions.

SECTION 6.22 Deposit and Disbursement Accounts. Set forth on Schedule 6.22 to the Disclosure Letter is a complete and accurate list as of the Closing Date or Delayed Draw Closing Date, as the case may be, of all banks and other financial institutions at which the Borrower or

any Subsidiary maintains deposit accounts, lockboxes, disbursement accounts, investment accounts or other similar accounts. Schedule 6.22 to the Disclosure Letter correctly identifies the name, address and telephone number of each bank or financial institution, the name in which each such account is held, the type of each such account, and the complete account number for each such account, and each such account is a Controlled Account (other than Excluded Accounts) as required pursuant to Section 7.13(a).

ARTICLE VII
AFFIRMATIVE COVENANTS

The Borrower covenants and agrees with the Agents and the Lenders that until the Termination Date has occurred, the Borrower will, and will cause the Subsidiaries to, perform or cause to be performed the obligations set forth below.

SECTION 7.1 Financial Information, Reports, Notices, Etc. The Borrower will furnish the Administrative Agent and the Lenders copies of the following financial statements, reports, notices and information:

(a) as soon as available and in any event within 30 days after the end of each calendar month, in each case with supporting detail and certified as complete and correct by the chief financial or accounting Authorized Officer of the Borrower (subject to normal year-end audit adjustments): (i) unaudited reports of (A) the Revenue Base, the unit sales for each Product and the net revenues for each Product, in each case for such calendar month and for the period commencing at the end of the previous Fiscal Year and ending with the end of such calendar month, and including in comparative form the figures for the corresponding calendar month in, and the year-to-date portion of, the immediately preceding Fiscal Year and (B) the Liquidity of the Borrower at the end of such calendar month and at the end of the corresponding calendar month in the preceding Fiscal Year, in comparative form; and (ii) a report of the number of employees and independent contractors of the Borrower and its Subsidiaries (the "Headcount") at the end of such calendar month, the Headcount at the end of the immediately preceding calendar month, a calculation showing the change in the Headcount, if any, and, if applicable, a brief description of any material change in the Headcount;

(b) as soon as available and in any event within 45 days after the end of each Fiscal Quarter, an unaudited consolidated balance sheet of the Borrower and the Subsidiaries as of the end of such Fiscal Quarter and consolidated statements of income and cash flow of the Borrower and the Subsidiaries for such Fiscal Quarter and for the period commencing at the end of the previous Fiscal Year and ending with the end of such Fiscal Quarter, and including (in each case) in comparative form the figures for the corresponding Fiscal Quarter in, and the year-to-date portion of, the immediately preceding Fiscal Year, certified as complete and correct by the chief financial or accounting Authorized Officer of the Borrower (subject to the absence of footnotes and normal year-end audit adjustments);

(c) as soon as available and in any event within 180 days after the end of each Fiscal Year, a copy of the consolidated balance sheet of the Borrower and the

Subsidiaries, and the related consolidated statements of income and cash flow of the Borrower and the Subsidiaries for such Fiscal Year, setting forth in comparative form the figures for the immediately preceding Fiscal Year, audited (without any Impermissible Qualification) by independent public accountants reasonably acceptable to the Required Lenders, which shall include a statement that, in performing the examination necessary to deliver the audited financial statements of the Borrower, no knowledge was obtained by such independent public accountants of any Event of Default;

(d) concurrently with the delivery of the financial information pursuant to clauses (b) and (c) of this Section 7.1, a Compliance Certificate, executed by the chief financial or accounting Authorized Officer of the Borrower, (i) showing compliance with the covenant set forth in Section 8.4, (ii) stating that no Default has occurred and is continuing (or, if a Default has occurred, specifying the details of such Default and the action that the Borrower or any of the Subsidiaries has taken or proposes to take with respect thereto), (iii) stating that no Subsidiary has been formed or acquired since the delivery of the last Compliance Certificate (or, if a Subsidiary has been formed or acquired since the delivery of the last Compliance Certificate, a statement that such Subsidiary has complied with Section 7.8) and (iv) stating that no real property has been acquired by the Borrower or any of the Subsidiaries since the delivery of the last Compliance Certificate (or, if any real property has been acquired since the delivery of the last Compliance Certificate, a statement that the Borrower has complied with Section 7.8 with respect to such real property);

(e) as soon as possible and in any event within three Business Days after the Borrower obtains knowledge of the occurrence of a Default, a statement of an Authorized Officer of the Borrower setting forth details of such Default and the action which the Borrower or any of the Subsidiaries has taken or proposes to take with respect thereto;

(f) as soon as possible and in any event within three Business Days after the Borrower obtains knowledge thereof, notice of (i) the occurrence of any material adverse development with respect to any litigation, action, proceeding or labor controversy described in Schedule 6.7(a) to the Disclosure Letter or (ii) the commencement of any litigation, action, proceeding or labor controversy of the type and materiality described in Section 6.7; and, in each case of clause (i) or (ii), to the extent any Lender requests, copies of all documentation relating thereto, provided that the Borrower may withhold any such information and materials to the extent access thereto would adversely affect the attorney-client privilege between the Borrower and its counsel In the event the Borrower withholds any such information or materials, the Borrower shall provide to the Administrative Agent and the Lenders a general description, which shall be true and correct in all material respects, of such withheld information;

(g) as soon as possible and in any event within three Business Days after the Borrower obtains knowledge thereof, notice of any return, recovery, dispute or claim related to any Product or inventory that involves more than $100,000;

(h) as soon as possible and in any event within three Business Days after the Borrower obtains knowledge thereof, notice of (i) any claim that the Borrower, any of the

Subsidiaries or one of their ERISA Affiliates has actual or potential liability under a Benefit Plan, (ii) any effort to unionize the employees of the Borrower or any Subsidiary, or (iii) correspondence with the Internal Revenue Service regarding the qualification of a retirement plan under section 401(a) of the Code;

(i) promptly after the sending or filing thereof, copies of all reports, notices, prospectuses and registration statements which the Borrower or any of the Subsidiaries files with the SEC or any national securities exchange, unless, so long as the Borrower or such Subsidiary, as the case may be, is a Publicly Reporting Company, copies of such reports, notices, prospectuses and registration statements are publicly available on the SEC's EDGAR system within two Business Days of the sending or filing thereof;

(j) so long as the Borrower is not a Publicly Reporting Company, concurrently with delivery thereof to the board of directors of the Borrower or any committees thereof, all notices and any materials delivered to the board of directors of the Borrower or any committees thereof in connection with a meeting of such board or committee, or with any action to be taken by written consent, including drafts of any material resolutions or actions proposed to be adopted by written consent; provided that the Borrower may withhold any such information and materials to the extent: (i) access thereto would adversely affect the attorney-client privilege between the Borrower and its counsel; or (ii) the Borrower's board of directors, in the exercise of its fiduciary obligations and with the advice of counsel, determines that (A) it is in the best interest of the Borrower to do so because any Lender or any of its respective Affiliates has an interest in the subject matter under discussion or (B) doing so is necessary to discharge the directors' fiduciary duties. In the event the Borrower withholds any such information or materials, the Borrower shall provide to the Administrative Agent and the Lenders a general description, which shall be true and correct in all material respects, of such withheld information;

(k) promptly upon receipt thereof, copies of all "management letters" (or equivalent) submitted to the Borrower or any of the Subsidiaries by the independent public accountants referred to in clause (c) of this Section 7.1 in connection with each audit made by such accountants;

(l) (i) within 45 days after the end of each Fiscal Quarter, a report listing (A) all Material Agreements entered into during such Fiscal Quarter, (B) all existing Material Agreements amended or terminated during such Fiscal Quarter, (C) all material Permits, including all material Regulatory Authorizations, issued to the Borrower or any of the Subsidiaries during such Fiscal Quarter and (D) all material notices and registrations filed by the Borrower or any Subsidiary during such Fiscal Quarter in each jurisdiction in which the Borrower or any of the Subsidiaries are required to obtain any Permit or Regulatory Authorization or to file any notice or registration, in order to design, manufacture, store, label, sell, promote, import or distribute any Product; and (ii) as soon as possible, and in any event within three days, after the Administrative Agent or any Lender so requests, copies of any such Material Agreement, amendment or termination instrument, Permit, Regulatory Authorization, notice or registration, in each case as are listed in such report;

(m) as soon as available, but in any event within 60 days after the end of each Fiscal Year, the Borrower's financial and business projections and budget for the current Fiscal Year, with evidence of approval thereof by the Borrower's board of directors; and

(n) such other financial and other information as any Lender or the Administrative Agent may from time to time reasonably request (including information and reports in such detail as such Lender or the Administrative Agent may request with respect to the terms of and information provided pursuant to the Compliance Certificate).

SECTION 7.2 Maintenance of Existence; Compliance with Contracts, Laws, Etc. Each of the Borrower and each Subsidiary will (a) preserve and maintain its legal existence (except as otherwise permitted by Section 8.7), (b) perform in all material respects its obligations under all Material Agreements, in each case to which the Borrower or any of the Subsidiaries is a party, except in the event that the Borrower determines in its reasonable commercial judgment not to do so, and (c) comply in all material respects with all applicable Laws, rules, regulations and orders, including the payment (before the same become delinquent), of all Taxes, imposed upon the Borrower or any of the Subsidiaries or upon their property except to the extent being diligently contested in good faith by appropriate proceedings and for which adequate reserves in accordance with GAAP have been set aside on the books of the Borrower or any of the Subsidiaries, as applicable.

SECTION 7.3 Maintenance of Properties. Each of the Borrower and the Subsidiaries will maintain, preserve, protect and keep its and their respective properties in good repair, working order and condition (ordinary wear and tear excepted), and make necessary repairs, renewals and replacements so that the business carried on by the Borrower or any of the Subsidiaries may be properly conducted at all times, unless the Borrower or any of the Subsidiaries determines in good faith that the continued maintenance of such property is no longer economically desirable, necessary or useful to the business of the Borrower or any of the Subsidiaries or the Disposition of such property is otherwise permitted by Section 8.7 or Section 8.8.

SECTION 7.4 Insurance. Each of the Borrower and each of the Subsidiaries will maintain:

(a) insurance on its property with financially sound and reputable insurance companies against business interruption, loss and damage in at least the amounts (and with only those deductibles) customarily maintained, and against such risks as are typically insured against in the same general area, by Persons of comparable size engaged in the same or similar business as the Borrower and the Subsidiaries; and

(b) all worker's compensation, employer's liability insurance or similar insurance as may be required under the Laws of any state or jurisdiction in which it may be engaged in business.

Without limiting the foregoing, all Borrower or Guarantor insurance policies required pursuant to this Section 7.4 shall (i) name the Administrative Agent as mortgagee and loss payee (in the case of property insurance) and additional insured (in the case of liability insurance), as

applicable, and provide that no cancellation or modification as to the amount or scope of coverage of the policies will be made without prior written notice to the Administrative Agent and (ii) be in addition to any requirements to maintain specific types of insurance contained in the other Loan Documents.

SECTION 7.5 Books and Records. Each of the Borrower and each of the Subsidiaries will keep books and records in accordance with GAAP which accurately reflect all of its business affairs and transactions and will permit the Administrative Agent, any Lender or any of their respective representatives, at reasonable times and intervals upon reasonable notice to the Borrower, to visit the Borrower's or any of the Subsidiaries' offices, to discuss the Borrower's or any of the Subsidiaries' financial or other matters with its officers and employees, and its independent public accountants (and the Borrower hereby authorizes such independent public accountant to discuss the Borrower's and any of the Subsidiaries' financial and other matters with the Lender or its representatives, whether or not any representative of the Borrower or any of the Subsidiaries is present) and to examine (and photocopy extracts from) any of its books and records. The Borrower shall pay any fees of such independent public accountant incurred in connection with the Lender's exercise of its rights pursuant to this Section 7.5. The Borrower shall only be required to pay for one such examination per year per Lender, unless an Event of Default has occurred and is continuing.

SECTION 7.6 Environmental Law Covenant. Each of the Borrower and each of the Subsidiaries will (a) use and operate all of its and their businesses, facilities and properties in material compliance with all Environmental Laws, and keep and maintain all Environmental Permits and remain in compliance therewith, except in each case to the extent such non-compliance could not reasonably be expected to result in a Material Adverse Effect and (b) promptly notify the Administrative Agent of, and provide the Administrative Agent with copies of all material claims, complaints, notices or inquiries received in writing relating to, any actual or alleged non-compliance with any Environmental Laws or Environmental Permits or any actual or alleged Environmental Liabilities. The Borrower and each of the Subsidiaries will promptly resolve, remedy and mitigate any such non-compliance or Environmental Liabilities in accordance with reasonable business practices, and shall keep the Lenders informed as to the progress of same.

SECTION 7.7 Use of Proceeds. The Borrower will apply the proceeds of the Loan according to the sources and uses table in Schedule 7.7 to the Disclosure Letter.

SECTION 7.8 Future Guarantors, Security, Etc. The Borrower and each Subsidiary will execute any documents, financing statements, agreements and instruments, and will take all further action that may be required under applicable Law, or that either Agent or the Required Lenders may reasonably request, in order to effectuate the transactions contemplated by the Loan Documents and in order to grant, preserve, protect and perfect the validity and first priority (subject to Liens permitted by Section 8.3) of the Liens created or intended to be created by the Loan Documents. The Borrower will (a) cause any subsequently acquired or organized Subsidiary that qualifies as a Material Subsidiary to effective upon its acquisition or organization, and (b) as promptly as practicable but in no event later than 15 days (or such later date as may be agreed upon by the Origination Agent) after any Subsidiary qualifies independently as, or is designated by the Borrower or the Origination Agent (in accordance with the definition of

"Material Subsidiary" herein) as, a Material Subsidiary, provide the Administrative Agent and the Lenders with written notice thereof and cause each such Subsidiary to, in each case of clauses (a) or (b), become a Guarantor and execute a supplement (in form and substance reasonably satisfactory to the Agents) to the Guarantee and each other applicable Loan Document in favor of the Secured Parties and take such other actions as may be required or reasonably requested for the Secured Parties to have a valid Lien with the priority intended to be created on and security interest in all of the assets of such Material Subsidiary, subject to no other Liens (other than Liens permitted by Section 8.3). The Borrower will promptly notify the Administrative Agent of any subsequently acquired ownership interest in real property by the Borrower or by any Subsidiary and will provide the Administrative Agent with a description of such real property, the acquisition date thereof and the purchase price therefor. In addition, from time to time, each of the Borrower and each of the Material Subsidiaries will, at its cost and expense, promptly secure the Obligations by pledging or creating, or causing to be pledged or created, perfected Liens with respect to such of its assets and properties as either Agent or the Required Lenders shall reasonably designate, it being agreed that it is the intent of the Parties that the Obligations shall be secured by, among other things, substantially all the assets of the Borrower and the Material Subsidiaries (including real property and personal property acquired subsequent to the Closing Date). Such Liens will be created under the Loan Documents in form and substance satisfactory to the Agents and the Required Lenders, and the Borrower and each of the Material Subsidiaries shall deliver or cause to be delivered to the Administrative Agent all such instruments and documents (including mortgages, legal opinions, title insurance policies and lien searches) as either Agent or the Required Lenders shall reasonably request to evidence compliance with this Section 7.8.

SECTION 7.9 Obtaining of Permits, Etc. With respect to each Product, each of the Borrower and each of the Subsidiaries will obtain, maintain and preserve, and take all necessary action to timely renew all Key Permits and accreditations which are necessary in the proper conduct of its business.

SECTION 7.10 Permits. The Borrower and each of the Subsidiaries shall maintain each Key Permit, including each Regulatory Authorization, from, or file any notice or registration in, each jurisdiction in which the Borrower or any of the Subsidiaries are required to obtain any Key Permit or Regulatory Authorization or to file any notice or registration, in order to design, manufacture, store, label, sell, promote, import or distribute any Product.

SECTION 7.11 Maintenance of Regulatory Authorizations, Contracts, Intellectual Property, Etc.

(a) With respect to the Products, each of the Borrower and each of the Subsidiaries will: (i) maintain in full force and effect all material Regulatory Authorizations, contract rights, authorizations or other rights necessary for the operations of its business; (ii) notify the Administrative Agent, promptly after learning thereof, of any product recalls, safety alerts, corrections, withdrawals, marketing suspensions, removals or the like conducted, to be undertaken or issued, by the Borrower, any of the Subsidiaries or their respective suppliers whether or not at the request, demand or order of any Governmental Authority or otherwise with respect to any Product, or any basis for undertaking or issuing any such action or item; (iii) design, store, label, sell, promote,

import, distribute and manufacture all Products in material compliance with QSRs, the FD&C Act and other applicable Laws; (iv) conduct all studies, tests and trials relating to the Products in accordance with all cGCPs, and other applicable Laws; (v) operate all manufacturing facilities in material compliance with QSRs and all other applicable Laws; (vi) maintain in fiill force and effect or pursue the prosecution of, as the case may be, and pay all costs and expenses relating to, all material Intellectual Property owned or controlled by the Borrower or any of the Subsidiaries and all Material Agreements, except in the event that the Borrower determines in its reasonable commercial judgment not to do so; (vii) notify the Administrative Agent, promptly after learning thereof, of any Infringement or other violation by any Person of its Intellectual Property and aggressively pursue any such Infringement or other violation except in any specific circumstances where both (A) the Borrower or any of the Subsidiaries has determined that it is not commercially reasonable to do so and (B) where not doing so does not materially adversely affect any Product; (viii) use commercially reasonable efforts to pursue and maintain in hill force and effect legal protection for, and protect against Infringement with respect to, all material Intellectual Property, including Patents, developed or controlled by the Borrower or any of the Subsidiaries; and (ix) notify the Administrative Agent, promptly after learning thereof, of any claim by any Person that the conduct of the Borrower's or any of the Subsidiaries' business or any of then- respective suppliers' business (including the development, manufacture, use, sale or other commercialization of any Product) Infringes any Intellectual Property of that Person and use commercially reasonable efforts to resolve such claim, except where the Borrower determines in its reasonable commercial judgment not to do so.

(b) Each of the Borrower and its Subsidiaries will fiimish to the Administrative Agent prompt written notice of the following, and, with respect to clauses (i) and (ii) below, copies of any written notices from, or responses to, the FDA or other Governmental Authority:

(i) any written notice that the FDA or other Governmental Authority is limiting, suspending or revoking any Regulatory Authorization, changing the market classification or labeling of or otherwise materially restricting any Product;

(ii) the Borrower or any of its Subsidiaries, or to the Borrower's knowledge any of its or their suppliers, becoming subject to any FDA or any other non-routine Governmental Authority inspection or any non-routine inspection by any other Person, receipt of inspectional observations (e.g., on FDA Form 483), warning letter, untitled letter, or notice of violation letter, or any Product being seized, withdrawn, recalled, detained, or subject to a suspension of manufacturing or import alert, or the commencement of any proceedings in the United States or any other jurisdiction seeking the withdrawal, recall, suspension, import detention or refusal, or seizure of any Product, or if any of the foregoing are pending or threatened in writing or, to the Borrower's knowledge, orally, against the Borrower, any of its Subsidiaries or, to the Borrower's knowledge, any of its or their suppliers, or if the Borrower, any of its Subsidiaries or, to the Borrower's knowledge, any of its or their suppliers become subject to a consent decree; or

(iii) copies of any written recommendation from any Governmental Authority or other regulatory body that the Borrower or any of its Subsidiaries, or any obligor to which the Borrower or any of its Subsidiaries provides services, should have its licensure, clearances, provider or supplier number, or accreditation suspended, revoked, or limited in any way, or any penalties or sanctions imposed.

SECTION 7.12 Inbound Licenses. Each of the Borrower and the Subsidiaries will, promptly after entering into or becoming bound by any material inbound license agreement (other than over-the-counter or "open-source" software that is commercially available to the public) in respect of any Intellectual Property: (a) provide written notice to the Administrative Agent of the material terms of such license agreement with a description of its anticipated and projected impact on the Borrower's and the Subsidiaries' business and financial condition; and (b) take such commercially reasonable actions as any Agent or the Required Lenders may reasonably request to obtain the consent of, or waiver by, any Person whose consent or waiver is necessary for the Secured Parties to be granted and perfect a valid security interest in such license agreement and to fully exercise its rights under any of the Loan Documents in the event of a disposition or liquidation of the rights, assets or property that is the subject of such license agreement.

SECTION 7.13 Cash Management. Each of the Borrower and the Guarantors will:

(a) maintain a current and complete list of all accounts (of the type initially set forth on Schedule 6.22 to the Disclosure Letter) and (other than (i) cash collateral accounts securing corporate credit card or letter of credit obligations, holding solely the amount of cash permitted hereunder to secure such obligations and (ii) accounts exclusively used for payroll, payroll Taxes and other employee wage and benefit programs to or for the benefit of the Borrower's or a Subsidiary's employees, which shall in no event hold in the aggregate more than the amount reasonably expected to meet such payroll expenses for the following calendar month, including bonuses and other payments to be paid within the following calendar month (collectively, the "Excluded Accounts")) promptly deliver any updates to such list to the Administrative Agent; execute and maintain an account control agreement for each such account (other than the Excluded Accounts), in form and substance reasonably acceptable to the Agents (each such account, a "Controlled Account");

(b) deposit promptly after the date of receipt thereof in accordance with prudent business practices all cash, checks, drafts or other similar items of payment relating to or constituting payments made in respect of any and all accounts and other rights and interests into Controlled Accounts except to the extent permitted to be kept in Excluded Accounts; and

(c) at any time after the occurrence and during the continuance of an Event of Default, at the request of either Agent, promptly cause all payments constituting proceeds of accounts to be directed into lockbox accounts under agreements in form and substance satisfactory to the Required Lenders.

SECTION 7.14 Post-Closing Obligations. Notwithstanding anything to the contrary herein or in the Investment Documents (it being understood that to the extent that the existence of any of the following post-closing obligations that is not overdue would otherwise cause any representation, warranty, covenant, default or event of default in this Agreement or any other Investment Document to be in breach, the Lenders hereby waive such breach for the period from the Closing Date until the first date on which such condition is required to be fulfilled (giving effect to any extensions thereof) pursuant to this Section 7.14), the Borrower shall:

(a) deliver or cause to be delivered to the Administrative Agent no later than sixty (60) days after the Closing Date (or such later date agreed to by the Origination Agent in its sole discretion), in form and substance satisfactory to the Lenders and the Administrative Agent, (i) a landlord access agreement from the landlord to the Borrower with respect to the property located at 2210 Faraday Ave., Suite 100, Carlsbad, CA 92008, (ii) a bailee letter from the Person that has possession of the Collateral located at 18735 Madrone Parkway, Morgan Hill, CA 95037 and (iii) a bailee letter from the Person that has possession of the Collateral located at 90 Rose Orchard Way, San Jose, CA 95134.

(b) deliver or cause to be delivered to the Administrative Agent no later than five (5) days after the Closing Date (or such later date agreed to by the Origination Agent in its sole discretion), in form and substance satisfactory to the Lenders and the Administrative Agent, (i) a deposit account control agreement by and among Administrative Agent, Borrower and Silicon Valley Bank, as depository bank with respect to accounts [ ] and (ii) a securities account control agreement by and among Administrative Agent, Borrower, U.S. Bank, N.A. and SVB Asset Management with respect to account [ ].

ARTICLE VIII
NEGATIVE COVENANTS

The Borrower covenants and agrees with the Agents and the Lenders that until the Termination Date has occurred, the Borrower and the Subsidiaries will perform or cause to be performed the obligations set forth below.

SECTION 8.1 Business Activities. None of the Borrower or any of the Subsidiaries will engage in any business activity except those business activities engaged in on the date of this Agreement and activities reasonably incidental thereto.

SECTION 8.2 Indebtedness. None of the Borrower or any of the Subsidiaries will create, incur, assume or permit to exist any Indebtedness, other than:

(a) Indebtedness in respect of the Obligations;

(b) (i) until the Closing Date, Indebtedness that is to be repaid in full as further identified in Schedule 8.2(b)(i) to the Disclosure Letter and (ii) until January 1, 2020, the Existing Convertible Notes and the Convertible Notes; provided that as of the time of the issuance of the Convertible Notes (a) the representations and warranties set forth in each Investment Document shall, in each case, be true and correct in all material

respects (except with respect to any representation or warranty qualified by materiality or Material Adverse Effect, which representation or warranty shall be true and correct in all respects); provided, however that those representations and warranties expressly referring to a specific date shall be true and correct in all material respects (except with respect to any representation or warranty qualified by materiality or Material Adverse Effect, which representation or warranty shall be true and correct in all respects) as of such date, (b) no Default shall have then occurred and be continuing, or would result from the issuance of the Convertible Notes, and (c) the Borrower shall have provided a written certification of the foregoing in form reasonably satisfactory to the Origination Agent to the Administrative Agent for the benefit of the Secured Parties at such time;

(c) Indebtedness existing as of the Closing Date which is identified in Schedule 8.2(c) to the Disclosure Letter, and refinancing of such Indebtedness in a principal amount not in excess of that which is outstanding on the Closing Date (as such amount may have been reduced following the Closing Date);

(d) unsecured Indebtedness in respect of performance, surety or appeal bonds provided in the ordinary course of business in an aggregate amount at any time outstanding not to exceed $500,000;

(e) Purchase Money Indebtedness and Capitalized Lease Liabilities in a principal amount not to exceed $500,000 in the aggregate outstanding at any time;

(f) Permitted Subordinated Indebtedness;

(g) Indebtedness of any Guarantor or the Borrower owing to the Borrower or any Guarantor;

(h) Indebtedness incurred as a result of endorsing negotiable instruments received in the ordinary course of Borrower's business;

(i) Indebtedness incurred in connection with corporate credit card arrangements;

(j) Indebtedness consisting of reimbursement obligations pursuant to letter of credit arrangements that are repaid within five Business Days of becoming due;

(k) Unsecured Indebtedness in the form of purchase price adjustments, earn outs, deferred compensation, or other arrangements representing acquisition consideration or deferred payments of a similar nature incurred in connection with (i) Investments permitted by Section 8.5, or (ii) the Rhythm Xience Acquisition; provided that the amount of such obligation shall be deemed part of the cost of such Investment (the amount of which shall be deemed to be the amount required to be accrued as a liability in accordance with GAAP or the amount actually paid);

(l) Indebtedness consisting of the financing of insurance premiums;

(m) Indebtedness (i) of any Loan Party owing to a Subsidiary that is not a Guarantor, (ii) of any Subsidiaries that are not Guarantors owing to the Borrower or any Guarantors, in an aggregate amount at any time outstanding not to exceed $500,000 and (iii) of any Subsidiaries that are not Guarantors owing to any other Subsidiary that is not a Guarantor; provided that all of such Indebtedness shall be subordinated to the Obligations pursuant to an intercompany debt subordination agreement in substantially the form of Exhibit I hereto); and

(n) other Indebtedness of the Borrower and the Subsidiaries in an aggregate amount at any time outstanding not to exceed $500,000;

provided that no Indebtedness otherwise permitted by clauses (c), (e), (f), (m) or (n) shall be assumed, created or otherwise incurred if a Default has occurred and is then continuing or would result therefrom.

SECTION 8.3 Liens. None of the Borrower or any of the Subsidiaries will create, incur, assume or permit to exist any Lien upon any of its property (including Capital Securities of any Person), revenues or assets, whether now owned or hereafter acquired, except:

(a) Liens securing payment of the Obligations;

(b) until the Closing Date, Liens securing payment of Indebtedness of the type described in Section 8.2(b);

(c) Liens existing as of the Closing Date and disclosed in Schedule 8.3(c) to the Disclosure Letter securing Indebtedness described in Section 8.2(c), and refinancings of such Indebtedness; provided that no such Lien shall encumber any additional property and the amount of Indebtedness secured by such Lien is not increased from that existing on the Closing Date (as such Indebtedness may have been reduced following the Closing Date);

(d) Liens securing payment of Permitted Subordinated Indebtedness that are (i) subordinate to the Liens securing payment of the Obligations and all other Indebtedness owing from the Borrower or the Subsidiaries to the Secured Parties and (ii) subject to a written subordination agreement satisfactory to the Secured Parties in their sole discretion;

(e) Liens securing Indebtedness of the Borrower or the Subsidiaries permitted pursuant to Section 8.2(e); provided that (i) such Liens shall be created within 180 days of the acquisition of the assets financed with such Indebtedness and (ii) such Liens do not at any time encumber any property other than the property (and proceeds thereof) acquired, leased or built, or the improvements or repairs, in each case so financed;

(f) Liens in favor of carriers, warehousemen, mechanics, materialmen and landlords granted in the ordinary course of business for amounts not overdue or being diligently contested in good faith by appropriate proceedings and for which adequate reserves in accordance with GAAP shall have been set aside on its books;

(g) Liens incurred or deposits made in the ordinary course of business in connection with worker’s compensation, unemployment insurance or other forms of

governmental insurance or benefits, or to secure performance of tenders, statutory obligations, bids, leases or other similar obligations (other than for borrowed money) entered into in the ordinary course of business or to secure obligations on surety and appeal bonds or performance bonds;

(h) judgment Liens in existence for less than 45 days after the entry thereof or with respect to which execution has been stayed or the payment of which is covered in full (subject to a customary deductible) by insurance maintained with responsible insurance companies and which do not otherwise result in an Event of Default under Section 9.1(f);

(i) easements, rights-of-way, zoning restrictions, minor defects or irregularities in title and other similar encumbrances not interfering in any material respect with the value or use of the property to which such Lien is attached;

(j) Liens for Taxes not at the time delinquent or thereafter payable without penalty or being diligently contested in good faith by appropriate proceedings and for which adequate reserves in accordance with GAAP shall have been set aside on its books;

(k) deposits of cash to secure the performance of bids, tenders, trade contracts, leases, government contracts, statutory obligations, surety, stay, customs and appeal bonds, performance and return money bonds, other obligations of a like nature incurred in the ordinary course of business and Liens consisting of cash collateral securing Indebtedness described in Section 8.2(i) or Section 8.2(j) in an aggregate amount at any time outstanding not to exceed $800,000;

(l) Liens on insurance proceeds in favor of insurance companies granted solely to secured financed insurance premiums;

(m) Liens in favor of custom and revenue authorities arising as a matter of law to secure the payment of custom duties in connection with the importation of goods;

(n) Liens on any earnest money deposits required in connection with a Permitted Acquisition or consisting of earnest money deposits required in connection with an acquisition of property not otherwise prohibited hereunder

(o) leases or subleases of real property granted in the ordinary course of the Borrower's or any Subsidiary's business, and leases, subleases, non-exclusive licenses or sublicenses of personal property (other than Intellectual Property) granted in the ordinary course of the Borrower's or any Subsidiary's business, if the leases, subleases, licenses and sublicenses do not prohibit granting the Administrative Agent a security interest therein;

(p) non-exclusive license of Intellectual Property granted to third parties in the ordinary course of business;

(q) licenses or sublicenses of Intellectual Property otherwise permitted under this Agreement or the other Loan Documents, and restrictions under licenses of

Intellectual Property entered into in the ordinary course of business pursuant to which the Borrower or any of its Subsidiaries is a licensee;

(r) banker's liens, rights of setoff and Liens in favor of financial institutions incurred in the ordinary course of business arising in connection with the Borrower's or any Subsidiary's deposit accounts or securities accounts held at such institutions to secure solely payment of fees and similar costs and expenses; provided that such accounts are maintained in compliance with Section 7.13(a); and

(s) other Liens securing Indebtedness or other obligations of the Borrower and its Subsidiaries in an aggregate amount at any time outstanding not to exceed $250,000.

Each Secured Party agrees to execute and deliver such collateral subordination agreements and related documents as reasonably requested of it to confirm the priority of the Liens permitted pursuant to Section 8.3(e).

SECTION 8.4 Minimum Liquidity. The Liquidity of the Borrower shall not at any time be less than $5,000,000; provided that until the satisfaction Section 5.21 and Section 8.16, the Liquidity of the Borrower shall not at any time be less than $10,000,000. The Borrower shall maintain an amount equal to the amount required under this Section 8.4, along with its other cash and Cash Equivalent Investments, in a Controlled Account as required pursuant to Section 7.13(a).

SECTION 8.5 Investments. None of the Borrower or any of the Subsidiaries will purchase, make, incur, assume or permit to exist any Investment in any other Person, except:

(a) Investments existing on the Closing Date and identified in Schedule 8.5(a) to the Disclosure Letter;

(b) (i) Investments consisting of cash and Cash Equivalent Investments and (ii) any other Investments permitted by the 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 the Borrower's board of directors so long as set forth on Schedule 8.5(a) to the Disclosure Letter or approved by the Required Lenders (such approval not to be unreasonably withheld);

(c) Investments received in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with, customers and suppliers, in each case in the ordinary course of business;

(d) Investments consisting of any deferred portion of the sales price received by the Borrower or any of the Subsidiaries in connection with any Disposition permitted under Section 8.8;

(e) Investments constituting (i) accounts receivable arising, (ii) trade debt granted, or (iii) deposits made, in each case of clauses (i) through (iii), in connection with the purchase price of goods or services, in each case in the ordinary course of business;

(f) Permitted Acquisitions;

(g) Investments by the Borrower or any Guarantor in the Borrower or any Guarantor; (i) Investments by the Borrower or any Guarantor in any Subsidiary that is not a Guarantor, in an aggregate amount not to exceed $500,000 for all such Investments, (ii) Investments by Subsidiaries that are not Guarantors in the Borrower or any Guarantor and (iii) Investments by Subsidiaries that are not Guarantors in any other Subsidiary that is not a Guarantor;

(h) Investments in the ordinary course of business consisting of endorsements of negotiable instruments for collection or deposit;

(i) Investments consisting of the creation of a Subsidiary; provided, however, the creation of such Subsidiary is in accordance with Section 7.8;

(j) Investments in an aggregate amount not to exceed $100,000 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 Capital Securities of the Borrower or its Subsidiaries pursuant to employee stock purchase plans or agreements approved by the Borrower's board of directors;

(k) Contingent Liabilities of a Loan Party in favor of another Loan Party and permitted under Section 8.2; and

(l) other Investments in an aggregate amount not to exceed $500,000 over the term of this Agreement.

SECTION 8.6 Restricted Payments, Etc. None of the Borrower or any of the Subsidiaries will declare or make a Restricted Payment, or make any deposit for any Restricted Payment, other than:

(a) Restricted Payments made by (i) the Borrower or any Subsidiary to the Borrower or any Guarantor and (ii) any Subsidiary that is not a Guarantor to another Subsidiary that is not a Guarantor;

(b) payments to repurchase the stock of former employees, directors, consultants or other service providers pursuant to the terms of employee stock purchase plans, employee restricted stock agreements, stockholder rights plans, director or consultant stock option plans, or similar plans, provided such repurchases do not exceed $100,000 in the aggregate; and

(c) the conversion of the Convertible Notes and the Existing Convertible Notes into Qualified Capital Securities pursuant to the terms of such convertible securities or otherwise in exchange thereof.

SECTION 8.7 Consolidation, Merger; Permitted Acquisitions, Etc. None of the Borrower or any of the Subsidiaries will liquidate or dissolve, consolidate with, or merge into or

with, any other Person, or purchase or otherwise acquire all or substantially all of the assets of any Person (or any division thereof, other than in connection with a Permitted Acquisition, except that, so long as no Event of Default has occurred and is continuing (or would occur), any Subsidiary may liquidate or dissolve voluntarily into, and may merge with and into, the Borrower or any Subsidiary; and provided that, in connection with any Permitted Acquisition, the Borrower or any Subsidiary may merge into or consolidate with any other Person or permit any other Person to merge into or consolidate with it, so long as (a) the Person surviving such merger with any Subsidiary shall be a direct or indirect wholly owned Subsidiary of the Borrower and, if qualifying as a Material Subsidiary, it shall be a Guarantor, and (b) in the case of any such merger to which the Borrower is a party, the Borrower is the surviving Person.

SECTION 8.8 Permitted Dispositions. None of the Borrower or any of the Subsidiaries will Dispose of any of its assets (including accounts receivable and Capital Securities of the Borrower or its Subsidiaries) to any Person in one transaction or series of transactions other than (a) Dispositions of inventory or of obsolete, damaged, worn out or surplus property Disposed of in the ordinary course of business, (b) Dispositions pursuant to Liens permitted by Section 8.3 or mergers or consolidations permitted by Section 8.7, or (c) all other Dispositions not to exceed $100,000 in the aggregate in any Fiscal Year.

SECTION 8.9 Modification of Certain Agreements. None of the Borrower or any of the Subsidiaries will consent to any amendment, supplement, waiver or other modification of, or enter into any forbearance from exercising any rights with respect to, the terms or provisions contained in (a) any Organic Documents, if the result would have an adverse effect on the rights or remedies of either Agent or the Lenders, in their capacities as such under this Agreement or any Loan Document or (b) any agreement governing any Permitted Subordinated Indebtedness, if the result would shorten the maturity date thereof or advance the date on which any cash payment is required to be made thereon or would otherwise change any terms thereof in a manner adverse to either Agent or the Lenders, in their capacities as such.

SECTION 8.10 Transactions with Affiliates. None of the Borrower or any of the Subsidiaries will enter into or cause or permit to exist any arrangement, transaction or contract (including for the purchase, lease or exchange of property or the rendering of services) with any of its Affiliates, except for (a) transactions that are in the ordinary course of the Borrower's or such Subsidiary's business, upon fair and reasonable terms that are no less favorable to the Borrower or such Subsidiary than would be obtained in an arm's length transaction with a non-affiliated Person, (b) compensation arrangements for officers or directors approved by the Borrower's board of directors or a duly authorized committee thereof, and (d) Permitted Subordinated Indebtedness or equity investments by the Borrower's investors in the Borrower.

SECTION 8.11 Restrictive Agreements, Etc. None of the Borrower or any of the Subsidiaries will enter into any agreement prohibiting (a) the creation or assumption of any Lien upon its properties, revenues or assets, whether now owned or hereafter acquired, (b) the ability of the Borrower or any Subsidiary to amend or otherwise modify any Investment Document, or (c) the ability of the Borrower or any Subsidiary to make any payments, directly or indirectly, to the Borrower, including by way of dividends, advances, repayments of loans, reimbursements of management and other intercompany charges, expenses and accruals or other returns on investments. The foregoing prohibitions shall not apply to restrictions contained:

(i) in any Investment Document; or

(ii) in the case of clause (a), (1) in any agreement governing any Indebtedness permitted by Section 8.2(e) as to the assets financed with the proceeds of such Indebtedness, (2) this Agreement and the other Loan Documents, (3) customary restrictions on the assignment of leases, licenses and other agreements, (4) covenants with such restrictions in merger or acquisition agreements, provided that such covenants do not prohibit Borrower or a Subsidiary from granting a security interest in Borrower's or any Subsidiary's property in favor of Administrative Agent or the Lenders and provided further that the counter-parties to such covenants are not permitted to receive a security interest in Borrower's or a Subsidiary's property; or

(iii) in the case of clause (c), except for restrictions existing under or by reason of (1) any restrictions existing under the Loan Documents, or (2) applicable law.

SECTION 8.12 Sale and Leaseback. Except as permitted in Section 8.3(e), none of the Borrower or any of the Subsidiaries will directly or indirectly enter into any agreement or arrangement providing for the sale or transfer by it of any property (now owned or hereafter acquired) to a Person and the subsequent lease or rental of such property or other similar property from such Person.

SECTION 8.13 Product Agreements. None of the Borrower or any of the Subsidiaries will enter into any amendment with respect to any existing Product Agreement or enter into any new Product Agreement that contains (a) any provision that permits any counterparty other than the Borrower or any of the Subsidiaries to terminate such Product Agreement for any reason related to the insolvency or change of control of the Borrower or any of the Subsidiaries or assignment of such Product Agreement by the Borrower or any of the Subsidiaries, (b) any provision which restricts or penalizes a security interest in, or the assignment of, any Product Agreements, upon the sale, merger or other Disposition of all or a material portion of a Product to which such Product Agreement relates, or (c) any other provision that has or is likely to adversely affect, in any material respect, any Product to which such agreement relates or any Secured Party's rights hereunder.

SECTION 8.14 Change in Name, Location or Executive Office or Executive Management; Change in Fiscal Year. None of the Borrower or any of the Subsidiaries will (a) without 30 days' prior written notice to the Administrative Agent, change its legal name or any trade name used to identify it in the conduct of its business or ownership of its properties, (b) change its jurisdiction of organization or legal structure, (c) without 30 days' prior written notice to the Administrative Agent, relocate its chief executive office, principal place of business or any office in which it maintains books or records relating to its business (including the establishment of any new office or facility), (d) change its federal taxpayer identification number or organizational number (or equivalent) without 30 days' prior written notice to the Administrative

Agent, (e) replace its chief executive officer or chief financial officer without written notification to the Administrative Agent within 30 days thereafter, (f) change its Fiscal Year or any of its Fiscal Quarters, or (g) enter into any Division/Series Transaction, or permit any of its Subsidiaries to enter into, any Division/Series Transaction (it being understood that none of the provisions in this Agreement nor any other Loan Document shall be deemed to permit any Division/Series Transaction).

SECTION 8.15 Benefit Plans and Agreements. None of the Borrower or any Subsidiary will (a) become the sponsor of, incur any responsibility to contribute to or otherwise incur actual or potential liability with respect to, any Benefit Plan, (b) allow any "employee benefit plan" as defined in section 3(3) of ERISA that provides retirement benefits, is sponsored by the Borrower, any Subsidiary or any of their ERISA Affiliates, and is intended to be Tax qualified under section 401 or 501 of the Code to cease to be Tax qualified, (c) allow the assets of any Tax qualified retirement plan to become invested in Capital Securities of the Borrower or any Subsidiary, (d) allow any "employee benefit plan" (as defined in section 3(3) of ERISA) sponsored, maintained, contributed to or required to be contributed to by the Borrower or any Subsidiary to fail to comply in all material respects with its terms and applicable Laws, or (e) allow any employee benefit plan as defined in section 3(3) of ERISA that provides medical, dental, vision, or long-term disability benefits and that is sponsored by the Borrower or any of its Subsidiaries or any of their ERISA Affiliates (or under which any of these Persons has any actual or potential liability), to cease to be fully insured by a third party insurance company. None of the Borrower or any of its Subsidiaries will enter into any employment, severance, change in control, independent contractor, or consulting agreements or grant any equity awards other than in the ordinary course of business and consistent with past practice.

SECTION 8.16 Conversion of Convertible Notes. The Convertible Notes shall be issued and paid for in cash by the investors therein, and the Convertible Notes and the Existing Convertible Notes and the Convertible Notes shall be converted into Capital Securities (other than Disqualified Capital Securities) in accordance with their terms on or prior to December 31, 2019.

ARTICLE IX
EVENTS OF DEFAULT

SECTION 9.1 Listing of Events of Default. Each of the following events or occurrences described in this Article IX shall constitute an "Event of Default":

(a) Non-Payment of Obligations. The Borrower shall default in the payment or prepayment when due of (i) any principal of or interest on any Loan, or (ii) any fee described in Article III or any other monetary Obligation, and in the case of clause (ii) such default shall continue unremedied for a period of three Business Days after such amount was due.

(b) Breach of Warranty. Any representation or warranty made or deemed to be made by the Borrower or any of the Subsidiaries in any Investment Document (including any certificates delivered pursuant to Article V) is or shall be incorrect in any material respect when made or deemed to have been made.

(c) Non-Performance of Certain Covenants and Obligations. The Borrower or any Subsidiary shall default in the due performance or observance of any of its obligations under Section 7.1, Section 7.7, or Article VIII.

(d) Non-Performance of Other Covenants and Obligations. The Borrower or any Subsidiary shall default in the due performance and observance of any other covenant, obligation or agreement contained in any Investment Document executed by it, and such default shall continue unremedied for a period of 30 days after the earlier to occur of (i) notice thereof given to the Borrower by the Lenders or (ii) the date on which the Borrower or any Subsidiary has knowledge of such default.

(e) Default on Other Indebtedness. A default shall occur in the payment of any amount when due (subject to any applicable grace period), whether by acceleration or otherwise, of any principal or stated amount of, or interest or fees on, any Indebtedness of the Borrower or any of the Subsidiaries having a principal or stated amount, individually or in the aggregate, in excess of $250,000, or a default shall occur in the performance or observance of any obligation or condition with respect to such Indebtedness if the effect of such default is to accelerate the maturity of any such Indebtedness or such default shall continue unremedied for any applicable period of time sufficient to permit the holder or holders of such Indebtedness, or any trustee or agent for such holders, to cause or declare such Indebtedness to become due and payable or to require such Indebtedness to be prepaid, redeemed, purchased or defeased, or require an offer to purchase or defease such Indebtedness to be made, prior to its expressed maturity.

(f) Judgments. Any judgment or order for the payment of money individually or in the aggregate in excess of $250,000 (exclusive of any amounts fully covered by insurance (less any applicable deductible) and as to which the insurer has acknowledged its responsibility to cover such judgment or order) shall be rendered against the Borrower or any of the Subsidiaries and such judgment shall not have been vacated or discharged or stayed or bonded pending appeal within 30 days after the entry thereof or enforcement proceedings shall have been commenced by any creditor upon such judgment or order.

(g) Change in Control Any Change in Control shall occur.

(h) Bankruptcy, Insolvency, Etc. The Borrower or (except as permitted pursuant to Section 8.7) any of the Subsidiaries shall:

(i) become insolvent or generally fail to pay, or admit in writing its inability or unwillingness generally to pay, debts as they become due;

(ii) apply for, consent to, or acquiesce in the appointment of a trustee, receiver, sequestrator or other custodian for any substantial part of the property of any thereof, or make a general assignment for the benefit of creditors;

(iii) in the absence of such application, consent or acquiescence, permit or suffer to exist the appointment of a trustee, receiver, sequestrator or other custodian for a substantial part of the property of any thereof, and such trustee, receiver, sequestrator or other custodian shall not be discharged within 60 days;

provided that the Borrower and each Subsidiary hereby expressly authorizes the Administrative Agent and the Lenders to appear in any court conducting any relevant proceeding during such 60-day period to preserve, protect and defend its rights under the Investment Documents;

(iv) permit or suffer to exist the commencement of any bankruptcy, insolvency, reorganization, debt arrangement, arrangement (including any plan of compromise or arrangement or other corporate proceeding involving or affecting its creditors) or other case or proceeding under any bankruptcy or insolvency law or any dissolution, winding up or liquidation proceeding, in respect thereof (each, an "Insolvency Event"), and, if any such case or proceeding is not commenced by the Borrower or any Subsidiary, such case or proceeding shall be consented to or acquiesced in by the Borrower or such Subsidiary, as the case may be, or shall result in the entry of an order for relief or shall remain for 60 days undismissed; provided that the Borrower and each Subsidiary hereby expressly authorizes the Administrative Agent and the Lenders to appear in any court conducting any such case or proceeding during such 60-day period to preserve, protect and defend its rights under the Investment Documents; or

(v) take any action authorizing, or in iurtherance of, any of the foregoing.

(i) Impairment of Security, Etc. Any Investment Document or any Lien granted thereunder shall (except in accordance with its terms), in whole or in part, terminate, cease to be effective or cease to be the legally valid, binding and enforceable obligation of the Borrower or any Subsidiary subject thereto; the Borrower, any Subsidiary or any other party shall, directly or indirectly, contest in any manner such effectiveness, validity, binding nature or enforceability; or, except as permitted under any Investment Document, any Lien securing any Obligation shall, in whole or in part, cease to be a perfected first priority Lien.

(j) Key Permit Events. Any Key Permit or any of the Borrower's or any Subsidiary's material rights or interests thereunder is terminated or amended in any manner adverse to the Borrower or any Subsidiary in any material respect.

(k) Material Adverse Change. Any circumstance occurs that has had or could reasonably be expected to have a Material Adverse Effect.

(l) Key Person Event. If Vince Burgess (or any replacement described below) ceases to be employed full time by the Borrower and actively working as its Chief Executive Officer, unless within 120 days after such Person ceases to be employed lull time and actively working, the Borrower (i) names an interim Chief Executive Officer or (ii) hires a replacement for such individual, in each case, reasonably acceptable to the Required Lenders.

(m) Regulatory Matters. If any of the following occurs: (i) the FDA, CMS or any other Governmental Authority (A) issues a letter or other communication asserting

that any Product lacks a required Regulatory Authorization or (B) initiates enforcement action against, or issues a warning letter with respect to, the Borrower or any of the Subsidiaries, or any Product or the manufacturing facilities therefor, that in the case of either clause (A) or (B) causes the Borrower or such Subsidiary to discontinue marketing of or withdraw any material Product, or causes a material delay in the manufacture or offering of any material Product, which discontinuance, withdrawal or delay could reasonably be expected to last for more than three months; (ii) a recall which could reasonably be expected to result in aggregate liability to the Borrower and the Subsidiaries in excess of $500,000; or (iii) the Borrower or any of the Subsidiaries enters into a settlement agreement with the FDA, CMS or any other Governmental Authority that results in aggregate liability as to any single or related series of transactions, incidents or conditions in excess of $500,000.

SECTION 9.2 Action if Bankruptcy. If any Event of Default described in clauses (i) through (iv) of Section 9.1(h) with respect to the Borrower shall occur, the Commitments (if not theretofore terminated) shall automatically terminate and the outstanding principal amount of the Loans and all other Obligations shall automatically be and become immediately due and payable, without notice or demand to any Person.

SECTION 9.3 Action if Other Event of Default. If any Event of Default (other than any Event of Default described in clauses (i) through (iv) of Section 9.1(h)) shall occur for any reason, whether voluntary or involuntary, and be continuing, the Administrative Agent may, and shall at the written direction of the Origination Agent or the Required Lenders (or, 45 days from and after the date any Event of Default has occurred and is continuing, any Lender or group of Lenders having Total Credit Exposures representing at least 50% of the Total Credit Exposures of all Lenders), by notice to the Borrower declare all or any portion of the outstanding principal amount of the Loans and other Obligations to be due and payable and the Commitments (if not theretofore terminated) to be terminated, whereupon the full unpaid amount of the Loans and other Obligations which shall be so declared due and payable shall be and become immediately due and payable, without further notice, demand or presentment, and the Commitments shall terminate.

SECTION 9.4 Application of Funds. After the exercise of remedies provided for in Section 9.3 (or after the Loans have automatically become immediately due and payable as set forth in Section 9.2), any amounts received by any Lender or the Administrative Agent on account of the Obligations shall be applied in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to either Agent and amounts payable under Article III) payable to either Agent in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lenders (including fees, charges and disbursements of counsel to the respective Lenders) arising under the Investment Documents and amounts payable under Section 4.3, ratably among them in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid interest on the Loans and amounts payable under Sections 3.7, 3.8, 3.10 and 3.11, ratably among the Lenders in proportion to the respective amounts described in this clause Third held by them;

Fourth, to payment of that portion of the Obligations constituting accrued and unpaid principal of the Loans, ratably among the Lenders in proportion to the respective amounts described in this clause Fourth held by them; and

Last, the balance, if any, after all of the Obligations have been indefensibly paid in full, to the Borrower or as otherwise required by law.

ARTICLE X
MISCELLANEOUS PROVISIONS

SECTION 10.1 Waivers, Amendments, Etc. No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders and the Borrower or the applicable Loan Party, as the case may be, and acknowledged by the Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, further, that

(a) no such amendment, waiver or consent shall:

(i) extend or increase the Commitment of a Lender (or reinstate any Commitment terminated pursuant to Section 9.2) without the written consent of such Lender whose Commitment is being extended or increased (it being understood and agreed that a waiver of any condition precedent set forth in Article V or a waiver of any Default or a mandatory reduction in Commitments is not considered an extension or increase in Commitments of any Lender);

(ii) postpone any date fixed by this Agreement or any other Loan Document for any payment of principal (excluding mandatory prepayments), interest, Repayment Premiums, fees or other amounts due to the Lenders (or any of them) without the written consent of each Lender entitled to receive such payment (it being understood that a waiver of any Default or Event of Default shall not constitute such a postponement);

(iii) reduce the principal of, the rate of interest specified herein on or any Repayment Premium specified herein on any Loan, or any fees or other amounts payable hereunder or under any other Loan Document without the written consent of each Lender entitled to receive such payment of principal, interest, fees or other amounts (other than any such reduction in connection with a waiver of any Default, Event of Default, mandatory prepayment or amendment to any financial covenant);

(iv) (x) amend or waive any provision of Section 9.4, or (y) amend or waive any provision providing for the pro rata treatment of the Lenders, in each case without the written consent of each Lender directly affected thereby;

(v) change any provision of this Section 10.1(a) or the definition of "Required Lenders" without the written consent of all the Lenders;

(vi) reduce any percentage specified in the definition of Required Lenders, consent to the assignment or transfer by the Borrower of any of then- rights and obligations under this Agreement and the other Loan Documents, or release all or substantially all of the Collateral or release all or substantially all of the Guarantors from their obligations under the Guarantee, in each case without the written consent of all the Lenders;

(vii) (x) amend, waive or modify Section 11.6 hereof, without the consent of the Required Lenders;

(b) unless also signed by the Administrative Agent, no amendment, waiver or consent shall affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document; and

(c) unless also signed by the Origination Agent, no amendment, waiver or consent shall affect the rights or duties of the Origination Agent under this Agreement or any other Loan Document;

provided, however, that notwithstanding anything to the contrary herein, (i) each Lender is entitled to vote as such Lender sees fit on any bankruptcy reorganization plan that affects the Loans, and each Lender acknowledges that the provisions of Section 1126(c) of the Bankruptcy Code of the United States supersedes the unanimous consent provisions set forth herein and (ii) the Required Lenders shall determine whether or not to allow a Loan Party to use cash collateral in the context of a bankruptcy or insolvency proceeding and such determination shall be binding on all of the Lenders.

Any payments, fees or other consideration (other than reimbursements for out-of-pocket expenses) received by or on behalf of the Administrative Agent or any of the Lenders in respect of any amendment, waiver or consent under the Loan Documents shall be distributed to the Lenders on a pro rata basis.

SECTION 10.2 Notices; Time.

(a) All notices and other communications provided under any Loan Document shall be in writing or by facsimile and addressed, delivered or transmitted, if to the Borrower or the Lenders, to the applicable Person at its address or facsimile number set forth on Schedule 10.2 to the Disclosure Letter, or at such other address or facsimile number as may be designated by such Party in a notice to the other Parties. Any notice, if mailed and properly addressed with postage prepaid or if properly addressed and sent by pre-paid courier service, shall be deemed given when received; any notice, if transmitted by facsimile, shall be deemed given when the confirmation of transmission thereof is received by the transmitter. Unless otherwise indicated, all references to the time of a day in a Loan Document shall refer to New York City time.

(b) The Administrative Agent and the Lenders shall be entitled to rely and act upon any notices (including telephonic or electronic loan notices) purportedly given by or on behalf of any Loan Party even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Loan Parties shall indemnify the Agents, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of a Loan Party; provided that such indemnity shall not, as to any Person be available to the extent that such losses, costs, expenses or liabilities are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of such Person. All telephonic notices to and other telephonic communications with either Agent may be recorded by such Agent, and each of the parties hereto hereby consents to such recording.

SECTION 10.3 [Reserved.]

SECTION 10.4 Indemnification; Expenses; and Damage Waiver.

(a) In consideration of the execution and delivery of this Agreement by the Lenders and the Agents, the Borrower hereby indemnifies, agrees to defend, exonerates and holds each Lender and the Agents (and any sub-agent thereof) and each Related Party of any of the foregoing Persons (collectively, the "Indemnified Parties") free and harmless from and against any and all actions, causes of action, suits, losses, costs, liabilities, obligations and damages, claims and expenses incurred in connection therewith (irrespective of whether any such Indemnified Party is a party to the action for which indemnification hereunder is sought), including reasonable attorneys' and professionals' fees and disbursements, whether incurred in connection with actions between the Parties or the Parties and third parties (collectively, the "Indemnified Liabilities"), including Indemnified Liabilities arising out of or relating to (a) the entering into and performance of any Investment Document by any of the Indemnified Parties, and in the case of the Agents and their Related Parties only, the administration and enforcement of any Investment Document (in each case, including any action brought by or on behalf of the Borrower as the result of any determination by any Lender pursuant to Article V not to fund any Loan), and (b) any Environmental Liability. If and to the extent that the foregoing indemnification may be unenforceable for any reason, the Borrower agrees to make the maximum contribution to the payment and satisfaction of each of the Indemnified Liabilities which is permissible under applicable Law. Paragraph (a) of this Section 10.4 shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim

(b) Costs and Expenses. The Loan Parties shall pay (i) all out-of-pocket expenses incurred by (i) OrbiMed Royalty Opportunities II, LP and the Origination Agent (up to an aggregate amount of $350,000), (ii) Deerfield Private Design Fund III, L.P. (up to an aggregate amount of $65,000) and (iii) the Administrative Agent, including the fees, charges and disbursements of (w) Covington & Burling LLP, counsel to OrbiMed, (x) counsel to Deerfield Private Design Fund III, L.P., (y) local counsel, if any, which may be retained by or on behalf of any Lender, and (z) counsel for the Administrative Agent and due diligence expenses incurred by OrbiMed Royalty Opportunities II, LP, in connection with the preparation, negotiation, execution, delivery and administration of this Agreement and the other Investment Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), and (ii) all out-of-pocket expenses incurred by either Agent or any Lender (including the fees, charges, legal expenses and disbursements of any counsel for either Agent or any Lender), and shall pay all fees and time charges for attorneys who may be employees of either Agent or any Lender, in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Investment Documents, including its rights under this Section, or (B) in connection with the Loans made hereunder, including all such out-of-pocket expenses incurred during any workout or restructuring (whether or not consummated) or negotiations in respect of such Loans or in connection with the enforcement of any Obligations. The Borrower further agrees to pay, and to hold each Lender harmless from all liability for, any Other Taxes.

(c) Reimbursement by Lenders. To the extent that the Loan Parties for any reason fail to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by them to either Agent (or any sub-agent thereof) or any Related Party thereof, each Lender severally agrees to pay to such Agent (or any such subagent) or such Related Party, as the case may be, such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought based on each Lender's share of the Total Credit Exposure at such time) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender), such payment to be made severally among them based on such Lenders' Applicable Percentages (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought), provided, further, that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against such Agent (or any such sub-agent), or against any Related Party thereof acting for such Agent (or any such sub-agent) in connection with such capacity. The obligations of the Lenders under this subsection (c) are subject to the provisions of Section 2.09(b).

(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable law, no Loan Party shall assert, and each Loan Party hereby waives, and acknowledges that no other Person shall have, any claim against any Indemnified Party, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Investment Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or the

use of the proceeds thereof. No Indemnified Party referred to in subsection (a) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Investment Documents or the transactions contemplated hereby or thereby.

(e) Payments. All amounts due under this Section shall be payable not later than ten Business Days after demand therefor.

SECTION 10.5 Survival. The obligations of the Borrower under Section 4.1, Section 4.2, Section 4.3, Section 10.3 and Section 10.4, shall in each case survive any assignment by any Lender and the occurrence of the Termination Date. The representations and warranties made by the Borrower in each Investment Document shall survive the execution and delivery of such Investment Document. The agreements in this Section and the indemnity provisions of Section 10.2(b) shall survive the resignation of either Agent, the replacement of any Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all the other Obligations. All representations and warranties made hereunder and in any other Investment Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Agents and each Lender, regardless of any investigation made by the Agents or any Lender or on their behalf and notwithstanding that either Agent or any Lender may have had notice or knowledge of any Default at the time of any Borrowing, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied.

SECTION 10.6 Severability. Any provision of any Loan Document or the other Investment Documents which is prohibited or unenforceable in any jurisdiction shall, as to such provision and such jurisdiction, be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions of such Loan Document or other Investment Document affecting the validity or enforceability of such provision in any other jurisdiction.

SECTION 10.7 Headings. The various headings of each Loan Document and each other Investment Document are inserted for convenience only and shall not affect the meaning or interpretation of such Loan Document such Investment Document or any provisions thereof.

SECTION 10.8 Execution in Counterparts, Effectiveness, Etc.. This Agreement may be executed by the Parties in several counterparts, each of which shall be an original and all of which shall constitute together but one and the same agreement. This Agreement shall become effective when counterparts hereof executed on behalf of the Borrower and the Lenders, shall have been received by the Lenders. Delivery of an executed counterpart of a signature page to this Agreement by email (in “pdf,” “tiff’ or similar format) or telecopy shall be effective as delivery of a manually executed counterpart of this Agreement.

SECTION 10.9 Governing Law; Entire Agreement. EACH INVESTMENT DOCUMENT AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT

OF OR RELATING TO THIS AGREEMENT OR ANY OTHER INVESTMENT DOCUMENT CONTEMPLATED HEREBY AND THEREBY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK (INCLUDING FOR SUCH PURPOSE SECTIONS 5-1401 AND 5-1402 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK) WITHOUT REGARD TO ANY CHOICE OR CONFLICT OF LAWS PROVISIONS OR RULES THAT WOULD REQUIRE THE APPLICATION OF THE LAWS OF ANY OTHER JURISDICTION. The Investment Documents constitute the entire understanding among the Parties with respect to the subject matter thereof and supersede any prior agreements, written or oral, with respect thereto.

SECTION 10.10 Successors and Assigns.

(a) Successors and Assigns Generally. The provisions of this Agreement and the other Loan Documents shall be binding upon and inure to the benefit of the Parties hereto and thereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder or thereunder without the prior written consent of the Agents and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section or (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (e) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby and, to the extent expressly contemplated hereby, the Related Parties of each of the Agents and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement. No assignment or transfer of any Commitment or Loan shall be effective until receipt and acceptance into the Register by the Administrative Agent of a fully executed Assignment and Assumption effecting the assignment or transfer thereof, together with the required forms and certificates regarding tax matters and any fees payable in connection with such assignment, in each case, as provided in Section 10.6(b). The date of such assignment shall be referred to herein as the "Assignment Effective Date."

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement and the other Loan Documents (including all or a portion of its Commitment and the Loans at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and/or the Loans at the time owing to it or contemporaneous assignments to related Approved Funds that equal at least the amount specified in paragraph (b)(i)(B) of this Section in the aggregate or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than $1,000,000 unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed);

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all of the assigning Lender's rights and obligations under this Agreement with respect to the Loans or the Commitment assigned;

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition, the consent of the Origination Agent and the Required Lenders (such consent not to be unreasonably withheld or delayed) shall be required for assignments to a Person that is not a Lender, an Affiliate of a Lender or an Approved Fund.

(iv) Assignment and Assumption. Assignments and assumptions of Loans and Commitments by Lenders shall be effected by execution and delivery to the Administrative Agent of an Assignment and Assumption. Assignments made pursuant to the foregoing provision shall be effective as of the Assignment Effective Date, subject to acceptance and recording thereof in the Register by the Administrative Agent pursuant to Section 10.10(c). In connection with all assignments there shall be delivered to the Administrative Agent such forms, certificates or other evidence, if any, with respect to United States federal income tax withholding matters as the assignee under such Assignment and Assumption may be required to deliver pursuant to Section 4.3, together with payment to the Administrative Agent of a registration and processing fee of $3,500, which may be waived or reduced at the sole discretion of the Administrative Agent.

(v) No Assignment to Certain Persons. No such assignment shall be made to a Loan Party or any Affiliate or Subsidiary of a Loan Party, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons (other than to the Lenders on the date hereof and their respective Affiliates).

(vi) Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 4.3 and 10.4 with respect to facts and circumstances occurring prior to the effective date of such assignment. Upon request, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section.

(c) Register. The Administrative Agent, acting solely for this purpose as an agent of the Borrower (and such agency being solely for tax purposes), shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it (or the equivalent thereof in electronic form) and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

SECTION 10.11 Other Transactions. Nothing contained herein shall preclude any Lender or any of its Affiliates from engaging in any transaction, in addition to those contemplated by the Investment Documents, with the Borrower or any of its Affiliates in which the Borrower or such Affiliate is not restricted hereby from engaging with any other Person.

SECTION 10.12 Forum Selection and Consent to Jurisdiction. ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, ANY INVESTMENT DOCUMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF EITHER AGENT,

ANY LENDER OR THE BORROWER IN CONNECTION HEREWITH OR THEREWITH SHALL BE BROUGHT AND MAINTAINED IN THE COURTS OF THE BOROUGH OF MANHATTAN IN THE CITY OF NEW YORK IN THE STATE OF NEW YORK OR IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK; PROVIDED THAT ANY SUIT SEEKING ENFORCEMENT AGAINST ANY COLLATERAL OR OTHER PROPERTY MAY BE BROUGHT, AT EITHER AGENT'S OR THE LENDERS' OPTION, IN THE COURTS OF ANY JURISDICTION WHERE SUCH COLLATERAL OR OTHER PROPERTY MAY BE FOUND. THE BORROWER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS BY REGISTERED MAIL, POSTAGE PREPAID, OR BY PERSONAL SERVICE WITHIN OR WITHOUT THE STATE OF NEW YORK AT THE ADDRESS FOR NOTICES SPECIFIED IN SECTION 10.2. THE BORROWER HEREBY EXPRESSLY AND IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY HAVE OR HEREAFTER MAY HAVE TO THE LAYING OF VENUE OF ANY SUCH LITIGATION BROUGHT IN ANY SUCH COURT REFERRED TO ABOVE AND ANY CLAIM THAT ANY SUCH LITIGATION HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. TO THE EXTENT THAT THE BORROWER HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT OR FROM ANY LEGAL PROCESS (WHETHER THROUGH SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OR OTHERWISE) WITH RESPECT TO ITSELF OR ITS PROPERTY, THE BORROWER HEREBY IRREVOCABLY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW SUCH IMMUNITY IN RESPECT OF ITS OBLIGATIONS UNDER THE INVESTMENT DOCUMENTS.

SECTION 10.13 Waiver of Jury Trial. THE AGENTS, THE LENDERS AND THE BORROWER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, EACH INVESTMENT DOCUMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF EITHER AGENT, ANY LENDER OR THE BORROWER IN CONNECTION THEREWITH. THE BORROWER ACKNOWLEDGES AND AGREES THAT IT HAS RECEIVED FULL AND SUFFICIENT CONSIDERATION FOR THIS PROVISION (AND EACH OTHER PROVISION OF EACH OTHER INVESTMENT DOCUMENT TO WHICH IT IS A PARTY) AND THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE AGENTS AND THE LENDERS ENTERING INTO THE INVESTMENT DOCUMENTS.

SECTION 10.14 Confidential Information. Subject to the provisions of Section 10.15, at all times prior to the Termination Date, the Receiving Party shall keep confidential and shall not publish or otherwise disclose any Confidential Information furnished to it by the Disclosing Party, except to those of the Receiving Party's employees, advisors or consultants who have a need to know such information to assist such Party in the performance of such Party's obligations or in the exercise of such Party's rights hereunder and who are subject to reasonable obligations of confidentiality consistent with this Section 10.14 (collectively, "Recipients"). Notwithstanding anything to the contrary set forth herein: (a) any Lender may disclose this Agreement and the terms and conditions hereof and any information related hereto, to (i) its

Affiliates, (ii) potential and actual assignees of any of such Lender's rights hereunder and (iii) potential and actual investors in, or lenders to, such Lender (including, in each of the foregoing cases, such Person's employees, advisors or consultants); provided that in each case, unless an Event of Default has occurred and is continuing, each such Recipient shall be subject to reasonable obligations of confidentiality; and (b) upon receiving consent from the Lenders, which consent shall not be unreasonably withheld, delayed or conditioned, the Borrower may disclose this Agreement and the terms and conditions hereof and information related hereto, to potential or actual permitted acquirers or assignees, collaborators and other licensees or sublicensees, permitted subcontractors, investment bankers, investors, lenders (including, in each of the foregoing cases, such Person's employees, advisors or consultants who have a need to receive and review such information); provided that in each case, each such Recipient shall be subject to reasonable obligations of confidentiality. In addition to the foregoing, the Receiving Party may disclose Confidential Information belonging to the Disclosing Party to the extent (and only to the extent) such disclosure is reasonably necessary in order to comply with applicable Laws (including any securities law or regulation or the rules of a securities exchange) and with judicial process, if in the reasonable opinion of the Receiving Party's counsel, such disclosure is necessary for such compliance, provided that the Receiving Party (x) will only disclose those portions of the Confidential Information that are necessary or required to be so disclosed, and (y) to the extent legally permissible, will notify the Disclosing Party of the Receiving Party's intent to make any disclosure pursuant thereto sufficiently prior to making such disclosure so as to allow the Disclosing Party time to take whatever action it may deem appropriate to protect the confidentiality of the information to be disclosed.

SECTION 10.15 Exceptions to Confidentiality. The Receiving Party's obligations set forth in this Agreement shall not extend to any Confidential Information of the Disclosing Party:

(a) that is or hereafter becomes part of the public domain (other than as a result of a disclosure by the Receiving Party or its Recipients in violation of this Agreement);

(b) that is received from a Third Party without restriction on disclosure and without, to the knowledge of the Receiving Party, breach of any agreement between such Third Party and the Disclosing Party;

(c) that the Receiving Party can demonstrate by competent evidence was already in its possession without any limitation on disclosure prior to its receipt from the Disclosing Party;

(d) that is generally made available to Third Parties by the Disclosing Party without restriction on disclosure; or

(e) that the Receiving Party can demonstrate by competent evidence was independently developed by the Receiving Party without use of or reference to the Confidential Information.

SECTION 10.16 No Waiver; Cumulative Remedies; Enforcement. No failure by any Lender or either Agent to exercise, and no delay by any such Person in exercising, any right,

remedy, power or privilege hereunder or under any other Investment Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Investment Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

Notwithstanding anything to the contrary contained herein or in any other Investment Document, the authority to enforce rights and remedies hereunder and under the other Investment Documents against the Loan Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Section 11.1 for the benefit of all the Lenders; provided, however, that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) any Lender from exercising setoff rights in accordance with Section 4.5 (subject to the terms of Section 4.4(e)), or (c) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under any Debtor Relief Law or any proceedings arising out of or in connection with an Insolvency Event; and provided, further, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to Section 11.1 and (ii) in addition to the matters set forth in clauses (b) and (c) of the preceding proviso and subject to Section 4.4(e), any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

SECTION 10.17 Payments Set Aside. To the extent that any payment by or on behalf of any Loan Party is made to the Administrative Agent or any Lender, or the Administrative Agent or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent or such Lender in its discretion) to be repaid to a trustee, receiver, receiver, manager, monitor or any other party, in connection with any proceeding under any Debtor Relief Law, any proceedings arising out of or in connection with an Insolvency Event or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders under clause (b) of the preceding sentence shall survive the payment in hill of the Obligations and the termination of this Agreement.

SECTION 10.18 Electronic Execution of Assignments and Certain Other Documents. The words “execute,” “execution,” “signed,” “signature” and words of like import in any Assignment and Assumption or in any amendment or other modification hereof (including waivers and consents) shall be deemed to include electronic signatures, the electronic matching

of assignment terms and contract formations on electronic platforms approved by the Administrative Agent, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

ARTICLE XI
ADMINISTRATIVE AGENT

SECTION 11.1 Appointment and Authority.

(a) Each of the Lenders hereby irrevocably appoints Wilmington Trust to act on its behalf as the Administrative Agent hereunder and OrbiMed Royalty Opportunities Fund II, LP to act on its behalf as Origination Agent hereunder and under the other Loan Documents and authorizes the Agents to take such actions on its behalf and to exercise such powers as are delegated to the Agents by the terms hereof or thereof, together with such actions and powers as are incidental thereto. The provisions of this Article are solely for the benefit of the Agents and the Lenders, and neither the Borrower nor any other Loan Party shall have rights as a third party beneficiary of any of such provisions. It is understood and agreed that the use of the term "agent" herein or in any other Loan Documents (or any other similar term) with reference to the Administrative Agent or the Origination Agent or the Agents is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

(b) The Administrative Agent shall also act as the "collateral agent" under the Loan Documents, and each of the Lenders hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent of such Lender for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations, together with such powers and discretion as are incidental thereto. In this connection, the Administrative Agent, as "collateral agent" (and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to Section 11.5 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Security Agreement, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent), shall be entitled to the benefits of all provisions of Article X (including Section 10.4(c)), as though such co-agents, sub-agents and attorneys-in-fact were the "collateral agent" under the Loan Documents) and this Article XI as if set forth in full herein with respect thereto.

SECTION 11.2 Rights as a Lender. A Person serving as an Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not an Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as an

Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with any Loan Party or any Affiliate thereof as if such Person were not an Agent hereunder and without any duty to account therefor to the Lenders.

SECTION 11.3 Exculpatory Provisions. No Agent shall have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, no Agent:

(a) shall be subject to any fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing;

(b) shall have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that such Agent is required to exercise or as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), provided that no Agent shall be required to take any action that, in its opinion or the opinion of its counsel, may expose such Agent to liability or that is contrary to any Loan Document or applicable law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law; and

(c) shall, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to any Loan Party or any of its Affiliates that is communicated to or obtained by the Person serving as an Agent or any of its Affiliates in any capacity.

No Agent shall be liable for any action taken or not taken by it (i) with the consent or at the request of the Origination Agent or the Required Lenders or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and non-appealable judgment. Subject to the proviso in Section 11.3(b), to the extent the Administrative Agent is permitted to take any discretionary action hereunder or under any Loan Document, it shall take such action if instructed in writing to do so by the Origination Agent or the Required Lenders. In the event of any conflict between the instructions of the Origination Agent and the Required Lenders, the instructions of the Required Lenders shall control No Agent shall be deemed to have knowledge of any Default or Event of Default unless and until notice describing such Default or Event of Default is given in writing to such Agent by the Borrower, or a Lender.

The Administrative Agent shall have the right to request instructions from the Origination Agent, the Required Lenders or, as required, each of the Lenders. If the Administrative Agent shall request instructions from the Origination Agent, the Required Lenders or each of the Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary under the circumstances), as the case maybe, with respect to any actor action (including the failure to act) in connection with this Agreement or any other Loan Document, the

Administrative Agent shall be entitled to refrain from such act or taking such action unless and until the Administrative Agent shall have received instructions from the Origination Agent, the Required Lenders or such other number or percentage of the Lenders, as the case may be, and the Administrative Agent shall not incur liability to any Person by reason of so refraining.

No Agent shall be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Article V or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to such Agent.

SECTION 11.4 Reliance by Agents. Each Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. Each Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, that by its terms must be fulfilled to the satisfaction of a Lender, each Agent may presume that such condition is satisfactory to such Lender unless such Agent shall have received notice to the contrary from such Lender prior to the making of such Loan. Each Agent may consult with legal counsel (who may be counsel for the Loan Parties), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

(a) Reliance by Agents and Lenders. The Agents and the Lenders shall be entitled to rely and act upon any notices (including telephonic or electronic loan notices) purportedly given by or on behalf of any Loan Party even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Loan Parties shall indemnify each Agent, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of a Loan Party; provided that such indemnity shall not, as to any Person be available to the extent that such losses, costs, expenses or liabilities are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of such Person. All telephonic notices to and other telephonic communications with either Agent may be recorded by such Agent, and each of the parties hereto hereby consents to such recording.

SECTION 11.5 Delegation of Duties. Each Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by such Agent. Each Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The rights, benefits and privileges (including the exculpatory and indemnification provisions) of Article X and this Article XI shall apply to any such sub-agent and to the Related Parties of each Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Agent. No Agent shall be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that such Agent acted with gross negligence or willful misconduct in the selection of such sub-agents. Notwithstanding anything herein to the contrary, with respect to each sub-agent appointed by either Agent, (i) such sub-agent shall be a third party beneficiary under this Agreement with respect to all such rights, benefits and privileges (including exculpatory rights and rights to indemnification) and shall have all of the rights and benefits of a third party beneficiary, including an independent right of action to enforce such rights, benefits and privileges (including exculpatory rights and rights to indemnification) directly, without the consent or joinder of any other Person, against any or all of the Loan Parties and the Lenders, (ii) any modification to such rights, benefits and privileges (including exculpatory rights and rights to indemnification) shall not be effective as against such sub-agent without its written consent thereto, and (iii) such sub-agent shall only have obligations to such Agent and not to any Loan Party, Lender or any other Person and no Loan Party, Lender or any other Person shall have any rights, directly or indirectly, as a third party beneficiary or otherwise, against such subagent.

SECTION 11.6 Resignation or Removal of Administrative Agent. Either Agent may resign as Agent at any time by giving thirty (30) days advance notice thereof to the Lenders and the Borrower and, thereafter, the retiring Agent shall be discharged from its duties and obligations hereunder. Upon any such resignation, the Required Lenders shall have the right to appoint a successor Agent. No less than thirty (30) days' following the delivery of such written notice, the Required Lenders shall have the right, in consultation with the Borrower, to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States, with whom the Lenders shall be dealing on an arm's length basis. Upon the acceptance of any appointment as Agent hereunder by a successor Agent, such successor Agent shall thereupon succeed to and become vested with all rights, powers, privileges and duties of the retiring Agent. After any retiring Agent's resignation hereunder as Agent or upon a removal of an Agent, the provisions of this Section 11.6 shall continue in effect for its benefit in respect of any actions taken or omitted to be taken by it while it was acting as Agent. If no successor has accepted appointment as Agent by the date which is thirty (30) days following a retiring Agent's notice of resignation or removal, the retiring Agent's resignation or removal shall nevertheless thereupon become effective and the Required Lenders shall perform all of the duties of such Agent hereunder until such time, if any, as the Required Lenders appoint a successor agent as provided for above.

SECTION 11.7 Non-Reliance on Agents and Other Lenders. Each Lender acknowledges that it has, independently and without reliance upon either Agent or any other Lender or any of their Related Parties and based on such documents and information as it has

deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon either Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

SECTION 11.8 Administrative Agent May File Proofs of Claim. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders and the Administrative Agent under Section 10.4) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, receiver-manager, monitor, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Section 10.4.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

SECTION 11.9 Collateral and Guarantee Matters. The Lenders irrevocably authorize the Administrative Agent, at its option and in its discretion,

(a) to release any Lien on any Collateral granted to or held by the Administrative Agent under any Loan Document (i) upon payment in full of all Obligations, (ii) that is sold or otherwise disposed of to a Person that is not a Loan Party as part of or in connection with any sale or other Disposition permitted hereunder and under the other Loan Document or any Casualty Event, or (iii) as approved in accordance with Section 10.1; and

(b) to release any Guarantor from its obligations under the Guarantee if such Person ceases to be a Subsidiary as a result of a transaction permitted under the Loan Documents.

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release its interest in particular types or items of property, or to release any Guarantor from its obligations under the Guarantee, pursuant to this Section 11.9.

The Administrative Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative Agent's Lien thereon, or any certificate prepared by any Loan Party in connection therewith, nor shall the Administrative Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized as of the day and year first above written.

ACUTUS MEDICAL, INC.,
as the Borrower

By: /s/ Vince Burgess
Name: Vince Burgess
Title: Chief Executive Officer

DEERFIELD PRIVATE DESIGN FUND III, L.P.

By: Deerfield Mgmt III, L.P.
General Partner
By: J.E. Flynn Capital HI, LLC
General Partner

By: /s/ David J. Clark
Name: David J. Clark
Title: Authorized Signatory

ORBIMED ROYALTY OPPORTUNITIES II, LP,
as the Origination Agent and as a Lender

By: /s/ W. Carter Neild
Name: W. Carter Neild
Title: Member

WILMINGTON TRUST, NATIONAL ASSOCIATION, as the Administrative Agent

By: /s/ Jamie Roseberg
Name: Jamie Roseberg
Title: Assistant Vice President

Schedule 2.1

COMMITMENTS AND APPLICABLE PERCENTAGES

Initial Commitment Amount:

Lender	Commitment	Applicable Percentage
ORBIMED ROYALTY OPPORTUNITIES II, LP	$20,000,000	50%
DEERFIELD PRIVATE DESIGN FUND III, L.P.	$20,000,000	50%
Total	$40,000,000	100%

First Delayed Draw Commitment Amount:

Lender	Commitment	Applicable Percentage
ORBIMED ROYALTY OPPORTUNITIES II, LP	$ 5,000,000	50%
DEERFIELD PRIVATE DESIGN FUND III, L.P.	$ 5,000,000	50%
Total	$10,000,000	100%

Second Delayed Draw Commitment Amount:

Lender	Commitment	Applicable Percentage
ORBIMED ROYALTY OPPORTUNITIES II, LP	$10,000,000	50%
DEERFIELD PRIVATE DESIGN FUND III, L.P.	$10,000,000	50%
Total	$20,000,000	100%

EXHIBIT A
FORM OF PROMISSORY NOTE

$35,000,000 May 20, 2019

FOR VALUE RECEIVED, ACUTUS MEDICAL, INC., a Delaware corporation (the "Borrower"), hereby promises to pay to the order of [ORBIMED ROYALTY OPPORTUNITIES II, LP]/[DEERFIELD PRIVATE DESIGN FUND III, L.P.], a [Delaware limited partnership] (together with its successors, transferees and assignees, the "Lender"), on the Maturity Date, the principal sum of TWENTY MILLION DOLLARS ($20,000,000) or, if the First Delayed Draw Loan is made to the Borrower, TWENTY FIVE MILLION DOLLARS ($25,000,000) or, if the Second Delayed Draw Loan is made to the Borrower, THIRTY FIVE MILLION DOLLARS ($35,000,000), in any case if less, the aggregate unpaid principal amount of the Loans (and any continuation thereof) made (or continued) by the Lender pursuant to the Credit Agreement, dated as of May 20, 2019 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), by and among the Borrower, certain Lenders party thereto, OrbiMed Royalty Opportunities II, LP, as Origination Agent, and Wilmington Trust, National Association, as Administrative Agent. Unless otherwise defined herein or the context otherwise requires, terms used in this Note have the meanings provided in the Credit Agreement.

The Borrower also promises to pay interest on the unpaid principal amount hereof from time to time outstanding from the date hereof until maturity (whether by acceleration or otherwise) and, after maturity upon demand, until paid in full, at the rates per annum and on the dates specified in the Credit Agreement, as well as any other amounts that may be due to the Lender upon maturity (whether by acceleration or otherwise) under or in respect of this Note.

Payments of both principal and interest are to be made in U.S. Dollars in same day or immediately available funds to the account designated by the Lender pursuant to the Credit Agreement.

This Note is referred to in, and evidences Indebtedness incurred under, the Credit Agreement, to which reference is made for a description of the security and guarantee for this Note and for a statement of the terms and conditions on which the Borrower is permitted and required to make prepayments and repayments of the unpaid principal amount of the Indebtedness evidenced by this Note and on which such Indebtedness may be declared to be immediately due and payable. Any prepaid principal of this Note may not be reborrowed.

All parties hereto, whether as makers, endorsers or otherwise, severally waive presentment for payment, demand, protest and notice of dishonor.

THIS NOTE HAS BEEN DELIVERED IN NEW YORK, NEW YORK, AND SHALL BE DEEMED TO BE A CONTRACT MADE UNDER AND GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK (INCLUDING FOR SUCH PURPOSE SECTIONS 5-1401 AND 5-1402 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK).

[*Signature Page Follows*]

ACUTUS MEDICAL, INC.

By: _____

Name:
Title:

Signature Page to Promissory Note

Exhibit 10.2

Execution Version

PLEDGE AND SECURITY AGREEMENT

This PLEDGE AND SECURITY AGREEMENT, dated as of May 20, 2019 (as amended, restated, supplemented or otherwise modified from time to time, this "Security Agreement"), is by and among ACUTUS MEDICAL, INC., a Delaware corporation (the "Borrower" and together with any other entity that may become a party hereto as provided herein, each a "Grantor" and, collectively, the "Grantors"), and WILMINGTON TRUST, NATIONAL ASSOCIATION (together with its successors, transferees and assignees), as Administrative Agent (in such capacity, the "Administrative Agent") for the Secured Parties (defined below).

W I T N E S S E T H :

WHEREAS, pursuant to the Credit Agreement, dated as of May 20, 2019 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), by and between the Borrower, the Lenders (as defined therein), OrbiMed Royalty Opportunities II, LP, as Origination Agent, and the Administrative Agent, the Lenders have extended Commitments to make Loans to the Borrower;

WHEREAS, as a condition precedent to the making of the Initial Loan, and as an inducement for the Lenders to make the Loans, in each case under the Credit Agreement, each Grantor is required to execute and deliver this Security Agreement;

WHEREAS, it is required under the terms of the Credit Agreement that the Grantors shall have granted, pledged and assigned the security interests and undertaken the obligations contemplated by this Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS

Section 1.1 Certain Terms. The following terms (whether or not underscored) when used in this Security Agreement, including its preamble and recitals, shall have the following meanings (such definitions to be equally applicable to the singular and plural forms thereof):

"Administrative Agent" is defined in the preamble.

"Agent Determination" is defined in Section 7.11.

"Borrower" is defined in the preamble.

"Collateral" is defined in Section 2.1.

"Collateral Accounts" is defined in Section 4.3(b).

"Computer Hardware and Software Collateral" means (a) all of the Grantors' computer and other electronic data processing hardware, integrated computer systems, central processing units, memory units, display terminals, printers, features, computer elements, card readers, tape drives, hard and soft disk drives, cables, electrical supply hardware, generators, power equalizers, accessories and all peripheral devices and other related computer hardware, including all operating system software, utilities and application programs in whatsoever form; (b) all software programs (including both source code, object code and all related applications and data files) designed for use on the computers and electronic data processing hardware described in clause (a) above; (c) all firmware associated therewith; (d) all documentation (including flow charts, logic diagrams, manuals, guides, specifications, training materials, charts and pseudo codes) with respect to such hardware, software and firmware described in the preceding clauses (a) through (c); and (e) all rights with respect to all of the foregoing, including copyrights, licenses, options, warranties, service contracts, program services, test rights, maintenance rights, support rights, improvement rights, renewal rights and indemnifications and any substitutions, replacements, improvements, error corrections, updates, additions or model conversions of any of the foregoing.

"Control Agreement" means an authenticated record in form and substance reasonably satisfactory to the Required Lenders, that provides for the Administrative Agent to have "control" (as defined in the UCC) over certain Collateral.

"Copyright Collateral" means all copyrights of the Grantors, whether statutory or common law, whether registered or unregistered and whether published or unpublished, now or hereafter in force throughout the world including all of the Grantors' rights, titles and interests in and to all copyrights registered in the United States Copyright Office or anywhere else in the world, including the copyrights referred to in Item A of Schedule V to the Disclosure Letter, and registrations and recordings thereof and all applications for registration thereof, whether pending or in preparation, all copyright licenses, including each material copyright license referred to in Item B of Schedule V to the Disclosure Letter, the right to sue for past, present and future infringements of any of the foregoing, all rights corresponding thereto, all extensions and renewals of any thereof and all Proceeds of the foregoing, including licenses, royalties, income, payments, claims, damages and Proceeds of suit, which are owned or licensed by the Grantors.

"Credit Agreement" is defined in the first recital.

"Distributions" means all dividends paid on Capital Securities, liquidating dividends paid on Capital Securities, shares (or other designations) of Capital Securities resulting from (or in connection with the exercise of) stock splits, reclassifications, warrants, options, non-cash dividends, mergers, consolidations, and all other distributions (whether similar or dissimilar to the foregoing) on or with respect to any Capital Securities constituting Collateral.

"Financing Statements" is defined in Section 3.7(b).

"General Intangibles" means all "general intangibles" and all "payment intangibles", each as defined in the UCC, and shall include all interest rate or currency protection or hedging arrangements, all tax refunds, all licenses, permits, concessions and authorizations and all

Intellectual Property Collateral (in each case, regardless of whether characterized as general intangibles under the UCC).

"Grantor" and "Grantors" are defined in the preamble.

"Intellectual Property Collateral" means, collectively, the Computer Hardware and Software Collateral, the Copyright Collateral, the Patent Collateral, the Trademark Collateral, the Trade Secrets Collateral, Product Agreements and Regulatory Authorizations.

"Intercompany Note" means any promissory note evidencing loans made by any Grantor to any other Grantor.

"Investment Property" means, collectively, (a) all "investment property" (as such term is defined in Section 9-102(a)(49) of the UCC) and (b) whether or not constituting "investment property" as so defined, all Pledged Notes.

"Lenders" is defined in the preamble.

"Patent Collateral" means:

(a) all of the Grantors' (i) inventions and discoveries, whether patentable or not, and (ii) letters patent and applications for letters patent throughout the world, including all patent applications in preparation for filing and each patent and patent application referred to in Item A of Schedule III to the Disclosure Letter;

(b) all reissues, divisions, continuations, continuations-in-part, extensions, renewals and reexaminations of any of the items described in clause (a);

(c) all patent licenses, and other agreements providing any Grantor with the right to use any items of the type referred to in clauses (a) and (b) above, including each patent license referred to in Item B of Schedule III; and

(d) all Proceeds of, and rights associated with, the foregoing (including licenses, royalties income, payments, claims, damages and Proceeds of infringement suits) and the right to sue third parties for past, present or future infringements of any patent or patent application and for breach or enforcement of any patent license.

"Permitted Liens" means all Liens permitted by Section 8.3 of the Credit Agreement.

"Pledged Notes" means all promissory notes listed on Item J of Schedule II to the Disclosure Letter (as such schedule may be amended or supplemented from time to time), all Intercompany Notes at any time issued to any Grantor and all other promissory notes issued to or held by any Grantor.

"Secured Parties" means, collectively, the Administrative Agent and the Lenders and "Secured Party" means any one of them.

"Securities Act" is defined in Section 6.2(a).

"Security Agreement" is defined in the preamble.

"Trade Secrets Collateral" means all of the Grantors' common law and statutory trade secrets and all other confidential, proprietary or useful information, and all know-how obtained by or used in or contemplated at any time for use in the business of any Grantor (all of the foregoing being collectively called a "Trade Secret"), whether or not such Trade Secret has been reduced to a writing or other tangible form, including all documents and things embodying, incorporating or referring in any way to such Trade Secret, all Trade Secret licenses, including each Trade Secret license referred to in Schedule VI, and including the right to sue for and to enjoin and to collect damages for the actual or threatened misappropriation of any Trade Secret and for the breach or enforcement of any such Trade Secret license.

"Trademark Collateral" means:

(a) (i) all of the Grantors' trademarks, trade names, corporate names, company names, business names, fictitious business names, trade styles, service marks, certification marks, collective marks, logos and other source or business identifiers, and all goodwill of the business associated therewith, now existing or hereafter adopted or acquired including those referred to in Item A of Schedule IV to the Disclosure Letter, whether currently in use or not, all registrations and recordings thereof and all applications in connection therewith, whether pending or in preparation for filing, including registrations, recordings and applications in the United States Patent and Trademark Office or in any office or agency of the United States of America, or any state thereof or any other country or political subdivision thereof or otherwise, and all common-law rights relating to the foregoing, and (ii) the right to obtain all reissues, extensions or renewals of the foregoing (collectively referred to as the "Trademarks");

(b) all Trademark licenses for the grant by or to any Grantors of any right to use any Trademark, including each Trademark license referred to in Item B of Schedule IV;

(c) all of the goodwill of the business connected with the use of, and symbolized by the items described in, clause (a), and to the extent applicable clause (b);

(d) the right to sue third parties for past, present and future infringements of any Trademark Collateral described in clause (a) and, to the extent applicable, clause (b); and

(e) all Proceeds of, and rights associated with, the foregoing, including any claim by any Grantor against third parties for past, present or future infringement or dilution of any Trademark, Trademark registration or Trademark license, or for any injury to the goodwill associated with the use of any such Trademark or for breach or enforcement of any Trademark license and all rights corresponding thereto throughout the world.

Section 1.2 Credit Agreement Definitions. Unless otherwise defined herein or the context otherwise requires, terms used in this Security Agreement, including its preamble and recitals, have the meanings provided in the Credit Agreement.

Section 1.3 UCC Definitions. When used herein the terms "Account," "Certificate of Title," "Certificated Securities," "Chattel Paper," "Commercial Tort Claim," "Commodity Account," "Commodity Contract," "Deposit Account," "Document," "Electronic Chattel Paper," "Equipment," "Financial Asset," "Goods," "Instrument," "Inventory," "Letter-of-Credit Rights," "Payment Intangibles," "Proceeds," "Promissory Notes," "Securities Account," "Security," "Security Entitlement," "Supporting Obligations" and "Uncertificated Securities" have the meaning provided in Article 8 or Article 9, as applicable, of the UCC. "Letters of Credit" has the meaning provided in Section 5-102 of the UCC.

ARTICLE II
SECURITY INTEREST

Section 2.1 Grant of Security Interest. Each Grantor hereby grants to the Administrative Agent, for the benefit of the Secured Parties, a continuing security interest in all of such Grantor's right, title and interest in and to the following property, whether now or hereafter existing, owned or acquired by such Grantor, and wherever located (collectively, the "Collateral"):

(a) Accounts;

(b) Chattel Paper;

(c) Commercial Tort Claims, including those listed on Item I of Schedule II to the Disclosure Letter (as such schedule may be amended or supplemented from time to time);

(d) Deposit Accounts;

(e) Documents;

(f) General Intangibles;

(g) Goods (including Goods held on consignment with third parties);

(h) Instruments;

(i) Investment Property, including all Securities, all Securities Accounts and all Security Entitlements with respect thereto and all Financial Assets carried therein, and all Commodity Accounts and Commodity Contracts;

(j) Letter-of-Credit Rights and Letters of Credit;

(k) Capital Securities;

(l) Supporting Obligations;

(m) all books, records, writings, databases, information and other property relating to, used or useful in connection with, evidencing, embodying, incorporating or referring to, any of the foregoing in this Section 2.1;

(n) all other tangible or intangible personal property and rights of every kind and description and interests therein;

(o) to the extent not otherwise included, (x) all payments under insurance (whether or not the Administrative Agent is the loss payee thereof) in respect of Collateral and (y) all tort claims; and

(p) all Proceeds of any of the foregoing, all Accessions to and substitutions and replacements for, any of the Collateral, and all offspring, rents, profits and products of any of the Collateral, and, to the extent related to any Collateral, all books, correspondence, credit files, records, invoices and other papers (including all tapes, cards, computer runs and other papers and documents in the possession or under control of any Grantor or any computer bureau or service company from time to time acting for a Grantor).

Notwithstanding the foregoing, the term "Collateral" shall not include:

(i) any General Intangibles or other rights, in each case arising under any contracts, instruments, licenses or other documents as to which the grant of a security interest would (A) constitute a violation of a valid and enforceable restriction in favor of a third party on such grant, unless and until any required consents shall have been obtained, or (B) give any other party to such contract, instrument, license or other document the right to terminate its obligations thereunder;

(ii) Trademark applications filed in the United States Patent and Trademark Office on the basis of such Grantor's "intent to use" such trademark, unless and until acceptable evidence of use of the Trademark has been filed with the United States Patent and Trademark Office pursuant to Section 1(c) or Section 1(d) of the Lanham Act (15 U.S.C. 1051, et seq.), to the extent that granting a Lien in such Trademark application prior to such filing would adversely affect the enforceability or validity of such Trademark application;

(iii) any asset, the granting of a security interest in which would be void or illegal under any applicable Law or pursuant thereto would result in, or permit the termination of, such asset;

(iv) the Excluded Accounts; or

(v) any asset subject to a Permitted Lien (other than Liens in favor of the Secured Parties), securing obligations permitted under the Credit Agreement to the extent that the grant of other Liens on such asset (A) would result in a breach or violation of, or constitute a default under, the agreement or instrument governing such Permitted Lien, (B) would result in the loss of use of such asset or

(C) would permit the holder of such Permitted Lien to terminate the Grantor's use of such asset;

provided that the property described in each of the clauses (i), (iii) and (v) above shall only be excluded from the term "Collateral" to the extent the conditions stated in such clauses are not rendered ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the UCC or any other applicable Law.

Section 2.2 Security for Obligations. This Security Agreement and the Collateral in which the Administrative Agent, for the benefit of the Secured Parties, is granted a security interest hereunder by the Grantors to secure the payment and performance of all of the Obligations.

Section 2.3 Grantors Remain Liable. Anything herein to the contrary notwithstanding:

(a) the Grantors will remain liable under the contracts and agreements included in the Collateral to the extent set forth therein, and will perform all of their duties and obligations under such contracts and agreements to the same extent as if this Security Agreement had not been executed;

(b) the exercise by any Secured Party of any of its rights hereunder will not release any Grantor from any of its duties or obligations under any such contracts or agreements included in the Collateral; and

(c) the Secured Parties will not have any obligation or liability under any contracts or agreements included in the Collateral by reason of this Security Agreement, nor will the Secured Parties be obligated to perform any of the obligations or duties of any Grantor thereunder or to take any action to collect or enforce any claim for payment assigned hereunder.

Section 2.4 Distributions on Capital Securities; Payments on Pledged Notes. In the event that any (a) Distribution with respect to any Capital Securities or (b) payment with respect to any Pledged Notes, in each case pledged hereunder, is permitted to be paid (in accordance with Section 8.6 of the Credit Agreement), such Distribution or payment may be paid directly to the applicable Grantor. If any Distribution or payment is made in contravention of Section 8.6 of the Credit Agreement, such Grantor shall hold the same segregated and in trust for the Administrative Agent, for the benefit of the Secured Parties, until paid to the Administrative Agent in accordance with Section 4.1.5.

Section 2.5 Security Interest Absolute, Etc. This Security Agreement shall in all respects be a continuing, absolute, unconditional and irrevocable grant of security interest, and shall remain in full force and effect until the Termination Date. All rights of the Secured Parties and the security interests granted to the Administrative Agent, for the benefit of the Secured Parties, hereunder, and all obligations of the Grantors hereunder, shall, to the fullest extent permitted by applicable Law, in each case, be absolute, unconditional and irrevocable irrespective of:

(a) any lack of validity, legality or enforceability of any Loan Document (other than this Security Agreement);

(b) the failure of any Secured Party (i) to assert any claim or demand or to enforce any right or remedy against any Loan Party or any of its respective Subsidiaries or any other Person (including any other Grantor) under the provisions of any Loan Document or otherwise, or (ii) to exercise any right or remedy against any other guarantor (including any other Grantor) of, or Collateral securing, any Obligations;

(c) any change in the time, manner or place of payment of, or in any other term of, all or any part of the Obligations, or any other extension, compromise or renewal of any Obligations;

(d) any reduction, limitation, impairment or termination of any Obligations for any reason, including any claim of waiver, release, surrender, alteration or compromise, and shall not be subject to (and each Grantor hereby waives, until payment of all Obligations, any right to or claim of) any defense or setoff, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality, nongenuineness, irregularity, compromise, unenforceability of, or any other event or occurrence affecting, any Obligations or otherwise;

(e) any amendment to, rescission, waiver, or other modification of, or any consent to or departure from, any of the terms of any Loan Document;

(f) any addition, exchange or release of any Collateral or of any Person that is (or will become) a Grantor (including the Grantors hereunder), or any surrender or non- perfection of any Collateral, or any amendment to or waiver or release or addition to, or consent to or departure from, any other guaranty held by the Administrative Agent, for the benefit of the Secured Parties, securing any of the Obligations; or

(g) any other circumstance which might otherwise constitute a defense available to, or a legal or equitable discharge of any Loan Party or any of its respective Subsidiaries, any surety or any guarantor.

Section 2.6 Postponement of Subrogation. Each Grantor agrees that it will not exercise any rights against another Grantor which it may acquire by way of rights of subrogation under any Loan Document to which it is a party until following the Termination Date. No Grantor shall seek or be entitled to seek any contribution or reimbursement from any Loan Party or any of its respective Subsidiaries, in respect of any payment made under any Loan Document or otherwise, until following the Termination Date. Any amount paid to any Grantor on account of any such subrogation rights prior to the Termination Date shall be held in trust for the benefit of the Secured Parties and shall immediately be paid and turned over to the Administrative Agent, for the benefit of the Secured Parties, in the exact form received by such Grantor (duly endorsed in favor of the Administrative Agent, if required), to be credited and applied against the Obligations, whether matured or unmatured, in accordance with Section 6.1(b); provided that if such Grantor has made payment to the Administrative Agent of all or any part of the Obligations and the Termination Date has occurred, then at such Grantor's written request, the

Administrative Agent will, at the expense of such Grantor, execute and deliver to such Grantor appropriate documents (without recourse and without representation or warranty) necessary to evidence the transfer by subrogation to such Grantor of an interest in the Obligations resulting from such payment. In furtherance of the foregoing, at all times prior to the Termination Date, such Grantor shall refrain from taking any action or commencing any proceeding against any Loan Party or any of its respective Subsidiaries (or their successors or assigns, whether in connection with a bankruptcy proceeding or otherwise) to recover any amounts in respect of payments made under this Security Agreement to the Administrative Agent or any other Secured Party.

ARTICLE III
REPRESENTATIONS AND WARRANTIES

In order to induce the Secured Parties to enter into the Credit Agreement and make the Loans thereunder, the Grantors represent and warrant to the Administrative Agent, for the benefit of the Secured Parties, as set forth below.

Section 3.1 As to Capital Securities of the Subsidiaries, Investment Property.

(a) With respect to any Subsidiary of any Grantor that is

(i) a corporation, business trust, joint stock company or similar Person, all Capital Securities issued by such Subsidiary (including the Borrower) are duly authorized and validly issued, fully paid and non-assessable, and represented by a certificate or certificates; and

(ii) a partnership or limited liability company, no Capital Securities issued by such Subsidiary (A) is dealt in or traded on securities exchanges or in securities markets, (B) expressly provides that such Capital Securities is a security governed by Article 8 of the UCC or (C) is held in a Securities Account, except, with respect to this clause (a)(ii), Capital Securities with respect to which the issuer has agreed in an authenticated record with such Grantor and the Administrative Agent to comply with any instructions of the Administrative Agent without the consent of such Grantor.

(b) Each Grantor has delivered all Certificated Securities constituting Collateral held by such Grantor in a Subsidiary (including the Borrower) on the Closing Date (or the date such Grantor becomes a party to this Security Agreement, as applicable) to the Administrative Agent, together with duly executed undated blank stock powers, or other equivalent instruments of transfer acceptable to the Administrative Agent.

(c) With respect to Uncertificated Securities constituting Collateral owned by any Grantor in a Subsidiary (including the Borrower) on the Closing Date (or the date such Grantor becomes a party to this Security Agreement, as applicable), such Grantor has caused the issuer thereof either to (i) register the Administrative Agent as the registered owner of such security or (ii) agree in an authenticated record with such

Grantor and the Administrative Agent that such issuer will comply with instructions with respect to such security originated by the Administrative Agent without further consent of such Grantor.

(d) The percentage of the issued and outstanding Capital Securities of each Subsidiary (including the Borrower) pledged on the Closing Date (or the date such Grantor becomes a party to this Security Agreement, as applicable) by each Grantor hereunder is as set forth on Schedule I to the Disclosure Letter. All shares of such Capital Securities have been duly and validly issued and are fully paid and nonassessable.

(e) Each of the Intercompany Notes, if any, constitutes the legal, valid and binding obligation of the obligor with respect thereto, enforceable in accordance with its terms, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar Laws relating to or affecting creditors' rights generally, general equitable principles (whether considered in a proceeding in equity or at law) and an implied covenant of good faith and fair dealing.

Section 3.2 Grantor Name, Location, Etc. In each case as of the date hereof:

(a) (i) The jurisdiction in which each Grantor is located for purposes of Sections 9-301 and 9-307 of the UCC and (ii) the address of each Grantor's executive office and principal place of business is set forth in Item A of Schedule II to the Disclosure Letter.

(b) The Grantors do not have any trade names other than those set forth in Item C of Schedule II to the Disclosure Letter.

(c) During the twelve months preceding the date hereof (or preceding the date such Grantor becomes a party to this Security Agreement, as applicable), no Grantor has been known by any legal name different from the one set forth on the signature page hereto, nor has such Grantor been the subject of any merger or other corporate reorganization, except as set forth in Item D of Schedule II to the Disclosure Letter.

(d) Each Grantor's federal taxpayer identification number (or foreign equivalent) is (and, during the twelve months preceding the date hereof (or preceding the date such Grantor becomes a party to this Security Agreement, as applicable), such Grantor has not had a federal taxpayer identification number (or equivalent) different from that) set forth in Item E of Schedule II to the Disclosure Letter.

(e) No Grantor is a party to any federal, state or local government contract except as set forth in Item F of Schedule II to the Disclosure Letter.

(f) No Grantor maintains any Deposit Accounts, Securities Accounts or Commodity Accounts with any Person, in each case, except as set forth on Item G of Schedule II to the Disclosure Letter.

(g) No Grantor is the beneficiary of any Letters of Credit, except as set forth on Item H of Schedule II to the Disclosure Letter.

(h) No Grantor has Commercial Tort Claims, except as set forth on Item I of Schedule II to the Disclosure Letter.

(i) The name set forth on the signature page attached hereto (or the signature page of the supplement hereto by which such Grantor has become a party to this Security Agreement, as applicable) is the true and correct legal name (as defined in the UCC) of each Grantor.

Section 3.3 Ownership, No Liens, Etc. Each Grantor owns its Collateral free and clear of any Lien, except for (a) any security interest created by this Security Agreement or (b) Permitted Liens. No effective UCC financing statement or other filing similar in effect covering all or any part of the Collateral is on file in any recording office, except those filed in favor of the Administrative Agent relating to this Security Agreement, Permitted Liens or as to which a duly authorized termination statement relating to such UCC financing statement or other instrument has been delivered to the Administrative Agent on the Closing Date.

Section 3.4 Possession of Inventory, Control, Etc.

(a) Each Grantor has, and agrees that it will maintain, exclusive possession of its Documents, Instruments, Promissory Notes, Goods, Equipment and Inventory, other than (i) Equipment and Inventory that is in transit in the ordinary course of business, (ii) Equipment and Inventory that in the ordinary course of business is in the possession or control of a warehouseman, bailee agent or other Person (other than a Person controlled by or under common control with such Grantor), and if the fair market value of such Collateral at any such location exceeds $100,000, (A) such Person has been notified of the security interest created in favor of the Administrative Agent, for the benefit of the Secured Parties, pursuant to this Security Agreement and has authenticated a record acknowledging that it holds possession of such Collateral for the benefit of the Secured Parties and waives any Lien held by it against such Collateral, (iii) Inventory that is in the possession of a consignee in the ordinary course of business, (iv) laptop computers and similar movable items of personal property used by employees of the Grantor, and (v) Instruments or Promissory Notes that have been delivered to the Administrative Agent pursuant to Section 3.5. In the case of Equipment or Inventory described in clause (ii) above, no lessor or warehouseman of any premises or warehouse upon or in which such Equipment or Inventory is located has (w) issued any warehouse receipt or other receipt in the nature of a warehouse receipt in respect of any such Equipment or Inventory, (x) issued any Document for any such Equipment or Inventory, or (y) any Lien on any such Equipment or Inventory, other than Permitted Liens.

(b) Each Grantor is the sole entitlement holder of its Deposit Accounts and no other Person (other than the Administrative Agent pursuant to this Security Agreement or any other Person with respect to Permitted Liens) has control or possession of, or any other interest in, any of its Deposit Accounts (other than Excluded Accounts) or any other securities or property credited thereto.

Section 3.5 Negotiable Documents, Instruments and Chattel Paper. Each Grantor has delivered to the Administrative Agent possession of all originals of all Documents, Instruments,

Promissory Notes, and tangible Chattel Paper (other than any Document, Instrument, Promissory Note or tangible Chattel Paper not exceeding $50,000 in principal amount) owned or held by such Grantor on the Closing Date (or the date such Grantor becomes a party to this Security Agreement, as applicable).

Section 3.6 Intellectual Property Collateral. Except as disclosed on Schedules III through VI to the Disclosure Letter, with respect to any Intellectual Property Collateral:

(a) any Intellectual Property Collateral owned by any Grantor that is material to Grantor's business is valid, subsisting, unexpired and enforceable and has not been abandoned or adjudged invalid or unenforceable, in whole or in part;

(b) such Grantor is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to all Intellectual Property Collateral that is owned by such Grantor and to the knowledge of such Grantor, no claim has been made in writing that the use of such Intellectual Property Collateral by such Grantor does or may, conflict with, infringe, misappropriate, dilute, misuse or otherwise violate in any material respects, any of the rights of any third party;

(c) such Grantor has taken all reasonable actions to maintain and protect its interest in any Intellectual Property Collateral material to its business owned by such Grantor, including but not limited to filings and recordation to the extent such filing or recordation is necessary for the conduct of the business substantially in the manner presently conducted, including recordation of all of its interests in the Patent Collateral and Trademark Collateral material to its business in the United States Patent and Trademark Office (or foreign equivalent), and its claims to the Copyright Collateral in the United States Copyright Office (or foreign equivalent), and, to the extent necessary, has used proper statutory notice in connection with its use of any material Patent, Trademark and Copyright in any of the Intellectual Property Collateral;

(d) such Grantor has taken all reasonable steps to safeguard its Trade Secrets and to its knowledge (i) none of the Trade Secrets of such Grantor has been used, divulged, disclosed or appropriated for the benefit of any other Person other than such Grantor; (ii) no employee, independent contractor or agent of such Grantor has misappropriated any Trade Secrets of such Grantor in the course of the performance of his or her duties as an employee, independent contractor or agent of such Grantor; and (iii) no employee, independent contractor or agent of such Grantor is in default or breach of any material term of any employment agreement, non-disclosure agreement, assignment of inventions agreement or similar agreement or contract relating in any material way to the protection, ownership, development, use or transfer of such Grantor's Intellectual Property Collateral;

(e) to such Grantor's knowledge, no third party is infringing upon any Intellectual Property owned or used by such Grantor;

(f) no settlement or consents, covenants not to sue, nonassertion assurances, or releases have been entered into by such Grantor or to which such Grantor is bound that materially and adversely affects its rights to own or use any Intellectual Property;

(g) such Grantor has not made a previous assignment, sale, transfer or agreement constituting a present or future assignment, sale or transfer of any Intellectual Property for purposes of granting a security interest or as collateral that has not been terminated or released except as permitted under the Credit Agreement;

(h) such Grantor has executed and delivered to the Administrative Agent Intellectual Property Collateral security agreements for all Patents, Trademarks and Copyrights owned by such Grantor, including all Patents, Trademarks and Copyrights described on Schedules III through V to the Disclosure Letter (as such schedules may be amended or supplemented from time to time by notice by such Grantor to the Administrative Agent);

(i) such Grantor uses commercially reasonable standards of quality in the manufacture, distribution and sale of all products sold and in the provision of all services rendered under or in connection with all Trademarks and has taken all commercially reasonable action necessary to ensure that all licensees of the Trademarks owned by such Grantor use such adequate standards of quality;

(j) the consummation of the transactions contemplated by the Credit Agreement and this Security Agreement will not result in the termination or material impairment of any of the Intellectual Property Collateral; and

(k) to such Grantor's knowledge, such Grantor owns or is entitled to use by license, lease or other agreement, all Patents, Trademarks, Trade Secrets, Copyrights, mask works, licenses, technology, know how, processes and rights with respect to any of the foregoing as necessary to conduct the business and operations of such Grantor substantially in the manner presently conducted.

Section 3.7 Validity, Etc.

(a) This Security Agreement creates a valid security interest in the Collateral securing the payment of the Obligations to the extent such security interest may be created pursuant to Article 9 of the UCC.

(b) As of the Closing Date (or the date such Grantor becomes a party to this Security Agreement, as applicable), each Grantor has filed or caused to be filed all UCC-1 financing statements in the filing office for each Grantor's jurisdiction of organization listed in Item A of Schedule II to the Disclosure Letter (collectively, the "Financing Statements") (or has authenticated and delivered to the Administrative Agent (or its designee) the Financing Statements suitable for timely and proper filing in such offices) and has taken all other actions requested by the Administrative Agent or required hereunder for the Administrative Agent to obtain control of the Collateral as provided in Sections 9-104, 9-105, 9-106 and 9-107 of the UCC.

(c) Upon the filing of the Financing Statements with the appropriate agencies therefor the security interests created under this Security Agreement shall constitute a perfected security interest in the Collateral described on such Financing Statements in favor of the Administrative Agent to the extent that a security interest therein may be perfected by filing a financing statement pursuant to the relevant UCC, prior to all other Liens, except for Permitted Liens (in which case such security interest shall be second in priority of right only to the Permitted Liens until the obligations secured by such Permitted Liens have been satisfied).

Section 3.8 Authorization, Approval, Etc. Except as have been obtained or made and are in full force and effect, no authorization, approval or other action by, and no notice to or filing with, any Governmental Authority or any other third party is required either

(a) for the grant by the Grantors of the security interest granted hereby or for the execution, delivery and performance of this Security Agreement by the Grantors;

(b) for the perfection or maintenance of the security interests hereunder including the first priority nature of such security interest (except with respect to the Financing Statements or, with respect to Intellectual Property Collateral, the recordation of any agreements with the United States Patent and Trademark Office or the United States Copyright Office or, with respect to foreign Intellectual Property Collateral, the taking of appropriate action under applicable foreign Law and, with respect to after- acquired Intellectual Property Collateral, any subsequent filings in such applicable intellectual property offices) or the exercise by any Secured Party of its rights and remedies hereunder; or

(c) for the exercise by the Administrative Agent of the voting or other rights provided for in this Security Agreement, except (i) with respect to any securities issued by a Subsidiary of the Grantors, as may be required in connection with a disposition of such securities by Laws affecting the offering and sale of securities generally, the remedies in respect of the Collateral pursuant to this Security Agreement and (ii) any "change of control" or similar filings required by state licensing agencies.

Section 3.9 Best Interests. It is in the best interests of each Grantor (other than the Borrower) to execute this Security Agreement inasmuch as such Grantor will, as a result of being an Affiliate of the Borrower, derive substantial direct and indirect benefits from the Loans made to the Borrower by the Lenders pursuant to the Credit Agreement, and each Grantor agrees that the Lenders are relying on this representation in agreeing to make such Loans pursuant to the Credit Agreement to the Borrower.

ARTICLE IV
COVENANTS

Each Grantor covenants and agrees that, until the Termination Date, such Grantor will perform, comply with and be bound by the obligations set forth below.

Section 4.1 As to Investment Property, Etc.

Section 4.1.1 Capital Securities of Subsidiaries. No Grantor will allow any of its Subsidiaries:

(a) that is a corporation, business trust, joint stock company or similar Person, to issue Uncertificated Securities;

(b) that is a partnership or limited liability company, to (i) issue Capital Securities that are to be dealt in or traded on securities exchanges or in securities markets, (ii) expressly provide in its Organic Documents that its Capital Securities are securities governed by Article 8 of the UCC, or (iii) place such Subsidiary's Capital Securities in a Securities Account; and

(c) to issue Capital Securities in addition to or in substitution for the Capital Securities pledged hereunder, except to such Grantor (and such Capital Securities are immediately pledged and delivered to the Administrative Agent pursuant to the terms of this Security Agreement).

Section 4.1.2 Investment Property (other than Certificated Securities).

(a) With respect to any Deposit Accounts, Securities Accounts, Commodity Accounts, Commodity Contracts or Security Entitlements constituting Investment Property owned or held by any Grantor, such Grantor will cause (except for Excluded Accounts) the intermediary maintaining such Investment Property to execute a Control Agreement relating to such Investment Property pursuant to which such intermediary agrees to comply with the Administrative Agent's instructions with respect to such Investment Property without further consent by such Grantor (it being understood that the Administrative Agent shall only deliver notice to such intermediary that it must comply with the Administrative Agent's instructions after and during the continuation of an Event of Default).

(b) With respect to any Uncertificated Securities constituting Investment Property owned or held by any Grantor, such Grantor will use commercially reasonable efforts cause the issuer of such securities to either (i) register the Administrative Agent as the registered owner thereof on the books and records of the issuer or (ii) execute a Control Agreement relating to such Investment Property pursuant to which the issuer agrees to comply with the Administrative Agent's instructions with respect to such Uncertificated Securities without further consent by such Grantor.

Section 4.1.3 Certificated Securities (Stock Powers). Each Grantor agrees that all Certificated Securities constituting Collateral, including the Capital Securities delivered by such Grantor pursuant to this Security Agreement, will be accompanied by duly executed undated blank stock powers, or other equivalent instruments of transfer reasonably acceptable to the Administrative Agent.

Section 4.1.4 Continuous Pledge. Each Grantor will (subject to the terms of the Credit Agreement) (a) deliver to the Administrative Agent as collateral security all Investment Property

and all Payment Intangibles to the extent that such Investment Property or Payment Intangibles are evidenced by a Document, Instrument, Promissory Note or Chattel Paper (other than any Document, Instrument, Promissory Note or Chattel Paper not exceeding $50,000 in the principal amount), and (b) at all times keep pledged to the Administrative Agent pursuant hereto, on a first-priority (subject to Permitted Liens), perfected basis, a security interest therein and in all interest and principal with respect to such Payment Intangibles, and all Proceeds and rights from time to time received by or distributable to such Grantor in respect of any of the foregoing Collateral. Each Grantor agrees that it will, promptly following receipt thereof, deliver to the Administrative Agent possession of all originals of negotiable Documents, Instruments, Promissory Notes and Chattel Paper that it acquires following the Closing Date (other than any Document, Instrument, Promissory Note or Chattel Paper not exceeding $50,000 in the principal amount).

Section 4.1.5 Voting Rights, Dividends, Etc. Each Grantor agrees:

(a) upon receipt of notice of the occurrence and continuance of an Event of Default from the Administrative Agent and upon any request therefor by the Administrative Agent, so long as such Event of Default shall continue, to deliver (properly endorsed where required hereby or requested by the Administrative Agent) to the Administrative Agent all dividends and Distributions with respect to Investment Property, all interest, principal, other cash payments on Payment Intangibles, and all Proceeds of the Collateral, in each case thereafter received by such Grantor, all of which shall be held by the Administrative Agent as additional Collateral, except for payments made in accordance with Section 8.6 of the Credit Agreement; and

(b) immediately upon the occurrence and during the continuation of an Event of Default and so long as the Administrative Agent has notified such Grantor of the Administrative Agent's intention to exercise its voting power under this clause,

(i) that the Administrative Agent may exercise (to the exclusion of such Grantor) the voting power and all other incidental rights of ownership with respect to any Investment Property constituting Collateral and such Grantor hereby grants the Administrative Agent an irrevocable proxy, exercisable under such circumstances, to vote such Investment Property; and

(ii) to promptly deliver to the Administrative Agent such additional proxies and other documents as may be necessary to allow the Administrative Agent to exercise such voting power.

All dividends, Distributions, interest, principal, cash payments, Payment Intangibles and Proceeds that may at any time and from time to time be held by such Grantor, but which such Grantor is then obligated to deliver to the Administrative Agent pursuant to this Section 4.1.15, shall, until delivery to the Administrative Agent, be held by such Grantor separate and apart from its other property in trust for the Administrative Agent. The Administrative Agent agrees that unless an Event of Default shall have occurred and be continuing and the Administrative Agent shall have given the notice referred to in clause (b), such Grantor will have the exclusive voting power with respect to any Investment Property constituting Collateral and the Administrative

Agent will, upon the written request of such Grantor, promptly deliver such proxies and other documents, if any, as shall be reasonably requested by such Grantor which are necessary to allow such Grantor to exercise that voting power; provided that no vote shall be cast, or consent, waiver, or ratification given, or action taken by such Grantor that would impair any such Collateral or be inconsistent with or violate any provision of any Loan Document.

Section 4.2 Change of Name, Etc. No Grantor will change its name or place of incorporation or organization or federal taxpayer identification number except as otherwise permitted by the Credit Agreement.

Section 4.3 As to Accounts.

(a) Each Grantor shall have the right to collect all Accounts so long as no Event of Default shall have occurred and be continuing.

(b) Upon (i) the occurrence and continuance of an Event of Default and (ii) the delivery of notice by the Administrative Agent to each Grantor, all Proceeds of Collateral received by such Grantor shall be delivered in kind to the Administrative Agent for deposit in a Deposit Account of such Grantor maintained with the Administrative Agent (together with any other Deposit Accounts or Securities Accounts pursuant to which any portion of the Collateral is deposited with the Administrative Agent, the "Collateral Accounts"), and such Grantor shall not commingle any such Proceeds, and shall hold separate and apart from all other property, all such Proceeds in express trust for the benefit of the Administrative Agent until delivery thereof is made to the Administrative Agent.

(c) Following the delivery of notice pursuant to clause (b)(ii), the Administrative Agent shall have the right to apply any amount in the Collateral Accounts to the payment of any Obligations which are then due and payable.

(d) With respect to each of the Collateral Accounts, it is hereby confirmed and agreed that (i) deposits in such Collateral Account are subject to a security interest as contemplated hereby, (ii) such Collateral Account shall be under the control of the Administrative Agent and (iii) the Administrative Agent shall have the sole right of withdrawal over such Collateral Account.

Section 4.4 As to Grantors' Use of Collateral.

(a) Subject to Section 4.4(b), each Grantor (i) may in accordance with the Credit Agreement, at its own expense, sell, lease or furnish under contracts of service any of the Inventory normally held by such Grantor for such purpose, and use and consume, in the ordinary course of its business, any raw materials, work in process or materials normally held by such Grantor for such purpose, (ii) will, at its own expense, endeavor to collect, as and when due, all amounts due with respect to any of the Collateral, including the taking of such action with respect to such collection as the Administrative Agent may reasonably request following the occurrence and during the continuance of an Event of Default or, in the absence of such request, as such Grantor may deem advisable, and (iii) may grant, in the ordinary course of business, to any party obligated on any of the

Collateral, any rebate, refund or allowance to which such party may be lawfully entitled, and may accept, in connection therewith, the return of Goods, the sale or lease of which shall have given rise to such Collateral.

(b) At any time following the occurrence and during the continuation of an Event of Default, whether before or after the maturity of any of the Obligations, the Administrative Agent may (i) revoke any or all of the rights of each Grantor set forth in Section 4.4(a), (ii) notify any parties obligated on any of the Collateral to make payment to the Administrative Agent of any amounts due or to become due thereunder and (iii) enforce collection of any of the Collateral by suit or otherwise and surrender, release, or exchange all or any part thereof, or compromise or extend or renew for any period (whether or not longer than the original period) any indebtedness thereunder or evidenced thereby.

(c) Upon the request of the Administrative Agent following the occurrence and during the continuance of an Event of Default, each Grantor will, at its own expense, notify any parties obligated on any of the Collateral to make payment to the Administrative Agent of any amounts due or to become due thereunder.

(d) At any time following the occurrence and during the continuation of an Event of Default, the Administrative Agent may endorse, in the name of such Grantor, any item, howsoever received by the Administrative Agent, representing any payment on or other Proceeds of any of the Collateral.

Section 4.5 As to Intellectual Property Collateral. Each Grantor covenants and agrees to comply with the following provisions as such provisions relate to any Intellectual Property Collateral material to the operations or business of such Grantor:

(a) such Grantor will not (i) do or fail to perform any act whereby any of the Patent Collateral may lapse or become abandoned or dedicated to the public or unenforceable, (ii) permit any of its licensees to (A) fail to continue to use any of the Trademark Collateral in order to maintain all of the Trademark Collateral in full force free from any claim of abandonment for non-use, (B) fail to maintain the quality of products and services offered under all of the Trademark Collateral at a level substantially consistent with the quality of products and services offered under such Trademark as of the date hereof, (C) adopt or use any other Trademark which is confusingly similar or a colorable imitation of any of the Trademark Collateral, (D) use any of the Trademark Collateral registered with any federal, state or foreign authority except for the uses for which registration or application for registration of such Trademark Collateral has been made or substantially related thereto or (E) do or permit any act or knowingly omit to do any act whereby any of the Trademark Collateral may become invalid or unenforceable, or (iii) do or permit any act or knowingly omit to do any act whereby any of the Copyright Collateral or any of the Trade Secrets Collateral may lapse or become invalid or unenforceable or placed in the public domain except upon expiration of the end of an unrenewable term of a registration thereof, unless, in the case of any of the foregoing requirements in clauses (i), (ii) and (iii), such Grantor reasonably and in good faith determines that either (x) such Intellectual Property

Collateral is of negligible economic value to such Grantor or (y) the loss of such Intellectual Property Collateral would not be material to such Grantor;

(b) such Grantor shall promptly notify the Administrative Agent if it knows, or has reason to know, that any application or registration relating to any material item of the Intellectual Property Collateral may, in the Grantor's reasonable commercial judgment, reasonably be expected to become abandoned or dedicated to the public or placed in the public domain or invalid or unenforceable, or of any adverse determination or development (including the institution of, or any such determination or development in, any proceeding in the United States Patent and Trademark Office, the United States Copyright Office or any foreign counterpart thereof or any court) regarding such Grantor's ownership of any of the Intellectual Property Collateral, its right to register the same or to keep and maintain and enforce the same;

(c) in no event will such Grantor or any of its agents, employees, designees or licensees file an application for the registration of any Intellectual Property Collateral with the United States Patent and Trademark Office, the United States Copyright Office or any similar office or agency in any other country or any political subdivision thereof, unless such Grantor promptly informs the Administrative Agent in writing and, upon request of the Administrative Agent (subject to the terms of the Credit Agreement), executes and delivers all agreements, instruments and documents as the Administrative Agent may reasonably request to evidence the Administrative Agent's security interest in such Intellectual Property Collateral;

(d) such Grantor will take all reasonable and necessary steps, including in any proceeding before the United States Patent and Trademark Office, the United States Copyright Office or any similar office or agency in any other country or any political subdivision thereof (subject to the terms of the Credit Agreement), to maintain and pursue any material application (and to obtain the relevant registration) filed with respect to, and to maintain any registration of, material Intellectual Property Collateral, including the filing of applications for renewal, affidavits of use, affidavits of incontestability and opposition, interference and cancellation proceedings and the payment of fees and Taxes (except to the extent that dedication, abandonment or invalidation is permitted under the foregoing clauses (a) or (b) or such Grantor reasonably and in good faith determines that the failure to take any such step would not have a material adverse effect on the interests of the Administrative Agent in such Intellectual Property Collateral); and

(e) such Grantor will, on a quarterly basis, execute and deliver to the Administrative Agent (as applicable) a Patent Security Agreement, Trademark Security Agreement and/or Copyright Security Agreement, as the case may be, in the forms of Exhibit A, Exhibit B and Exhibit C hereto, respectively, following its obtaining an interest in any such Intellectual Property, and shall execute and deliver to the Administrative Agent any other document reasonably required to evidence the Administrative Agent's interest in any part of such item of Intellectual Property Collateral unless such Grantor shall determine in good faith (with the consent of the Required Lenders) that any Intellectual Property Collateral is of negligible economic value to such Grantor.

Section 4.6 As to Letter-of-Credit Rights.

(a) Each Grantor, by granting a security interest in its Letter-of-Credit Rights to the Administrative Agent, intends to (and hereby does) collaterally assign to the Administrative Agent its rights (including its contingent rights) to the Proceeds of all Letter-of-Credit Rights of which it is or hereafter becomes a beneficiary or assignee.

(b) Upon the occurrence and during the continuation of an Event of Default, such Grantor will, promptly upon request by the Administrative Agent, (i) notify (and such Grantor hereby authorizes the Administrative Agent to notify) the issuer and each nominated Person with respect to each of the Letters of Credit of such Grantor that the Proceeds thereof have been assigned to the Administrative Agent hereunder and any payments due or to become due in respect thereof are to be made directly to the Administrative Agent and (ii) arrange for the Administrative Agent to become the transferee beneficiary of each such Letter of Credit.

Section 4.7 As to Commercial Tort Claims. Each Grantor covenants and agrees that, until the payment in full of the Obligations and termination of all Commitments, with respect to any Commercial Tort Claim hereafter arising, it shall deliver to the Administrative Agent a supplement in form and substance reasonably satisfactory to the Required Lenders, together with all supplements to schedules thereto, identifying such new Commercial Tort Claim.

Section 4.8 Electronic Chattel Paper and Transferable Records. If any Grantor at any time holds or acquires an interest in any Electronic Chattel Paper or any "transferable record," as that term is defined in Section 201 of the U.S. Federal Electronic Signatures in Global and National Commerce Act, or in Section 16 of the U.S. Uniform Electronic Transactions Act as in effect in any relevant jurisdiction, with a value in excess of $50,000, such Grantor shall promptly notify the Administrative Agent thereof and, at the request of the Administrative Agent, shall take such action as the Administrative Agent may reasonably request to vest in the Administrative Agent control under Section 9-105 of the UCC of such Electronic Chattel Paper or control under Section 201 of the Federal Electronic Signatures in Global and National Commerce Act or, as the case may be, Section 16 of the Uniform Electronic Transactions Act, as so in effect in such jurisdiction, of such transferable record. The Administrative Agent agrees with such Grantor that the Administrative Agent will arrange, pursuant to procedures satisfactory to the Administrative Agent and so long as such procedures will not result in the Administrative Agent's loss of control, for the Grantor to make alterations to the Electronic Chattel Paper or transferable record permitted under Section 9-105 of the UCC or, as the case may be, Section 201 of the U.S. Federal Electronic Signatures in Global and National Commerce Act or Section 16 of the U.S. Uniform Electronic Transactions Act for a party in control to allow without loss of control, unless an Event of Default has occurred and is continuing or would occur after taking into account any action by such Grantor with respect to such Electronic Chattel Paper or transferable record.

Section 4.9 Landlord Access Agreements. Each Grantor shall furnish to the Administrative Agent landlord access agreements, in form and substance satisfactory to the Administrative Agent and the Origination Agent, from each landlord to such Grantor for (i) each real property lease entered into by such Grantor after the date hereof for the location that is the

headquarters of such Grantor and (ii) each real property lease entered into by such Grantor after the date hereof where the fair market value of the Collateral at such location exceeds $100,000.

Section 4.10 Further Assurances, Etc. Each Grantor agrees that, from time to time at its own expense, it will, subject to the terms of this Security Agreement, promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or that the Administrative Agent may reasonably request, in order to perfect, preserve and protect any security interest granted or purported to be granted hereby or to enable the Administrative Agent to exercise and enforce its rights and remedies hereunder with respect to any Collateral. Without limiting the generality of the foregoing, such Grantor will

(a) from time to time upon the request of the Administrative Agent, promptly deliver to the Administrative Agent such stock powers, instruments and similar documents, reasonably satisfactory in form and substance to the Administrative Agent, with respect to such Collateral as the Administrative Agent may request and will, from time to time upon the request of the Administrative Agent, after the occurrence and during the continuation of any Event of Default, promptly transfer any securities constituting Collateral into the name of any nominee designated by the Administrative Agent; if any Collateral shall be evidenced by an Instrument, negotiable Document, Promissory Note or tangible Chattel Paper, deliver and pledge to the Administrative Agent hereunder such Instrument, negotiable Document, Promissory Note or tangible Chattel Paper (other than any Instrument, negotiable Document, Promissory Note or tangible Chattel Paper in principal amount less than $50,000) duly endorsed and accompanied by duly executed instruments of transfer or assignment, all in form and substance reasonably satisfactory to the Administrative Agent;

(b) file (and such Grantor hereby authorizes the Administrative Agent to file) such Financing Statements or continuation statements, or amendments thereto, and such other instruments or notices (including any assignment of claim form under or pursuant to the federal assignment of claims statute, 31 U.S.C. § 3727, any successor or amended version thereof or any regulation promulgated under or pursuant to any version thereof), as may be necessary or that the Administrative Agent may reasonably request in order to perfect and preserve the security interests and other rights granted or purported to be granted to the Administrative Agent, for the benefit of the Secured Parties, hereby;

(c) at all times keep pledged to the Administrative Agent, for the benefit of the Secured Parties, pursuant hereto, on a first-priority (subject to Permitted Liens), perfected basis, all Investment Property constituting Collateral, all dividends and Distributions with respect thereto, and all interest and principal with respect to Promissory Notes constituting Collateral, and all Proceeds and rights from time to time received by or distributable to such Grantor in respect of any of the foregoing Collateral;

(d) not take or omit to take any action the taking or the omission of which would result in any impairment or alteration of any obligation of the maker of any Payment Intangible or other Instrument constituting Collateral, except as provided in Section 4.4 or under the Loan Documents;

(e) not create any tangible Chattel Paper without placing a legend on such tangible Chattel Paper reasonably acceptable to the Administrative Agent indicating that the Administrative Agent has a security interest in such Chattel Paper (provided that so long as no Event of Default is continuing, Chattel Paper and records relating to such Collateral for amounts in each case less than $50,000, need only be marked upon the Administrative Agent's request);

(f) furnish to the Administrative Agent, from time to time at the Administrative Agent's reasonable request, statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as the Administrative Agent may reasonably request, all in reasonable detail; and

(g) do all things reasonably requested by the Administrative Agent in accordance with this Security Agreement in order to enable the Administrative Agent to have and maintain control over the Collateral consisting of Investment Property, Deposit Accounts, Letter-of-Credit-Rights and Electronic Chattel Paper.

With respect to the foregoing and the grant of the security interest hereunder, each Grantor hereby authorizes the Administrative Agent to file one or more financing or continuation statements, and amendments thereto, relative to all or any part of the Collateral. Each Grantor agrees that a carbon, photographic or other reproduction of this Security Agreement or any UCC financing statement covering the Collateral or any part thereof shall be sufficient as a UCC financing statement where permitted by Law. Each Grantor hereby authorizes the Administrative Agent to file financing statements describing as the collateral covered thereby "all of the debtor's personal property or assets" or words to that effect, notwithstanding that such wording may be broader in scope than the Collateral described in this Security Agreement. Notwithstanding anything else herein, the Administrative Agent shall not be liable for the preparation, filing or maintenance of any UCC or other applicable financing statements or instruments, all of which shall be duties of the Grantors.

ARTICLE V
THE ADMINISTRATIVE AGENT

Section 5.1 Administrative Agent Appointed Attorney-in-Fact. Each Grantor hereby designates and appoints the Administrative Agent, on behalf of the Secured Parties, and each of its designees or agents, as attorney-in-fact of such Grantor, irrevocably and with power of substitution, with authority to take any or all of the following actions (and the Administrative Agent agrees to take any such specified actions, upon the request of the Required Lenders) upon the occurrence and during the continuance of an Event of Default:

(a) to demand, collect, settle, compromise and adjust, and give discharges and releases concerning the Collateral, all as the Administrative Agent may deem reasonably appropriate;

(b) to commence and prosecute any actions at any court for the purposes of collecting any of the Collateral and enforcing any other right in respect thereof;

(c) to defend, settle or compromise any action brought in respect of the Collateral and, in connection therewith, give such discharge or release as the Administrative Agent may deem reasonably appropriate;

(d) to pay or discharge taxes, liens, security interests or other encumbrances levied or placed on or threatened against the Collateral;

(e) to direct any parties liable for any payment in connection with any of the Collateral to make payment of any and all monies due and to become due thereunder directly to the Administrative Agent or as the Administrative Agent shall direct;

(f) to receive payment of and receipt for any and all monies, claims, and other amounts due and to become due at any time in respect of or arising out of any Collateral;

(g) to sign and endorse any drafts, assignments, proxies, stock powers, verifications, notices and other documents relating to the Collateral;

(h) to execute and deliver all assignments, conveyances, statements, financing statements, renewal financing statements, security and pledge agreements, affidavits, notices and other agreements, instruments and documents that the Administrative Agent may deem reasonably appropriate in order to perfect and maintain the security interests and liens granted in this Agreement and in order to fully consummate all of the transactions contemplated therein;

(i) to exchange any of the Collateral or other property upon any merger, consolidation, reorganization, recapitalization or other readjustment of the issuer thereof and, in connection therewith, deposit any of the Collateral with any committee, depository, transfer agent, registrar or other designated agency upon such terms as the Administrative Agent may deem reasonably appropriate;

(j) to vote for a shareholder or member resolution, or to sign an instrument in writing, sanctioning the transfer of any or all of the Collateral into the name of the Administrative Agent or one or more of the Secured Parties or into the name of any transferee to whom the Collateral or any part thereof may be sold pursuant to Article VI hereof; and

(k) to do and perform all such other acts and things as the Administrative Agent may deem reasonably necessary or appropriate in connection with the Collateral.

This power of attorney is a power coupled with an interest and shall be irrevocable for so long as any of the Obligations (other than contingent indemnification obligations for which no claim has been asserted) shall remain outstanding and until all of the commitments relating thereto shall have been terminated. The Administrative Agent shall be under no duty to exercise or withhold the exercise of any of the rights, powers, privileges and options expressly or implicitly granted to the Administrative Agent in this Agreement (except as specifically instructed by the Required Lenders), and shall not be liable for any failure to do so or any delay in doing so. The Administrative Agent shall not be liable for any act or omission or for any error of judgment or any mistake of fact or law in its individual capacity or its capacity as attorney-in-fact except acts

or omissions resulting from its gross negligence or willful misconduct. This power of attorney is conferred on the Administrative Agent solely to protect, preserve and realize upon its security interest in the Collateral.

Section 5.2 Assignment by the Administrative Agent. The Administrative Agent may from time to time assign the Collateral and any portion thereof to a successor agent in accordance with the Credit Agreement, and the assignee shall be entitled to all of the rights and remedies of the Administrative Agent under this Agreement in relation thereto.

Section 5.3 The Administrative Agent's Duty of Care. Other than the exercise of reasonable care to assure the safe custody of the Collateral while being held by the Administrative Agent hereunder and to account for all proceeds thereof, the Administrative Agent shall have no duty or liability to preserve rights pertaining thereto, it being understood and agreed that the Grantors shall be responsible for preservation of all rights in the Collateral, and the Administrative Agent shall be relieved of all responsibility for the Collateral upon surrendering it or tendering the surrender of it to the Grantors. The Administrative Agent shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral in its possession if such Collateral is accorded treatment substantially equal to that which the Administrative Agent accords its own property, which shall be no less than the treatment employed by a reasonable and prudent agent in the industry, it being understood that the Administrative Agent shall not have responsibility for (i) ascertaining or taking action with respect to calls, conversions, exchanges, maturities, tenders or other matters relating to any Collateral, whether or not the Administrative Agent has or is deemed to have knowledge of such matters, or (ii) taking any necessary steps to preserve rights against any parties with respect to any of the Collateral. The provisions of Article XI of the Credit Agreement, including the rights, privileges, protections, benefits, indemnities and immunities of the Administrative Agent are incorporated herein, *mutatis mutandis*, as if a part hereof, and shall also apply to the Administrative Agent acting under or in connection with this Agreement.

Section 5.4 Release of Collateral. The Administrative Agent, upon the direction of the Required Lenders, may release any of the Collateral from this Security Agreement or may substitute any of the Collateral for other Collateral without altering, varying or diminishing in any way the force, effect, lien, pledge or security interest of this Agreement as to any Collateral not expressly released or substituted, and this Agreement shall continue as a first priority lien on all Collateral not expressly released or substituted.

Section 5.5 Application of Proceeds. Upon the occurrence and during the continuation of an Event of Default, any payments in respect of the Secured Obligations and any proceeds of the Collateral, when received by the Administrative Agent or any of the Secured Parties in cash or its equivalent, will be applied in reduction of the Obligations in the order set forth in Section 9.04 of the Credit Agreement, and each Grantor irrevocably waives the right to direct the application of such payments and proceeds and acknowledges and agrees that the Administrative Agent shall have the continuing and exclusive right to apply and reapply any and all such payments and proceeds in the Administrative Agent's sole discretion, notwithstanding any entry to the contrary upon any of its books and records.

ARTICLE VI
REMEDIES

Section 6.1 Certain Remedies. If any Event of Default shall have occurred and be continuing:

(a) The Administrative Agent may (and shall, as directed by the Required Lenders) exercise in respect of the Collateral, in addition to other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of the Administrative Agent on default under the UCC (whether or not the UCC applies to the affected Collateral) and also may (and shall, as directed by the Required Lenders):

(i) take possession of any Collateral not already in its possession without demand and without legal process;

(ii) require each Grantor to, and each Grantor hereby agrees that it will, at its expense and upon request of the Administrative Agent forthwith, assemble all or part of the Collateral as directed by the Administrative Agent and make it available to the Administrative Agent at a place to be designated by the Administrative Agent that is reasonably convenient to both parties,

(iii) enter onto the property where any Collateral is located and take possession thereof without demand and without legal process; and

(iv) without notice except as specified below, lease, license, sell or otherwise dispose of the Collateral or any part thereof in one or more parcels at any public or private sale, at any of the Administrative Agent's offices or elsewhere, for cash, on credit or for future delivery, and upon such other terms as the Administrative Agent may deem commercially reasonable. Each Grantor agrees that, to the extent notice of sale shall be required by Law, at least ten (10) days' prior notice to such Grantor of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. The Administrative Agent shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. The Administrative Agent may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned.

(b) All cash Proceeds received by the Administrative Agent in respect of any sale of, collection from, or other realization upon, all or any part of the Collateral shall be applied by the Administrative Agent against all or any part of the Obligations as set forth in Section 4.4(b) of the Credit Agreement.

(c) The Administrative Agent may (and shall, as directed by the Required Lenders):

(i) transfer all or any part of the Collateral into the name of the Administrative Agent or its nominee, with or without disclosing that such Collateral is subject to the Lien hereunder;

(ii) notify the parties obligated on any of the Collateral to make payment to the Administrative Agent of any amount due or to become due thereunder;

(iii) withdraw, or cause or direct the withdrawal, of all funds with respect to any Collateral Account;

(iv) enforce collection of any of the Collateral by suit or otherwise, and surrender, release or exchange all or any part thereof, or compromise or extend or renew for any period (whether or not longer than the original period) any obligations of any nature of any party with respect thereto;

(v) endorse any checks, drafts, or other writings in any Grantor's name to allow collection of the Collateral;

(vi) take control of any Proceeds of the Collateral; and

(vii) execute (in the name, place and stead of any Grantor) endorsements, assignments, stock powers and other instruments of conveyance or transfer with respect to all or any of the Collateral.

Section 6.2 Securities Laws. If the Administrative Agent shall determine to exercise its right pursuant to Section 6.1(a)(iv) to sell all or any of the Collateral that are Capital Securities, each Grantor agrees that, upon request of the Administrative Agent, such Grantor will, at its own expense:

(a) execute and deliver, and cause (or, with respect to any issuer which is not a Subsidiary of such Grantor, use its best efforts to cause) each issuer of the Collateral contemplated to be sold and the directors and officers thereof to execute and deliver, all such instruments and documents, and do or cause to be done all such other acts and things, as may be necessary or, in the opinion of the Administrative Agent, the Origination Agent or the Required Lenders, advisable to register such Collateral under the provisions of the Securities Act of 1933, as from time to time amended, and the rules and regulations of the SEC thereunder (the "Securities Act"), and cause the registration statement relating thereto to become effective and to remain effective for such period as prospectuses are required by Law to be furnished, and to make all amendments and supplements thereto and to the related prospectus which, in the opinion of the Administrative Agent, the Origination Agent or the Required Lenders, are necessary or advisable, all in conformity with the requirements of the Securities Act and the rules and regulations of the SEC applicable thereto;

(b) use its best efforts to exempt the Collateral under the state securities or "Blue Sky" laws and to obtain all necessary approvals of the applicable Governmental Authorities for the sale of the Collateral, as requested by the Administrative Agent;

(c) cause (or, with respect to any issuer that is not a Subsidiary of such Grantor, use its commercially reasonable efforts to cause) each such issuer to make available to its security holders, as soon as practicable, an earnings statement that will satisfy the provisions of Section 11(a) of the Securities Act; and

(d) do or cause to be done all such other acts and things as may be necessary to make such sale of the Collateral or any part thereof valid and binding and in compliance with applicable Law.

Section 6.3 Compliance with Restrictions. Each Grantor agrees that in any sale of any of the Collateral whenever an Event of Default shall have occurred and be continuing, the Administrative Agent is hereby authorized to comply with any limitation or restriction in connection with such sale as it may be advised by counsel is necessary in order to avoid any violation of applicable Law (including compliance with such procedures as may restrict the number of prospective bidders and purchasers, require that such prospective bidders and purchasers have certain qualifications, and restrict such prospective bidders and purchasers to Persons who will represent and agree that they are purchasing for their own account for investment and not with a view to the distribution or resale of such Collateral), or in order to obtain any required approval of the sale or of the purchaser by any Governmental Authority or official, and such Grantor further agrees that such compliance shall not result in such sale being considered or deemed not to have been made in a commercially reasonable manner, nor shall the Administrative Agent be liable nor accountable to such Grantor for any discount allowed by the reason of the fact that such Collateral is sold in compliance with any such limitation or restriction.

Section 6.4 Protection of Collateral. The Administrative Agent may from time to time, at its option, perform any act which any Grantor fails to perform after being requested in writing so to perform and is required to do so under this Agreement (it being understood that no such request need be made after the occurrence and during the continuation of an Event of Default) and the Administrative Agent may from time to time take any other action which the Administrative Agent, the Origination Agent or the Required Lenders deems necessary for the maintenance, preservation or protection of any of the Collateral or of its security interest therein.

ARTICLE VII
MISCELLANEOUS PROVISIONS

Section 7.1 Loan Document. This Security Agreement is a Loan Document executed pursuant to the Credit Agreement and shall (unless otherwise expressly indicated herein) be construed, administered and applied in accordance with the terms and provisions thereof, including Article X thereof.

Section 7.2 Binding on Successors, Transferees and Assigns; Assignment. This Security Agreement shall remain in full force and effect until the Termination Date has occurred, shall be binding upon the Grantors and their successors, transferees and assigns and shall inure to the benefit of and be enforceable by the Administrative Agent and the Secured Parties; provided

that no Grantor may assign or transfer any of its rights or obligations hereunder without the prior consent of the Required Lenders.

Section 7.3 Amendments, Etc. No amendment or modification to or waiver of any provision of this Security Agreement, nor consent to any departure by any Grantor from its obligations under this Security Agreement, shall in any event be effective unless the same shall be in writing and signed by the Lender and the Grantors and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

Section 7.4 Notices. All notices and other communications provided for hereunder shall be delivered or made as provided in Section 10.2 of the Credit Agreement.

Section 7.5 Release of Liens. Upon (a) the Disposition of Collateral to a Person that is not a Grantor or a Subsidiary of a Grantor in accordance with the Credit Agreement or (b) the occurrence of the Termination Date, the security interests granted herein shall automatically terminate with respect to (i) such Collateral (in the case of clause (a)) or (ii) all Collateral (in the case of clause (b)). Upon any such Disposition or termination, the Administrative Agent will, at the Grantors' sole expense, deliver to the Grantors, without any representations, warranties or recourse of any kind whatsoever, all Collateral held by the Administrative Agent hereunder, and execute and deliver to the Grantors such documents as the Grantors shall reasonably request to evidence such termination.

Section 7.6 Additional Grantors. Upon the execution and delivery by any other Person of a supplement in the form of Annex I hereto, such Person shall become a "Grantor" hereunder with the same force and effect as if it were originally a party to this Security Agreement and named as a "Grantor" hereunder. The execution and delivery of such supplement shall not require the consent of any other Grantor hereunder, and the rights and obligations of each Grantor hereunder shall remain in full force and effect notwithstanding the addition of any new Grantor as a party to this Security Agreement.

Section 7.7 No Waiver, Remedies. In addition to, and not in limitation of Section 2.5, no failure on the part of the Administrative Agent to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

Section 7.8 Severability. Any provision of this Security Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such provision and such jurisdiction, be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Security Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

Section 7.9 Governing Law, Entire Agreement, Etc. THIS SECURITY AGREEMENT AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS SECURITY AGREEMENT OR ANY DOCUMENT

CONTEMPLATED HEREBY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK (INCLUDING FOR SUCH PURPOSE SECTIONS 5-1401 AND 5-1402 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK) WITHOUT REGARD TO ANY CHOICE OR CONFLICT OF LAWS PROVISIONS OR RULES THAT WOULD REQUIRE THE APPLICATION OF THE LAWS OF ANY OTHER JURISDICTION. This Security Agreement, along with the other Loan Documents, constitutes the entire understanding among the parties hereto with respect to the subject matter thereof and supersedes any prior agreements, written or oral, with respect thereto

Section 7.10 Counterparts. This Security Agreement may be executed by the parties hereto in several counterparts, each of which shall be an original and all of which shall constitute together but one and the same agreement. This Security Agreement shall become effective when counterparts hereof executed on behalf of all of the signatories hereto, shall have been received by the Administrative Agent. Delivery of an executed counterpart of a signature page to this Security Agreement by email (in "pdf," "tiff" or similar format) or telecopy shall be effective as delivery of a manually executed counterpart of this Security Agreement.

Section 7.11 Rights of Required Lenders. If the Administrative Agent has a right to take or omit to take any action hereunder, it shall exercise such right if so instructed by the Required Lenders. With respect to any discretion, consent, approval or similar such action to be made, taken, omitted to be taken or determined by the Administrative Agent under this Agreement (each an "Agent Determination"), such Agent Determination shall be made by Administrative Agent at the direction of the Requisite Lenders. If the Administrative Agent has resigned and no successor agent has been appointed pursuant to Section 10.10 of the Credit Agreement, all rights of the Administrative Agent hereunder may be exercised by the Required Lenders.

Section 7.12 Forum Selection and Consent to Jurisdiction. ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS SECURITY AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF THE SECURED PARTIES OR ANY GRANTOR IN CONNECTION HEREWITH SHALL BE BROUGHT AND MAINTAINED IN THE COURTS OF THE BOROUGH OF MANHATTAN IN THE CITY OF NEW YORK IN THE STATE OF NEW YORK OR IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK; PROVIDED THAT ANY SUIT SEEKING ENFORCEMENT AGAINST ANY COLLATERAL OR OTHER PROPERTY MAY BE BROUGHT, AT THE ADMINISTRATIVE AGENT'S OR THE LENDERS' OPTION, IN THE COURTS OF ANY JURISDICTION WHERE SUCH COLLATERAL OR OTHER PROPERTY MAY BE FOUND. THE SECURED PARTIES AND EACH GRANTOR IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS BY REGISTERED MAIL, POSTAGE PREPAID, OR BY PERSONAL SERVICE WITHIN OR WITHOUT THE STATE OF NEW YORK AT THE ADDRESS FOR NOTICES SPECIFIED IN SECTION 10.2 OF THE CREDIT AGREEMENT. THE SECURED PARTIES AND EACH GRANTOR HEREBY EXPRESSLY AND IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY HAVE OR HEREAFTER MAY HAVE TO THE LAYING OF VENUE OF ANY SUCH LITIGATION

BROUGHT IN ANY SUCH COURT REFERRED TO ABOVE AND ANY CLAIM THAT ANY SUCH LITIGATION HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. TO THE EXTENT THAT THE SECURED PARTIES OR ANY GRANTOR HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT OR FROM ANY LEGAL PROCESS (WHETHER THROUGH SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OR OTHERWISE) WITH RESPECT TO ITSELF OR ITS PROPERTY, THE SECURED PARTIES, AND SUCH GRANTOR, EACH ON ITS OWN BEHALF, HEREBY IRREVOCABLY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW SUCH IMMUNITY IN RESPECT OF ITS OBLIGATIONS UNDER THIS SECURITY AGREEMENT.

Section 7.13 Waiver of Jury Trial. THE SECURED PARTIES AND EACH GRANTOR HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS SECURITY AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF ANY SECURED PARTY OR ANY GRANTOR IN CONNECTION HEREWITH. EACH GRANTOR ACKNOWLEDGES AND AGREES THAT IT HAS RECEIVED FULL AND SUFFICIENT CONSIDERATION FOR THIS PROVISION (AND EACH OTHER PROVISION OF EACH OTHER LOAN DOCUMENT TO WHICH IT IS A PARTY) AND THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE SECURED PARTIES TO ENTER INTO THE LOAN DOCUMENTS.

[*Signature Page Follows*]

IN WITNESS WHEREOF, each of the parties hereto has caused this Security Agreement to be duly executed and delivered by its Authorized Officer as of the date first above written.

ACUTUS MEDICAL, INC.

By: /s/ Vince Burgess
Name: Vince Burgess
Title: Chief Executive Officer

WILMINGTON TRUST, NATIONAL ASSOCIATION
as Administrative Agent

By: /s/ Jamie Roseberg
Name: Jamie Roseberg
Title: Assistant Vice President

Schedule I

to Security Agreement

Schedule II

to Security Agreement

Schedule III

to Security Agreement

Schedule IV

to Security Agreement

Schedule V

to Security Agreement

Schedule VI

to Security Agreement

EXHIBIT A
to Security Agreement

SCHEDULE I
to Patent Security Agreement

EXHIBIT B
to Security Agreement

SCHEDULE I
to Trademark Security Agreement

EXHIBIT C
to Security Agreement

SCHEDULE I
to Copyright Security Agreement

ANNEX I
to Security Agreement

[***] = Certain information contained in this document, marked by brackets, has been omitted because it is both not material and would be competitively harmful if publicly disclosed.

Exhibit 10.3

LICENSE AND DISTRIBUTION AGREEMENT

This LICENSE AND DISTRIBUTION AGREEMENT (the "Agreement") is entered into as of this 2nd of July, 2019 (the "Effective Date") by and between Biotronik SE & Co. KG, a corporation incorporated under the laws of Germany having its principal place of business at Woermannkehre 1, 12359 Berlin, Germany ("Biotronik"), VascoMed GmbH, a corporation incorporated under the laws of Germany having its principal place of business at Hertzallee 1, 79589 Binzen, Germany ("VascoMed") (collectively, Biotronik and VascoMed shall be referred to hereinafter as the "BIO Parties"), and Acutus Medical, Inc., a Delaware corporation having its principal place of business at 2210 Faraday Ave, Ste 100, Carlsbad, California, U.S.A. 92008 ("Acutus"). The BIO Parties, on the one hand, and Acutus, on the other hand, are sometimes referred to herein individually as a "Party" and collectively as the "Parties".

BACKGROUND

WHEREAS, Biotronik and VascoMed individually or collectively own or otherwise control certain BIO Product Technology and have experience and expertise in the development of a certain FS Product Line and External Products, which External Products are necessary or useful for use of the FS Product Line, in each case utilizing the BIO Product Technology;

WHEREAS, Acutus has expertise in the development, manufacture and commercialization of medical device solutions, including an intracardiac mapping system for patients with complex atrial arrhythmias; and

WHEREAS, Acutus desires to secure rights to develop, manufacture, use, and commercialize the FS Product Line, and distribute and commercialize the External Products, with certain manufacturing and other rights retained by the BIO Parties, and the BIO Parties desire to grant such rights to Acutus, pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises, covenants and conditions contained in this Agreement, the Parties agree as follows:

ARTICLE 1
DEFINITIONS

As used in this Agreement, the following initially capitalized terms, whether used in the singular or plural form, shall have the meanings set forth in this ARTICLE 1.

1.1 "Accounting Standards" means, with respect to each Party, its then current accounting standards, as generally and consistently applied throughout the applicable Party's organization.

1.2 "Acutus Liability Undertaking" means Acutus Damages and BIO Party Damages, in each case that arise from (a) any Development, Manufacture or Commercialization of units of the FS Product Line or External Products where Acutus or its Affiliates are the manufacturer of record for such units, except where the root cause of such Acutus Party Damages or BIO Party Damages is the Commercialization of units of the FS Product Line or External Products by or on behalf of the BIO Parties ("BIO Parties' Commercialization Liability"), or (b) the Acutus Party Commercialization Liability.

1.3 "Acutus Trademarks" means the trademarks, tradenames, and logos owned by Acutus and to be used for the distribution and commercialization of the FS Product Line as further defined in the Manufacture and Supply Agreement.

1.4 "Affiliate" means, with respect to a Person, any other Person that controls, is controlled by, or is under common control with such Person at the relevant times. For the purpose of this definition, "control" shall mean direct or indirect ownership of more than fifty percent (50%) of the shares of stock entitled to vote for the election of directors in the case of a corporation, or more than fifty percent (50%) of the equity interest in the case of any other type of legal entity, status as a general partner in any partnership, or any other arrangement whereby the entity or person controls or has the right to control the board of directors or equivalent governing body of a corporation or other entity, or the ability to cause the direction of the management or policies of a corporation or other entity. In the case of entities organized under the laws of certain countries, the maximum percentage ownership permitted by law for a foreign investor may be less than fifty percent (50%), and in such case such lower percentage shall be substituted in the preceding sentence; *provided*, that in such case, such foreign investor has the power to direct the management and policies of such entity.

1.5 "Ancillary Product Components" means, with respect to the FS Catheter, FS Electronic Products, and External Products, collectively, the cables, connectors, adapters, and other accessory components that are reasonably necessary or reasonably useful for such products, in their respective current version or most current replacement versions, so long as such replacement version provides all of the functionality and compatibility of the preceding version that is reasonably necessary or reasonably useful for interconnection and use compatibility with the FS Catheter, FS Electronic Products, and External Products, including such accessory components that are readily available industry standard accessory components (e.g. HDMI cables) as well as such accessory components for which their respective specifications are proprietary to the BIO Parties. A description of all such Ancillary Product Components existing as of the Effective Date for the foregoing purpose and in the BIO Parties' possession as of the Effective Date are described in EXHIBIT 1.5.

1.6 "Applicable Law" means all laws, statutes, rules, regulations, guidelines, orders, judgments and/or ordinances of any Governmental Authority applicable to a Party (and/or its Affiliates, subcontractors, or sublicensees), this Agreement and the Manufacture and Supply Agreement, and activities contemplated hereunder, in each case of the foregoing that may be in effect from time to time.

1.7 "Approval Holder" means, for an FS Catheter, FS Electronic Product, or External Product in a country of the Territory, the Party that holds the Marketing Authorization Approval for such product in that country.

1.8 "BIO Parties Liability Undertaking" means Acutus Damages and BIO Party Damages, in each case that arise from (a) any Development, Manufacture or Commercialization of units of the FS Product Line or External Products where BIO Parties or their Affiliates are the manufacturer of record for such units, except where the root cause of such Acutus Party Damages or BIO Party Damages is the Commercialization of units of the FS Product Line or External Products by or on behalf of Acutus ("Acutus Party Commercialization Liability"), or (2) the BIO Parties' Commercialization Liability.

1.9 "BIO External Product Know-How" means any Know-How Controlled by the BIO Parties or any of their Affiliates as of the Effective Date or that becomes Controlled by the

BIO Parties or any of their Affiliates after the Effective Date during the Term, in each case solely to the extent reasonably necessary for Acutus to exercise the rights to the External Products granted to Acutus under Section 2.1(e).

1.10 "BIO External Product Patents" means any Patent Rights Controlled by the BIO Parties or any of their Affiliates as of the Effective Date or that become Controlled by the BIO Parties or any of their Affiliates after the Effective Date during the Term, in each case solely to the extent that they have claims that Cover the External Products and solely to the extent reasonably necessary for Acutus to exercise of the rights to the External Products granted to Acutus under Section 2.1(e).

1.11 "BIO External Product Technology" means, collectively, the BIO External Products Know-How and BIO External Product Patents.

1.12 "BIO External Product Interface Know-How" means any Know-How Controlled by the BIO Parties or any of their Affiliates as of the Effective Date or that becomes Controlled by the BIO Parties or any of their Affiliates after the Effective Date during the Term, in each case solely to the extent reasonably necessary or reasonably useful to establish and maintain interconnection or use compatibility between the FS Product Line and External Products in the Field or conduct the Clinical Trial hereunder involving the FS Product Line in combination with the External Products in the Field.

1.13 "BIO External Product Interface Patents" means any Patent Rights Controlled by the BIO Parties or any of their Affiliates as of the Effective Date or that becomes Controlled by the BIO Parties or any of their Affiliates after the Effective Date during the Term, in each case that have claims that Cover the interconnection or use compatibility between the FS Product Line and External Products in the Field or to conduct the Clinical Trial hereunder involving the FS Product Line in combination with the External Products in the Field, in each case solely to the extent as such products exist as of the Effective Date.

1.14 "BIO External Product Interface Technology" means, collectively, the BIO External Product Interface Know-How and BIO External Product Interface Patents.

1.15 "BIO FS Product Know-How" means any Know-How Controlled by the BIO Parties or any of their Affiliates as of the Effective Date or that becomes Controlled by the BIO Parties or any of their Affiliates from and after the Effective Date through 31 December 2019, in each case solely to the extent reasonably necessary or reasonably useful for the Development, use, or Commercialization of the FS Product Line as permitted under this Agreement, excluding any BIO External Product Interface Know-How. The BIO FS Product Know-How existing as of the Effective Date is set forth in EXHIBIT 4.3(b).

1.16 "BIO FS Product Patents" means (i) the Patent Rights Controlled by the BIO Parties or any of its Affiliates as of the Effective Date solely as identified in EXHIBIT 1.16 and all Patent Rights claiming priority to or sharing priority with such Patent Rights or (ii) only if a First Product is developed and receives Marketing Authorization Approval in the US within four (4) years following the Effective Date, the Patent Rights that become Controlled by the BIO Parties or any of their Affiliates after the Effective Date, in each case under clause (ii) solely to the extent having claims Covering the FS Product Line as such products exist as of the Effective Date or such modifications to such products necessary to obtain such first Marketing Authorization Approval in the US of such First Products.

1.17 "BIO FS Product Technology" means, collectively, the BIO FS Product Patents and the BIO FS Product Know-How.

1.18 "BIO Product Technology" means, collectively, the BIO External Product Interface Technology and the BIO FS Product Technology.

1.19 "BIO Parties Trademarks" means the trademarks, tradenames and logos owned by the BIO Parties and used for the distribution and commercialization of the External Products by both Parties and of the FS Product Line by the BIO Parties, as further defined in the Manufacture and Supply Agreement.

1.20 "Business Day" means a day other than (a) a Saturday or a Sunday; (b) a bank or other public holiday in San Diego, California, U.S.A.; and (c) a bank or other public holiday in Berlin, Germany or Binzen, Germany. Any measurement of a number of Business Days or days, as applicable, shall be determined with respect to Pacific Standard Time or Pacific Daylight Time, as applicable.

1.21 "Calendar Quarter" means the respective periods of three (3) consecutive calendar months ending on March 31, June 30, September 30 and December 31.

1.22 "Calendar Year" means a period of twelve (12) consecutive calendar months ending on December 31.

1.23 "CE Mark" means a marking obtained and maintained for a product that identifies conformity with medical device conformity requirements for use, sale, and importation in the EU.

1.24 "Change of Control" means, with respect to a Party, any of the following events:

(a) any Competitive Company or group of Third Parties that include as one or more of their parties any Competitive Company, acting in concert becomes the beneficial owner, directly or indirectly, of more than fifty percent (50%) of the total voting power of the capital stock then outstanding of such Party normally entitled to vote in elections of directors;

(b) any Third Party other than a Competitive Company (or group of Third Parties acting in concert not including as one or more of their parties any Competitive Company) becomes the beneficial owner, directly or indirectly, of more than fifty percent (50%) of the total voting power of the capital stock then outstanding of such Party normally entitled to vote in elections of directors;

(c) such Party consolidates with or merges into another corporation or entity, or any corporation or entity consolidates with or merges into such Party, in either event pursuant to a transaction or series of related transactions following which more than fifty percent (50%) of the total voting power of the capital stock outstanding of the surviving entity, or its ultimate parent entity, normally entitled to vote in elections of directors is not held by Persons who held the outstanding shares of such Party immediately preceding such consolidation or merger; or

(d) such Party conveys, transfers, leases or assigns all or substantially all of (i) its rights under this Agreement, or (ii) its assets related to this Agreement to any Third Party, whether resulting from merger, acquisition, consolidation, or otherwise.

For purposes of this definition of "Change of Control" only, references to (A) "beneficial ownership" (and other correlative terms) means beneficial ownership as defined in Rule 13d-3 under the Exchange Act, and (B) "group" means group as defined in the Exchange Act and the rules of the SEC thereunder as in effect on the date hereof. The Third Party or other corporation or entity which effects a Change of Control with respect to a Party shall be referred to as the "Acquiring Party". Notwithstanding the foregoing, in no event shall a sale of capital stock for the purpose of financing Acutus, Biotronik, and/or VascoMed, including to underwriters of a public offering of the capital stock of Acutus, Biotronik, and/or VascoMed, constitute a Change of Control.

1.25 "Clinical Trial" means a human clinical study conducted on human subjects that is designed to (a) establish that a medical device is reasonably safe for continued testing; (b) investigate the safety and efficacy of the medical device for its intended use, and to define warnings, precautions, and adverse reactions that may be associated with the medical device in the manner to be prescribed; or (c) support Marketing Authorization Approval or label expansion of such medical device.

1.26 "Clinical Trial Data" means all data, information, and documentation (each in draft or complete form) generated by conducting and/or analyzing a Clinical Trial (whether or not completed) hereunder, in whatever form, whether stored as hard copy or in electronic form, including raw data to the extent legally permissible, study data, all study reports, case reports, filings, monitor reports, notices, books, records, informed consent forms, other files (or parts thereof), or any information related thereto.

1.27 "Commercialization" means any and all processes and activities directed to market, promote, detail, Distribute, import, export, offer to sell, and/or sell the FS Product Line, the External Products and/or conduct other commercialization activities (including activities in preparation for the commercial launch of such product, or in retaining pricing, reimbursement, and market access). "Commercialize" has a correlative meaning.

1.28 "Commercially Reasonable Efforts" means, with respect to any objective, those reasonable, diligent, and good faith efforts to accomplish such objective as a Party would customarily use to accomplish a similar objective under similar circumstances, which are no less than those efforts used by such Party in its Development, Manufacture, or Commercialization projects as the case may be with such Party's own products and technologies having comparable commercial potential, stage of development, medical/scientific, technical, regulatory profile, and intellectual property protection, and further taking into account all Commercially Relevant Factors at the time such efforts are to be expended. To the extent that a Party's performance of its obligations hereunder is adversely affected by the other Party's failure to perform its obligations under this Agreement or the Manufacture and Supply Agreement referenced in Section 7.1 then the impact of such performance failure by the other Party will be taken into account in determining whether that Party has used its Commercially Reasonable Efforts to perform any such affected obligations, but only to the extent such other Party's performance failure is the cause of that Party's failure to meet such obligations.

1.29 "Commercially Relevant Factors" means, with respect to a product, all relevant factors that may affect the Development, Manufacturing, or Commercialization of such product, including (as applicable): (a) safety, efficacy, quality or stability; (b) product profile (including product modality, category, and mechanism of action); (c) stage of Development or life cycle status; (d) Development, Marketing Authorization Approval, Manufacturing, and Commercialization costs and risk; (e) feasibility of manufacture; (f) the likelihood of obtaining

Marketing Authorization Approvals and the timing thereof; (g) the current guidance and requirements for Marketing Authorization Approval and the current and projected regulatory status; (h) labeling or anticipated labeling; (i) the then-current competitive environment and the likely competitive environment at the time of projected market entry; (j) past performance; (k) present and future market potential; (1) existing or projected pricing, sales, reimbursement, and profitability; (m) pricing or reimbursement changes in relevant countries; (n) proprietary position, strength, and duration of patent protection and anticipated exclusivity; and (o) other scientific, technical, regulatory, and commercial factors that the decision-making Party reasonably believes in good faith to be relevant to such product.

1.30 "Competing Product" means a single point irrigated radiofrequency (RF) or direct current ablation catheter with contact force sensing of cardiac arrhythmias for use in patients for the Field.

1.31 "Competitive Company" means the following entities and their respective Affiliates: [***]

1.32 "Confidential Information" means, with respect to a Disclosing Party or any of its Affiliates, all Know-How and other proprietary or confidential information and data of a financial, commercial, or technical nature that such Disclosing Party or any of its Affiliates has supplied or otherwise made available to the Recipient Party or its Affiliates, whether made available orally, in writing, or in electronic form, that is reasonably understood to be proprietary or confidential due to the circumstances of disclosure or the nature of the information or data itself.

1.33 "Control" or "Controlled" means, with respect to any Intellectual Property Rights or products, the legal authority or right (whether by ownership, license, or otherwise other than pursuant to this Agreement) of a Party or any of its Affiliates (or, as described below, a Future Acquirer) to grant a license or a sublicense of or under such Intellectual Property Rights or products, without requiring the consent of a Third Party or breaching the terms of any agreement with a Third Party or giving rise to a financial obligation to a Third Party or misappropriating the proprietary or trade secret information of a Third Party. Notwithstanding the foregoing, Intellectual Property Rights or products to which a Future Acquirer of a Party has rights or owns shall not be treated as "Controlled" by a Party or its Affiliates or developed by a Party for purposes of this Agreement to the extent, but only to the extent, that such Future Acquirer of such Party or its Affiliates (a) have such rights to or own such Intellectual Property Rights or products, as applicable, immediately prior to the time such Future Acquirer qualifies as such, other than pursuant to a license or other grant of rights by such Party, or (b) gain such rights to or ownership of such Intellectual Property Rights or products, as applicable, (i) subsequent to the time that such Future Acquirer qualifies as such but was not Controlled by or developed by such Party or its Affiliates at any time prior to the time such Future Acquirer qualifies as such, and (ii) independently of such other Party or its Affiliates and their respective Intellectual Property and products.

1.34 "Cover," "Covering," or "Covered" means, with respect to a given product in a given country in the Territory, that, in the absence of ownership of or a license granted under a Valid Claim, the manufacture, use, offer for sale, sale, exportation, or importation of such product in such country would infringe such Valid Claim (or, in the case of a claim that has not yet issued, would infringe such claim if it were to issue without modification).

1.35 "Customer" means, with respect to a product, any distributor, hospital, physician, surgeon, or other end user that purchases the product for end-use.

1.36 "Design History File" means the documentation relating to the Development and pathway to Marketing Authorization Approval for a product, including the following: (a) specifications; (b) requirements specifications; (c) risk management documentation; (d) clinical evaluation; (e) assessment of applied standards; (f) verification and validation documentation; and (g) regulatory (including FDA and Notified Body) certification documentation.

1.37 "Develop" means to discover, research, and otherwise develop a design, prototype, parts and assemblies, specifications, and processes for making a product, including conducting non-clinical and clinical research and development activities. For clarity, Develop shall not include sales and marketing studies, including such studies conducted in relation to Clinical Trials. "Development" has a correlative meaning.

1.38 "Development Data" means all data and results generated during Development activities undertaken hereunder, including all Design History Files and Clinical Trial Data arising hereunder.

1.39 "Distribute" means to book, process, invoice, and collect sales for a product in the Territory and provide for the delivery of such product to the Customer consistent with the terms for such booked and invoiced sales, and further including the first-line handling of Customer returns and recalls with respect to the product in the Territory. "Distribution" has a correlative meaning.

1.40 "Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

1.41 "Executive Officer" means, in case of Biotronik, the CEO or his or her designee, in the case of VascoMed, the CEO or his or her designee, and in the case of Acutus, the CEO or his or her designee.

1.42 "External Products" means (a) the Qubic Stim stimulator; (b) the Qiona irrigation pump (supplied by a Third Party, Moller Medical); (c) the Qubic RF generator; and (d) the proprietary (not the industry standard) Ancillary Products Components, in their respective current version and ordinary course upgrades and improvements thereto. A description of each of the foregoing within (a), (b) and (c), existing as of the Effective Date, is set forth in EXHIBIT 1.42, and within (d), existing as of the Effective Date, is set forth in EXHIBIT 1.5.

1.43 "FD&C Act" means the U.S. Federal Food, Drug, and Cosmetic Act, as amended.

1.44 "FDA" means the U.S. Food and Drug Administration or any successor entity thereto.

1.45 "Field" means radiofrequency (RF) or direct current ablation with optically based contact force sensing for cardiac applications.

1.46 "First Commercial Sale" means the first sale after making available on the market to a Third Party of a product in a certain country after all Marketing Authorization Approvals reasonably required for sale of and reimbursement for (if available) the product have been obtained in such country.

1.47 "FS Catheter" means (a) VascoMed's force sensing ablation catheters, including the AlCath Force catheter as described in EXHIBIT 1.47, and (b) any force sensing ablation catheter developed by a Party or any of its or their Affiliates after the Effective Date during the Term that is Covered by (i) any Patent Rights Controlled by the BIO Parties or any of its Affiliates as of the Effective Date solely as identified in EXHIBIT 1.16, or (ii) any other Patent Right Controlled by a Party or any of its or their Affiliates during the Term that claims priority to or shares priority with any such Patent Right referenced in the foregoing subsection (i) (irrespective of any expiration of any such Patent Right).

1.48 "FS Catheters Sold" means the FS Catheter units (excluding External Product units) that are sold or otherwise provided by Acutus, its Affiliates or Sublicensees to a Customer as part of a procedure kit, excluding units provided to Customers for demonstration purposes, as samples, as part of Clinical Trials conducted for the purpose of Marketing Authorization Approval, or otherwise sold to the BIO Parties.

1.49 "FS Electronic Products" means (a) Biotronik's products and software designed for visualization of contact force measured by a catheter, including Biotronik's Qubic Force system, including a display function (i.e., Qubic Force device and Qubic Force software), as described in EXHIBIT 1.49, and (b) any improvements or successors thereto developed by a Party after the Effective Date that are Covered by any of the BIO FS Product Patents that exist as of the Effective Date or any other Patent Right that claims priority to or shares priority with such BIO FS Product Patents (irrespective of any expiration of any Patent Right).

1.50 "FS Product Line" means, collectively, any FS Catheter and the FS Electronic Products.

1.51 "FTE" means one (1) person full time performing activities at a rate of eighteen hundred (1800) hours per Calendar Year.

1.52 "Future Acquirer" means a Third Party to any Change of Control transaction involving a Party.

1.53 "Good Clinical Practices" or "GCP" means all applicable good clinical practice standards for the design, conduct, performance, monitoring, auditing, recording, analyses and reporting of Clinical Trials, including, as applicable, (a) the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use ("ICH") Harmonised Tripartite Guideline for Good Clinical Practice (CPMP/ICH/135/95) and any other guidelines for good clinical practice for clinical trials on medicinal products in the EU; (b) the Declaration of Helsinki (2004) as amended from time to time and any further amendments or clarifications thereto; and (c) the equivalent Applicable Law in any relevant country, each as may be amended and applicable from time to time and in each case, that provide for, among other things, assurance that the clinical data and reported results are credible and accurate and protect the rights, integrity, and confidentiality of trial subjects.

1.54 "Good Laboratory Practices" or "GLP" means the then-current good laboratory practice standards promulgated or endorsed by the FDA, and comparable regulatory standards in jurisdictions outside the U.S., as may be updated from time to time.

1.55 "Good Manufacturing Practices" or "GMP" means the then-current good manufacturing practices required by the FDA for the manufacture and testing of medical devices and components thereof, and comparable laws or regulations applicable to the manufacture and

testing of medical devices and/or pharmaceutical materials, as applicable, in jurisdictions outside the EU, as may be updated from time to time. "Good Manufacturing Practices" shall include applicable quality guidelines promulgated under the ICH.

1.56 "Governmental Authority" means any court, agency, department, authority, or other instrumentality of any multi-national, national, state, county, city, province, or other political subdivision.

1.57 "IFRS" means International Financial Reporting Standards, consistently applied.

1.58 "Insolvency Event" means, in relation to either Party, any one of the following: (a) filing by such Party 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) such Party being served with an involuntary petition against the Bankrupt Party, filed in any insolvency proceeding, which petition shall not be dismissed within one-hundred twenty (120) days after the filing thereof; (c) such Party proposing or being a party to any dissolution or liquidation of such Party; or (d) such Party making a general assignment for the benefit of creditors.

1.59 "Intellectual Property Rights" means any and all proprietary or intellectual property rights, in, to, or under any of the following, whether protected, created or arising under any jurisdiction or under any international convention: (a) inventions (whether or not patentable or reduced to practice); (b) Patent Rights; (c) trademarks, service marks, trade dress, domain names, corporate, trade, and business names, certification marks, logos, slogans and other indicia of origin, whether registered or unregistered, and all registrations and applications for the same (including all translations, adaptations, derivations, and combinations of the foregoing), and all goodwill of the business connected with the use of and symbolized by the foregoing; (d) all copyrights and works of authorship, (including in software, data, databases, and collections of data, design rights and economic rights) whether registered as copyrights or unregistered, all registrations and applications for the same and all associated moral rights and special rights of authorship; (e) Know-How; (f) trade secrets; (g) all other intellectual property rights, proprietary rights and industrial property rights, or other intangible assets, of every kind and nature however denominated; and (h) all registrations, renewals, recordation's and applications of or for any of the foregoing.

1.60 "Know-How" means any and all know-how, data, including inventions (whether patentable or not), discoveries, trade secrets, technical information, formulae, materials, expertise and information, testing and manufacturing processes, instructions, techniques, methods and data, physical and analytical, safety, quality control, manufacturing, preclinical and Clinical Trial Data, medical uses, product forms and product drawings and specifications, in each case relevant to the Development, Manufacture, use, or Commercialization of and/or which may be useful in studying, testing, development, or production of medical device technologies.

1.61 "Later Acquired Acutus Know-How" means such Know-How that is Controlled by Acutus or any of its Affiliates beginning and after the Effective Date that is conceived of by Acutus or any of its Affiliates or Sublicensees in performance of Acutus' Development, Manufacture, and Commercialization, as applicable, of the FS Product Line or External Products, and which is reasonably necessary for the Commercialization of the FS Product Line or External Products.

1.62 "Later Acquired Acutus Patents" means such Patent Rights that are Controlled by Acutus or any of its Affiliates beginning and after the Effective Date that are conceived of by Acutus or any of its Affiliates or Sublicensees (solely to the extent Acutus Controls any such Patent Rights that are conceived of by any Sublicensees) in the performance of Acutus' Development, Manufacture, and Commercialization, as applicable, of the FS Product Line or External Products, and which Cover the FS Product Line or External Products.

1.63 "Later Acquired Acutus Technology" means the Later Acquired Acutus Know-How and Later Acquired Acutus Patents.

1.64 "Manufacture" means to manufacture, process, prepare, make, assemble, test, label, and/or package, store, release, and deliver a product (or any component thereof).

1.65 "Manufacturing Technology" means the Manufacturing technology, documentation, designs, Know-How, part lists, supplier lists, and Manufacturing equipment (to include certain machines, tools and necessary accessories) reasonably necessary to Manufacture the FS Product Line, in each case Controlled by the BIO Parties, which includes the items described in EXHIBIT 4.3(a).

1.66 "Marketing Authorization Application" means an application for the authorization to market a product in any country in the Territory, as defined by Applicable Law and filed with the appropriate Regulatory Authority of a given country or group of countries.

1.67 "Marketing Authorization Approval" means, with respect to a product in any country or jurisdiction, any approval, registration, license, or authorization from a Regulatory Authority or other Governmental Authority in a country or other jurisdiction that is necessary to offer for sale, market, and sell such product in such country or jurisdiction, including without limitation, PMA Approval and CE Mark certification.

1.68 "Non-Compete Term" means the period beginning on the Effective Date and ending upon the earlier of six (6) years thereafter or any Change of Control of Acutus involving a Competitive Company.

1.69 "Nonclinical Studies" means all non-human studies, including preclinical studies and toxicology studies, of any product.

1.70 "Non-Perpetual Territory" means all countries in the world outside of the Perpetual Territory.

1.71 "Notified Body" means an entity licensed, authorized, or approved by the applicable government agency, department, or other authority to assess and certify the conformity of a medical device with the requirements of Council Directive 93/42/EEC of 14 June 1993 concerning medical devices, or Regulation (EU) 2017/745 of the European Parliament and of the council, of 5 April 2017, as amended from time to time, and applicable harmonized standards.

1.72 "Patent Rights" means the rights and interests in and to issued patents and pending patent applications in any country, jurisdiction, or region (including inventor's certificates and utility models), including all provisionals, non-provisionals, substitutions, continuations, continuations-in-part, divisionals, renewals, and all patents granted thereon, and all reissues, reexaminations, extensions, confirmations, revalidations, registrations, and patents of addition thereof, including supplementary protection certificates, PCTs, pediatric exclusivity periods, and any foreign equivalents to any of the foregoing.

1.73 "Perpetual Territory" means the United States of America and its commonwealths and possessions.

1.74 "Persistent Supply Failure" has the meaning to be mutually agreed in the Manufacture and Supply Agreement.

1.75 "Person" means any individual, partnership, limited liability company, firm, corporation, association, trust, unincorporated organization, or other entity.

1.76 "Promotional Materials" means all written, printed, graphic, electronic, audio or video matter, including journal advertisements, sales visual aids, reprints, direct mail, direct-to- consumer advertising, and digital technologies including internet and social media postings, internet sites, email and broadcast advertisements, in each case, intended for use or used by either Party or its Affiliates in connection with any advertising, marketing, or promotion of the FS Product Line or the External Products.

1.77 "Regulatory Authority" means any Governmental Authority responsible for granting Marketing Authorization Approval for a product, including the FDA, Notified Bodies, and any corresponding national or regional regulatory authorities in the Territory.

1.78 "Regulatory Filing" means, with respect to a product hereunder, any submission to a Regulatory Authority of any appropriate regulatory application, and shall include any submission to a regulatory advisory board, Marketing Authorization Application, and any supplement or amendment thereto.

1.79 "SEC" means the U.S. Securities and Exchange Commission.

1.80 "Sublicensee" means a Third Party that has been granted a license by Acutus in accordance with the terms of this Agreement to Develop, Manufacture, or Commercialize, as applicable, a product within the FS Product Line or the External Products.

1.81 "Territory" means both the Perpetual Territory and the Non-Perpetual Territory (i.e., worldwide).

1.82 "Third Party" means any Person other than a Party or an Affiliate of a Party.

1.83 "U.S." or "US" or "United States" means the United States of America and its territories and possessions.

1.84 "U.S. GAAP" means U.S. generally accepted accounting principles, consistently applied.

1.85 "Valid Claim" means, with respect to a particular country in the Territory, (a) a claim of an issued and unexpired patent in such country Covering the applicable product in each case that has not been revoked or held unenforceable, unpatentable, or invalid by a decision of a court or other Governmental Authority of competent jurisdiction that is not appealable or has not been appealed within the time allowed for appeal, and that has not been abandoned, disclaimed, denied, or admitted to be invalid or unenforceable through reissue, re-examination, or disclaimer

or otherwise, and (b) a claim of a patent application in such country Covering the applicable product, in each case that has been pending less than five (5) years from the earliest date on which such patent application claims priority and which claim was filed and is being prosecuted in good faith and has not been cancelled, withdrawn, or abandoned or finally rejected by an administrative agency action from which no appeal can be taken.

1.86 Additional Definitions. Each of the following definitions is set forth in the section of this Agreement indicated below.

Definition	Section
Acquired Party	14.1(a)
Action	9.5(a)
Acutus Claims	11.1
Acutus Party Commercialization Liability	1.8(a)
Acutus Damages	11.1
Acutus Indemnitees	11.1
Acutus Payment Breach	13.2(a)(iii)
Agreed Contingent Accelerated Royalty Payment	14.1(b)(v)
Agreed Upfront Accelerated Royalty Payment	14.1(b)(iv)
Alliance Manager	3.5(a)
Alternative Manufacturer	7.4
Auditor	8.11(b)
BIO Parties' Commercialization Liability	1.2(a)
BIO Party Claims	11.2
BIO Party Damages	11.2
BIO Party Indemnitees	11.1
Breaching Party	13.2(a)
Cash Technology Transfer Payment	8.2
Change of Control Notice	14.1(a)
Code	13.4(a)
Commercialization Plan	6.1
Controlling Party	9.5(a)
Debarment Laws	10.1(d)
Device Reporting	5.3
Disclosing Party	12.1(a)
First FS EU Product	4.1(a)
First FS US Product	4.1(a)
First Products	4.1(a)
Force Majeure	15.5
Indemnitee	11.3(a)
Indemnitor	11.3(a)
Initial Manufacturing Transfer	4.3(a)
Initial Other Know-How Transfer	4.3(b)
Joint Steering Committee	3.1(a)
Manufacture and Supply Agreement	7.1
Manufacturing License	7.2
Milestone	8.3
Milestone Payment	8.3
Non-Breaching Party	13.2(a)
Persistent Supply Failure Notice	7.5
Potential FTO Issue	10.5(c)

Publications	12.4(b)
Recipient Party	12.1(a)
Renewal Term	13.1
Senior Manager	3.4
Shares Technology Transfer Payment	8.2
Subcommittee	3.2
Term	13.1
Unit Based Royalty Payment	8.4
Unit Based Sales and Royalty Report	8.5

1.87 Interpretation. Unless the context of this Agreement otherwise requires, (a) words of any gender include each other gender; (b) words using the singular or plural number also include the plural or singular number, respectively; (c) the terms "hereunder," "hereof," "herein," "hereby," and derivative or similar words refer to this entire Agreement; (d) the terms "Article," "Section," or "Exhibit" refer to the specified Article, Section, or Exhibit of this Agreement; (e) the terms "include," "includes," and "including" shall be deemed to be followed by the phrase "without limitation"; (f) "days" refers to calendar days; (g) the word "will" shall be construed to have the same meaning and effect as the word "shall"; (h) any reference herein to any Person shall be construed to include the Person's successors and assigns; and (i) any definition of or reference to any agreement, instrument, or other document herein shall be construed as referring to such agreement, instrument, or other document as from time to time amended, supplemented, or otherwise modified (subject to any restrictions on such amendments, supplements, or modifications set forth herein); and (j) all references to "$" amounts hereunder shall be deemed to be U.S. Dollars and all payments due hereunder shall be made in U.S. Dollars. All accounting terms used but not otherwise defined herein shall have the meanings ascribed to such terms under the applicable Accounting Standards as applied to a Party.

ARTICLE 2
GRANT OF RIGHTS

2.1 Rights Granted to Acutus.

(a) Development. Subject to the terms and conditions of this Agreement, during the Term, the BIO Parties hereby grant to Acutus (i) an exclusive license in the Perpetual Territory and (ii) a co-exclusive (with the BIO Parties and their Affiliates) license in the Non- Perpetual Territory, which in each case of (i) and (ii) shall be sub-licensable in a single tier only in accordance with Section 2.3, under the BIO FS Product Technology, solely to undertake Development activities for the FS Product Line in the Field; *provided, however,* the foregoing license in subclause (i) shall become co-exclusive (with the BIO Parties and their Affiliates) immediately upon any Change of Control of Acutus involving a Competitive Company.

(b) Interfacing with External Products. Subject to the terms and conditions of this Agreement, during the Term, the BIO Parties hereby grant to Acutus a non-exclusive license in the Territory, which shall be sub-licensable only in accordance with Section 2.3, under the BIO External Product Interface Technology, solely to enable Acutus and/or its Affiliates and/or sublicensees to establish and maintain interconnection and use compatibility between the FS Product Line and External Products in the Field.

(c) Commercialization. Subject to the terms and conditions of this Agreement, during the Term, the BIO Parties hereby grant to Acutus (i) an exclusive license in the Perpetual Territory and (ii) a co-exclusive (with the BIO Parties and their Affiliates) license in

the Non- Perpetual Territory, which in each case of (i) and (ii) shall be sub-licensable in a single tier only in accordance with Section 2.3, under the BIO FS Product Technology, solely to undertake Commercialization activities for the FS Product Line in the Field; *provided*, *however*, the foregoing license in subclause (i) shall become co-exclusive (with the BIO Parties and their Affiliates) immediately upon any Change of Control of Acutus involving a Competitive Company.

(d) Manufacture. Subject to the terms and conditions of this Agreement, during the Term, the BIO Parties hereby grant to Acutus (i) an exclusive license for the Perpetual Territory and (ii) a co-exclusive (with the BIO Parties and their Affiliates) license for the Non- Perpetual Territory, which in each case of (i) and (ii) shall be sub-licensable in a single tier only in accordance with Section 2.3, under the BIO FS Product Technology, solely to undertake Manufacturing activities for the FS Product Line for use in the Field; *provided*, *however*, the foregoing license in subclause (i) shall become co-exclusive (with the BIO Parties and their Affiliates) immediately upon any Change of Control of Acutus involving a Competitive Company.

(e) Non-Exclusive External Product License. Subject to the terms and conditions of this Agreement, the BIO Parties hereby grant to Acutus a non-exclusive right, (i) with respect to the Perpetual Territory, for the period beginning on the Effective Date and continuing for the duration of the Term and, (ii) with respect to the Non-Perpetual Territory, for the period beginning on the Effective Date and ending five (5) years after the Effective Date, as may be further extended by mutual agreement of the Parties pursuant to the process set forth in this Section 2.1(e)) to: (A) transfer and use the External Products in connection with the exercise of the licenses under Sections 2.1(a) and 2.1(b), and (B) undertake Commercialization for the External Products in the Field; *provided*, *however*, that with respect to any extension of such rights with respect to the External Products in the Non-Perpetual Territory, the Parties shall negotiate and enter into a separate definitive agreement or written amendment to this Agreement to reflect such mutually agreed extension no less than eighteen (18) months prior to the end of the initial five (5)-year term; *provided further*, that any mutually agreed extension shall be for no less than two (2) years in duration. If the Parties elect not to extend Acutus' rights with respect to any External Products in the Non-Perpetual Territory pursuant to this Section 2.1(e), then Acutus shall have the right to make a bulk purchase of any discontinued External Products to enable Acutus sufficient time to locate and gain approval for a replacement product, which the BIO Parties shall fulfill in accordance with the terms set forth herein and the Manufacture and Supply Agreement (and Acutus shall have the right to practice the applicable rights with respect to such External Products until such External Products are exhausted). The BIO Parties hereby grant to Acutus a non-exclusive license under the BIO External Product Technology solely for the purpose to exercise the rights granted to Acutus under this Section 2.1(e).

2.2 Rights Granted to the BIO Parties.

(a) Subject to the terms and conditions of this Agreement, during the Term, Acutus hereby grants to the BIO Parties a co-exclusive (with Acutus and its Affiliates), sub-licensable (only in accordance with Section 2.3) license in the Non-Perpetual Territory, under Later Acquired Acutus Technology solely for the BIO Parties to Commercialize products within the FS Product Line that are supplied by Acutus to the BIO Parties pursuant to the terms of this Agreement in the Field in the Non-Perpetual Territory.

(b) Further to the license granted to the BIO Parties in Section 2.2(a), Acutus hereby grants to the BIO Parties a perpetual, irrevocable, non-exclusive, fully paid-up, royalty- free, sub-licensable license under the Later Acquired Acutus Technology solely for the BIO Parties to Develop, Manufacture, and Commercialize External Products in the Territory.

(c) Immediately upon any Change of Control of Acutus involving a Competitive Company, subject to the terms and conditions of this Agreement, during the Term from and after such Change of Control of Acutus, Acutus shall grant, and hereby grants, to the BIO Parties a non-exclusive, sub-licensable (only in accordance with Section 2.3) license in the Perpetual Territory, under Later Acquired Acutus Technology solely for the BIO Parties to Commercialize products within the FS Product Line that are supplied by Acutus to the BIO Parties pursuant to the terms of this Agreement in the Field in the Perpetual Territory.

2.3 Right to Sublicense; Assignment of Rights. The rights granted to each of the Parties pursuant to Sections 2.1 and 2.2 of this Agreement include the right of such Party (or Parties) to grant and authorize sublicenses to Affiliates of such Party (or Parties), but not to grant any sublicenses to any Third Parties except as expressly provided in the following: (a) with respect to the rights granted to the BIO Parties in Section 2.2, to Third Parties only after obtaining the prior written approval of Acutus, which approval shall not be unreasonably conditioned, withheld, or delayed; *provided*, that from and after any Change of Control of Acutus involving a Competitive Company, such prior written approval of Acutus shall no longer be required and the BIO Parties shall be free to grant such sublicenses in their discretion; and (b) Acutus shall be permitted to sublicense its rights under Section 2.1 to any Third Party other than any Competitive Company at its discretion and may do so only in a single tier of sublicenses where such Sublicensees of Acutus shall not have any right to grant further sublicenses. If a Party grants a sublicense permitted under this Section 2.3, such Party shall cause all of the applicable terms and conditions of this Agreement to apply to the Third Party or Affiliate, as the case may be, to the same extent as they apply to the Party granting the sublicense hereunder. The Party granting the sublicense shall assume full responsibility for the performance of all obligations and observance of all terms so imposed on such Third Party or Affiliate.

2.4 No Implied Licenses. Except as explicitly set forth in this Agreement, neither Party grants to the other Party any license, express or implied, under the Patent Rights, Know- How or any other Intellectual Property Rights Controlled by such Party, and it shall be a breach of this Agreement for either Party to practice or otherwise exploit any Intellectual Property Rights owned or Controlled by the other Party that are licensed or otherwise provided under this Agreement other than in accordance with the express terms of the license grants set forth in this Agreement. Without limiting the foregoing or being limited thereby, each Party hereby acknowledges and agrees that it shall not, nor shall it work with any Third Party to, exploit or reference any Confidential Information of the other Party, including in relation to any product within the FS Product Line, External Product, Later Acquired Acutus Technology, BIO FS Product Technology, BIO External Product Technology, or BIO External Product Interface Technology, in connection with developing any product other than as expressly licensed by this Agreement (which each Party hereby acknowledges and agrees does not include developing any product that is not within the FS Product Line or External Products other than a product similar to a Qiona irrigation pump). Notwithstanding the foregoing and anything else to the contrary in this Agreement, the use and disclosure of any information that is retained in the unaided memory of a Party's employees or agents as a result of exposure to Confidential Information under this Agreement, without reference to written or tangible embodiments of such Confidential Information, shall not be deemed to be a breach of this Section 2.4 or ARTICLE 12.

2.5 Retained Rights. Notwithstanding anything that may be construed to the contrary herein, the BIO Parties retain the right to use the BIO Product Technology licensed to Acutus hereunder, to undertake development, manufacture and commercialization (including distribution) of any of the BIO Parties' other products and technologies other than the FS Product Line, whether inside or outside the Field. For the avoidance of doubt, and without prejudice to the

rights granted herein to Acutus, no licenses or rights are granted under this Agreement to Acutus to Develop, Manufacture, or Commercialize any product or product platform technology owned or Controlled by the BIO Parties that is not a product within the FS Product Line or any External Products hereunder. For the avoidance of doubt, and without prejudice to the rights granted herein to the BIO Parties, no licenses or rights are granted under this Agreement to the BIO Parties to Develop, Manufacture, or Commercialize any product or product platform technology owned or Controlled by Acutus that is not a product within the FS Product Line or External Product hereunder.

ARTICLE 3
COLLABORATION; GOVERNANCE

3.1 Joint Steering Committee.

(a) Purpose; Formation. The Parties hereby establish a joint steering committee (the "Joint Steering Committee" or "JSC") that will monitor and oversee the Parties' activities under this Agreement, and facilitate communications between the Parties with respect to such activities.

(b) Composition. Acutus and the BIO Parties shall have the right to appoint three (3) representatives to the JSC, each of whom shall have sufficient seniority within the applicable Party to make decisions arising within the scope of the JSC's responsibilities and one (1) of which shall be the Party's Alliance Manager. For clarity, Biotronik and VascoMed shall collectively select only one (1) Alliance Manager and two (2) other JSC representatives to collectively represent the BIO Parties. Each of Acutus and the BIO Parties shall designate their initial representatives to the JSC within ten (10) Business Days following the Effective Date. The JSC may change its size from time to time by mutual consent of its members; *provided, however,* that the JSC shall at all times consist of an equal number of representatives from the BIO Parties and Acutus, with the BIO Parties representing a single unit for purposes of the foregoing calculation. The JSC may invite non-members (including consultants and advisors of a Party who are under an obligation of confidentiality consistent with this Agreement) to participate in the discussions and meetings of the JSC.

(c) Specific Responsibilities of the JSC. In addition to its overall responsibility for monitoring and providing a forum to discuss the Parties' activities under this Agreement, the JSC shall in particular:

(i) discussing, facilitating, and coordinating the exchange of information between the Parties;

(ii) managing and overseeing the transfer of the BIO FS Product Technology (and, as applicable, the BIO External Product Interface Technology) and Manufacturing Technology to Acutus pursuant to the terms of this Agreement, to enable Acutus to exercise its Development, Manufacture, and Commercialization rights under this Agreement;

(iii) managing and overseeing the transfer of Development Data from Acutus to the BIO Parties to enable the BIO Parties to seek Marketing Authorization Approval for the FS Product Line (including any individual product contained therein) and External Products, in each case in any country in the Territory outside the US and the EU;

(iv) discussing and reviewing FS Product Line and External Product Development strategies useful or necessary to obtain Marketing Authorization Approval from the Regulatory Authorities for the FS Product Line and External Products (including any individual product contained therein) in the Territory (including the strategy, design and progress of any Clinical Trials in support thereof), including discussing and reviewing how data from Clinical Trials will be transferred between the Parties to support application for Marketing Authorization Approval for FS Product Line and the External Products;

(v) establishing a plan for Development of the FS Product Line and plan for obtaining Marketing Authorization Approval of External Products for use with the FS Product Line (a "Development Plan"), which first draft of such Development Plan shall be prepared by Acutus and such Development Plan shall then be discussed, finalized and approved by the JSC no later than 30 September 2019, and reviewing and approving amendments thereto;

(vi) discussing and reviewing any applicable Commercialization Plan by a Party prior to First Commercial Sale as well as Commercialization strategies for the FS Product Line in the Field in the Territory; *provided*, that for clarity, neither Party shall be obliged to report detailed sales data or pricing;

(vii) discussing and reviewing strategies and plans for Manufacture and supply of the FS Product Line by Acutus to the BIO Parties, and the BIO Parties' Manufacture and supply to Acutus of the FS Electronic Products and External Products, in each case consistent with the terms of the Manufacture and Supply Agreement;

(viii) resolution of matters presented to it and disputes raised to it by any Subcommittee that is within the scope of responsibilities delegated to the respective Subcommittee by the JSC under this Agreement and subject to the decision-making processes set forth in Section 3.4; and

(ix) performing such other functions as appropriate, and directing each Subcommittee to perform such other functions as appropriate, to further the purposes of this Agreement, in each case as mutually agreed in writing by the Parties.

3.2 Subcommittees. The JSC may establish and disband such subcommittees as deemed necessary by the JSC to perform activities and functions delegated to the JSC hereunder (each a "Subcommittee"). Each such Subcommittee shall consist of the same number of representatives designated by each Party, which number shall be mutually agreed by the Parties. Each Party shall be free to change its Subcommittee representatives or to send a substitute representative to any Subcommittee meeting; *provided, however,* that each Party shall ensure that at all times during the existence of any Subcommittee, its representatives on any such Subcommittee have the appropriate expertise and sufficient seniority within the applicable Party to make decisions arising within the scope of the applicable Subcommittee's responsibilities.

3.3 Administration of Committees.

(a) Chairpersons.

(i) The JSC (and any Subcommittee, as applicable) shall have one (1) chairperson, with the BIO Parties and Acutus alternating the right to appoint such chairperson to the JSC or such Subcommittee, as applicable, on an annual basis, and with Acutus having the initial right to such chairperson appointment.

(ii) The chairpersons shall not have any greater authority than any other representative on the JSC or such Subcommittee, as applicable. Each chairperson shall have the right to call a meeting of the JSC or respective Subcommittee, as applicable, and such chairperson shall have the following responsibilities: (A) preparing and issuing minutes of each such meeting within thirty (30) days thereafter; (B) ensuring that any decision-making delegated to the JSC or such Subcommittee, as applicable, is carried out in accordance with Section 3.4; and (C) preparing and circulating an agenda for any upcoming meeting of the JSC or respective Subcommittee, as applicable.

(b) Meetings. The Parties shall endeavor to have their first meeting of the JSC within thirty (30) days after the Effective Date. The JSC shall meet at least one (1) time per Calendar Quarter during the Term spaced at regular intervals unless the Parties mutually agree in writing to a different frequency for such meetings. Either Party may also call a special meeting of the JSC (by videoconference or teleconference) by providing at least ten (10) Business Days' prior written notice to the other Party in the event such Party reasonably believes that a significant matter must be addressed prior to the next scheduled meeting, and such Party shall provide the JSC no later than five (5) Business Days prior to the special meeting with materials reasonably adequate to enable an informed decision; *provided*, that for urgent matters, a Party may call a special meeting of the JSC with less than ten (10) Business Days' notice if the Parties agree that an issue warrants an expedited meeting. No later than ten (10) Business Days prior to any regularly scheduled meeting of the JSC, the chairpersons of the JSC shall prepare and circulate an agenda for such meeting; *provided*, *however*, that either Party may propose additional topics to be included on such agenda, either prior to or in the course of such meeting. The JSC may meet in person, by videoconference or by teleconference. Each Party will bear the expense of its respective JSC members' participation in JSC meetings. Meetings of the JSC shall be effective only if at least one (1) JSC representative from each of the BIO Parties (collectively) and Acutus is present or participating in such meeting. The chairperson will be responsible for preparing reasonably detailed written minutes of all JSC meetings that reflect, without limitation, decisions made at such meetings. The chairperson shall send draft meeting minutes, including a description of all discussions and decisions, to each member of the JSC for review and approval within ten (10) Business Days after each JSC meeting. Such minutes will be deemed approved unless one (1) or more members of the JSC object to the accuracy of such minutes within ten (10) Business Days of receipt.

3.4 Decision-Making. In addition to resolving issues specifically delegated to it, the JSC shall have the authority to resolve any disputes not resolved by any Subcommittee or as designated in this Agreement. The representatives from each of Acutus and the BIO Parties will have, collectively, one (1) vote on behalf of Acutus and the BIO Parties on the JSC, and all decision-making shall be by consensus. If the JSC is unable to reach consensus on any issue for which it is responsible within five (5) Business Days after good faith attempts to resolve the issue have failed, the JSC shall refer such dispute to the Alliance Managers jointly with the Parties' respective senior managers who are responsible for the matters in dispute (each, a "Senior Manager"). If the Alliance Managers and Senior Managers cannot resolve the dispute within ten (10) Business Days from the initiation of discussions, then either Party may seek to resolve such matter as set forth in ARTICLE 15 (Dispute Resolution).

3.5 Alliance Managers.

(a) Appointment. Within thirty (30) days following the Effective Date each of the BIO Parties and Acutus will appoint (and notify the other Party of the identity of) a senior representative of such Party having a general understanding of Development and

Commercialization issues to act as its alliance manager under this Agreement (each, an "Alliance Manager"). Each Party may replace its Alliance Manager at any time by written notice to the other Party.

(b) Specific Responsibilities. The Alliance Managers will serve as the primary point of contact between the Parties under the Agreement for the purpose of providing each Party with information on the progress of Development, Manufacture, and Commercialization activities as permitted under this Agreement, and shall have the following responsibilities:

(i) facilitating the flow of information and otherwise promoting communication, coordination, and collaboration between the Parties;

(ii) coordinating the various functional representatives of each Party, as appropriate, in developing and executing strategies and plans for the applicable product;

(iii) providing a single point of communication for seeking consensus both internally within the respective Party's organization and between the Parties regarding key strategy and planning issues;

(iv) assisting the integration of teams across functional areas;

(v) assisting any Subcommittee in identifying and raising cross-Party and/or cross-functional disputes in a timely manner; and

(vi) performing such other functions as directed by the JSC.

3.6 General Authority; Conduct of Parties. Each of the JSC, the Subcommittees, and the Alliance Managers shall have solely the powers expressly assigned to them in ARTICLE 3 and elsewhere in this Agreement. Neither the JSC nor any Subcommittee or Alliance Manager shall have any power to amend, modify, or waive compliance with this Agreement. In conducting themselves on the JSC and the Subcommittees, and as Alliance Managers, and in exercising their rights under this ARTICLE 3, all representatives of both Parties shall consider diligently, reasonably, and in good faith all input received from the other Party, and shall use reasonable efforts to reach unanimity, where required, on all matters before them.

ARTICLE 4
DEVELOPMENT

4.1 Development for Marketing Authorization Approval.

(a) Marketing Authorization Approval for the First FS US Product, First FS EU Product, and External Products in the US. Each Party shall use Commercially Reasonable Efforts to carry out the activities assigned to it under the Development Plan. Acutus shall use Commercially Reasonable Efforts to Develop and obtain Marketing Authorization Approval for the FS Product Line by the FDA in the US (the "First FS US Product") and for the FS Product Line by a Notified Body in the EU (the "First FS EU Product", together with the First FS US Product, the "First Products"). The BIO Parties shall use Commercially Reasonable Efforts to Develop and obtain Marketing Authorization Approval for the External Products by the FDA in the US within three (3) months of receipt by Acutus of Marketing Authorization Approval of the First FS US Product; *provided*, that the aforementioned three (3)-month period shall commence

only after the BIO Parties have received all Development Data from Acutus that is required to file the Marketing Authorization Approval with the FDA in the US, to the extent reasonably requested by BIO Parties. For avoidance of doubt, the BIO Parties have obtained Marketing Authorization Approval for the External Products by a Notified Body in the EU. For clarity, in connection with the foregoing, Acutus shall be responsible for running all Clinical Trials that are necessary to obtain Marketing Authorization Approval for the First Products as well as for the External Products (but only in the US). Except as otherwise agreed in the Development Plan or set forth in this Agreement, each Party shall be responsible for its costs incurred in performing the activities under this Section 4.1(a).

(b) Marketing Authorization Approval for Products within the FS Product Line and External Products Outside the US and the EU. If and when proposed by a Party or otherwise mutually agreed by the Parties, the Parties shall prepare a revised Development Plan setting forth the Party (or Parties) that shall be responsible for seeking Marketing Authorization Approval of any product within the FS Product Line (or any External Product in connection therewith) in any country in the Territory outside the US and the EU. Except as otherwise agreed in the Development Plan, each Party shall be responsible for its costs incurred in performing the activities under this Section 4.1(b). In the event the BIO Parties fail to obtain or maintain Marketing Authorization Approval of any External Product by a Regulatory Authority within twelve (12) months after the BIO Parties have received all Development Data that is required to file the Marketing Authorization Approval for any External Product, or otherwise fails to maintain such Marketing Authorization Approval, in each case in a major market in the Territory, Acutus shall have the right to obtain and maintain such Marketing Authorization Approval. Notwithstanding the foregoing, the Parties acknowledge and agree that certain Regulatory Authorities in the Territory have a prolonged pathway to Marketing Authorization Approval, and in such cases, the Parties agree that the foregoing twelve (12)-month period shall be extended as needed to accommodate the applicable Regulatory Authority's timeline for granting Marketing Authorization Approval.

(c) Delayed or No Approval; Required Post-Marketing Authorization Approval Studies. For clarity, in the event that a new Clinical Trial is required before Marketing Authorization Approval for the First FS US Product or the First FS EU Product is obtained and the JSC approves an amendment to the Development Plan, Acutus shall be responsible for all costs and expenses associated with conducting any new Clinical Trial as set forth in such amended Development Plan. In the event that additional Clinical Trials are required to be performed as a condition of Marketing Authorization Approval for the First FS US Product or the First FS EU Product, but after such Marketing Authorization Approval is obtained, and the JSC approves an amendment the Development Plan, Acutus shall be responsible for all costs and expenses incurred for conducting such additional Clinical Trials as set forth in such amended Development Plan.

(d) BIO Parties' Review of Clinical Trials. The BIO Parties shall be permitted to review and comment on the design and conduct of any Clinical Trial conducted by Acutus in the Territory for purposes of obtaining Marketing Authorization Approval for the First FS US Product, the First FS EU Product, and as applicable, any other product within the FS Product Line in any country in the Territory outside the US and the EU, where such Clinical Trial involves External Products. Acutus shall consider all such comments received from the BIO Parties in good faith. Acutus shall provide to the BIO Parties, through each Party's representation on the JSC, updates on a Calendar Quarter basis with respect to Acutus' proposed design and conduct of all such Clinical Trials in connection with the First FS US Product, the First FS US Product, and as applicable, any other product within the FS Product Line in any country in the Territory outside the US and the EU.

4.2 Standards of Conduct; No Geographic Limitation. Each Party shall conduct and perform all Development activities in support of the FS Product Line (and External Products in connection therewith), in accordance with this ARTICLE 4 and as set forth in the Development Plan, in a good scientific manner and in accordance with Applicable Law. With respect to any Clinical Trials conducted under this Agreement, unless otherwise prohibited by Applicable Law, there shall be no geographic limitation or restriction on the location of Clinical Trial sites for the conduct of any Clinical Trials hereunder; *provided, however,* that the BIO Parties shall not conduct a Clinical Trial in the US relating to the FS Product Line without Acutus' prior written approval, which approval shall not be unreasonably withheld; *but provided always,* that the BIO Parties shall be free to conduct any Clinical Trial in the US relating to the External Products alone and relating to any other product or technology of the BIO Parties (in each case that does not relate to the FS Product Line) without any need for Acutus' prior approval either written or otherwise.

4.3 Manufacturing Technology Transfer; Other Know-How Transfer.

(a) Manufacturing Technology Transfer. Within three (3) months after the Effective Date, but in any event no later than 31 December 2019, the BIO Parties shall provide to Acutus, at no additional cost to Acutus, the Manufacturing equipment and the Manufacturing Technology listed in EXHIBIT 4.3(a) and any other Manufacturing Technology Controlled by BIO Parties that is reasonably requested by Acutus during such time period (collectively, such transfer, the "Initial Manufacturing Transfer"). Acutus acknowledges and agrees that it and its Affiliates and Sublicensees shall only use the foregoing Manufacturing Technology pursuant to the rights provided in Section 2.1(d) and for no other purpose. Acutus shall further purchase and obtain all such Manufacturing equipment as listed in EXHIBIT 4.3(a) for Acutus to make or purchase. Upon completion of such Initial Manufacturing Transfer, the Alliance Managers shall review and determine whether all Manufacturing Technology has been provided to Acutus. Should any such review and determination identify any deficiencies in such transfers, then the BIO Parties shall promptly remedy same by making transfers of yet to be transferred Manufacturing Technology to Acutus. In addition, as part of such Initial Manufacturing Transfer, the Parties, each at their own cost and expense, shall work together in good faith to translate the Manufacturing Technology, as appropriate, into English for use by Acutus. Acutus shall be responsible for installation of all the Manufacturing equipment transferred to Acutus by VascoMed or made or acquired by Acutus at Acutus' premises, and shall be responsible for any and all costs in connection with installing and setting up such Manufacturing equipment and implementing the Manufacturing Technology at Acutus. At Acutus' request, VascoMed will provide a maximum of three (3) engineering FTEs for six (6) months and an additional two (2) manufacturing FTEs for one (1) month to support the Initial Manufacturing Transfer and any subsequent transfer of Manufacturing Technology to Acutus as provided in this Section 4.3(a). If and to the extent additional resources and FTE commitments are necessary other than as set forth above to transfer Manufacturing Technology to Acutus, the BIO Parties shall provide such additional resources and FTE commitments as reasonably requested by Acutus, and Acutus shall reimburse the BIO Parties for its actual costs for such additional resources and FTE commitments. The Parties shall cooperate with each other to facilitate the orderly transition of such Manufacturing Technology to Acutus.

(b) Other Know-How Transfer. In addition to the transfer of Manufacturing Technology to take place pursuant to the foregoing Section 4.3(a), the BIO Parties shall transfer

and deliver to Acutus, within three (3) months after the Effective Date, (i) the BIO FS Product Know-How (other than the Manufacturing Technology) for the FS Product Line in existence as of the Effective Date, and (ii) any BIO External Product Interface Know-How that is necessary for Acutus to obtain Marketing Authorization Approval by the FDA in the US for the FS Product Line in existence as of the Effective Date, as well as the technical specifications of the proprietary (not the industry standard) Ancillary Product Components listed in EXHIBIT 1.5, (collectively, the "Initial Other Know-How Transfer"). The BIO FS Product Know-How in existence as of the Effective Date (other than Manufacturing Technology) is described in EXHIBIT 4.3(b). Upon completion of the Initial Other Know-How Transfer, the Alliance Managers shall review and determine whether all BIO FS Product Know-How described in EXHIBIT 4.3(b) and the BIO External Product Interface Know-How has been transferred to Acutus. Should any such review and determination identify any deficiencies in such transfers, then the BIO Parties shall promptly remedy same by making transfers of yet to be transferred BIO FS Product Know-How and/or BIO External Product Interface Know-How to Acutus. Following the Initial Other Know-How Transfer, the BIO Parties shall transfer and deliver to Acutus any BIO FS Product Know-How that becomes Controlled by the BIO Parties after the Effective Date through 31 December 2019 that is reasonably necessary or reasonably useful for the Development of next and/or future generations of any product(s) within, use, or Commercialization of the FS Product Line as permitted under this Agreement. The Parties shall cooperate with each other to facilitate the orderly transition of such Know-How to Acutus. Upon request by Acutus from time to time, the BIO Parties shall provide reasonable assistance to Acutus to understand and implement all such BIO FS Product Know-How and BIO External Product Interface Know-How; *provided, however,* that if Acutus requires or requests additional resources or FTEs for the foregoing purpose after 31 December 2020, then Acutus shall reimburse the BIO Parties for its actual costs for such additional resources and FTE commitments.

(c) Translation Assistance. As part of the Know-How transfer Section 4.3, the BIO Parties will translate the German text included in the BIO Parties' existing documentation included in the Manufacturing Technology into English for use by Acutus.

4.4 Conduct of Clinical Trials: Use of Clinical Trial Data. In the course of Acutus conducting Clinical Trials as required under this ARTICLE 4 for the purpose of obtaining Marketing Authorization Approval for the First FS US Product and the First FS EU Product, and for the purpose of enabling the BIO Parties to seek Marketing Authorization Approval for the External Products in the US, Acutus shall incorporate and use the BIO Parties' External Products together with the FS Product Line in the conduct of such Clinical Trials, as further set forth in the Development Plan. The BIO Parties shall supply Acutus with the External Products for the foregoing purpose free of charge to Acutus, and Acutus shall provide the BIO Parties with the needed quantities of the External Products well in advance to any requested delivery date. For clarity, the Parties assume that for each of the three (3) External Products approximately twenty- five (25) units are needed. Acutus shall be responsible for the costs of supplying the FS Product Line for the foregoing purpose. Acutus shall generate a Clinical Trial Data package from such Clinical Trials that includes data pertaining to administration of the External Products with the FS Product Line, and shall use Commercially Reasonable Efforts to ensure that such Clinical Trial Data package as well as any related information submitted (including, if applicable, pre-clinical data) and testing (and results thereof) undertaken in support of the Regulatory Filings made hereunder are sufficient to enable the BIO Parties to seek Marketing Authorization Approval for the External Products in at least the US. Reasonably in advance of the First Commercial Sale of the First FS US Product or the First FS EU Product, whichever is sooner, Acutus shall create a Clinical Trial register. The BIO Parties shall have the right to publish the results and/or summaries of results of all Clinical Trials, observational studies, and other studies such as meta

analyses conducted by the Parties with respect to the FS Product Line in the Field in the Territory under this Agreement, including the protocols of all such Clinical Trials, after obtaining the prior written approval of Acutus, which approval shall not be unreasonably conditioned, withheld, or delayed. Acutus shall be responsible for hosting and maintaining such Clinical Trial register at its sole cost and expense and shall own all data collected and hosted on the Clinical Trial register. The BIO Parties shall reasonably cooperate with Acutus to collect all applicable Clinical Trial results and/or summaries thereof and Clinical Trial protocols for publishing on the Clinical Trial register. Notwithstanding the foregoing, each Party's rights to use any data provided under this Section 4.4 shall be limited to uses in accordance with the licenses and rights granted to each of the Parties under ARTICLE 2.

4.5 Improvements and Enhancements. Other than to seek, obtain, and maintain Marketing Authorization Approval for the External Products from the FDA in the US that incorporates the Clinical Trial Data obtained by Acutus in the conduct of its Clinical Trials incorporating both the FS Product Line and the External Products and Marketing Authorization Approvals by Notified Bodies in the EU, the BIO Parties shall have no obligation to conduct any Development with respect to the External Products in any country in the Territory. Notwithstanding the foregoing, during the Term, each Party shall have the right to propose certain changes, improvements, and/or enhancements to the FS Product Line and External Products; *provided*, *however*, neither Party shall be obligated to implement any such changes, improvements, and/or proposed enhancements. If the Parties mutually agree to such proposed changes, improvements, and/or enhancements, the Parties shall negotiate in good faith and mutually decide on a plan to implement such proposed changes, improvements, and/or enhancements to ensure adequate timing, risk mitigation, and cost-sharing during implementation. The Parties will work together in good faith to ensure connectivity and compatibility of any such improvement with the existing associated the FS Product Line and External Products.

4.6 Development Subcontractors. Either Party may perform any of its Development activities and/or obligations under this Agreement through its Affiliates or one (1) or more subcontractors or consultants other than a Competitive Company; *provided*, that such Party shall at all times remain directly responsible for all of its Development activities and obligations under this Agreement that have been delegated or subcontracted to any of its Affiliates, subcontractors, or consultants and for ensuring that such Affiliates, subcontractors, and consultants comply with the terms and conditions of this Agreement. In the event of a breach by any Party's Affiliates, subcontractors, or consultants of the same Party's obligations under this Agreement, such Party hereby waives any obligation of the other Party to proceed directly against any such Affiliate, subcontractor, or consultant prior to proceeding directly against such Party.

4.7 Development Records and Reports. The Parties shall maintain complete and accurate records (in the form of technical notebooks and/or electronic files where appropriate) of all work conducted by such Party in connection with all Development activities performed under this Agreement and all Development Data properly reflecting all work done, data generated, and results achieved in the performance of such Party's Development activities under this Agreement (which records, for clarity, shall include, as applicable, books, records, reports, research notes, charts, graphs, comments, computations, analyses, recordings photographs, computer programs, and documentation thereof (e.g., samples of materials and other graphic or written data generated in connection with such Development activities)). All records shall be prepared and maintained by the applicable Party in sufficient detail and in good scientific manner appropriate for patent and regulatory purposes. Each Party shall provide the other Party with timely reports detailing its activities in support of Development of the FS Product Line and the results of such activities through JSC meetings or as may be required by the Development Plan. The reporting Party shall

make available to the requesting Party such other information about its Development activities as may be reasonably requested by the other Party from time to time for purposes of enabling the requesting Party to perform its obligations and exercise its rights under this Agreement; *provided, however,* that with respect to the BIO Parties' Development activities with respect to the External Products, the BIO Parties shall not be obliged to provide information about its Development activities with respect to the External Products that is not within the scope of the BIO External Product Interface Know-How.

4.8 Parties' Use of Development Data. The Parties shall have the right to use all Development Data generated by or on behalf of the other Parties in undertaking Development activities under this Agreement in connection with such other Parties' Development of the FS Product Line and the External Products in the Field in the Territory; *provided,* that with respect to the External Products, the BIO Parties shall not be obliged to provide any Development Data to Acutus that is not within the scope of the BIO External Product Interface Know-How. For clarity, with respect to the External Products, Acutus shall have the right to use only the BIO External Product Interface Know-How that is reasonably necessary or reasonably useful to enable Acutus to (a) establish and maintain interconnection and use compatibility of the FS Product Line and the External Products in the Field, and (b) perform any Clinical Trial hereunder involving the FS Product Line in combination with the External Products in the Field in the Territory. Each Party shall transfer such Development Data to the other Party (or Parties, as applicable) as may be reasonably requested from the other Party (or Parties, as applicable) within the scope of this Section 4.8.

ARTICLE 5
REGULATORY MATTERS

5.1 Regulatory Filings; Marketing Authorization Approval.

(a) Product.

(i) Acutus shall be (A) the Approval Holder for all products and components within the FS Product Line in the US and for the First FS EU Product, and (B) the manufacturer of record for all products and components of the FS Product Line. The BIO Parties shall be (x) the Approval Holder for the External Products in EU and in the US (subject to FDA regulations and requirements), and (y) the manufacturer of record for the External Products. The Parties shall use Commercially Reasonable Efforts to achieve that, subject to FDA regulations and requirements, in the US, Acutus shall become the Approval Holder for the FS Product Line and Biotronik shall become the Approval Holder for the External Products. The Parties shall use Commercially Reasonable Efforts to enable (1) the BIO Parties to commercialize the External Products independently from the FS Product Line, and (2) Acutus to commercialize the FS Product Line together with the External Products in the Perpetual Territory. Prior to commencement of any Development of any product(s) within the FS Product Line in any country outside the US and the EU, the Parties shall first specify in an amendment to the Development Plan which Party will be the Approval Holder in such country(ies) for such products within the FS Product Line and External Products.

(ii) Acutus shall be responsible for compiling and submitting all regulatory documentation and for interacting with the FDA with respect to the First FS US Product and the Notified Body with respect to the First FS EU Product (including, in each case, as it concerns the combination of the FS Product Line with the External Products). Each Party shall promptly notify the other Party of all material Regulatory Filings that it submits to a Regulatory Authority for the FS Product Line and shall, when reasonably requested by the other Party, promptly provide the other Party with copies (which may be wholly or partly in electronic form) of any such Regulatory Filings (and any material regulatory correspondence related thereto). Each Party shall provide the other Party with reasonable advance notice of any scheduled meeting with a Regulatory Authority with respect to the FS Product Line, and the other Party shall have the right to participate in any such meeting, to the extent permitted by Applicable Law. For the avoidance of doubt, representatives from Acutus will be the primary spokespeople at any such meeting with respect to the First Products (including as it concerns the combination of the FS Product Line with the External Products) and will be given preference in attending such meeting in the event that the number of attendees is limited by either the FDA or the Notified Body, as applicable. Each Party agrees to cooperate with the other Party with respect to the regulatory activities that the other Party undertakes pursuant to this Section 5.1(a)(ii).

(b) Right of Reference.

(i) Acutus, to the extent it is an Approval Holder for the FS Product Line, shall permit the BIO Parties access to, and grants the BIO Parties the right to reference Acutus' Regulatory Filings for the FS Product Line for the purpose of enabling the BIO Parties to obtain and maintain Marketing Authorization Approval for any product within the FS Product Line in any country in the Territory outside of the US or the EU and for the External Products, at no cost to the BIO Parties. In furtherance of the foregoing, Acutus, as the Approval Holder for such FS Product Line, shall promptly upon request of the BIO Parties, deliver a letter to the FDA (or the Notified Body or other applicable Regulatory Authority in any other country in the Territory) authorizing the BIO Parties to reference and use the such Regulatory Filings in support of the BIO Parties' efforts to seek Marketing Authorization Approval for any product within the FS Product Line in any country in the Territory outside the US or the EU or the External Products.

(ii) The BIO Parties, to the extent it is an Approval Holder for the FS Product Line or the External Products, grants Acutus the right to reference all Regulatory Filings for such FS Product Line and External Products for the purpose of enabling Acutus to obtain and maintain Marketing Authorization Approval for any product within the FS Product Line in any country in the Territory, at no cost to Acutus. In furtherance of the foregoing, the BIO Parties, to the extent it is the Approval Holder for the FS Product Line or the External Products, shall promptly upon the request of Acutus, deliver a letter to the FDA (or the Notified Body or other applicable Regulatory Authority in any other country in the Territory) authorizing Acutus to reference such Regulatory Filings in support of Acutus' efforts to seek Marketing Authorization Approval for any product within the FS Product Line in any country in the Territory.

(iii) With respect to the foregoing subclauses (b)(i) and (b)(ii), to the extent any such right of reference is not available, the Parties shall cooperate in good faith to provide the requesting Party with the similar ability to obtain such Marketing Authorization Approval on the basis of such Party that is the Approval Holder's Regulatory Filings, which may include such Party that is the Approval Holder providing the information included in such Party's Regulatory Filings directly to the applicable Regulatory Authority for the benefit of the requesting Party.

5.2 Recalls and Withdrawals. If any Regulatory Authority (a) threatens, initiates, or advises any action to remove an External Product or product within the FS Product Line from the market, or (b) requires or otherwise advises Acutus, the BIO Parties, or their respective Affiliates to distribute a "Dear Health Care Provider" letter or its equivalent regarding use of any product(s) within the FS Product Line (including the First Products) and/or the External Products used in connection therewith, then Acutus or the BIO Parties, as applicable, shall notify the other Party of such event as soon

as reasonably practicable, but in no event later than two (2) Business Days (or sooner if required by Applicable Law) after such Party becomes aware of the action, threat, advice or requirement (as applicable). Immediately thereafter, the Parties (together with their respective heads of Quality), will discuss and attempt to agree upon whether to recall or withdraw the applicable product(s) within the FS Product Line (including the First Products) and/or the External Products used in connection therewith; *provided*, *however*, that if the Parties fail to agree within an appropriate time period, the manufacturer of record for the FS Product Line (including the First Products) and/or the External Products, as applicable, shall have final decision-making authority and shall have the right to decide in its sole discretion whether to recall or withdraw such product(s) within the FS Product Line (including the First Products) and/or the External Products used in connection therewith. The Party responsible for implementing the recall or withdrawal shall pay for all costs of the recall, except to the extent that the recall or withdrawal is attributable to a claim or damage for which a Party is responsible under ARTICLE 11, in which event such responsible Party shall bear such costs pursuant to ARTICLE 11.

5.3 Product Regulatory Reporting. On a product-by-product and jurisdiction-by- jurisdiction basis, the manufacturer of record for such product(s) within the FS Product Line (including the First Products) and/or the External Products used in connection therewith, as applicable, shall be primarily responsible for Medical Device Reporting ("Device Reporting") to the applicable Regulatory Authority, including investigation and analysis of Customer complaints. The manufacturer of record of such product(s) within the FS Product Line (including the First Products) and/or the External Products used in connection therewith, as applicable, shall maintain appropriate medical device reporting and other product performance monitoring systems. The manufacturer of record for the applicable product(s) within the FS Product Line (including the First Products) and/or the External Products used in connection therewith, as applicable, shall have primary responsibility for communicating with the Customer to support the complaint handling process. Each Party shall otherwise cooperate with the other Party as needed with respect to the foregoing activities. If an applicable Regulatory Authority requires an approach different from anything provided for any of the foregoing in this Section 5.3, then the Parties shall use their Commercially Reasonable Efforts to adapt the foregoing approach in a manner conforms as nearly as possible with the original intent of the Parties, while complying with the requirements of such Regulatory Authority.

5.4 Access to Technical Documentation. The manufacturer of record for any product within the FS Product Line or External Product shall provide the other Party access to technical documentation and device history records with respect to such product within the FS Product Line or External Product, to the extent required by Applicable Law.

ARTICLE 6
COMMERCIALIZATION; DISTRIBUTION

6.1 Commercialization Plans. At least ninety (90) days prior to the anticipated First Commercial Sale of any product(s) within the FS Product Line (including the First Products) and the External Products used in connection therewith, the Commercializing Party shall submit to the JSC a commercialization plan (each, a "Commercialization Plan"). Each Party, through its representatives on the JSC, may provide advice and commentary with respect to Commercialization activities with respect to the applicable product(s) within the FS Product Line (including the First Products) and the External Products used in connection therewith, and the other Party shall in good faith consider any such advice and commentary.

6.2 Overview; Diligence.

(a) Perpetual Territory. Following receipt of Marketing Authorization Approval from the FDA for the First FS US Product, Acutus shall use Commercially Reasonable Efforts to conduct activities under the applicable Commercialization Plan to Commercialize the First FS US Product in the US.

(b) Non-Perpetual Territory. Each Party shall have the right to undertake Commercialization of any product(s) within the FS Product Line and/or External Products in the Non-Perpetual Territory. If a Party that is not the manufacturer of record for the applicable product(s) within the FS Product Line and the External Products used in connection therewith, decides to undertake Commercialization of the foregoing in the Non-Perpetual Territory and such activities would cause additional regulatory burden or other costs to the other Party (whether as a result of obligations under Section 5.3 or otherwise), then the Parties shall negotiate in good faith a sharing of costs with respect thereto and no such Commercialization shall occur until such agreement between the Parties is reached, such agreement not to be unreasonably conditioned, withheld, or delayed by either Party.

6.3 Commercialization Standards of Conduct.

(a) Each Party and its Affiliates shall not, and shall ensure that its subcontractors and distributors shall not, directly or indirectly, promote, or market any product(s) within the FS Product Line and the External Products used in connection therewith, (i) in any country in the Territory for which such Persons are not authorized to promote or market under or are not authorized to promote or market pursuant to this Agreement, or (ii) for any use or indication not approved by the applicable Regulatory Authority in such country.

(b) Each Party shall, and shall ensure its Affiliates, subcontractors, and distributors shall, ensure that all of its and their sales representatives promoting any product(s) within the FS Product Line and the External Products used in connection therewith, (i) have skills, training, and experience generally consistent with industry standards in the applicable country in the Territory applicable to the promotion, marketing, and sale of medical device products and technologies in such country, and (ii) have satisfactorily completed all product-specific training and ethics and compliance training required by such Party.

(c) Each Party and its Affiliates shall not, and shall ensure that its subcontractors and distributors, and its and their respective sales representatives shall not, (i) make any statement, representation, or warranty, oral or written, concerning any product(s) within the FS Product Line and External Products used in connection therewith, in any country in the Territory, or use any labeling, literature or promotional, or marketing material for any of the foregoing in any country in the Territory that (A) is contrary to or inconsistent with the applicable Marketing Authorization Approval for such product(s) within the FS Product Line and External Products used in connection therewith, in such country in a manner that violates any Applicable Law in such country, or (B) violates any Applicable Law in such country, or (ii) make any arrangements with, make payments to, or provide gifts or other incentives to any healthcare professionals in violation of Applicable Law in such country. Each Party shall, and shall cause its Affiliates and ensure its subcontractors and distributors to, ensure that its and their sales representatives are familiar with the procedures, obligations, rights, and responsibilities imposed by the terms of this Agreement as applicable to the performance of promotional activities hereunder.

6.4 Commercialization Subcontractors. Either Party may perform any of its Commercialization activities and/or obligations under this Agreement through its Affiliates or one (1) or more subcontractors other than a Competitive Company; *provided*, that such Party shall at all times remain directly responsible for all of its Commercialization activities and obligations under this Agreement that have been delegated or subcontracted to any of its Affiliates or subcontractors and for ensuring that such Affiliates and subcontractors comply with the terms and conditions of this Agreement. In the event of a breach by any Party's Affiliates or subcontractors of the same Party's obligations under this Agreement, such Party hereby waives any obligation of the other Party to proceed directly against any such Affiliate or subcontractor prior to proceeding directly against such Party.

6.5 Marketing Studies. With respect to the Perpetual Territory, Acutus shall, on an as needed basis, perform any additional or supplemental sales and marketing support Clinical Trials with respect to product(s) within the FS Product Line (and External Products used with such products) as Acutus deems necessary in its sole discretion. The BIO Parties may suggest additional marketing support, which the Parties shall discuss in good faith. Acutus shall be solely responsible for conducting all such Clinical Trials in the Perpetual Territory and for all costs and expenses that it incurs therewith. Acutus shall conduct all such Clinical Trials in good scientific manner, in accordance with GCP, GLP, and Applicable Law, and in accordance with FDA's requirements and conditions applicable to the product in question. Each Party shall, on an as needed basis, perform any additional or supplemental sales and marketing support Clinical Trials conducted by either Party with respect to products within the FS Product Line (and External Products used with such products) in any country in the Non-Perpetual Territory as such Party deems necessary in its sole discretion. Such Party shall be responsible for all costs and expenses that it incurs therewith. Each Party shall conduct all such Clinical Trials in good scientific manner, in accordance with GCP, GLP, and Applicable Law, and in accordance with the applicable Regulatory Authority's requirements and conditions applicable to the product in question. In connection with the foregoing, the Approval Holder shall provide the other Party reasonable access to supporting Clinical Trial Data from existing Clinical Trials relating to the FS Product Line and/or the External Products respectively that such Approval Holder has performed and from any additional Clinical Trials relating to such product that such Approval Holder performs in the future.

6.6 Promotional Materials.

(a) Preparation of Promotional Materials. Acutus shall prepare any Promotional Materials for any product(s) within the FS Product Line that are Commercialized by Acutus in the Perpetual Territory or that otherwise include an Acutus Trademark. The BIO Parties shall prepare the Promotional Materials for the External Products. Through each Party's representation on the JSC, the Parties shall jointly review, prepare, and approve from a legal, medical, and regulatory perspective, any Promotional Materials for any product(s) within the FS Product Line and External Products used in connection therewith, Commercialized by either Party in any country in the Non-Perpetual Territory (including the EU). With respect to any External Products, such Promotional Materials shall reflect the BIO Parties' branding (i.e., "BIOTRONIK"). With respect to any product(s) within the FS Product Line that are Commercialized by the BIO Parties in the Non-Perpetual Territory, such Promotional Materials may reflect either (i) the BIO Parties' branding (i.e., "BIOTRONIK") if such products will be Commercialized using the BIO Parties' private label, or (ii) Acutus' branding (solely with respect to any FS Catheter), as may be appropriate for a particular country in the Non-Perpetual Territory and mutually agreed by the Parties through their representation on the JSC. With respect to any Promotional Materials that the BIO Parties propose to use that include Acutus trademarks, brand names, images, and/or videos, Acutus shall have the right to review and approve such Promotional Materials prior to the BIO Parties' use

thereof; *provided*, that such approval shall not be unreasonably conditioned, withheld, or delayed. Acutus shall solely own all such Promotional Materials with respect to the FS Product Line, and Biotronik shall be permitted to use the Promotional Materials, at its sole cost and expense, in any country in the Non-Perpetual Territory, as the case may be and as permitted under this Section 6.6. With respect to any Promotional Materials that Acutus proposes to use that include the BIO Parties Trademarks, brand names, images, and/or videos, the BIO Parties shall have the right to review and approve such Promotional Materials prior to Acutus' use thereof; *provided*, that such approval hall not be unreasonably conditioned, withheld, or delayed. The BIO Parties shall solely own all such Promotional Materials with respect to the External Products, and Acutus shall be permitted to use the Promotional Materials, at its sole cost and expense, in any country as permitted under this Section 6.6.

(b) Regulatory Materials for Promotional Materials. With respect to the Perpetual Territory, Acutus shall be responsible for preparing and filing all regulatory materials associated with Promotional Materials to be used in connection with Commercialization of the FS Product Line in the Perpetual Territory. With respect to the Non-Perpetual Territory and External Products, the manufacturer of record shall be responsible for preparing and filing all regulatory materials associated with Promotional Materials to be used in connection with Commercialization of products within the FS Product Line in the Non-Perpetual Territory and External Products used in connection therewith. A Party undertaking Commercialization shall not be permitted to use such Promotional Materials until all regulatory materials have been filed with the appropriate Regulatory Authorities and the necessary Marketing Authorization Approval(s) have been obtained for such Promotional Materials.

6.7 Trademarks.

(a) Subject to the terms and conditions of this Agreement, Acutus hereby grants the BIO Parties and their Affiliates a limited, sublicensable, co-exclusive license to use the Acutus Trademarks to Commercialize products within the FS Product Line that are manufactured by Acutus pursuant to the terms of this Agreement. Subject to the terms and conditions of this Agreement, the BIO Parties hereby grant Acutus and their Affiliates a limited, sublicensable, non-exclusive license to use the BIO Parties Trademarks to Commercialize External Products manufactured by the BIO Parties pursuant to the terms of this Agreement. For clarity, Acutus shall be permitted to Commercialize the External Products used in connection with any product(s) within the FS Product Line only under the BIO Parties Trademarks and for the Qiona irrigation pump under the Moller Medical trademarks and further pursuant to instructions regarding use of the BIO Parties Trademarks and/or the Moller Medical trademarks as set forth in the Manufacture and Supply Agreement.

(b) Ownership of the Acutus Trademarks shall be and remain at all times with Acutus. Ownership of the BIO Parties Trademarks shall be and remain at all times with the BIO Parties. Each Party agrees not to adopt or make use of any trademarks which, in the opinion of the other Party, are confusingly similar to the other Party's trademarks. All representations of a Party's trademarks that the other Party intends to use shall be exact copies of those used by such Party or shall first be submitted to such Party for approval (which shall not be unreasonably withheld) of design, color, and other details. Each Party shall not engage in any activity that would adversely affect the name, reputation, or goodwill of the other Party. In addition, each Party shall fully comply with all reasonable guidelines, if any, communicated by the other Party concerning the use of the other Party's trademarks. In no event may a Party use or authorize any use of any of the other Party's trademarks in any domain name. Neither Party shall challenge or assist

others to challenge the other Party's trademarks (except to the extent such restriction is expressly prohibited by Applicable Law). Neither Party shall alter or remove any of the other Party's trademarks affixed to a product within the FS Product Line or to any External Product by or on behalf of the other Party. Except as set forth in this Section 6.7, nothing contained in this Agreement shall grant or shall be deemed to grant to a Party any right, title, or interest in or to the other Party's trademarks. Upon termination of this Agreement, each Party shall immediately cease to use any and all of the other Party's trademarks, except in accordance with Section 13.3(b).

(c) If the BIO Parties select to use their own trademarks in their Commercialization of products within the FS Product Line supplied by Acutus to the BIO Parties hereunder, the BIO Parties hereby grant to Acutus a limited license to use the BIO Parties Trademarks for the manufacturing, labeling, and supply of such products within the FS Product Line to the BIO Parties in accordance with the exemplary labeling provided by the BIO Parties.

6.8 Product Inventory. Each of the Parties shall maintain its inventory of any product(s) within the FS Product Line and External Products used in connection therewith in accordance with all labeled instructions. For clarity, each Party's obligations with respect to the Manufacture and supply of products within the FS Product Line and the External Products used in connection therewith for purposes of Commercialization in the Territory are set forth in EXHIBIT 7.1 and the Manufacture and Supply Agreement.

6.9 Collaboration on Outside Activities. The Parties shall have the option at their election, but not the obligation, to collaborate with respect to the commercialization of certain other products and medical device technologies that are outside the current scope of this Agreement; *provided, however,* that neither Party shall be obligated to enter into any such future collaboration and/or arrangement. Such potential future collaboration may include (a) Acutus offering the BIO Parties certain distribution rights to certain Acutus products and medical device technologies in certain markets; (b) the BIO Parties offering to Acutus certain distribution rights to certain of the BIO Parties' other products and medical device technologies in certain markets; and/or (c) the terms for any co-marketing, co-promotion, and/or bundling arrangements across any or all of a Party's other product lines in any market, including ablation, mapping, invasive and non-invasive diagnostic monitoring, in each case of (a) through (c) subject to a separate arms-length negotiation, which terms once mutually agreed may be incorporated into this Agreement by a mutually agreed amendment to this Agreement.

ARTICLE 7
MANUFACTURE AND SUPPLY

7.1 Overview. The BIO Parties shall be responsible for the Manufacture and supply of the FS Electronic Products (solely until Acutus elects to Manufacture the FS Electronic Products itself or through a Third Party) and the External Products to Acutus, to support Acutus' Development of the FS Product Line and Commercialization of the FS Product Line and External Products used in connection therewith in the Field in the Territory subject to the terms of this Agreement. Beginning and after completion of the Manufacturing Technology transfer in accordance with Section 4.3, and notwithstanding the Manufacturing License in Section 7.2, Acutus shall be responsible for the Manufacture and supply of any FS Catheter and Acutus shall have the option to elect to have the BIO Parties transfer responsibility for the Manufacture and supply of the FS Electronic Products from the BIO Parties to Acutus by providing at least twenty-four (24) months' advance notice to the BIO Parties. The terms for such Manufacture and supply

shall be negotiated in good faith by the Parties and memorialized in a written agreement promptly after request by either Party with respect thereto (the "Manufacture and Supply Agreement"); *provided*, that the terms of any such Manufacture and Supply Agreement shall be consistent with the terms set forth in EXHIBIT 7.1. Until the Parties enter into the Manufacture and Supply Agreement, the terms of this Agreement and those set forth in EXHIBIT 7.1 shall govern the supply, as between the Parties, of the foregoing products. In the event the Parties cannot mutually agree on the terms for the Manufacture and Supply Agreement, such terms shall be determined pursuant to Section 15.2.

7.2 Manufacturing License. During the Term, Acutus, on behalf of itself and its Affiliates solely with respect to any FS Catheter and the FS Electronic Products (but with respect to the latter, only if Acutus has commenced Manufacture thereof), and the BIO Parties, on behalf of itself and its Affiliates solely with respect to the External Products and the FS Electronic Products (but with respect to the latter, only if Acutus has not commenced Manufacture thereof), hereby grants to the other Party a non-exclusive, including the right to grant sublicenses (as provided below), under Intellectual Property Rights solely to the extent Controlled by such Party with respect to the relevant Manufacturing technology necessary for such other Party to Manufacture and have Manufactured any FS Catheter, FS Electronic Products (including in the case of Acutus as the granting party, its Later Acquired Acutus Technology, as applicable), or the External Products, as the case may be, for the sole purpose of Commercializing the FS Product Line and the Qubic RF generator, the Qubic Stim stimulator and successors thereto and products equivalent to the Qiona irrigation pump used in connection with the FS Product Line (the "Manufacturing License"), which Manufacturing License may only be exercised by such other Party following the earlier of (a) a Persistent Supply Failure, or (b) a discontinuation in Manufacture of any FS Catheter, FS Electronic Products, or External Products pursuant to Section 7.3 of this Agreement (including any relevant terms of the Manufacture and Supply Agreement) that results in the Parties being unable to reach mutual agreement on a resolution for such discontinuation.

7.3 Discontinuation of Manufacture. If at any point during the Term either Party wishes to discontinue Manufacture or supply of any FS Catheter, FS Electronic Products, or External Products, as the case may be, that are supplied to the other Party under the Manufacture and Supply Agreement (other than pursuant to a transfer of Manufacturing responsibility from the BIO Parties to Acutus with respect to FS Electronic Products), such Party shall notify the other Party twenty-four (24) months in advance of such discontinuation; *provided, however,* that thirty-six (36) months' advance notice shall be provided in the case of discontinuation of the Qubic RF generator, which is one of the External Products provided by the BIO Parties to Acutus hereunder, and notice with respect to the Qiona irrigation pump shall be within five (5) Business Days of the BIO Parties' knowledge of a discontinuation of the Qiona irrigation pump. The Parties shall discuss in good faith a resolution for such discontinuation, and the other Party shall have the right to place a final order of the applicable discontinued product, which the supplying Party shall promptly fulfill notwithstanding any forecasting obligations or requirements set forth in the Manufacture and Supply Agreement; *provided*, that the BIO Parties shall only be required to use good faith efforts to fulfill any final order for the Qiona irrigation pump. In the case of the Qiona irrigation pump, Acutus may, at any time, reach out to a Third Party for supply of products equivalent to the Qiona irrigation pump, as the case may be. If the Parties are unable to mutually agree on a reasonably acceptable solution for continued Manufacture and supply of the discontinued FS Catheter, FS Electronic Products, or External Products (excluding the Qiona irrigation pump) within thirty (30) days following any such notice regarding discontinuation, then the provisions of Section 7.4 of this Agreement (including as may be further detailed in the Manufacture and Supply Agreement) shall apply and, other than with respect to the Qiona

irrigation pump, the discontinuing Party shall transfer the Manufacturing technology Controlled by the discontinuing Party either to the Party assuming Manufacturing responsibility or to an Alternative Manufacturer, as the case may be. The discontinuing Party shall be responsible for all costs associated with the technology transfer.

7.4 Alternative Manufacturer. Pursuant to the exercise of the Manufacturing License granted to each Party pursuant to Section 7.2 of this Agreement and the terms of the Manufacture and Supply Agreement, the BIO Parties or Acutus, as the case may be, shall have the right to have Manufactured any FS Catheter and/or FS Electronic Products and/or External Products (other than the Qiona irrigation pump) and products equivalent to the Qubic Stim stimulator from one (1) or more Third Party manufacturers (an "Alternative Manufacturer") to fulfill its requirements for each of the foregoing. For avoidance of doubt, each Party shall also have the right to Manufacture such products itself for such purposes.

7.5 Persistent Supply Failure. If a Persistent Supply Failure occurs and such default cannot be cured within the time period as defined in the Manufacture and Supply Agreement, and as a result the non-defaulting Party elects to assume such Manufacture and supply, the non-defaulting Party shall provide written notice of its election to the other Party (a "Persistent Supply Failure Notice"). The defaulting Party shall provide to the non-defaulting Party or the Alternative Manufacturer (as the case may be) both technology transfer and other assistance, to facilitate the non-defaulting Party's or the Alternative Manufacturer's development, Manufacture, processing and/or supply of the applicable product. The defaulting Party shall be responsible for all costs associated with the technology transfer.

ARTICLE 8
FINANCIAL TERMS

8.1 Upfront Fee. In consideration of the rights granted to Acutus hereunder, Acutus shall pay to the BIO Parties a one-time, non-refundable, non-creditable upfront payment of Three Million U.S. Dollars ($3,000,000) within ten (10) Business Days after the Effective Date.

8.2 Technology Transfer Payment. In further consideration of the rights and licenses granted to Acutus hereunder, Acutus will pay to the BIO Parties a one-time, non-refundable, non-creditable technology transfer payment in the amount of Seven Million U.S. Dollars ($7,000,000) as follows: (a) Five Million U.S. Dollars ($5,000,000) shall be due and payable upon delivery or making available by the BIO Parties to Acutus all of the items (for which the BIO Parties are responsible) of Manufacturing Technology described in EXHIBIT 4.3(a) and the BIO FS Product Know-How described in EXHIBIT 4.3(b), and (b) the remaining Two Million U.S. Dollars ($2,000,000) shall be due and payable no later than 31 December 2019 ((a) and (b) collectively, the "Cash Technology Transfer Payment"). In addition to the foregoing Cash Technology Transfer Payment, and in further consideration of the rights and licenses granted to Acutus hereunder, Acutus will transfer to the BIO Parties shares of Acutus Series D preferred stock having an implied value of Five Million U.S. Dollars ($5,000,000) (which the Parties expect to equal at least two and one-half million (2,500,000 shares) (the "Shares Technology Transfer Payment"), on the terms set forth in EXHIBIT 8.2. The Shares Technology Transfer Payment shall be due and payable by Acutus on or before 31 March 2020 (or such later date as the Parties may later mutually agree in writing if Acutus requests an extension of this date).

8.3 Milestone Payments. In further consideration of the licenses and other rights granted to Acutus, upon achievement of each of the milestone events (each, a "Milestone") set forth in the table immediately below by Acutus, its Affiliates or Sublicensees, Acutus shall pay the corresponding one-time, non-refundable, non-creditable milestone payment (each, a "Milestone Payment") to the BIO Parties.

Milestone Number	Milestone Event	Milestone Payment (US$)
1	Upon receipt of the first Marketing Authorization Approval for the first FS Catheter in the EU in the Field	Two Million U.S. Dollars ($2,000,000)
2	Upon receipt of the first Marketing Authorization Approval for the first FS Catheter in the U.S. in the Field and indicated for use in atrial fibrillation ablation	Five Million U.S. Dollars ($5,000,000)
3	Upon First Commercial Sale in the U.S. of the first FS Catheter	Three Million U.S. Dollars ($3,000,000)

8.4 Unit Based Royalty Payment. In further consideration of the rights granted by the BIO Parties to Acutus hereunder, beginning and after the First Commercial Sale of the first FS Catheter within the FS Product Line in the Territory, Acutus shall make certain royalty payments to BIO Parties equal to in accordance with the table set forth in EXHIBIT 8.4, which payment shall be determined per each unit of such FS Catheters Sold by Acutus, its Affiliates or Sublicensees in the Territory that is Covered by a Valid Claim of a BIO FS Product Patent in the US or EU (the "Unit Based Royalty Payment") in each Calendar Year.

8.5 Unit Based Sales and Royalty Report. Within thirty (30) days after each Calendar Quarter during the Term, following the First Commercial Sale of a FS Catheter by Acutus, its Affiliates, or Sublicensees, Acutus will prepare and provide to the BIO Parties a report setting forth the number of FS Catheters Sold in such Calendar Quarter and the royalties payable by Acutus (the "Unit Based Sales and Royalty Report").

8.6 Reports and Payment Terms.

(a) Milestones. Each Milestone shall be deemed earned as of the first achievement of the corresponding Milestone Event as set forth in Section 8.3. Acutus shall notify the BIO Parties in writing within thirty (30) days after the achievement of any Milestone Event. Following submission of a notice of the achievement of a Milestone Event, the BIO Parties shall submit an invoice to Acutus with respect to the corresponding milestone payment. Within thirty (30) days of the date of receipt of such invoice, Acutus shall make the milestone payment in accordance with Section 8.7.

(b) Unit Based Royalty Payments. Within thirty (30) days after each Calendar Quarter during the Term, following the First Commercial Sale of the first FS Catheter, Acutus will provide to the BIO Parties a Unit Based Sales and Royalty Report. Biotronik shall submit an invoice to Acutus with respect to the Unit Based Royalty Payment amount shown therein. Acutus shall then make such Unit Based Royalty Payment within thirty (30) days of the date of receipt such invoice in accordance with Section 8.7.

8.7 Payment Method. All payments due under this Agreement to the BIO Parties shall be by wire transfer or electronic funds transfer in U.S. Dollars to the following bank account owned by VascoMed:

[ ]

or such other bank account as designated by either of the BIO Parties and confirmed by the other BIO Party in writing to Acutus at least ten (10) Business Days in advance of such payment's due date. Any payment which falls due on a date which is not a Business Day in the location from which the payment will be made may be made on the next succeeding Business Day in such location.

8.8 Currency; Exchange Rate. All payments to be made by Acutus to the BIO Parties under this Agreement shall be made in U.S. Dollars. If and when conversion of payments from or into any foreign currency is required to be undertaken by Acutus, the U.S. Dollar equivalent shall be calculated using the buying rate for the applicable currency of the country from which the royalties are payable, certified by the United States Federal Reserve Bank of New York, as published from time to time by the United States Federal Reserve Board, on the Internet at http://www.federalreserve.gov/releases/h10/, measured in accordance with the weighted average exchange rate associated with the Calendar Quarter during which any such royalties are due to be paid hereunder.

8.9 Late Payments. Any undisputed amount owed by Acutus to the BIO Parties under this Agreement that is not paid on or before the conclusion of a ten (10)-day grace period following the date such payment is due shall bear interest of six percent (6%) per annum; *provided*, that the foregoing shall not accrue on undisputed amounts that were paid after the due date as a result of mistaken BIO Parties actions (e.g., if a payment is late as a result of the BIO Parties providing an incorrect account for receipt of payment).

8.10 Taxes. Each Party shall be solely responsible for the payment of all taxes imposed on its share of income arising directly or indirectly from the activities of the Parties under this Agreement. The Parties agree to cooperate with one another and use reasonable efforts to avoid or reduce tax withholding or similar obligations in respect of royalties, Milestones, and other payments made by Acutus to the BIO Parties under this Agreement. To the extent Acutus is required by Applicable Law to deduct and withhold taxes owed by the BIO Parties on any payment to the BIO Parties under this Agreement, Acutus shall pay the amounts of such taxes to the Governmental Authority on the BIO Parties' behalf in a timely manner, and the sum payable to the BIO Parties shall be decreased by the same amount. The BIO Parties shall provide Acutus any tax forms and such other documents as may be reasonably requested by Acutus that are necessary in order for Acutus to not withhold tax or to withhold tax at a reduced rate under an applicable bilateral income tax treaty. The BIO Parties shall use reasonable efforts to provide any such tax forms and documents to Acutus in advance of the due date. Each Party shall provide the other with reasonable assistance to enable the recovery, as permitted by Applicable Law, of withholding taxes or similar obligations resulting from payments made under this Agreement, such recovery to be for the benefit of the BIO Parties as the Party bearing such withholding tax under this Section 8.10.

8.11 Records and Audit Rights.

(a) Financial Records. Each Party shall keep complete and accurate books and records with respect to activities undertaken pursuant to this Agreement in accordance with its respective Accounting Standards and in sufficient detail to support calculations of all payments that may become due hereunder. Each Party will keep such books and records for seven (7) years following the end of the Calendar Year to which they pertain, unless otherwise required by Applicable Law. For the avoidance of doubt, the BIO Parties shall maintain such books and records for the sole and limited purpose of enabling Acutus to verify the accuracy of any costs reported by the BIO Parties that are to be reimbursed by Acutus.

(b) Audits.

(i) Each Party shall have the right to appoint an internationally- recognized independent certified public accounting firm (which is reasonably acceptable to the other Party) (the "Auditor") to audit the relevant books and records of the other Party solely to verify the correctness of any payments made or required to be made to or by the other Party pursuant to the terms of this Agreement. Before beginning its audit, the Auditor shall execute an undertaking reasonably acceptable to the other Party by which the Auditor shall keep confidential all information reviewed during such audit. The Auditor shall have the right to disclose to the auditing Party only its conclusions regarding any payments owed under this Agreement.

(ii) Each Party shall make its books and records available for inspection by such Auditor during regular business hours at such place or places where such books and records are customarily kept, upon receipt of reasonable advance notice from the other Party, solely to verify the accuracy of the payments to be made hereunder. The Auditor may only audit the books and records of such Party from the three (3) Calendar Years prior to the Calendar Year in which the audit request is made. Such inspection right shall not be exercised more than once in any Calendar Year and not more frequently than once with respect to books and records covering any specific period of time. All information received and all information learned by the auditing Party in the course of any audit or inspection shall constitute Confidential Information of the audited Party.

(iii) The auditing Party shall pay for the cost of the Auditor, as well as its own expenses associated with enforcing its rights with respect to any payments hereunder, except that in the event there is any adjustment adverse to the audited Party in aggregate amounts payable for any Calendar Year shown by such audit of more than five percent (5%) of the amount paid, then the audited Party shall pay for the cost of the Auditor.

(iv) The Auditor shall provide its initial draft of its report to the BIO Parties and Acutus simultaneously for their review and comment, which comments each of the BIO Parties and Acutus must provide within sixty (60) days of receipt of the draft, failing which it shall be deemed to have no comments. The Auditor shall consider, but is not required to accept, any such comments. Further, in its report, the Auditor shall have the right to disclose its conclusions regarding any underpayment or overpayment under this Agreement, but shall not have the right to disclose any other Confidential Information obtained regarding the audited Party's results or processes obtained through the audit. The Auditor shall thereafter provide its final report to the BIO Parties and Acutus contemporaneously.

(v) If, after conducting an audit pursuant to this Section 8.11(b), the Auditor concludes that adjusted payments are required hereunder, then the Parties shall carry out such adjustments pursuant to Section 8.7.

(vi) If and to the extent Acutus is required under this Agreement to make payment to the BIO Parties for certain reimbursable costs (e.g., as provided under Section 4.3(a) in the event the BIO Parties expend additional resources and FTEs to effect the Manufacturing Technology transfer to Acutus), then Acutus shall be permitted to exercise the audit rights under this Section 8.11 only with respect to that limited portion of the BIO Parties' financial books and records that directly relate to the costs incurred by the BIO Parties for such additional resources and FTE commitments and solely for the purpose of confirming the accuracy of such reported reimbursable costs.

8.12 Costs. In addition to the specific costs to be assumed by each of the BIO Parties and Acutus as described herein, each Party will be responsible for all costs that it incurs in exercising its rights and meeting its obligations under this Agreement, except as expressly set forth otherwise in this Agreement.

8.13 No Guarantee. Each of the BIO Parties and Acutus acknowledges and agrees that nothing in this Agreement shall be construed as representing an estimate or projection of anticipated sales of the FS Product Line and External Products used in connection therewith, and that the milestone events and royalty obligations set forth in this Agreement or that have otherwise been discussed by the Parties are merely intended to define the milestone payments and royalty obligations to the BIO Parties in the event such milestone events or unit sales of the FS Catheter are achieved. Neither Party provides any representation, warranty, or guarantee that (a) the Manufacture of any product within the FS Product Line or the External Products used in connection therewith will be successful, or even if successful that it will be commercially viable; (b) Development of any product within the FS Product Line or the External Products used in connection therewith will be successful; (c) that Marketing Authorization Approval or any other Regulatory Approval for any product within the FS Product Line or the External Products will be obtained; or (d) that any other particular results will be achieved with respect to the Commercialization of any product within the FS Product Line or External Products used in connection therewith.

ARTICLE 9
INTELLECTUAL PROPERTY

9.1 Ownership of Inventions. As between the Parties, each Party shall own all inventions and information generated by it and its Affiliates and their respective employees, agents, and independent contractors in the course of conducting such Party's activities under this Agreement. Except as mutually agreed by the Parties, neither Party shall prepare, file, prosecute, maintain, enforce, or defend any jointly owned patent or patent application other than BIO FS Product Patents or Later Acquired Acutus Patents.

9.2 Disclosure of Inventions. Each Party shall promptly disclose to the other Party all inventions arising in the course of conducting such Party's activities under this Agreement, including all invention disclosures or other similar documents submitted to such Party by its, or its Affiliates, employees, agents, or independent contractors describing such inventions. Such Party shall also respond promptly to reasonable requests from the other Party for more information relating to such inventions.

9.3 Filing, Prosecution, Maintenance, Enforcement, and Defense of the BIO FS Product Patents.

(a) As between the Parties, the BIO Parties shall have the initial right and authority (but not the obligation) to prepare, file, prosecute (including any oppositions, interferences, reissue proceedings, reexaminations and post-grant proceedings), and maintain the BIO FS Product Patents. The BIO Parties shall advise Acutus of the status of prosecution of the BIO FS Product Patents and shall provide Acutus with copies of any material patent prosecution communications and filings reasonably in advance of any filing or other communication deadline, to allow Acutus the opportunity to

comment thereon and consult with the BIO Parties about, and consider in good faith requests and suggestions of Acutus concerning, such prosecution of the BIO FS Product Patents. The BIO Parties shall be responsible for all costs incurred by it in the course of preparing, filing, prosecuting, maintaining, enforcing and defending the BIO FS Product Patents.

(b) If either Party learns of any actual or suspected commercially material infringement by a Third Party of a Patent Right related to the BIO FS Product Patents, it shall promptly notify the other Party, and representatives of the BIO Parties and Acutus shall confer to determine in good faith an appropriate course of action to enforce such Intellectual Property Rights; *provided*, that the BIO Parties shall have the initial right (but not the obligation) to be the Controlling Party of any such action that pertains to any such action in the Non-Perpetual Territory or to any External Product and Acutus shall have the initial right (but not the obligation) to be the Controlling Party of any such action that pertains to a product within the FS Product Line in the Perpetual Territory.

(c) Upon notice that a Third Party has commenced any action to oppose, revoke, cancel, or invalidate a Patent Right related to the BIO FS Product Patents, the BIO Parties and Acutus shall confer to determine in good faith an appropriate course of action to defend such Intellectual Property Rights; *provided*, that the BIO Parties shall be the Controlling Party of any such defense unless otherwise mutually agreed by the Parties; *provided further*, that where such defense is in connection with any enforcement action, the Party controlling the enforcement action as provided in Section 9.3(b) shall be the Controlling Party, unless there is a product, technology, or platform other than a product within the FS Product Line or the External Products that is owned or Controlled by the BIO Parties and protected by the BIO FS Product Patents in question or any other Patent Rights that claim priority to or share priority with such BIO FS Product Patents, in which case the BIO Parties shall control such defense.

(d) In the event that the BIO Parties decide not to file or prosecute, or to abandon or let lapse, any patent application or Patent Right related to or within the BIO FS Product Patents during the Term, the BIO Parties shall notify Acutus of such decision at least sixty (60) days prior to the expiration of any deadline relating to such activities. Acutus shall have the option, but not the obligation, to assume responsibility in writing within thirty (30) days of such notice for prosecuting, maintaining, and defending such patent application or Patent Right, at Acutus' sole cost and expense. Assuming Acutus exercises its option, Acutus shall keep the BIO Parties informed of material communications to and from the applicable patent offices concerning prosecution of such patent application or Patent Right.

(e) Cooperation in Prosecution and Extensions. Each Party shall provide the other Party all reasonable assistance and cooperation in the patent prosecution efforts as provided in this Section 9.2, including, with respect to patent term extensions, supplemental protection certificates and other patent filings and linkages, including providing any necessary powers of attorney and executing any other required documents or instruments for such prosecution.

9.4 Filing, Prosecution, Maintenance, and Defense of the Later Acquired Acutus Patents.

(a) As between the Parties, Acutus shall have the initial right and authority (but not the obligation) to prepare, file, prosecute (including any oppositions, interferences, reissue proceedings, reexaminations and post-grant proceedings), maintain, enforce and defend the Later Acquired

Acutus Patents. Acutus shall advise the BIO Parties of the status of prosecution of the Later Acquired Acutus Patents and shall provide the BIO Parties with copies of any material patent prosecution communications and filings reasonably in advance of any filing or other communication deadline, to allow the BIO Parties the opportunity to comment thereon and consult with Acutus about, and consider in good faith requests and suggestions of the BIO Parties concerning, such prosecution of the Later Acquired Acutus Patents. Acutus shall be responsible for all costs incurred by it in the course of preparing, filing, prosecuting and maintaining the Later Acquired Acutus Patents.

(b) If either Party learns of any actual or suspected commercially material infringement by a Third Party of a Patent Right related to Later Acquired Acutus Patents, it shall promptly notify the other Party, and representatives of Acutus and the BIO Parties shall confer to determine in good faith an appropriate course of action to enforce such Intellectual Property Rights; *provided*, that Acutus shall have the initial right (but not the obligation) to be the Controlling Party of any such action.

(c) Upon notice that a Third Party has commenced any action to oppose, revoke, cancel, or invalidate a Patent Right related to the Later Acquired Acutus Patents, Acutus and the BIO Parties shall confer to determine in good faith an appropriate course of action to defend such Intellectual Property Rights; *provided*, that Acutus shall be the Controlling Party of any such defense unless otherwise mutually agreed by the Parties; *provided further*, that where such defense is in connection with any enforcement action, the Party controlling the enforcement action as provided in Section 9.4(b) shall be the Controlling Party, unless there is a product, technology, or platform other than a product within the FS Product Line or the External Products that is owned or Controlled by Acutus and protected by the Later Acquired Acutus Patents in question or any other Patent Rights that claim priority to or share priority with such Later Acquired Acutus Patents, in which case the Acutus shall control such defense.

(d) In the event that Acutus decides not to file or prosecute, or to abandon or let lapse, any Later Acquired Acutus Patents during the Term, Acutus shall notify the BIO Parties of such decision at least sixty (60) days prior to the expiration of any deadline relating to such activities. The BIO Parties shall have the option (but not the obligation) to assume responsibility in writing within thirty (30) days of such notice for prosecuting, maintaining, and defending such Later Acquired Acutus Patents, at the BIO Parties' sole expense. Failure by the BIO Parties to provide Acutus with its written intent to assume such prosecution, maintenance, and defense shall be considered a decision by the BIO Parties that it will not exercise such option, and such option shall immediately terminate. Assuming the BIO Parties exercises its option, the BIO Parties shall keep Acutus informed of all material communications to and from the applicable patent offices concerning prosecution of such Later Acquired Acutus Patent.

(e) Cooperation in Prosecution and Extensions. Each Party shall provide the other Party all reasonable assistance and cooperation in the patent prosecution efforts as provided in this Section 9.4, including, with respect to patent term extensions, supplemental protection certificates and other patent filings and linkages, including providing any necessary powers of attorney and executing any other required documents or instruments for such prosecution.

9.5 Enforcement and Defense of Patent Rights.

(a) A Party asserting its right to enforce or defend any Patent Right under this Agreement (the "Controlling Party") shall keep the other Party reasonably informed during the course of any legal action related to such enforcement or defense (an "Action"), and shall consult with such other Party before taking any major steps during the conduct of such Action. The other Party shall provide all reasonable cooperation to the Controlling Party in connection with such Action, including being named as a party to such Action if required for standing purposes.

(b) The Controlling Party in an Action shall not take any position with respect to, or compromise or settle, such Action in any way that is reasonably likely to directly and adversely affect the scope, validity, or enforceability of any patent without the other Party's prior written consent (not to be unreasonably withheld, conditioned, or delayed).

(c) A Party having the right to be the Controlling Party in an Action shall provide prompt written notice to the other Party (in a sufficiently timely manner that such Action will not be prejudiced) if:

(i) it does not intend to pursue the Action pursuant to this Section 9.5 or take such other action as is required or permitted under the Act to preserve its ability to prosecute a potential Action; or

(ii) it has not commenced such Action within the earlier of: (A) ninety (90) days after notice of infringement, or (B) twenty-one (21) days prior to the time limit, if any, set forth under Applicable Law for filing such Action or taking such other action; or

(iii) it has ceased or intends to cease to diligently pursue such Action or such other action

(d) Upon receipt of such written notice under Section 9.5(c), the other Party shall have the option to become the Controlling Party. The other Party shall respond with written notice within five (5) Business Days indicating if it intends to exercise such option, upon which such other Party shall become the Controlling Party, and may take its own action (at its own expense) to enforce, or take such other action with respect to, such Action, including initiating its own Action or taking over prosecution of any such Action initiated previously. Failure to provide such written notice shall be considered a decision by the other Party that it will not exercise such option, and such option shall immediately terminate.

(e) Any recovery from an Action shall be first used to offset expenses of each Party directly attributable to such Action in proportion to each Party's expenses. Any remaining recovery shall belong to the Controlling Party.

9.6 Personnel Obligations. Prior to beginning work as contemplated under this Agreement, each employee, subcontractor, consultant, representative, or agent of the BIO Parties or Acutus or of either Party's respective Affiliates or sublicensees shall be bound by nondisclosure and invention assignment obligations which are consistent with the obligations of the BIO Parties or Acutus, as applicable, in this ARTICLE 9, to the extent permitted by Applicable Law. It is understood and agreed that such non-disclosure and invention assignment agreement need not reference or be specific to this Agreement.

9.7 Trademarks and Corporate Logos. Except as set forth in this Agreement, each Party and its Affiliates shall retain all right, title, and interest in and to its and their respective corporate trademarks, house marks, corporate names, or logos. Neither Party shall, without the other Party's prior written consent, use any such trademarks, house marks, corporate names, or logos of the other Party, or marks confusingly similar thereto, in connection with such Party's Commercialization of any product in the Territory under this Agreement; *provided*, that (a) with regard to Commercialization

of any FS Product and/or FS Electronic Product by Acutus in the Perpetual Territory, Acutus shall use its own logo and Acutus Trademarks on all packaging for and materials regarding the foregoing in the Perpetual Territory, and (b) with regard to Commercialization of any External Products by Acutus in the Territory (including the Perpetual Territory), Acutus shall use the respective BIO Parties' logo and relevant BIO Parties Trademarks on all packaging for and materials regarding the foregoing in the Territory; *provided further,* that with regard to Commercialization of any product within the FS Product Line by the BIO Parties in the Non-Perpetual Territory that is supplied by Acutus to the BIO Parties, the BIO Parties shall be permitted to use either its own logo and BIO Parties Trademarks (to the extent permitted by Applicable Law) or Acutus' logo or Acutus Trademarks on all packaging for and materials regarding the foregoing, in accordance with Section 6.7.

ARTICLE 10
REPRESENTATIONS AND WARRANTIES

10.1 Mutual Representations and Warranties. Each Party hereby represents and warrants to the other Party as of the Effective Date as follows:

(a) Corporate Existence and Power. It is a corporation duly organized, validly existing, and in good standing under the laws of the jurisdiction in which it is incorporated, and has full corporate power and authority and the legal right to own and operate its property and assets and to carry on its business as it is now being conducted and as contemplated by this Agreement, including the right to grant the licenses and rights granted by it hereunder.

(b) Authority and Binding Agreement. It has the corporate power and authority and the legal right to enter into this Agreement and perform its obligations hereunder; it has taken all necessary corporate action on its part required to authorize the execution and delivery of this Agreement and the performance of its obligations hereunder; and this Agreement has been duly executed and delivered on behalf of such Party, and constitutes a legal, valid, and binding obligation of such Party that is enforceable against it in accordance with its terms, subject to the application of principles of equity, the availability of the remedy specific performance, and to applicable public policy and court discretion.

(c) No Conflict. It is not a party to any agreement or commitment that would prevent it from performing its obligations under this Agreement.

(d) No Debarment. None of such Party's employees, consultants or contractors: (i) (is debarred under Section 306(a) or 306(b) of the FD&C Act or by the analogous Applicable Law of any Regulatory Authority; (ii) has, to such Party's knowledge, been charged with, or convicted of, any felony or misdemeanor within the ambit of 42 U.S.C. §§ 1320a-7(a), 1320a-7(b)(l)–(3), or pursuant to any analogous Applicable Laws, or is proposed for exclusion, or is the subject of exclusion or debarment proceedings by a Regulatory Authority; or (iii) is excluded, suspended or debarred from participation, or is otherwise ineligible to participate, in any U.S. or non-U.S. healthcare programs, or is excluded, suspended or debarred by any Regulatory Authority from participation, or is otherwise ineligible to participate, in any procurement or non-procurement programs (collectively, (i) through (iii), the "Debarment Laws").

10.2 Representations, Warranties, and Covenants by the BIO Parties. The BIO Parties hereby represent and warrant to Acutus as of the Effective Date as follows:

(a) Sufficient Rights. The BIO Parties have sufficient rights, power, and authority to grant the licenses and rights under Section 2.1 for the purposes expressly set forth in this Agreement in the Field in the Territory.

(b) No Conflict. As of the Effective Date, (i) the BIO Parties have not granted rights to any Third Party that conflict with the rights granted to Acutus hereunder, and (ii) the licensing of the BIO FS Product Technology to Acutus under this Agreement does not breach any contract between the BIO Parties and any Third Party or give rise to any financial obligation to any Third Party under any such contract to which BIO Parties are a party.

(c) Notice of Infringement or Misappropriation. To the BIO Parties' knowledge, no Third Party is infringing or has infringed or is misappropriating the BIO Product Technology existing as of the Effective Date. In addition, as of the Effective Date, neither of the BIO Parties has received written notification from any Third Party alleging that any of the BIO Product Technology infringes or misappropriates any Intellectual Property Rights of a Third Party.

(d) No Legal Proceedings. To the BIO Parties' knowledge, there is no action, suit, proceeding, or arbitration (other than ordinary course patent prosecution proceedings), in law or in equity, pending as the Effective Date against either of the BIO Parties involving the FS Product Line or the External Products.

10.3 Representations and Warranties by Acutus. Acutus hereby represents and warrants to the BIO Parties as of the Effective Date as follows:

(a) Sufficient Rights. Acutus has sufficient rights, power, and authority to grant the licenses and rights under Section 2.2.

(b) Due Diligence. Acutus acknowledges that, (i) to the knowledge of Acutus, it has been furnished the material related to the BIO Product Technology and Manufacturing Technology that it has requested in connection with the diligence process; (ii) it has completed to its satisfaction an investigation of the BIO Product Technology and Manufacturing Technology; and (iii) in making its decision to enter into this Agreement, and to consummate the transactions contemplated hereby, it is not relying on any representations or warranties of the BIO Parties other than the representations and warranties set forth in Sections 10.1 and 10.2. Acutus has no knowledge that any representation or warranties of the BIO Parties made in this Agreement are not true and correct.

(c) No Legal Proceedings. There is no action, claim, suit, proceeding, arbitration, summons or subpoena (other than ordinary course patent prosecution proceedings) of any nature, civil, criminal, regulatory or otherwise, in law or in equity, pending or, to the best of Acutus' knowledge after due and proper investigation by Acutus, threatened in writing against Acutus.

10.4 Covenants by BIO Parties.

(a) Patent Challenge. The BIO Parties shall not, and shall ensure that its Affiliates shall not, directly or indirectly through any Third Party, challenge the validity or enforceability of any Later Acquired Acutus Patent, within the scope of the license granted to BIO Parties under this Agreement, in any jurisdiction.

(b) No Conflict. During the Term, the BIO Parties will not grant rights or licenses to any Third Party that conflict with, limit, impair or restrict any of the rights or licenses granted to the BIO Parties hereunder.

10.5 Covenants by Acutus.

(a) Patent Challenge. Acutus shall not, and shall ensure that its Affiliates shall not, directly or indirectly through any Third Party, challenge the validity or enforceability of any BIO FS Product Patent, within the scope of the license granted to BIO Parties under this Agreement, in any jurisdiction.

(b) No Conflict. During the Term, Acutus will not grant rights or licenses to any Third Party that conflict with, limit, impair or restrict any of the rights or licenses granted to the BIO Parties hereunder.

(c) FTO. Acutus agrees and covenants that promptly following the Effective Date it shall, at its sole cost and expense, using external counsel of its choice, undertake and complete a diligent search and analysis of Third Party owned Patent Rights that may be infringed by the Commercialization of the FS Product Line in the U.S. as contemplated by this Agreement (any such Patent Rights identified by Acutus, a "Potential FTP Issue"). Acutus shall, at its sole cost and expense, appropriately resolve any Potential FTO Issues.

10.6 Covenants by Both Parties.

(a) Conduct of Activities.

(i) Each Party and its respective Affiliates, and its and their respective employees and contractors, in connection with the performance of its and their respective obligations under this Agreement, shall not violate any Applicable Law, the federal civil false claims act (or any state equivalent), government price reporting laws, consumer protection and unfair trade practices laws or export control laws.

(ii) Each Party shall promptly (and in any event within three (3) Business Days) notify the other Party if such notifying Party has determined that there may be a violation of Applicable Law in connection with the performance under this Agreement or the Development, Commercialization and/or Distribution of any product under this Agreement by any Party or any Person.

(b) No Debarment. Neither Party will use, during the Term, any employee, consultant or contractor who has been or is subject to debarment, exclusion, or suspension under any Debarment Laws.

(c) Anti-Bribery. Without limiting the generality of Section 10.6(a)(i), (i) it has been and will continue to comply with all applicable anti-bribery and anti-corruption laws, including the U.S. Foreign Corrupt Practices Act of 1977 (or similar Applicable Law outside the United States), and (ii) to its knowledge, no bribes, payments, kickback, gifts, hospitality, donations, loans, or anything of value have been or will be made or received, offered, promised or authorized by such Party, directly or indirectly, to improperly influence any act or decision of any Person or entity, induce any Person or entity to do or omit to do any act in violation of any Person's or entities' lawful duties, or secure any improper advantage.

10.7 No Other Representations or Warranties. EXCEPT AS EXPRESSLY STATED IN THIS ARTICLE 10, (A) NO REPRESENTATION, CONDITION OR WARRANTY WHATSOEVER IS MADE OR GIVEN BY OR ON BEHALF OF THE BIO PARTIES OR ACUTUS, AND (B) ALL OTHER CONDITIONS AND WARRANTIES WHETHER ARISING BY OPERATION OF LAW OR OTHERWISE ARE HEREBY EXPRESSLY EXCLUDED, INCLUDING ANY CONDITIONS AND WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR NON-MIS APPROPRIATION.

ARTICLE 11
INDEMNIFICATION

11.1 Indemnification by the BIO Parties. The BIO Parties shall defend, indemnify, and hold Acutus, its Affiliates, and each of their respective shareholders, owners, officers, directors, employees, and agents (the "Acutus Indemnitees") harmless from and against all damages or other amounts payable to a Third Party claimant, as well as any reasonable attorneys' fees and expenses incurred by such Acutus Indemnitees (collectively, the "Acutus Damages"), to the extent resulting from any claims, suits, proceedings or causes of action brought by such Third Party (collectively, the "Acutus Claims") against such Acutus Indemnitee that arise from: (a) any BIO Party Liability Undertaking; (b) the willful misconduct, recklessness or grossly negligent acts of any of Biotronik, VascoMed, their Affiliates, and each of their respective officers, directors, employees, and agents (the "BIO Party Indemnitees"); or (c) the breach of any of the BIO Parties' representations, warranties or covenants set forth in ARTICLE 10; *provided, however,* except in each case to the extent that such Acutus Claims or Acutus Damages are attributable to any matter for which Acutus is obligated to indemnify a BIO Party Indemnitee pursuant to Section 11.2.

11.2 Indemnification by Acutus. Acutus shall defend, indemnify, and hold the BIO Party Indemnitees harmless from and against any and all damages or other amounts payable to a Third Party claimant, as well as any reasonable attorneys' fees and expenses by such BIO Party Indemnitees (collectively, "BIO Party Damages"), to the extent resulting from any claims, suits, proceedings or causes of action brought by such Third Party (collectively, "BIO Party Claims") against such BIO Party Indemnitee that arise from: (a) any Acutus Liability Undertaking; (b) the willful misconduct, recklessness or grossly negligent acts of any Acutus Indemnitees; or (c) a breach of any of Acutus' representations, warranties or covenants set forth in ARTICLE 10; *provided, however,* except in each case to the extent that such BIO Party Claims or BIO Party Damages are attributable to any matter for which the BIO Parties are obligated to indemnify an Acutus Indemnitee pursuant to Section 11.1.

11.3 Indemnification Procedures.

(a) A Person entitled to indemnification pursuant to either Section 11.1 or Section 11.2 will hereinafter be referred to as an "Indemnitee." A Party obligated to indemnify an Indemnitee hereunder will hereinafter be referred to as an "Indemnitor." In the event any Acutus Indemnitee or BIO Party Indemnitee is seeking indemnification under either Section 11.1 or Section 11.2, Acutus or the BIO Parties, as applicable, will inform the applicable Indemnitor of a Claim as soon as reasonably practicable, but in no event more than five (5) Business Days, after it receives notice of the Claim, it being understood and agreed that the failure to give notice of a Claim as provided in this Section 11.3 will not relieve the Indemnitor of its indemnification obligation under this Agreement except and only to the extent that such Indemnitor is actually and materially prejudiced as a result of such failure to give notice.

(b) The Indemnitee will permit the Indemnitor to assume direction and control of the defense of such Claim using counsel selected by the Indemnitor and reasonably acceptable to the Indemnitee and, at the Indemnitor's expense, will cooperate, and cause its Affiliates and agents to cooperate, as reasonably requested in the defense of such Claim. The Indemnitee will have the right to retain its own counsel at its own expense.

(c) The Indemnitor may not settle such Claim, or otherwise consent to an adverse judgment in such Claim without the Indemnitee's prior written consent, not to be unreasonably withheld or delayed; *provided*, that the Indemnitor shall not be required to obtain such consent with respect to the settlement of any Claim under which the sole relief provided is for monetary damages that are paid in full by the Indemnitor, which would not diminish or limit or otherwise adversely affect the rights, activities or financial interests of the Indemnitee, and which does not result in any finding or admission of fault by the Indemnitee. Each of the Indemnitee and the Indemnitor shall not make any admission of liability in respect of any Claim without the prior written consent of the other Party, and the Indemnitee shall use reasonable efforts to mitigate Losses arising from such Claim.

11.4 Limitation of Liability. NEITHER PARTY NOR ANY OF ITS AFFILIATES SHALL BE LIABLE IN LAW, EQUITY, CONTRACT, TORT, NEGLIGENCE, BREACH OF STATUTORY DUTY, OR OTHERWISE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OR LOSS OF PROFITS OR OPPORTUNITIES OR DIMINUTION OF GOODWILL SUFFERED BY THE OTHER PARTY OR ANY OF ITS AFFILIATES, EXCEPT FOR A BREACH OF ARTICLE 12 OR TO THE EXTENT ANY SUCH DAMAGES ARE REQUIRED TO BE PAID TO A THIRD PARTY AS A RESULT OF A CLAIM FOR WHICH A PARTY PROVIDES INDEMNIFICATION UNDER THIS ARTICLE 11. NOTWITHSTANDING ANYTHING EXPRESS OR IMPLIED IN THIS SECTION 11.4, A PARTY OR ITS AFFILIATE, AS APPLICABLE, SHALL BE ENTITLED TO RECOVER ALL AMOUNTS ACCRUED AND OWING UNDER THIS AGREEMENT.

11.5 Insurance. Each Party shall secure and maintain in effect, during the Term of this Agreement, comprehensive general liability insurance (including product liability insurance and coverage for Clinical Trials), underwritten by a reputable insurance carrier, in a form and having liability limits standard and customary for entities in the medical device industry in each applicable country within the Territory based on such Party's activities and indemnification obligations under this Agreement, as applicable. Each Party shall provide the other Party with written evidence of such insurance promptly upon request.

ARTICLE 12
CONFIDENTIALITY

12.1 Duty of Confidence.

(a) Subject to the other provisions of this ARTICLE 12, all Confidential Information disclosed by a Party ("Disclosing Party") or its Affiliates under this Agreement will be maintained in confidence and otherwise safeguarded by the other Party ("Recipient Party"). The Recipient Party may only use the Confidential Information for the purposes of this Agreement and pursuant to the rights granted to the Recipient Party under this Agreement. Subject to the other provisions of this ARTICLE 12, each Party shall hold as confidential such Confidential Information of the other Party or its Affiliates in the same manner and with the same protection as such Recipient Party maintains its own confidential information. Subject to the other provisions of this ARTICLE 12, a Recipient Party may only disclose Confidential Information of the other Party to employees, representatives, agents,

sublicensees, subcontractors, consultants and advisers of the Recipient Party and its Affiliates to the extent reasonably necessary for the purposes of, and for those matters undertaken pursuant to, this Agreement; provided that such Persons are bound to maintain the confidentiality and refrain from use of the Confidential Information in a manner consistent with the confidentiality and nonuse provisions of this Agreement.

(b) Subject to the other provisions of this ARTICLE 12, the terms and conditions of this Agreement shall be considered Confidential Information of both Parties and each Party shall maintain in confidence and otherwise safeguard such terms and conditions as such in accordance with this ARTICLE 12.

12.2 Exceptions. The obligations under this ARTICLE 12 shall not apply to any information to the extent the Recipient Party can demonstrate by competent evidence that such information:

(a) is (at the time of disclosure) or becomes (after the time of disclosure) known to the public or part of the public domain through no breach of this Agreement by the Recipient Party or its Affiliates;

(b) was known to, or was otherwise in the possession of, the Recipient Party or its Affiliates without confidentiality obligations prior to the time of disclosure by the Disclosing Party or any of its Affiliates;

(c) is disclosed to the Recipient Party or an Affiliate on a non-confidential basis by a Third Party who is entitled to disclose it without breaching any confidentiality obligation to the Disclosing Party or any of its Affiliates; or

(d) is independently developed by or on behalf of the Recipient Party or its Affiliates, as evidenced by its written records, without use of or reference to the Confidential Information disclosed by the Disclosing Party or its Affiliates under this Agreement.

Specific aspects or details of Confidential Information shall not be deemed to be within the public domain or in the possession of the Recipient Party merely because the Confidential Information is embraced by more general information in the public domain or in the possession of the Recipient Party. Further, any combination of Confidential Information shall not be considered in the public domain or in the possession of the Recipient Party merely because individual elements of such Confidential Information are in the public domain or in the possession of the Recipient Party unless the combination and its principles are in the public domain or in the possession of the Recipient Party.

12.3 Authorized Disclosure.

(a) In addition to disclosures allowed under Section 12.1 and under Section 12.3(c), each Party may disclose Confidential Information belonging to the other Party or its Affiliates solely to the extent such disclosure is necessary in the following instances: (i) filing or prosecuting Patent Rights as permitted by this Agreement, to the extent approved by the Disclosing Party; (ii) in connection with Regulatory Filings for FS Product Line or External Products; (iii) prosecuting or defending litigation arising from this Agreement; (iv) complying with Applicable Law, court orders or governmental regulations, including rules of self-regulatory organizations and SEC filing and disclosure requirements; and (v) to potential or actual investors or acquirers as may be necessary in connection with their evaluation of a potential or actual investment or acquisition; *provided*, that such investors or acquirers shall be subject to reasonable obligations of confidentiality and non-use no less rigorous than the terms contained in this Agreement.

(b) In the event the Recipient Party is required to disclose Confidential Information of the Disclosing Party by law, applicable court order or governmental regulation or in connection with bona fide legal process, such disclosure shall not be a breach of this Agreement; provided that the Recipient Party (i) informs the Disclosing Party as soon as reasonably practicable of the required disclosure; (ii) limits the disclosure to that which is legally required to be disclosed; and (iii) at the Disclosing Party's request and expense, assists in an attempt to object to or limit the required disclosure.

(c) Either Party may disclose the existence and terms of this Agreement in confidence to its attorneys and advisors, and to potential and actual acquirers (and their respective professional attorneys and advisors), in connection with a potential or actual merger, acquisition or reorganization and to existing and potential investors or lenders of such Party, as part of their due diligence investigations, or to existing and potential licensees or sublicensees or to permitted assignees, in each case under reasonable terms of confidentiality and non-use and to use such information solely for the purpose permitted pursuant to this Section 12.3(c), provided that if such disclosure includes the Exhibits to this Agreement, the terms of confidentiality and non-use shall be no less rigorous than the terms contained in this Agreement.

12.4 Public Disclosures of Data.

(a) Neither Party nor any of its Affiliates shall, except as may be required by Applicable Law in the reasonable judgment of such Party or its Affiliates and its or their counsel, publicly disclose data or results of Clinical Trials or Nonclinical Studies with respect to the FS Product Line or External Products that have not already been publicly disclosed (whether conducted prior to or during the Term), except as provided in this Section 12.4.

(b) Publications. Publications of data and results of Clinical Trials or Nonclinical Studies relating to or arising out of Development activities hereunder in peer-reviewed journals or at conferences ("Publications") shall be made only pursuant to this Section 12.4(b). The Party that generated such data and results shall have the final say to publish such data and results. The Party proposing a Publication shall provide the other Party with the opportunity to review the proposed Publication at least thirty (30) days prior to its intended submission for publication. If the other Party offers no comments on the Publication, the submitting Party may submit the Publication thirty (30) days after it provided the Publication to the reviewing Party (or earlier, with the written consent of the reviewing Party). The submitting Party shall consider the comments of the reviewing Party in good faith. Notwithstanding the foregoing, the neither Party shall have the right to publicly disclose the other Party's Confidential Information without such other Party's consent, which consent shall not be unreasonably withheld, except that this restriction shall not restrict such proposing Party from publication of any Clinical Trial results. Each Party agrees to acknowledge the contributions of the other Party, and the employees of the other Party, in all publications as scientifically appropriate.

12.5 Publicity.

(a) A press release announcing this Agreement (but not its contents) will be mutually agreed upon by the Parties and shall be released on the Effective Date, unless otherwise agreed by the Parties. Except pursuant to exercise of a Party's rights under Section 6.7 or Section 12.4, neither Party shall issue any other press release or make any other public announcement concerning this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed; *provided*, that in the event any Party fails to provide such prior written consent, the Party wishing to issue such press release or public announcement may refer such dispute to the JSC for resolution in accordance with Section 3.4. The Party preparing any such other press release or public announcement shall, if reasonably practicable, provide the other Party with a draft thereof at least ten (10) Business Days prior to the date on which such Party would like to issue the press release or make the public announcement; *provided*, *however*, that a Party may issue such press release or public announcement without such prior review and consent by the other Party if (i) the contents of such press release or public announcement have previously been made public other than through a breach of this Agreement by the issuing Party, and (ii) such press release or public announcement does not materially differ from the previously issued press release or other publicly available information. Notwithstanding the foregoing, under no circumstance may either Party use the name, trademark, trade name, logo or image of the other Party or its Affiliates in any publicity, press release or other public announcement, including on any website or public forum, without the prior written consent of the other Party, other than in exercise of such Party's rights under Section 6.7 or Section 12.4. In addition, if a Party enters into a sublicense or other agreement with any sublicensee, subcontractor or other Third Party, such Party shall not permit such sublicensee, subcontractor or other Third Party to use the name, trademark, trade name, logo or image of the other Party or its Affiliates in any publicity, press release or other public announcement, including on any website or public forum, without the prior written consent of the other Party, other than in exercise of such Party's rights under Section 6.7 or Section 12.4. Nothing in this Section 12.5 prohibits disclosure of any statement of fact made regarding the FS Product Line and the External Products used in connection therewith in the course of the conduct of Clinical Trials or communications with Regulatory Authorities.

(b) Notwithstanding the other provisions of this ARTICLE 12, each Party may make any disclosures required of it, including disclosure of the terms of this Agreement, to comply with any duty of disclosure it may have pursuant to Applicable Law or pursuant to the rules of any Governmental Authority (including the SEC or the FDA) or any recognized stock exchange. In the event of a disclosure required by Applicable Law, Governmental Authority or the rules of any recognized stock exchange, the Parties shall coordinate with each other with respect to the timing, form and content of such required disclosure. If the Parties are unable to agree on the timing, form or content of any required disclosure, such disclosure shall be limited to the minimum required as reasonably determined by the Party subject to the disclosure requirement, in consultation with its legal counsel. Notwithstanding the foregoing, if so requested by the other Party, the Party subject to such requirement shall use Commercially Reasonable Efforts to obtain an order protecting to the maximum extent possible the confidentiality of the required disclosures, or such portion thereof as reasonably requested by the other Party, including any provisions of this Agreement requested by the other Party to be redacted from any filing with or by the SEC or other Governmental Authority or recognized stock exchange.

12.6 Return of Confidential Information. Upon the expiration or termination of this Agreement, the Recipient Party shall return to the Disclosing Party or destroy all Confidential Information received by the Recipient Party from the Disclosing Party, except for one copy which may be retained in its confidential files for archive purposes. Notwithstanding the return or destruction of the Disclosing Party's Confidential Information, the Recipient Party shall continue to be bound by its obligations of confidentiality and other obligations under this ARTICLE 12.

ARTICLE 13
TERM AND TERMINATION

13.1 Term. Unless this Agreement is terminated earlier as provided under Section 13.2, this Agreement shall become effective on the Effective Date and shall remain in effect for and including the tenth (10^{th}) anniversary of the Effective Date and shall continue thereafter for successive additional five (5)-year periods until Acutus provides the BIO Parties with written notice of non-renewal at least one (1) year prior to the expiration of the then-current Term (the "Term").

13.2 Termination by Either Party for Breach or Insolvency.

(a) Breach. Either Party (the "Non-Breaching Party") may, without prejudice to any other remedies available to it under Applicable Law or in equity, terminate this Agreement, in its entirety, if the other Party (the "Breaching Party") shall have materially breached this Agreement, and such breach shall have continued for ninety (90) days after written notice thereof was provided to the Breaching Party by the Non-Breaching Party describing the alleged breach. Subject to Section 13.2(b) any such termination of this Agreement under this Section 13.2(a) shall become effective at the end of such ninety (90) day cure period, unless:

(i) the Breaching Party has cured such breach prior to the expiration of such cure period; or

(ii) such breach is not susceptible to cure within such cure period even with the use of Commercially Reasonable Efforts, in which event the Non-Breaching Party's right to termination shall be suspended only if and for so long as (A) the Breaching Party has provided to the Non-Breaching Party a reasonable written plan that is reasonably calculated to address such breach, (B) such plan is acceptable to the Non-Breaching Party, as confirmed in writing, which acceptance shall not be unreasonably withheld, conditioned, or delayed, and (C) the Breaching Party commits to and uses Commercially Reasonable Efforts to carry out such plan; or

(iii) such breach pertains to any breach by Acutus other than (A) failure to timely pay the BIO Parties an undisputed amount due hereunder, or (B) failure to timely issue the shares to the BIO Parties pursuant to Section 8.2 (collectively (A) and (B), an "Acutus Payment Breach"), where in the case of an Acutus Payment Breach, this Agreement shall terminate, and where in the case of any other material breach by Acutus, this Agreement shall not terminate and the licenses and rights granted to Acutus under Section 2.1 that are exclusive or co-exclusive shall convert to non-exclusive, *provided*, *however*, (x) all license rights granted to Acutus under this Agreement shall terminate other than license rights pertaining to the FS Product Line, which licenses shall continue only for the FS Product Line, *provided*, *further*, that where the BIO Parties (in the reasonable opinion of their legal counsel) are exposed to ongoing liability as a result of any such breach from continuing to provide such license rights to Acutus, the BIO Parties shall have the right to terminate such license rights after discussing the liabilities and related risks with Acutus (and the BIO Parties having determined in their discretion that they still are not comfortable with alternative ways to address these liabilities and risks); and (y) the BIO Parties shall, in their discretion, have the right to elect to cease performing any activity or obligation otherwise required of them under this Agreement or any related agreement (including any supply and manufacturing agreement), and may do so without any liability or further obligation to Acutus or its Affiliates or Sublicensees. The Parties acknowledge and agree that the rights and remedies provided under this Section 13.2 and otherwise in this ARTICLE 13 are not the exclusive rights or remedies available to the Parties, or liquidated damages of any kind, and the Parties may at all times seek any other right or remedy available to them at law or in equity, while remaining faithful to the intent of this Agreement, including this Section 13.2(a)(iii) and the mutual desire of the Parties, expressed herein, to permit the continuation of certain license where practicable to do so.

(b) Disagreement. If the Parties reasonably and in good faith disagree as to whether there has been a material breach, the Party that seeks to dispute that there has been a material breach may contest the allegation in accordance with Section 15.2. The cure period for any allegation made in good faith as to a material breach under this Agreement will, subject to Section 15.2 run from the date that written notice was first provided to the Breaching Party by the Non-Breaching Party; *provided*, that such cure period shall be stayed in the event that during such cure period, the alleged Breaching Party shall have initiated dispute resolution in good faith in accordance with Section 15.2 with respect to the alleged breach, which stay shall last until finally determined so long as such alleged Breaching Party diligently and in good faith cooperates in the prompt resolution of such dispute resolution proceedings.

(c) Insolvency. Either Party may terminate this Agreement in its entirety immediately upon written notice to the other Party if an Insolvency Event occurs in relation to the other Party. In any event, when a Party first becomes aware of the likely occurrence of any Insolvency Event that concerns that Party, such Party shall promptly so notify the other Party in sufficient time to give the other Party sufficient notice to enable the other Party to protect its interests under this Agreement.

13.3 Effects of Expiration or Termination.

(a) Accrued Obligations; Termination Not Sole Remedy. Except as otherwise expressly provided herein, the expiration or termination of this Agreement for any reason shall not release either Party from any liability or obligation that, at the time of such expiration or termination, has already accrued to the other Party or that is attributable to a period prior to such expiration or termination, nor will any termination of this Agreement preclude either Party from pursuing all rights and remedies it may have under this Agreement, or at law or in equity, with respect to breach of this Agreement prior to such expiration or termination.

(b) Effects of Expiration or Termination. Upon expiration or termination of this Agreement:

(i) Except for the license granted to the BIO Parties under the Later Acquired Acutus Technology, which shall survive expiration or termination of this Agreement in accordance with its terms, each of the licenses under Section 2.1 and Section 2.2 in the Territory shall terminate;

(ii) Acutus shall cease its Development activities with respect to products within the FS Product Line as well as its Commercialization activities with respect to products within the FS Product Line and any External Products used in connection therewith, in each case in the Field in the Territory;

(iii) Acutus shall cease to represent in any manner that Acutus Commercializes any products within the FS Product Line and any External Products used in connection therewith in the Territory;

(iv) Prior to the effective date of termination, the Parties shall negotiate in good faith a transition plan that sets forth a strategy, financial consideration, and estimated schedule for transition of the FS Product Line (and External Products used in connection therewith) to the BIO Parties in order to seek to minimize any disruption to the Development or Commercialization of such FS Product Line (and External Products used in connection therewith) as soon as reasonably practicable, including any assignment to the BIO Parties (or their designee), of any and all Regulatory Filings made with, and all Marketing Authorization Approvals obtained from, Regulatory Authorities in the Territory specifically relating to any products within the FS Product Line, in all cases, only to the extent such assignment is legally permissible, and to the extent such assignment is not legally permissible, to take such actions to make available to the BIO Parties (or their designee) the benefits of such Regulatory Filings and Marketing Authorization Approval;

(v) The Parties shall cooperate in informing the relevant Regulatory Authorities of the cessation of the applicable activities in relation to the FS Product Line and External Products in the Field in the Territory and use of Acutus' Trademarks;

(vi) Acutus shall promptly provide to the BIO Parties, at no cost to the BIO Parties for items owned by the BIO Parties and at cost for items owned by Acutus, (A) any and all samples of any products within the FS Product Line and Promotional Materials of any kind, including all literature, documents, and training and educational materials, and (B) all Know-How, materials, and other Development Data specifically relating to any products within the FS Product Line, in each case to the extent owned by the BIO Parties or agreed to be transferred pursuant to Section 13.3(b)(iv); *provided*, that Acutus shall be entitled to retain copies of such items for legal archival and regulatory purposes;

(vii) No Milestone achieved with respect to any product(s) within the FS Product Line after the effective date of termination shall give rise to any Milestone Payments by Acutus;

(viii) In the event of termination by Acutus under Section 13.2, Acutus shall have the right to continue to sell its existing inventory of products within the FS Product Line (including those still in production as of the effective date of such termination) and External Products; *provided*, that the BIO Parties shall continue to receive payments with respect to such sales in accordance with the ARTICLE 8 hereof. In the event of termination by the BIO Parties under Section 13.2, the BIO Parties shall be permitted to sell any existing inventory of such products within the FS Product Line (including those still in production as of the effective date of such termination) that contain Acutus' name or Acutus' Trademarks; and

(ix) In the event of termination by Acutus under Section 13.2, Sections 2.1(d) and 7.3 shall survive the agreement, but only as to Acutus' Manufacturing obligations, to permit Acutus to supply the BIO Parties for a period of at least twenty-four (24) months following such termination.

13.4 Rights in Bankruptcy.

(a) All licenses and Development, Manufacturing, and Commercialization rights granted under or pursuant to this Agreement are, and will otherwise be deemed to be, for purposes of § 365(n) of the United States Bankruptcy Code, 11 U.S.C. §§ 101 et seq. (the "Code") and any similar Applicable Law in any other country in the Territory, licenses of rights to "intellectual property" as defined under Section 101 of the Code. The Parties agree that Acutus,

as licensee of such intellectual property under this Agreement, will retain and may fully exercise all of its protections, rights and elections under the Code and any similar laws in any other country in the Territory. The Parties further agree that, in the event of the commencement of a bankruptcy proceeding by or against the BIO Parties under the Code and any similar Applicable Law in any other country in the Territory, Acutus will be entitled to a complete duplicate of (or complete access to, as appropriate) any such intellectual property and all embodiments of such intellectual property, and the same, if not already in its possession, will be promptly delivered to it (i) upon any such commencement of a bankruptcy proceeding upon its written request therefor, unless the BIO Parties elect to continue to perform all of its obligations under this Agreement, or (ii) if not delivered under (i) above, upon written request therefor by Acutus following the rejection of this Agreement by or on behalf of BIO Parties.

(b) All rights, powers, and remedies of Acutus provided for in this Section 13.4 are in addition to and not in substitution for any and all other rights, powers, and remedies now or hereafter existing at law or in equity (including under the Code and any similar Applicable Law in any other country in the Territory). In the event of the bankruptcy of the BIO Parties, Acutus, in addition to the rights, powers, and remedies expressly provided herein, shall be entitled to exercise all other such rights and powers and resort to all other such remedies as may now or hereafter exist at law or in equity (including under the Code and any similar laws in any other country in the Territory). The Parties agree that they intend the following rights to extend to the maximum extent permitted by Applicable Law, including for purposes of the Code and any similar Applicable Law in any other country in the Territory: (i) the right of access to any intellectual property (including all embodiments thereof) of BIO Parties or any Third Party with whom the BIO Parties contracts to perform an obligation of the BIO Parties under this Agreement that is necessary for the Development, Manufacture, and/or Commercialization of any product(s) within the FS Product Line in the Territory; (ii) the right to contract directly with any Third Party described in (i) to complete the contracted work; and (iii) the right to cure any breach of or default under any such agreement with a Third Party and set off the costs thereof against amounts payable to the BIO Parties under this Agreement.

13.5 Survival. Notwithstanding anything to the contrary, the following provisions shall survive and continue to apply after expiration or termination of this Agreement in its entirety: Sections 2.2(b), 2.4, 2.5, 8.7, 8.8, 8.11(a), 8.11(b) (solely for the time period for retaining such financial records as specified therein), 8.12, 8.13, 9.1, 10.7, 13.3, 13.4, 13.5 (subject to the limitations as provided herein), and 14.1(b) (if any such Change of Control involving a Competitive Company occurs during the Term); and ARTICLE 11 (until the applicable statute of limitations has expired), ARTICLE 12 (until the date that is ten (10) years after expiration or termination of the Agreement), and ARTICLE 15. The expiration or termination of this Agreement for any reason will not affect any payment obligation under this Agreement with respect to payment amounts that have accrued as of the date of such expiration or termination.

ARTICLE 14
CHANGE OF CONTROL; NON-COMPETITION

14.1 Change of Control.

(a) Notice. In the event of a Change of Control of either Party (such Party or, if applicable, its successor following a Change of Control, the "Acquired Party"), the Acquired Party shall notify the other Party of such Change of Control in writing no later than five (5) Business Days after the effective date of such Change of Control (a "Change of Control Notice").

(b) Change of Control of Acutus by a Competitive Company. In the event of a Change of Control of Acutus involving a Competitive Company, then from and after such Change of Control of Acutus, the following additional terms shall apply with respect to the BIO Parties and any Competitive Company, as follows:

(i) The Competitive Company shall guarantee, in a separate written agreement with the BIO Parties, in a form and substance reasonably acceptable to the BIO Parties, all of Acutus' obligations under this Agreement and the Manufacture and Supply Agreement, including in respect of the Manufacture and supply products within the FS Product Line under this Agreement, as set forth in ARTICLE 7 and the Manufacture and Supply Agreement;

(ii) The effects specified in Section 1.68 and Section 2.1(a) shall come into force and effect immediately upon the first Change of Control of Acutus involving a Competitive Company;

(iii) Immediately upon the first Change of Control of Acutus involving a Competitive Company, to the extent any of the Milestones set forth in Section 8.3 have not yet occurred or any of their corresponding Milestone Payments have not then yet been paid, all such Milestone Payments become due, payable, and paid immediately by Acutus to the BIO Parties, regardless of the "achievement status" of any Milestone and regardless of any event or circumstance under or in connection with this Agreement or the Manufacture and Supply Agreement; and

(iv) Upon the first Change of Control of Acutus involving a Competitive Company, to the extent the then aggregate Unit Based Royalty Payments paid to the BIO Parties are less than Twenty-Five Million U.S. Dollars ($25,000,000), the difference between the then aggregate Unit Based Royalty Payments paid to the BIO Parties and Twenty-Five Million U.S. Dollars ($25,000,000), limited to such amount not to exceed five percent (5%) of the aggregate upfront consideration received by Acutus, its Affiliates or the shareholders of Acutus in connection with the Change of Control of Acutus (such amount, the "Agreed Upfront Accelerated Royalty Payment"), shall become due, payable, and paid to the BIO Parties within thirty (30) days after such Change of Control by Acutus, as an accelerated payment of such royalties, regardless of any event or circumstance under or in connection with this Agreement or the Manufacture and Supply Agreement. For example, if Acutus is acquired for an upfront payment of Five Hundred Million U.S. Dollars ($500,000,000), then the maximum Agreed Upfront Accelerated Royalty Payment is Twenty-Five Million U.S. Dollars ($25,000,000), but if instead Acutus is acquired for an upfront payment of Fifty Million U.S. Dollars ($50,000,000), then the maximum Agreed Upfront Accelerated Royalty Payment is Two Million Five Hundred Thousand U.S. Dollars ($2,500,000).

(v) Following such first Change of Control of Acutus involving a Competitive Company, each time Acutus, its Affiliates or shareholders receive additional consideration (beyond the upfront consideration) in connection with such Change of Control and the then aggregate Unit Based Royalty Payments paid to the BIO Parties are less than Twenty-Five Million U.S. Dollars then Acutus shall pay to the BIO Parties an amount equal to the following, if such amount is greater than zero (each such payment, an "Agreed Contingent Accelerated Royalty Payment"):

(A) the lesser of (x) five percent (5%) of the aggregate consideration received by Acutus, its Affiliates or shareholders of Acutus in connection with such Change of Control, and (y) Twenty-Five Million U.S. Dollars ($25,000,000) less the then aggregate Unit Based Royalty Payments paid to the BIO Parties; minus

(B) the Agreed Upfront Accelerated Royalty Payment plus each prior Agreed Contingent Accelerated Royalty Payment.

(vi) The Agreed Upfront Accelerated Royalty Payment and each Agreed Contingent Accelerated Royalty Payment shall be credited against any Unit Based Royalty Payments owed by Acutus hereunder and considered as Unit Based Royalty Payments paid (in advance) to the BIO Parties. For avoidance of doubt, no Unit Based Royalty Payment shall be owed until the aggregate additional Unit Based Royalty Payments that would be paid after such Change of Control of Acutus involving a Competitive Company exceed the Agreed Upfront Accelerated Royalty Payment and Agreed Contingent Accelerated Royalty Payment.

14.2 Non-Competition.

(a) Non-Competition. During the Non-Compete Term, except pursuant to and subject to the provisions of this Agreement, neither Party nor any of their respective Affiliates shall Commercialize any Competing Product in the Territory in the Field; *provided*, that the foregoing shall not apply to any entity that becomes an Affiliate through an acquisition of or by a merger with a Third Party. If any such Affiliate is Commercializing a Competing Product, then the applicable Party shall promptly notify the other Party together with relevant supporting information setting forth the status and position of the Competing Product in the market, and the following shall apply:

(i) At the request of any of the Parties, the Parties shall discuss the compatibility of the Commercialization plans for the Competing Product with those for the FS Product Line or External Products. Following such discussions, the Parties shall use good faith efforts to agree upon a mutual written agreement (no later than sixty (60) days after the notice given in the preceding sentence of this Section 14.2(a)) regarding incorporating the Competing Product into this Agreement as a FS Catheter (if and to the extent permitted under Applicable Law).

(b) Acknowledgment. Each Party acknowledges that the restrictions contained in this Section 14.2 are reasonable and necessary to protect the legitimate interests of the other Party and constitute a material inducement to the other Party to enter into this Agreement and consummate the transactions contemplated hereby. Each Party acknowledges that any violation of this Section 14.2 may result in irreparable injury to the other Party and agrees that the other Party shall be entitled to seek specific performance of this Section 14.2.

ARTICLE 15
MISCELLANEOUS

15.1 Governing Law. This Agreement (including any claim or controversy arising out of or relating to this Agreement) shall be governed by the law of the State of New York, U.S.A, without regard to conflict of laws principles that would result in the application of any laws other than the laws of the State of New York, U.S.A. The United Nations Convention on Contracts for the International Sale of Goods (1980) shall not apply to the interpretation of this Agreement.

15.2 Dispute Resolution.

(a) Unless otherwise set forth in this Agreement, in the event of any dispute arising under this Agreement between the Parties, either Party shall have a right to refer such dispute to the Executive Officers, and such Executive Officers shall attempt in good faith to resolve such dispute. If the Parties are unable to resolve a given dispute pursuant to this Section 15.2(a) within thirty (30) days of referring such dispute to the Executive Officers, any such dispute shall be resolved pursuant to Section 15.2(b) and Section 15.2(c).

(b) In the event of an unresolved dispute arising under this Agreement between the Parties (including any such dispute that is not resolved under Section 15.2(a) within thirty (30) days of such dispute being referred to the Executive Officers), each Party reserves its right to any and all remedies available under Applicable Law or equity with respect to such dispute, *provided*, that any such dispute shall be resolved in accordance with Section 15.2(c).

(c) Any unresolved disputes between the Parties relating to, arising out of or in any way connected with this Agreement or any term or condition hereof, or the performance by either Party of its obligations hereunder, whether before or after termination of this Agreement, shall be resolved by final and binding arbitration administered by the American Arbitration Association in association with its Commercial Arbitration Rules and subject to this Section 15.2(c). The seat of arbitration will be New York, New York, U.S.A, and the arbitration proceedings will be conducted in the English language. Each Party hereby expressly waives any right to object to such jurisdiction on the basis of venue or forum non-conveniens. Any arbitration shall be conducted by a panel of three (3) arbitrators. One (1) arbitrator shall be selected by the BIO Parties, one (1) arbitrator shall be selected by Acutus and the third (3rd) arbitrator shall be selected by the two (2) arbitrators selected by the Parties. The arbitrators shall have no power to change the provisions of this Agreement nor to make an award of reformation. The award rendered by the arbitrators shall be final and binding upon the Parties hereto, and judgment upon the award rendered may be entered by either Party in any court that has jurisdiction over the Parties or the subject matter of the controversy or claim. The arbitration panel shall prepare and deliver to the Parties a written, reasoned opinion conferring its decision. Each Party will bear its own attorney's fees, costs and disbursements arising out of the arbitration, and will pay an equal share of the fees and costs of the administrator and the arbitrators; *provided, however,* that the arbitrators will be authorized to determine whether a Party is the prevailing Party, and if so, to award to that prevailing Party reimbursement for any or all of its reasonable attorneys' fees, costs and disbursements (including, for example, expert witness fees and expenses, photocopy charges, travel expenses, etc.), and/or the fees and costs of the administrator and the arbitrators.

15.3 Trial by Jury. THE PARTIES EXPRESSLY WAIVE AND FOREGO ANY RIGHT TO A TRIAL BY JURY.

15.4 Entire Agreement; Amendment. This Agreement, including the Schedules and Exhibits hereto, and the Manufacture and Supply Agreement sets forth the complete, final, and exclusive agreement and all the covenants, promises, agreements, warranties, representations, conditions, and understandings between the Parties with respect to the subject matter hereof and supersedes all prior agreements and understandings between the Parties existing as of the Effective Date with respect to the subject matter hereof, including, the Term Sheet by and between Acutus and the BIO Parties dated 2 April 2019 and the Confidentiality Agreement by and between Acutus and the BIO Parties dated March 29, 2019. There are no covenants, promises, agreements, warranties, representations, conditions, or understandings, either oral or written, between the Parties other than as are set forth herein. Notwithstanding the authority granted to the JSC and Subcommittees under this Agreement, no subsequent alteration, amendment, change, or addition to this Agreement shall be binding upon the Parties unless reduced to writing and signed by an authorized officer of each Party.

15.5 Force Majeure. In the event that either Party is prevented from performing its obligations under this Agreement as a result of any contingency beyond its reasonable control ("Force Majeure"). including any actions of Governmental Authorities or agencies, war, terrorism, hostilities between nations, civil commotions, riots, strikes, lockouts, sabotage, shortages in supplies (but only to the extent such shortages are not caused by the nonperforming Party), energy shortages, fire, floods, and acts of nature such as typhoons, hurricanes, earthquakes, or tsunamis, the Party so affected shall not be responsible to the other Party for any delay or failure of performance of its obligations hereunder, for so long as Force Majeure prevents such performance. In the event of Force Majeure, the Party immediately affected thereby shall give prompt written notice to the other Party specifying the Force Majeure event complained of, and shall use Commercially Reasonable Efforts to resume performance of its obligations.

15.6 Notices. All notices, consents, waivers, and other communications under this Agreement must be in writing and will be deemed to have been duly given when: (a) delivered by hand (with written confirmation of receipt); (b) sent by fax or email (with written confirmation of receipt); provided that a copy is immediately sent by an internationally recognized overnight delivery service (receipt requested); or (c) when received by the addressee, if sent by an internationally recognized overnight delivery service (receipt requested), in each case to the appropriate addresses, fax numbers, and email addresses set forth below (or to such other addresses, fax numbers and email addresses as a Party may designate by notice):

If to Biotronik:

Biotronik SE & Co. KG
Woermannkehre 1
12359 Berlin
Germany

Attn: [ ]
Phone: [ ]
Fax: [ ]
Email: [ ]

With a copy (which shall not constitute notice) to:

BIOTRONIK Corporate Services SE
Sieversufer 7-9
12359 Berlin
Germany

Attn: - Corporate Legal -
Phone: [ ]
Fax: [ ]
Email: [ ]

If to VascoMed:

VascoMed GmbH
Hertzallee 1
79589 Binzen
Germany

Attn: - Geschäftsführung -
[ ]
Phone: [ ]
Fax: [ ]
Email: [ ]

With a copy (which shall not constitute notice) to:

BIOTRONIK Corporate Services SE
Sieversufer 7-9
12359 Berlin
Germany

Attn: - Corporate Legal -
Phone: [ ]
Fax: [ ]
Email: [ ]

If to Acutus:

Acutus Medical, Inc.
2210 Faraday Ave., Ste 100
Carlsbad, CA 92008
U.S.A.

Attn: [ ]
Phone: [ ]
Fax: [ ]
Email: [ ]

With a copy (which shall not constitute notice) to:

Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304

Attn: [ ]
Phone: [ ]
Fax: [ ]
Email: [ ]

Either Party may change its address to which notices shall be sent by giving notice to the other Party in the manner provided herein.

15.7 Assignment. Neither Party may assign its rights and obligations under this Agreement without the other Party's prior written consent, except that without consent of (but with notice to) the other Party, a Party may assign its rights and obligations under this Agreement or any part hereof (a) to one (1) or more of its Affiliates, (b) to a successor to all or substantially all of its business or assets to which this Agreement relates, whether by merger, sale, operation of law or otherwise, or (c) to any Third Party in connection with any divestiture undertaken to satisfy the requirements of an applicable Governmental Authority, provided that the assigning Party provide prompt written notice to the other Party. Any request for consent to assignment shall not be unreasonably withheld or delayed. Any permitted assignee will assume all obligations of its assignor under this Agreement (or related to the assigned portion in case of a partial assignment). Any attempted assignment in contravention of this Section 15.7 will be void. Subject to the terms of this Agreement, this Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

15.8 Compliance with Law. Each Party shall perform its obligations under this Agreement in accordance with all Applicable Law, including cooperation with tax filings as applicable. No party shall, or shall be required to, undertake any activity under or in connection with this Agreement which violates, or which it believes, in good faith, may violate, any applicable law.

15.9 Expenses. Except as otherwise expressly provided in this Agreement, each Party shall pay its own fees and expenses.

15.10 Performance by Affiliates. Each Party may discharge any obligations and exercise any right hereunder through any of its Affiliates. Each Party hereby guarantees the performance by its Affiliates of such Party's obligations under this Agreement, and shall cause its Affiliates to comply with the provisions of this Agreement in connection with such performance. Any breach by a Party's Affiliate of any of such Party's obligations under this Agreement shall be deemed a breach by such Party, and the other Party may proceed directly against such Party without any obligation to first proceed against such Party's Affiliate. Each Party shall remain primarily liable for any acts or omissions of its Affiliates.

15.11 Further Assurances. The Parties hereby covenant and agree without the necessity of any further consideration, to execute, acknowledge, and deliver any and all such other documents and take any such other action as may be reasonably necessary to carry out the intent and purposes of this Agreement.

15.12 Severability. Should one (1) or more of the provisions of this Agreement become void or unenforceable as a matter of law, then this Agreement shall be construed as if such provision were not contained herein and the remainder of this Agreement shall be in full force and effect. The Parties will, in addition, use their Commercially Reasonable Efforts to substitute for the invalid or unenforceable provision a valid and enforceable provision which conforms as nearly as possible with the original intent of the Parties, including, as nearly as possible, the same economic benefit to each Party.

15.13 Relationship of the Parties. Nothing contained in this Agreement shall be deemed to constitute a partnership, joint venture, or legal entity of any type between the Parties, or to constitute either Party as the agent of the other. Moreover, each Party agrees not to construe this Agreement, or any of the transactions contemplated hereby, as a partnership for any tax purposes, unless so required by Applicable Law. Each Party shall act solely as an independent contractor, and nothing in this Agreement shall be construed to give any Party the power or authority to act for, bind, or commit the other.

15.14 No Third Party Beneficiary Rights. The provisions of this Agreement are for the sole benefit of the Parties and their successors and permitted assigns, and the Agreement shall not be construed as conferring any rights to any Third Party (including any Third Party beneficiary rights), except in the case of ARTICLE 11, Acutus Indemnitees and BIO Party Indemnitees, as applicable.

15.15 No Waiver. Any delay in enforcing a Party's rights under this Agreement or any waiver as to a particular default of other matter shall not constitute a waiver of such Party's rights to the future enforcement of its rights under this Agreement, except with respect to an express written and signed waiver relating to a particular matter for a particular period of time.

15.16 No Construction Against the Drafter; Headings. This Agreement has been prepared jointly. Ambiguities, if any, in this Agreement shall not be construed against any Party, irrespective of which Party may be deemed to have authored the ambiguous provision. The headings of each Article and Section in this Agreement have been inserted for convenience of reference only and are not intended to limit or expand on the meaning.

15.17 English Language. This Agreement is written and executed in the English language. Any translation into any other language shall not be an official version of this Agreement and, in the event of any conflict in interpretation between the English version and such translation, the English version shall prevail.

15.18 Counterparts. This Agreement may be executed in three (3) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(Signature Page Follows)

IN WITNESS WHEREOF, the Parties have executed this Agreement by their duly authorized officers as of the Effective Date.

BIOTRONIK SE & CO. KG

By: /s/ Daniel Buehler
Name: DR. DANIEL BUEHLER
Title: MANAGING DIRECTOR

By: /s/ Ralf Lieb
Name: DR. RALF LIEB
Title: MANAGING DIRECTOR

ACUTUS MEDICAL, INC.

By:
Name:
Title:

VASCOMED GMBH

By: /s/ Wolfgang Geistert
Name: DR. WOLFGANG GEISTERT
Title: MANAGING DIRECTOR

(Signature Page to License and Distribution Agreement)

IN WITNESS WHEREOF, the Parties have executed this Agreement by their duly authorized officers as of the Effective Date.

BIOTRONIK SE & CO. KG

By:
Name:
Title:

By:
Name:
Title:

ACUTUS MEDICAL, INC.

By: /s/ Vincent Burgess
Name: Vincent Burgess
Title: Chief Executive Officer

VASCOMED GMBH

By:
Name:
Title:

[***] = Certain information contained in this document, marked by brackets, has been omitted because it is both not material and would be competitively harmful if publicly disclosed.

LICENSE AGREEMENT

This LICENSE AGREEMENT ("**Agreement**") is made as of May 10, 2011 (the "**Effective Date**") by and between Acutus Medical, Inc., a Delaware corporation with its principal place of business at 11225 West Bernardo Court, Suite 102, San Diego, CA 92127 ("**LICENSEE**"), and Dr. Christoph Scharf, an individual having his mailing address at Im Gugger 4, 8810 Horgen, Switzerland ("**LICENSOR**"). LICENSOR and LICENSEE are each referred to herein by name or, individually, as a "**Party**" or, collectively, as "**Parties**."

BACKGROUND

A. LICENSOR owns or has rights under certain patent rights relating to systems and methods for determining dipole densities on cardiac walls;

B. LICENSEE desires to obtain an exclusive license under such patent rights, and LICENSOR desires to grant such a license to LICENSEE, all on the terms and conditions herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements provided herein below and other consideration, the receipt and sufficiency of which is hereby acknowledged, LICENSOR and LICENSEE hereby agree as follows:

ARTICLE 1
DEFINITIONS

1. As used in this Agreement, the following capitalized terms shall have the meanings indicated:

1.1 "**Affiliate**" shall mean with respect to LICENSEE, any Person controlling, controlled by or under common control with LICENSEE, for so long as such control exists. For purposes of this Section 1.1, "control" shall mean: (i) direct or indirect ownership of more than fifty percent (50%) (or, if fifty percent (50%) or less, the maximum ownership interest permitted by applicable law) of the stock or shares having the right to vote for the election of directors of such corporate entity, or (ii) the possession, directly or indirectly, of the power to direct, or cause the direction of, the management or policies of such entity, whether through the ownership of voting securities, by contract or otherwise.

1.2 "**Dipole Density Algorithm**" shall mean any and all methods, devices and technologies used for an invasive (including intra cardiac) and/or non-invasive recording of the tissues electrical activity within any organ.

1.3 "**Field**" shall mean any and all uses and applications.

1.4 "**Licensed Subject Matter**" shall mean the Licensed Patents and Licensed Technology.

(a) "**Licensed Patents**" shall mean (i) all issued patents and patent applications set forth in Appendix A or claiming the Dipole Density Algorithm or any uses or other exploitations thereof, (ii) any and all divisions, continuations, continuations in part, continued prosecution applications, patents of addition or substitution of patents or patent applications described in clause (i), (iii) all foreign equivalents of the patents and applications described in clauses (i) or (ii), (iv) all patents issuing on any of the applications described in clauses (i), (ii) or (iii) anywhere in the world, together with all registrations, renewals, reissues, reexaminations or extensions of any kind with respect to any of the patents described in clauses (i), (i), (iii) or (iv).

(b) "**Licensed Technology**" shall mean Technology in the possessions control of LICENSOR that are reasonably necessary for the use or exploitation of the Licensed Patents in the Field. For the avoidance of doubt, Licensed Technology shall include any Technology owned or controlled by LICENSOR comprising of or relating to the Dipole Density Algorithm.

1.5 "**Net Sales**" shall mean the total amount actually received from third parties on sales of Products by LICENSEE, its Affiliates, or Sublicensees less the following reasonable and customary deductions: (i) all trade, cash and quantity credits, discounts, refunds or rebates; (ii) amounts for claims, allowances or credits for returns, retroactive price reductions, or chargebacks; and (iii) packaging, handling fees and prepaid freight, sales taxes, duties and other governmental charges (including value added tax). For clarity, Net Sales shall not include sales by LICENSEE to its Affiliates for resale provided that if LICENSEE sells Product to an Affiliate for resale, Net Sales shall include the amounts invoiced by such Affiliate to third parties on the resale of such Product.

1.6 "**Person**" shall mean any individual, corporation partnership association, joint-stock company, trust, unincorporated organization or government or political subdivision thereof.

1.7 "**Product**" shall mean any product the manufacture, sale, offer for sale, use or importation of which would, but for the license granted to LICENSEE herein, infringe a Valid Claim within the Licensed Patents in the country for which such product is intended for sale.

1.8 "**Sublicensee**" shall mean any Third Party to whom LICENSEE has granted the right to manufacture and sell Products, with respect to Products made and sold by such Third Party.

1.9 "**Technology**" shall mean technical information and materials comprising (i) ideas, discoveries, inventions or trade secrets, (ii) schematics, dimensions, drawings and related documentation and notes, (iii) research and development data, statistical analyses, analytical and quality control data and stability data, in each case together with supporting data, (iv) manufacturing information, methods, techniques, specifications, formulations, formulae and knowledge, and (v) research materials, reagents and compositions of matter (including samples of Products).

1.10 "**Territory**" shall mean all of the countries and territories in the world.

1.11 "**Third Party**" shall mean any Person other than LICENSOR, LICENSEE or their respective Affiliates.

1.12 "**Valid Claim**" shall mean a claim of an issued and unexpired patent, or a pending claim of a patent application that is being prosecuted, within the Licensed Patents which has not been held un-patentable, invalid or unenforceable by a court or other government agency of competent jurisdiction or has not been admitted to be invalid or unenforceable through reissue, reexamination, disclaimer or otherwise; provided, however, that if the holding of such court or agency is later reversed by a court or agency with overriding authority, the claim shall be reinstated as a Valid Claim with respect to sale of Products made after the date of such reversal. Notwithstanding the foregoing, if a claim of a pending patent application has not issued as a claim of an issued patent, within five (5) years after the date from which such claim takes priority, such pending claim shall not be a Valid Claim for purposes of this Agreement.

ARTICLE 2
LICENSES

2.1 Grants to LICENSEE.

(a) Exclusive License. Subject to the terms and conditions of this Agreement, LICENSOR hereby grants to LICENSEE and its Affiliates an exclusive transferable license under the Licensed Subject Matter to: (i) make, use, sell, offer for sale and import Products, (ii) practice any method, process or procedure in connection with its exercise of the activities described in clause (i), and (iii) otherwise exploit the Licensed Subject Matter; and to have any of the foregoing performed on its behalf by a Third Party, in each case for applications in the Field throughout the Territory.

(b) Sublicenses. The license granted in Section 2.1 includes the right to grant and authorize sublicenses within the scope thereof. Any sublicenses granted hereunder shall be consistent with the terms and conditions hereof. LICENSEE shall notify LICENSOR of any sublicense granted. No sublicense/license shall relieve LICENSEE of its obligations under this Agreement including the payments required hereunder.

2.2 No Other Rights. LICENSEE acknowledges that the rights and licenses granted under this ARTICLE 2 and elsewhere in this Agreement are limited to the scope expressly granted. Accordingly, except for the rights expressly granted under this Agreement, no right, title, or interest of any nature whatsoever is granted whether by implication, estoppel, reliance, or otherwise, by either Party to the other Party.

ARTICLE 3
FEES AND ROYALTIES

3.1 Royalties. In consideration of the rights and licenses granted by LICENSOR under this Agreement, except as otherwise provided in this Article 3, LICENSEE agrees to pay to LICENSOR a royalty equal to three percent (3%) of Net Sales.

3.2 Stacking. If LICENSEE, its Affiliate or Sublicensee, in its reasonable judgment, is required to pay a Third Party additional amounts with respect to a Product for patent rights or other intellectual property rights or technologies, then fifty percent (50%) of the amounts paid to such Third Party will be offset against amounts owed to LICENSOR under this Agreement. However, in no event will the amount paid to LICENSOR be reduced to less than fifty percent (50%) of the amounts otherwise due to LICENSOR under Section 3.1.

3.3 Combination Product. In the event that a Product is sold in combination with another product, component or service for which no royalty would be due hereunder if sold separately, Net Sales from such combination sales for purposes of calculating the amounts due under this Article 3 shall be calculated by multiplying the Net Sales of the combination product by the fraction A/(A + B), where A is the average gross selling price during the previous calendar quarter of the Product sold separately and B is the gross selling price during the previous calendar quarter of the combined product(s), component(s) and/or service(s). In the event that a substantial number of such separate sales were not made during the previous calendar quarter then the Net Sales shall be as reasonably allocated by LICENSEE between such Product and such other product(s), component(s) or service(s) based upon their relative importance and proprietary protection.

3.4 Single Royalty. Only one royalty under Section 3.1 shall be paid with respect to unit of Product sold, without regard to whether more than one Valid Claim within the Licensed Patents is applicable to such unit. It is understood that no royalty shall be due with respect to use or transfers of Products for use in research or development activities.

ARTICLE 4
PAYMENT AND REPORTS

4.1 Royalty Reports and Payments. Commencing with the first sale of Product by LICENSEE, its Affiliate or Sublicensee hereunder, LICENSEE shall provide a royalty report to LICENSOR, within sixty (60) days after the end of each calendar quarter, showing: (i) the aggregate Net Sales of Products for such calendar quarter; and (ii) a calculation of total royalties due LICENSOR with respect to such Products. Simultaneously with the delivery of each such report, LICENSEE shall pay to LICENSOR the total royalties, if any, due to LICENSOR in accordance with ARTICLE 3 for the period of such report. If no royalties or fees are due, LICENSEE shall so report.

Such reports shall be deemed to be the Confidential Information of LICENSEE, even if not marked as confidential.

4.2 Withholdings Taxes. Any withholding or other tax that is required by law to be withheld with respect to payments owed by LICENSEE pursuant to this Agreement shall be deducted by LICENSEE from such payment prior to remittance. LICENSEE shall promptly furnish LICENSOR evidence of any such taxes withheld; provided that the Parties shall cooperate to minimize any such taxes to the extent allowable by applicable law.

4.3 Records. During the term of this Agreement and for a period of three (3) years thereafter, LICENSEE shall keep complete and accurate records related to the sale of Products (and cause its Affiliates and Sublicensees to keep and provide copies of such records to LICENSEE) in sufficient detail to enable the royalties payable under Article 3 to be determined. Upon LICENSOR'S written request, but not more frequently than once per calendar year, LICENSEE shall permit an independent certified public accountant selected by the LICENSOR and reasonably acceptable to LICENSEE, to examine the aforementioned records during such LICENSEE'S regular business hours for the purpose of and to the extent necessary to verify any report under this Agreement received not more than three (3) years prior to the date of such request for an audit. Such audit shall be at the expense of LICENSOR, however, in the event such audit demonstrates an underpayment, then LICENSEE shall pay such underpaid amount plus interest on the applicable amount at the U.S. prime rate quoted in the "Money Rates" column of The Wall Street Journal (U.S., Internet Edition) on the first business day after such underpayment discovered, or at the maximum rate permitted by law, whichever is lower, based upon the number of days is overdue. In addition, if such audit shows an underpayment of ten percent (10%) or more for the period of such audit, then LICENSEE shall promptly reimburse LICENSOR for its reasonable cost and expense incurred in performing such audit. All information learned under this Section 4.3 shall be deemed Confidential Information of LICENSEE.

ARTICLE 5
DUE DILIGENCE

5.1 Diligence Requirement. LICENSEE shall use commercially reasonable efforts to develop and sell Products. Additionally, after the first commercial sale of Products hereunder, LICENSEE shall use its commercially reasonable efforts to meet the market demand for such Products; provided, however, that the foregoing shall not be construed to constrain or otherwise limit LICENSEE'S pricing or product strategy for Products, which shall be in LICENSEE'S sole discretion.

ARTICLE 6
PROSECUTION AND ENFORCEMENT

6.1 Prosecution of Licensed Patents.

(a) Prosecution and Maintenance. LICENSEE shall have the first right to Prosecute and Maintain the Licensed Patents at its own expense, using patent counsel of its choice. LICENSEE shall keep LICENSOR reasonably informed regarding matters related to the Prosecution and Maintenance of each patent or patent application within the Licensed Patents, including providing to LICENSOR copies of all significant documents sent to or received from any patent office regarding any such Licensed Patents, such as patent applications, office actions, amendments, other responses, rejections, notices of interference, re-examinations, oppositions, requests for patent term extensions, and other filings. LICENSEE shall involve LICENSOR in the process of preparing documents and other communications to be filed in a patent office with respect to such Licensed Patents ("**Filings**"), as reasonably requested by LICENSOR, including using good faith efforts to include LICENSOR'S reasonable comments and recommendations with respect to Filings. In the event that LICENSEE elects to abandon any patent or application within the Licensed Patents, it shall notify LICENSOR at least sixty (60) days in advance, in which case LICENSOR shall have the right to control the Prosecution and Maintenance of such patents and applications (including any patent issuing therefrom), at its sole expense.

(b) For purposes of this Section 6.1, "**Prosecution and Maintenance**" shall mean, with respect to any patent or application therefor, the preparing, filing, prosecuting and maintenance of such patent or application, as well as re-examinations, reissues, requests for patent term extensions and the like with respect to such patents, together with the conduct of interferences, the defense of oppositions and other similar proceedings with respect thereto; and "**Prosecute and Maintain**" shall have the correlative meaning.

6.2 Enforcement. Subject to the provisions of this Section 6.2, in the event that either Party reasonably believes that any Licensed Patent is being infringed by a Third Party or is subject to a declaratory judgment action arising from such infringement, in each case with respect to the manufacture, use, sale, offer for sale or importation of any product in the Territory in the Field (an "I**nfringing Product**"), such Party shall promptly notify the other Party. In such event, as between the Parties, LICENSEE shall have the initial right (but not the obligation) to enforce such Licensed Patents with respect to such infringement, or to defend any declaratory judgment action with respect thereto (an "**Enforcement Action**"), at LICENSEE'S expense.

(a) Commencing Enforcement Actions. In the event that LICENSEE fails to commence an Enforcement Action to enforce such Licensed Patent against an infringement in the Territory, which infringement consists of the manufacture, use, sale, offer for sale or importation of an Infringing Product, within one hundred eighty (180) days of a request by LICENSOR to do so, LICENSOR may commence an Enforcement Action against such infringement at its own expense; provided that LICENSEE does not provide reasonable rationale for not doing so (including a substantive concern regarding counterclaims by such infringing Third Party). The Party commencing or defending any such Enforcement Action (the "**Enforcing Party**") shall keep the other Party reasonably informed of the progress of any such Enforcement Action, and such other Party shall have the right to participate with counsel of its own choice at its own expense. In any

event, the other Party shall reasonably cooperate with the Enforcing Party, including providing information and materials, at the Enforcing Party's request and expense.

(b) Recoveries. Any recovery received as a result of any Enforcement Action to enforce any Licensed Patent pursuant to this Section 6.2 shall be used first to reimburse the Enforcing Party's costs and expenses (including attorneys' and professional fees) incurred in connection with such Enforcement Action, and the remainder of the recovery shall be shared seventy-five percent (75%) to the Enforcing Party and twenty-five percent (25%) to the other Party.

ARTICLE 7
CONFIDENTIALITY

7.1 Confidential Information. During the term of this Agreement and for five (5) years thereafter, except as provided herein, each Party shall maintain in confidence, and shall not use for any purpose or disclose to any third Party, information that is disclosed by the other Party in writing and marked "Confidential" or that is disclosed orally and confirmed in writing as confidential within forty-five (45) days following such disclosure (collectively, "**Confidential Information**"). Confidential Information shall not include any information that is: (i) already known to the receiving Party at the time of disclosure hereunder, or (ii) now or hereafter becomes publicly known other than through acts or omissions of the receiving Party, or (iii) is disclosed to the receiving Party by a Third Party under no obligation of confidentiality to the disclosing Party or (iv) independently developed by the receiving Party without reliance on the Confidential Information of the disclosing Party.

7.2 Permitted Usage. Each Party may use and disclose Confidential Information of the other Party as follows: (i) under appropriate confidentiality provisions substantially equivalent to those in this Agreement, in connection with the performance of its obligations or exercise of rights under this Agreement; (ii) to the extent such disclosure is reasonably necessary in Prosecution and Maintenance of patents (including applications therefor) in accordance with this Agreement, complying with the terms of agreements with Third Parties, prosecuting or defending litigation, complying with applicable governmental regulations, filing for, obtaining and maintaining regulatory approvals, or otherwise required by applicable law, provided, however, that if a Party is required by law to make any such disclosure of the other Party's Confidential Information it will, except where impracticable for necessary disclosures (for example, in the event of medical emergency), give reasonable advance notice to the other Party of such disclosure requirement and, except to the extent inappropriate in the case of patent applications, will use its reasonable efforts to secure confidential treatment of such Confidential Information required to be disclosed; (iii) in communication with existing and potential investors, consultants, advisors (including financial advisors, lawyers and accountants) and others on a need to know basis, in each case under appropriate confidentiality provisions substantially equivalent to those of this Agreement; or (iv) to the extent mutually agreed to by the Parties.

7.3 Confidential Terms. Each Party agrees not to disclose to any Third Party the terms and conditions of this Agreement without the prior approval of the other Party, except to advisors (including consultants, financial advisors, attorneys and accountants), potential and existing investors, and others on a need to know basis, in each case under circumstances that reasonably protect the confidentiality thereof, or to the extent necessary to comply with the terms of agreements with Third Parties, or to the extent required by applicable law, including securities laws.

ARTICLE 8
INDEMNIFICATION

8.1 General. LICENSEE shall defend LICENSOR against any and all actions, suits, or proceedings brought by Third Parties (each of the foregoing, a "**Claim**") against LICENSOR, to the extent caused by LICENSEE'S exercise of its rights and licenses granted by LICENSOR in this Agreement, and pay any final judgment rendered on such Claim or any settlement of such Claim approved by LICENSEE in writing.

8.2 Conditions. LICENSEE shall have no obligations with respect to Claims under this ARTICLE 8 unless LICENSOR: (i) promptly notifies LICENSEE in writing of such Claims, (ii) gives LICENSEE sole control of the defense and settlement thereof using legal counsel approved by LICENSOR, which approval shall not be unreasonably withheld or delayed, and (iii) provides LICENSEE, at LICENSEE'S expense, with reasonable assistance and full information with respect to such Claims. LICENSEE shall have no obligations with respect to such Claims if LICENSOR makes any admission, settlement or other communication regarding such Claim without the prior written consent of LICENSEE. In addition, LICENSEE shall have no obligation to indemnify LICENSOR for any costs or expenses incurred without LICENSEE'S prior written consent.

ARTICLE 9
REPRESENTATIONS AND WARRANTIES

9.1 General. LICENSOR represents and warrants that (i) it is the sole and exclusive owner of all right, title and interest in the Licensed Subject Matter; and (ii) it has the right and authority to enter into this Agreement and grant the rights and licenses hereunder with respect to the Licensed Subject Matter.

9.2 Disclaimer. EXCEPT AS PROVIDED IN THIS ARTICLE 9, NEITHER PARTY MAKES ANY REPRESENTATIONS, WARRANTIES OR CONDITIONS (EXPRESS, IMPLIED, STATUTORY OR OTHERWISE) WITH RESPECT TO THE SUBJECT MATTER HEREOF, AND EACH PARTY SPECIFICALLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ALL WARRANTIES AND CONDITIONS OF THE VALIDITY OF THE LICENSED PATENTS OR NONINFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS.

ARTICLE 10
TERM AND TERMINATION

10.1 Term. Unless terminated earlier pursuant to this ARTICLE 10, the term of this Agreement shall commence on the Effective Date and continue in full force and effect on a country- by-country and Product-by-Product basis until the expiration of the last to expire Valid Claim within the Licensed Patents covering such Product in such country (the "**Term**"). Upon the expiration, but not the earlier termination, of this Agreement, LICENSEE'S rights with respect to the Licensed Subject Matter shall become fully-paid and irrevocable.

10.2 Termination.

(a) By LICENSOR. In the event LICENSEE materially breaches this Agreement, LICENSOR shall have the right to terminate this Agreement by providing sixty (60) days' written notice to LICENSEE referencing this Section 10.2(a) and specifying the material breach, if LICENSEE fails to cure such material breach within such sixty (60) day period. However, if LICENSEE disputes in good faith LICENSOR'S right to terminate this Agreement by written notice to LICENSOR during such sixty (60)-day period, LICENSOR shall not have the right to terminate this Agreement unless and until it has been determined in accordance with Section 11.2 that LICENSEE materially breached this Agreement, and LICENSEE fails to cure such material breach within sixty (60) days after such determination.

(b) By LICENSEE. Any provision herein notwithstanding, LICENSEE shall have the right to terminate this Agreement by giving LICENSOR thirty (30) days' prior written notice referencing this Section 10.2(b).

10.3 Effect of Termination/Expiration.

(a) Reversion of Rights. As of the effective date of a termination pursuant to Section 10.2 and except as provided in Section 10.3(d), Section 2.1 shall terminate and all rights in the Licensed Patents shall revert to LICENSOR.

(b) No Release. Termination or expiration of this Agreement shall not release either Party hereto from any liability which at the time of such termination has already accrued to the other Party.

(c) Stock on Hand. In the event this Agreement is terminated for any reason, LICENSEE shall have the right to sell or otherwise dispose of all Products in the process of manufacture, testing, in use or in stock, provided that LICENSEE shall remain obligated to make payment of royalties to LICENSOR for such Products in accordance with Section 3.1.

(d) Sublicenses. Upon the termination of this Agreement by LICENSOR for any reason, any sublicense granted by LICENSEE hereunder shall survive, provided

that upon request by LICENSOR, each Sublicensee promptly agrees in writing to be bound by the applicable terms of this Agreement.

(e) Survival. Articles 1, 7 (for the period set forth therein), 8, and 11 and Section 4.3 (for the period set forth therein), 6.2 (with respect to Enforcement Actions initiated prior to the effective date of termination), 9.2 and 10.3 shall survive the expiration and any termination of this Agreement. Except as otherwise provided in this Section 10.3, all other provisions of this Agreement shall terminate upon the expiration or termination of this Agreement.

ARTICLE 11
GENERAL

11.1 Governing Law. This agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of California, United States of America, without reference to principles of conflicts of law.

11.2 Arbitration. The Parties agree that any dispute or controversy arising out of, in relation to, or in connection with this Agreement, or the making, interpretation, construction, performance or breach hereof, shall be finally settled by binding arbitration in San Diego, California under the then current rules of the Judicial Arbitration and Mediation Services (JAMS) by one (1) arbitrator appointed in accordance with such rules. The arbitrator may grant injunctive or other relief in such dispute or controversy. The decision of the arbitrator shall be final, conclusive and binding on the Parties to the arbitration. Judgment may be entered on the arbitrator's decision in any court of competent jurisdiction. The Parties agree that, any provision of applicable law notwithstanding, they will not request and the arbitrator shall have no authority to award, punitive or exemplary damages against either Party. The costs of the arbitration, including administrative and arbitrator's fees, shall be shared equally by the Parties. Each Party shall bear the cost of its own attorneys' fees and expert witness fees. Nothing in this Section 11.2 shall preclude either Party from seeking interim or provisional relief in the form of a temporary restraining order, preliminary injunction, or other interim relief concerning a dispute prior to or during an arbitration pursuant to this Section 11.2 necessary to protect the interests of such Party.

11.3 Assignment. This Agreement may not be assigned by either Party without the prior written consent of the other Party. Notwithstanding the foregoing, LICENSEE may, without such consent, assign this Agreement and the rights, obligations and interests of LICENSEE, in whole or in part, to any of its Affiliates or to a Third Party that succeeds to all or substantially all of LICENSEE'S business or assets relating to this Agreement whether by sale, merger, operation of law or otherwise; provided that such assignee promptly agrees in writing to be bound by the terms and conditions of this Agreement.

11.4 Force Majeure. In the event either Party hereto is prevented from or delayed in the performance of any of its obligations hereunder by reason of acts of God, war, strikes, riots, storms, fires, earthquake, power shortage or failure, failure of the

transportation system, or any other cause whatsoever beyond the reasonable control of the Party ("**Force Majeure Event**"), the Party so prevented or delayed shall be excused from the performance of any such obligation during a period that is reasonable in light of the Force Majeure Event, but no less than the duration of the Force Majeure Event itself.

11.5 Notices. Any notice, request, delivery, approval or consent required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been sufficiently given if delivered in person, transmitted by facsimile (receipt verified) or by express courier service (signature required) or five (5) days after it was sent by registered letter, return receipt requested (or its equivalent), provided that no postal strike or other disruption is then in effect or comes into effect within two (2) days after such mailing, to the Party to which it is directed at its address or facsimile number shown below or such other address or facsimile number as such Party will have last given by notice to the other Party.

If the LICENSOR: Dr. Christoph Scharf
[ ]
[ ]
[ ]
Email: [ ]

If the LICENSOR: Acutus Medical, Inc.,
11225 West Bernardo Court, Suite 102,
San Diego, CA 92127
Attention: [ ]
Fax: [ ]

11.6 No Waiver. A waiver, express or implied, by either LICENSOR or LICENSEE of any right under this Agreement or of any failure to perform or breach hereof by the other Party hereto shall not constitute or be deemed to be a waiver of any other right hereunder or of any other failure to perform or breach hereof by such other Party, whether of a similar or dissimilar nature thereto.

11.7 Limitation of Liability. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY SPECIAL, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, STATUTORY OR PUNITIVE DAMAGES (INCLUDING LOST OR ANTICIPATED REVENUES OR PROFITS RELATING TO THE SAME), ARISING FROM ANY CLAIM RELATING TO THIS AGREEMENT, OR THE SUBJECT MATTER HEREOF, WHETHER SUCH CLAIM IS BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OR LIKELIHOOD OF SAME.

11.8 Severability. If any provision of this Agreement shall be found by a court to be void, invalid or unenforceable, the same shall be reformed to comply with applicable law or stricken if not so conformable, so as not to affect the validity or

enforceability of the remainder of this Agreement, and the remainder of the Agreement shall remain in full force and effect.

11.9 Interpretation. The captions and headings to this Agreement are for convenience only, and are to be of no force or effect in construing or interpreting any of the provisions of this Agreement. Unless specified to the contrary, references to Articles, Sections or Exhibits mean the particular Articles, Sections or Exhibits to this Agreement and references to this Agreement include all Exhibits hereto. Unless context otherwise clearly requires, whenever used in this Agreement: (i) the words "include" or "including" shall be construed as incorporating, also, "but not limited to" or "without limitation;" (ii) the word "day" or "year" means a calendar day or year unless otherwise specified; (iii) the word "notice" shall mean notice in writing (whether or not specifically stated) and shall include notices, consents, approvals and other written communications contemplated under this Agreement; (iv) the words "hereof," "herein," "hereby" and derivative or similar words refer to this Agreement (including any Exhibits); (v) the word "or" shall be construed as the inclusive meaning identified with the phrase "and/or;"(vi) provisions that require that a Party, the Parties or a committee hereunder "agree," "consent" or "approve" or the like shall require that such agreement, consent or approval be specific and in writing, whether by written agreement, letter, approved minutes or otherwise; (vii) words of any gender include the other gender; (viii) words using the singular or plural number also include the plural or singular number, respectively; and (ix) references to any specific law, rule or regulation, or article, section or other division thereof, shall be deemed to include the then-current amendments thereto or any replacement law, rule or regulation thereof.

11.10 Entire Agreement. This Agreement constitutes the entire understanding and agreement between the Parties with respect to the subject matter hereof and supersedes any and all prior and contemporaneous negotiations, representations, agreements, and understandings, written or oral, that the Parties may have reached with respect to the subject matter hereof. No agreements altering or supplementing the terms hereof may be made except by means of a written document signed by the duly authorized representatives of each of the Parties hereto.

11.11 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but both of which together shall constitute one and the same instrument.

[The remainder of this page intentionally left blank; the signature page follows.]

IN WITNESS WHEREOF, the Parties have executed this Agreement in duplicate originals by their duly authorized representatives as of the Effective Date.

ACUTUS MEDICAL, INC

By: /s/ Randy Werneth
Name: Randy Werneth
Title President
Date: May 10, 2011

CHRISTOPH SCHARF, MD

By: /s/ Christoph Scharf, M.D.
Name: Christoph Scharf, M.D.
Title: Self
Date: May 10, 2011

APPENDIX A

LICENSED PATENTS & PATENT APPLICATIONS

Serial No.	Country	Filing Date	Office of Filing	Patent No.	Status
Title:	**Method and Device for Determining and Presenting Surface Charge and Dipole Densities on Cardiac Walls**				
00068-08	Swiss	1-17-2008	SFIIP		Pending
12/863,411	US	7-16-2010	USPTO		Pending
PCT/IB2009/000071	PCT	1-16-2009	IB of WIPO		Expired in due course
09702094.5	Europe	1-17-2010	EPO		Pending
Title:	**Device and Method for the Geometric Determination of Electrical Di pole Densities on the Cardiac Wall**				
012510-06	Swiss	8-3-2006	SFIIP		Pending
12/376.270	US	2-3-2009	USPTO		Pending
PCT/CH2007/000380	PCT	8-3-2007	SFIIP		Expired in due course
2007281009	Australia	8-3-2007	IPAU		Pending
2659898	Canada	8-3-2007	CIPO		Pending
07785075.8	Europe	8-3-2007	EPO		Pending

Exhibit 10.7

FIRST AMENDMENT TO LICENSE AGREEMENT

This First Amendment (this "**Amendment**") to the License Agreement dated May 10, 2011 (the "**Agreement**"), is entered into this 30th day of September, 2011 (the "**Amendment Effective Date**") by and between Dr. Christoph Scharf, an individual ("**LICENSOR**"), and Acutus Medical, Inc., a Delaware corporation ("**LICENSEE**"). The LICENSOR and LICENSEE may each be referred to herein as a "**Party**," or collectively as the "**Parties**."

WHEREAS, the Parties mutually wish to make certain amendments to the Agreement.

NOW, THEREFORE, in consideration of the promises and mutual covenants herein below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Definitions. All capitalized terms shall have the meanings ascribed to them in this Amendment. Capitalized terms not defined in this Amendment shall have the meanings ascribed to them in the Agreement.

2. Section 2.1(a): Exchange License. The first sentence of Section 2.1(a) of the Agreement is hereby amended by adding the words "irrevocable and perpetual" after the word "transferable.

3. Section 10.1: Term. The last sentence of Section 10.1 of the Agreement is hereby deleted and replaced with the following:

> "Upon the expiration, but not the earlier termination, of this Agreement, LICENSEE's rights with respect to the Licensed Subject Matter shall become fully paid-up."

4. Section 10.2(a): By LICENSOR. Section 10.2(a) of the Agreement is hereby deleted in its entirety.

5. Section 10.3: Effect of Termination/Expiration. Section 10.3 of the Agreement is hereby amended as follows:

   (a) Section 10.3(a) of the Agreement is hereby deleted and replaced with the following:

   "As of the effective date of a termination pursuant to Section 10.2(b) and except as provided in Section 10.3(d), Section 2.1 shall terminate and all rights in the Licensed Patents shall revert to LICENSOR."

   (b) Section 10.3(d) of the Agreement is hereby deleted and replaced with the following:

   "Upon the termination of this Agreement by LICENSEE for any reason, any sublicenses granted by LICENSEE hereunder shall survive, provided that upon request by LICENSOR, each Sublicensee promptly agrees in writing to be bound by the applicable terms of this Agreement."

   (c) Section 10.3(e) of the Agreement is hereby amended as follows:

a The first sentence of Section 10.3(e) of the Agreement is hereby amended by adding the Section reference "2.1" after the Section reference "1."

b Section 10.3(e) is hereby amended by the addition of the following sentence after the second sentence:

"Rights to royalty payments pursuant to Section 3 shall also survive termination if, and only if, the license in Section 2.1 survives termination of the Agreement."

c Section 10.3(e) is hereby amended by the addition of the following sentence at the end of Section 10.3(e):

"Notwithstanding the foregoing, Section 2.1 shall not survive termination of this Agreement if, and only if, such termination is pursuant to Section 10.2(b)."

6. Entire Agreement. The terms and conditions set forth in this Amendment and in the Agreement shall constitute the entire agreement between the parties hereto with regard to the subject matter described herein and therein and supersede all prior agreements, term sheets, letters of intent, memoranda of understanding, representations and understandings, written or oral, between the parties with respect to such subject matter.

7. Miscellaneous. Except as specifically amended hereby, the Agreement shall remain in full force and effect and in accordance with its terms.

8. Counterparts. This Amendment may be executed in two or more counterparts, including facsimile counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

9. Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the State of California, excluding any conflicts or choice of law rule or principle that might otherwise refer construction or interpretation of this Amendment to the substantive law of another jurisdiction.

(signature page follows)

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed by their duly authorized representative as of the Amendment Effective Date.

LICENSEE:	LICENSOR:
Acutus Medical, Inc.	**Dr. Christoph Scharf**
By: /s/ Randy Werneth	By: _____
Randy Werneth	Dr. Christoph Scharf
President and Chief Executive Officer	

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed by their duly authorized representative as of the Amendment Effective Date.

LICENSEE:	LICENSOR:
Acutus Medical, Inc.	**Dr. Christoph Scharf**
By: _____	By: /s/ Christoph Scharf
Randy Werneth President and Chief Executive Officer	Dr. Christoph Scharf Title:

Exhibit 10.8

[***] = Certain information contained in this document, marked by brackets, has been omitted because it is both not material and would be competitively harmful if publicly disclosed.

Master License Agreement

THIS AGREEMENT ("**Agreement**"), effective as of the last date of signature hereof (the "**Effective Date**"), is between **Biotectix**, **LLC**, a company organized and existing under the laws of Missouri and which has an office at 940 North Main Street, Ann Arbor, Michigan 48104, and **Acutus Medical**, **Inc**., company organized and existing under the laws of Delaware and which has an office at 10840 Thornmint Road, Suite 100, San Diego CA 92127.

WHEREAS, Acutus and Biotectix are parties to a Mutual Confidential Disclosure Agreement dated March 11, 2014; and

WHEREAS, Biotectix has developed intellectual property based on photo reactive UV activated coatings that Acutus wishes to license from Biotectix for use with certain Acutus products described herein;

WHEREAS, Acutus is in the business, among other things, of developing and commercializing catheters;

WHEREAS, the parties desire to undertake a joint research and commercialization project, in which Biotectix and Acutus will perform certain activities as set forth in this Agreement;

WHEREAS, Biotectix and Acutus further desire that the valuable know-how, including patentable inventions, resulting from such project be licensed by Biotectix to Acutus and by Acutus to Biotectix, so that the parties will be able to exploit products within their respective fields; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth below and for other good and valuable consideration of which receipt is acknowledged, the parties agree as follows:

1. Definitions. The following definitions (in addition to the capitalized terms defined elsewhere in the Agreement), apply to this Agreement and to all addenda thereto:

"**Acutus**" means Acutus Medical, Inc. and its Affiliates.

"**Acutus System**" means Acutus' products in the Field, including those for mapping and recording electrical conduction of cardiac tissue and/or performing stimulation of cardiac tissue.

"**Affiliate**" means, with respect to an entity, any other entity which owns at least 50% of, is at least 50% owned by, or is under common (at least 50%) ownership with such entity.

"**Biotectix**" means Biotectix, LLC and its Affiliates.

"**Change of Control**" means (i) any consolidation or merger of a party with or into any other entity or any other corporate reorganization, in which the stockholders of the party immediately prior to such consolidation, merger or reorganization, own less than 50% of the voting power of the surviving entity immediately after such consolidation, merger or reorganization; (ii) any transaction or series of related transactions to which it is a party in which in excess of fifty percent (50%) of its voting power is transferred; or (iii) the assignment of this Agreement to a third party pursuant to an asset sale; provided that the foregoing subsections (i) and (ii) shall not include (x) any consolidation or merger effected exclusively to change the domicile of such party, or (y) any transaction or series of transactions principally for bona fide equity financing purposes in which cash is received by such party or any successor or indebtedness of such party is cancelled or converted or a combination thereof.

"**Coated Product**" means a Product coated with the Coating.

"**Coating**" means a conductive polymer coating made from Coating Material.

"**Coating Material**" means the UV-reactive liquid solutions supplied by Biotectix hereunder capable of forming a conductive polymer.

"**Fair Market Value**" mean the cash consideration that Acutus or sublicensees would realize from an unrelated buyer in an arms-length sale of an identical item sold in the same quantity and at the time and place of the transaction.

"**Field**" means cardiology, including (i) the mapping and/or recording of electrical conduction of cardiac tissue and/or (ii) the stimulation of cardiac tissue.

"**Licensed Patents**" means the patent application(s) and patent(s) identified in Attachment A hereof, together with all foreign counterparts, divisions, continuations-in-part, and continuation applications based thereon, any patent issuing on any of said applications, and any reissues, reexaminations, or extensions based on any such patents. "Licensed SurModics Patents" means the Licensed Patents owned or licensed by SurModics, Inc. ("**SurModics**"). For clarity, except as expressly set forth in the foregoing, any patents or patent applications developed independently of this Agreement shall not be included within the Licensed Patents.

"**Licensed Products**" means Coated Products that the making, using, importing, selling or offering for sale of which would constitute, but for the license granted to Acutus pursuant to this Agreement, infringement of any Valid Claim in the country of intended use or in the United States.

"**Manufacturer**" means a non-Affiliate third party that supplies, manufactures or processes Licensed Products or Coated Products for Acutus pursuant to a separate agreement with Acutus, subject to the conditions set forth in Paragraph 3.g below.

"**Minimum Shelf Life**" means the minimum shelf life defined by Biotectix and Acutus within six months of the Effective Date of this Agreement, which will be mutually determined and agreed upon.

"**Net Sales**" means the amount actually received from third parties for, or the Fair Market Value attributable to, the Sale of Licensed Products or Coated Products by Acutus or its sublicensees, Jess the following costs that are directly attributable to a Sale, specifically identified on an invoice or other documentation and actually borne by Acutus or sublicensees: (i) rebates, credits and cash, trade and quantity discounts, actually taken, (ii) excise taxes, sales, use, value added and other consumption taxes, and other compulsory payments to governmental authorities, (iii) the cost of shipping packages and packing, (iv) insurance costs and outbound transportation charges prepaid or allowed, (v) import and/or export duties and tariffs actually paid, (vi) amounts allowed or credited due to returns or uncollectable amounts. For clarity, Net Sales shall not include Sales by Acutus to its Affiliates or sublicensees for resale, provided that if Acutus sells or otherwise transfers Licensed Product or Coated Product to an Affiliate or sublicensee for resale, Net Sales shall include the amounts received by such Affiliate or such sublicensee from third parties on the resale of such Licensed Product or Coated Product. Net Sales shall not include Sales of Licensed Products or Coated Products for use in clinical research studies and/or research and development, except that Net Sales shall include any amounts that Acutus or its sublicensees receives for the Sale of Licensed Products or Coated Products for use in clinical studies and/or research and development only to the extent that such amounts are in excess of the selling entity's fully allocated cost of goods for such Licensed Products or Coated Products. For clarity, Net Sales shall apply only to sales of Products that are coated using the Coating Materials supplied by Biotectix in accordance with the terms of this Agreement.

Notwithstanding the above, if any Licensed Product or Coated Product is sold both separately and as an integral part of a combination product containing one or more integral components in addition to that Licensed Product or Coated Product, then net Sales of that Licensed Product or Coated Product resulting from sales of that combination product ·will be calculated by multiplying the Net Sales for the combination product by the fraction A/B where A is the invoice price of the Licensed Product or Coated Product as sold separately and B is the invoice price of the combination product. In the event that a substantial number of such separate sales were not made during the previous calendar quarter then the ·et Sales shall be as reasonably allocated based upon the proportion of the value of such combination product reasonably attributable to the Licensed Patents.

In the event that a Licensed Product or Coated Product is sold in combination with another product, component or service for which no royalty would be due hereunder if sold separately, Net Sales from such combination sales for purposes of calculating the amounts due on sales of Licensed Products or Coated Products s hall be calculated by multiplying the Net Sales of the combination product by the fraction A/(A + B), where A is invoice price of the Licensed Product or Coated Product as sold separately and B is the invoice price of the combined product(s), component(s) and/or service(s). In the event that a substantial number of such separate sales were not made during the previous calendar quarter then the Net Sales shall be as reasonably allocated based upon the proportion of the value of such combination product reasonably attributable to the Licensed Patents.

"**Product**" means any electrophysiology catheter used to (i) measure and map electrical properties of cardiac tissue and/or (ii) stimulate cardiac tissue using the Acutus System.

"**Sale**" means any bona fide transaction for which consideration is received by Acutus or its sublicensee for the sale, use, lease, transfer or other disposition of a Licensed Product or Coated Product provided by Acutus or sublicensees to a third party. A Sale is deemed completed at the time that Acutus or sublicensee receives payment attributable to the Licensed Product or Coated Product. For clarity, the sale, use, lease, transfer or other disposition of the Acutus System shall not be deemed to be a Sale, except for the Fair Market Value of any Licensed Product or Coated Product included as a part of the Acutus System.

"**Shelf Life**" means the time period following manufacture of Coating Material during which the Coating Material will be warranted to conform with Coating Material Specifications, set forth on each container of Coating Material and not less than the Minimum Shelf Life.

"**Supply Failure**" means a failure to supply at least ninety percent (90%) of the quantities of Coating Material in any two (2) consecutive calendar months pursuant to purchase orders submitted by Acutus and accepted by Biotectix pursuant to and in accordance with the terms and conditions of this Agreement within thirty (30) days of the dates specified in such purchase orders and in compliance with this Agreement.

"**SurModics License**" means that certain license agreement between Biotectix and SurModics, dated August 29, 2014, as may be amended from time to time.

"**SurModics Reagents**" means the four (4) SurModics proprietary photoreactive compounds and polymers which are the subject of the SurModics Agreement.

"**Valid Claim**" means (i) a claim of an issued and unexpired patent of Licensed Patents which has not been held unenforceable or invalid by a court or other governmental agency of competent jurisdiction in an unappealed or unappealable decision and which has not been abandoned, disclaimed or admitted to be invalid or unenforceable, through reissue, reexamination, disclaimer or otherwise, or (ii) a claim of a pending patent application of Licensed Patents that (a) continues to be prosecuted in good faith; (b) has not been pending for more than twelve (12) years from the date of its earliest filing priority, and (c) has not been abandoned or finally rejected without the possibility of appeal or refiling.

2. Phase I: Development and Pre-Approval Stage

a. In the development and pre-approval stage ("**Development and Pre-approval Stage**"), Biotectix will utilize technology owned or controlled by Biotectix ("**Biotectix Technology**") and technology owned or controlled by Acutus ("**Acutus Technology**") for the development of a Coating to be used in Acutus' catheters in accordance with an agreed upon development plan ("**Development Plan**"). The

Development Plan will specify the scope of Biotectix' s responsibilities, which shall include the following:

i. Develop Coating and process for applying the Coating to the Products, including all necessary characterization and stabilization of the Coating and process;

ii. Improve processes to increase capacity and efficiency;

iii. Qualify that the Coating adhesion meets the tape adhesion test (ASTM D3359) ("**Adhesion Qualification**") to be completed no later than July 31, 2015 ("**Adhesion Qualification Date**");

iv. Produce Coated Products; and

v. Supply to Acutus approximately 120 Coated Products by July 31, 2015 for determination of Development Acceptance.

b. **Development Term**. The term of the Development and Pre-approval Stage shall commence on the effective date of the Agreement ("**Effective Date**") until Development Acceptance (or if no Development Acceptance, until September 30, 2015) by Acutus of the Coated Product ("**Development Term**"). As used herein, "**Development Acceptance**" means acceptance by Acutus in writing of a Coated Product that is acceptable for commercial production.

c. **Equipment and Resources Provided by Acutus**. Acutus may purchase certain equipment for use by Biotectix in the performance of services hereunder ("**Acutus Equipment**"). Such Acutus Equipment shall be and remain the property of Acutus. Acutus will provide its assistance to design fixturing and develop processes to increase capacity. Acutus will also provide assistance with quality systems implementation.

d. **NRE and per Flex Costs**.

i. Acutus will pay Biotectix a one-time non-recurring engineering fee of $25,000 pursuant to Purchase Order Number 14-2276 dated November 6, 2014 ("**NRE Fees**").

ii. For production of Coated Products by Biotectix during the Development and Pre-approval Stage, Acutus shall pay Biotectix on a per Flex basis. As used herein, "**Flex**" means one spline composed of eight (8) individual electrodes. Each Coated Product will consist of six (6) Flexes for a total of forty-eight (48) electrodes, or as otherwise specified in writing by Acutus.

(a) The per Flex pricing during the- Development and Pre-approval Stage is as follows:

Flex for development/engineering use: $[***]

Flex for fully documented/traceable units: $[***].

iii. In the event Acutus requests performance of the Transfer Services during the Development and Pre-approval Stage, Acutus shall pay Biotectix a $[***] early transfer fee and Acutus will have no obligation to pay the foregoing per flex price in Paragraph 2.d.ii(a) for any Coated Products produced by Acutus and Acutus' payment obligations with respect to production of such Coated Products will be limited to the cost of Coating Materials as per Paragraph 3.b.vi.

iv. In the event that Biotectix fails to achieve the Adhesion Qualification by the Adhesion Qualification Date, Acutus will be entitled to a 50% refund of the NRE Fees from Biotectix.

v. In the event of Supply Failure during the Development and Pre-approval Stage, Acutus will be entitled to a 100% refund of the RE Fees from Biotectix.

e. **Licenses**. Biotectix grants to Acutus a non-exclusive, worldwide license under the Biotectix Technology to research and develop Coated Products during the Development and Pre-Approval Stage, and the license is royalty-free other than as provided in Paragraph 2.d above. Acutus grants to Biotectix a non-exclusive, royalty-free, worldwide license under the Acutus Technology to research and develop Coated Products for Acutus during the Development and Pre-Approval Stage.

f. **Intellectual Property**.

i. **Retained Rights**. Except as expressly set forth in the licenses granted hereunder, all inventions and other subject matter owned or controlled by either party prior to the Effective Date and/or developed independently from activities contemplated under this Agreement shall remain the sole property of such party.

ii. **IP**. The parties agree that, for inventions and other intellectual property rights conceived in performance of this Agreement, that (subject to the licenses granted under Section 2.f.vi:

(a) all inventions and other subject matter (and all intellectual property rights therein regardless of whether patented) that is specific to the Product or any substrate to be coated, in each case without the Coating, and conceived by Biotectix, either alone or jointly with others, in the performance of this Agreement and conceived with use of Acutus' Confidential Information (collectively, the "**Acutus IP**") shall be the sole and exclusive property of Acutus. Biotectix hereby assigns, and agrees to assign to Acutus all right, title and interest in and to the Acutus IP. Acutus IP does not include Coated Products or methods or compositions for altering the surface of the Product (such as, for example, modification of the Product surface to improve adhesion of the Coating to the Product) conceived in the performance of this Agreement. Any Acutus IP shall be

promptly identified by Biotectix in writing to Acutus and agreed by the parties, and a description of such Acutus IP shall be set forth in Attachment D.

(b) all inventions and other subject matter (and all intellectual property rights therein regardless of whether patented) that is specific to the Coating or Coating Material or any coating or coating formulation, in each case without the Product, and conceived, by Biotectix, either alone or jointly with others, in the performance of this Agreement and conceived with use of Biotectix' Confidential Information (collectively, the "**Biotectix IP**") shall be the sole and exclusive property of Biotectix. Acutus hereby assigns, and agrees to assign to Biotectix all right, title and interest in and to the Biotectix IP. Biotectix IP does not include Coated Products or methods or compositions for altering the surface of the Product (such as, for example, modification of the Product surface to improve adhesion of the Coating to the Product) conceived in the performance of this Agreement.

(c) The parties agree that all inventions and other subject matter (and all intellectual property rights therein regardless of whether patented) conceived by the parties in the performance of this Agreement, except for Acutus IP and Biotectix IP, shall be reviewed by the Patent Committee to determine ownership of the inventions ("**Collaboration IP**"). Prior to inclusion of any such inventions and other subject matter as within the scope of Collaboration IP, a description of such Collaboration IP shall be set forth in Attachment D, which the parties shall agree upon in good faith. The sole owner, if any, of Collaboration IP shall have the right to prosecute, maintain, enforce and defend such Collaboration IP. While ownership of Collaboration IP is being reviewed by the Patent Committee, the Patent Committee shall determine which party has the right to proceed with preparation of any patent application disclosing the invention as may reasonably be required to provide protection for such inventions. Each party shall have the right to review any such patent application within the Collaboration IP drafted by the other party on reasonable notice. If no consensus is reached by the Patent Committee regarding ownership of Collaboration IP within six (6) months after filing of the such application, such Collaboration IP shall be jointly owned by the parties (collectively, with any Collaboration IP that the Patent Committee determines to be jointly owned, the "**Joint IP**"). The parties shall each have non-exclusive rights to make, have made, use, sell, import and otherwise commercially exploit the Collaboration IP and Joint IP with no obligation to account to the other party, except as otherwise provided herein under this Section 2.f.ii(c) and Section 2.f.iii. Inventorship will be determined under U.S. patent law.

iii. **Patent Prosecution and Maintenance**.

(a) The parties agree that mutually acceptable patent counsel shall be retained at the mutual cost and expense of the parties to render an opinion as to the patentability of Joint IP and to prepare, file, and prosecute such Joint IP patent applications as may reasonably be required to provide protection for such inventions. Either party may choose at any time, upon written notice to the other, to forego any further expense of obtaining or maintaining a patent or patent application for Joint IP and will offer to assign its interest in such Joint IP to the other. If the prospective assignee party accepts such offer, thereafter (a) it shall at its own expense prepare, have executed by the other party, and record the necessary assignments, (b) it shall solely own and be solely responsible for obtaining and/or maintaining patents for such Joint IP, and (c) such patents shall cease to be Joint IP hereunder. Should either party choose to bring suit for infringement by a third party of any Joint IP, the party bringing suit shall provide ninety (90) days advance written notice to the other patty and shall have the right to join the other party as a party to the suit to the extent required by law. The party initiating suit shall bear all costs and expenses of such suit (including all costs and expenses of the other party should it be joined in the suit) and be entitled to any recovery therefrom.

(b) Cooperation on IP Matters. The parties will assist and cooperate with each other as may reasonably be required to facilitate the prosecution, including the recordation of assignments, maintenance, enforcement, and defense of any patents or patent applications (including continuations, continuation-in-parts, divisionals, or equivalents thereof) directed to any invention s that are licensed or assigned from one party to the other party pursuant to this Agreement. ln addition, the parties hereby acknowledge that this Agreement qualifies as a “joint research agreement” as defined in 35 U.S.C. § 100(h) and agree that the parties will cooperate to take advantage of the “joint research agreement” provisions of 35 U.S.C. § 102(c), including by the filing of a terminal disclaimer as provided for in Manual of Patent Examining Procedure Section 717.02(c), if reasonably prudent or necessary during the filing and/or prosecution of a patent application that is subject to a license grant or assignment under this Agreement.

iv. **Third Party IP**.

(a) Biotectix represents and warrants that (i) it has received a worldwide non-exclusive sublicenseable license to the Licensed SurModics Patents from SurModics under the SurModics License to the patents owned by SurModics (listed in Attachment A) that are or may be relevant to or needed for the Coating Material, (ii) to its knowledge, the use of the Coating Material does not infringe any third party intellectual property, (iii) to its knowledge, the use of the Coating Material for

manufacture of Coated Products does not infringe any third party intellectual property, (iv) to its knowledge, no additional licenses, permissions or releases of third party rights are necessary for Biotectix's development of or Acutus' production or distribution of the Coated Products and (v) to its knowledge, the Coated Products do not infringe any third party intellectual property.

(b) In the event of termination of the SurModics License, Acutus' rights hereunder will survive in accordance with the terms of the SurModics License and Acutus may license the SurModics Reagents under the same terms provided to Biotectix in the SurModics License with the following exceptions: (i) restriction of such license to the Field, Licensed Product, and Coated Product as defined in this Agreement; provided, however, that Acutus shall have the right, and a reasonable opportunity, to review a true and complete copy of the SurModics License to evaluate its terms before being bound by any terms therein, and shall have the right in its discretion to terminate the surviving sublicense to Acutus under any such terminated In-License Agreement. The parties agree that a termination of the SurModics License by Biotectix that would adversely affect Acutus' rights hereunder, without Acutus' prior written consent (which shall not be unreasonably withheld) shall be deemed a material breach of this Agreement by Biotectix. ln the event of termination of the SurModics License, Biotectix shall make any then-outstanding payments pursuant to the terms of the SurModics License, and thereafter Acutus may deduct from payments Acutus is required to make to Biotectix hereunder subsequent earned royalty payments made by Acutus to SurModics in respect of a surviving sublicense to Acutus, it being understood that the surviving sublicense to Acutus by Surmodics will be on the same terms as prior to the termination.

v. **Pre-existing IP**. Each party retains ownership of its pre-existing intellectual property (as of the Effective Date), including patents, trade secrets, know- how, inventions, creations, designs, methods, software, techniques, processes, and other intellectual property and technical information. Except as expressly set forth herein, nothing in this Agreement shall be construed as granting either party any rights under or to any patents, know-how, or other rights of the other.

vi. **Grant-back Licenses**.

(a) Acutus agrees to grant and hereby grants Biotectix a non-cancelable, nonexclusive, fully paid-up, royalty-free worldwide license, with the right to sublicense, to make, have made for it, use, import, and sell coating formulations and coating processes disclosed in patent applications filed by Acutus that impermissibly disclose Biotectix's Confidential Information that pertains to the Coating Materials or their manufacture or use. In addition to a license under this Paragraph 2.f.vi,

Biotectix shall have the right to seek any additional remedy at Jaw or in equity as a result of Acutus' impermissible use or disclosure of the Coating Materials or coating processes disclosed to Acutus under this Agreement.

(b) Biotectix agrees to grant and hereby grants Acutus a non-cancelable, nonexclusive, fully paid-up, royalty-free worldwide license, with the right to sublicense, to make, have made for it, use, import, and sell medical device products and processes disclosed in patent applications filed by Biotectix that impermissibly disclose Acutus' Confidential Information that pertains to the Products or their manufacture or use. In addition to a license under this Paragraph 2.f.vi, Acutus shall have the right to seek any additional remedy at law or in equity as a result of Biotectix's impermissible use or disclosure of the Products disclosed to Biotectix under this Agreement.

(c) If the Patent Committee grants ownership to Acutus of any Collaboration IP, Acutus agrees to grant and hereby grants to Biotectix a non-cancelable, nonexclusive, fully paid-up, royalty-free worldwide license, with the right to sublicense, to make, have made for it, use, import, and sell the invention under any such Collaboration IP.

(d) If the Patent Committee grants ownership to Biotectix of any Collaboration IP, Biotectix agrees to grant and hereby grants to Acutus a non-cancelable, nonexclusive, fully pa id-up, royalty-free worldwide license, with the right to sublicense, to make, have made for it, use, import, and sell the invention under any such Collaboration IP.

(e) Acutus agrees to grant and hereby grants Biotectix a non-cancelable, non-exclusive, fully paid-up, royalty-free worldwide license, with the right to sublicense, to make, have mad for it, use, import, and sell inventions under its interest in any Joint IP and Acutus IP.

(f) Biotectix agrees to grant and hereby grants Acutus a non-cancelable, non-exclusive, fully paid-up, royalty-free worldwide license, with the right to sublicense, to make, have made for it, use, import, and sell inventions under its interest in any Joint IP and Biotectix IP.

g. **Patent Committee**.

i. The parties hereby establish a joint "**Patent Committee**" which will be responsible for coordinating intellectual property issues ·with respect to Joint IP.

ii. **Membership**. The Patent Committee shall be comprised of at least one (1) representative of each party, and the Patent Committee shall be comprised of an equal number of representatives of each party. Each party may replace its

Patent Committee representative at any time, upon written notice to the other party.

iii. **Responsibilities**. The Patent Committee shall have the following responsibilities with respect to Joint IP:

(a) Discuss, at a general level, intellectual property issues relating to each party's respective patent rights;

(b) Discuss whether to file patent applications or maintain inventions as trade secrets, and whether the filing of Joint IP must be coordinated with the filing of Acutus IP or Biotectix IP (e.g., same filing date for patentably indistinct inventions; consolidating patent applications for foreign filing to avoid prior art issues between patentably indistinct inventions);

(c) Review draft patent applications and discuss, as necessary, other material filings or responses to be made with any patent authorities;

(d) Address patent prosecution issues;

(e) Determine the form of the patent reports that the parties will deliver to each other pursuant to Paragraph 2.g.iv; and

(f) Review intellectual property issues relating to publications resulting from research and development activities under this Agreement.

iv. **Patent Reports**. At the end of each calendar year during the term of this Agreement, the Patent Committee shall prepare a report, in form and substance to be determined by the Patent Committee, identifying the patent applications comprising Joint IP, Biotectix Technology, or Acutus Technology that were filed during the preceding calendar year and the prosecution status of all previously-filed patent applications comprising Joint IP, Biotectix Technology, or Acutus Technology.

v. **Meetings**. The Patent Committee shall meet in-person or by telephone or video conference on a quarterly basis or as otherwise agreed in writing. Additional meetings of the Patent Committee shall be on an as-needed basis. Members of the Patent Committee may participate in and vote at meetings, in person, by telephone or by video conference and may vote at meetings by proxy. With prior notice, additional employees of either party may be permitted to attend Patent Committee meetings, unless the other party reasonably objects to such attendance, provided that such participants shall have no voting authority.

vi. **Decision-Making**. All decisions of the Patent Committee shall be made by unanimous consent, and the decisions shall be reduced to writing. Each member of the Patent Committee shall have one (l) vote on all matters brought before the Patent Committee. In the event the Patent Committee is unable to reach

agreement on a matter within the Patent Committee's authority, then an officer from each party, having authority to resolve the dispute, will meet at a mutually agreeable time and place to attempt to resolve the dispute. The status quo shall be maintained until the dispute has been resolved; provided, however, that the parties shall collaborate in good faith to resolve any disputes to ensure that filing, prosecution and maintenance deadlines are not missed and provided further, if maintaining the status quo would result in the loss of existing patent rights, then the patent rights should be maintained until the dispute has been resolved. Notwithstanding anything herein to the contrary, the Patent Committee shall have no authority to make any decision that amends, contradicts, violates, interprets or waives compliance with any provision of this Agreement.

3. Phase 2: Commercial Sales Stage.

a. Upon Acutus' request for initiating commercial sales, which it may request no later than one (1) year after the Effective Date, the commercial sales stage ("**Commercial Sales Stage**") will commence. During the Commercial Sales Stage or earlier if Acutus requests the Transfer Service s during the Development and Pre-approval Stage, Biotectix will transfer the process for producing Coated Products developed under this Agreement and Acutus will pay to Biotectix a royalty based on sales of Coated Products. Biotectix will supply to Acutus the Coating Material s for the production of Coated Products.

b. **Supply**.

i. For the Commercial Sales Stage, Acutus will provide forecasts covering four (4) quarters for amounts of Coating Materials and the immediate three (3) quarters will be binding on Acutus.

ii. In the event Acutus does not purchase sufficient amounts of Coating Materials to meet its binding portion of the forecast for a given quarter, it shall have the option of satisfying its obligation by paying to Biotectix $[***] for such quarter.

iii. Biotectix will fulfill purchase orders for Coating Materials for amounts of Coating Material up to [***]% of the amounts specified in the binding portion of the forecast and use commercially reasonable efforts to accept all other orders for Coating Materials. Acutus shall issue orders for Coating Material from time to time during the Term pursuant to a written purchase order on its standard form and shall provide for shipment in accordance with reasonable delivery schedules and lead times as may be agreed upon from time to time by Acutus and Biotectix, provided that the maximum lead time from Acutus' requested delivery date shall not exceed thirty (30) days unless Acutus otherwise expressly agrees in writing. Biotectix shall accept and fill the purchase orders that have been issued by Acutus in compliance with this Paragraph iii. Biotectix shall notify Acutus within ten (10) days after receiving a purchase order if there is any reason why it cannot accept such purchase order. In the event Biotectix does not so notify

Acutus within such ten (10) day period, then such purchase order shall be deemed accepted.

iv. The Coating Materials shall conform with the specifications contained in (i) master files submitted by Biotectix or SurModics to the FDA and maintained by Biotectix or SurModics for purposes of premarket approval of medical devices and (ii) Biotectix product specification files (collectively, the "**Coating Material Specifications**"). In the event of a Supply Failure by Biotectix and to the extent the Coating Materials contain a SurModics Reagent and Biotectix has provided written notice thereof, Biotectix shall request from SurModics the right to grant a sublicense to Acutus which includes the right for Acutus to "have made" Licensed Products or Coated Products and to make such Coating Materials under the SurModics Agreement. If SurModics consents to the grant of such sublicense, Biotectix shall, only at Acutus' advance written request, grant such sublicense and provide technology transfer for manufacture of the Coating Materials using the SurModics Reagent as provided in this paragraph. In the event of a Supply Failure by Biotectix and to the extent the Coating Materials do not contain a SurModics Reagent, Biotectix shall grant to Acutus a right to make the Coating Materials and provide technology transfer for manufacture of the Coating Materials as provided in this paragraph. Technology transfer for manufacture of the Coating Materials includes (i) identifying qualified manufacturers of products and relevant components; (ii) using commercially reasonable efforts to assist Acutus in securing supply terms for raw materials that are similar to the terms in Biotectix's agreements with its suppliers of raw materials; (iii) transferring all materials, documentation, and equipment necessary to manufacture such Coating Material as soon as possible; (iv) reasonably cooperating with and assisting Acutus as may be reasonably necessary or desirable in order to enable Acutus to understand and implement the Biotectix Technology for manufacture of the Coating Material; (v) making reasonably available Biotectix personnel with expertise in manufacturing of such Coating Material to answer Acutus' questions related to such Coating Material; and (vi) otherwise diligently cooperating with Acutus without charge as reasonably necessary to enable Acutus to exercise its rights under the Coating Material License.

v. In the event of (i) such a Supply Failure of Coating Materials that contain a SurModics Reagent by Biotectix during the Commercial Sales Stage and (ii) Biotectix grants to Acutus the sublicense right to make Coating Materials containing a SurModics Reagent and (iii) Acutus requests technology transfer for the manufacture of such Coating Materials that includes the use of the SurModics Reagent, Acutus agrees that SurModics shall be Acutus' sole source for the SurModics Reagents in the Coatings Materials; provided that (i) SurModics Reagents are available for purchase by Acutus at the same prices that SurModics ordinarily offers to its other clients for equivalent volume consumption as evidenced by the most current annual price list which SurModics provides to its clients, which list SurModics or Biotectix will provide to Acutus no later than thirty (30) days after the beginning of each calendar year thereafter, (ii)

SurModics can demonstrate that the SurModics Reagents meet or exceed the technical performance of non-SurModics photoreactive components and anionic photoreactive crosslinking agents that Acutus evaluates in coatings that Acutus desires to commercialize with Products as evidenced by performance data that meets or exceeds performance data provided by Acutus to SurModics, and (iii) SurModics is not in breach of the SurModics Agreement. The parties acknowledge and agree that Acutus' sourcing commitment hereunder (i) is material to Biotectix's payment obligations under the SurModics Agreement, and (ii) shall not affect, diminish, or limit the license rights granted to Acutus. Accordingly, if after the grant of the foregoing sublicense and the technology transfer of manufacture of Coating Materials that includes the use of the SurModics Reagent, Acutus licenses, leases, sells, or otherwise commercially uses a SurModics Reagent which are not purchased from SurModics to make Coating Materials for use with Products in breach of the foregoing sole-sourcing requirement, then Acutus shall pay SurModics a one-time license fee of $[***] due for the respective calendar quarter in which Acutus licenses, leases, sells, or otherwise uses SurModics Reagents which are not purchased from SurModics as components in Coatings for Products.

vi. Acutus shall pay Biotectix for Coating Materials on a per unit basis as follows for the calendar year 2015:

Coating Material Description	Price per Unit
1 liter Solution A, 10 ml Solution B	$ [***]
500 liter Solution A, 5 ml Solution B	$ [***]
100 liter Solution A, 1 ml Solution B	$ [***]

After 2015, Acutus shall pay Biotectix for Coating Materials at the same prices that Biotectix ordinarily offers to its other clients for equivalent volume consumption as evidenced by the most current annual price list which Biotectix provides to its clients, which list Biotectix will provide to Acutus no later than thirty (30) days after the beginning of each calendar year thereafter; provided that such pricing shall be fixed for each calendar year and shall not exceed the greater of: (a) [***] ([***]%) of the pricing for the preceding calendar year; and (b) the price for Coating Material as adjusted for the increased actual cost to Biotectix for the raw materials in the Coating Material

vii. **Delivery**. Biotectix will ship Coating Materials per Acutus' written instructions for shipment F.O.B. Biotectix's facility in accordance with standard commercial practices. Risk of loss for the Coating Materials shall pass to Acutus when Coating Materials are delivered to a reputable carrier of Acutus' choice (or other reputable carrier if not specified by Acutus), at Biotectix's facility.

viii. **Delivery Dates**. Biotectix shall use commercially reasonable efforts to meet all delivery dates requested by Acutus. If Biotectix determines that it will not be able to meet a delivery date, Biotectix will promptly notify Acutus and specify an alternate delivery date and the parties shall discuss the possibility

of implementing reasonable mechanisms intended to reduce the possibility and effects of any failure to supply. Additionally, in order to assure continuity of supply, Biotectix agrees to, at the request of Acutus, discuss in good faith the qualification of a backup facility and/or manufacturer for the Coating Materials.

c. **Coating Technology Transfer**.

i. At Acutus' request, Biotectix shall perform transfer services ("**Transfer Services**") to transfer to Acutus or its designee all documentation, samples, and other materials and information reasonably necessary to enable Acutus to manufacture the Coated Product in its control and exercise the rights and licenses granted to Acutus hereunder (the "**Coating Technology**"). For clarity, (a) the Coating Technology does not include the chemical composition for the Coating Material or the SurModics Reagents, and Transfer Services do not include transfer of manufacture of the Coating Material or the SurModics Reagents to Acutus or its designee and (b) Acutus may request and Biotectix shall perform Transfer Services at any time during the Term.

ii. The Transfer Services shall include:

(a) Transfer of all documentation of the Coating Technology to Acutus; and

(b) Training of Acutus personnel in the use of the Coating Technology at the facility of Acutus or its designee as may be reasonably necessary to manufacture the Product.

iii. **Coating Transfer Fee**. "Coating Transfer Fee" means [***] ($[***]). The Coating Transfer Fee covers (i) 200 hours of labor in performance of the Transfer Services at a rate of $[***]/hour ("**Transfer Services Labor Rate**") and (ii) Coating Material for performance of the Transfer Services. If less than 200 hours of Transfer Services are performed by Biotectix, Biotectix shall refund to Acutus an amount equal to the unused Transfer Services hours at the Transfer Services Labor Rate. If, upon mutual agreement, Biotectix performs Transfer Services that exceed 200 hours of labor, Acutus shall pay for such additional Transfer Services hours performed at the Transfer Services Labor Rate, invoiced monthly. For clarity, Acutus will provide the Flexes for producing the Coated Products. The Coating Transfer Fee shall be paid within thirty (30) days after Transfer Acceptance. "**Transfer Acceptance**" means the manufacture by Acutus of ten (10) Flexes that are acceptable for commercial production. Except with respect to any Coating Materials as specified above, Acutus shall reimburse Biotectix for actual reasonable, documented costs incurred by Biotectix in performing the Transfer Services to the extent approved in advance by Acutus in writing.

d. **License**.

i. **Grant**. Subject to payment of the License Initiation Fee by Acutus, Biotectix grants to Acutus, a royalty-bearing, worldwide license to make, have made by a Manufacturer subject to paragraph 3.g below, use, offer to sell, sell, and import Licensed Products under Licensed Patents and a royalty-bearing, worldwide license to use (a) SurModics Reagents as components in Coatings for Licensed Products and Coated Products (b) the Coating Materials in Coatings for Licensed Products and Coated Products ("**Commercial License**"). The license granted herein is expressly limited to the Licensed Products and Coated Products defined herein and does not include the right to sublicense except as set forth in Paragraph 3.f, and in Paragraph 3.g below with respect to a Manufacturer. All licenses granted by Biotectix to Acutus under this Agreement are non-exclusive. "**License Initiation Fee**" means [***] ($[***]).

ii. **Retained Rights**. Subject to the limited license granted herein, Biotectix and/or SurModics shall retain all rights to the Licensed Patents.

iii. **Manufacturing Locations**. Acutus shall notify Biotectix in advance and in writing of the location of the production of a Licensed Product or Coated Product or any new location to be used for the production of a Licensed Product or Coated Product.

iv. **Compelled Licenses**. If any governmental agency in a jurisdiction materially alters, hinders, or prevents enforcement of the terms or provisions of any license granted by a party herein, such party may, at its sole discretion, immediately terminate that license with respect to such jurisdiction.

v. **Manufacturer using SurModics Reagents**. To the extent Acutus intends to transfer SurModics Reagents or Coating Materials containing SurModics Reagents to a Manufacturer, Acutus shall provide advance written notice to SurModics of each prospective Manufacturer prior to the transfer of any SurModics Reagent or Coating Material containing SurModics Reagents to such Manufacturer. The Manufacturer's right of manufacture using any SurModics Reagent or Coating Material containing SurModics Reagents under this Agreement shall not be effective unless and until a "Manufacturer's Agreement" in a form similar to Attachment C hereto has been signed by Manufacturer, delivered to SurModics, and signed by SurModics. Acutus shall limit its disclosure of SurModics' Confidential Information to Manufacturer on a need-to-know basis. To the extent a Manufacturer uses the SurModics Reagents or Coating Materials containing SurModics Reagents, Acutus shall be responsible for and hereby guarantees the performance to SurModics by each Manufacturer of all of the applicable obligations herein. The Manufacturer's right to manufacture Licensed Product and Coated Product shall terminate automatically and without notice upon the earlier of (i) such time as the separate agreement between Acutus and the Manufacturer expires or is terminated, and (ii) the date of termination of this Agreement.

e. **Royalties, Milestones and other Revenue**.

i. Commencing upon the first commercial sale of the first Licensed Product or Coated Product, Acutus shall pay to Biotectix on a semiannual basis the following royalties on Net Sales during the Term:

Cumulative Net Sales	Covered Territories	Other Territories
< $25 million	[***]%	[***]%
³ $25 million	[***]%	

ii. The applicable territory for a given Net Sale of a Licensed Product or Coated Product shall be the territory of intended use of the Licensed Product or Coated Product.

iii. "**Covered Territories** " means those countries where the making, using, importing, selling or offering for sale of the Licensed Product would constitute, but for the license granted to Acutus pursuant to this Agreement, infringement of a Valid Claim in the country of intended use of the Licensed Product.

iv. "**Other Territory**" means all countries other than Covered Territories. For clarity, Net Sales in Other Territories are those Net Sales of Coated Products that are not Licensed Products in the country of intended use.

v. **Minimum Royalties**. Commencing upon the first commercial sale of the first Licensed Product or Coated Product, Acutus shall pay an annual minimum royalty of $[***] per year. ("**Minimum Royalties**"). Acutus' payments received by Biotectix under Paragraph 3.e of this Agreement shall be fully creditable in the aggregate against Acutus' annual Minimum Royalty obligation on a one time basis corresponding to the same annum in which Acutus' respective payment obligation under Paragraph 3.e accrued. No payment, credit, or amount from one calendar annum shall transfer or be available against Acutus' annual Minimum Royalty obligation for any other calendar annum.

vi. **Royalty Stacking**. If Acutus or any sublicensee makes payments to one or more third parties for rights to intellectual property or technology relating to the manufacture, use or sale of the Coating Material in order to make, use, or commercialize any Licensed Product, Acutus may offset such third party payments against any royalty payments that are due to Biotectix; provided, however, that the royalty payments to Biotectix will not be reduced to a rate of less than 50% of the amount that would otherwise have been payable.

vii. **Milestone Payment**. Acutus will pay Biotectix five hundred thousand ($500,000) after Acutus achieves [***] ($[***]) in cumulative Net Sales. Such payment shall be made in two equal,

consecutive semiannual payments beginning on the first date royalty payments are due hereunder after such achievement of cumulative Net Sales.

f. **Right to Grant Sublicenses**. The license granted to Acutus in Paragraph 3.d includes the right to grant and authorize sublicenses to third parties to offer to sell, sell, use or import Licensed Products and Coated Products without payment of any consideration for the grant of such sublicense; provided, however, that (i) each sublicense granted by Acutus shall be subject and subordinate to the applicable terms and conditions of this Agreement, and (ii) Acutus shall remain responsible for all payments due Biotectix hereunder. Acutus shall provide Biotectix with ·written notice and a copy of each sublicense, which may be redacted by Acutus (only to the extent that the redactions do not impact SurModics ability to determine the sufficiency of payments received from Biotectix for any Acutus sublicense), promptly after each sublicense is signed on behalf of Acutus and the sublicensee, and such copy shall be provided to SurModics by Biotectix to the extent such sublicense includes a right to use SurModics Reagents.

g. **Right to Grant Manufacturing Rights**. The license granted to Acutus in Paragraph 3.d includes the right to have-made by a Manufacturer and to use Coating Materials containing SurModics Reagents to make Licensed Products and Coated Products without payment of any consideration for the grant of such manufacturing right; provided, however, that (i) each manufacturing right granted by Acutus shall be subject and subordinate to the applicable terms and conditions of this Agreement, and (ii) Acutus shall remain responsible for all payments due Biotectix hereunder. Acutus shall not grant a manufacturing right under this Agreement to use SurModics Reagents to make Licensed Products to any third party that is listed in Attachment B. For clarity, the license granted to Acutus in Paragraph 3.d shall not include the right to grant and authorize sublicenses to third parties to make, have made, offer to sell, sell, or import Coating Materials or SurModics Reagents.

4. Royalty Payments, Reports, Records.

a. **Quarterly Royalty Payments and Reports, Annual Forecasts**. During the term of this Agreement, and for the license granted under Paragraph 3.d, Acutus will make quarterly written reports and payments to Biotectix within thirty (30) days after the last day of each calendar quarter ending March 31, June 30, September 30, and December 31. Such quarterly written reports shall include an itemized account of Net Sales of Licensed Product and Coated Product, as well as an account by product tradename (or model description), and product code (or model number), of (i) unit volumes of such Licensed Product or Coated Product sales made by or on behalf of Acutus or its sublicensee, (ii) the applicable royalty, (iii) the permitted deductions from sales of Licensed Product or Coated Product set forth in the definition of Net Sales in Paragraph 1, and (iv) Net Sales. Each such report shall also include corrections of error in prior royalty payments, data, and calculations used by Acutus to determine such payments for the respective Licensed Product or Coated Product. Each report shall be accompanied by payment in full of the royalty due Biotectix for that quarter. The December 31 quarterly report shall also include a nonbinding summary forecast of projected sales of Licensed Products or Coated Products and a nonbinding forecast of Coating Material usage for the

next calendar year. Reports provided to Biotectix under this Paragraph 4.a shall be considered Confidential Information of Acutus and not Biotectix.

b. **Records**. Acutus will maintain, for a period of five (5) years following each sale of Licensed Product or Coated Product, true and accurate records supporting the reports and payments made under this Agreement.

c. **Report Confirmations**. Within thirty (30) days of Biotectix's written request, Acutus will provide written confirmation to Biotectix that Acutus' royalty and payment reports (under Paragraph 4.a above), to Biotectix for each of the four calendar quarters that immediately precede Biotectix's written request, include and report all Net Sales for the applicable reporting periods. Acutus' written confirmation to Biotectix will be signed by a representative of Acutus who has oversight, control, and responsibility within Acutus' organization for identifying, recording, and reporting sales of Licensed Products or Coated Products to Biotectix. Acutus will not be required to provide such written confirmation to Biotectix more than once per calendar year.

d. **Audits**. Biotectix shall have the right to carry out an audit of such records no more than once per calendar year by an independent certified public accountant of its choice. During Acutus' normal office hours, such accountant shall have reasonable access to Acutus' offices and the relevant records, files and books of account, and such accountant shall have the right to examine manufacturing records, sales records, and any other records reasonably necessary to determine the accuracy of the calculations provided by Acutus under Paragraphs 3.e and 4.a. The accountant shall be required to sign a suitable confidentiality agreement reasonably acceptable to Acutus prior to conducting such audit. Such audit shall be at Biotectix's expense except that if an underpayment error is found for any twelve month period that exceeds 5% of the payment made to Biotectix for that period, then Acutus will bear the cost of such audit.

e. **Currency**. All payments on Net Sales of each Licensed Product or Coated Product to be paid to Biotectix by Acutus under this Agreement shall be paid in U.S. Dollars to Biotectix in the United States. For the purpose of calculating earned royalties on Net Sales outside the United States for any calendar quarter, Acutus shall utilize the rate of exchange on the last business day of that calendar quarter as quoted in either the *Wall Street Journal* or at *www.oanda.com*.

f. **Taxes**. Any sum required under U.S. tax laws (or the tax laws of any other government), to be withheld by Acutus from payment for the account of Biotectix shall be promptly paid by Acutus for and on behalf of Biotectix to the appropriate tax authorities. Acutus shall furnish Biotectix with official tax receipts or other appropriate evidence issued by the appropriate tax authorities sufficient to enable Biotectix to support a claim for income tax credit in respect to any sum so withheld.

g. **Late Payments**. If any amount owing Biotectix is not paid when due, each unpaid amount shall bear interest after its due date at the rate of one and one-half percent (1.5%) per month or the highest rate permissible under applicable law, whichever is

lower. Biotectix shall be entitled to recover all of its costs and expenses incurred in any action to collect amounts owing, including attorneys' fees.

5. Confidential Information.

a. "**Confidential Information**" means all information of a confidential or proprietary nature which is disclosed by or on behalf of the disclosing party to the receiving party during the term of this Agreement. Confidential Information shall not include information that:

i. at the time of its disclosure to the receiving party is available to the public; or

ii. after disclosure becomes available to the public through no fault of the receiving party; or

iii. the receiving party can show was in its possession without direct or indirect confidentiality obligations to the disclosing party at the time of disclosure to it by the other; or

iv. the receiving party can show was received by it from a third party without breach of a confidentiality obligation to the disclosing party.

An individual feature of Confidential Information shall not be deemed to be within any of the specified exceptions merely because it is embraced by more general information in such exception. In addition, any combination of features shall not be deemed to be within any of the specified exceptions merely because individual features are in such exception, but only if the combination itself and its principle of operation are in such exception.

b. **Disclosures and Publications**. The parties may disclose the existence of this Agreement to any of their prospective or existing customers for whom the party is developing a Licensed Product, Coated Product, or a Coating for use in connection with a Licensed Product or Coated Product, or to any of their investors; provided, however, that any such customers or investors shall be bound by a written agreement containing confidentiality obligations no less restrictive than those set forth in this Agreement. A copy of this Agreement and any amendments thereto shall be provided to SurModics promptly after execution of this Agreement or such amendments. Neither party shall issue a press release or make any similar public announcement regarding this Agreement without the other party's prior written consent to the specific language and intended distribution of such press release or announcement.

c. **Patent Filings**. Neither party shall file any patent applications that disclose the: disclosing party's Confidential Information or the use of such Confidential Information (either alone or in combination with other technology) without the prior written approval of the disclosing party.

d. **Compelled Disclosures**. If the receiving party is compelled by application of law or legal process to divulge Confidential Information of the disclosing party, the

receiving patty shall provide the disclosing party with advance written notice before divulging the information and assist the disclosing party to seek a protective order or employ other means to preserve the confidential nature of that information.

e. **Term of Confidentiality**. During the term of this Agreement, the receiving party agrees that it will not (i) use Confidential Information of the disclosing party for any purpose other than to perform its obligations or exercise its rights in accordance with this Agreement, or (ii) disclose Confidential Information of the disclosing party to any third party without the advance written approval of the disclosing party. The obligations of confidentiality herein shall remain in force and effect until such time that the Confidential Information disclosed hereunder is publicly disclosed and becomes a part of the public domain other than through acts or omissions of the receiving party.

f. **Prior Obligations of Confidentiality**. As of the Effective Date, this Agreement supersedes any prior secrecy or confidential disclosure agreements, and all disclosures under the prior secrecy or confidential disclosure agreements shall be subject to the terms of this Agreement.

6. Acutus Representations and Covenants.

a. **Coating Evaluations**. Without limiting Acutus' right to market and sell Licensed Products and Coated Products, Acutus may provide coated samples that include a Coating to third parties for research and development pw-poses only so long as Acutus and the third party are parties to a signed written agreement that includes obligations of confidentiality consistent with the terms of this Agreement.

b. **Coating Materials**. Except as provided in paragraphs 3.b.iv, 6.h and 7.c, Acutus shall not provide Coating Materials to third parties, shall not resell Coating Materials, and shall not reverse engineer or otherwise analyze the Coating Materials, SurModics Reagents or any other Biotectix confidential formulations provided under this Agreement to determine their chemical composition. The restrictions in this paragraph 6.b do not apply to coated samples that include a Coating; Restrictions on the coated samples that include the Coating are specified in paragraph 6.a.

c. **Safety, Efficacy, and Service Limitations**. Except as provided in Paragraphs 7, 12, 13, and 22.c, Acutus shall be solely responsible for the design, safety, and efficacy of all Coated Products and Licensed Products. Further, Acutus acknowledges the following limitations with respect to the services provided by Biotectix under this Agreement:

i. Biotectix will not package Coated Product for final sale by Acutus.

ii. Biotectix will not assemble Coated Product to create a complete medical product or Licensed Product.

d. **Inspection**. Acutus shall inspect all shipments of Coated Products provided by Biotectix within ten (10) days after receipt and shall notify Biotectix in

writing of any shortages or other failures to conform with this Agreement that are reasonably discoverable at that time, except as provided in Paragraph 2.b.

e. **Sterilization and Testing**. Acutus shall have responsibility for sterilizing Licensed Product or Coated Product that incorporates Coating Materials and conducting quality control testing and performance testing, to the extent required by applicable law.

f. **Compliance**. Acutus represents and warrants to Biotectix that Acutus will use, transport, and dispose of Coating Materials in a manner that is in full compliance with all applicable laws and regulations, specifically including regulatory and export/import laws and specific to the country or countries in which such products are sold and/or used; provided that Biotectix shall provide its reasonable assistance therewith as reasonably requested by Acutus.

g. **Insurance**. Acutus represents and warrants to Biotectix that Acutus (i) has in place an effective insurance program in a form reasonably sufficient to cover any foreseeable product liability claim or claims arising out of the use, transport, or disposal of Coating Material, Coated Product, or Licensed Product and (ii) will provide Biotectix with a certificate of such insurance upon Biotectix's request.

h. **Notice of Nonconformance**. Acutus shall inspect the Coating Materials received from Biotectix within thirty (30) days after its receipt thereof. If, upon such inspection, Acutus believes that Coating Materials do not conform to the Coating Material Specifications, Acutus shall notify Biotectix within such thirty (30) days after receipt of Coating Materials. No claim for non-conformance of the Coating Materials shall be honored if Acutus fails to notify Biotectix within that thirty-day period of such non-conformance. Notwithstanding the foregoing, Acutus shall have an ongoing right to reject any Coating Materials after such thirty day period for defects that would not have been readily discoverable from a reasonable inspection or review of the Coating Materials, including any defect determined in accordance with Paragraph 7.c, provided that Acutus notifies Biotectix within fifteen (15) business days after discovery of such defect and the defect occurs within the Shelf Life period specified for the Coating Material. In the event Acutus wishes to reject Coating Materials, Acutus shall send Biotectix a sample of the alleged nonconforming Coating Materials. Subject to the foregoing, Acutus has the right to reject any portion of any shipment that does not conform to the Coating Material Specifications (without invalidating the remainder of the order), provided that such nonconformance was not the direct result of specific written instructions and/or material supplied by Acutus to Biotectix. If Biotectix does not agree with Acutus' determination regarding non-conformance of the Coating Materials, then after reasonable efforts to resolve the disagreement (but in all cases, within thirty (30) days of Acutus providing notice of rejection), the dispute shall be submitted for determination by an independent laboratory/expert mutually selected by the parties and the decision of such independent laboratory/expert shall be final and binding on the parties with respect to whether there was non-conformance. Biotectix shall provide the independent laboratory/expert access to the Coating Material Specifications, provided that such independent laboratory/expert shall not provide such Coating Material Specifications to Acutus, provide information regarding the chemical composition of the

Coating Material to Acutus, or provide information regarding the chemical composition of the SurModics Reagents to Acutus or Biotectix. The costs of the independent laboratory/expert's fees and the prevailing party's out-of-pocket costs incurred in connection with the independent laboratory/expert' s decision shall be borne by the party against whom the independent laboratory/expert's decision is given.

i. **Reports**. Acutus will provide periodic feedback to Biotectix with respect to the coating performance of Coating Material s used in any human clinical trials, provided that such feedback shall be the Confidential Information of Acutus and not Biotectix.

7. Biotectix's Representations and Covenants.

a. **Coating Materials**. The Coating Materials produced by Biotectix and used to coat Product for Acutus shall be traceable, unexpired, and meet the Coating Material Specifications.

b. **Coating Material Quality**. If Biotectix confirms by way of an analysis, audit, or customer complaint that the quality of a proprietary reagent used to coat Product is in question with respect to safety, performance, reliability, or appearance, then Biotectix shall promptly notify Acutus.

c. **Analysis**. If Acutus determines that the coated portion of Licensed Products does not meet Acutus' specifications for the Licensed Products ("**Licensed Product Specifications**"), Biotectix shall provide technical help and such other assistance as may reasonably be necessary to investigate the reasons the coated portion of Licensed Product docs not meet the Licensed Product Specifications. Biotectix shall implement any corrective and preventative actions proposed by Acutus within thirty (30) days following submission thereof to Biotectix. If a dispute exists as to whether the coated portion of the Licensed Product fails to meet the Licensed Product Specifications and/or which party is responsible for the defect, the parties shall appoint an independent laboratory/expert to conduct an independent root cause analysis. Biotectix shall provide the independent laboratory/expert access to the Coating Material Specifications, provided that such independent laboratory/expert shall not provide such Coating Material Specifications to Acutus or provide information regarding the chemical composition of the Coating Material to Acutus, or provide information regarding the chemical composition of the SurModics Reagents to Acutus or Biotectix. The parties agree to be bound by the independent laboratory/expert's ruling and to retrospectively share the cost for such analysis between them proportionate to the independent laboratory/expert's determination of each party's share of responsibility for such defect, if any. The parties shall share the cost of any corrective and preventative actions equal to the share of responsibility of the parties determined in accordance with the foregoing. Biotectix will only be responsible for the defect if its Coating Material was used to coat the Licensed Product within the specified Shelf Life of the Coating Material, and the defect resulted from non-compliance with the Coating Material Specifications as determined by analysis of the Coating Material by the independent laboratory/expert within the specified Shelf Life of the Coating Material.

d. **Notice of Changes during Phase 2**. Biotectix shall notify Acutus of any proposed material changes to Coating Material or coating procedures, including any change that would likely affect the biocompatibility, adhesion, or electrical properties of the coating component of Licensed Products or the regulatory approvals applied for or obtained by Acutus for such Licensed Products. Biotectix shall notify Acutus at least sixty (60) days prior to such actions and shall not make any such change without the prior written consent of Acutus, which consent shall not be unreasonably withheld, conditioned, or delayed.

e. **Coating Materials Warranties**. Biotectix represents and warrants to Acutus that the Coating Material will conform to the Coating Material Specifications and that Biotectix shall not modify the Coating Material Specifications without the advance written consent of Acutus. If the Coating Material does not conform to the Coating Material Specifications, as determined in accordance with Paragraph 6.h, then Biotectix will either (i) credit the price payable under this Agreement for the quantity of Coating Material that fails to meet the Coating Material Specifications, or at Acutus' request, (ii) promptly provide replacement Coating Material at no additional charge to Acutus.

f. **Performance**. Biotectix represents and warrants to Acutus that Biotectix' performance of its obligations under this Agreement will not result in a material violation or breach of any contract between Biotectix and a third party. Biotectix shall not assign, delegate, or subcontract any of its obligations hereunder without the prior written approval of Acutus which shall not be unreasonably withheld. Any such approval shall not relieve Biotectix of its obligations under this Agreement, and Biotectix shall be and remain responsible for the activities of all of its subcontractors under this Agreement as if such activities were conducted by Biotectix itself.

8. Termination.

a. **Acutus' Right to Terminate for Convenience & Without Cause**. Acutus shall have the right to terminate this Agreement upon nine (9) months advance written notice. Upon termination of this Agreement, Acutus shall have no further rights under Licensed Patents and Biotectix Technology. Notwithstanding the foregoing, Acutus shall be allowed to sell any inventory of Licensed Products or Coated Products existing at the time of termination for a period of six (6) months thereafter, provided Acutus accounts for such sales of inventory and pays Biotectix the appropriate royalty for such sales as set out in Paragraph 3.e of this Agreement.

b. **Termination for Cause**. In the event either party materially breaches this Agreement, the other party shall have the right to terminate this Agreement if the breaching party fails to cure such material breach within sixty (60) days from receiving the other party's written notice describing the alleged material breach, provided that if the breaching party disputes such breach in good faith by providing written notice to the other party during such sixty (60) day period, the other party shall not have the right to terminate this Agreement unless and until it has been determined in accordance with the dispute resolution mechanisms under the Agreement that the breaching party materially

breached the Agreement, and the breaching party fails to cure such material breach with sixty (60) days thereafter.

c. **Termination upon a Change of Control**. In the event of a Change of Control of a party and such party terminates this Agreement within nine (9) months of such Change of Control, such party shall pay $250,000 to the other party.

d. **Change to Course of Business**. Either party may terminate this Agreement if the other party hereto is involved in insolvency, dissolution, bankruptcy or receivers hip proceedings affecting the operation of its business; provided that such proceedings have not been dismissed within ninety (90) days.

e. **Termination of All Licenses**. In the event that all licenses granted herein are terminated, Biotectix shall have the right to terminate this Agreement in its entirety upon written notice.

f. **Supply if Biotectix Terminates**. In the event of termination of this Agreement by Biotectix after payment of the Coating Transfer Fee, for a period of nine (9) months after such termination, Biotectix shall fulfill any orders of Coating Materials placed by Acutus that do not exceed the amounts of Coating Materials forecasted in the forecast(s) last provided by Acutus, and its sublicensees covering such nine (9) month period.

g. **Term**. The term of the Agreement shall commence on the Effective Date and expire upon the expiration of the last-to-expire patent within the Licensed Patents, unless earlier terminated hereunder ("**Term**"). Upon the expiration, but not the earlier termination, of this Agreement, the rights licenses granted to Acutus hereunder shall become fully-paid and irrevocable.

9. Surviving Rights and Obligations.

a. **Surviving Terms**. Upon any termination or expiration of this Agreement or any of the licenses granted herein, the following rights and obligations shall continue to the degree necessary to effectuate the terms of this Agreement:

i. Biotectix's right to receive and Acutus' obligation to pay milestones and royalties on Net Sales made during the Term to Biotectix as set forth in Paragraph 3.e;

ii. Acutus' obligation to maintain records under Paragraph 4.b and Biotectix's right to audit under Paragraph 4.d, including with respect to royalties under Paragraph 3.e, and sales made and to be made under Paragraph 3;

iii. Any cause of action or claim of either party, accrued or to accrue, because of any breach or default by the other party;

iv. The parties' obligations to maintain confidentiality under Paragraph 5;

v. The parties' rights and obligations under Paragraphs 2.f, 4.g, 6.b, 8.c, 8.g, 8.f, and 9-25; and

vi. Except with respect to the grant of a sublicense to Manufacturers, sublicenses granted to Acutus' sublicensees shall survive if (i) the relevant sublicensee agrees in writing to be bound by the terms of this Agreement as such terms apply to such sublicensee (in which event such sublicensee shall be deemed a direct licensee of Biotectix), and (ii) Biotectix approves the survival of the respective sublicense at the time of termination of this Agreement, which approval shall not be unreasonably withheld; provided that such sublicensee shall only be responsible for any payments that become due as a result solely of such sublicensee's activities after the effective date of any such termination.

b. **Return of Confidential Information**. Within thirty (30) days of the date of termination of this Agreement, each party shall return all copies of Confidential Information of the other, except one archival copy which may be retained by the receiving party for purposes of determining its on-going obligations under this Agreement.

10. Representations and Warranties.

a. Each party represents and warrants to the other that its execution and delivery of this Agreement and the performance of its obligations hereunder has not conflicted and will not conflict with or result in a violation or breach of any agreement or other instrument or obligation to which such party is bound.

b. Each party represents and warrants to the other that it has the full and unrestricted right to enter into this Agreement and carry out the obligations hereunder.

c. Biotectix represents and warrants that, during the Term:

i. it shall not misappropriate confidential or trade secret information of a third party to acquire the subject matter of the licenses granted by Biotectix hereunder;

ii. it shall remain the owner or licensee of the patents/patent applications listed in Attachment A hereto and shall have the right to grant the licenses granted to Acutus in this Agreement, and it shall not grant any right, license, or interest in, to, or under the intellectual property rights being licensed hereunder that is inconsistent with the rights, licenses, and interests granted to Acutus under the terms and conditions of this Agreement;

iii. it shall not modify, amend, fail to perform under, or terminate the SurModics License in any manner that would adversely affect Acutus' rights or obligations under this Agreement; and

iv. as between Biotectix and Acutus, all payments owed under the SurModics License shall be the responsibility of and be paid by Biotectix except

as provided in paragraph 3.b.iv in the event that Acutus does not comply with the commitment to source SurModics Reagents from SurModics;

v. Biotectix shall keep Acutus reasonably informed of any material notices or events under any in-license agreements that could adversely affect Acutus' obligations or rights under this Agreement (including any notices related to Biotectix's breach of an in-license agreement); and

vi. Acutus, in its sole discretion, shall be permitted to cure any breach or default under the SurModics License in accordance with the terms and conditions of the SurModics License, or otherwise resolve such breach directly with SurModics, if such breach or default in any way would adversely affect Acutus' obligations or rights under this Agreement; and, if Acutus pays SurModics any amounts owed by Biotectix under the SurModics License, Acutus may deduct such amounts from payments Acutus is required to make to Biotectix hereunder.

vii. All patents or patent applications currently owned, licensed or otherwise controlled by Biotectix and necessary to make, use, offer to sell, sell, import and exploit Licensed Products and Coated Products have been licensed hereunder to Acutus.

d. Except as expressly stated in Paragraphs 10.a through 10.c, nothing in this Agreement shall be construed as:

i. A warranty or representation by Biotectix as to the validity or scope of any Licensed Patents; or

ii. A warranty or representation that anything made, used, sold, or otherwise disposed of, or any process practiced, under any license granted in this Agreement is or will be free from infringement of patents of third persons, except as set forth in Paragraph 2.f.iv; or

iii. A requirement that Biotectix file any patent application, secure any patent, or maintain any patent in force, except in accordance with Paragraph 2.g; or

iv. An obligation to bring or prosecute actions or suits against third parties for infringement of any patent, except for a party's obligation to join a suit in accordance with Paragraph 2.f.iii; or

v. An obligation to furnish any manufacturing or technical information except as set forth in Paragraphs 2.g, 3, 6.h, 7.b, 7.c, 7.d, 12, and 13.b; or

vi. Conferring any right on either party to use in advertising, publicity, or otherwise any trademark or trade name of the other; or

vii. Granting by implication, estoppel, or otherwise any licenses or rights under patents or other proprietary information of a party other than those expressly included in this Agreement.

e. EXCEPT AS EXPRESSLY PROVIDED IN PARAGRAPHS 2.f.iv, 7.e, 7.f, 10 and 22.c, WITH RESPECT TO COATING MATERIALS SUPPLIED AT ANY TIME BY BIOTECTIX, COATED PRODUCTS OR LICENSED PRODUCTS, BIOTECTIX DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. EXCEPT AS EXPRESSLY PROVIDED PARAGRAPHS 6.c, 6.g, and 10, ACUTUS DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. NOTWITHSTANDING ANYTHING TO THE CONTRARY (EXCEPT UNDER THIS PARAGRAPH BELOW), ACUTUS AND BIOTECTIX SHALL NOT BE LIABLE TO THE OTHER PARTY UNDER THIS AGREEMENT FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXTRAORDINARY OR PUNITIVE DAMAGES OF MY DESCRIPTION, WHETHER FOR DAMAGE TO REPUTATION OR GOODWILL, LOST PROFITS, CLAIMS OF THIRD PARTIES OR OTHERWISE, “WHETHER SUCH ASSERTED DAMAGE PURPORTS TO BE BASED ON WARRANTY OR GUARANTEE, INDEMNITY OR OTHER CONTRACT, CONTRIBUTION, NEGLIGENCE OR OTHER TORT, OR OTHERWISE. THE PARTIES EXPRESSLY AGREE THAT THE EXCLUSION OF SPECIAL, INCIDENTAL, CONSEQUENTIAL, AND PUNITIVE DAMAGES SET FORTH HEREIN ARE AGREED ALLOCATIONS OF RISK Al”\TD SHALL SURVIVE THE DETERMINATION OF ANY COURT OF COMPETENT JURISDICTION THAT ANY REMEDY PROVIDED HEREIN FAILS OF ITS ESSENTIAL PURPOSE. UNDER NO CIRCUMSTANCES SHALL EITHER PARTY’S LIABILITY HEREUNDER FOR ANY CAUSE EXCEED TWICE THE MONEY RECEIVED BY BIOTECTIX FROM ACUTUS HEREUNDER. NOTHING CONTAINED IN THIS PARAGRAPH 10.e SHALL LIMIT OR RESTRICT IN ANY WAY ANY OF THE INDEMNITY OBLIGATIONS SET FORTH IN PARAGRAPH 13.

f. Except as expressly set forth herein, Biotectix does not make any representations, extend any warranties of any kind, either express or implied, or assume any responsibilities whatsoever with respect to use, sale, or other disposition by Acutus or its vendees or transferees of Licensed Products or Coated Products incorporating or made by use of the Licensed Patents or Coating Materials under this Agreement.

g. Acutus will reimburse Biotectix for all costs and expenses, including reasonable attorneys’ fees and commercial hourly rates for Biotectix’s employees, incurred by Biotectix that are associated with Biotectix’s efforts to comply with a subpoena by Acutus or a third party and such subpoena is (i) related to Licensed Products or Coated Products sold by Acutus, and (ii) served on Biotectix as part of an action in which Biotectix is neither a plaintiff nor a defendant.

11. Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and permitted assigns. Neither party may assign or otherwise transfer this Agreement without the prior written consent of the other party provided, however, that either party may assign or transfer this Agreement and all of its rights and obligations under this Agreement, without the consent of the other party, to a successor of all or substantially all of its business or assets to which this Agreement pertains, whether by merger, sale, reorganization, reincorporation, operation of law or otherwise. The assigning party will so inform the other party to this Agreement without delay of any assignment made in accordance with the conditions of this Agreement. In the event that Acutus assigns its rights to a third party that is listed in Attachment B, all licenses granted hereunder to the Licensed SurModics Patents shall be terminated.

12. Regulatory Approvals. Acutus shall have the sole responsibility, at Acutus' sole expense, for obtaining any government approvals that may be required for the investigation or marketing of Licensed Products. Biotectix shall assist Acutus' regulatory compliance efforts by maintaining and updating Device Master Files for the Coating Material with the U.S. FDA during the Term and permit Acutus in its correspondence and filings with the U.S. FDA to reference such Device Master Files with respect to Acutus' submissions to the U.S. FDA for marketing approval of Licensed Products. Biotectix shall assist Acutus' regulatory compliance efforts by maintaining and updating Device Master Files for the Coating Material with the U.S. FDA during the Term and permitting Acutus in its correspondence and filings with the U.S. FDA to reference Device Master Files for ingredients of the Coating Material with respect to Acutus' submissions to the U.S. FDA for marketing approval of Licensed Products. Biotectix will, during the Term and at Acutus' request, provide similar information to regulatory agencies of competent jurisdiction outside the United States, but Biotectix shall not be obligated to disclose confidential information to any such foreign agencies. It is agreed that the information in Biotectix's Device Master Files with the U.S. FDA or in any Device Master Files for ingredients of the Coating Material, and information provided to foreign regulatory agencies is Biotectix Confidential Information.

13. Indemnifications.

a. Subject to the requirements set forth in Paragraph 13.c, Acutus shall defend and indemnify Biotectix, its officers, directors and employees against all losses, liabilities. expenses (including reasonable attorney's fees), costs, and judgments ("**Losses**") that arise from lawsuits or claims brought by third parties (each, a "**Claim**") that arise from personal injury, property damage, product liability, or other claims of third parties, arising from the design, manufacture, use, or sale of Licensed Products or Coated Products, except to the extent such Claim arises from the gross negligence or willful misconduct of Biotectix or the material breach of this Agreement by Biotectix.

b. Subject to the requirements set forth in Paragraph 13.c, Biotectix shall defend and indemnify Acutus, its officers, directors and employees against all Losses that arise from Claims that arise from the material breach of this Agreement by Biotectix, or the gross negligence or willful misconduct of Biotectix, except to the extent such Claim

arises from the gross negligence or ·willful misconduct of Acutus or the material breach of this Agreement by Acutus.

c. A party that intends to claim indemnification ("**Indemnitee**") under this Paragraph 13 shall promptly notify the indemnifying party ("**Indemnitor**") in writing of any Claim, included within the indemnification described in this Paragraph 13 with respect to which the Indemnitee intends to claim such indemnification, and the Indemnitor shall have sole control of the defense and settlement of the Claim. The Indemnitee shall have the right to participate, at its own expense, with counsel of its own choosing in the defense or settlement of the Claim. The indemnification obligations under this Paragraph 13 shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the consent of the Indemnitor. The Indemnitee, at the Indemnitor's request and expense, shall provide full information and reasonable assistance to Indemnitor and its legal representatives with respect to Claims.

14. No Waiver. The failure of either party to enforce at any time the provisions of this Agreement, or the failure to require at any time performance by the other party of any of the provisions of this Agreement, will in no way be construed to be a present or future waiver of such provisions, nor in any way affect the right of either party to enforce each and every such provision thereafter. The express waiver by either party of any provision, condition or requirement of this Agreement will not constitute a waiver of any future obligation to comply with such provision, condition, or requirement.

15. Notices. All communications or other notices required or permitted under this Agreement shall be in writing and shall be deemed to be given (i) when personally delivered, (ii) five days after mailing when mailed by registered or certified mail, postage prepaid, (iii) on the day of sending when sent by facsimile (with recorded transmission completion), (iv) two days after sending when sent by reputable express courier, or (v) one day after electronic mailing when also mailed by registered or certified mail, postage prepaid, and addressed as follows:

If to Biotectix:
President
Biotectix, LLC
940 North Main Street
Ann Arbor, MI 48104
Email Address: [ ]

If to Acutus:
Acutus Medical, Inc.
10840 Thornmint Road, Suite 100
San Diego, CA 92127
Attention: Randy Werneth, President & CEO
Email Address: [ ]

Either party shall have the right to change the person and/or address to which notices hereunder shall be given, by notice to the other party in the manner set out above.

16. Captions. The captions and headings of this Agreement are for convenience only and shall in no way limit or otherwise affect any of the terms or provisions contained herein. This Agreement shall be construed without regard to any presumption or other rule requiring construction hereof against the party drafting this Agreement.

17. Force Majeure. Neither party shall be liable for failure to perform as required by any provisions of this Agreement where such failure results from a cause beyond such party's reasonable control such as acts of God, regulation or other acts of civil or military authority, required approval(s) of government bodies, fires, strikes, floods, epidemics, quarantine restrictions, riot, delays in transportation and inabilities to obtain necessary labor, materials, or manufacturing facilities. In the event of any delay in a party' s performance attributable to any of the foregoing causes, the time for performance for such party affected thereby shall be extended for a period equal to the time lost by reason of such delay; provided that such affected party provides prompt written notice to the other party of the start and stop of any such delay. The cumulative effect of all such delays under this Paragraph 17 shall not exceed one (1) year.

18. No Agency. Nothing in this Agreement authorizes either Biotectix or Acutus to act as agent for the other as to any matter, or to make any representations to any third party indicating or implying the existence of any such agency relationship. Biotectix and Acutus shall each refrain from any such representations. The relationship between Biotectix and Acutus is that of independent contractors.

19. Severability. The provisions of this Agreement shall be deemed separable. If any provision in this Agreement shall be found or held to be invalid or unenforceable, then the meaning of that provision shall be construed, to the extent feasible, to render the provision enforceable. However, if no feasible interpretation would save such provision, it shall be severed from the remainder of this Agreement, which shall remain in full force and effect unless the provisions that are invalid or unenforceable substantially impair the value of the entire Agreement to either party. In such event, the parties shall use their respective reasonable efforts to negotiate a substitute, valid, and enforceable provision which most nearly effects the parties' intent in entering into this Agreement.

20. Governing Law. This Agreement shall for all purposes be governed and interpreted in accordance with the laws of the State of Delaware, except for its conflict of laws provisions. Each of the parties hereto consents to the exclusive jurisdiction and venue of the courts having jurisdiction within the State of Delaware.

21. Dispute Resolution.

a. In the event of any dispute concerning this Agreement, including its interpretation, performance, breach or termination, the procedures of this Paragraph 21 shall apply; provided, however, that either party shall have the unrestricted right at any time to seek interim or provisional relief in the form of a preliminary injunction, temporary restraining order or other interim relief prohibiting the other party from making unauthorized disclosure or use of Confidential Information as provided for in Paragraph 5.

b. Both parties will use good faith and reasonable efforts to resolve any dispute informally and as soon as practical. If any such dispute is not resolved informally within a reasonable period, then an officer from each party, having authority to resolve the dispute, will meet at a mutually agreeable time and place to attempt to resolve the dispute.

22. Terms of Coating Material Orders.

a. **Shipment**. Delivery by Biotectix of Coating Materials to Federal Express, or to another reputable carrier in the United States designated by Acutus, shall constitute delivery to Acutus.

b. **Payment**. Each Biotectix invoice for Coating Materials supplied in accordance with this Agreement shall be payable in full within thirty (30) days after receipt of such Coating Materials.

c. **Coating Material Specifications**. Biotectix warrants that each shipmen.t of Coating Materials supplied to Acutus shall, at the time of shipment until the end of the Shelf Life specified for the Coating Materials, conform to the respective Coating Material Specifications. Except for the obligations provided in Paragraphs 3.b.iv and 13, Biotectix's sole obligation and Acutus' sole remedy, if any shipment of Coating Materials does not conform to such Coating Material Specifications, shall be (i) the replacement of the nonconforming shipment of Coating Materials, or (ii) at Acutus' option, a refund of the price paid by Acutus for the nonconforming Coating Materials. Acutus shall provide Biotectix with the evidence Acutus has regarding the condition of the Coating Materials to enable Biotectix to determine whether the Coating Materials were nonconforming.

d. **Terms and Conditions**. The terms and conditions in this Agreement shall be the exclusive contract terms between the parties with respect to the purchase of Coating Materials. In the event of inconsistencies between the terms of this Agreement and the terms of any order or acceptance document, the terms of this Agreement shall govern. Each party objects to any terms set forth in orders or any acceptance thereof for Coating Materials which are different from or additional to the provisions of this Agreement, and no such terms shall be binding upon either party unless such party specifically consents thereto in writing.

23. Export Compliance. The receiving party agrees that it shall adhere to all U.S. export laws and regulations and shall not export or re-export any technical data, products, or samples received from the disclosing party or the direct product of such technical data in contravention of the export compliance laws of the United States or associated regulations.

24. Marking. Acutus agrees to mark the Licensed Products sold in the United States with all applicable United States patent numbers within the Licensed Patents to the extent such patent numbers have been so identified in advance writing by Biotectix with respect to each Coating Material. All Licensed Products shipped to or sold in other countries

shall be marked with applicable patent numbers within the Licensed Patents to comply with the patent laws of the countries of manufacture, use and sale to the extent such patent numbers have been so identified in advance writing by Biotectix with respect to each Coating Material. Biotectix shall not identify any such patent numbers for listing in violation of applicable law.

25. Entire Agreement, Modification. This Agreement, together with all attachments specifically referred to herein, constitutes the entire agreement between the parties with respect to the licenses granted herein, and no party shall be liable or bound to the other in any manner by any warranties, representations, or guarantees except as specifically set forth herein. This Agreement shall not be altered or otherwise amended except by an instrument in writing signed by both parties.

IN WITNESS WHEREOF, the parties have executed this Master License Agreement as of the Effective Date.

Accepted by: **BIOTECTIX, LLC.**	Accepted by: **ACUTUS MEDICAL, INC.**
/s/ Omar Amirana, MD Signature	/s/ Randy Werneth Signature
Omar Amirana, MD Printed Name	Randy Werneth Printed Name
Acting CEO / SVP, Allied Minds Title	CEO Title
6-2-15 Date	June 2, 2015 Date

[***] = Certain information contained in this document, marked by brackets, has been omitted because it is both not material and would be competitively harmful if publicly disclosed.

UNIVERSITY OF MINNESOTA

EXCLUSIVE PATENT LICENSE AGREEMENT

THIS EXCLUSIVE PATENT LICENSE AGREEMENT (this "Agreement") is made by and between Regents of the University of Minnesota, a constitutional corporation under the laws of the state of Minnesota, having a place of business at 1000 Westgate Drive, Suite 160, St. Paul, Minnesota 55114 (the "University"), and the Licensee identified below. The University and the Licensee agree that:

The Terms and Conditions of Exclusive Patent License Agreement attached hereto as Exhibit A (the "Terms and Conditions") are incorporated herein by reference in their entirety. In the event of a conflict between provisions of this Agreement and the Terms and Conditions, the provisions in this Agreement shall govern. Capitalized terms used in this Agreement without definition shall have the meanings given to them in the Terms and Conditions. The section numbers used in the parentheses below correspond to the section numbers in the Terms and Conditions.

1. **Licensee (§1.8)**: Acutus Medical, Inc., a corporation under the laws of Delaware.

2. **Field(s) of Use (§1.3)**: All

3. **Territory (§1.16)**: Any country or territory where issued and unexpired Licensed Patents and/or Licensed Patent Applications exist.

4. **Effective Date (§2)**: Date of the last signature of the Agreement.

5. **Licensed Technology**:

5.1. Licensed Patents(s) (§1.4):

Patent No.	Country	Issue Date	Title
7,841,986	USA	11/30/10	Methods and apparatus of three dimensional cardiac electrophysiological imaging

5.2. Licensed Patent Applications (§1.5):

Application No.	Country	Filing Date	Title
60/799,510	USA	5/10/2006	Methods and apparatus of three dimensional cardiac electrophysiological imaging
WO2007134190	PCT	5/10/2007	Methods and apparatus of three dimensional cardiac electrophysiological imaging
07783610.4	Europe	5/10/2007	Methods and apparatus of three dimensional cardiac electrophysiological imaging
61/817,710	USA	04/30/2013	Spectral-spatio-temporal imaging of cardiac electrical activity

6. Patent-Related Expenses (§§1.10 & 6.3): [Select one of the following]

☐ The Licensee has no obligation under this Agreement to reimburse the University for Patent-Related Expenses.

☒ The Licensee shall reimburse the University for Patent-Related Expenses incurred before and during the Term as provided in section 6.3 of the attached Terms and Conditions. Patent-Related Expenses incurred as of the Effective Date are approximately $[***].

☐ The Licensee shall reimburse the University for Patent-Related Expenses incurred during the Term as provided in section 6.3 of the Terms and Conditions. The Licensee shall have no obligation to reimburse the University for Patent-Related Expenses incurred before the Effective Date.

☐ The Licensee shall reimburse the University for Patent-Related Expenses incurred before the Effective Date, payable as follows: . The Licensee shall have no obligation to reimburse the University for Patent-Related Expenses during the Term.

7. Sublicense Rights (§3.1.2): [Select one of the following]

☒ Yes

☐ No

8. Federal Government Rights (§3.2): [Select one of the following]

☒ Yes

☐ No

9. Performance Milestones (§5.1): The Licensee shall achieve the following milestones:

Milestone	Milestone Date
Initiation of in-vitro proof of concept study	12 months from Effective Date
Completion of system design for clinical studies	24 months from Effective Date
Completion of clinical development program for approval	36 months from Effective Date
Submission to U.S. or European regulatory body for approval	48 months from Effective Date

Licensee may extend a Performance Milestone for a mutually agreed upon time if a force majeure event occurs, which time shall be reasonably sufficient to overcome such force majeure event and able to perform such milestone. A force majeure means an event beyond the reasonable control of a party, which by the exercise of due diligence, such party is unable to overcome and which make such party's performance impossible or as impracticable as reasonably to be considered impossible under the circumstances, including, without limitation, a change of regulatory pathway or other regulatory delays, problems with clinical trial protocols or designs or adverse events.

Licensee may automatically extend one Performance Milestone by six months (and all subsequent Performance Milestones), without the prior consent of the University, upon the payment of a five thousand dollar ($5,000) extension fee. Thereafter, Licensee may extend Performance Milestones by six months (and all subsequent Performance Milestones), with the prior consent of the University, upon the payment of a five thousand dollar ($5,000) extension fee for each extension.

10. Commercialization Reports (§5.4): On January 1 of each calendar year, the Licensee shall deliver written commercialization reports to the University as provided in section 5.4 of the Terms and Conditions.

11. Payments (§6.1). All amounts are non-refundable, and payable as defined below or as specified in the University's invoice.

11.1. Upfront Payment: [***] dollars ($[***]) payable within five (5) business days after the Effective Date.

11.2. Annual Maintenance Fee: [***] dollars ($[***]) payable beginning on the third anniversary of the Effective Date and on each anniversary of the Effective Date thereafter.

11.4. Running Royalties and Annual Minimums.

11.4.1. Subject to subsection 11.4.2, the Licensee shall pay the University a royalty of [***] percent ([***]%) of the Net Sales Amount of Commercial Sales of Licensed Products, determined and payable as provided in section 6.4 of the Terms and Conditions.

If the Licensee, solely in order to make (including to have made on its behalf), use, offer to sell or sell (including to have sold on its behalf), offer to lease or lease (including to have leased on its behalf), import, or otherwise offer to dispose or dispose of Licensed Products in the Field of Use in the Territory without infringing the valid and subsisting intellectual property rights of a Third Party, has taken a royalty-bearing license from the Third Party, upon the Licensee's written request to the University, the royalty due and owing under this subsection 11.4.1 of this Agreement shall be reduced for all Commercial Sales of Licensed Products made after the thirtieth (30th) day after the University's receipt of such request, by an amount equal to fifty percent (50%) of the amount of the running royalty payable to the Third Party in connection with granting such license; provided, however, the amount of the royalty due and owing under subsection this 11.4.1 shall not be reduced under this subsection below [***] percent ([***]%) Upon the University's written request, the Licensee shall promptly deliver to the University a true, correct and complete copy of the executed license and all other related agreements with the Third Party.

11.4.2. The annual minimum amount of royalties owed by the Licensee under subsection 11.4.1 shall be as follows for each of the years below. A year begins and ends on the anniversary of the Effective Date. By way of example, Year 5 means the year beginning on the fourth anniversary of the Effective Date and ending on the fifth anniversary of the Effective Date.

Year(s)	Minimum Amount of Royalties Owed
5	$ [***]
6 and 7	$ [***] each year
7+	$ [***] each year

11.5. Sublicense Fees. Within thirty (30) days after the last day of each calendar quarter, during the term of this Agreement and the Post-termination Period, the Licensee shall pay to the University the following as earned by the Licensee during such quarter:

11.5.1. Sublicense Royalties. The Licensee shall pay the University [***] percent ([***]%) of the Net Sales Amount of Commercial Sales of Licensed Products made by all Sublicensees subject to and in accordance with Section 11.4.

11.5.2. Sublicense Revenues. The Licensee shall pay the University [***] percent ([***]%) of all Sublicense Revenues received during the first year of the Term, payable on the first anniversary of the Effective Date; and, thereafter, [***]% of all Sublicense Revenues, payable on each subsequent anniversary of the effective Date.

11.6. Other Payments: Financial Milestones payable upon achievement of the following milestones

Milestone	Payment
Approval received from U.S. regulatory agency	Thirty five thousand dollars ($35,000)
First Commercial Sale outside the U.S.	One hundred thousand dollars ($100,000) due within 12 months from milestone
First Commercial Sale in the U.S.	One hundred thousand dollars ($100,000) due within 6 months from milestone

11.8. Transfer Payment: [***] dollars ($[***]) payable as provided in section 12.5 of the Terms and Conditions.

11.9. Administrative Handling Fee: [***] dollars ($[***]) payable as provided in subsection 8.1.1 of the Terms and Conditions.

11.10. Interest Rate: [***] dollars ($[***]) per annum.

11.11. Other: None

12. Licensee's Address for Notice (§12.13). Notices will be sent to the Licensee at:

Acutus Medical, Inc.
Attn: Randy Werneth, President & CEO
10840 Thornmint Road, Suite 100
San Diego, CA 92127
Facsimile No.:
Email: [ ]

13. Licensee's Contact Person for Patent Prosecution Consultation (§4.2.1). The University will, as set forth in this Agreement, communicate with the contact person named below with respect to patent prosecution and maintenance: (Upon ten (10) days prior written notice to the University, the Licensee may change the person designated below.)

Acutus Medical, Inc.
Attn: Randy Werneth, President & CEO
10840 Thornmint Road, Suite 100
San Diego, CA 92127
Facsimile No.:
Email: [ ]

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Agreement

Regents of the University of Minnesota

By: /s/ Jay W. Schrankler
Jay W. Schrankler
Executive Director
Office for Technology Commercialization

Date: 4-10-14

Acutus Medical, Inc.

By: /s/ Randy Werneth
Randy Werneth
President & CEO

Date: April 21, 2014

EXHIBIT A
Terms and Conditions
Exclusive Patent License Agreement

These terms and conditions to the Exclusive Patent License Agreement ("Terms and Conditions") govern the grant of license by Regents of the University of Minnesota ("University") to the Licensee identified in the Exclusive Patent License Agreement (the "EPLA"). These Terms and Conditions are incorporated by reference into the EPLA. All section references in these Terms and Conditions refer to provisions in these Terms and Conditions unless explicitly stated otherwise.

1. Definitions. For purposes of interpreting this Agreement, the following terms have the following meanings:

1.1. "Affiliate" means with respect to the Licensee or a Sublicensee, an entity that controls the Licensee or the Sublicensee, as the case may be, is controlled by the Licensee or Sublicensee, or along with the Licensee or Sublicensee, is under the common control of a Third Party. An entity shall be deemed to have control of the controlled entity if it (i) owns, directly or indirectly, ten percent (10%) or more of the outstanding voting securities of the controlled entity, or (ii) has the right, power or authority, directly or indirectly, to direct or cause the direction of the policy decisions of the controlled entity, whether by ownership of securities, by representation on the controlled entity's governing body, by contract, or otherwise.

1.2. "Commercial Sale" means a bona fide sale, use, lease, transfer or other commercial disposition for a value of a Licensed Product by the Licensee or a Sublicensee, or their respective Affiliates, to a Third Party that is not an Affiliate of the Licensee or a Sublicensee. Sales of Licensed Products as clinical samples or other transfers of Licensed Products for use in research and development of such Licensed Products are exempt from royalty payments.

1.3. "Field of Use" means the field(s) of use described in section 2 of the EPLA.

1.4. "Licensed Patent" means (a) the patent(s) described in section 5.1 of the EPLA, (b) any issued and unexpired patent(s) issued during the Term that arose out of a Licensed Patent Application, and (c) any registrations, renewals, extensions, reissues or reexaminations of (a) and (b), and (d) any foreign counterparts of the foregoing.

1.5. "Licensed Patent Application" means (a) the pending patent application(s) described in section 5.2 of the EPLA, (b) any patent applications filed by the University claiming

inventions disclosed in the patent application(s) described in (a), (c) any related applications including, continuations, continuations-in-part, substitution, extension and divisionals of a Licensed Patent Application, (d) any patent application claiming priority to any patent application in (a), (b), or (c), and (e) any foreign counterparts of the foregoing; but, as to (c) only to the extent that a claim in a continuation-in-part application is described and enabled by the specification of a patent application listed in Section 5.2 of the EPLA.

1.6. "Licensed Product" means any product or good in the Field of Use that is made by, made for, sold, transferred, or otherwise disposed of by the Licensee, its Sublicensees, or Affiliates of Licensee or its Sublicensees, during the Term and the Post-termination Period and that, but for the granting of the rights set forth in this Agreement, would (i) infringe (including under the doctrine of equivalents, as applicable) one or more Valid Claims in a Licensed Patent; or (ii) is covered by one or more Valid Claims in a Licensed Patent Application. "Licensed Product" also means any service provided by or for the Licensee or its Sublicensees, but for the granting of the rights set forth in this Agreement, would (i) infringe (including under the doctrine of equivalents, as applicable) one or more Valid Claims in a Licensed Patent; or (ii) is covered by one or more Valid Claims in a Licensed Patent Application. For clarification, a Licensed Product does not include catheters unless such catheters contain technology that would infringe one or more Valid Claims in a Licensed Patent or is covered by one or more Valid Claims in a Licensed Patent Application.

1.7. "Licensed Technology" means collectively each Licensed Patent and each Licensed Patent Application.

1.8. "Licensee" means the entity identified in section 1 of the EPLA.

1.9. "Net Sales Amount" means the gross amount received for a Commercial Sale of a Licensed Product minus (i) all trade, quantity, and cash discounts and rebates actually allowed, (ii) all credits and allowances actually granted due to rejections, returns, billing errors, uncollected amounts, and retroactive price reductions, (iii) applicable duties and tariffs, (iv) applicable excise, sale, use, and other taxes and compulsory payments to governmental authorities,; and (v) the cost of shipping, packing, installation, insurance, and other transportation of the Licensed Products.

In the event that a Licensed Product is sold in combination with another product, component or service for which no royalty would be due hereunder if sold separately, the Net Sales Amount from such combination sales for purposes of calculating the amount of royalties due under this Agreement shall be calculated by multiplying the Net Sales Amount of the combination product by the fraction A/(A+B), where A is the average gross selling price during the previous calendar quarter of the Licensed Product sold separately and B is the gross selling price during the previous calendar quarter of the combined product(s), component(s) and/or service(s). In the event that a substantial number of separate sales were not made during the previous calendar quarter, then the Net Sales Amount shall be reasonably allocated based upon

the proportion of value of the Licensed Product and such other product component or service included in such combination sale.

1.10. “Patent-Related Expenses” means reasonable, documented, out-of-pocket costs and expenses (including out-of-pocket attorneys’ fees, patent agent fees and governmental filing fees) that the University incurs in prosecuting and maintaining the Licensed Technology.

1.11. “Performance Milestone” means an act or event specified in section 5.1 and described in section 9 of the EPLA.

1.12. “Post-termination Period” means the one hundred eighty (180) day period commencing on the date of termination or expiration of the Term.

1.14. “Sublicense Revenues” means all revenue, in whatever form but excluding Sublicense Royalties, actually received by the Licensee or any of its Affiliates from a Sublicensee in consideration of its granting a such Sublicensee a sublicense to any of its rights under this Agreement, including, without limitation, annual milestone attainment, sublicense issuance, maintenance or up-front payments, or technology access fee. Sublicense Revenue shall exclude (a) royalties and profit sharing payments; (b) amounts received for equity or debt securities of Licensee or its Affiliates or the sale of all or substantially all of the business or assets of Licensee or its Affiliates to which this Agreement pertains; (c) any amounts received as reimbursement of research and/or product development, or patent prosecution, defense, enforcement and maintenance expenses, (d) amounts received for achievement of milestones based upon events substantially similar to the milestone events identified under this Agreement; and (e) amounts received for the supply of Licensed Product by or on behalf of Licensee or its Affiliates to such Sublicensee.

1.15. “Sublicense Royalties” means a royalty paid to the Licensee or any of its Affiliates that is earned on Commercial Sales of Licensed Products by Sublicensees and that is determined as percentage of the Net Sales Amount of such Commercial Sale or as a per unit amount by the Sublicensee.

1.16. “Sublicensee” means any non-Affiliated Third Party to whom Licensee has granted the right to manufacture and sell Licensed Products.

1.17. “Territory” means the geographical area described in section 3 of the EPLA.

1.18. “Third Party” means any party other than the University or Licensee.

1.19. “Transfer Payment” means the payment to be made by the Licensee to the University specified in section 12.5 and described in section 11 of the EPLA.

1.20. “Valid Claim” means a claim of (a) a Licensed Patent Application that has not been pending for more than five (5) years from the application date, or (b) a Licensed Patent that has not been revoked or held unenforceable or invalid by a decision of a court or governmental agency of competent jurisdiction from which no appeal can be taken, or with respect to which an appeal is not taken within the time allowed for appeal, and that has not been disclaimed or admitted to be invalid or unenforceable through reissue, re-examination, disclaimer or otherwise.

2. Term. The term of this Agreement commences on the Effective Date as defined in section 4 of the EPLA and, unless terminated earlier as provided In section 8, expires on the date on which both no Licensed Patent is active in the Territory and no Licensed Patent Application is pending in the Territory (the “Term”).

3. Grant of License.

3.1. The Licensee’s Rights.

3.1.1. Subject to the terms and conditions of this Agreement, the University hereby grants to the Licensee, and the Licensee hereby accepts, an exclusive license under the Licensed Technology to make (including to have made on its behalf), use, offer to sell or sell (including to have sold on its behalf), offer to lease or lease (including to have leased on its behalf), import, or otherwise offer to dispose or dispose of Licensed Products in the Field of Use in the Territory. No provision of this Agreement is to be construed to grant the Licensee, by implication, estoppel or otherwise, any rights (other than the rights expressly granted it in this Agreement) to the Licensed Technology, a Licensed Patent or Licensed Patent Application, or to any other University-owned technology, patent applications, or patents.

3.1.2. The Licensee shall not sublicense its rights under this Agreement, unless otherwise provided in section 7 of the EPLA. If so provided, the Licensee may sublicense it rights, through multiple tiers, under this Agreement only as follows: the Licensee shall deliver to the University a true and correct copy (with those terms not reasonably necessary to determine compliance with this Agreement redacted) of the sublicense agreement or other agreement under which the Licensee purports or intends to grant such sublicense rights within ten (10) days after the execution of such agreement. The Licensee shall not enter into such agreement if the terms of the agreement are inconsistent in any respect with the terms of this Agreement, including without limitation, sections 5.2 - 5.6, 6.5, 8.3, 9.5, 10.3, and 11.3. Any sublicense made in violation of this subsection is void and constitutes an event of default under subsection 8.1.1.

3.1.3. The Licensee may exercise the license granted under this Section 3.1 through one or more of its Affiliates, provided that Licensee shall be responsible for its Affiliates' compliance with this Agreement.

3.2. The United States Government's Rights. If the University indicated in section 8 of the EPLA that the United States federal government funded the development, in whole or in part, of the Licensed Technology, then, (i) the federal government may have certain rights in and to the Licensed Technology as those rights are described in Chapter 18, Title 35 of the United States Code and accompanying regulations, including Part 401, Chapter 37 of the Code of Federal Regulations, (ii) the parties' rights and obligations with respect to the Licensed Technology, including the grant of license set forth in subsection 3.1.1, are subject to the applicable terms of these laws and regulations.

3.3. The University's Rights. The University retains an Irrevocable, world-wide, royalty-free, non-exclusive right to use the Licensed Technology for teaching, research and educational purposes; provided, however, that such use does not involve the University producing or manufacturing products or providing services for sale. The University shall have the right to sublicense its rights under this section to one or more non-profit academic or research institutions. For purposes of clarification "providing services" shall not include sponsored research wherein the University receives funding to cover the direct and/or indirect costs of such research.

4. Applications and Patents.

4.1. Pre-EPLA Patent Filings. The Licensee acknowledges that it has reviewed each Licensed Patent and each Licensed Patent Application and that it will not dispute the inventorship, validity, or enforceability of any of the claims made in a Licensed Patent or a Licensed Patent Application, provided Licensee may file a counterclaim disputing inventorship, validity or enforceability of any Licensed Patent or Licensed Patent Application in response to any actual suit by the University alleging patent infringement. The Licensee further represents that as of the Effective Date, it has not and does not manufacture, have manufactured, offer to sell, sell, offer to lease, lease, or import (a) any product or good that infringes (including under the doctrine of equivalents, as applicable) a claim in any Licensed Patent or Licensed Patent Application, or (b) any product or good that is made using a process or machine that infringes (including under the doctrine of equivalents, as applicable) a claim in a Licensed Patent or Licensed Patent Application.

4.2. Patent Application Filings during the Term of this Agreement.

4.2.1. The University, in consultation with the Licensee, shall determine in which countries patent application(s) will be filed and prosecuted with respect to the Licensed Technology. The University shall retain counsel of its choice that is reasonably acceptable to Licensee to file, prosecute, and maintain such the Licensed Technology.

The University shall inform the Licensee of the status of the filing, prosecution, and maintenance of the Licensed Technology, including delivering to the Licensee pertinent notices, written and oral communications with governmental offices and officials, and documents, including those submitted to such government offices and officials, and shall consult with the Licensee on the filing, prosecution, and maintenance of the Licensed Technology, including providing Licensee a reasonable opportunity to review and comment on material submissions and correspondences with government offices and officials and incorporating Licensee's reasonable comments and suggestions with respect thereto. The Licensee shall cooperate with the University in the filing and prosecution of all patent applications with respect to the Licensed Technology. In furtherance of the foregoing, the Licensee shall notify the University, in writing, of the individual whom the Licensee has designated to consult and cooperate as provided in this subsection and is identified in section 13 of the EPLA. The Contact Person shall respond to the University's request for consultation and cooperation on a pending matter within fifteen business days or sooner as may be required under the circumstances. If the Contact Person fails to respond in such time period, the University, exercising its own judgment and discretion, may respond to the matter as it deems appropriate. Except as provided in subsection 4.2.2, the Licensee shall reimburse the University for all Patent-Related Expenses as provided infection 6.3 and in section 6 of the EPLA.

4.2.2. The grant of license in section 3.1 and the definition of Territory in section 1.16 shall not extend to or include any country in which Licensee elects, In writing to the University, not to pay or reimburse the payment of the cost, in whole or in part, to seek or maintain intellectual property protection.

4.2.3. No provision of this Agreement limits, conditions, or otherwise affects the University's right to prosecute a patent application with respect to the Licensed Technology in any country, except as expressly set forth herein. The University retains the sole and exclusive right to file or otherwise prosecute a patent application with respect to the Licensed Technology, except as set forth herein. The Licensee shall cooperate with the University in the filing and prosecution of all patent applications with respect to the Licensed Technology. In the event the University elects not to file, prosecute or maintain any of the Licensed Technology, the University shall notify the Licensee at least sixty (60) days prior to the next applicable deadline for such Licensed Technology, in which case the Licensee shall have the right (but not the obligation) to control the filing, prosecution and maintenance of such Licensed Technology (including any Licensed Patents arising therefrom), at its own expense with counsel of its own choice. Licensee shall provide University with copies of filings and communications with respect to Patent Applications filed by Licensee under this Section 4.2.3.

4.3. Rights in the Licensed Patents and Licensed Patent Applications. No provision of this Agreement grants the Licensee any rights, titles, or interests (except as expressly provided

hereunder, including the grant of license in subsection 3.1.1) in the Licensed Patents or Licensed Patent Applications, notwithstanding the Licensee's payment of all or any portion of the patent prosecution, maintenance, and related costs.

5. Commercialization.

5.1. Commercialization and Performance Milestones. The Licensee shall use its commercially reasonable efforts, consistent with sound and reasonable business practices and judgment, to commercialize the Licensed Products as soon as practicable and to maximize sales thereof. The Licensee shall perform, or shall cause to happen or be performed, as the case may be, all the Performance Milestones described in section 9 of the EPLA in accordance with the terms provided in section 9 of the EPLA.

5.2. Covenants Regarding the Manufacture of Licensed Products. The Licensee hereby covenants and agrees that (i) the manufacture, use, sale, or transfer of Licensed Products shall comply with all applicable federal and state laws, including all federal export laws and regulations; and (ii) the Licensed Products shall not be defective in design or manufacture. The Licensee hereby further covenants and agrees that, to the extent required pursuant to 35 United States Code Section 204, it shall, and it shall cause Licensee's Affiliates, each Sublicensee, and its Sublicensee's Affiliates, to substantially manufacture in the United States of America all products embodying or produced through the use of an invention that is subject to the rights of the federal government of the United States of America, subject to any waiver that may be available under applicable laws. At Licensee's request, University shall reasonably assist Licensee, its Affiliates, its Sublicensees, and its Sublicensees' Affiliates to request a waiver to the requirement under 35 United States Code Section 204.

5.3. Export and Regulatory Compliance. The Licensee understands that the Arms Export Control Act (AECA), including its implementing International Traffic In Arms Regulations (ITAR,) and the Export: Administration Act (EAA), including its Export Administration Regulations (EAR), are some (but not all) of the laws and regulations that comprise the U.S. export laws and regulations. Licensee further understands that the U.S. export laws and regulations include (but are not limited to): (i) ITAR and EAR product/service/data-specific requirements; (ii) ITAR and EAR ultimate destination-specific requirements; (iii) ITAR and EAR end user-specific requirements; (iv) Foreign Corrupt Practices Act; and (v) anti-boycott laws and regulations. The Licensee shall comply with all then-current applicable export laws and regulations of the U.S. Government (and other applicable U.S. laws and regulations) pertaining to the Licensed Products (including any associated products, items, articles, computer software, media, services, technical data, and other information). The Licensee certifies that it shall not, directly or indirectly, export (including any deemed export), nor re-export (including any deemed export) the Licensed Products (including any associated products, items, articles, computer software, media, services, technical data, and other information) in violation of U.S. export laws and regulations or other applicable U.S. laws and regulations. The Licensee shall include an appropriate provision in its agreements with its authorized Sublicensees to assure that these parties comply with all then-current applicable U.S. export laws and regulations and other applicable U.S. laws and regulations.

5.4. Commercialization Reports. Throughout the Term add during the Post-termination Period, and within thirty (30) days of the date specified in the schedule set forth in section 10 of the EPLA, the Licensee shall deliver to the University written reports of the Licensee's, Licensee's Affiliates', Sublicensees' and the Sublicensees' Affiliates' efforts and plans to commercialize the Licensed Technology and to manufacture, offer to sell, or sell Licensed Products.

5.5. Use of the University's Name and Trademarks or the Names of University Faculty, Staff, or Students. No provision of this Agreement grafts the Licensee, Licensee's Affiliates, Sublicensee or Sublicensee's Affiliates any right or license to use the name, logo, or any marks owned by or associated with the University or the names, or identities of any member of the faculty, staff, or student body of the University. The Licensee shall not use and shall not permit a Sublicensee to use any such logos, rriarks, names, or identities without the University's and, as the case may be, such member's prior written approval. Notwithstanding the foregoing, the Licensee, its Affiliates, Sublicensees, and Sublicensees' Affiliates may, without University's prior permission, reasonably utilize University's name or names of University employees in statements of fact (provided such statements do not imply endorsement of any product of the Licensee, its Affiliates, Sublicensees or Sublicensees' Affiliates), in legal proceedings, regulatory filings and due diligence investigations of Licensee.

5.6. Governmental Markings.

5.6.1. The Licensee shall mark all Licensed Products, where feasible, with patent notice appropriate under Title 35, United States Code.

5.6.2. As between the parties, the Licensee is responsible for obtaining all necessary governmental approvals for the development, production, distribution, sale, and use of any Licensed Product, at the Licensee's expense, including, without limitation, any safety studies, The Licensee is responsible for including with the Licensed Product any warning labels, packaging and instructions as to the use and the quality control for any Licensed Product.

5.6.3. The Licensee agrees to register this Agreement with any foreign governmental agency that requires such registration, and the Licensee shall pay all costs and legal fees in connection with such registration. The Licensee shall comply with all foreign laws affecting this Agreement or the sale of Licensed Products.

6. Payments, Reimbursements, Reports, and Records.

6.1. Payments. The Licensee shall pay all amounts due under this Agreement by check (payable to the "Regents of the University of Minnesota" and sent to the address specified in section 12.13), wire transfer, or any other mutually agreed-upon method of payment.

6.2. Interest. All amounts due under this Agreement shall bear interest as provided in section 11 of the EPLA on the entire unpaid balance computed from the due date until the amount is paid.

6.3. Reimbursement of Patent-Related Expenses. The Licensee shall pay invoices for Patent-Related Expenses incurred during the Term of this Agreement within thirty (30) days of its receipt of the University's invoice. With respect to each invoice, the University shall use reasonable efforts to specify the date on which the Patent-Related Expense was incurred and the purpose of the expense (including, as applicable, a summary of patent attorney services giving rise to the expense) and provide receipts and other reasonable documentation supporting the incurrence of Patent-Related Expenses; provided, however, without limiting the University's obligations under section 4.2, the University is not required to disclose to the Licensee any information that is protected by the University's attorney-client privilege. Patent- Related Expenses incurred as of the Effective Date are set forth in section 6 of the EPLA. Licensee shall pay one-third of such Patent-Related Expenses incurred as of the Effective Date on each of the following: (i) the Effective Date of the Agreement, (ii) the first anniversary or the Effective Date, and (iii) the second anniversary of the Effective Date. The University reserves the right to require that Licensee provide and maintain a reasonable advance deposit with the University to ensure payment of Patent-Related expenses, provided that such deposit shall be refundable upon termination or expiration of this Agreement if there are no outstanding Patent-Related Expenses. If there is a dispute regarding an invoice under this Section 6.3, the parties will attempt to resolve such dispute in an amicable manner prior to initiating termination for breach under Article 8.

6.4. Royalty Payments/Sales Reports. Within sixty (60) days after the last day of the second and fourth calendar quarters during the Term and the Post-termination Period, the Licensee shall deliver to the University a written sales report in the form reasonably acceptable to the University, recounting the number and Net Sales Amount (expressed in U. S. dollars) of all sales, leases, or other commercial dispositions of Licensed Products, whether made by the Licensee, its Affiliates, Sublicensees or Sublicensees' Affiliates, during such semi-annual period. The Licensee shall deliver such written report to the University even if the Licensee is not required hereunder to pay to the University a payment for sales, leases, or other commercial dispositions of Licensed Products during the semi-annual period. The Licensee shall deliver along with such sales reports its payment for royalties owed on all Commercial Sales of Licensed Products by the Licensee, its Affiliates, Sublicensees and the Sublicensees' Affiliates during such semi-annual period.

6.5. Records Retention and Audit Rights.

6.5.1. Throughout the Term and the Post-termination Period and for five (5) years thereafter, the Licensee, at its expense, shall keep and maintain and shall use commercially reasonable efforts to cause its Affiliates, each Sublicensee and such Sublicensee's Affiliates and each non-affiliated Third Party that manufactures, sells, leases, or otherwise commercially disposes of Licensed products on behalf of the Licensee to keep and maintain complete and accurate records of all sales, leases, and other commercial dispositions of Licensed Products during the Term and the Post-termination Period and all other records that are reasonably necessary for the determination of compliance with this Agreement.

6.5.2. In connection with an audit, the Licensee, upon written request, shall deliver, at University's expense, to the University and its representatives true, correct and complete copies of all documents and materials (including electronic records) reasonably necessary to determine compliance with this Agreement, including, without limitation, all sublicenses granted (redacted as provided in section 3.1.2).

6.5.3. To determine the Licensee's compliance with the terms of this Agreement, no more than once per calendar year and upon 10 business days advance written notice to Licensee, the University, at its expense (except as set forth in this subsection), may inspect and audit the Licensee's records referred to in subsection 6.5.1 at the Licensee's address as set forth in this Agreement or such other location(s) as the parties mutually agree during the Licensee's normal business hours. The Licensee shall cooperate in the audit, including providing at no cost, commodious space in the Licensee's place of business for the auditor, as reasonably available. The Licensee shall reimburse the University for all its out-of-pocket expenses to inspect and audit such records if the University, in accordance with the results of such inspection and audit, determines that the Licensee has underpaid amounts owed to the University by at least three percent (3%) or twenty-five thousand dollars ($25,000), whichever is smaller, in a reporting period. The Licensee shall use commercially reasonable efforts to cause its Affiliates, each Sublicensee and such Sublicensee's Affiliates and each non-Affiliated Third Party that manufactures, sells, leases, or otherwise commercially disposes of Licensed Products on behalf of the Licensee to grant the University a right to inspect and audit its Affiliates', the Sublicensee's, such Sublicensee's Affiliates' or such Third Party's records substantially similar to the rights granted the University in this subsection, provided that in any case, Licensee shall obtain for itself customary audit rights and, at the request of University, Licensee shall exercise such audit right with respect to Licensee's Affiliates, Sublicensees, Sublicensees' Affiliates or such Third Party and provide the results of such audit for inspection by University. In connection with, and before the commencement of, an audit, if the Licensee requests in writing to the University, then prior to conducting such audit, the Licensee, the University and the auditor must enter into an agreement prohibiting the auditor and the University from disclosing the Licensee's nonpublic, proprietary information to any Third Party without the

Licensee's prior written consent; provided, however, that consistent with generally accepted auditing standards and the auditor's professional judgment, the auditor may disclose such information to the University and its agents, counsel, or consultants. The Licensee acknowledges that such an agreement is adequate to protect its legitimate interests, and the parties agree that there shall be no additional nondisclosure agreement demanded as a condition to the commencement of an audit and the University's exercising its rights under this subsection.

6.6. Currency and Checks. All computations and payments made under this Agreement shall be in United States dollars. To determine the dollar value of transactions conducted in non-United States dollar currencies, the parties shall use the exchange rate for the currency into dollars as reported in the Wo// Street Journal as the New York foreign exchange mid-range rate on the last business day of the month in which the transaction occurred.

7. Infringement.

7.1. If a party learns of substantial, credible evidence that a Third Party is making, using, or selling a product in the Field of Use in the Territory that infringes a Licensed Patent, such party shall promptly notify the other party in writing of the possible infringement and in such notice describe in detail the information suggesting infringement of the Licensed Patent. Prior to commencing any action to enforce a Licensed Patent, the parties shall enter into good faith negotiations on the desirability of bringing suit, the parties to the action, the selection of counsel, and such other matters as the parties may agree to discuss. Following good faith negotiations on the desirability of bringing suit, the Licensee shall have the initial right, but not the obligation, to institute, prosecute and control any action, suit or proceeding to enforce such Licensed Patent with respect to such infringement, or any declaratory judgment action with respect thereto (each, an "Enforcement Action") at its expense, using legal counsel of its choice. In the event the Licensee fails to initiate or defend any Enforcement Action with respect to any commercially significant infringement of any Licensed Patent within one hundred eighty (180) days of a request by the University to do so, the University shall have the right, but not the obligation, to initiate such an Enforcement Action, at its expense, using legal counsel of its choice; provided that University shall consider in good faith Licensee's rationale for not initiating an Enforcement Action (including without limitation, any substantive concern regarding counterclaims by such infringing Third Party). University may be named by Licensee as a co-plaintiff in a suit initiated by Licensee only if: (a) Licensee's and University's respective counsel recommend that such action is necessary in their reasonable opinion to achieve standing or a court has required or will require such joinder to pursue the action, (b) University is not the first named party in the action, (c) the pleadings and any public statements by Licensee about the action state that Licensee is pursuing the action and that Licensee has the right to join University as a party, (d) Licensee does not name University as a defendant in the suit; and (e) Licensee reimburses University for any costs or expenses University incurs in participating in the suit. No provision of this Agreement limits, conditions, or otherwise affects a party's statutory and common-law rights to commence an action

to enforce a Licensed Patent except as expressly set forth herein. In any such action, the party controlling such action shall keep the other party reasonably informed of the status of such action, and the other party agrees to cooperate with the controlling party and such other party will use reasonable efforts to permit access to relevant personnel, records, papers, information, samples and specimens during regular business hours, each at the controlling party's request and expense. As between the parties hereunder, any amounts recovered (less amounts actually paid for reasonable attorney's fees and legal expenses) by the controlling party in any such action or settlement that constitute compensation for lost profits or sales will be retained or paid over to Licensee, provided that such amount shall be considered as Net Sales Amounts subject to the royalty rate in subsection 11.4.1 of the EPLA. All other amounts recovered (less amounts actually paid for reasonable attorney's fees and legal expenses) by the controlling party in such action or settlement shall be retained by or paid over to Licensee, provided that such amount shall be considered subject to the rate for Sublicense Revenues in subsection 11.5.2 of the EPLA.

7.2. If any suit, action or proceeding is brought or commenced Against the Licensee alleging the infringement of a patent or other intellectual property right owned by a Third Party by reason of the manufacture, use or sale of Licensed Products (each, a "Third Party Infringement Claim"), the Licensee shall give the University prompt notice thereof. Licensee shall have the right to defend any such Third Party Infringement Claim, provided that if the validity of a Licensed Patent is questioned in such suit, action or proceeding, the Licensee shall have no right to make any settlement or compromise which affects the scope, validity, enforceability or otherwise the Licensed Patent without the University's prior written approval. The University will reasonably assist Licensee and cooperate in defense of any Third Party Infringement Claim at the Licensee's request and expense. If the Licensee is required to pay a royalty or other amount to a Third Party to make, have made, use, offer to sell, sell, have sold, offer to lease, lease, import, or otherwise offer to dispose or dispose a Licensed Product as a result of a final judgment, or settlement of such Third Party Infringement Claim, then the Licensee shall be entitled to a royalty stacking set forth in section 11.4.1 of the EPLA for such royalty or other amount.

8. Termination.

8.1. By the University.

8.1.1. If the Licensee materially breaches or fails to perform one or more of its material obligations under this Agreement, the University may deliver a written notice of default to the Licensee. Without further action by a party, this Agreement shall terminate if (a) the University has not been paid the full amount of the Administrative Handling Fee set forth in section 11 of the EPLA, and (b) the default has not been cured in full within either sixty (60) days after the delivery to the Licensee of the notice of default if the default relates to a payment or reimbursement obligation under this Agreement, or ninety (90) days after the delivery to the Licensee of the notice of default if the default relates to any other matter provided that, in each case, if Licensee disputes such default in good faith by providing written notice to University during the applicable cure period, University and Licensee shall attempt to resolve the matter in an amicable fashion prior to initiating termination proceedings under Article 8.

8.1.2. The University may terminate this Agreement by delivering to the Licensee a written notice of termination at least ten (10) days before the date of termination if the Licensee (i) becomes insolvent; (ii) voluntarily files or has filed against it a petition under applicable bankruptcy or insolvency laws that the Licensee fails to have released within thirty (30) days after fifing; (iii) proposes any dissolution, composition, or financial reorganization with creditors or if a receiver, trustee, custodian, or similar agent is appointed; or (iv) makes a general assignment for the benefit of creditors.

8.1.3. The University may terminate this Agreement immediately by delivering to the Licensee a written notice of termination if the Licensee or its agents or representatives commences or maintains an action in any court of competent jurisdiction or a proceeding before any governmental agency asserting or alleging, in any respect, the invalidity or unenforceability of any of the Licensed Technology. The Licensee shall notify the University, in writing, at least thirty (30) days prior to the commencement of any such action or the institution of any such proceeding. For clarity, this section 8.1.3 shall not apply to a counter claim filed by Licensee asserting or alleging, in any respect, the invalidity or unenforceability of any Licensed Technology in response to an actual suit by the University.

8.2. By the Licensee

8.2.1. Cause. If the University materially breaches or fails to perform one or more of its material duties under this Agreement, the Licensee may deliver to the

University a written notice of default. The Licensee may terminate this Agreement by delivering to the University a written notice of termination if the default has not cured in full within ninety (90) days of the delivery to the University of the notice of default.

8.2.1 Convenience. Licensee may terminate this Agreement for a reason other than for breach by (i) providing ninety (90) days advance written notice of its decision to terminate; (ii) paying all amounts owing under the Agreement as of the effective date of termination; and (iii) paying the annual minimum payment of the EPLA for the year following termination. If the termination occurs before the fifth anniversary of the Effective Date, the amount due under 8.2.1 (iii) is $15,000.

8.2.1 Patent-by-Patent. Licensee may terminate this Agreement as to any particular patent application or patent within the Licensed Technology by (i) giving University written notice at least 30 days in advance of the effective date of termination selected by Licensee; (ii) paying all Patent Related Expenses associated with that particular patent application or patent through the effective date of termination; (iii) paying all royalties due for Licensed Products with respect to the particular patent application or patent through the effective date of termination. From and after the effective date of a termination under this subsection 8.2.1 with respect to a particular patent application or patent, such patent application or patent in the particular country shall cease to be within the Licensed Technology for purposes of this Agreement.

8.3. Effect of Termination/Expiration.

8.3.1. In the event this Agreement is terminated for any reason, any sublicense granted under section 3.1.2 shall survive and be assigned to the University, provided such Sublicensee notifies University in writing within thirty days of the termination of this agreement that it agrees to be bound by the terms and conditions of this Agreement to the extent applicable to the scope of such sublicense. Such Sublicensee's financial obligations to University shall be limited to those due from the Licensee for the practice of such sublicense by such Sublicensee if this Agreement had remained in effect.

8.3.2. Post-termination Period. If the Licensee or University terminates this Agreement under section 8.1 or 8.2, the Licensee may continue to offer to sell and sell, offer to lease and lease, and otherwise offer to dispose of or dispose of Licensed Products in the Territory that were manufactured before such termination. The Commercial Sales of Licensed Products during the Post-termination Period shall be governed by the terms of this Agreement, including the obligation to pay royalties on such Commercial Sales as provided in this Agreement.

9. Release, Indemnification, and Insurance.

9.1. The Licensee's Release. For itself and its employees, the Licensee hereby releases the University and its regents, employees, and agents forever from any and all suits,

actions, claims, liabilities, demands, damages, losses, or expenses (including reasonable attorneys' and investigative expenses) relating to or arising out of the manufacture, use, lease, sale, or other disposition of a Licensed Product, except to the extent arising from (i) any breach by University of this Agreement or (ii) the negligence or willful misconduct of University or any of its officers, employees and agents.

9.2. Indemnification.

9.2.1. The Licensee's Indemnification. Throughput the Term and thereafter, the Licensee shall indemnify, defend, and hold the University and its regents, employees, and agents harmless from all liabilities, damages, losses, or expenses (including reasonable attorneys' and investigative expenses) (collectively, "Losses") resulting from any suits, actions, claims, or demands brought by any Third Party ^'Claims") relating to or arising out of the Licensee's exercises or attempt to exercise any of the rights or licenses granted it under this Agreement, including without limitation, the manufacture, use, lease, sale, or other disposition of a Licensed Product or the Licensee's breach of any term of this Agreement; except to the extent such Losses arise from (i) any breach by the University of this Agreement or (ii) the negligence or willful misconduct of such indemnified entity.

9.2.2. The University's Indemnification. Subject to the limitations on liability set forth in section 11, throughout the Term and thereafter, the University shall indemnify, defend, and hold the Licensee and its directors, employees, and agents harmless from all Losses resulting from any Claims relating to or arising out of the University's breach of this Agreement, negligence or willful misconduct.

9.2.3. Indemnification Procedure. To be eligible to be indemnified hereunder, the indemnified entity shall provided the indemnifying party prompt notice of the Claim giving rise to the indemnification obligation under section 9.2.1 or 9.2.2, as the case may be, and the exclusive ability to defend (with the reasonable cooperation of the indemnified entity) or settle any such Claim; provided, however, that the indemnifying party shall not enter into any settlement that admits fault, wrongdoing or damages (other than monetary damages) without the indemnified entity's written consent, such consent not to be unreasonably withheld or delayed. The indemnified entity shall have the right to participate, at its own expense and with counsel of its choice, in the defense of any Claim that has been assumed by the indemnifying party; provided that the indemnifying party shall have no obligation with respect to any Losses resulting from the indemnified entity's admission, settlement or other communication without the prior written consent of the indemnifying party.

9.3. The Licensee's Insurance.

9.3.1. Throughout the Term, or during such other period as the parties agree in writing, the Licensee shall maintain, and shall cause each Sublicensee to maintain, in full force and effect comprehensive general liability ("CGL") insurance, with single claim

limits of at least one million U.S. dollars ($1,000,000). Such insurance policy shall include coverage for claims that may be asserted by the University against the Licensee under section 9.2 and for claims by a Third Party against the Licensee or the University arising out of the purchase or use of a Licensed Product, with such product liability or clinical trial insurance coverage to be provided prior to the first commercial sale or use in a clinical trial of a Licensed Product. Such insurance policy must name the University as an additional insured if the University so requests in writing. Upon receipt of the University's written request, the Licensee shall deliver to the University a copy of the certificate of insurance for such policy.

9.3.2. The provisions of subsection 9.3.1 do not apply if the University agrees in writing to accept the Licensee's or a Sublicensee's, as the case may be, self-insurance plan as adequate insurance.

9.4. Sublicensees - Release. The Licensee shall cause each Sublicensee to grant the University a release from liabilities substantially similar to the release granted in favor of the University in section 9.1.

10. Warranties.

10.1. Authority. Each party represents and warrants to the other party that it has full corporate power and authority to execute, deliver, and perform this Agreement, and that no other corporate proceedings by such party are necessary to authorize the party's execution or delivery of this Agreement. The University further represents and warrants (i) it has the right to grant the rights and licenses granted herein; and (ii) it has not previously granted, and will not grant during the term of this Agreement, any right, license or interest in or to the Licensed Technology, or any portion thereof, inconsistent with the rights granted to the Licensee herein.

10.2. Disclaimers.

10.2.1. **EXCEPT FOR THE EXPRESS WARRANTY SET FORTH ABOVE IN SECTION 10.1, EACH PARTY DISCLAIMS AND EXCLUDES ALL WARRANTIES, EXPRESS AND IMPLIED, CONCERNING ANY SUBJECT MATTER OF THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF NON-INFRINGEMENT, OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE.**

10.2.2. The University expressly disclaims any warranties concerning and makes no representations:

(i) that the Licensed Patent Applications will allowed or granted or that a patent will issue from any Licensed Patent Application;

(ii) concerning the validity, enforceability, interpretation of claims or scope of any Licensed Patent; or

(iii) that the exercise of the rights or licenses granted to the Licensee under this Agreement will not infringe a Third Party's patent or violate its intellectual property rights.

10.3. Sublicensees - Warranties. The Licensee shall cause each Sublicensee to give the University warranties and disclaimers and exclusions of warranties substantially similar to the warranty and disclaimers and exclusions of warranties in favor of the University in section 10.1 and subsections 10.2.1 and 10.2.2.

11. Damages.

11.1. Remedy Limitation. **EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, NEITHER PARTY SHALL BE LIABLE FOR LOST PROFITS, LOST BUSINESS OPPORTUNITY, INVENTORY LOSS, WORK STOPPAGE, LOST DATA OR ANY OTHER INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OF ANY KIND.**

11.2. Damage Cap. **THE UNIVERSITY'S TOTAL LIABILITY FOR THE BREACH OR NONPERFORMANCE OF THIS AGREEMENT SHALL NOT EXCEED THE TOTAL AMOUNT OF PAYMENTS PAID TO THE UNIVERSITY (LESS ANY AMOUNTS DISTRIBUTED TO INDIVIDUAL INVENTORS AND AMOUNTS RECEIVED AS PATENT RELATED EXPENSES) UNDER THIS AGREEMENT PRECEDING THE COMMENCEMENT OF ANY SUIT OR ACTION. THIS LIMITATION APPLIES TO CONTRACT, TORT, AND ANY OTHER CLAIM OF WHATEVER NATURE.**

11.3. Sublicensees - Damages. The Licensee shall cause each Sublicensee to agree to limitations of remedies and damages substantially similar to the limitations of remedies and damages set forth in sections 11.1 and 11.2.

12. General Terms

12.1. Access to University Information.

12.1.1. Data Practices Act. The parties acknowledge that the University is subject to the terms and provisions of the Minnesota Government Data Practices Act, Minnesota Statutes §13.01 et seq. (the "Act"), and that the Act requires, with certain exceptions, the University to permit the public to inspect and copy any information that the University collects, creates, receives, maintains, or disseminates.

12.1.2. Confidentiality. To the extent permitted by law, including as provided in the Act, the University shall hold in confidence the reports described in sections 5.4 and 6.4 and the records inspected in accordance with section 6.5 of the Terms and Conditions, and any other information that is disclosed by Licensee to University under this Agreement which is designated as "Confidential" or proprietary" (collectively, "Confidential Information") and may only disclose such Confidential Information to University employees, agents and contractors who need to know such Information for the purpose of exercising the University's rights or performing the University's obligations under this Agreement and who are bound by written obligations of confidentiality no less restrictive than those provided herein. Upon termination or expiration of this Agreement, the University shall return to Licensee all copies and embodiments of the Confidential Information, except that University may retain one copy of the Confidential Information solely to determine its compliance with the confidentiality obligations herein. No provision of this Agreement is to be construed to further prohibit, limit, or condition the University's right to use and disclose any information in connection with enforcing this Agreement, in court or elsewhere, except as expressly provided herein.

12.2. Amendment and Waiver. The Agreement may be amended from time to time only by a written instrument signed by the parties. No term or provision of this Agreement may be waived and no breach excused unless such waiver or consent is in writing and signed by the party claimed to have waived or consented. No waiver of a breach is to be deemed a waiver of a different or subsequent breach.

12.3. Applicable Law and Forum Selection. The internal laws of the state of Minnesota, without giving effect to its conflict of laws principles, govern the validity, construction, and enforceability of this Agreement. A suit, claim, or other action to enforce the terms of this Agreement may be brought only in the state courts of Hennepin County, Minnesota. The Licensee hereby submits to the jurisdiction of that court and waives any objections it may have to that court asserting jurisdiction over the Licensee or its assets and property. Notwithstanding the foregoing, any dispute regarding the validity of any Licensed Patent shall be litigated in the U.S. District Court of Minnesota, and the parties agree not to challenge personal jurisdiction in such forum.

12.4. Assignment and Sublicense. Except as permitted under subsection 3.1.2 and section 12.5 of the Terms and Conditions, the Licensee shall not assign or sublicense its interest or delegate its duties under this Agreement. Any assignment, sublicense, or delegation attempted to be made in violation of this section is void. Absent the consent of all the parties, an assignment or delegation will not release the assigning or delegating party from its obligations accrued prior to the effective date of assignment. The Agreement inures to the benefit of the Licensee and the University and their respective successors and permitted assigns, sublicensees and trustees.

12.5. Change of Control. Notwithstanding section 12.4, the Licensee, without the prior approval of the University, may assign all, but no less than all, its rights and delegate all its duties under this Agreement to another if (i) the Licensee delivers to the University written notice of the proposed assignment (along with pertinent information about the terms of the assignment and assignee) at least five (5) days before the effective date of the event described in part iii of this paragraph, (ii) pay to the University the Transfer Payment prior to the effective date of the event described in part iii of this paragraph, and (iii) the assignment is made as a part of and in connection with (a) the sale by the Licensee of all or substantially all of its assets to a successor in interest, (b) the sale, transfer, or exchange by the shareholders, partners, or equity owners of the Licensee of a majority interest in the Licensee to a successor in interest, or (c) the merger of the Licensee into another corporation or other business entity. Any assignment attempted to be made or made in violation of this subsection is void.

12.6. Collection Costs and Attorneys^ Fees. If a party fails to perform an obligation or otherwise breaches one or more of the terms of this Agreement, the other party may recover from the non-performing breaching party all its reasonable costs (including actual attorneys' and investigative fees) to enforce the terms of this Agreement.

12.7. Consent and Approves. Except as otherwise expressly provided, in order to be effective, all consents or approvals required under this Agreement must be in writing.

12.8. Construction. The headings preceding and labeling the sections of this Agreement are for the purpose of identification only and are not to be employed or used for the purpose of construction or interpretation of any portion of the EPLA. As used herein and where necessary, the singular includes the plural and vice versa, and masculine, feminine, and neuter expressions are interchangeable.

12.9. Enforceability. If a court of competent jurisdiction adjudges a provision of this Agreement to be unenforceable, invalid, or void, such determination is not to be construed as impairing the enforceability of any of the remaining provisions hereof and such provisions will remain in full force and effect.

12.10. Entire Agreement. The parties intend this Agreement (including all attachments, exhibits, and amendments hereto) to be the final and binding expression of their contract and agreement with respect to the subject matter hereof and the complete and exclusive statement of the terms thereof. The Agreement cancels, supersedes, and revokes all prior negotiations, representations and agreements among the parties, whether oral or written, relating to the subject matter of this Agreement.

12.11. Language and Currency. Unless otherwise expressly provided in this Agreement and in order to be effective, all notices, reports, and other documents and instruments that a party elects or is required to deliver to the other party must be in English, and all notices,

reports, and other documents and instruments detailing revenues and earned under this Agreement or expenses chargeable to a party must be United States dollar denominated.

12.12. No Third-Party Beneficiaries. No provision of this Agreement, express or implied, is intended to confer upon any person other than the parties to this Agreement any rights, remedies, obligations, or liabilities hereunder. No Sublicensee may enforce or seek damages under this Agreement.

12.13. Notices. In order to be effective, all notices, requests, and other communications that a party is required or elects to deliver must be in writing and must be delivered personally, or by facsimile or electronic mail (provided such delivery is confirmed), or by a recognized overnight courier service or by United States mail, first-class, certified or registered, postage prepaid, return receipt requested, to the other party at its address set forth below or to such other address as such party may designate by notice given under this section:

If to the University:	University of Minnesota Office for Technology Commercialization 200 Oak Street SE, Suite 280 Minneapolis, MN 55455 Fax: [ ] E-mail: [ ]
For notices sent under section 8, with a copy to:	University of Minnesota Office of the General Counsel Attn: Transactional Law Services 360 McNamara Alumni Center 200 Oak Street S.E. Minneapolis, MN 55455-2006 Facsimile No.: [ ]
If to the Licensee:	As indicated in section 12 of the EPLA.

12.14. Relationship of Parties. In entering into, and performing their duties under this Agreement, the parties are acting as independent contractors and independent employers. No provision of this Agreement creates or is to be construed as creating a partnership, joint venture, or agency relationship between the parties. No party has the authority to act for or bind the other party in any respect.

12.15. Security Interest. In no event may the Licensee grant, or permit any person to assert or perfect, a security interest in the Licensee's rights under this Agreement.

12.16. Survival. Immediately upon the termination or expiration of this Agreement, except for certain rights granted for the Post-termination Period, all the Licensee's rights under

this Agreement terminate; provided, however, the Licensee's rights and obligations that have accrued before the effective date of termination or expiration (e.g., the obligation to report and make payments on sales, leases, or commercial dispositions of Licensed Products and to reimburse the University for Patent-Related Expenses) and the obligations specified in section 6.5.1 shall survive. The obligations and rights set forth in sections 6.4 and 8.3 and sections 9,10, 11, and 12 also survive the termination or expiration of this Agreement.

FIRST AMENDMENT
TO EXCLUSIVE PATENT LICENSE AGREEMENT

THIS FIRST AMENDMENT TO EXCLUSIVE PATENT LICENSE AGREEMENT (the "First Amendment") is made and entered effective as of the date of the last signature (the "First Amendment Effective Date"), by and between **Regents of the University of Minnesota** (the "University"), a Minnesota constitutional corporation under the laws of the state of Minnesota, having a place of business at 200 Oak Street, SE, Suite 280, Minneapolis, Minnesota 55455, and **Acutus Medical, Inc., corporation under the laws of the State of Delaware, having a place of business at 10840 Thornmint Road, Suite 100, San Diego, CA 92127** (the "Licensee") each a "Party" and collectively, the "Parties").

BACKGROUND

The Parties entered into an Exclusive Patent License Agreement on on April 21, 2014 (the "EPLA"). The University and Licensee have now jointly developed an additional Subject Invention and the parties now wish to amend the EPLA to include that invention.

NOW, THEREFORE, THE PARTIES AGREE THAT:

1. The parties hereby amend the EPLA as of the First Amendment Effective Date to add the following Licensed Patent Application to Section 5.2:

Application No.	Country	Filing Date	Title
61/905,451	U.S.	11/18/2013	System and Method for Temporal Sparse Promoting Imaging of Cardiac Electrical Activation

2. General. Except as amended, deleted, or otherwise modified by this First Amendment, the terms of the EPLA shall remain in full force and effect.

IN WITNESS WHEREOF, acting through their respective duly authorized representatives, the University and the Licensee have duly executed, delivered and entered into this First Amendment as of the Amendment Effective Date.

[Signature Page Follows]

Regents of the University of Minnesota

By: /s/ Richard Huebsch

Name: Richard Huebsch
Title: Assoc. Dir., OTC

Date: 10-15-14

Acutus Medical, Inc.

By: /s/ Randy Werneth

Name: Randy Werneth
Title: President and CEO

Date: 10/20/14

Exhibit 10.11

LEASE

ROF II FARADAY 2210, LLC,
A DELAWARE LIMITED LIABILITY COMPANY,

Landlord,

and

ACUTUS MEDICAL, INC.,
A DELAWARE CORPORATION

Tenant

MULTI-TENANT INDUSTRIAL NET LEASE

REFERENCE PAGES

BUILDING:	Research Center Points – a single, multi-tenant office corporate headquarters building consisting of approximately 117,414 square feet located at 2210 Faraday Avenue, Carlsbad, CA 92008
LANDLORD:	ROF II Faraday 2210, LLC, a Delaware limited liability company
LANDLORD'S ADDRESS:	ROF II Faraday 2210, LLC c/o Regent Properties 11990 San Vicente Blvd, Suite 200 Los Angeles CA 90049
WIRE INSTRUCTIONS AND/OR ADDRESS FOR RENT PAYMENT:	ROF II Faraday 2210, LLC c/o Regent Properties 11990 San Vicente Blvd, Suite 200 Los Angeles CA 90049
LEASE REFERENCE DATE:	January 22, 2015
TENANT:	Acutus Medical, Inc., a Delaware corporation
TENANT'S NOTICE ADDRESS:	
(a) As of beginning of Term:	2210 Faraday Avenue, Suite 200 Carlsbad, CA 92008
(b) Prior to beginning of Term (if different):	10840 Thornmint Road Suite 140 San Diego, CA 92127
With a copy in either case to:	
PREMISES ADDRESS:	2210 Faraday Avenue, Suite 200 Carlsbad, CA 92008
PREMISES RENTABLE AREA:	Approximately 46,353 rentable square feet on east end of Building (for outline of Premises see Exhibit A)
USE:	General office purposes, laboratory, research and development, manufacturing and assembly, sales, storage and other use permitted under all applicable laws.
SCHEDULED COMMENCEMENT DATE:	January 1, 2016.
TERM OF LEASE:	Eighty-four (84) months beginning on the Commencement Date and ending on the Termination Date.
TERMINATION DATE:	The date which is eighty-four (84) calendar months after the Commencement Date

ANNUAL RENT and MONTHLY INSTALLMENT OF RENT (Article 3): During the first twelve (12) months of the Term of Lease, Tenant shall pay $0.70 per square foot per month, Commencing the thirteenth (13th) month of the Term of Lease, Tenant shall pay $1.45 per square foot per month with increases thereafter as set forth below.

Period		Rentable Square Footage	Annual Rent Per Square Foot	Annual Rent	Monthly Installment of Rent
from	through				
1/1/2016	12/31/2016	46,353	$8.40	$389,365.20	$32,447.10
1/1/2017	12/31/2017	46,353	$17.40	$806,542.20	$67,211.85
1/1/2018	12/31/2018	46,353	$17.88	$828,791.64	$69,065.97
1/1/2019	12/31/2019	46,353	$18.48	$856,603.44	$71,383.62
1/1/2020	12/31/2020	46,353	$18.96	$878,852.88	$73,237.74
1/1/2021	12/31/2021	46,353	$19.56	$906,664.68	$75,555.39
1/1/2022	12/31/2022	46,353	$20.16	$934,476.48	$77,873.04

The foregoing dates shall be adjusted consistent with the above provisions regarding Rent if the Commencement Date occurs after January 1, 2016.

INITIAL ESTIMATED MONTHLY INSTALLMENT OF RENT ADJUSTMENTS (Article 4)	Currently estimated at $0.21 per square foot per month.
TENANT'S PROPORTIONATE SHARE:	39.48% based on 117,414 Building rentable square foot
SECURITY DEPOSIT:	$77,916.96, subject to the provisions of Article 5
ASSIGNMENT/SUBLETTING FEE	Actual costs up to Two Thousand Five Hundred Dollars ($2,500)
SIGNAGE:	Tenant shall have the right to place its name and corporate logo on the Building top at a mutually agreeable location and on Tenant's Proportionate Share of the shared monument signage on west entry of project. All interior signage in the Premises (including lobby signage) and any signage on exterior Premises doors may be installed without Landlord's approval. Signage shall be installed at Tenant's sole cost and expense, subject to City of Carlsbad sign regulations, CC&Rs, and review and approval by Landlord, which Landlord approval shall not be unreasonably withheld or delayed, of Tenant's signage design for conformance to the project sign criteria (attached hereto as Exhibit J), CC&Rs and City of Carlsbad. All costs associated with fabrication, installation, permitting, maintaining, and eventual removal of said signage, including costs to repair the building as a result of removal of signage, shall be the responsibility of Tenant. Tenant's signage rights shall be transferable to an approved assignee or sublessee or any Permitted Transferee.
RENEWAL OPTION:	One (1) option to renew for a period of five (5) years. See also Exhibit F.
PARKING:	Tenant shall be granted, at no charge to Tenant, one hundred twenty-six (126) parking spaces on a nonreserved, unassigned basis throughout the Term of the Lease.

The Reference Pages information is incorporated into and made a part of the Lease. In the event of any conflict between any Reference Pages information and the Lease, the Lease shall control. This Lease includes Exhibits A through K, all of which are made a part of this Lease.

LANDLORD:

ROF FARADAY 2210, LLC,
a Delaware limited liability company

By: /s/ Douglas Brown
Name: Douglas Brown
Its: Managing Director

By: _____
Name:
Its:

TENANT:

ACUTUS MEDICAL, INC.,
a Delaware corporation

By: /s/ Randy Werneth
Name: Randy Werneth
Its: CEO

By: _____
Name:
Its:

LEASE

By this Lease Landlord leases to Tenant and Tenant leases from Landlord the Premises in the Building as set forth and described on the Reference Pages. The Premises are depicted on the floor plan attached hereto as Exhibit A and the Building is depicted on the site plan attached hereto as Exhibit A-1. The Reference Pages, including all terms defined thereon, are incorporated as part of this Lease.

1. **USE AND RESTRICTIONS ON USE.**

1.1 The Premises are to be used solely for the purposes set forth on the Reference Pages. Landlord represents and warrants that the Building is zoned for general office purposes, laboratory, research assembly, sales, and storage, and that no recorded restrictions prohibit any of the foregoing. Tenant shall not do or permit anything to be done by any Tenant Entities (defined below) in or about the Premise which will in any way obstruct or interfere with the rights of other tenants or occupants of the Building or injure or disturb them, or allow the Premises to be used for any unlawful purpose or commit any waste. Tenant shall not do, permit or suffer in, on, or about the Premises the sale of any alcoholic liquor without the written consent of Landlord first obtained. Tenant shall comply with all governmental laws, ordinances and regulations applicable to the use of the Premises and its occupancy and shall promptly comply with all governmental orders and directions for the correction, prevention and abatement of any violations in the Building or appurtenant land, caused or permitted by, or resulting from the specific use by, Tenant, or in or upon, or in connection with, the Premises, all at Tenant's sole expense; provided, however, that nothing in this Lease shall require Tenant to make any alterations to the Premises to comply with such laws unless such compliance is required solely due to Tenant's particular use of the Premises or alterations that Tenant is making to the Premises (other than the Tenant Improvements, which are separately covered in Exhibit B). Tenant shall not do or permit anything to be done on or about the Premises or bring or keep anything into the Premises which will in any way increase the rate of (unless Tenant pays such increase), invalidate or prevent the procuring of any insurance protecting against loss or damage to the Building or any of its contents by fire or other casualty or against liability for damage to property or injury to persons in or about the Building or any part thereof. Tenant shall have access to the Premises 24 hours per day, 7 days a week.

1.2 Tenant shall not, and shall not direct, suffer or permit any of its agents, contractors, employees, licensees or invitees (collectively, the "Tenant Entities") to at any time handle, use, manufacture, store or dispose of in or about the Premises or the Building any (collectively "Hazardous Materials") flammables, explosives, radioactive materials, hazardous wastes or materials, toxic wastes or materials, or other similar substances, petroleum products or derivatives or any substance subject to regulation by or under any federal, state and local laws and ordinances relating to the protection of the environment or the keeping, use or disposition of environmentally hazardous materials, substances, or wastes, presently in effect or hereafter adopted, all amendments to any of them, and all rules and regulations issued pursuant to any of such laws or ordinances (collectively "Environmental Laws"), nor shall Tenant suffer or permit any Hazardous Materials to be used in any manner not fully in compliance with all Environmental Laws, in the Premises or the Building and appurtenant land or allow the environment to become contaminated with any Hazardous Materials released by any Tenant Entity. Notwithstanding the foregoing, Tenant may handle, store, use or dispose of products containing small quantities of Hazardous Materials (such as aerosol cans containing insecticides, toner for copiers, paints, paint remover and the like) to the extent customary and necessary for the use of the Premises for general officer purposes; provided that Tenant shall always handle, store, use, and dispose of any such Hazardous Materials in a safe and lawful manner and never allow such Hazardous Materials to contaminate the Premises, Building and appurtenant land or the environment. Tenant shall protect, defend, indemnify and hold each and all of the Landlord Entities (as defined in Article 30) harmless from and against any and all loss, claims, liability or costs (including court costs and attorney's fees) to the extend incurred by reason of any actual or asserted failure of Tenant to fully comply with all applicable Environmental Laws, or the presence, handling, use or disposition in or from the Premises of any Hazardous Materials by Tenant or any Tenant Entity (even though permissible under all applicable Environmental Laws or the provisions of this Lease), or by reason of any actual or asserted failure of Tenant to keep, observe, or perform any provision of this Section 1.2; provided, however, that Tenant's liability for any remediation costs shall be limited to the cost of remediation required by law. Notwithstanding anything in this Lease to the contrary, under no circumstance shall Tenant be liable for any Hazardous Material present at any time on or about the Building, or the soil, air, improvements, groundwater or surface water thereof or the violation of any laws, orders or regulations, relating to any such Hazardous Material, except to the extent that any of the foregoing actually results from the use, release or emission of Hazardous Material by Tenant or any Tenant Entities.

1.3 Notwithstanding the provisions of Section 1.2, Landlord agrees that Tenant may use Hazardous Materials in the normal course of its business, with prior notice to Landlord, but without Landlord's consent as long as Tenant demonstrates and documents to Landlord's reasonable satisfaction (i) that such Hazardous Materials (a) are necessary or useful to Tenant's business; (b) will be used, kept, stored and disposed of in compliance with all laws relating to any Hazardous Materials so brought or used or kept in or about the Premises; (c) will not pose an imminent danger to persons or property; and (d) Tenant remediates the presence of any such Hazardous Materials to the extent required by law; and (ii) that Tenant will give all required notices concerning the presence in or on the Premises or the release of such Hazardous Materials from the Premises. Pursuant to the preceding sentence, Tenant has notified Landlord of Tenant's intent to use the Hazardous Materials of the types, amounts, and use identified in the Hazardous Materials Exhibit attached hereto as Exhibit H and Landlord has agreed that the use of such Hazardous Materials is within the scope of the preceding sentence. Tenant covenants to comply with the use restrictions shown on the attached Hazardous Materials Exhibit. Tenant has provided, or will provide, Landlord with copies of the Material Safety Data Sheets (as required by the Occupational Safety and Health Act) relating to all Hazardous Materials listed on the Hazardous Materials Exhibit and will provided such Sheets to Landlord for any other Hazardous Materials for which Tenant notifies Landlord Tenant desires to add to the Hazardous Materials Exhibit. Landlord may at any time upon reasonable prior notice, enter upon the Premises to review Tenant's Material Safety Data Sheets or to obtain samples from the Premises, including without limitation the soil and groundwater under the Premises, for the purposes of analyzing the same to determine whether and to what extent the Premises or the environment may have become contaminated by Hazardous Materials. Tenant shall reimburse Landlord for the costs of any inspection, sampling and analysis that discloses contamination which Tenant has caused. Tenant may not perform any sampling, testing or drilling to locate any Hazardous Materials on the Premises without Landlord's prior written consent.

1.4 Landlord represents that, except as set forth on the Phase I environmental report provided to Tenant, to the actual knowledge of Doug Brown, after reasonable inquiry of Landlord's records and of Landlord's personnel who could reasonably be expected to have knowledge of such matters, (a) no Hazardous Material is present on the Building or the soil, surface water or groundwater thereof, (b) no underground storage tanks are present on or about the Building, and (c) no action, proceeding or claim is pending or threatened regarding the Building concerning any Hazardous Material or pursuant to any Environmental Law. Upon Tenant's request, Landlord will provide Tenant with an opportunity to review at Landlord's manager's office any existing Phase I environmental assessments or other environmental reports relating to the Building. Notwithstanding anything herein to the contrary, Landlord shall be responsible for Hazardous Materials which existed on, under, or within the Building (unless brought onto or permitted to enter on, in, or under the Premises or the Building by Tenant or any Tenant Entity), including without limitation, the responsibility for removing, remediating, or otherwise mitigating the effects of such Hazardous Materials as may be required by law to protect health and safety, or comply with the direction of governmental agencies administering applicable Environmental Laws. In addition, Landlord shall comply with all environmental laws pertaining to and governing the existence, removal, remediation, exposure to, and use of Hazardous Materials by Landlord at the Building; provided, however, that nothing in this Section shall impose upon Landlord any responsibility for any existing Hazardous Materials negligently disturbed or negligently exacerbated by Tenant or any Tenant Entity.

1.5 Tenant and the Tenant Entities will be entitled to the non-exclusive use of the common areas of the Building as they exist from time to time during the Term, including the parking facilities, subject to Landlord's rules and regulations regarding such use. However, in no event will Tenant or the Tenant Entities park more vehicles in the parking facilities than the number of parking spaces specified in the Reference Pages. The foregoing shall not be deemed to provide Tenant with an exclusive right to any parking spaces or any guaranty of the availability of any particular parking spaces or any specific number of parking spaces.

2. TERM; REMEASUREMENT RIGHT.

2.1 The Term of this Lease shall begin on the date ("Commencement Date") which shall be the later of the Scheduled Commencement Date as shown on the Reference Pages and the date which is the Scheduled Commencement Date plus the number of days that Landlord is late in delivering the Premises to Tenant after the date on which Landlord is obligated to deliver the Premises to Tenant, and shall terminate on the date as shown on the Reference Pages ("Termination Date"), unless sooner terminated by the provisions of this Lease. Tenant shall, at Landlord's request, execute and deliver a memorandum agreement provided by Landlord in the form of Exhibit C attached hereto, setting forth the actual Commencement Date, Termination Date and, if necessary, a revised rent schedule. Should Tenant fail to do so within thirty (30) days after Landlord's request, the information set forth in such memorandum provided by Landlord shall be conclusively presumed to be agreed and correct. Notwithstanding anything in this Lease to the contrary, the Commencement Date shall be subject to one (1) day of extension for each day of delay experienced by Tenant in completion of the Tenant Improvements by reason of (i) any bankruptcy of Landlord, Landlord's breach of this Lease, including Exhibit B hereto (the "Work Letter"), and/or Landlord's failure to give any consent or approval or take any action required under this Lease or the Work Letter within the time periods specified

therein, (ii) the failure to obtain any approval of the Tenant Improvements required under any covenants, conditions and restrictions ("CC&Rs") encumbering the Building within thirty (30) days after request by Tenant, (iii) the performance of any work to correct any deficiency in the delivery condition of the Building as required by the Work Letter, including any code compliance work as described in paragraph 12 of the Work Letter, (iv) any work required due to the presence of Hazardous Materials on or about the Premises other than those released by Tenant or any Tenant Entities (each of the delays in the foregoing clauses (i) through (iv) shall be "Landlord Delays"); and (v) the occurrence of any force majeure, act of God, casualty, condemnation, general strike, act of war, or moratorium.

2.2 Landlord shall deliver the Premises to Tenant in accordance with Exhibit B on September 1, 2015, or such earlier date on which the current tenant has folly vacated the Premises (provided if any work is required of Landlord to bring the Premises to the condition required by this Lease, Landlord shall have access to the Premises for such purpose and Tenant shall reasonably and in good faith cooperate with Landlord in connection therewith) ("Scheduled Delivery Date"). Tenant agrees that in the event of the inability of Landlord to deliver possession of the Premises on the Scheduled Delivery Date, Landlord shall not be liable for any damage resulting from such inability, but Tenant shall not be liable for any rent until the time when Landlord can, after notice to Tenant, deliver possession of the Premises to Tenant. No such failure to give possession on the Scheduled Delivery Date shall affect the other obligations of Tenant under this Lease.

2.3 From and after the date on which Landlord delivers the Premises to Tenant up to the Commencement Date, Tenant, or any agent, employee or contractor of Tenant, shall have the foil right to enter, use or occupy the Premises to construct the Tenant Improvements, to install Tenant's furniture, fixtures and equipment, for lab validation and for operations, such entry, use or occupancy shall be subject to all the provisions of this Lease other than the payment of Rent, including, without limitation, Tenant's compliance with the insurance requirements of Article 11. Said early possession shall not advance the Termination Date. Landlord shall use reasonable and good faith efforts to facilitate a sale of the current tenant's furniture, fixtures and equipment to Tenant.

2.4 Tenant shall have the right, upon written notice (the "Remeasurement Notice") delivered to Landlord no later than the Commencement Date, to remeasure the Premises in accordance with the standards set forth in ANSI Z65.1 - 1996, as promulgated by the Building Owners and Managers Association (the "BOMA Standard"), at Tenant's sole cost and expense. In the event such remeasurement indicates that the measurement of the Premises set forth in this Lease is in excess of or lower than the measurement which would have resulted had the BOMA Standard been properly utilized, any payments due either party (or other rights between Landlord and Tenant) based upon the amount of square feet contained in the Premises shall be proportionally, retroactively and prospectively reduced or increased, as appropriate, to reflect the actual measurement under the BOMA Standard. If Landlord disagrees with Tenant's remeasurement and if a dispute occurs regarding the final accuracy of the measurement of the Premises in accordance with the BOMA Standard, such dispute will be conclusively resolved by an architect selected by Landlord and reasonably approved by Tenant. If such architect determines the measurement of the Premises to be in excess of Tenant's remeasurement, the cost of such architect shall be paid by Tenant. Otherwise, the cost of such architect shall be paid by Landlord. In the event that a Remeasurement Notice is not timely delivered in accordance with the terms of this Section 2.4, the square footage of the Premises shall not be subject to remeasurement, and the square footage set forth on the Reference Pages shall be binding and conclusive.

3. **RENT.**

3.1 Tenant agrees to pay to Landlord the Annual Rent in effect from time to time by paying the Monthly Installment of Rent then in effect on or before the first day of each foil calendar month during the Term, except that the first foil month's rent shall be paid upon the execution of this Lease. The Monthly Installment of Rent in effect at any time shall be one-twelfth (1/12) of the Annual Rent in effect at such time. Rent for any period during the Term which is less than a foil month shall be a prorated portion of the Monthly Installment of Rent based upon the number of days in such month. Said rent shall be paid to Landlord, without deduction or offset and without notice or demand, at the Rent Payment Address, as set forth on the Reference Pages, or to such other person or at such other place as Landlord may from time to time designate in writing. Unless specified in this Lease to the contrary, all amounts and sums payable by Tenant to Landlord pursuant to this Lease shall be deemed additional rent.

3.2 Tenant recognizes that late payment of any rent or other sum due under this Lease will result in administrative expense to Landlord, the extent of which additional expense is extremely difficult and economically impractical to ascertain. Tenant therefore agrees that if rent or any other sum is not paid within five (5) days of when due and payable pursuant to this Lease, a late charge shall be imposed in an amount equal to the greater of:

(a) Fifty Dollars ($50.00), or (b) five percent (5%) of the unpaid rent or other payment. Notwithstanding the foregoing, Landlord agrees not to charge such late fee the first two times in any twelve (12) month period during the Term Tenant is late with such payment until Landlord has given Tenant written notice of its failure to pay and Tenant has failed to pay such amount within five (5) days thereof. The amount of the late charge to be paid by Tenant shall be reassessed and added to Tenant's obligation for each successive month until paid. The provisions of this Section 3.2 in no way relieve Tenant of the obligation to pay rent or other payments on or before the date on which they are due, nor do the terms of this Section 3.2 in any way affect Landlord's remedies pursuant to Article 19 of this Lease in the event said rent or other payment is unpaid after date due.

4. RENT ADJUSTMENTS

4.1 For the purpose of this Article 4, the following terms are defined as follows:

4.1.1 **Lease Year:** Each fiscal year (as determined by Landlord from time to time) falling partly or wholly within the Term.

4.1.2 **Expenses:** All actual costs of operation, maintenance, repair, replacement and management of the Building (including the amount of any credits which Landlord may grant to particular tenants of the Building in lieu of providing any standard services or paying any standard costs described in this Section 4.1.2 for similar tenants), as determined in accordance with generally accepted accounting principles, including the following costs by way of illustration, but not limitation: water and sewer charges; insurance charges of or relating to all insurance policies and endorsements deemed by Landlord to be reasonably necessary or desirable and relating in any manner to the protection, preservation, or operation of the Building or any part thereof; utility costs, including, but not limited to, the cost of heat, light, power, steam, gas; waste disposal; the cost of janitorial services; the cost of security and alarm services (including any central station signaling system); costs of cleaning, repairing, replacing and maintaining the common areas, including parking and landscaping, window cleaning costs; labor costs; costs and expenses of managing the Building including management and/or administrative fees; air conditioning maintenance costs; elevator maintenance fees and supplies; material costs; equipment costs including the cost of maintenance, repair and service agreements and rental and leasing costs; purchase costs of equipment; current rental and leasing costs of items which would be capital items if purchased; tool costs; licenses, permits and inspection fees; wages and salaries; employee benefits and payroll taxes; accounting and legal fees; any sales, use or service taxes incurred in connection therewith. In addition, Landlord shall be entitled to recover, as additional rent (which, along with any other capital expenditures constituting Expenses, Landlord may either include in Expenses or cause to be billed to Tenant along with Expenses and Taxes but as a separate item), Tenant's Proportionate Share of: (i) an allocable portion of the cost of capital improvement items which are reasonably calculated to reduce operating expenses; and (ii) other capital expenses which are required under any governmental laws, regulations or ordinances which were not applicable to the Building as of the Commencement Date; but the costs described in this sentence 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. Expenses shall not include: (i) depreciation or amortization of the Building or equipment in the Building except as provided herein; (ii) loan principal or interest payments or fees incurred on debt; (iii) costs of alterations of tenants' premises; (iv) leasing commissions; (v) interest expenses on long-term borrowings; (vi) advertising costs; (vii) costs occasional by casualties or by the exercise of the power of eminent domain; (viii) costs to comply with any covenant, condition, restriction or law applicable to the Premises or the Building on the Commencement Date; (ix) earthquake insurance deductibles in excess of three (3) Monthly Installment of Rent; (x) costs incurred in connection with the presence of any Hazardous Material, except to the extent caused by the release or emission of the Hazardous Material in question by Tenant; (xi) expense reserves; (xii) costs of structural repairs to the Building; (xiii) any management or administrative fee in excess of three percent (3%) of aggregate gross monthly income of the project; (xiv) costs occasioned by the violation of any law by Landlord, its agents, employees or contractors; (xv) costs incurred in connection with negotiations or disputes with any other occupant of the Building or the project; (xvi) increases in insurance costs caused by the activities of another occupant of the Building or the project; (xvii) costs which could properly be capitalized under generally accepted accounting principles, except to the extent amortized over the useful life of the capital item in question; and (xviii) wages, salaries, or other compensation of any kind or nature paid to any employee of Landlord or its affiliates above the grade of building manager.

4.1.3 **Taxes:** Real estate taxes and any other taxes, charges and assessments which are levied with respect to the Building or the land appurtenant to the Building, or with respect to any improvements, fixtures and equipment or other property of Landlord, real or personal, located in the Building and used in connection with the operation of the Building and said land, any payments to any ground lessor in reimbursement of tax payments made by such lessor; and all fees, expenses and costs incurred by Landlord in investigating, protesting, contesting or in any way seeking to reduce or avoid increase in any assessments, levies or the tax rate pertaining to any Taxes to be paid by Landlord in any Lease Year. Taxes shall not include any corporate franchise, or estate, inheritance or net income tax, or any documentary transfer tax imposed upon any transfer by Landlord of its interest in this Lease or the Building or any taxes to be paid by Tenant pursuant to Article 28 or any tax or assessment expense or any increase therein (a) in excess of the amount which would be payable if such tax or assessment expense were paid in installments over the longest permitted term; or (b) imposed on land and improvements other than the Building (and the underlying parcels).

4.2 Tenant shall pay as additional rent for each Lease Year Tenant's Proportionate Share of; Expenses and Taxes incurred for such Lease Year.

4.3 The annual determination of Expenses shall be made by Landlord and shall be binding upon Landlord and Tenant, subject to the provisions of this Section 4.3. During the Term, Tenant may review, at Tenant's sole cost and expense, the books and records supporting such determination in an office of Landlord, or Landlord's agent, during normal business hours, upon giving Landlord five (5) days advance written notice within ninety (90) days after receipt of such determination, but in no event more often than once in any one (1) year period, subject to execution of a confidentiality agreement acceptable to Landlord, and provided that if Tenant utilizes an independent accountant to perform such review it shall be one which is of national standing, is not compensated on a contingency basis and is also subject to such confidentiality agreement. If Tenant fails to object to Landlord's determination of Expenses within ninety (90) days after receipt, or if any such objection fails to state with reasonable specificity the reason for the objection, Tenant shall be deemed to have approved such determination and shall have no farther right to object to or contest such determination. In the event that during all or any portion of any Lease Year or Base Year, the Building is not fully rented and occupied Landlord shall make an appropriate adjustment in occupancy-related Expenses for such year for the purpose of avoiding distortion of the amount of such Expenses to be attributed to Tenant by reason of variation in total occupancy of the Building, by employing consistent and sound accounting and management principles to determine Expenses that would have been paid or incurred by Landlord had the Building been at least ninety-five percent (95%) rented and occupied, and the amount so determined shall be deemed to have been Expenses for such Lease Year.

4.4 Prior to the actual determination thereof for a Lease Year, Landlord may from time to time estimate Tenant's liability for Expenses and/or Taxes under Section 4.3, Article 6 and Article 28 for the Lease Year or portion thereof. Landlord will give Tenant written notification of the amount of such estimate and Tenant agrees that it will pay, by increase of its Monthly Installments of Rent due in such Lease Year, additional rent in the amount of such estimate. Any such increased rate of Monthly Installments of Rent pursuant to this Section 4.4 shall remain in effect until further written notification to Tenant pursuant hereto.

4.5 When the above mentioned actual determination of Tenant's liability for Expenses and/or Taxes is made for any Lease Year and when Tenant is so notified in writing, then:

4.5.1 If the total additional rent Tenant actually paid pursuant to Section 4.3 on account of Expenses and/or Taxes for the Lease Year is less than Tenant's liability for Expenses and/or Taxes, then Tenant shall pay such deficiency to Landlord as additional rent in one lump sum within thirty (30) days of receipt of Landlord's bill therefor; and

4.5.2 If the total additional rent Tenant actually paid pursuant to Section 4.3 on account of Expenses and/or Taxes for the Lease Year is more than Tenant's liability for Expenses and/or Taxes, then Landlord shall credit the difference against the then next due payments to be made by Tenant, or, if the Lease has terminated, refund the difference in cash.

4.6 If the Commencement Date is other than January 1 or if the Termination Date is other than December 31, Tenant's liability for Expenses and Taxes for the Lease Year in which said Date occurs shall be prorated based upon a three hundred sixty-five (365) day year.

4.7 Notwithstanding the foregoing, Landlord agrees that in making its annual determination of Tenant's Proportionate Share of Expenses, all Expenses which are controllable by Landlord ("Controllable Costs") (which Controllable Costs specifically excludes any insurance premiums, Taxes, costs of utilities, costs incurred to comply with changes in law, and costs imposed upon the Building or project by any recorded CC&Rs and/or agreements recorded against the Building or project) will not increase by more than two percent (2%) per year (the "Maximum Permitted Increase"), on a collective and not a per-item basis, compounded annually, over the amount of such controllable Expenses for the immediately preceding Lease Year. Such cap is cumulative and the unused portion of a year's cap may be carried forward to absorb any future Expenses that would otherwise be in excess of the cap.

5. **SECURITY DEPOSIT.**

5.1 Tenant shall deposit the Security Deposit with Landlord upon the execution of this Lease. Said sum shall be held by Landlord as security for the faithful performance by Tenant of all the terms, covenants and conditions of this Lease to be kept and performed by Tenant and not as an advance rental deposit or as a measure of Landlord's damage in case of Tenant's default. If Tenant defaults (beyond any applicable notice and cure periods) with respect to any provision of this Lease, Landlord may use any part of the Security Deposit for the payment of any rent or any other sum in default, or for the payment of any amount which Landlord may spend or become obligated to spend by reason of Tenant's default, or to compensate Landlord for any other loss or damage which Landlord may suffer by reason of Tenant's default. If any portion is so used, Tenant shall within five (5) days after written demand therefor, deposit with Landlord an amount sufficient to restore the Security Deposit to its original amount and Tenant's failure to do so shall be a material breach of this Lease Except to such extent, if any, as shall be required by law, Landlord shall not be required to keep the Security Deposit separate from its general funds, and Tenant shall not be entitled to interest on such deposit. If there is no outstanding obligation of Tenant, the Security Deposit or any balance thereof shall be returned to Tenant within sixty (60) days after termination of this Lease. Notwithstanding anything to the contrary contained herein or in Article 23 hereof. Tenant hereby waives the provisions of Section 1950.7 of the California Civil Code, or any similar or successor Regulations or other laws now or hereinafter in effect.

6. **ALTERATIONS.**

6.1 Except for those, if any, specifically provided for in Exhibit B to this Lease or as set forth in this Section, Tenant shall not make or suffer to be made any alterations, additions, or improvements, including, but not limited to, the attachment of any fixtures or equipment in, on, or to the Premises or any part thereof or the making of any improvements as required by Article 7, without the prior written consent of Landlord. When applying for such consent, Tenant shall, if requested by Landlord, furnish complete plans and specifications for such alterations, additions and improvements. Landlord's consent shall not be unreasonably withheld with respect to alterations which (i) are not structural in nature, (ii) are not visible from the exterior of the Building, and (iii) do not materially and adversely affect or require modification of the Building's electrical, mechanical, plumbing, HVAC or other systems. Notwithstanding anything in this Lease to the contrary, (A) Tenant may, upon notice to Landlord but without Landlord's prior approval, construct any alterations, additions and improvements in the Premises, other than those specified in clauses (i) through (iii) of the immediately prior sentence, if the cost of any such project docs not exceed Twenty-Five Thousand Dollars ($25,000); (B) Tenant's trade fixtures, furniture, equipment and other personal property installed in the Premises, including, without limitation, the equipment described in Exhibit I attached hereto ("Tenant's Property") shall at all times be and remain Tenant's property, and at any time Tenant may remove Tenant's Property from the Premises, provided that Tenant repairs ail damage caused by such removal; and (C) Landlord shall have no right to require Tenant to remove any alterations unless it notifies Tenant at the time it consents to such alteration that it shall require such alteration to be removed, as provided in Section 26.2. Tenant may add items of Tenant's Property to Exhibit I from time to time during the Lease Term, as the same may be extended.

6.2 In the event Landlord consents to the making of any such alteration, addition or improvement by Tenant, the same shall be made by using either Landlord's contractor or a contractor reasonably approved by Landlord, in either event at Tenant's sole cost and expense. If Tenant shall employ any contractor other than Landlord's contractor and such other contractor or any subcontractor of such other contractor shall employ any non-union labor or supplier, Tenant shall be responsible for and hold Landlord harmless from any and all delays, damages and extra costs suffered by Landlord as a result of any dispute with any labor unions concerning the wage, hours, terms or conditions of the employment of any such labor. In any event Landlord may charge Tenant the cost of any third-party costs actually incurred by Landlord in connection with the proposed work and the design thereof (not to exceed one percent (1%) of the cost of such improvements), with all such amounts being due thirty (30) days after Landlord's demand.

6.3 All alterations, additions or improvements proposed by Tenant shall be constructed in accordance with all government laws, ordinances, rules and regulations, using Building standard materials where applicable, and Tenant shall, prior to construction, provide the additional insurance required under Article 11 in such case, and all such assurances to Landlord as Landlord shall reasonably require to assure payment of the costs thereof, including but not limited to, notices of non-responsibility, waivers of lien, surety company performance bonds and funded construction escrows and

to protect Landlord and the Building and appurtenant land against any loss from any mechanic's, materialmen's or other liens. Tenant shall pay in addition to any sums due pursuant to Article 4, any increase in real estate taxes attributable to any such alteration, addition or improvement for so long, during the Term, as such increase is ascertainable; at Landlord's election said sums shall be paid in the same way as sums due under Article 4. Landlord may, as a condition to its consent to any particular alterations or improvements, require Tenant to deposit with Landlord the amount reasonably estimated by Landlord as sufficient to cover the cost of removing such alterations or improvements and restoring the Premises, to the extent required under Section 26.2.

7. **REPAIR.**

7.1 Landlord shall have no obligation to alter, remodel, improve, repair, decorate or paint the Premises, except as specified in Exhibit B if attached to this Lease and except that Landlord shall repair and maintain: (i) the roof; (ii) the structural portions of the Building; (iii) the common areas of the Building; and (iv) the electrical, water, sewer and plumbing systems which serve the Premises but are exterior to the Premises. All of the costs of the foregoing may be included in Expenses, except to the extent they are specifically excluded in Section 4.1. By taking possession of the Premises, Tenant accepts them as being in good order, condition and repair and in the condition in which Landlord is obligated to deliver them, except as otherwise set forth in the Lease. It is hereby understood and agreed that no representations respecting the condition of the Premises or the Building have been made by Landlord to Tenant, except as specifically set forth in this Lease. Landlord shall not be liable for any failure to make any repairs or to perform any maintenance unless such failure shall persist for an unreasonable time after written notice of the need of such repairs or maintenance is given to Landlord by Tenant.

7.2 Other than set forth in Section 7.1 as Landlord's obligations, Tenant shall at its own cost and expense keep and maintain all parts of the Premises and such portion of the Building and improvements as are within the exclusive control of Tenant in the same condition as received (as improved by the Tenant Improvements), promptly making all necessary repairs and replacements, whether ordinary or extraordinary, with materials and workmanship of the same character, kind and quality as the original (including, but not limited to, repair and replacement of all fixtures installed by Tenant, water heaters serving the Premises, windows, glass and plate glass, doors, exterior stairs, skylights, any special office entries, interior walls and finish work, floors and floor coverings, beating and air conditioning systems serving the Premises, electrical systems and fixtures, sprinkler systems, dock boards, truck doors, dock bumpers, plumbing work and fixtures, and performance of regular removal of trash and debris). Tenant as part of its obligations hereunder shall keep the Premises in a clean and sanitary condition. Tenant shall, at its own cost and expense, repair any damage to the Premises or the Building resulting from and/or caused in whole or in part by the negligence or misconduct of Tenant, its agents, employees, contractors, invitees, or any other person entering upon the Premises as a result of Tenant's business activities or caused by Tenant's default hereunder.

7.3 Except as provided in Article 22, there shall be no abatement of rent and no liability of Landlord by reason of any injury to or interference with Tenant's business arising from the making of any repairs, alterations or improvements in or to any portion of the Building or the Premises or to fixtures, appurtenances and equipment in the Building. Tenant hereby waives any and all rights under and benefits of subsection 1 of Section 1932 and Sections 1941 and 1942 of the California Civil Code, or any similar or successor Regulations or other laws now or hereinafter in effect.

7.4 Tenant shall, at its own cost and expense, enter into a regularly scheduled preventive maintenance/service contract with a maintenance contractor approved by Landlord for servicing all heating and air conditioning systems and equipment serving the Premises (and a copy thereof shall be furnished to Landlord). The service contract must include all services suggested by the equipment manufacturer in the operation/maintenance manual and must become effective within thirty (30) days of the date Tenant takes possession of the Premises. Should Tenant fail to do so, Landlord may, upon notice to Tenant, enter into such a maintenance/ service contract on behalf of Tenant or perform the work and in either case, charge Tenant the cost thereof along with a reasonable amount for Landlord's overhead.

8. **LIENS.** Tenant shall keep the Premises, the Building and appurtenant land and Tenant's leasehold interest in the Premises free from any liens arising out of any services, work or materials performed, furnished, or contracted for by Tenant, or obligations incurred by Tenant. In the event that Tenant fails, within ten (10) days following the imposition of any such lien, to either cause the same to be released of record or provide Landlord with insurance against the same issued by a major title insurance company or such other protection against the same as Landlord shall accept (such failure to constitute an Event of Default), Landlord shall have the right to cause the same to be released by such means as it shall deem proper, including payment of the claim giving rise to such lien. All such sums paid by Landlord and all expenses incurred by it in connection therewith shall be payable to it by Tenant within five (5) days of Landlord's demand.

9. **ASSIGNMENT AND SUBLETTING.**

9.1 Tenant shall not have the right to assign or pledge this Lease or to sublet the whole or any part of the Premises whether voluntarily or by operation of law, or permit the use or occupancy of the Premises by anyone other than Tenant, and shall not make, suffer or permit such assignment, subleasing or occupancy without the prior written consent of Landlord, such consent not to be unreasonably withheld, and said restrictions shall be binding upon any and all assignees of the Lease and subtenants of the Premises. In the event Tenant desires to sublet, or permit such occupancy of, the Premises, or any portion thereof, or assign this Lease, Tenant shall give written notice thereof to Landlord at least twenty (20) days but no more than one hundred twenty (120) days prior to the proposed commencement date of such subletting or assignment, which notice shall set forth the name of the proposed subtenant or assignee, the relevant terms of any sublease or assignment and copies of financial reports and other relevant financial information of the proposed subtenant or assignee. Notwithstanding anything in this Lease to the contrary, Tenant shall have the right to sublease or assign any portion of the Premises to (a) an entity controlling, controlled by or under common control with Tenant (an "Affiliate"), (b) an entity related to Tenant by merger, consolidation, non-bankruptcy reorganization, or government action, or (c) a purchaser of a substantial portion of Tenant's stock or assets (a "Permitted Transfer" and any such transferee shall sometimes be referred to as a "Permitted Transferee") without Landlord's consent, provided that Tenant notifies Landlord not later than five (5) business days after any such assignment or sublease and supplies Landlord with reasonable supporting documentation substantiating that the proposed Permitted Transfer qualifies as a Permitted Transfer. A sale or transfer of Tenant's capital stock shall not be deemed an assignment, subletting or any other transfer of this Lease or the Premises. In the event of an assignment, Landlord reserves the right to require the Assignee to be of comparable or better financial strength than Tenant. No Permitted Transfer or sale of Tenant's capital stock shall be effective if such transfer is a subterfuge by Tenant to avoid its obligations under this Lease.

9.2 Notwithstanding any assignment or subletting, permitted or otherwise, Tenant shall at all times remain directly, primarily and folly responsible and liable for the payment of the rent specified in this Lease and for compliance with all of its other obligations under the terms, provisions and covenants of this Lease (and no assignment or subletting, permitted or otherwise, shall relieve any guarantor of this Lease from any liability). Upon the occurrence of an Event of Default, if the Premises or any part of them are then assigned or sublet, Landlord, in addition to any other remedies provided in this Lease or provided by law, may, at its option, collect directly from such assignee or subtenant all rents due and becoming due to Tenant under such assignment or sublease and apply such rent against any sums due to Landlord from Tenant under this Lease, and no such collection shall be construed to constitute a novation or release of Tenant from the farther performance of Tenant's obligations under this Lease.

9.3 In addition to Landlord's right to approve of any subtenant or assignee, Landlord shall have the option, in its sole discretion, in the event of any proposed assignment or a proposed subletting of the entire Premises for substantially all of the remaining Term, to terminate this Lease, as of the date the subletting or assignment is to be effective. The option shall be exercised, if at all, by Landlord giving Tenant written notice given by Landlord to Tenant within fifteen (15) days following Landlord's receipt of Tenant's written notice as required above. However, if Tenant notifies Landlord, within five (5) days after receipt of Landlord's termination notice, that Tenant is rescinding its proposed assignment or sublease, the termination notice shall be void and the Lease shall continue in full force and effect. If this Lease shall be terminated pursuant to this Section, the Term of this Lease shall end on the date stated in Tenant's notice as the effective date of the sublease or assignment as if that date had been originally fixed in this Lease for the expiration of the Term. Tenant shall, at Tenant's own cost and expense, discharge in fall any outstanding commission obligation which may be due and owing as a result of any proposed assignment or subletting, whether or not the Premises are recaptured pursuant to this Section 9.3 and rented by Landlord to the proposed tenant or any other tenant. The provisions of this Section 9.3 shall not apply to Permitted Transfers.

9.4 In the event that Tenant sells, sublets, assigns or transfers this Lease, Tenant shall pay to Landlord as additional rent an amount equal to fifty percent (50%) of any Increased Rent (as defined below), less the Costs Component (as defined below), when and as such Increased Rent is received by Tenant. As used in this Section, "Increased Rent" shall mean the excess of (i) all rent and other consideration attributable to the Premises or this Lease which Tenant is entitled to receive by reason of any sale, sublease, assignment or other transfer of this Lease, over (ii) the rent otherwise payable by Tenant under this Lease at such time. For purposes of the foregoing, any consideration received by Tenant in form other than cash shall be valued at its fair market value as determined by Landlord in good faith. The "Costs Component" is the costs incurred by Tenant for in connection with such assignment or sublease, including leasing commissions, tenant improvements, legal fees and other concessions reasonably required to induce such sublease, assignment or other transfer. The provisions of this Section 9.4 shall not apply to Permitted Transfers.

9.5 Notwithstanding any other provision hereof, it shall be considered reasonable for Landlord to withhold its consent to any assignment of this Lease or sublease of any portion of the Premises if at the time of either Tenant's notice of the proposed assignment or sublease or the proposed commencement date thereof, there shall exist any uncured Event of Default of Tenant, or if the proposed assignee or sublessee is an entity: (a) with which Landlord is already in active negotiation; (b) is a governmental agency; (c) is incompatible with the character of occupancy of the Building; (d) with which the payment for the sublease or assignment is determined in whole or in part based upon its net income or profits; or (e) would subject the Premises to a use which would: (i) involve increased personnel or wear upon the Building; (ii) violate any exclusive right granted to another tenant of the Building; (iii) require any addition to or modification of the Premises or the Building in order to comply with building code or other governmental requirements; or, (iv) involve a violation of Section 1.2. Tenant expressly agrees that for the purposes of any statutory or other requirement of reasonableness on the part of Landlord, Landlord's refusal to consent to any assignment or sublease for any of the reasons described in this Section 9.5, shall be conclusively deemed to be reasonable. In the event Tenant elects to sublease all or a portion of the Premises, Tenant shall not be precluded from marketing said sublease Premises to other tenants in the Building or Project. Additionally, there shall not be any floor/minimum rent that Tenant must obtain from any sublessee and/or assignee.

9.6 Upon any request to assign or sublet, Tenant will pay to Landlord the Assignment/Subletting Fee, regardless of whether Landlord shall consent to, refuse consent, or determine that Landlord's consent is not required for, such assignment, pledge or sublease. Any purported sale, assignment, mortgage, transfer of this Lease or subletting which does not comply with the provisions of this Article 9 shall be void.

10. **INDEMNIFICATION.** None of the Landlord Entities shall be liable and Tenant hereby waives all claims against them for any damage to any property in or about the Premises or the Building by or from any cause whatsoever (including without limiting the foregoing, rain or water leakage of any character from the roof, windows, walls, basement, pipes, plumbing works or appliances, the Building not being in good condition or repair, gas, fire, oil, electricity or theft), except to the extent caused by or arising from the gross negligence or willful misconduct of Landlord or its agents, employees or contractors. Tenant shall protect, indemnify and hold the Landlord Entities harmless from and against any and all loss, claims, liability or costs (including court costs and attorney's fees) incurred by reason of (a) any damage to any property (including but not limited to property of any Landlord Entity) or any injury (including but not limited to death) to any person occurring in, on or about the Premises or the Building to the extent that such injury or damage shall be caused by or arise from any actual or alleged neglect or willful misconduct by or of Tenant or any Tenant Entity to meet any standards imposed by any duty with respect to the injury or damage; (b) the conduct or management of any repair, alteration, addition, improvement or similar work done by the Tenant in or about the Premises; (c) Tenant's failure to comply with any and all governmental laws, ordinances and regulations applicable to the condition or use of the Premises or its occupancy (unless Tenant is not required to comply pursuant to this Lease); or (d) any breach or default on the part of Tenant in the performance of any covenant or agreement on the part of the Tenant to be performed pursuant to this Lease. The provisions of this Article shall survive the termination of this Lease with respect to any claims or liability accruing prior to such termination. Notwithstanding anything in this Lease to the contrary, Landlord shall not be released or indemnified from, and shall indemnify, defend, protect and hold harmless Tenant from, all losses, damages, liabilities, claims, attorneys' fees, costs and expenses arising from the negligence or willful misconduct of Landlord or its agents, contractors, licensees or invitees, Landlord's violation of any law, order or regulation, or a breach of Landlord's obligations or representations under this Lease.

11. **INSURANCE.**

11.1 Tenant shall keep in force throughout the Term: (a) a Commercial General Liability insurance policy or policies to protect the Landlord Entities against any liability to the public or to any invitee of Tenant or a Landlord Entity incidental to the use of or resulting from any accident occurring in or upon the Premises with a limit of not less than $1,000,000 per occurrence and not less than $2,000,000 in the annual aggregate, or such larger amount as Landlord may prudently require from time to time taking into consideration insurance requirements imposed upon similar tenants operating similar businesses in buildings located in the same rental market, covering bodily injury and property damage liability; (b) Business Auto Liability covering owned, non-owned and hired vehicles with a limit of not less than $1,000,000 per accident; (c) Worker's Compensation Insurance with limits as required by statute; (d) Employers Liability with limits of $1,000,000 each accident, $1,000,000 disease policy limit, $1,000,000 disease-each employee; (e) All Risk or Special Form coverage protecting Tenant against loss of or damage to Tenant's Property to the fall replacement value of the property so insured, (f) Business Interruption Insurance for 100% of the 12 months actual loss sustained, and (g) Excess Liability in the amount of $5,000,000.

11.2 The aforesaid policies shall (a) be provided at Tenant's expense; (b) name the Landlord Entities as additional insureds (General Liability); (c) be issued by an insurance company with a minimum Best's rating of "A-:VII" during the Term; and (d) provide that said insurance shall not be canceled unless thirty (30) days prior written notice (ten days for non-payment of premium) shall have been given to Landlord; a certificate of Liability insurance on ACORD Form 25 and a certificate of Property insurance on ACORD form 28 shall be delivered to Landlord by Tenant upon the Commencement Date and at least thirty (30) days prior to each renewal of said insurance.

11.3 Whenever Tenant shall undertake any alterations, additions or improvements in, to or about the Premises ("Work") the aforesaid liability insurance protection must extend to and include injuries to persons and damage to property arising in connection with such Work, without limitation including liability under any applicable structural work act; and the policies of or certificates evidencing such insurance must be delivered to Landlord prior to the commencement of any such Work.

11.4 Self-insurance is permitted as to any of the above-described policies to the extent permitted by law, as long as the conditions of this Section 11.4 are met Coverage through self-insurance means that Tenant or its Affiliate providing self-insurance hereunder would be responsible for any amount it elects to self-insure as though it were the insurer under the applicable policy specified above. Self-insurance with respect to liability insurance is permitted only so long as Tenant or its Affiliate, whichever is providing the self-insurance hereunder, has a current tangible net worth of not less than $100,000,000. If at any time Tenant or its Affiliate, whichever is providing the self-insurance hereunder, does not have such net worth, it must obtain liability insurance as required under Section 11.1. If Tenant elects to self-insure, Tenant shall provide audited financial statements to Landlord annually to establish that such net worth requirement is satisfied. Tenant shall provide evidence of catastrophic coverage, being liability insurance coverage over and above the liability amount, if any, which Tenant elects to self-insure, through so-called "excess liability" or "umbrella liability" coverage. The provisions of this Article 11 apply to such catastrophic coverage.

11.5 Landlord shall maintain throughout the Term "All-Risk" or "Special Form" property insurance covering the full replacement value of the Premises and the Building, including, without limitation, the Tenant Improvements.

12. **WAIVER OF SUBROGATION.** Notwithstanding anything in this Lease to the contrary, Tenant and Landlord waive their respective rights of recovery against each other for any loss insured by tire, extended coverage;' All Risks or other insurance now or hereafter existing for the benefit of the respective party or required to be maintained hereunder but only to the extent of the net insurance proceeds payable under such policies (or which would be payable if the required policies were maintained). Each party shall obtain any special endorsements required by their insurer to evidence compliance with the aforementioned waiver. All of Landlord's and Tenant's repair and indemnity obligations under this Lease shall be subject to the waiver contained in this paragraph.

13. **SERVICES AND UTILITIES.** Tenant shall pay for all water, gas, heat, light, power, telephone, sewer, sprinkler system charges and other utilities and services used on or from the Premises, together with any taxes, penalties, and surcharges or the like pertaining thereto and any maintenance charges for utilities. Tenant shall furnish all electric light bulbs, tubes and ballasts, battery packs for emergency lighting and fire extinguishers. If any such services are not separately metered to Tenant, Tenant shall pay such proportion of all charges jointly metered with other premises as determined by Landlord, in its reasonable discretion, to be reasonable. Any such charges paid by Landlord and assessed against Tenant shall be payable to Landlord within thirty (30) days of written demand and shall be additional rent hereunder. Tenant will not, without the written consent of Landlord, contract with any electricity, water, sewer or natural gas provider to service the Premises which is not previously providing such service to other tenants in the Building. Except as set forth below, Landlord shall in no event be liable for any interruption or failure of utility services on or to the Premises. Notwithstanding anything in this Lease to the contrary, if, as a result of Landlord's action, the Premises should become not reasonably suitable for Tenant's use as a consequence of cessation of utilities or other services or interference with access to the Premises and the interference with Tenant's use of the Premises persists for seven (7) days after Tenant has notified Landlord in writing, then Tenant shall be entitled to an equitable abatement of rent to the extent of the interference with Tenant's use of the Premises occasioned thereby. If the interference persists for more than ninety (90) days, Tenant shall have the right to terminate this Lease.

14. **HOLDING OVER.** Tenant shall pay Landlord for each day Tenant retains possession of the Premises or part of them after termination of this Lease by lapse of time or otherwise at the rate ("Holdover Rate") which shall be One Hundred Percent (100%) for the initial two (2) months holdover period and One Hundred Fifty Percent (150%) beyond the initial two (2) month holdover period of the amount of the Annual Rent for the last month prior to the date of such termination plus all Rent Adjustments under Article 4, prorated on a daily basis, and also pay all damages sustained by Landlord by reason of such retention. If Landlord gives notice to Tenant of Landlord's election to such effect, such holding over shall constitute renewal of this Lease for a period from month to month at the Holdover Rate, but if the Landlord does not so elect, no such renewal shall result notwithstanding acceptance by Landlord of any sums due hereunder after such termination; and instead, a tenancy at sufferance at the Holdover Rate shall be deemed to have been created. In any event, no provision of this Article 14 shall be deemed to waive Landlord's right of reentry or any other right under this Lease or at law.

15. **SUBORDINATION.** Without the necessity of any additional document being executed by Tenant for the purpose of effecting a subordination, this Lease shall be subject and subordinate at all times to ground or underlying leases and to the lien of any mortgages or deeds of trust now or hereafter placed on, against or affecting the Building, Landlord's interest or estate in the Building, or any ground or underlying lease; provided, however, that if the lessor, mortgagee, trustee, or holder of any such mortgage or deed of trust elects to have Tenant's interest in this Lease be superior to any such instrument, then, by notice to Tenant, this Lease shall be deemed superior, whether this Lease was executed before or after said instrument. Notwithstanding the foregoing, Tenant covenants and agrees to execute and deliver within twenty (20) days of Landlord's request such reasonable further instruments evidencing such subordination or superiority of this Lease as may be required by Landlord. Landlord agrees that the foregoing subordination to any existing or future encumbrance will be subject to the delivery of a commercially reasonable Subordination, Non-Disturbance and Attornment Agreement ("SNDA") signed by any existing or future lender, as applicable, which SNDA shall expressly recognize Tenant's rights to offset Rent set forth in Paragraph 11 of Exhibit B and require any such lender or transferee thereof, following a foreclosure, to fond the Tenant Improvement Allowance, to the extent required pursuant to Exhibit B to this Lease and not previously funded, and return the Security Deposit to Tenant at the expiration or earlier termination of this Lease, to the extent required pursuant to Section 5 of this Lease. The parties agree that the SNDA attached hereto as Exhibit G is a commercially reasonable one. Landlord agrees to use commercially reasonable efforts to deliver a SNDA to Tenant from Landlord's existing lender within thirty (30) days after the Lease Reference Date.

16. **RULES AND REGULATIONS.** Tenant shall faithfully observe and comply with all the rules and regulations as set forth in Exhibit D to this Lease and all reasonable and non-discriminatory modifications of and additions to them from time to time put into effect by Landlord, so long as such future rules do not unreasonably interfere with Tenant's use of the Premises or Tenant's parking rights or materially increase Tenant's obligations or decrease its rights hereunder. Landlord shall not be responsible to Tenant for the non-performance by any other tenant or occupant of the Building of any such rules and regulations.

17. **REENTRY BY LANDLORD.**

17.1 Landlord reserves and shall at all times have the right to re-enter the Premises upon reasonable prior notice to inspect the same, to show said Premises to prospective purchasers, mortgagees or tenants, and to alter, improve or repair the Premises and any portion of the Building, without abatement of rent, and may for that purpose erect, use and maintain scaffolding, pipes, conduits and other necessary structures and open any wall, ceiling or floor in and through the Building and Premises where reasonably required by the character of the work to be performed, provided entrance to the Premises shall not be blocked thereby, and further provided that the business of Tenant shall not be interfered with unreasonably. Landlord shall have the right at any time to change the arrangement and/or locations of entrances, or passageways, doors and doorways, and corridors, windows, elevators, stairs, toilets or other public parts of the Building and to change the name, number or designation by which the Building is commonly known. In the event that Landlord damages any portion of any wall or wall covering, ceiling, or floor or floor covering within the Premises, Landlord shall repair or replace the damaged portion to match the original as nearly as commercially reasonable but shall not be required to repair or replace more than the portion actually damaged. Except as otherwise provided herein, Tenant hereby waives any claim for damages for any injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned by any action of Landlord authorized by this Article 17. Any entry by Landlord and Landlord's agents shall comply with Tenant's reasonable security measures.

17.2 For each of the aforesaid purposes, Landlord shall at all times have and retain a key with which to unlock all of the doors in the Premises, excluding Tenant's vaults and safes or special security areas (designated in advance), and Landlord shall have the right to use any and all means which Landlord may deem proper to open said doors in an emergency to obtain entry to any portion of the Premises. As to any portion to which access cannot be had by means of a key or keys in Landlord's possession, Landlord is authorized to gain access by such means as Landlord shall elect and the cost of repairing any damage occurring in doing so shall be borne by Tenant and paid to Landlord within five (5) days of Landlord's demand.

18. **DEFAULT.**

18.1 Except as otherwise provided in Article 20, the following events shall be deemed to be Events of Default under this Lease:

18.1.1 Tenant shall fail to pay when due any sum of money becoming due to be paid to Landlord under this Lease, whether such sum be any installment of the rent reserved by this Lease, any other amount treated as additional rent under this Lease, or any other payment or reimbursement to Landlord required by this Lease, whether or not treated as additional rent under this Lease, and such failure shall continue for a period of five (5) days after written notice that such payment was not made when due. The notice required pursuant to this Section 18.1.1 shall replace rather than supplement any statutory notice required under California Code of Civil Procedure Section 1161 or any similar or successor statute.

18.1.2 Tenant shall fail to comply with any term, provision or covenant of this Lease which is not provided for in another Section of this Article and shall not cure such failure within thirty (30) days (forthwith, if the failure involves a hazardous condition) after written notice of such failure to Tenant provided, however, that such failure shall not be an event of default if such failure could not reasonably be cured during such thirty (30) day period, Tenant has commenced the cure within such thirty (30) day period and thereafter is diligently pursuing such cure to completion, but the total aggregate cure period shall not exceed one hundred twenty (120) days.

18.1.3 Tenant shall fail to vacate the Premises immediately upon termination of this Lease, by lapse of time or otherwise, or upon termination of Tenant's right to possession only.

18.1.4 Tenant shall become insolvent, admit in writing its inability to pay its debts generally as they become due, file a petition in bankruptcy or a petition to take advantage of any insolvency statute, make an assignment for the benefit of creditors, make a transfer in fraud of creditors, apply for or consent to the appointment of a receiver of itself or of the whole or any substantial part of its property, or file a petition or answer seeking reorganization or arrangement under the federal bankruptcy laws, as now in effect or hereafter amended, or any other applicable law or statute of the United States or any state thereof.

18.1.5 A court of competent jurisdiction shall enter an order, judgment or decree adjudicating Tenant bankrupt, or appointing a receiver of Tenant, or of the whole or any substantial part of its property, without the consent of Tenant, or approving a petition filed against Tenant seeking reorganization or arrangement of Tenant under the bankruptcy laws of the United States, as now in effect or hereafter amended, or any state thereof, and such order, judgment or decree shall not be vacated or set aside or stayed within sixty (60) days from the date of entry thereof.

19. **REMEDIES.**

19.1 Upon the occurrence of any Event or Events of Default under this Lease, whether enumerated in Article 18 or not, Landlord shall have the option to pursue any one or more of the following remedies without any notice (except as expressly prescribed herein) or demand whatsoever (and without limiting the generality of the foregoing, Tenant hereby specifically waives notice and demand for payment of rent or other obligations and waives any and all other notices or demand requirements imposed by applicable law):

19.1.1 Terminate this Lease and Tenant's right to possession of the Premises and recover from Tenant an award of damages equal to the sum of the following:

19.1.1.1 The Worth at the Time of Award of the unpaid rent which had been earned at the time of termination;

19.1.1.2 The Worth at the Time of Award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rent loss that Tenant affirmatively proves could have been reasonably avoided;

19.1.1.3 The Worth at the Time of Award of the amount by which the unpaid rent for the balance of the Term after the time of award exceeds the amount of such rent loss that Tenant affirmatively proves could be reasonably avoided;

19.1.1.4 Any other amount necessary to compensate Landlord for all the detriment either 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; and

19.1.1.5 All such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time under applicable law.

The "Worth at the Time of Award" of the amounts referred to in parts 19.1.1.1 and 19.1.1.2 above, shall be computed by allowing interest at the lesser of a per annum rate equal to: (i) the greatest per annum rate of interest permitted from time to time under applicable law, or (ii) the Prime Rate plus 5%. For purposes hereof the "Prime Rate" shall be the per annum interest rate publicly announced as its prime or base rate by a federally insured bank selected by Landlord in the State of California. The "Worth at the Time of Award" of the amount referred to in part 19.1.13, above, shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus 1%;

19.1.2 Employ the remedy described in California Civil Code § 1951.4 (Landlord may continue this Lease in effect after Tenant's breach and abandonment and recover rent as it becomes due, if Tenant has the right to sublet or assign, subject only to reasonable limitations); or

19.1.3 Notwithstanding Landlord's exercise of the remedy described in California Civil Code§ 1951.4 in respect of an Event or Events of Default, at such time thereafter as Landlord may elect in writing, to terminate this Lease and Tenant's right to possession of the Premises and recover an award of damages as provided above in Section 19.1.1.

19.2 The subsequent acceptance of rent hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such rent. No waiver by Landlord of any breach hereof shall be effective unless such waiver is in writing and signed by Landlord.

19.3 **TENANT HEREBY WAIVES ANY AND ALL RIGHTS CONFERRED BY SECTION 3275 OF THE CIVIL CODE OF CALIFORNIA AND BY SECTIONS 1174 (c) AND 1179 OF THE CODE OF CIVIL PROCEDURE OF CALIFORNIA AND ANY AND ALL OTHER REGULATIONS AND RULES OF LAW FROM TIME TO TIME IN EFFECT DURING THE TERM PROVIDING THAT TENANT SHALL HAVE ANY RIGHT TO REDEEM, REINSTATE OR RESTORE THIS LEASE FOLLOWING ITS TERMINATION BY REASON OF TENANT'S BREACH. TENANT ALSO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO TRIAL BY JURY IN ANY LITIGATION ARISING OUT OF OR RELATING TO THIS LEASE.**

19.4 No right or remedy herein conferred upon or reserved to Landlord is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder or now or hereafter existing by agreement, applicable law or in equity. In addition to other remedies provided in this Lease, Landlord shall be entitled, to the extent permitted by applicable law, to injunctive relief, or to a decree compelling performance of any of the covenants, agreements, conditions or provisions of this Lease, or to any other remedy allowed to Landlord at law or in equity. Forbearance by Landlord to enforce one or more of the remedies herein provided upon an Event of Default shall not be deemed or construed to constitute a waiver of such Default.

19.5 This Article 19 shall be enforceable to the maximum extent such enforcement is not prohibited by applicable law, and the unenforceability of any portion thereof shall not thereby render unenforceable any other portion.

19.6 If more than one (1) Event of Default occurs during the Term or any renewal thereof, Tenant's renewal options, expansion options, purchase options and rights of first offer and/or refusal, if any are provided for in this Lease, shall be null and void.

19.7 If, on account of any breach or default by Tenant in Tenant's obligations under the terms and conditions of this Lease, it shall become necessary or appropriate for Landlord to employ or consult with an attorney or collection agency concerning or to enforce or defend any of Landlord's rights or remedies arising under this Lease or to collect any sums due from Tenant, Tenant agrees to pay all costs and fees so incurred by Landlord, including, without limitation, reasonable attorneys' fees and costs.

19.8 Upon the occurrence of an Event of Default, Landlord may (but shall not be obligated to) cure such default at Tenant's sole expense. Without limiting the generality of the foregoing, Landlord may, at Landlord's option, enter into and upon the Premises if Landlord determines in its sole discretion that Tenant is not acting within a commercially reasonable time to maintain, repair or replace anything for which Tenant is responsible under this Lease or to otherwise effect compliance with its obligations under this Lease and correct the same, without being deemed in any manner guilty of trespass, eviction or forcible entry and detainer and without incurring any liability for any damage or interruption of Tenant's business resulting therefrom and Tenant agrees to reimburse Landlord within thirty (30) days of Landlord's demand as additional rent, for any expenses which Landlord may incur in thus effecting compliance with Tenant's obligations under this Lease, plus interest from the date of expenditure by Landlord at the Wall Street Journal prime rate.

19.9 In the event Landlord fails to perform any of its obligations under this Lease and fails to cure such default within thirty (30) days after written notice from Tenant specifying the nature of such default where such default could reasonably be cured within said thirty (30) day period, or foils to commence such cure within said thirty (30) day period and thereafter continuously with due diligence prosecute such cure to completion where such default could not reasonably be cured within said thirty (30) day period, and if such default renders a material portion of the Premises unsuitable for Tenant' use, then Tenant may, in addition to its other remedies, cure such default of Landlord at Landlord's cost.

20. **TENANT'S BANKRUPTCY OR INSOLVENCY.**

20.1 If at any time and for so long as Tenant shall be subjected to the provisions of the United States Bankruptcy Code or other law of the United States or any state thereof for the protection of debtors as in effect at such time (each a "Debtor's Law"):

20.1.1 Tenant, Tenant as debtor-in-possession, and any trustee or receiver of Tenant's assets (each a "Tenant's Representative") shall have no greater right to assume or assign this Lease or any interest in this Lease, or to sublease any of the Premises than accorded to Tenant in Article 9, except to the extent Landlord shall be required to permit such assumption, assignment or sublease by the provisions of such Debtor's Law. Without limitation of the generality of the foregoing, any right of any Tenant's Representative to assume or assign this Lease or to sublease any of the Premises shall be subject to the conditions that:

20.1.1.1 Such Debtor's Law shall provide to Tenant's Representative a right of assumption of this Lease which Tenant's Representative shall have timely exercised and Tenant's Representative shall have fully cured any default of Tenant under this Lease.

20.1.1.2 Tenant's Representative or the proposed assignee, as the case shall be, shall have deposited with Landlord as security for the timely payment of rent an amount equal to the larger of: (a) three (3) months' rent and other monetary charges accruing under this Lease; and (b) any sum specified in Article 5; and shall have provided Landlord with adequate other assurance of the future performance of the obligations of the Tenant under this Lease. Without limitation, such assurances shall include, at least, in the case of assumption of this Lease, demonstration to the satisfaction of the Landlord that Tenant's Representative has and will continue to have sufficient unencumbered assets after the payment of all secured obligations and administrative expenses to assure Landlord that Tenant's Representative will have sufficient funds to fulfill the obligations of Tenant under this Lease; and, in the case of assignment, submission of current financial statements of the proposed assignee, audited by an independent certified public accountant reasonably acceptable to Landlord and showing a net worth and working capital in amounts determined by Landlord to be sufficient to assure the future performance by such assignee of all of the Tenant's obligations under this Lease.

20.1.1.3 The assumption or any contemplated assignment of this Lease or subleasing any part of the Premises, as shall be the case, will not breach any provision in any other lease, mortgage, financing agreement or other agreement by which Landlord is bound.

20.1.1.4 Landlord shall have, or would have bad absent the Debtor's Law, no right under Article 9 to refuse consent to the proposed assignment or sublease by reason of the identity or nature of the proposed assignee or sublessee or the proposed use of the Premises concerned.

21. **QUIET ENJOYMENT.** Landlord represents and warrants that it has full right and authority to enter into this Lease and that Tenant, while paying the rental and performing its other covenants and agreements contained in this Lease, shall peaceably and quietly have, hold and enjoy the Premises for the Term without hindrance or molestation from Landlord subject to the terms and provisions of this Lease. Except as otherwise provided herein, Landlord shall not be liable for any interference or disturbance by other tenants or third persons, nor shall Tenant be released from any of the obligations of this Lease because of such interference or disturbance.

22. **CASUALTY.**

22.1 In the event the Premises or the Building are damaged by fire or other cause and in Landlord's reasonable estimation such damage can be materially restored within two hundred forty (240) days, Landlord shall forthwith repair the same and this Lease shall remain in foil force and effect, except that Tenant shall be entitled to a proportionate abatement in rent from the date of such damage. 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 from time to time. Within forty-five (45) days from the date of such damage, Landlord shall notify Tenant, in writing, of Landlord's reasonable estimation of the length of time within which material restoration can be made, and Landlord's determination shall be binding on Tenant. For purposes of this Lease, the Building or Premises shall be deemed "materially restored" if they are in such condition as would not prevent or materially interfere with Tenant's use of the Premises for the purpose for which it was being used immediately before such damage.

22.2 If such repairs cannot, in Landlord's reasonable estimation, be made within two hundred forty (240) days, Landlord and Tenant shall each have the option of giving the other, at any time within ninety (90) days after such damage, notice terminating this Lease as of the date of such damage. In the event of the giving of such notice, this Lease shall expire and all interest of the Tenant in the Premises shall terminate as of the date of such damage as if such date had been originally fixed in this Lease for the expiration of the Term. In the event that neither Landlord nor Tenant exercises its option to terminate this Lease, then Landlord shall repair or restore such damage, this Lease continuing in foil force and effect, and the rent hereunder shall be proportionately abated as provided in Section 22.1.

22.3 Landlord shall not be required to repair or replace any damage or loss by or from fire or other cause to any Tenant's Property or improvements installed on the Premises by, or belonging to, Tenant; however, Landlord shall be required to repair or replace any such damage to the Tenant Improvements. Any insurance which may be carried by Landlord or Tenant against loss or damage to the Building or Premises shall be for the sole benefit of the party carrying such insurance and under its sole control.

22.4 In the event that Landlord should fail to complete such repairs and material restoration within thirty (30) days after the date estimated by Landlord therefor as extended by this Section 22.4, Tenant may at its option and as its sole remedy terminate this Lease by delivering written notice to Landlord, within fifteen (15) days after the expiration of said period of time, whereupon the Lease shall end on the date of such notice or such later date fixed in such notice as if the date of such notice was the date originally fixed in this Lease for the expiration of the Term; provided, however, that if construction is delayed because of changes, deletions or additions in construction requested by Tenant, strikes, lockouts, casualties, Acts of God, war, material or labor shortages, government regulation or control or other causes beyond the reasonable control of Landlord (excluding financial inability), the period for restoration, repair or rebuilding shall be extended for the amount of time Landlord is so delayed, but in no event more than thirty (30) days.

22.5 Notwithstanding anything to the contrary contained in this Article Landlord shall not have any obligation whatsoever to repair, reconstruct, or restore the Premises when the damages resulting from any casualty covered by the provisions of this Article 22 are material and occur during the last twelve (12) months of the Term or any extension thereof, but if Landlord determines not to repair such damages Landlord shall notify Tenant and if such damages shall render any material portion of the Premises untenantable Tenant shall have the right to terminate this Lease by notice to Landlord within fifteen (15) days after receipt of Landlord's notice, whereupon this Lease shall end on the date of such damage as if the date of such damage were the date originally fixed in this Lease for the expiration of the Term. Landlord shall not have the right to terminate the Lease under this Section 22.5 if Tenant notifies Landlord that it intends to exercise its renewal option and thereafter properly exercises such renewal option.

22.6 In the event of any damage or destruction to the Building or Premises by any peril covered by the provisions of this Article 22, it shall be Tenant's responsibility to properly secure the Premises and upon notice from Landlord to remove forthwith, at its sole cost and expense, such portion of all of the property belonging to Tenant or its licensees from such portion or all of the Building or Premises as Landlord shall request.

22.7 Tenant hereby waives any and all rights under and benefits of Sections 1932(2) and 1933(4) of the California Code of Civil Procedure, or any similar or successor Regulations or other laws now or hereinafter in effect.

23. **EMINENT DOMAIN.** If all or any substantial part of the Premises or Tenant's parking shall be taken or appropriated by any public or quasi-public authority under the power of eminent domain, or conveyance in lieu of such appropriation, either party to this Lease shall have the right, at its option, of giving the other, at any time within thirty (30) days after such taking, notice terminating this Lease, except that Tenant may only terminate this Lease by reason of taking or appropriation, if such taking or appropriation shall be so substantial as to materially interfere with Tenant's use and occupancy of the Premises. If neither party to this Lease shall so elect to terminate this Lease, the rental thereafter to be paid shall be adjusted on a fair and equitable basis under the circumstances based on the extent to which Tenant's use of the Premises is diminished. In addition to the rights of Landlord above, if any substantial part of the Building shall be taken or appropriated by any public or quasi-public authority under the power of eminent domain or conveyance in lieu thereof, and regardless of whether the Premises or any part thereof are so taken or appropriated, Landlord shall have the right, at its sole option, to terminate this Lease. Landlord shall be entitled to any and all income, rent, award, or any interest whatsoever in or upon any such sum, which may be paid or made in connection with any such public or quasi-public use or purpose, and Tenant hereby assigns to Landlord any interest it may have in or claim to all or any part of such sums, other than any separate award which may be made with respect to Tenant's trade fixtures and moving expenses; Tenant shall make no claim for the value of any unexpired Term. Tenant hereby waives any and all rights under and benefits of Section 1265.130 of the California Code of Civil Procedure, or any similar or successor Regulations or other laws now or hereinafter in effect.

24. **SALE BY LANDLORD.** In event of a sale or conveyance by Landlord of the Building and the assumption of this Lease by such transferee, the same shall operate to release Landlord from any future liability upon any of the covenants or conditions, expressed or implied, contained in this Lease in favor of Tenant, and in such event Tenant agrees to look solely to the responsibility of the successor in interest of Landlord in and to this Lease. Except as set forth in this Article 24, this Lease shall not be affected by any such sale and Tenant agrees to attorn to the purchaser or assignee. If any security has been given by Tenant to secure the faithful performance of any of the covenants of this Lease, Landlord may transfer or deliver said security, as such, to Landlord's successor in interest and thereupon Landlord shall be discharged from any further liability with regard to said security, provided such transferee assume this Lease.

25. **ESTOPPEL CERTIFICATES.** Within twenty (20) days following any written request which Landlord may make from time to time, Tenant shall execute and deliver to Landlord or mortgagee or prospective mortgagee a sworn statement certifying: (a) the date of commencement of this Lease; (b) the fact that this Lease is unmodified and in full force and effect (or, if there have been modifications to this Lease, that this Lease is in foil force and effect, as modified, and stating the date and nature of such modifications); (c) the date to which the rent and other sums payable under this Lease have been paid; (d) to Tenant's actual knowledge, the feet that there are no current defaults under this Lease by either Landlord or Tenant except as specified in Tenant's statement; and (e) such other matters as may be reasonably requested by Landlord. Landlord and Tenant intend that any statement delivered pursuant to this Article 25 may be relied upon by any mortgagee, beneficiary or purchaser, and Tenant shall be liable for all loss, cost or expense resulting from the failure of any sale or funding of any loan caused by any material misstatement contained in such estoppel certificate. Tenant irrevocably agrees that if Tenant fails to execute and deliver such certificate within such twenty (20) day period and Landlord notifies Tenant of Landlord's intent to utilize this sentence and Tenant fails to execute and deliver such certificate within five (5) business days of receiving notice of Landlord's intent, Landlord or Landlord's beneficiary or agent may execute and deliver such certificate on Tenant's behalf, and that such certificate shall be fully binding on Tenant.

26 **SURRENDER OF PREMISES.**

26.1 Tenant shall arrange to meet Landlord for two (2) joint inspections of the Premises, the first to occur at least thirty (30) days (but no more than sixty (60) days) before the last day of the Term, and the second to occur not later than forty-eight (48) hours after Tenant has vacated the Premises. In the event of Tenant's failure to arrange such joint inspections and/or participate in either such inspection, Landlord's inspection at or after Tenant's vacating the Premises shall be conclusively deemed correct for purposes of determining Tenant's responsibility for repairs and restoration.

26.2 All alterations, additions, and improvements in, on, or to the Premises made or installed by or for Tenant, including, without limitation, carpeting (collectively, "Alterations"), shall be and remain the property of Tenant during the Term. Upon the expiration or sooner termination of the Term, all Alterations shall become a part of the realty and shall belong to Landlord without compensation, and title shall pass to Landlord under this Lease as by a bill of sale. At the end of the Term or any renewal of the Term or other sooner termination of this Lease, Tenant will peaceably deliver up to Landlord possession of the Premises, together with all Alterations by whomsoever made, in the same conditions received or first installed, broom clean and free of all debris, excepting only ordinary wear and tear and damage by fire or other casualty or condemnation and as otherwise more specifically set forth on Exhibit E attached hereto and made a part hereof. Notwithstanding the foregoing, if Landlord elects by notice given to Tenant at the time Landlord consents to such Alteration, Tenant shall, at Tenant's sole cost, remove any Alterations, including carpeting, so designated by Landlord's notice, and repair any damage caused by such removal. Tenant must, at Tenant's sole cost, remove upon termination of this Lease, any and all of Tenant's Property, as well as all data/telecommunications cabling and wiring installed by or on behalf of Tenant, whether inside walls, under any raised floor or above any ceiling (collectively, "Personalty"). Personalty not so removed shall be deemed abandoned by the Tenant and title to the same shall thereupon pass to Landlord under this Lease as by a bill of sale, but Tenant shall remain responsible for the cost of removal and disposal of such Personalty, as well as any damage caused by such removal.

26.3 All obligations of Tenant under this Lease not fully performed as of the expiration or earlier termination of the Term shall survive the expiration or earlier termination of the Term. Upon the expiration or earlier termination of the Term, if Tenant is in default beyond applicable notice and cure periods with respect to its surrender obligations, Tenant shall pay to Landlord the amount, as estimated by Landlord, necessary to repair and restore the Premises as provided in this Lease and/or to discharge Tenant's obligation for unpaid amounts due or to become due to Landlord. All such amounts shall be used and held by Landlord for payment of such obligations of Tenant, with Tenant being liable for any additional costs upon demand by Landlord, or with any excess to be returned to Tenant after all such obligations have been determined and satisfied. Any otherwise unused Security Deposit shall be credited against the amount payable by Tenant under this Lease.

27. **NOTICES.** Any notice or document required or permitted to be delivered under this Lease shall be addressed to the intended recipient, by fully prepaid registered or certified United States Mail return receipt requested, or by reputable independent contract delivery service furnishing a written record of attempted or actual delivery, and shall be deemed to be delivered when tendered for delivery to the addressee at its address set forth on the Reference Pages, or at such other address as it has then last specified by written notice delivered in accordance with this Article 27, or if to Tenant at either its aforesaid address or its last known registered office or home of a general partner or individual owner, whether or not actually accepted or received by the addressee. Any such notice or document may also be personally delivered if a receipt is signed by and received from, the individual, if any, named in Tenant's Notice Address.

28. **TAXES PAYABLE BY TENANT.** In addition to rent and other charges to be paid by Tenant under this Lease, Tenant shall reimburse to Landlord, upon written request by Landlord, any and all taxes payable by Landlord (other than net income taxes) whether or not now customary or within the contemplation of the parties to this Lease: (a) upon, allocable to, or measured by or on the gross or net rent payable under this Lease, including without limitation any gross income tax or excise tax levied by the State, any political subdivision thereof, or the Federal Government with respect to the receipt of such rent; (b) upon or with respect to the possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy of the Premises or any portion thereof, including any sales, use or service tax imposed as a result thereof; (c) upon or measured by the Tenant's gross receipts or payroll or the value of Tenant's equipment, furniture, fixtures and other personal property of Tenant or leasehold improvements, alterations or additions located in the Premises; or (d) upon this transaction or any document to which Tenant is a party creating or transferring any interest of Tenant in this Lease or the Premises. In addition to the foregoing, Tenant agrees to pay, before delinquency, any and all taxes levied or assessed against Tenant and which become payable during the term hereof upon Tenant's equipment, furniture, fixtures and other personal property of Tenant located in the Premises.

29. **INTENTIONALLY OMITTED.**

30. **DEFINED TERMS AND HEADINGS.** The Article headings shown in this Lease are for convenience of reference and shall in no way define, increase, limit or describe the scope or intent of any provision of this Lease. Any indemnification of Landlord shall apply to and inure to the benefit of all the following "Landlord Entities", being Landlord, Landlord's investment manager, and the trustees, boards of directors, officers, general partners, beneficiaries, members, managers, stockholders, employees and agents of each of them. Any option granted to Landlord shall also include or be exercisable by Landlord's trustee, beneficiary, agents and employees, as the case may be. In any case where this Lease is signed by more than one person, the obligations under this Lease shall be joint and several. The terms "Tenant" and "Landlord" or any pronoun used in place thereof shall indicate and include the masculine or feminine, the singular or plural number, individuals, firms or corporations, and their and each of their respective successors, executors, administrators and permitted assigns, according to the context hereof. The term "rentable area" shall mean the rentable area of the Premises or the Building as calculated by the Landlord on the basis of the plans and specifications of the Building including a proportionate share of any common areas. Subject to Tenant's right to remeasure the Premises pursuant to Section 2.4 above, Tenant hereby accepts and agrees to be bound by the figures for the rentable square footage of the Premises and Tenant's Proportionate Share shown on the Reference Pages; however, Landlord may adjust Tenant's Proportionate Share if there is addition or subtraction to the Building or any business park or complex of which the Building is a part, remeasurement or other circumstance reasonably justifying adjustment. The term "Building" refers to the structure in which the Premises are located and the common areas (parking lots, sidewalks, landscaping, etc.) appurtenant thereto. If the Building is part of a larger complex of structures, the term "Building" may include the entire complex, where appropriate (such as shared Expenses or Taxes) and subject to Landlord's reasonable discretion.

31. **TENANT'S AUTHORITY.** If Tenant signs as a corporation, partnership, trust or other legal entity, Tenant represents and warrants that Tenant has been and is qualified to do business in the state in which the Building is located, that the entity has foil right and authority to enter into this Lease, and that all persons signing on behalf of the entity were authorized to do so by appropriate actions. At Landlord's request, Tenant agrees to deliver to Landlord, a corporate resolution reasonably acceptable to Landlord evidencing the due authorization of Tenant to enter into this Lease.

Tenant hereby represents and warrants that neither Tenant, nor any persons or entities holding any legal or beneficial interest whatsoever in Tenant, are (i) the target of any sanctions program that is established by Executive Order of the President or published by the Office of Foreign Assets Control, U.S. Department of the Treasury ("OFAC"); (ii) designated by the President or OFAC pursuant to the Trading with the Enemy Act, 50 U.S.C. App. § 5, the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701-06, the Patriot Act, Public Law 107-56, Executive Order 13224 (September 23, 2001) or any Executive Order of the President issued pursuant to such statutes; or (iii) named on the following list that is published by OFAC: "List of Specially Designated Nationals and Blocked Persons." If the foregoing representation is untrue at any time during the Term, an Event of Default will be deemed to have occurred, without the necessity of notice to Tenant.

32. **FINANCIAL STATEMENTS AND CREDIT REPORTS.** At Landlord's request, Tenant shall deliver to Landlord a copy, certified by an officer of Tenant as being a true and correct copy, of Tenant's most recent audited financial statement, or, if unaudited, certified by Tenant's chief financial officer as being true, complete and correct in all material respects. Tenant hereby authorizes Landlord to obtain one or more credit reports on Tenant at any time, and shall execute such further authorizations as Landlord may reasonably require in order to obtain a credit report Any such information shall be held strictly confidential by Landlord.

33. **COMMISSIONS.** Each of the parties represents and warrants to the other that it has not dealt with any broker or finder in connection with this Lease, except as described on the Reference Pages. Landlord shall pay al! commissions owing to such brokers pursuant to a separate agreement.

34. **TIME AND APPLICABLE LAW.** Time is of the essence of this Lease and all of its provisions. This Lease shall in all respects be governed by the laws of die state in which the Building is located.

35. **SUCCESSORS AND ASSIGNS.** Subject to the provisions of Article 9, the terms, covenants and conditions contained in this Lease shall be binding upon and inure to the benefit of the heirs, successors, executors, administrators and assigns of the parties to this Lease.

36. **ENTIRE AGREEMENT.** This Lease, together with its exhibits, contains all agreements of the parties to this Lease and supersedes any previous negotiations. There have been no representations made by the Landlord or any of its representatives or understandings made between the parties other than those set forth in this Lease and its exhibits. This Lease may not be modified except by a written instrument duly executed by the parties to this Lease.

37. **EXAMINATION NOT OPTION.** Submission of this Lease shall not be deemed to be a reservation of the Premises. Landlord shall not be bound by this Lease until it has received a copy of this Lease duly executed by Tenant and has delivered to Tenant a copy of this Lease duly executed by Landlord, and until such delivery Landlord reserves the right to exhibit and lease the Premises to other prospective tenants. Notwithstanding anything contained in this Lease to the contrary, Landlord may withhold delivery of possession of the Premises from Tenant until such time as Tenant has paid to Landlord any security deposit required by Article 5, the first month's rent as set forth in Article 3 and any sum owed pursuant to this Lease.

38. **RECORDATION.** Tenant shall not record or register this Lease or a short form memorandum hereof without the prior written consent of Landlord, and then shall pay all charges and taxes incident such recording or registration.

39. **INTENTIONALLY OMITTED.**

40. **MEZZANINE SPACE.** The Premises docs not include any portion of the approximately 4,444 rentable square feet of the second, or mezzanine, level above the ground floor of the area shown on Exhibit A (the "Extra Mezzanine Space").

41. **ROOF RIGHTS.** Tenant shall have the right to install a satellite dish and related communications equipment and/or supplemental HVAC equipment on the roof of the Building. Such right including vertical access to the root shall be at no additional charge to Tenant. All installation and maintenance costs are at Tenant's expense. Landlord hereby grants to Tenant the right to install, maintain and operate a roof-mounted antenna system on the Premises for the sole purpose of transmitting and receiving signals to Tenant's employees and contractors or for internal corporate purposes such as transferring data between different locations of Tenant. In no event shall Tenant utilize the antenna to provide telecommunications or other services to any third party, nor shall Tenant allow the use of the antenna by any third party. Such Facility is subject to the following requirements:

41.1 All of the antenna facilities installed by Tenant shall be and remain the property of Tenant, and Tenant shall, prior to the expiration or termination of the Lease, remove the equipment (including all cables, installation and anchoring hardware) and surrender the rooftop area in substantially the same condition existing prior to the installation of the equipment. Tenant shall be liable for, and shall promptly reimburse Landlord for, the cost of repairing all damage done to the Building by such removal, including filling and sealing any holes or cavities left by the removal of installation or anchoring hardware.

41.2 Specifications for such equipment including installation, screening and location shall meet Landlord's reasonable approval, and comply with applicable CC&R's. Tenant must deliver to Landlord Tenant's plans and specifications for the installation of the antenna facilities for review and approval by Landlord's engineer not less than thirty (30) days prior to commencing installation. Tenant shall not commence installation of the antenna facilities without the prior written consent of Landlord (which consent shall not be unreasonably withheld or delayed). Tenant must obtain, at its sole cost and expense, prior to any installation or construction, any necessary federal, state, and municipal permits, licenses and approvals, copies of which must be delivered to Landlord prior to commencement of the work. The antenna equipment located on the roof of the Premises must be located or screened so that such equipment is not visible from the ground. Tenant will insure that all installation, maintenance, repair and removal of the equipment does not invalidate or impair any warranty Landlord may have on the roof of the Premises. Landlord's review and approval of the plans and specifications for the installation of the antenna facilities and supervision and inspection of such installation shall not be construed in any way as approval by Landlord of the adequacy or safety of the installation or a waiver of any of Landlord's rights hereunder, and Tenant shall be solely responsible for the adequacy and safety of the installation and operation of the antenna facilities and solely liable for any damages or injury arising out of such installation and operation.

41.3 Tenant must construct and operate the equipment in strict compliance with all applicable statutes, codes, rules, regulations, standards, and requirements of ail federal, state, and local governmental boards, authorities, and agencies. Tenant acknowledges that Landlord may also install or grant to others the right to install microwave, satellite or other antenna communications systems on the roof.

41.4 Notwithstanding the foregoing, the restrictions and requirements of this Article 41 shall not apply to the installation of any HVAC units as part of the Tenant Improvements, which shall be governed solely by the provisions of the Work Letter.

42. **SECURITY SYSTEM.** Tenant shall, at its sole cost and expense (subject to the provisions of Exhibit B), have the right to install its own integrated security system for the Premises.

43. **LIMITATION OF LANDLORD'S LIABILITY.** Redress for any claim against Landlord under this Lease shall be limited to and enforceable only against and to the extent of Landlord's interest in the Building. The obligations of Landlord under this Lease are not intended to be and shall not be personally binding on, nor shall any resort be had to the private properties of, any of its or its investment manager's trustees, directors, officers, partners, beneficiaries, members, stockholders, employees, or agents, and in no case shall Landlord be liable to Tenant hereunder for any lost profits, damage to business, or any form of special, indirect or consequential damages.

LANDLORD:

ROF FARADAY 2210, LLC,
a Delaware limited liability company

By: /s/ Douglas Brown
Name: Douglas Brown
Its: Managing Director

By: _____
Name:
Its:

TENANT:

ACUTUS MEDICAL, INC.,
a Delaware corporation

By: /s/ Randy Werneth
Name: Randy Werneth
Its: CEO

By: _____
Name:
Its:

ACUTUS MEDICAL, INC.

2011 EQUITY INCENTIVE PLAN

1. Purposes of the Plan. The purposes of this Plan are:

   - to attract and retain the best available personnel for positions of substantial responsibility,
   - to provide additional incentive to Employees, Directors and consultants, and
   - to promote the success of the company's business.

The Plan permits the grant of Incentive Stock Options, Nonstatutory Stock Options, Stock Appreciation Rights, Restricted Stock and Restricted Stock Units.

2. Definitions. As used herein, the following definitions will apply:

(a) "Administrator" means the Board or any of its committees as will be administering the Plan, in accordance with Section 4 of the Plan.

(b) "Applicable Laws" means the requirements relating to the administration of equity-based awards under U.S. state corporate laws, U.S. federal and state securities laws, the Code, any stock exchange or quotation system on which the Common Stock is listed or quoted and the applicable laws of any foreign country or jurisdiction where Awards are, or will be, granted under the Plan.

(c) "Award" means, individually or collectively, a grant under the Plan of Options, Stock Appreciation Rights, Restricted Stock, or Restricted Stock Units.

(d) "Award Agreement" means the written or electronic agreement setting forth the terms and provisions applicable to each Award granted under the Plan. The Award Agreement is subject to the terms and conditions of the Plan.

(e) "Board" means the Board of Directors of the Company.

(f) "Change in Control" means the occurrence of any of the following events:

(i) Change in Ownership of the Company. A change in the ownership of the Company which occurs on the date that any one person, or more than one person acting as a group ("Person"), acquires ownership of the stock of the Company that, together with the stock held by such Person, constitutes more than 50% of the total voting power of the stock of the Company, except that any change in the ownership of the stock of the Company as a result of a private financing of the Company that is approved by the Board will not be considered a Change in Control; or

(ii) Change in Effective Control of the Company. If the Company has a class of securities registered pursuant to Section 12 of the Exchange Act, a change in the

effective control of the Company which occurs on the date that a majority of members of the Board is replaced during any twelve (12) month period by Directors whose appointment or election is not endorsed by a majority of the members of the Board prior to the date of the appointment or election. For purposes of this clause (ii), if any Person is considered to be in effective control of the Company, the acquisition of additional control of the Company by the same Person will not be considered a Change in Control; or

(iii) Change in Ownership of a Substantial Portion of the Company's Assets. A change in the ownership of a substantial portion of the Company's assets which occurs on the date that any Person acquires (or has acquired during the twelve (12) month period ending on the date of the most recent acquisition by such person or persons) assets from the Company that have a total gross fair market value equal to or more than 50% of the total gross fair market value of all of the assets of the Company immediately prior to such acquisition or acquisitions. For purposes of this subsection (iii), gross fair market value means the value of the assets of the Company, or the value of the assets being disposed of, determined without regard to any liabilities associated with such assets.

For purposes of this Section 2(f), persons will be considered to be acting as a group if they are owners of a corporation that enters into a merger, consolidation, purchase or acquisition of stock, or similar business transaction with the Company.

Notwithstanding the foregoing, a transaction will not be deemed a Change in Control unless the transaction qualifies as a change in control event within the meaning of Code Section 409A, as it has been and may be amended from time to time, and any proposed or final Treasury Regulations and Internal Revenue Service guidance that has been promulgated or may be promulgated thereunder from time to time.

Further and for the avoidance of doubt, a transaction will not constitute a Change in Control if: (i) its sole purpose is to change the jurisdiction of the Company's incorporation, or (ii) its sole purpose is to create a holding company that will be owned in substantially the same proportions by the persons who held the Company's securities immediately before such transaction.

(g) "Code" means the Internal Revenue Code of 1986, as amended. Any reference to a section of the Code herein will be a reference to any successor or amended section of the Code.

(h) "Committee" means a committee of Directors or of other individuals satisfying Applicable Laws appointed by the Board, or by the compensation committee of the Board, in accordance with Section 4 hereof.

(i) "Common Stock" means the common stock of the Company.

(j) "Company" means Acutus Medical, Inc., a Delaware corporation, or any successor thereto.

(k) "Consultant" means any person, including an advisor, engaged by the Company or a Parent or Subsidiary to render services to such entity.

(l) "Director" means a member of the Board.

(m) "Disability" means total and permanent disability as defined in Code Section 22(e)(3), provided that in the case of Awards other than Incentive Stock Options, the Administrator in its discretion may determine whether a permanent and total disability exists in accordance with uniform and non-discriminatory standards adopted by the Administrator from time to time.

(n) "Employee" means any person, including officers and Directors, employed by the Company or any Parent or Subsidiary of the Company. Neither service as a Director nor payment of a director's fee by the Company will be sufficient to constitute "employment" by the Company.

(o) "Exchange Act" means the Securities Exchange Act of 1934, as amended.

(p) "Exchange Program" means a program under which (i) outstanding Awards are surrendered or cancelled in exchange for Awards of the same type (which may have higher or lower exercise prices and different terms), Awards of a different type, and/or cash, (ii) Participants would have the opportunity to transfer any outstanding Awards to a financial institution or other person or entity selected by the Administrator, and/or (iii) the exercise price of an outstanding Award is reduced or increased. The Administrator will determine the terms and conditions of any Exchange Program in its sole discretion.

(q) "Fair Market Value" means, as of any date, the value of Common Stock determined as follows:

(i) If the Common Stock is listed on any established stock exchange or a national market system, including without limitation the Nasdaq Global Select Market, the Nasdaq Global Market or the Nasdaq Capital Market of The Nasdaq Stock Market, its Fair Market Value will be the closing sales price for such stock (or the closing bid, if no sales were reported) as quoted on such exchange or system on the day of determination, as reported in *The Wall Street Journal* or such other source as the Administrator deems reliable;

(ii) If the Common Stock is regularly quoted by a recognized securities dealer but selling prices are not reported, the Fair Market Value of a Share will be the mean between the high bid and low asked prices for the Common Stock on the day of determination (or, if no bids and asks were reported on that date, as applicable, on the last trading date such bids and asks were reported), as reported in *The Wall Street Journal* or such other source as the Administrator deems reliable; or

(iii) In the absence of an established market for the Common Stock, the Fair Market Value will be determined in good faith by the Administrator.

(r) "Incentive Stock Option" means an Option that by its terms qualifies and is otherwise intended to qualify as an incentive stock option within the meaning of Code Section 422 and the regulations promulgated thereunder.

(s) "Nonstatutory Stock Option" means an Option that by its terms does not qualify or is not intended to qualify as an Incentive Stock Option.

(t) "Option" means a stock option granted pursuant to the Plan.

(u) "Parent" means a "parent corporation," whether now or hereafter existing, as defined in Code Section 424(e).

(v) "Participant" means the holder of an outstanding Award.

(w) "Period of Restriction" means the period during which the transfer of Shares of Restricted Stock are subject to restrictions and therefore, the Shares are subject to a substantial risk of forfeiture. Such restrictions may be based on the passage of time, the achievement of target levels of performance, or the occurrence of other events as determined by the Administrator.

(x) "Plan" means this 2010 Equity Incentive Plan.

(y) "Restricted Stock" means Shares issued pursuant to an Award of Restricted Stock under Section 8 of the Plan, or issued pursuant to the early exercise of an Option.

(z) "Restricted Stock Unit" means a bookkeeping entry representing an amount equal to the Fair Market Value of one Share, granted pursuant to Section 9. Each Restricted Stock Unit represents an unfunded and unsecured obligation of the Company.

(aa) "Service Provider" means an Employee, Director or Consultant.

(bb) "Share" means a share of the Common Stock, as adjusted in accordance with Section 13 of the Plan.

(cc) "Stock Appreciation Right" means an Award, granted alone or in connection with an Option, that pursuant to Section 7 is designated as a Stock Appreciation Right.

(dd) "Subsidiary" means a "subsidiary corporation," whether now or hereafter existing, as defined in Code Section 424(f).

3. Stock Subject to the Plan.

(a) Stock Subject to the Plan. Subject to the provisions of Section 13 of the Plan, the maximum aggregate number of Shares that may be subject to Awards and sold under the Plan is 1,000,000 Shares. The Shares may be authorized but unissued, or reacquired Common Stock.

(b) Lapsed Awards. If an Award expires or becomes unexercisable without having been exercised in full, is surrendered pursuant to an Exchange Program, or, with respect to Restricted Stock or Restricted Stock Units, is forfeited to or repurchased by the Company due

to the failure to vest, the unpurchased Shares (or for Awards other than Options or Stock Appreciation Rights the forfeited or repurchased Shares) which were subject thereto will become available for future grant or sale under the Plan (unless the Plan has terminated). With respect to Stock Appreciation Rights, only Shares actually issued pursuant to a Stock Appreciation Right will cease to be available under the Plan; all remaining Shares under Stock Appreciation Rights will remain available for future grant or sale under the Plan (unless the Plan has terminated). Shares that have actually been issued under the Plan under any Award will not be returned to the Plan and will not become available for future distribution under the Plan; provided, however, that if Shares issued pursuant to Awards of Restricted Stock or Restricted Stock Units are repurchased by the Company or are forfeited to the Company due to the failure to vest, such Shares will become available for future grant under the Plan. Shares used to pay the exercise price of an Award or to satisfy the tax withholding obligations related to an Award will become available for future grant or sale under the Plan. To the extent an Award under the Plan is paid out in cash rather than Shares, such cash payment will not result in reducing the number of Shares available for issuance under the Plan. Notwithstanding the foregoing and, subject to adjustment as provided in Section 13, the maximum number of Shares that may be issued upon the exercise of Incentive Stock Options will equal the aggregate Share number stated in Section 3(a), plus, to the extent allowable under Code Section 422 and the Treasury Regulations promulgated thereunder, any Shares that become available for issuance under the Plan pursuant to Section 3(b).

(c) Share Reserve. The Company, during the term of this Plan, will at all times reserve and keep available such number of Shares as will be sufficient to satisfy the requirements of the Plan.

4. Administration of the Plan.

(a) Procedure.

(i) Multiple Administrative Bodies. Different Committees with respect to different groups of Service Providers may administer the Plan.

(ii) Other Administration. Other than as provided above, the Plan will be administered by (A) the Board or (B) a Committee, which Committee will be constituted to satisfy Applicable Laws.

(b) Powers of the Administrator. Subject to the provisions of the Plan, and in the case of a Committee, subject to the specific duties delegated by the Board to such Committee, the Administrator will have the authority, in its discretion:

(i) to determine the Fair Market Value; hereunder;

(ii) to select the Service Providers to whom Awards may be granted hereunder;

(iii) to determine the number of Shares to be covered by each Award;

(iv) to approve forms of Award Agreements for use under the Plan;

(v) to determine the terms and conditions, not inconsistent with the terms of the Plan, of any Award granted hereunder. Such terms and conditions include, but are not limited to, the exercise price, the time or times when Awards may be exercised (which may be based on performance criteria), any vesting acceleration or waiver of forfeiture restrictions, and any restriction or limitation regarding any Award or the Shares relating thereto, based in each case on such factors as the Administrator will determine;

(vi) to institute and determine the terms and conditions of an Exchange Program;

(vii) to construe and interpret the terms of the Plan and Awards granted pursuant to the Plan;

(viii) to prescribe, amend and rescind rules and regulations relating to the Plan, including rules and regulations relating to sub-plans established for the purpose of satisfying applicable foreign laws or for qualifying for favorable tax treatment under applicable foreign laws;

(ix) to modify or amend each Award (subject to Section 18(c) of the Plan), including but not limited to the discretionary authority to extend the post-termination exercisability period of Awards and to extend the maximum term of an Option (subject to Section 6(d));

(x) to allow Participants to satisfy withholding tax obligations in a manner prescribed in Section 14;

(xi) to authorize any person to execute on behalf of the Company any instrument required to effect the grant of an Award previously granted by the Administrator;

(xii) to allow a Participant to defer the receipt of the payment of cash or the delivery of Shares that otherwise would be due to such Participant under an Award; and

(xiii) to make all other determinations deemed necessary or advisable for administering the Plan.

(c) Effect of Administrator's Decision. The Administrator's decisions, determinations and interpretations will be final and binding on all Participants and any other holders of Awards.

5. Eligibility. Nonstatutory Stock Options, Stock Appreciation Rights, Restricted Stock, and Restricted Stock Units may be granted to Service Providers. Incentive Stock Options may be granted only to Employees.

6. Stock Options.

(a) Grant of Options. Subject to the terms and provisions of the Plan, the Administrator, at any time and from time to time, may grant Options in such amounts as the Administrator, in its sole discretion, will determine.

(b) Option Agreement. Each Award of an Option will be evidenced by an Award Agreement that will specify the exercise price, the term of the Option, the number of Shares subject to the Option, the exercise restrictions, if any, applicable to the Option, and such other terms and conditions as the Administrator, in its sole discretion, will determine.

(c) Limitations. Each Option will be designated in the Award Agreement as either an Incentive Stock Option or a Nonstatutory Stock Option. Notwithstanding such designation, however, to the extent that the aggregate Fair Market Value of the Shares with respect to which Incentive Stock Options are exercisable for the first time by the Participant during any calendar year (under all plans of the Company and any Parent or Subsidiary) exceeds one hundred thousand dollars ($100,000), such Options will be treated as Nonstatutory Stock Options. For purposes of this Section 6(c), Incentive Stock Options will be taken into account in the order in which they were granted, the Fair Market Value of the Shares will be determined as of the time the Option with respect to such Shares is granted, and calculation will be performed in accordance with Code Section 422 and Treasury Regulations promulgated thereunder.

(d) Term of Option. The term of each Option will be stated in the Award Agreement; provided, however, that the term will be no more than ten (10) years from the date of grant thereof. In the case of an Incentive Stock Option granted to a Participant who, at the time the Incentive Stock Option is granted, owns stock representing more than ten percent (10%) of the total combined voting power of all classes of stock of the Company or any Parent or Subsidiary, the term of the Incentive Stock Option will be five (5) years from the date of grant or such shorter term as may be provided in the Award Agreement.

(e) Option Exercise Price and Consideration.

(i) Exercise Price. The per Share exercise price for the Shares to be issued pursuant to the exercise of an Option will be determined by the Administrator, but will be no less than one hundred percent (100%) of the Fair Market Value per Share on the date of grant. In addition, in the case of an Incentive Stock Option granted to an Employee who owns stock representing more than ten percent (10%) of the voting power of all classes of stock of the Company or any Parent or Subsidiary, the per Share exercise price will be no less than one hundred ten percent (110%) of the Fair Market Value per Share on the date of grant. Notwithstanding the foregoing provisions of this Section 6(e)(i), Options may be granted with a per Share exercise price of less than one hundred percent (100%) of the Fair Market Value per Share on the date of grant pursuant to a transaction described in, and in a manner consistent with, Code Section 424(a).

(ii) Waiting Period and Exercise Dates. At the time an Option is granted, the Administrator will fix the period within which the Option may be exercised and will determine any conditions that must be satisfied before the Option may be exercised.

(iii) Form of Consideration. The Administrator will determine the acceptable form of consideration for exercising an Option, including the method of payment. In the case of an Incentive Stock Option, the Administrator will determine the acceptable form of consideration at the time of grant. Such consideration may consist entirely of: (1) cash; (2) check; (3) promissory note, to the extent permitted by Applicable Laws, (4) other Shares,

provided that such Shares have a Fair Market Value on the date of surrender equal to the aggregate exercise price of the Shares as to which such Option will be exercised and provided further that accepting such Shares will not result in any adverse accounting consequences to the Company, as the Administrator determines in its sole discretion; (5) consideration received by the Company under cashless exercise program (whether through a broker or otherwise) implemented by the Company in connection with the Plan; (6) by net exercise, (7) such other consideration and method of payment for the issuance of Shares to the extent permitted by Applicable Laws, or (8) any combination of the foregoing methods of payment. In making its determination as to the type of consideration to accept, the Administrator will consider if acceptance of such consideration may be reasonably expected to benefit the Company.

(f) Exercise of Option.

(i) Procedure for Exercise; Rights as a Stockholder. Any Option granted hereunder will be exercisable according to the terms of the Plan and at such times and under such conditions as determined by the Administrator and set forth in the Award Agreement. An Option may not be exercised for a fraction of a Share.

An Option will be deemed exercised when the Company receives: (i) notice of exercise (in such form as the Administrator may specify from time to time) from the person entitled to exercise the Option, and (ii) full payment for the Shares with respect to which the Option is exercised (together with applicable tax withholding). Full payment may consist of any consideration and method of payment authorized by the Administrator and permitted by the Award Agreement and the Plan. Shares issued upon exercise of an Option will be issued in the name of the Participant or, if requested by the Participant, in the name of the Participant and his or her spouse. Until the Shares are issued (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company), no right to vote or receive dividends or any other rights as a stockholder will exist with respect to the Shares subject to an Option, notwithstanding the exercise of the Option. The Company will issue (or cause to be issued) such Shares promptly after the Option is exercised. No adjustment will be made for a dividend or other right for which the record date is prior to the date the Shares are issued, except as provided in Section 13 of the Plan.

Exercising an Option in any manner will decrease the number of Shares thereafter available, both for purposes of the Plan and for sale under the Option, by the number of Shares as to which the Option is exercised.

(ii) Termination of Relationship as a Service Provider. If a Participant ceases to be a Service Provider, other than upon the Participant's termination as the result of the Participant's death or Disability, the Participant may exercise his or her Option within thirty (30) days of termination, or such longer period of time as is specified in the Award Agreement (but in no event later than the expiration of the term of such Option as set forth in the A ward Agreement) to the extent that the Option is vested on the date of termination. Unless otherwise provided by the Administrator, if on the date of termination the Participant is not vested as to his or her entire Option, the Shares covered by the unvested portion of the Option will revert to the Plan. If after termination the Participant does not exercise his or her Option within the time specified by the Administrator, the Option will terminate, and the Shares covered by such Option will revert to the Plan.

(iii) Disability of Participant. If a Participant ceases to be a Service Provider as a result of the Participant's Disability, the Participant may exercise his or her Option within six (6) months of termination, or such longer period of time as is specified in the Award Agreement (but in no event later than the expiration of the term of such Option as set forth in the Award Agreement) to the extent the Option is vested on the date of termination. Unless otherwise provided by the Administrator, if on the date of termination the Participant is not vested as to his or her entire Option, the Shares covered by the unvested portion of the Option will revert to the Plan. If after termination the Participant does not exercise his or her Option within the time specified herein, the Option will terminate, and the Shares covered by such Option will revert to the Plan.

(iv) Death of Participant. If a Participant dies while a Service Provider, the Option may be exercised within six (6) months following the Participant's death, or within such longer period of time as is specified in the A ward Agreement (but in no event later than the expiration of the term of such Option as set forth in the Award Agreement) to the extent that the Option is vested on the date of death, by the Participant's designated beneficiary, provided such beneficiary has been designated prior to the Participant's death in a form acceptable to the Administrator. If no such beneficiary has been designated by the Participant, then such Option may be exercised by the personal representative of the Participant's estate or by the person(s) to whom the Option is transferred pursuant to the Participant's will or in accordance with the laws of descent and distribution. Unless otherwise provided by the Administrator, if at the time of death Participant is not vested as to his or her entire Option, the Shares covered by the unvested portion of the Option will immediately revert to the Plan. If the Option is not so exercised within the time specified herein, the Option will terminate, and the Shares covered by such Option will revert to the Plan.

7. Stock Appreciation Rights.

(a) Grant of Stock Appreciation Rights. Subject to the terms and conditions of the Plan, a Stock Appreciation Right may be granted to Service Providers at any time and from time to time as will be determined by the Administrator, in its sole discretion.

(b) Number of Shares. The Administrator will have complete discretion to determine the number of Shares subject to any Award of Stock Appreciation Rights.

(c) Exercise Price and Other Terms. The per Share exercise price for the Shares that will determine the amount of the payment to be received upon exercise of a Stock Appreciation Right as set forth in Section 7(f) will be determined by the Administrator and will be no less than one hundred percent (100%) of the Fair Market Value per Share on the date of grant. Otherwise, the Administrator, subject to the provisions of the Plan, will have complete discretion to determine the terms and conditions of Stock Appreciation Rights granted under the Plan.

(d) Stock Appreciation Right Agreement. Each Stock Appreciation Right grant will be evidenced by an Award Agreement that will specify the exercise price, the term of the Stock Appreciation Right, the conditions of exercise, and such other terms and conditions as the Administrator, in its sole discretion, will determine.

(e) Expiration of Stock Appreciation Rights. A Stock Appreciation Right granted under the Plan will expire upon the date determined by the Administrator, in its sole discretion, and set forth in the Award Agreement Notwithstanding the foregoing, the rules of Section 6(d) relating to the maximum term and Section 6(f) relating to exercise also will apply to Stock Appreciation Rights.

(f) Payment of Stock Appreciation Right Amount. Upon exercise of a Stock Appreciation Right, a Participant will be entitled to receive payment from the Company in an amount determined by multiplying:

(i) The difference between the Fair Market Value of a Share on the date of exercise over the exercise price; times

(ii) The number of Shares with respect to which the Stock Appreciation Right is exercised.

At the discretion of the Administrator, the payment upon Stock Appreciation Right exercise may be in cash, in Shares of equivalent value, or in some combination thereof.

8. Restricted Stock.

(a) Grant of Restricted Stock. Subject to the terms and provisions of the Plan, the Administrator, at any time and from time to time, may grant Shares of Restricted Stock to Service Providers in such amounts as the Administrator, in its sole discretion, will determine.

(b) Restricted Stock Agreement. Each Award of Restricted Stock will be evidenced by an Award Agreement that will specify the Period of Restriction, the number of Shares granted, and such other terms and conditions as the Administrator, in its sole discretion, will determine. Unless the Administrator determines otherwise, the Company as escrow agent will hold Shares of Restricted Stock until the restrictions on such Shares have lapsed.

(c) Transferability. Except as provided in this Section 8 or as the Administrator determines, Shares of Restricted Stock may not be sold, transferred, pledged, assigned, or otherwise alienated or hypothecated until the end of the applicable Period of Restriction.

(d) Other Restrictions. The Administrator, in its sole discretion, may impose such other restrictions on Shares of Restricted Stock as it may deem advisable or appropriate.

(e) Removal of Restrictions. Except as otherwise provided in this Section 8, Shares of Restricted Stock covered by each Restricted Stock grant made under the Plan will be released from escrow as soon as practicable after the last day of the Period of Restriction or at such other time as the Administrator may determine. The Administrator, in its discretion, may accelerate the time at which any restrictions will lapse or be removed.

(f) Voting Rights. During the Period of Restriction, Service Providers holding Shares of Restricted Stock granted hereunder may exercise full voting rights with respect to those Shares, unless the Administrator determines otherwise.

(g) Dividends and Other Distributions. During the Period of Restriction, Service Providers holding Shares of Restricted Stock will be entitled to receive all dividends and other distributions paid with respect to such Shares, unless the Administrator provides otherwise. of any such dividends or distributions are paid in Shares, the Shares will be subject to the same restrictions on transferability and forfeitability as the Shares of Restricted Stock with respect to which they were paid.

(h) Return of Restricted Stock to Company. On the date set forth in the Award Agreement, the Restricted Stock for which restrictions have not lapsed will revert to the Company and again will become available for grant under the Plan.

9. Restricted Stock Units.

(a) Grant. Restricted Stock Units may be granted at any time and from time to time as determined by the Administrator. After the Administrator determines that it will grant Restricted Stock Units, it will advise the Participant in an Award Agreement of the terms, conditions, and restrictions related to the grant, including the number of Restricted Stock Units.

(b) Vesting Criteria and Other Terms. The Administrator will set vesting criteria in its discretion, which, depending on the extent to which the criteria are met, will determine the number of Restricted Stock Units that will be paid out to the Participant. The Administrator may set vesting criteria based upon the achievement of Company-wide, business unit, or individual goals (including, but not limited to, continued employment or service), or any other basis determined by the Administrator in its discretion.

(c) Earning Restricted Stock Units. Upon meeting the applicable vesting criteria, the Participant will be entitled to receive a payout as determined by the Administrator. Notwithstanding the foregoing, at any time after the grant of Restricted Stock Units, the Administrator, in its sole discretion, may reduce or waive any vesting criteria that must be met to receive a payout.

(d) Form and Timing of Payment. Payment of earned Restricted Stock Units will be made as soon as practicable after the date(s) determined by the Administrator and set forth in the Award Agreement. The Administrator, in its sole discretion, may settle earned Restricted Stock Units in cash, Shares, or a combination of both.

(e) Cancellation. On the date set forth in the Award Agreement, all unearned Restricted Stock Units will be forfeited to the Company.

10. Compliance With Code Section 409A. Awards will be designed and operated in such a manner that they are either exempt from the application of, or comply with, the

requirements of Code Section 409A, except as otherwise determined in the sole discretion of the Administrator. The Plan and each Award Agreement under the Plan is intended to meet the requirements of Code Section 409A and will be construed and interpreted in accordance with such intent, except as otherwise determined in the sole discretion of the Administrator. To the extent that an Award or payment, or the settlement or deferral thereof, is subject to Code Section 409A the Award will be granted, paid, settled or deferred in a manner that will meet the requirements of Code Section 409A, such that the grant, payment, settlement or deferral will not be subject to the additional tax or interest applicable under Code Section 409A.

11. Leaves of Absence/Transfer Between Locations. Unless the Administrator provides otherwise, vesting of Awards granted hereunder will be suspended during any unpaid leave of absence. A Participant will not cease to be an Employee in the case of (i) any leave of absence approved by the Company or (ii) transfers between locations of the Company or between the Company, its Parent, or any Subsidiary. For purposes of Incentive Stock Options, no such leave may exceed three (3) months, unless reemployment upon expiration of such leave is guaranteed by statute or contract. If reemployment upon expiration of a leave of absence approved by the Company is not so guaranteed, then six (6) months following the first (1st) day of such leave, any Incentive Stock Option held by the Participant will cease to be treated as an Incentive Stock Option and will be treated for tax purposes as a Nonstatutory Stock Option.

12. Limited Transferability of Awards.

(a) Unless determined otherwise by the Administrator, Awards may not be sold, pledged, assigned, hypothecated, or otherwise transferred in any manner other than by will or by the laws of descent and distribution, and may be exercised, during the lifetime of the Participant, only by the Participant. If the Administrator makes an Award transferable, such Award may only be transferred (i) by will, (ii) by the laws of descent and distribution, or (iii) as permitted by Rule 701 of the Securities Act of 1933, as amended (the “Securities Act”).

(b) Further, until the Company becomes subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, or after the Administrator determines that it is, will, or may no longer be relying upon the exemption from registration under the Exchange Act as set forth in Rule 12h-1(f) promulgated under the Exchange Act, an Option, or prior to exercise, the Shares subject to the Option, may not be pledged, hypothecated or otherwise transferred or disposed of, in any manner, including by entering into any short position, any “put equivalent position” or any “call equivalent position” (as defined in Rule 16a-1(h) and Rule 16a-1(b) of the Exchange Act, respectively), other than to (i) persons who are “family members” (as defined in Rule 701(c)(3) of the Securities Act) through gifts or domestic relations orders, or (ii) to an executor or guardian of the Participant upon the death or disability of the Participant. Notwithstanding the foregoing sentence, the Administrator, in its sole discretion, may determine to permit transfers to the Company or in connection with a Change in Control or other acquisition transactions involving the Company to the extent permitted by Rule 12h-1(f).

13. Adjustments; Dissolution or Liquidation; Merger or Change in Control.

(a) Adjustments. In the event that any dividend or other distribution (whether in the form of cash, Shares, other securities, or other property), recapitalization, stock split,

reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase, or exchange of Shares or other securities of the Company, or other change in the corporate structure of the Company affecting the Shares occurs, the Administrator, in order to prevent diminution or enlargement of the benefits or potential benefits intended to be made available under the Plan, will adjust the number and class of Shares that may be delivered under the Plan and/or the number, class, and price of Shares covered by each outstanding Award; provided, however, that the Administrator will make such adjustments to an Award required by Section 25102(o) of the California Corporations Code to the extent the Company is relying upon the exemption afforded thereby with respect to the Award.

(b) Dissolution or Liquidation. In the event of the proposed dissolution or liquidation of the Company, the Administrator will notify each Participant as soon as practicable prior to the effective date of such proposed transaction. To the extent it has not been previously exercised, an Award will terminate immediately prior to the consummation of such proposed action.

(c) Merger or Change in Control. In the event of a merger or Change in Control, each outstanding Award will be treated as the Administrator determines (subject to the provisions of the proceeding paragraph) without a Participant's consent, including, without limitation, that (i) Awards will be assumed, or substantially equivalent Awards will be substituted, by the acquiring or succeeding corporation (or an affiliate thereof) with appropriate adjustments as to the number and kind of shares and prices; (ii) upon written notice to a Participant, that the Participant's Awards will terminate upon or immediately prior to the consummation of such merger or Change in Control; (iii) outstanding Awards will vest and become exercisable, realizable, or payable, or restrictions applicable to an Award will lapse, in whole or in part prior to or upon consummation of such merger or Change in Control, and, to the extent the Administrator determines, terminate upon or immediately prior to the effectiveness of such merger or Change in Control; (iv) (A) the termination of an Award in exchange for an amount of cash and/or property, if any, equal to the amount that would have been attained upon the exercise of such Award or realization of the Participant's rights as of the date of the occurrence of the transaction (and, for the avoidance of doubt, if as of the date of the occurrence of the transaction the Administrator determines in good faith that no amount would have been attained upon the exercise of such Award or realization of the Participant's rights, then such Award may be terminated by the Company without payment), or (B) the replacement of such Award with other rights or property selected by the Administrator in its sole discretion; or (v) any combination of the foregoing. In taking any of the actions permitted under this subsection 13(c), the Administrator will not be obligated to treat all Awards, all Awards held by a Participant, or all Awards of the same type, similarly.

In the event that the successor corporation does not assume or substitute for the Award (or portion thereof), the Participant will fully vest in and have the right to exercise all of his or her outstanding Options and Stock Appreciation Rights, including Shares as to which such Awards would not otherwise be vested or exercisable, all restrictions on Restricted Stock and Restricted Stock Units will lapse, and, with respect to Awards with performance-based vesting, all performance goals or other vesting criteria will be deemed achieved at one hundred percent (100%) of target levels and all other terms and conditions met. In addition, if an Option or Stock Appreciation Right is not assumed or substituted in the event of a merger or Change in Control,

the Administrator will notify the Participant in writing or electronically that the Option or Stock Appreciation Right will be exercisable for a period of time determined by the Administrator in its sole discretion, and the Option or Stock Appreciation Right will terminate upon the expiration of such period.

For the purposes of this subsection 13(c), an Award will be considered assumed if, following the merger or Change in Control, the Award confers the right to purchase or receive, for each Share subject to the Award immediately prior to the merger or Change in Control, the consideration (whether stock, cash, or other securities or property) received in the merger or Change in Control by holders of Common Stock for each Share held on the effective date of the transaction (and if holders were offered a choice of consideration, the type of consideration chosen by the holders of a majority of the outstanding Shares); provided, however, that if such consideration received in the merger or Change in Control is not solely common stock of the successor corporation or its Parent, the Administrator may, with the consent of the successor corporation, provide for the consideration to be received upon the exercise of an Option or Stock Appreciation Right or upon the payout of a Restricted Stock Unit, for each Share subject to such Award, to be solely common stock of the successor corporation or its Parent equal in fair market value to the per share consideration received by holders of Common Stock in the merger or Change in Control.

Notwithstanding anything in this Section 13(c) to the contrary, an Award that vests, is earned or paid-out upon the satisfaction of one or more performance goals will not be considered assumed if the Company or its successor modifies any of such performance goals without the Participant's consent; provided, however, a modification to such performance goals only to reflect the successor corporation's post-Change in Control corporate structure will not be deemed to invalidate an otherwise valid Award assumption.

Notwithstanding anything in this Section 13(c) to the contrary, if a payment under an Award Agreement is subject to Code Section 409A and if the change in control definition contained in the Award Agreement does not comply with the definition of "change of control" for purposes of a distribution under Code Section 409A, then any payment of an amount that is otherwise accelerated under this Section will be delayed until the earliest time that such payment would be permissible under Code Section 409A without triggering any penalties applicable under Code Section 409A.

14. Tax Withholding.

(a) Withholding Requirements. Prior to the delivery of any Shares or cash pursuant to an Award (or exercise thereof), the Company will have the power and the right to deduct or withhold, or require a Participant to remit to the Company, an amount sufficient to satisfy federal, state, local, foreign or other taxes (including the Participant's FICA obligation) required to be withheld with respect to such Award (or exercise thereof).

(b) Withholding Arrangements. The Administrator, in its sole discretion and pursuant to such procedures as it may specify from time to time, may permit a Participant to satisfy such tax withholding obligation, in whole or in part by (without limitation) (i) paying cash, (ii) electing to have the Company withhold otherwise deliverable Shares having a Fair

Market Value equal to the minimum statutory amount required to be withheld, (iii) delivering to the Company already-owned Shares having a Fair Market Value equal to the statutory amount required to be withheld, provided the delivery of such Shares will not result in any adverse accounting consequences, as the Administrator determines in its sole discretion, or (iv) selling a sufficient number of Shares otherwise deliverable to the Participant through such means as the Administrator may determine in its sole discretion (whether through a broker or otherwise) equal to the amount required to be withheld. The amount of the withholding requirement will be deemed to include any amount which the Administrator agrees may be withheld at the time the election is made, not to exceed the amount determined by using the maximum federal, state or local marginal income tax rates applicable to the Participant with respect to the Award on the date that the amount of tax to be withheld is to be determined. The Fair Market Value of the Shares to be withheld or delivered will be determined as of the date that the taxes are required to be withheld.

15. No Effect on Employment or Service. Neither the Plan nor any Award will confer upon a Participant any right with respect to continuing the Participant's relationship as a Service Provider with the Company, nor will they interfere in any way with the Participant's right or the Company's right to terminate such relationship at any time, with or without cause, to the extent permitted by Applicable Laws.

16. Date of Grant. The date of grant of an Award will be, for all purposes, the date on which the Administrator makes the determination granting such Award, or such other later date as is determined by the Administrator. Notice of the determination will be provided to each Participant within a reasonable time after the date of such grant.

17. Term of Plan. Subject to Section 21 of the Plan, the Plan will become effective upon its adoption by the Board. Unless sooner terminated under Section 18, it will continue in effect for a term often (10) years from the later of (a) the effective date of the Plan, or (b) the earlier of the most recent Board or stockholder approval of an increase in the number of Shares reserved for issuance under the Plan.

18. Amendment and Termination of the Plan.

(a) Amendment and Termination. The Board may at any time amend, alter, suspend or terminate the Plan.

(b) Stockholder Approval. The Company will obtain stockholder approval of any Plan amendment to the extent necessary and desirable to comply with Applicable Laws.

(c) Effect of Amendment or Termination. No amendment, alteration, suspension or termination of the Plan will impair the rights of any Participant, unless mutually agreed otherwise between the Participant and the Administrator, which agreement must be in writing and signed by the Participant and the Company. Termination of the Plan will not affect the Administrator's ability to exercise the powers granted to it hereunder with respect to Awards granted under the Plan prior to the date of such termination.

19. Conditions Upon Issuance of Shares.

(a) Legal Compliance. Shares will not be issued pursuant to the exercise of an Award unless the exercise of such Award and the issuance and delivery of such Shares will comply with Applicable Laws and will be further subject to the approval of counsel for the Company with respect to such compliance.

(b) Investment Representations. As a condition to the exercise of an Award, the Company may require the person exercising such Award to represent and warrant at the time of any such exercise that the Shares are being purchased only for investment and without any present intention to sell or distribute such Shares if, in the opinion of counsel for the Company, such a representation is required.

20. Inability to Obtain Authority. The inability of the Company to obtain authority from any regulatory body having jurisdiction, which authority is deemed by the Company's counsel to be necessary to the lawful issuance and sale of any Shares hereunder, will relieve the Company of any liability in respect of the failure to issue or sell such Shares as to which such requisite authority will not have been obtained.

21. Stockholder Approval. The Plan will be subject to approval by the stockholders of the Company within twelve (12) months after the date the Plan is adopted by the Board. Such stockholder approval will be obtained in the manner and to the degree required under Applicable Laws.

22. Information to Participants. Beginning on the earlier of (i) the date that the aggregate number of Participants under this Plan is five hundred (500) or more and the Company is relying on the exemption provided by Rule 12h-1(f)(l) under the Exchange Act and (ii) the date that the Company is required to deliver information to Participants pursuant to Rule 701 under the Securities Act, and until such time as the Company becomes subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, is no longer relying on the exemption provided by Rule 12h-l(f)(l) under the Exchange Act or is no longer required to deliver information to Participants pursuant to Rule 701 under the Securities Act, the Company shall provide to each Participant the information described in paragraphs (e)(3), (4), and (5) of Rule 701 under the Securities Act not less frequently than every six (6) months with the financial statements being not more than 180 days old and with such information provided either by physical or electronic delivery to the Participants or by written notice to the Participants of the availability of the information on an Internet site that may be password-protected and of any password needed to access the information. The Company may request that Participants agree to keep the information to be provided pursuant to this section confidential. If a Participant does not agree to keep the information to be provided pursuant to this section confidential, then the Company will not be required to provide the information unless otherwise required pursuant to Rule 12h-1(f)(1) under the Exchange Act or Rule 701 of the Securities Act.

Exhibit 10.16

ACUTUS MEDICAL, INC.

EXECUTIVE INCENTIVE COMPENSATION PLAN

1. Purposes of the Plan. The Plan is intended to increase stockholder value and the success of the Company by motivating Employees to (i) perform to the best of their abilities and (ii) achieve the Company's objectives.

2. Definitions.

(a) "Actual Award" means as to any Performance Period, the actual award (if any) payable to a Participant for the Performance Period, subject to the Committee's authority under Section 3(d) to modify the award.

(b) "Affiliate" means any corporation or other entity (including, but not limited to, partnerships and joint ventures) controlled by the Company.

(c) "Board" means the Board of Directors of the Company.

(d) "Bonus Pool" means the pool of funds available for distribution to Participants. Subject to the terms of the Plan, the Committee establishes the Bonus Pool for each Performance Period.

(e) "Code" means the Internal Revenue Code of 1986, as amended. Reference to a specific section of the Code or regulation thereunder will include such section or regulation, any valid regulation promulgated thereunder, and any comparable provision of any future legislation or regulation amending, supplementing or superseding such section or regulation.

(f) "Committee" means the committee appointed by the Board (pursuant to Section 5) to administer the Plan. Unless and until the Board otherwise determines, the Board's Compensation Committee will administer the Plan.

(g) "Company" means Acutus Medical, Inc., a Delaware corporation, or any successor thereto.

(h) "Disability" means a permanent and total disability determined in accordance with uniform and nondiscriminatory standards adopted by the Committee from time to time.

(i) "Employee" means any executive, officer, or other employee of the Company or of an Affiliate, whether such individual is so employed at the time the Plan is adopted or becomes so employed subsequent to the adoption of the Plan.

(j) "Fiscal Year" means the fiscal year of the Company.

(k) "Participant" means as to any Performance Period, an Employee who has been selected by the Committee for participation in the Plan for that Performance Period.

(l) "Performance Period" means the period of time for the measurement of the performance criteria that must be met to receive an Actual Award, as determined by the Committee in its sole discretion. A Performance Period may be divided into one or more shorter periods if, for example, but not by way of limitation, the Committee desires to measure some performance criteria over 12 months and other criteria over 3 months.

(m) "Plan" means this Executive Incentive Compensation Plan, as set forth in this instrument (including any appendix attached hereto) and as hereafter amended from time to time.

(n) "Target Award" means the target award, at 100% of target level performance achievement, payable under the Plan to a Participant for the Performance Period, as determined by the Committee in accordance with Section 3(b).

3. Selection of Participants and Determination of Awards.

(a) Selection of Participants. The Committee, in its sole discretion, will select the Employees who will be Participants for any Performance Period. Participation in the Plan is in the sole discretion of the Committee, on a Performance Period by Performance Period basis. Accordingly, an Employee who is a Participant for a given Performance Period in no way is guaranteed or assured of being selected for participation in any subsequent Performance Period or Performance Periods.

(b) Determination of Target Awards. The Committee, in its sole discretion, will establish a Target Award for each Participant (which may be expressed as a percentage of a Participant's average annual base salary for the Performance Period or a fixed dollar amount or such other amount or based on such other formula as the Committee determines).

(c) Bonus Pool. Each Performance Period, the Committee, in its sole discretion, will establish a Bonus Pool, which pool may be established before, during or after the applicable Performance Period. Actual Awards will be paid from the Bonus Pool.

(d) Discretion to Modify Awards. Notwithstanding any contrary provision of the Plan, the Committee may, in its sole discretion and at any time, (i) increase, reduce or eliminate a Participant's Actual Award, and/or (ii) increase, reduce or eliminate the amount allocated to the Bonus Pool. The Actual Award may be below, at or above the Target Award, in the Committee's discretion. The Committee may determine the amount of any increase, reduction or elimination on the basis of such factors as it deems relevant, and will not be required to establish any allocation or weighting with respect to the factors it considers.

(e) Discretion to Determine Criteria. Notwithstanding any contrary provision of the Plan, the Committee, in its sole discretion, will determine the performance goals (if any) applicable to any Target Award (or portion thereof) which may include, without limitation, (i) attainment of research and development milestones, (ii) bookings, (iii) business divestitures and acquisitions, (iv) cash flow, (v) cash position, (vi) contract awards or backlog, (vii) customer renewals, (viii) customer retention rates from an acquired company, subsidiary, business unit or division, (vi) earnings (which may include earnings before interest and taxes, earnings before taxes, and net taxes), (vii) earnings per share, (viii) expenses, (ix) gross margin, (x) growth in

stockholder value relative to the moving average of the S&P 500 Index or another index, (xi) internal rate of return, (xii) market share, (xiii) net income, (xiv) net profit, (xv) net sales, (xvi) new product development, (xvii) new product invention or innovation, (xviii) number of customers, (xix) operating cash flow, (xx) operating expenses, (xxi) operating income, (xxii) operating margin, (xxiii) overhead or other expense reduction, (xxiv) product defect measures, (xxv) product release timelines, (xxvi) productivity, (xxvii) profit, (xxviii) retained earnings, (xxxix) return on assets, (xxx) return on capital, (xxxi) return on equity, (xxxii) return on investment, (xxxiii) return on sales, (xxxiv) revenue, (xxxv) revenue growth, (xxxvi) sales results, (xxxvii) sales growth, (xxxviii) stock price, (xxxix) time to market, (xxxx) total stockholder return, (xxxxi) working capital, and (xxxxii) individual objectives such as peer reviews or other subjective or objective criteria. As determined by the Committee, the performance goals may be based on generally accepted accounting principles ("GAAP") or non-GAAP results and any actual results may be adjusted by the Committee for one-time items or unbudgeted or unexpected items and/or payments of Actual Awards under the Plan when determining whether the performance goals have been met. The goals may be on the basis of any factors the Committee determines relevant, and may be on an individual, divisional, business unit, segment or Company-wide basis. Any criteria used may be measured on such basis as the Committee determines, including but not limited to, as applicable, (A) in absolute terms, (B) in combination with another performance goal or goals (for example, but not by way of limitation, as a ratio or matrix), (C) in relative terms (including, but not limited to, results for other periods, passage of time and/or against another company or companies or an index or indices), (D) on a per-share basis, (E) against the performance of the Company as a whole or a segment of the Company and/or (F) on a pre-tax or after-tax basis. The performance goals may differ from Participant to Participant and from award to award. Failure to meet the goals will result in a failure to earn the Target Award, except as provided in Section 3(d). The Committee also may determine that a Target Award (or portion thereof) will not have a performance goal associated with it but instead will be granted (if at all) in the sole discretion of the Committee.

4. Payment of Awards.

(a) Right to Receive Payment. Each Actual Award will be paid solely from the general assets of the Company. Nothing in this Plan will be construed to create a trust or to establish or evidence any Participant's claim of any right other than as an unsecured general creditor with respect to any payment to which he or she may be entitled.

(b) Timing of Payment. Payment of each Actual Award shall be made as soon as practicable after the end of the Performance Period to which the Actual Award relates and after the Actual Award is approved by the Committee, but in no event later than the later of (i) the 15th day of the third month of the Fiscal Year immediately following the Fiscal Year in which the Participant's Actual Award is first no longer subject to a substantial risk of forfeiture, and (ii) March 15 of the calendar year immediately following the calendar year in which the Participant's Actual Award is first no longer subject to a substantial risk of forfeiture. Unless otherwise determined by the Committee, to earn an Actual Award a Participant must be employed by the Company or any Affiliate on the date the Actual Award is paid.

It is the intent that this Plan be exempt from or comply with the requirements of Code Section 409A so that none of the payments to be provided hereunder will

be subject to the additional tax imposed under Code Section 409A, and any ambiguities herein will be interpreted to be so exempt or so comply. Each payment under this Plan is intended to constitute a separate payment for purposes of Treasury Regulation Section 1.409A-2(b)(2).

(c) Form of Payment. Each Actual Award generally will be paid in cash (or its equivalent) in a single lump sum. The Committee reserves the right, in its sole discretion, to settle an Actual Award with a grant of an equity award under the Company's then-current equity compensation plan.

(d) Payment in the Event of Death or Disability. If a Participant dies or is terminated due to his or her Disability prior to the payment of an Actual Award the Committee has determined will be paid for a prior Performance Period, the Actual Award will be paid to his or her estate or to the Participant, as the case may be, subject to the Committee's discretion to reduce or eliminate any Actual Award otherwise payable.

5. Plan Administration.

(a) Committee is the Administrator. The Plan will be administered by the Committee. The Committee will consist of not less than 2 members of the Board. The members of the Committee will be appointed from time to time by, and serve at the pleasure of, the Board.

(b) Committee Authority. It will be the duty of the Committee to administer the Plan in accordance with the Plan's provisions. The Committee will have all powers and discretion necessary or appropriate to administer the Plan and to control its operation, including, but not limited to, the power to (i) determine which Employees will be granted awards, (ii) prescribe the terms and conditions of awards, (iii) interpret the Plan and the awards, (iv) adopt such procedures and sub-plans as are necessary or appropriate to permit participation in the Plan by Employees who are foreign nationals or employed outside of the United States, (v) adopt rules for the administration, interpretation and application of the Plan as are consistent therewith, and (vi) interpret, amend or revoke any such rules.

(c) Decisions Binding. All determinations and decisions made by the Committee, the Board, and/or any delegate of the Committee pursuant to the provisions of the Plan will be final, conclusive, and binding on all persons, and will be given the maximum deference permitted by law.

(d) Delegation by Committee. The Committee, in its sole discretion and on such terms and conditions as it may provide, may delegate all or part of its authority and powers under the Plan to one or more directors and/or officers of the Company.

(e) Indemnification. Each person who is or will have been a member of the Committee will be indemnified and held harmless by the Company against and from (i) any loss, cost, liability, or expense that may be imposed upon or reasonably incurred by him or her in connection with or resulting from any claim, action, suit, or proceeding to which he or she may be a party or in which he or she may be involved by reason of any action taken or failure to act under the Plan or any award, and (ii) from any and all amounts paid by him or her in settlement thereof, with the Company's approval, or paid by him or her in satisfaction of any judgment in any such claim, action, suit, or proceeding against him or her, provided he or she will give the

Company an opportunity, at its own expense, to handle and defend the same before he or she undertakes to handle and defend it on his or her own behalf. The foregoing right of indemnification will not be exclusive of any other rights of indemnification to which such persons may be entitled under the Company's Certificate of Incorporation or Bylaws, by contract, as a matter of law, or otherwise, or under any power that the Company may have to indemnify them or hold them harmless.

6. General Provisions.

(a) Tax Withholding. The Company (or the Affiliate employing the applicable Employee) will withhold all applicable taxes from any Actual Award, including any federal, state and local taxes (including, but not limited to, the Participant's FICA and SDI obligations).

(b) No Effect on Employment or Service. Nothing in the Plan will interfere with or limit in any way the right of the Company (or the Affiliate employing the applicable Employee) to terminate any Participant's employment or service at any time, with or without cause. For purposes of the Plan, transfer of employment of a Participant between the Company and any one of its Affiliates (or between Affiliates) will not be deemed a termination of employment. Employment with the Company and its Affiliates is on an at-will basis only. The Company expressly reserves the right, which may be exercised at any time and without regard to when during a Performance Period such exercise occurs, to terminate any individual's employment with or without cause, and to treat him or her without regard to the effect that such treatment might have upon him or her as a Participant.

(c) Participation. No Employee will have the right to be selected to receive an award under this Plan, or, having been so selected, to be selected to receive a future award.

(d) Successors. All obligations of the Company under the Plan, with respect to awards granted hereunder, will be binding on any successor to the Company, whether the existence of such successor is the result of a direct or indirect purchase, merger, consolidation, or otherwise, of all or substantially all of the business or assets of the Company.

(e) Beneficiary Designations. If permitted by the Committee, a Participant under the Plan may name a beneficiary or beneficiaries to whom any vested but unpaid award will be paid in the event of the Participant's death. Each such designation will revoke all prior designations by the Participant and will be effective only if given in a form and manner acceptable to the Committee. In the absence of any such designation, any vested benefits remaining unpaid at the Participant's death will be paid to the Participant's estate.

(f) Nontransferability of Awards. No award granted under the Plan may be sold, transferred, pledged, assigned, or otherwise alienated or hypothecated, other than by will or by the laws of descent and distribution, or to the limited extent provided in Section 6(e). All rights with respect to an award granted to a Participant will be available during his or her lifetime only to the Participant.

7. Amendment, Termination, and Duration.

(a) Amendment, Suspension, or Termination. The Board or the Committee, in its sole discretion, may amend or terminate the Plan, or any part thereof, at any time and for any reason. The amendment, suspension or termination of the Plan will not, without the consent of the Participant, alter or impair any rights or obligations under any Actual Award theretofore earned by such Participant. No award may be granted during any period of suspension or after termination of the Plan.

(b) Duration of Plan. The Plan will commence on the date first adopted by the Board or the Committee, and subject to Section 7(a) (regarding the Board's and/or the Committee's right to amend or terminate the Plan), will remain in effect thereafter until terminated.

8. Legal Construction.

(a) Gender and Number. Except where otherwise indicated by the context, any masculine term used herein also will include the feminine; the plural will include the singular and the singular will include the plural.

(b) Severability. In the event any provision of the Plan will be held illegal or invalid for any reason, the illegality or invalidity will not affect the remaining parts of the Plan, and the Plan will be construed and enforced as if the illegal or invalid provision had not been included.

(c) Requirements of Law. The granting of awards under the Plan will be subject to all applicable laws, rules and regulations, and to such approvals by any governmental agencies or national securities exchanges as may be required.

(d) Governing Law. The Plan and all awards will be construed in accordance with and governed by the laws of the State of California, but without regard to its conflict of law provisions.

(e) Bonus Plan. The Plan is intended to be a "bonus program" as defined under U.S. Department of Labor regulation 2510.3-2(c) and will be construed and administered in accordance with such intention.

(f) Captions. Captions are provided herein for convenience only, and will not serve as a basis for interpretation or construction of the Plan.

EXECUTIVE CHAIRMAN AGREEMENT

Executive Chairman Agreement (this "***Agreement***"), dated as of June 30, 2019 (the "***Effective Date***"), by and between Acutus Medical Inc., a Delaware corporation with its principal offices at 2210 Faraday Avenue, Suite 100, Carlsbad CA 92008 (the "***Company***"), and SCOTT HUENNEKENS (the "***Executive***").

RECITALS:

WHEREAS, the Board of Directors of the Company (the "**Board**") recognizes that the Executive has unique and valuable experience and skills that add significant value to the Company and its stockholders and therefore it is in the best interests of the Company and its stockholders to enter into this Agreement; and

WHEREAS, the Executive is willing to serve as Executive Chairman of the Company and is willing to accept the terms and conditions offered in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Position and Duties**. The Executive agrees to provide services as non-employee consultant to the Company, as Executive Chairman of the Company reporting to the Board. As Executive Chairman, the Executive shall provide advice and assistance to the Company in connection with business development, financing transactions, Company strategy, leadership and Company culture issues as well as with employee recruiting. The Company and the Executive anticipate that Executive shall devote approximately one (1) to two (2) weeks per month during the Chairman Period to the performance of services to the Company under this Agreement. The Executive shall also be appointed to and serve as a member of the Board of Directors of the Company.

2. **Consultant Status**. Nothing in this Agreement shall in any way be construed to constitute the Executive as an employee of the Company. The Executive's relationship with the Company will be that of an independent contractor performing the services hereunder. To the extent applicable, the Executive agrees to furnish (or reimburse the Company for) all tools and materials necessary to accomplish the services hereunder, and shall incur all expenses associated with such performance, subject to reimbursement as provided herein. The Company will not make deductions from payments made to the Executive for taxes. The Executive acknowledges and agrees that he is obligated to report as income all consideration that he receives under this Agreement, and acknowledges and agrees to pay all self-employment and other taxes thereon.

3. **Effectiveness; Chairman Period**. Executive's services to the Company under the terms of this Agreement (the "***Chairman Period***") shall commence on the Effective Date and terminate on March 1, 2022 (the "***Expiration Date***"); provided, however, that unless the Company or Executive gives written notice to the other party to

the contrary at least 180 days prior to the Expiration Date, this Agreement shall automatically be extended for an additional term of one (1) year following the Expiration Date; and, provided further, that this Agreement shall continue to renew automatically for an additional term of one (1) year on each anniversary of the Expiration Date unless the Company or Executive gives written notice to the other party to the contrary at least 90 days prior to such anniversary date. References herein to the "Chairman Period" shall include any automatic extensions pursuant to the preceding sentence. Notwithstanding anything contained herein to the contrary, the Executive's provision of services to the Company pursuant to the terms of this Agreement and the Chairman Period is subject to earlier termination pursuant to Section 6 below.

4. **Compensation**. The Executive shall receive the following compensation (the "***Compensation***") for his services hereunder:

(a) **Chairman Fees**. The Company shall compensate the Executive for his services hereunder at the rate of $500 per hour ("***Chairman Fees***") during the Chairman Period; provided that in the event the Company becomes a publicly-traded company, the Company and the Executive agree to mutually agree to adjustments to the compensation payable to the Executive hereunder to reflect compensation payable to individuals providing services similar to the Executive's at comparable publicly-traded companies. The Chairman Fees shall be paid promptly to the Executive upon Executive's presentment to the Company of an accounting of the hours devoted by the Executive to the Company under this Agreement (but in no event shall the Chairman Fees be paid more than thirty (30) days following the Executive's presentment to the Company of such accounting).

5. **Other Benefits**.

(a) **Benefits**. As a non-employee consultant to the Company, the Executive shall not be entitled to participate in the health, welfare, retirement, pension, life insurance, disability and similar plans, programs and arrangements made available to employees of the Company.

(b) **Expenses**. The Company will, in accordance with applicable Company policies and guidelines, reimburse Executive for all reasonable and necessary expenses incurred by Executive in connection with his performance of services on behalf of the Company. Furthermore, upon Executive's execution of this Agreement, the Company with reimburse Executive's reasonable legal fees and expenses incurred in connection with the review of Agreement, not to exceed $20,000.

(c) **Stock Awards**. Effective on or within thirty (30) days following the Effective Date, the Executive will be granted that number of restricted share units ("***Stock Grant***") of the Company's common stock ("***Common Stock***") equal to three percent (3%) of the Company's fully diluted outstanding shares of capital stock as of the date of grant of the Stock Grant (determined on as-converted basis and including shares of capital stock reserved for issuance under any Company equity compensation plan). Subject to the acceleration provisions contained herein, the Stock Grant will be subject to

a time-vesting schedule and a liquidity event vesting requirement. The Stock Grant will time-vest over the period commencing on March 1, 2019, with forty-two percent (42%) of the Stock Grant (rounded up to the nearest whole share of Common Stock) vesting on June 1, 2020 and the remainder of the Stock Grant vesting in substantially equal monthly installments through March 1, 2022, such that one hundred percent (100%) of the Stock Grant shall be time-vested as of March 1, 2022, in each case subject to the Executive's continued service. The liquidity event vesting requirement will be satisfied upon the earlier of a Change in Control (as defined in the Company's 2011 Equity Incentive Plan (the "***Equity Plan***")) or an initial public offering of the Company's capital stock, in either case provided the Change in Control or initial public offering occurs within ten (10) years from the date of grant of the Stock Grant. Except as provided by this Agreement, the Stock Grants will be subject to the terms and conditions of the Equity Plan and a form of restricted share unit agreement thereunder.

6. **Termination**. This Agreement may be terminated by the Executive or the Company as provided in this Section 6:

(a) **Death**. Upon the Executive's death ("***Death***").

(b) **Disability**.

(i) The Company or the Executive, upon not less than ninety (90) days written notice to the other party ("***Disability Notice***"), this Agreement if the Executive has been unable, by reason of physical or mental disability, to render, for 120 successive days or for shorter periods aggregating 210 days or more in any twelve (12) month period, services of the character contemplated by this Agreement and will be unable to resume providing such services within the thirty (30) day period after such Disability Notice (such circumstances being referred to as "***Disability***").

(ii) The determination of whether the Executive has become Disabled within the meaning of this Section 6(b) shall be made (A) in the case of a termination of this Agreement by the Company, by a medical doctor selected by the Company in consultation with Executive's primary care physician, or (B) in the case of a termination of this Agreement by the Executive, by the Executive's medical doctor. In the event the Company gives a notice of termination of this Agreement under this Section 6(b), the Executive or his representative may at any time prior to the effective date of termination contest the termination and cause a determination of Disability to be made by Executive's medical doctor. In the event the Executive gives a notice of termination of this Agreement under this Section 6(b), the Company may at any time prior to the effective date of termination contest the termination and cause a determination of Disability to be made by a medical doctor selected by the Company. In either case, if such medical doctors do not agree with regard to the determination of Disability, they shall mutually choose a third medical doctor to examine the Executive, and the Disability determination of such third medical doctor shall be binding upon both the Company and the Executive.

(c) **Without Cause**. By the Company, for any reason other than Death, Cause or Disability, but only upon a vote of a majority of the entire Board (or such other vote required pursuant to the By-Laws) at a meeting duly called and held at which the Executive shall have the right to be present and be heard.

(d) **Cause**. By the Company, for Cause, but only upon a vote of a majority of the entire Board at a meeting duly called and held at which Executive shall have the reasonable opportunity to be present and be heard. The term "***Cause***" means any of the following: (i) Executive's continued failure to perform his lawful and reasonably assigned service duties after Executive has received a written demand of performance from the Board which specifically sets forth the factual basis for the Board's belief that Executive has not substantially performed his duties and has failed to cure such non-performance to the Board's satisfaction within ten (10) business days after receiving such notice; (ii) the Executive's engaging in any act of dishonesty, fraud, misrepresentation, embezzlement or other acts that are or would reasonably be expected to be injurious in a material respect to the Company; (iii) the Executive's violation of any federal or state law or regulation applicable to the business of the Company or its affiliates; (iv) the Executive's breach of any confidentiality agreement or invention assignment agreement between the Executive and the Company (or any affiliate of the Company); (v) the Executive's being convicted of, or entering a plea of nolo contendere to, any crime constituting a felony or committing any act of moral turpitude; (vi) the Executive's continuing gross negligence or gross misconduct after notice thereof from the Company describing the applicable conduct; or (vii) the Executive's breach of any material term of any employment agreement between the Executive and the Company. If, prior to the occurrence of an event specified in Section 6(d)(v), the Company terminates this Agreement without Cause after the Executive has been indicted for, accused of or charged with a felony, the full amount of any amounts paid to or received by the Executive from Company as a result of such termination without Cause shall be promptly repaid to the Company upon the occurrence of an event specified in Section 6(d)(v).

(e) **Good Reason**. By the Executive, for Good Reason. As used herein, the term "***Good Reason***" shall mean the Executive's resignation within thirty (30) days following the expiration of any Company cure period (discussed below) following the occurrence of one or more of the following, without the Executive's consent: (i) a material reduction of the Executive's authority, duties or responsibilities; (ii) a material reduction by the Company (or its successor) in the Executive's Chairman Fees; or (iii) a material change in the geographic location of the Executive's primary work facility or location; provided, that a relocation of less than fifty (50) miles from the Executive's then-present location will not be considered a material change in geographic location. The Executive may not resign for Good Reason without first providing the Company with written notice of the acts or omissions constituting the grounds for "Good Reason" within ninety (90) days of the initial existence of the grounds for "Good Reason" and a reasonable cure period of thirty (30) days following the date the Company receives such notice during which such condition must not have been cured.

(f) **Resignation**. By the Executive, other than for Good Reason **(**"***Resignation***"**)**.

7. **Notice and Date of Termination**. Any termination of this Agreement under Section 6, other than by reason of Death, shall be communicated by written Notice of Termination from the terminating party to the other party hereto. For purposes of this Agreement, a "***Notice of Termination***" shall mean a notice which shall indicate the specific termination provision in this Agreement relied upon and shall set forth in reasonable detail the facts and circumstances claimed to provide a basis for termination of this Agreement under the provision so indicated. The effective date of any termination of this Agreement (the "***Date of Termination***") shall be:

(i) if this Agreement is terminated by Death, the date of the Executive's death;

(ii) if this Agreement is terminated without Cause or by the Executive for Good Reason, the date specified in the Notice of Termination;

(iii) if this Agreement is terminated by reason of Disability, (A) thirty (30) days after the Disability Notice or (B) upon a final determination, pursuant to Section 6(b) above, as the case may be, whichever is later; provided that the Executive shall not have returned to the full-time performance of his duties during such period; and

(iv) if this Agreement is terminated on account of Cause or Resignation, the date specified in the Notice of Termination, which shall be no less than ten (10) nor more than thirty (30) days after such Notice of Termination is given.

(b) The Executive agrees to resign, on the Date of Termination, as an officer and director of the Company and any member of the Company, as applicable, and as a fiduciary of any benefit plan of the Company or any member of the Company, as applicable, and to promptly execute and provide to the Company any further documentation, as requested by the Company, to confirm such resignation.

8. **Compensation Upon Termination**. Upon the termination of this Agreement with the Company pursuant to Section 6, the Executive's rights and the Company's obligations under this Agreement shall immediately terminate except as provided in Section 16(m). and the Executive (or his heirs or estate, as applicable) shall be entitled to receive the amounts or benefits set forth below. The benefits provided pursuant to this Section 8 are (x) provided in lieu of any severance or income continuation protection under any plan of the Company that may now or hereafter exist, (y) provided in addition to any payments the Executive (or his beneficiaries or estate, as applicable) may be entitled to receive pursuant to any pension or employee benefit plan or disability or life insurance policy maintained by the Company, and (z) except as provided in Section l 6(m). deemed to satisfy and be in full and final settlement of all obligations of the Company to the Executive under this Agreement. The Executive shall have no further right to receive any other compensation or benefits following the Date of Termination for any reason except as set forth in this Section 8.

(a) **Compensation Upon Death or Disability**. In the event of a termination of this Agreement upon Death or the Executive's Disability, the Executive's estate and/or beneficiaries shall be paid any Chairman Fees earned by the Executive through the date of his death.

(b) **Compensation Upon Resignation Or Termination For Cause**. In the event of termination of this Agreement upon Resignation or termination for Cause the Executive shall be entitled to receive the Chairman Fees earned through the date of the termination of this Agreement and shall retain any then-vested Company equity awards.

(c) **Compensation Upon Termination By Executive For Good Reason Or By The Company Without Cause**. In the event this Agreement is terminated by the Executive for Good Reason or by the Company without Cause, then the Executive's outstanding Company equity compensation awards shall immediately become vested and exercisable with respect to that number of shares of Common Stock subject thereto equal to that number of shares of Common Stock with respect to with such Company equity compensation awards would have become vested and exercisable had the Executive remained continuously employed by the Company for an additional twelve (12) months following the termination of this Agreement.

Treatment of the Executive's outstanding equity compensation awards under this Section 8(c) is expressly conditioned upon the Executive's execution of a waiver and release agreement in a form reasonably satisfactory to the Company (the "***Release***") and the Release becoming effective and irrevocable in its entirety within ninety (90) days after the Executive's Date of Termination (the date on which the Release has become effective and irrevocable, the "***Release Date***").

(d) **No Mitigation**. The Executive shall not be required to mitigate the amount of any payment provided for in this Section 8 or in Section 9 by seeking other employment or otherwise, nor shall the amount of any benefit provided for in this Section 8 or in Section 9 be reduced by any compensation earned by him as the result of employment by another employer or by retirement benefits after the Date of Termination or otherwise, except as specifically provided in this Section 8 or in Section 9.

9. **Change in Control**. Upon a Change in Control, all of the Executive's outstanding Company equity compensation awards shall become vested and exercisable with respect to one hundred percent (100%) of the Common Stock subject thereto.

10. **Code Section 280G**.

(a) Notwithstanding anything to the contrary contained in this Agreement, to the extent that any amount, equity awards or benefits paid or distributed to the Executive pursuant to this Agreement or any other agreement, plan or arrangement between the Company or its subsidiaries or affiliates, on the one hand, and the Executive on the other hand (collectively, the "***280G Payments***") (i) constitute a "parachute payment" within the meaning of Section 2800 of the Code and (ii) but for this provision would be subject to the excise tax imposed by Section 4999 of the Code (the "***Excise Tax***," then the 280G Payments shall be payable either (a) in full, notwithstanding that some or all portion of such payment may be subject to the Excise Tax or (b) in such

lesser amount that would result in no portion of such 280G Payments being subject to Excise Tax, whichever of the foregoing amounts, taking into account the applicable federal, state and local income or excise taxes (including the Excise Tax) results in Executive's receipt on an after-tax basis, of the greatest amount or benefits under this Agreement, notwithstanding that all or some portion of such benefits may be taxable under Section 4999 of the Code.

(b) To the extent permitted by applicable law, and not a violation of Code Sections 280G, 409A or 4999, Executive shall be entitled to elect the order in which payments will be reduced. If the Executive electing the order in which payments will be reduced would result in violation of Code Section 409A or loss of the benefit of reduction under Code Sections 280G or 4999, payments shall be reduced in the following order (i) severance payment based on multiple of Base Salary and/or Annual Bonus; (ii) other cash payments; (iii) any Current Pro Rata Bonus paid as severance; (iv) any equity awards accelerated or otherwise valued at full value, provided such equity awards are not permitted to be valued under Treasury Regulations Section 1.2800-1 Q/A - 24(c); (v) acceleration of vesting of all other equity awards; and (vi) within any category, reductions shall be from the last due payment to the first.

(c) All determinations required to be made under this Section 10. including whether the Executive will receive a full payment or a reduced payment and the assumptions to be utilized in arriving at such determination, shall be made by a nationally recognized certified public accounting firm as may be designated by the Company and reasonably acceptable to the Executive (the "***Accounting Firm***"), which Accounting Firm shall provide detailed supporting calculations both to the Company and the Executive within fifteen (15) business days of the receipt of notice from the Company that there is or may be made a 280G Payment. All fees and expenses of the Accounting Firm shall be borne solely by the Company. Any determination by the Accounting Firm shall be binding upon the Company and the Executive.

11. **Non-Solicitation**. During the Chairman Period and for one (1) year thereafter (the "***Restricted Period***"), the Executive covenants and agrees that he shall not directly interfere with or attempt to interfere with the relationship between the Company and any person who is, or was during the then most recent six (6) -month period, an officer or employee of the Company or solicit, induce, hire or attempt to solicit, induce or hire any of them to leave the employ of any member of the Company or violate the terms of their respective contracts, or any employment arrangements, with such entity.

12. **Confidential Information**. The Executive has executed or, if not previously executed, agrees to execute and be bound by the terms and .conditions of an At-Will Employment, Confidential Information, Invention Assignment and Arbitration Agreement ("***Proprietary Information Agreement***"), attached hereto as Exhibit A. During the Restricted Period, the Executive shall not use the confidential, trade secret information of the Company or any other unlawful means to directly or indirectly solicit, induce or entice any employee, client, customer, contractor, licensor, agent, partner or other business relationship of the Company to terminate, discontinue, renegotiate or otherwise cease or modify its relationship with the Company.

(b) Notwithstanding the foregoing or any other provision in this Agreement or otherwise, nothing herein shall prohibit the Executive from reporting possible violations of federal or state law or regulation to any governmental agency or entity or self-regulatory organization including but not limited to the Department of Justice, the Securities and Exchange Commission, Congress, and any agency Inspector General, or making other disclosures that are protected under the whistleblower provisions of federal or state law or regulation (it being understood that the Executive does not need the Company's prior authorization to make any such reports or disclosures and the Executive is not required to notify the Company that the Executive has made such reports or disclosures).

(c) Non-compliance with the disclosure provisions of this Agreement shall not subject the Executive to criminal or civil liability under any federal or state trade secret law for the disclosure of a Company trade secret: (i) in confidence to a federal, state or local government official, either directly or indirectly, or to an attorney in confidence solely for the purpose of reporting or investigating a suspected violation of law; (ii) in a complaint or other document filed in a lawsuit or other proceeding, provided that any complaint or document containing the trade secret is filed under seal; or (iii) to an attorney representing the Executive in a lawsuit for retaliation by the Company for reporting a suspected violation of law or to use the trade secret information in that court proceeding, provided that any document containing the trade secret is filed under seal and the Executive does not disclose the trade secret, except pursuant to court order.

13. **Unenforceability**. If any of the rights or restrictions contained or provided for in this Agreement shall be deemed by a court of competent jurisdiction to be unenforceable by reason of the extent, duration or geographical scope, the parties hereto contemplate that the court shall reduce such extent, duration, geographical scope and enforce this Agreement in its reduced form for all pm-poses in the manner contemplated hereby. Should any of the provisions of this Agreement require judicial interpretation, it is agreed that the court interpreting or construing this Agreement shall not apply a presumption that any provision shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agents prepared the same, it being agreed that both parties and their respective agents have participated in the preparation of this Agreement.

14. **Injunctive Relief**. The Executive agrees that the restrictions and covenants contained in Sections 11 and 12 and in the Proprietary Information Agreement are necessary for the protection of the Company and any breach thereof will cause the Company irreparable damages for which there is no adequate remedy at law. The Executive further agrees that, in the event of a breach by the Executive of any of the Executive's obligations under this Agreement, the Company shall have the absolute right, in addition to any other remedy that might be available to it, to obtain from any court having jurisdiction, such equitable relief as might be appropriate, including temporary, interlocutory, preliminary and permanent decrees or injunctions enjoining any further breach of such provisions.

15. **Indemnification and Attorneys' Fees**. During the Chairman Period and thereafter, the Company shall indemnify, hold harmless and defend the Executive to the fullest extent permitted by Delaware law and the Company's articles of incorporation and by-laws in effect from time to time from all damages, claims, losses, and costs and expenses (including reasonable attorney's fees) arising out of, in connection with, or relating to all acts or omissions taken or not taken by the Executive in good faith while performing services for the Company, and shall further promptly reimburse the Executive for all expenses (including attorney's fees) incurred in enforcing this Agreement The Company shall use its best efforts to continue to maintain an insurance policy covering the officers and directors of the Company against claims and/or lawsuits, at least as favorable as such policy that is currently in effect, and shall cause the Executive to be covered under such policy upon the same terms and conditions as other similarly situated officers and directors during the Chairman Period and for a period of at least six (6) years thereafter.

16. **Miscellaneous**.

(a) **No Violation**. It shall not be a violation of this Agreement for the Executive to engage in any activity which is not inconsistent with the Company's interests and prospects, including, without limitation, (a) serving on civic or charitable boards or committees; (b) serving in the role of executive chairman for an additional company that is not engaged in the business of providing services or products related to interventional electrophysiology diagnostics and/or therapeutics, provided that Executive may only serve one additional company other than the Company in such role; (c) delivering lectures, fulfilling speaking engagements or teaching at educational institutions; (d) managing personal investments; (e) serving as an officer or director of entities formed to manage family or personal investments; and (f) attending conferences conducted by business organizations; provided, however, that such activity does not significantly interfere with the performance of the Executive's duties and responsibilities hereunder. Notwithstanding the foregoing, the Executive's engagement in such activities shall be subject to and governed by the governance rules in effect from time to time applicable to members of the Board.

(b) **Severability**. If any provision of this Agreement is held to be illegal, invalid or unenforceable under existing or future laws effective during the Chairman Period, such provisions shall be fully severable, the Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement. Furthermore, in lieu of such illegal, invalid or unenforceable provision, there shall be added automatically as part of this Agreement a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and be legal and enforceable.

(c) **Section 409A**.

(i) This Agreement is intended to comply with, or be exempt from, Section 409A of the Code and the regulations promulgated thereunder ("***Section 409A***"), and will be interpreted, administered and operated in a manner consistent with that intent. If any amounts that become due under Sections 8 or 9 of this Agreement constitute "nonqualified deferred compensation" within the meaning of Section 409A, payment of such amounts shall not commence until the Executive incurs a "Separation from Service" (as defined below) if and only if necessary to avoid accelerated taxation or tax penalties in respect of such amounts.

(ii) Notwithstanding anything herein to the contrary, if the Executive is a "Specified Employee" (as defined below) for purposes of Section 409A, on the date on which he incurs a Separation from Service, any payment hereunder that provides for the "deferral of compensation" within the meaning of Section 409A shall be paid on the first (1st) business day after the date that is six (6) months following the Executive's Separation from Service (the "***409A Delayed Payment Date***"); provided, however. that such delay shall apply if and only if necessary to avoid accelerated taxation or tax penalties in respect of such amounts; provided, further, that a payment delayed pursuant to the preceding clause shall commence earlier than the 409A Delayed Payment Date in the event of the Executive's Death prior to the end of the six (6) month period. On the 409A Delayed Payment Date, the Executive shall be paid a lump sum payment in cash equal to any payments delayed because of the preceding sentence (the "***Catch-Up Amount***"), plus interest on the Catch-Up Amount equal to the short term federal rate applicable under Section 7872(f)(2)(A) of the Code for the month in which occurs the Executive's Separation from Service. Such interest shall be paid at the same time that the Catch up Amount is paid. Thereafter, the Executive shall receive any remaining benefits as if there had not been an earlier delay.

(iii) For purposes of this Agreement, "***Separation from Service***" shall have the meaning set forth in Section 409A(a)(2)(A)(i) of the Code and determined in accordance with the default rules under Section 409A. "***Specified Employee***" shall have the meaning set forth in Section 409A(a)(2)(B)(i) of the Code, as determined in accordance with the uniform methodology and procedures adopted by the Company and then in effect.

(iv) For purposes of Section 409A, each of the payments that may be made under this Agreement are designated as separate payments. Anything in this Agreement to the contrary notwithstanding, (1) no reimbursement payable to the Executive pursuant to any provisions of this Agreement or pursuant to any plan or arrangement of the Company covered by this Agreement shall be paid later than the last day of the calendar year following the calendar year in which the related expense was incurred, except to the extent that the right to reimbursement does not provide for a "deferral of compensation" within the meaning of Section 409A, (2) the right to reimbursement or in-kind benefits shall not be subject to liquidation or exchange for another benefit and (3) no amount reimbursed during any calendar year shall affect the amounts eligible for reimbursement in any other calendar year.

(v) If the Loan Forgiveness Tax Amount could become payable in either one of two calendar years as a result of being dependent upon the Release becoming irrevocable, then, to the extent required to avoid the imposition of taxes and penalties under Section 409A, such payment shall be made as soon as practicable during the second of such two calendar years.

(d) **Notices**. For purposes of this Agreement, notices and all other communications provided for herein shall be in writing and shall be deemed to have been duly given when (i) delivered personally; (ii) sent by facsimile or other similar electronic device and confirmed; (iii) delivered by courier or overnight express; or (iv) three (3) business days after being sent by registered or certified mail, postage prepaid, addressed as follows:

If to the Company:	Acutus Medical Inc. 2210 Faraday Ave., Suite 100 Carlsbad, CA 92008 Attention: Chief Executive Officer
If to the Executive:	The Executive's home address on file with the Company.

or to such other address as a party may furnish to the other party in writing in accordance herewith, except that notices of change of address shall be effective only upon receipt.

(e) **No Waiver**. No waiver by either party hereto of any breach of any provision of this Agreement shall be deemed a waiver of any preceding or succeeding breach of such provision or any other provision herein contained.

(f) **Governing Law**. This Agreement shall be governed by, and construed in accordance with, the laws of the State of California, without giving effect to the conflict of law principles thereof; provided, however, that Sections 11 and 12 of this Agreement shall be governed by, and construed in accordance with, the laws of the state in which the Executive has his principal office.

(g) **Entire Agreement**. This Agreement and the Proprietary Information Agreement set forth the entire agreement of the parties hereto with respect to the subject matter hereof, and are intended to supersede all prior or contemporaneous negotiations, understandings and agreements (whether written or oral). No provision of this Agreement may be waived or changed, except by a writing signed by the party to be charged with such waiver or change.

(h) **Successors; Binding Agreement**. Neither of the parties hereto shall have the right to assign this Agreement or any rights or obligations hereunder without the prior written consent of the other party; provided, however, that this Agreement shall inure to the benefit or and be binding upon the successors and assigns of the Company upon any sale of all or substantially all of the Company's assets, or upon any merger or consolidation of the Company with or into any other corporation, all as though such successors and assigns of the Company and their respective successors and

assigns were the Company. Insofar as the Executive is concerned, this Agreement, being personal, cannot be assigned; provided, however, that this Agreement shall be binding upon and inure to the benefit of the Executive and his executors, administrators and legal representatives.

(i) **Counterparts**. This Agreement may be executed in counterparts, each of which shall be an original but together shall constitute one and the same instrument.

(j) **Headings**. The headings and captions set forth in this Agreement are for ease of reference only and shall not be deemed to constitute a part of the agreement formed hereby or be relevant to the interpretation of any provisions of this Agreement.

(k) **Saturdays, Sundays and Holidays, etc**. Whenever any determination is to be made or action to be taken on a date specified in this Agreement, if such date shall fall upon a Saturday, Sunday or a legal holiday in the State of California, the date for such determination or action shall be extended to the first (1st) business day immediately thereafter. Any reference herein to a determination of the Board or the Compensation Committee "in its discretion" shall mean a determination in the sole discretion of such body.

(l) **Survivability**. The provisions of Sections 9, 10, 11, 12, 13, 14, 15.16(c), 16(d) and 16(m) of this Agreement shall survive the termination or expiration of this Agreement, in accordance with their terms.

(m) **Arbitration**. Except as set forth in Section 15, any disagreement, dispute, controversy or claim arising out of or relating to this Agreement or the interpretation of this Agreement or any arrangements relating to this Agreement or contemplated in this Agreement or the breach, termination or invalidity thereof shall be settled by final and binding arbitration administered by JAMS/Endispute in the County of San Diego in accordance with the then existing JAMS/Endispute Arbitration Rules and Procedures for Employment Disputes. In the event of such an arbitration proceeding, Executive and the Company shall select a mutually acceptable neutral arbitrator from among the JAMS/Endispute panel of arbitrators. In the event Executive and the Company cannot agree on an arbitrator, the Administrator of JAMS/Endispute will appoint an arbitrator. Neither Executive nor the Company nor the arbitrator shall disclose the existence, content, or results of any arbitration hereunder without the prior written consent of all parties. Except as provided herein, the Federal Arbitration Act shall govern the interpretation, enforcement and all proceedings. The arbitrator shall apply the substantive law (and the law of remedies, if applicable) of the state of California, or federal law, or both, as applicable, and the arbitrator is without jurisdiction to apply any different substantive law. The arbitrator shall have the authority to entertain a motion to dismiss and/or a motion for summary judgment by any party and shall apply the standards governing such motions under the Federal Rules of Civil Procedure. The arbitrator shall render an award and a written, reasoned opinion in support thereof. Judgment upon the award may be entered in any court having jurisdiction thereof.

(n) **Legal Counsel; Right to Negotiate**. The Executive acknowledges that he has been given the opportunity to consult with legal counsel or any other advisor of his own choosing regarding this Agreement. The Executive understands and agrees that any attorney retained by the Company or any member of management who has discussed any term or condition of this Agreement with him is only acting on behalf of the Company and not on the Executive's behalf. The Executive hereby acknowledges that he has been given the opportunity to participate in the negotiation of the terms of this Agreement. The Executive acknowledges and confirms that he has read this Agreement and fully understands its terms and contents.

[SIGNATURE PAGES BEGIN ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

ACUTUS MEDICAL INC.

By: /s/ Vince Burgess
Name: Vince Burgess
Title: President & CEO

/s/ Scott Huennekens
Scott Huennekens

ACUTUS MEDICAL, INC.

2011 EQUITY INCENTIVE PLAN

RESTRICTED STOCK UNIT AWARD AGREEMENT

Unless otherwise defined herein, the terms defined in the 2011 Equity Incentive Plan (the "Plan") shall have the same defined meanings in this Restricted Stock Unit Award Agreement (the "Award Agreement").

I. NOTICE OF GRANT OF RESTRICTED STOCK UNITS

Name: **Scott Huennekens**
Address:

The undersigned Participant has been granted the right to receive an Award of Restricted Stock Units, subject to the terms and conditions of the Plan and this Award Agreement, as follows:

Date of Grant:	June 30, 2019
Vesting Commencement Date:	March 1, 2019
Number of Restricted Stock Units:	5,518,463

Vesting Schedule:

Subject to any acceleration provisions contained in the Plan or set forth below, the Restricted Stock Units will vest in accordance with the following schedule, which has both a time-based and performance-based vesting componenent:

Time-Based Vesting Component: 42% of the Restricted Stock Units will satisfy the time-based vesting component on June 1, 2020, and the remainder will satisfy the time-based vesting component monthly thereafter on the same day of the month as the Vesting Commencement Date in substantially equal installments, such that 100% of the Restricted Stock Units will satisfy the time-based component on March 1, 2022, subject to the Participant remaining a Service Provider through each applicable vesting date (such Restricted Stock Units that have not satisfied the time-based vesting component, the "Time-Based Unvested Restricted Stock Units").

Performance-Based Vesting Component: 100% of the Restricted Stock Units will satisfy the performance-based vesting component on the effective date of the earlier of (1) a Change in Control or (ii) the effective date of the first registration statement that is filed by the Company and declared effective pursuant to Section 12(b) of the Exchange Act, with respect to any class of the Company's securities (each of (i) and (ii), a "Liquidity Event"), provided that the applicable Liquidity Event occurs within ten (10) years following the Date of Grant.

In the event Participant ceases to be a Service Provider for any or no reason before Participant vests in the Restricted Stock Units, the Time-Based Unvested Restricted Stock Units and Participant's right to acquire any Time-Based Unvested Restricted Stock Units hereunder will immediately terminate; provided, however, that in the event Participant ceases to be a Service Provider due to the Participant's resignation for Good Reason (as defined in the Executive Chairman Agreement between the Company and Scott Huennekens dated June 30, 2019, or the "Chairman Agreement") or the Company's termination of the Participant other than for Cause (as defined in the Chairman Agreement), death or Disability (as defined in the Chairman Agreement), and provided further the Participant executes a waiver and release agreement in a form reasonably satisfactory to the Company that becomes effective and irrevocable in its entirety within ninety (90) days after Participant ceases to be a Service Provider, then, for purposes of calculating the number of Time-Based Unvested Restricted Stock Units as of the date Participant ceases to be a Service Provider, the Participant will be treated as having provided services to the Company for an additional twelve (12) months following such date.

For the avoidance of doubt, Restricted Stock Units that are not Time-Based Unvested Restricted Stock Units as of the date Participant ceases to be a Service Provider will remain outstanding through the date of a Liquidity Event, provided such Liquidity Event occurs within ten (10) years following the Date of Grant.

All Restricted Stock Units will terminate unvested on the ten (10) year anniversary of the Date of Grant if a Liquidity Event has not occurred on or prior to such date.

II. AGREEMENT

1. Grant of Restricted Stock Units. The Company hereby grants to the Participant named in the Notice of Grant of Restricted Stock Units in Part I of this Award Agreement ("Participant") under the Plan an Award of Restricted Stock Units, subject to all of the terms and conditions in this Award Agreement and the Plan, which is incorporated herein by reference. Subject to Section 18(c) of the Plan, in the event of a conflict between the terms and conditions of the Plan and this Award Agreement, the terms and conditions of the Plan shall prevail.

2. Company's Obligation to Pay. Each Restricted Stock Unit represents the right to receive a Share on the date it vests. Unless and until the Restricted Stock Units will have vested in the manner set forth in Section 4, Participant will have no right to payment of any such Restricted Stock Units. Prior to actual payment of any vested Restricted Stock Units, such Restricted Stock Unit will represent an unsecured obligation of the Company, payable (if at all) only from the general assets of the Company.

3. Participant's Representations. In the event the Shares have not been registered under the Securities Act of 1933, as amended (the "Securities Act") at the time the Restricted Stock Units are paid to Participant, Participant shall, if required by the Company, concurrently with the receipt of all or any portion of this Restricted Stock Unit Award, deliver to the Company his or her Investment Representation Statement in the form attached hereto as Exhibit A.

4. Vesting Schedule. Except as provided in Section 6, and subject to Section 7, the Restricted Stock Units awarded by this Award Agreement will vest in accordance with the vesting schedule set forth in the Notice of Grant.

5. Lock-Up Period. Participant hereby agrees that Participant shall not offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend, or otherwise transfer or dispose of, directly or indirectly, any Common Stock (or other securities) of the Company or enter into any swap, hedging or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of any Common Stock (or other securities) of the Company held by Participant (other than those included in the registration) for a period specified by the representative of the underwriters of Common Stock (or other securities) of the Company not to exceed one hundred and eighty (180) days following the effective date of any registration statement of the Company filed under the Securities Act (or such other period as may be requested by the Company or the underwriters to accommodate regulatory restrictions on (i) the publication or other distribution of research reports and (ii) analyst recommendations and opinions, including, but not limited to, the restrictions contained in NASD Rule 2711(f)(4) or NYSE Rule 472(f)(4), or any successor provisions or amendments thereto).

Participant agrees to execute and deliver such other agreements as may be reasonably requested by the Company or the underwriter which are consistent with the foregoing or which 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, Participant 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 this Section 5 shall not apply to a registration relating solely to employee benefit plans on Form S-1 or Form S-S or similar forms that may be promulgated in the future, or a registration relating solely to a Commission Rule 145 transaction on Form S-4 or similar forms that may be promulgated in the future. The Company may impose stop-transfer instructions with respect to the shares of Common Stock (or other securities) subject to the foregoing restriction until the end of said one hundred and eighty (180) day (or other) period. Participant agrees that any transferee of the Restricted Stock Unit Award or Shares acquired pursuant to the Restricted Stock Unit Award shall be bound by this Section 5.

6. Payment after Vesting.

(a) General Rule. Subject to Section 10, any Restricted Stock Units that vest will be paid to Participant (or in the event of Participant's death, to his or her properly designated beneficiary or estate) in whole Shares. Subject to the provisions of Section 6(b), such vested Restricted Stock Units shall be paid in whole Shares as soon as practicable after vesting, but in each such case within the period ending no later than the

later of (i) the end of the calendar year that includes the vesting date or (ii) the fifteenth (15th) day of the third (3rd) month following the vesting date. In no event will Participant be permitted, directly or indirectly, to specify the taxable year of payment of any Restricted Stock Units payable under this Award Agreement.

(b) Acceleration.

(i) Discretionary Acceleration. Notwithstanding anything in the Plan, this Award Agreement, or any other plan or agreement to the contrary, if the Administrator, in its discretion, accelerates the vesting of the balance, or some lesser portion of the balance, of the unvested Restricted Stock Units, such Restricted Stock Units will be considered as having vested as of the date specified by the Administrator. Subject to the provisions of this Section 6, Section 7, and Section 10, the payment of such accelerated portion of the Restricted Stock Units shall be made as soon as practicable after the new vesting date, but, except as provided in this Award Agreement, in no event later than the later of (1) the end of the calendar year that includes the vesting date or (ii) the fifteenth (15th) day of the third (3rd) month following the applicable vesting date; provided, however, if the Award is "deferred compensation" within the meaning of Code Section 409A and the final Treasury Regulations and any official guidance promulgated thereunder ("Section 409A"), the payment of such accelerated portion of the Restricted Stock Units nevertheless shall be made at the same time or times as if such Restricted Stock Units had vested in accordance with the vesting schedule set forth in the Notice of Grant as if the acceleration had not been applied, including any necessary application of Section 6(b)(ii) (whether or not Participant remains employed by the Company or a Parent or Subsidiary of the Company as of such date(s)), unless an earlier payment date, in the judgment of the Administrator, would not cause Participant to incur an additional tax under Section 409A, in which case, payment of such accelerated Restricted Stock Units shall be made no later than the fifteenth (15th) day of the third (3rd) month (and in all cases within ninety (90) days) following the earliest permissible payment date that would not cause Participant to incur an additional tax under Section 409A (subject to Section 6(b)(ii)). Notwithstanding the foregoing, any delay in payment pursuant to this Section 6(b)(i) will cease upon Participant's death and such payment will be made as soon as practicable after the date of Participant's death (and in all cases within ninety (90) days following such death).

(ii) Separation from Service. Notwithstanding anything in the Plan, this Award Agreement, or any other plan or agreement to the contrary, if the vesting of the balance, or some lesser portion of the balance, of the Restricted Stock Units is accelerated in connection with Participant's termination as a Service Provider, such accelerated Restricted Stock Units will not be payable by virtue of such acceleration until and unless Participant has a "separation from service" within the meaning of Section 409A. Until Participant has a "separation from service," the payment of such accelerated portion of the Award will be made at the same time or times as if such Award had vested in accordance with the vesting schedule set forth in the Notice of Grant as if the acceleration had not been applied. Further, and notwithstanding anything in the Plan or this Award Agreement to the contrary, if any such accelerated Restricted Stock Units would otherwise become payable upon a "separation from service" within the meaning of

Section 409A, and if (x) Participant is a "specified employee" within the meaning of Section 409A at the time of such "separation from service" (other than due to Participant's death) and (y) the payment of such accelerated Restricted Stock Units will result in the imposition of additional tax under Section 409A if paid to Participant on or within the six (6) month period following Participant's "separation from service," then, to the extent necessary to avoid the imposition of such additional taxation, the payment of such accelerated Restricted Stock Units otherwise payable to Participant during such six (6) month period will accrue and will not be made until the date six (6) months and one (1) day following the date of Participant's "separation from service," unless Participant dies following his or her termination as a Service Provider, in which case, the Restricted Stock Units will be paid in Shares to Participant's estate as soon as practicable following his or her death (and in all cases within ninety (90) days of Participant's death).

(iii) Change in Control. Notwithstanding anything in the Plan, this Award Agreement, or any other plan or agreement to the contrary, if the vesting of all or a portion of the Restricted Stock Units accelerates (i) pursuant to Section 13(c) of the Plan in the event of a Change in Control that is not a "change in control" within the meaning of Section 409A or (ii) pursuant to any other plan, agreement, resolutions or arrangement that provides for acceleration in the event of a change in control that is not a "change in control" within the meaning of Section 409A, then the payment of such accelerated portion of the Restricted Stock Units will be made in accordance with the timing of payment rules that apply to discretionary accelerations under Section 6(b)(i) of this Award Agreement. If the vesting of all or a portion of the Restricted Stock Units accelerates in the event of a Change in Control that is a "change in control" within the meaning of Section 409A, then the payment of such accelerated Restricted Stock Units shall be paid no later than the date that is the fifteenth (15th) day of the third (3rd) month (and in all cases within ninety (90) days) following the vesting date.

(c) Section 409A. It is the intent of this Award Agreement to comply with the requirements of Section 409A so that none of the Restricted Stock Units provided under this Award Agreement or Shares issuable thereunder will be subject to the additional tax imposed under Section 409A, and any ambiguities herein will be interpreted to so comply. Each payment and benefit payable under this Award Agreement is intended to constitute separate payments for purposes of Treasury Regulation Section 1.409A-2(b)(2).

7. Forfeiture Upon Termination as a Service Provider or Ten Year Anniversary of Grant Date. Notwithstanding any contrary provision of this Award Agreement, (i) if Participant ceases to be a Service Provider for any or no reason, the then-Time-Based Unvested Restricted Stock Units awarded by this Award Agreement will thereupon be forfeited at no cost to the Company and Participant will have no further rights thereunder, or (ii) if no Liquidity Event occurs on or prior to the ten (10) year anniversary of the Date of Grant, all of the then-outstanding Restricted Stock Units awarded by this Award Agreement will thereupon be forfeited at no cost to the Company and Participant will have no further rights thereunder.

8. Tax Consequences. Participant has reviewed with its own tax advisors the U.S. federal, state, local and foreign tax consequences of this investment and the transactions contemplated by this Award Agreement. With respect to such matters, Participant relies solely on such advisors and not on any statements or representations of the Company or any of its agents, written or oral. Participant understands that Participant (and not the Company) shall be responsible for Participant's own tax liability that may arise as a result of this investment or the transactions contemplated by this Award Agreement.

9. Death of Participant. Any distribution or delivery to be made to Participant under this Award Agreement will, if Participant is then deceased, be made to Participant's designated beneficiary, or if no beneficiary survives Participant, the administrator or executor of Participant's estate. Any such transferee must furnish the Company with (a) written notice of his or her status as transferee, and (b) evidence satisfactory to the Company to establish the validity of the transfer and compliance with any laws or regulations pertaining to said transfer.

10. Tax Withholding. Pursuant to such procedures as the Administrator may specify from time to time, the Company shall withhold the amount required to be withheld for the payment of income, employment and other taxes which the Company determines must be withheld (the "Tax Withholding"). The Administrator, in its sole discretion and pursuant to such procedures as it may specify from time to time, may permit Participant to satisfy such Tax Withholding, in whole or in part (without limitation) by (a) paying cash, (b) electing to have the Company withhold otherwise deliverable Shares having a fair market value equal to the amount of such Tax Withholding (or such greater amount up to the maximum statutory rate applicable to the Participant if permitted by the Administrator and provided such greater amount would not result in adverse financial accounting consequences to the Company as determined by the Administrator), (c) delivering to the Company already vested and owned Shares having a fair market value equal to such Tax Withholding (or such greater amount up to the maximum statutory rate applicable to the Participant if permitted by the Administrator and provided such greater amount would not result in adverse financial accounting consequences to the Company as determined by the Administrator), (d) selling a sufficient number of such Shares otherwise deliverable to Participant through such means as the Company may determine in its sole discretion (whether through a broker or otherwise) equal to the amount of the Tax Withholding. To the extent determined appropriate by the Company in its discretion, it shall have the right (but not the obligation) to satisfy any tax withholding obligations by reducing the number of Shares otherwise deliverable to Participant (or such greater amount up to the maximum statutory rate applicable to the Participant if permitted by the Administrator and provided such greater amount would not result in adverse financial accounting consequences to the Company as determined by the Administrator), or (e) such other means as the Administrator deems appropriate. If Participant fails to make satisfactory arrangements for the payment of such Tax Withholding hereunder at the time any applicable Restricted Stock Units otherwise are scheduled to vest pursuant to Sections 4 or 6, Participant will permanently forfeit such Restricted Stock Units and any right to receive Shares thereunder and the Restricted Stock Units will be returned to the Company at no cost to the Company. Participant acknowledges and agrees that the Company may refuse to deliver the Shares if such Tax Withholding is not delivered at the time they are due.

11. Rights as Stockholder. Neither Participant nor any person claiming under or through Participant will have any of the rights or privileges of a stockholder of the Company in respect of any Shares deliverable hereunder unless and until certificates representing such Shares will have been issued, recorded on the records of the Company or its transfer agents or registrars, and delivered to Participant. After such issuance, recordation and delivery, Participant will have all the rights of a stockholder of the Company with respect to voting such Shares and receipt of dividends and distributions on such Shares.

12. No Guarantee of Continued Service. PARTICIPANT ACKNOWLEDGES AND AGREES THAT THE VESTING OF THE RESTRICTED STOCK UNITS PURSUANT TO THE VESTING SCHEDULE HEREOF IS EARNED ONLY BY CONTINUING AS A SERVICE PROVIDER AT THE WILL OF THE COMPANY (OR THE PARENT OR SUBSIDIARY EMPLOYING OR RETAINING PARTICIPANT) AND NOT THROUGH THE ACT OF BEING HIRED, BEING GRANTED THIS RESTRICTED STOCK UNIT AWARD OR ACQUIRING SHARES HEREUNDER. PARTICIPANT FURTHER ACKNOWLEDGES AND AGREES THAT THIS AGREEMENT, THE TRANSACTIONS CONTEMPLATED HEREUNDER AND THE VESTING SCHEDULE SET FORTH HEREIN DO NOT CONSTITUTE AN EXPRESS OR IMPLIED PROMISE OF CONTINUED ENGAGEMENT AS A SERVICE PROVIDER FOR THE VESTING PERIOD, FOR ANY PERIOD, OR AT ALL, AND SHALL NOT INTERFERE IN ANY WAY WITH PARTICIPANT'S RIGHT OR THE RIGHT OF THE COMPANY (OR THE PARENT OR SUBSIDIARY EMPLOYING OR RETAINING PARTICIPANT) TO TERMINATE PARTICIPANT'S RELATIONSHIP AS A SERVICE PROVIDER AT ANY TIME, WITH OR WITHOUT CAUSE.

13. Grant is Not Transferable. Except to the limited extent provided in Section 9, this grant and the rights and privileges conferred hereby will not be transferred, assigned, pledged or hypothecated in any way (whether by operation of law or otherwise) and will not be subject to sale under execution, attachment or similar process. Upon any attempt to transfer, assign, pledge, hypothecate or otherwise dispose of this grant, or any right or privilege conferred hereby, or upon any attempted sale under any execution, attachment or similar process, this grant and the rights and privileges conferred hereby immediately will become null and void.

14. Company's Right of First Refusal. Subject to Section 13, any Shares held by Participant or any transferee (either being sometimes referred to herein as the "Holder") may be sold or otherwise transferred (including transfer by gift or operation of law), the Company or its assignee(s) shall have a right of first refusal to purchase the Shares on the terms and conditions set forth in this Section 14 (the "Right of First Refusal").

(a) Notice of Proposed Transfer. The Holder of the Shares shall deliver to the Company a written notice (the "Notice") stating: (i) the Holder's bona fide intention to sell or otherwise transfer such Shares; (ii) the name of each proposed purchaser or other transferee ("Proposed Transferee"); (iii) the number of Shares to be transferred to each Proposed Transferee; and (iv) the bona fide cash price or other consideration for which the Holder proposes to transfer the Shares (the "Offered Price"), and the Holder shall offer the Shares at the Offered Price to the Company or its assignee(s).

(b) Exercise of Right of First Refusal. At any time within thirty (30) days after receipt of the Notice, the Company and/or its assignee(s) may, by giving written notice to the Holder, elect to purchase all, but not less than all, of the Shares proposed to be transferred to any one or more of the Proposed Transferees, at the purchase price determined in accordance with subsection (c) below.

(c) Purchase Price. The purchase price ("Right of First Refusal Price") for the Shares purchased by the Company or its assignee(s) under this Section 14 shall be the Offered Price. If the Offered Price includes consideration other than cash, the cash equivalent value of the non-cash consideration shall be determined by the Board in good faith.

(d) Payment. Payment of the Right of First Refusal Price shall be made, at the option of the Company or its assignee(s), in cash (by check), by cancellation of all or a portion of any outstanding indebtedness of the Holder to the Company (or, in the case of repurchase by an assignee, to the assignee), or by any combination thereof within thirty (30) days after receipt of the Notice or in the manner and at the times set forth in the Notice.

(e) Holder's Right to Transfer. If all of the Shares proposed in the Notice to be transferred to a given Proposed Transferee are not purchased by the Company and/or its assignee(s) as provided in this Section 14, then the Holder may sell or otherwise transfer such Shares to that Proposed Transferee at the Offered Price or at a higher price, *provided* that such sale or other transfer is consummated within one hundred and twenty (120) days after the date of the Notice, that any such sale or other transfer is effected in accordance with any applicable securities laws and that the Proposed Transferee agrees in writing that the provisions of this Section 14 shall continue to apply to the Shares in the hands of such Proposed Transferee. If the Shares described in the Notice are not transferred to the Proposed Transferee within such period, a new Notice shall be given to the Company, and the Company and/or its assignees shall again be offered the Right of First Refusal before any Shares held by the Holder may be sold or otherwise transferred.

(f) Exception for Certain Family Transfers. Anything to the contrary contained in this Section 14 notwithstanding, the transfer of any or all of the Shares during the Participant's lifetime or on the Participant's death by will or intestacy to the Participant's immediate family or a trust for the benefit of the Participant's immediate family shall be exempt from the provisions of this Section 14. "Immediate Family" as

used herein shall mean spouse, lineal descendant or antecedent, father, mother, brother or sister. In such case, the transferee or other recipient shall receive and hold the Shares so transferred subject to the provisions of this Section 14, and there shall be no further transfer of such Shares except in accordance with the terms of this Section 14.

(g) Termination of Right of First Refusal. The Right of First Refusal shall terminate as to any Shares upon the earlier of (1) the first sale of Common Stock of the Company to the general public, or (ii) a Change in Control in which the successor corporation has equity securities that are publicly traded.

15. Restrictive Legends and Stop-Transfer Orders.

(a) Legends. Participant understands and agrees that the Company shall cause the legends set forth below or legends substantially equivalent thereto, to be placed upon any certificate(s) evidencing ownership of the Shares together with any other legends that may be required by the Company or by state or federal 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, PLEDGED OR HYPOTHECATED UNLESS AND UNTIL REGISTERED UNDER THE ACT OR, IN THE OPINION OF COUNSEL SATISFACTORY TO THE ISSUER OF THESE SECURITIES, SUCH OFFER, SALE OR TRANSFER, PLEDGE OR HYPOTHECATION IS IN COMPLIANCE THEREWITH.

THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO CERTAIN RESTRICTIONS ON TRANSFER AND A RIGHT OF FIRST REFUSAL HELD BY THE ISSUER OR ITS ASSIGNEE(S) AS SET FORTH IN THE RESTRICTED STOCK UNIT AWARD AGREEMENT BETWEEN THE ISSUER AND THE ORIGINAL HOLDER OF THESE SHARES, A COPY OF WHICH MAY BE OBTAINED AT THE PRINCIPAL OFFICE OF THE ISSUER. SUCH TRANSFER RESTRICTIONS AND RIGHT OF FIRST REFUSAL ARE BINDING ON TRANSFEREES OF THESE SHARES.

THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO RESTRICTIONS ON TRANSFER FOR A PERIOD OF TIME FOLLOWING THE EFFECTIVE DATE OF THE UNDERWRITTEN PUBLIC OFFERING OF THE COMPANY'S SECURITIES SET FORTH IN AN AGREEMENT BETWEEN THE ISSUER AND THE ORIGINAL HOLDER OF THESE SHARES AND MAY NOT BE SOLD OR OTHERWISE DISPOSED OF BY THE HOLDER PRIOR TO THE EXPIRATION OF SUCH PERIOD WITHOUT THE CONSENT OF THE COMPANY OR THE MANAGING UNDERWRITER.

(b) Stop-Transfer Notices. Participant agrees that, in order to ensure compliance with the restrictions referred to herein, the Company may issue appropriate "stop transfer" instructions to its transfer agent, if any, and that, if the Company transfers its own securities, it may make appropriate notations to the same effect in its own records.

(c) Refusal to Transfer. The Company shall not be required (i) to transfer on its books any Shares that have been sold or otherwise transferred in violation of any of the provisions of this Award Agreement or (ii) to treat as owner of such Shares or to accord the right to vote or pay dividends to any purchaser or other transferee to whom such Shares shall have been so transferred.

16. Address for Notices. Any notice to be given to the Company under the terms of this Award Agreement will be addressed to the Company at Acutus Medical, Inc., 2210 Faraday Avenue, Suite 100, Carlsbad CA 92008, or at such other address as the Company may hereafter designate in writing.

17. Electronic Delivery. The Company may, in its sole discretion, decide to deliver any documents related to the Restricted Stock Units awarded under the Plan or future Restricted Stock Units that may be awarded under the Plan by electronic means or request Participant's consent to participate in the Plan by electronic means. Participant hereby consents to receive such documents by electronic delivery and agrees to participate in the Plan through any on-line or electronic system established and maintained by the Company or another third party designated by the Company..

18. No Waiver. Either party's failure to enforce any provision or provisions of this Agreement shall not in any way be construed as a waiver of any such provision or provisions, nor prevent that party from thereafter enforcing each and every other provision of this Agreement. The rights granted both parties herein are cumulative and shall not constitute a waiver of either party's right to assert all other legal remedies available to it under the circumstances.

19. Successors and Assigns. The Company may assign any of its rights under this Agreement to single or multiple assignees, and this Agreement shall inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on transfer herein set forth, this Agreement shall be binding upon Participant and his or her heirs, executors, administrators, successors and assigns. The rights and obligations of Participant under this Agreement may only be assigned with the prior written consent of the Company.

20. Additional Conditions to Issuance of Stock. If at any time the Company will determine, in its discretion, that the listing, registration or qualification of the Shares upon any securities exchange or under any state or federal law, or the consent or approval of any governmental regulatory authority is necessary or desirable as a condition to the issuance of Shares to Participant (or his or her estate), such issuance will not occur unless and until such listing, registration, qualification, consent or approval will have been effected or obtained free of any conditions not acceptable to the Company. Where the Company determines that the delivery of the payment of any Shares will violate federal

securities laws or other applicable laws, the Company will defer delivery until the earliest date at which the Company reasonably anticipates that the delivery of Shares will no longer cause such violation. The Company will make all reasonable efforts to meet the requirements of any such state or federal law or securities exchange and to obtain any such consent or approval of any such governmental authority.

21. Interpretation. The Administrator will have the power to interpret the Plan and this Award Agreement and to adopt such rules for the administration, interpretation and application of the Plan as are consistent therewith and to interpret or revoke any such rules (including, but not limited to, the determination of whether or not any Restricted Stock Units have vested). All actions taken and all interpretations and determinations made by the Administrator in good faith will be final and binding upon Participant, the Company and all other interested persons, Neither the Administrator nor any person acting on behalf of the Administrator will be personally liable for any action, determination or interpretation made in good faith with respect to the Plan or this Award Agreement.

22. Modifications to the Agreement. This Award Agreement constitutes the entire understanding of the parties on the subjects covered. Participant expressly warrants that he or she is not accepting this Award Agreement in reliance on any promises, representations, or inducements other than those contained herein. Modifications to this Award Agreement or the Plan can be made only in an express written contract executed by a duly authorized officer of the Company. Notwithstanding anything to the contrary in the Plan or this Award Agreement, the Company reserves the right to revise this Award Agreement as it deems necessary or advisable, in its sole discretion and without the consent of Participant, to comply with Section 409A or to otherwise avoid imposition of any additional tax or income recognition under Section 409A in connection to this Award of Restricted Stock Units.

23. Governing Law: Severability. This Award Agreement is governed by the internal substantive laws, but not the choice of law rules, of California. In the event that any provision hereof becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Award Agreement shall continue in Rill force and effect.

24. Entire Agreement. The Plan is incorporated herein by reference. The Plan and this Award Agreement (including the exhibits referenced herein) constitute the entire agreement of the parties with respect to the subject matter hereof and supersede in their entirety all prior undertakings and agreements of the Company and Participant with respect to the subject matter hereof, and may not be modified adversely to the Participant’s interest except by means of a writing signed by the Company and Participant.

Participant acknowledges receipt of a copy of the Plan and represents that he or she is familiar with the terms and provisions thereof, and hereby accepts this Award Agreement subject to all of the terms and provisions thereof. Participant has reviewed the Plan and this Award Agreement in their entirety, has had an opportunity to obtain the

advice of counsel prior to executing this Award Agreement and fully understands all provisions of this Award Agreement. Participant hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Administrator upon any questions arising under the Plan or this Award Agreement, Participant further agrees to notify the Company upon any change in the residence address indicated below.

PARTICIPANT:

SCOTT HUENNEKENS

/s/ Scott Heunnekens
Signature

Scott Heunnekens
Print Name

Address:
[ ]
[ ]

ACUTUS MEDICAL, INC.

/s/ Vince Burgess
Signature

Burgess, Vince
Print Name

President & CEO
Title

EXHIBIT A

Exhibit 10.19

EMPLOYMENT AGREEMENT

This **EMPLOYMENT AGREEMENT** (this "***Agreement***") is made by and amongst **ACUTUS MEDICAL, INC**. (the "***Company***"), having its principal offices at 2210 Faraday Ave., Suite 100 Carlsbad, CA 92008, and Vincent J. Burgess (the "***Executive***"), effective as of October 14, 2019 (the "***Effective Date***").

WHEREAS, the Company desires to employ the Executive in the position of President and Chief Executive Officer of the Company; and

WHEREAS, the Executive desires to be employed by the Company as its President and Chief Executive Officer.

NOW THEREFORE, in consideration of the premises and the mutual covenants herein contained, the Company and the Executive hereby agree as follows:

1. Definitions. For purposes of this Agreement, the following terms shall have thee meanings set forth below:

(a) "***Annual Base Salary***" shall mean the Executive's rate of regular base annual compensation prior to any reduction under (i) a salary reduction agreement pursuant to Section 401(k) or Section 125 of the Code or (ii) any plan or arrangement deferring any base salary.

(b) "***Board***" shall mean the Board of Directors of the Company.

(c) "***Cause***" shall mean any of the following: (i) Executive's willful and continued failure to perform his lawful and reasonably assigned employment dutie; (ii) the Executive's engaging in any act of dishonesty, fraud, misrepresentation, embezzlement or other acts that are or would reasonably be expected to be injurious in a material respect to the Company; (iii) the Executive's violation of any material federal or state law or regulation applicable to the business of the Company or its affiliates; (iv) the Executive's breach of any confidentiality agreement or invention assignment agreement between the Executive and the Company (or any affiliate of the Company); (v) the Executive's being convicted of, or entering a plea of *nolo contendere* to, any crime constituting a felony or committing any act of moral turpitude; (vi) the Executive's continuing gross negligence or gross misconduct after notice thereof from the Company describing the applicable conduct; or (vii) the Executive's breach of any material term of any employment agreement between the Executive and the Company. Notwithstanding anything herein to the contrary, no termination of Executive's employment by the Company shall be "for Cause" unless (A) the Company provides Executive with advance written notice setting forth the factual basis for the Board's belief that Executive's actions (or failure to act) constitutes "Cause,'' (B) Executive is provided an opportunity to address the Board in person (with legal counsel if requested) regarding such notice and (C) Executive has failed to cure such actions (or failure to act) within ten (10) business days after his receipt of such notice.

(d) "***Change in Control***" shall have the meaning ascribed to it in the Company's 2011 Equity Incentive Plan, as it may be amended from time to time.

(e) "***Change in Control Period***" shall mean the period commencing ninety (90) days prior to the effective date of a Change in Control and ending twelve (12) months following the effective date a Change in Control.

(f) "***COBRA***" shall mean the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, as well as any state law of similar effect.

(g) "***Code***" shall mean the Internal Revenue Code of 1986, as amended, and, as applicable, Treasury Regulations promulgated thereunder.

(h) "***Confidential Information Agreement***" shall mean the At-Will Employment, Confidential Information, Invention Assignment and Arbitration Agreement that the Executive has entered or is required to enter into with the Company in connection with the Executive's employment with the Company.

(i) "***Date of Termination***" shall mean the date of the termination of the Executive's employment.

(j) "***Disability***" shall mean the Executive's disability within the meaning of Treasury Regulation Section 1.409A-3(i)(4)(i).

(k) "***Good Reason***" shall mean the Executive's resignation within thirty (30) days following the expiration of any Company cure period (discussed below) following the occurrence of one or more of the following, without the Executive's consent: (i) a material reduction of the Executive's authority, duties or responsibilities, including, for the avoidance of doubt, a material reduction in duties, position or responsibilities by virtue of the Company being acquired and made part of a larger entity in which Executive does not retain Executive's position of President and Chief Executive Officer of the Company or the business unit or units of the larger entity corresponding to or associated with the Company; provided, however, that a reduction in duties, position or responsibilities solely by virtue of the Company being acquired and made part of a larger entity (as, for example, when the Chief Executive Officer of the Company remains as such following a Change of Control but is not made the Chief Executive Officer of the acquiring corporation) will not constitute "***Good Reason***"; (ii) a reduction of more than ten percent (10%) by the Company (or its successor) in the Executive's base cash compensation as in effect immediately prior to such reduction, unless the Company also similarly reduces the base cash compensation of all other similarly situated service providers of the Company; (iii) a material change in the geographic location of the Executive's primary work facility or location; provided, that a relocation of less than fifty (50) miles from the Executive's then-present location will not be considered a material change in geographic location; or (iv) a breach of any material obligation of the Company (or, for the avoidance of doubt, any successor corporation) under this Agreement, including, but not limited to, Executive's ability to continue Executive's current status as a venture partner at OrbiMed Advisors LLC until the Company becomes a publicly-

traded company pursuant to Section 3(a) of this Agreement. The Executive may not resign for Good Reason without first providing the Company with written notice of the acts or omissions constituting the grounds for "***Good Reason***" within ninety (90) days of the initial existence of the grounds for "***Good Reason***" and a reasonable cure period of thirty (30) days following the date the Company receives such notice during which such condition must not have been cured.

(l) "***Qualifying Termination***" shall mean the Company's termination of the Executive's employment other than for Cause, death, or Disability or the Executive's resignation for Good Reason.

(m) "***Release***" shall mean a general release of the Executive of any claims related to or arising from Executive's service with or separation from the Company (which may include an agreement not to disparage the Company, non-solicit provisions and other standard terms and conditions) in a form reasonably satisfactory to the Company. The Release must be signed by the Executive and become irrevocable and effective in accordance with its terms not later than sixty (60) days following the Date of Termination.

(n) "***Severance Commencement Date***" shall mean the date on or following the Date of Termination and on which the Release becomes effective and irrevocable in accordance with its terms; provided, however, that if the Date of Termination occurs within sixty (60) days prior to the end of a calendar year, the Severance Commencement Date will be the later of (i) the date on which the Release becomes effective and irrevocable in accordance with its terms, or (ii) the first day of the calendar year immediately following the Date of Termination.

2. Term of this Agreement. The term of this Agreement, as amended, shall commence upon the date of this Agreement set forth above and shall continue until terminated in accordance with Section 5 (the "***Term***").

3. Duties; Scope of Employment; Compensation and Benefits.

(a) Position and Duties. The Company shall employ the Executive in the position of President and Chief Executive Officer of the Company. During the Term, subject to the following sentence, the Executive will devote substantially all of the Executive's business efforts and time to the Company, will, prior to a Change in Control, report to the Board and shall have the duties and authority customarily associated with the position of President and Chief Executive Officer. The Executive agrees not to actively engage in any other employment, occupation or consulting activity for any direct or indirect remuneration without the prior approval of the Board; provided that it is expressly understood and agreed that to the extent that any activity has been conducted by the Executive prior to the Effective Date (including, but not limited to, Executive's current status as a venture partner at OrbiMed Advisors LLC, until the Company becomes a publicly-traded company, if such event occurs), the continued conduct of such activity (or the conduct of an activity similar in nature and scope thereto) during the Term has been determined by the Board not to interfere with the performance of the

Executive's duties and responsibilities to the Company and therefore is not a violation of this Agreement. During the Term, the Executive shall be nominated to serve as a member of the Board.

(b) Annual Base Salary. The Executive's Annual Base Salary shall equal $400,000. The Annual Base Salary amount shall be subject to review and may be adjusted based upon the Company' s normal performance review practices. The Annual Base Salary will be paid periodically in accordance with the Company's normal payroll practices and be subject to the usual, required withholdings.

(c) Bonus. The Executive's annual target bonus opportunity shall be 50% of the Executive's Annual Base Salary (the "***Target Bonus***"). The Target Bonus amount shall be subject to review and may be adjusted based upon the Company's normal performance review practices. The Executive's actual annual bonus earned shall be determined based on the Executive's performance and achievement of target objectives and such other terms to be determined by the Board in its sole discretion. Any such annual bonus that is earned will be paid, less applicable withholdings, no later than the payroll period after the Board determines that such annual bonus has been earned, but in no event shall such earned annual bonus be paid after the later of (i) the fifteenth (15th) day of the third (3rd) month following the close of the Company's fiscal year in which the annual bonus is earned or (ii) March 15 following the calendar year in which the annual bonus is earned.

(d) Employee Benefits. During the Term, the Executive and the Executive's dependents, if applicable, shall be eligible to participate in the employee benefit plans and programs currently and hereafter sponsored by the Company on the same terms and conditions generally applicable to similarly situated executives of the Company. The Company reserves the right to cancel or change the employee benefit plans and programs it offers to its employees at any time.

(e) Equity Plans.

(i) The Executive shall be eligible to participate in any stock option, restricted stock, stock appreciation rights, or any other equity compensation plan or program sponsored by the Company or its affiliates on the terms and conditions determined by the Board in its sole discretion.

(ii) Not later than thirty (30) days following the Effective Date, the Executive will be granted a stock option (the "***Initial Award***") to purchase 3,990,686 shares of common stock of the Company (the "***Shares***") at an exercise price per Share equal to the fair market value of one Share as of the grant date of the Initial Award, as determined by the Board in its sole discretion. Subject to the accelerated vesting provisions set forth herein, the Initial Award will vest in equal monthly installments over the next forty-eight (48) months of Executive's continuous service, as further described in the applicable option agreement. At Executive's discretion, the Initial Award may be "early exercised" for restricted Shares which will become vested in accordance with the vesting schedule set forth in this Section 3(e)(i). Upon Executive's request, which the

Executive may make in his discretion, the Company shall loan Executive an amount equal to the aggregate per share exercise price payable by the Executive in connection with any exercise by the Executive of the Initial Award, in accordance with loan documents to be mutually agreeable to Executive and the Company. In all other respects, except as otherwise provided in this Agreement the Initial Award shall be subject to the terms, definitions and provisions of the Company's equity compensation plan and the form of option agreement thereunder.

(f) Expenses. The Executive shall be entitled to receive prompt reimbursement for all reasonable expenses incurred by the Executive in the furtherance of or in connection with the performance of Executive's duties hereunder, in accordance with the applicable policy of the Company, as in effect from time to time.

(g) Paid Time Off. The Executive shall be entitled to paid time off in accordance with the Company's paid time off policy, as in effect from time to time.

4. At-Will Employment. The patties agree that the Executive's employment with the Company will be "at-will" employment and may be terminated at any time with or without cause or notice. The Executive understands and agrees that neither his job performance nor promotions, commendations, bonuses, or the like from the Company give rise to or in any way serve as the basis for modification, amendment, or extension, by implication or otherwise, of his employment with the Company. However, as described in this Agreement, the Executive may be entitled to severance benefits depending on the circumstances of the termination of the Executive's employment with the Company.

5. Termination. The Term and the Executive's employment shall terminate upon the occurrence of any of the following events:

(a) Qualifying Termination Outside of the Change in Control Period.

(i) The Company may remove the Executive at any time, with or without Cause, from the position in which the Executive is employed hereunder, with or without notice.

(ii) Upon a Qualifying Termination outside of the Change in Control Period, the Executive shall be entitled to receive, subject to the effectiveness and irrevocability of the Release, the following severance benefits, subject to standard deductions and withholdings:

(1) The Executive shall receive cash severance equal to 100% of the Annual Base Salary in effect immediately prior to the Date of Termination (or if the Qualifying Termination is due to a resignation for Good Reason based on a material reduction in base cash compensation, then the Executive's Annual Base Salary in effect immediately prior to such reduction). Subject to any delay in payment required by Section 5(d), the Company will pay such cash severance, in substantially equal installments on the Company's regular payroll schedule over the twelve (12)-month

period immediately following the Date of Termination. However, no payments of such cash severance will be made prior to the Severance Commencement Date. On the first payroll pay day on or following the Severance Commencement Date, the Company will pay the Executive in a lump sum the cash severance the Executive would otherwise have received on or prior to such date but for the delay in payment related to the effectiveness and irrevocability of the Release, with the balance of the cash severance being paid as originally scheduled;

(2) the Executive shall receive a lump-sum payment equal to (A) the Target Bonus that the Executive would have earned for the fiscal year in which the Executive's Qualifying Termination occurs had the Executive remained employed with the Company through the date the Executive was required to continue employment with the Company in order to be eligible to receive such bonus multiplied by (B) the fraction obtained by dividing (x) the number of days the Executive has worked during such fiscal year by (y) the total number of days in such fiscal year, which will be paid at the same time as other similarly situated employees of the Company receive bonus payments for the fiscal year but in no event later than March 15 of the year following the year of the Qualifying Termination, subject to any delay in payment required by Section 5(d); and

(3) If the Executive timely elects continuation health care coverage pursuant to COBRA for himself and/or his eligible dependents, the Company will reimburse the Executive for the applicable COBRA premiums for such coverage for up to twelve (12) months, or such earlier time as the Executive ceases to be eligible for such continuation coverage; provided, however, that if the Company determines in its sole discretion that it cannot make the COBRA reimbursements without potentially violating applicable law (including, without limitation, Section 2716 of the Public Health Service Act), the Company will in lieu thereof provide to Executive a taxable monthly payment, payable on the last day of a given month, in an amount equal to the monthly COBRA premium that the Executive would be required to pay to continue the Executive's group health coverage in effect on the termination of employment date (which amount will be based on the premium for the first month of COBRA continuation coverage), which payments will be made regardless of whether the Executive elects COBRA continuation coverage and will commence on the month following the Executive's termination of employment and will end on the earlier of (x) the date upon which the Executive obtains other employment or (y) the date the Company has paid an amount equal to twelve (12) monthly payments. For the avoidance of doubt, the taxable payments in lieu of COBRA reimbursements may be used for any purpose, including, but not limited to continuation coverage under COBRA, and will be subject to all applicable tax withholding.

(b) Qualifying Termination During the Change in Control Period. Upon a Qualifying Termination during the Change in Control Period, then subject to the Executive's timely provision of an effective and irrevocable Release, and effective as of the later of the Severance Commencement Date or the effective date of the Change in Control, the Executive will be entitled to receive the following severance benefits, subject to standard deductions and withholdings:

(i) the Executive shall receive cash severance equal to 150% of the sum of the Annual Base Salary and the Target Bonus, each as in effect immediately prior to the Date of Termination (or if the Qualifying Termination is due to a resignation for Good Reason based on a material reduction in base cash compensation, then the Executive's Annual Base Salary or Target Bonus in effect immediately prior to such reduction, as applicable). Subject to any delay in payment required by Section 5(d), such cash severance will be paid in a single lump sum on the first regular payroll pay day on or following the Severance Commencement Date;

(ii) the Executive shall receive a lump-sum payment equal to (A) the Target Bonus that the Executive would have earned for the fiscal year in which the Executive's Qualifying Termination occurs had the Executive remained employed with the Company through the date the Executive was required to continue employment with the Company in order to be eligible to receive such bonus multiplied by (B) the fraction obtained by dividing (x) the number of days the Executive has worked during such fiscal year by (y) the total number of days in such fiscal year, which will be paid at the same time as other similarly situated employees of the Company receive bonus payments for the fiscal year but in no event later than March 15 of the year following the year of the Qualifying Termination, subject to any delay in payment required by Section 5(d);

(iii) if the Executive timely elects continuation health care coverage pursuant to COBRA for himself and/or his eligible dependents, the Company will reimburse the Executive for the applicable COBRA premiums for such coverage for up to eighteen (18) months, or such earlier time as the Executive ceases to be eligible for such continuation coverage; provided, however, that if the Company determines in its sole discretion that it cannot make the COBRA reimbursements without potentially violating applicable law (including, without limitation, Section 2716 of the Public Health Service Act), the Company will in lieu thereof provide to Executive a taxable monthly payment, payable on the last day of a given month, in an amount equal to the monthly COBRA premium that the Executive would be required to pay to continue the Executive's group health coverage in effect on the termination of employment date (which amount will be based on the premium for the first month of COBRA continuation coverage), which payments will be made regardless of whether the Executive elects COBRA continuation coverage and will commence on the month following the Executive's termination of employment and will end on the earlier of (x) the date upon which the Executive obtains other employment or (y) the date the Company has paid an amount equal to eighteen (18) monthly payments. For the avoidance of doubt, the taxable payments in lieu of COBRA reimbursements may be used for any purpose, including, but not limited to continuation coverage under COBRA, and will be subject to all applicable tax withholding; and

(iv) the Executive's equity awards will accelerate vesting in full. For purposes of determining the number of shares that will vest pursuant to the foregoing provision with respect to any performance-based vesting equity award, the applicable performance criteria shall be deemed to have been attained at a 100% level.

(c) Termination for Cause or Due to Death or Disability; Voluntary Resignation Without Good Reason. In the event that the Executive voluntarily terminates his employment for any reason other than Good Reason or in the event that Company terminates the Executive's employment for Cause or due to the Executive' death or Disability, no further payments shall be due under this Agreement, except that the Executive shall be entitled to any amounts earned, accrued or owing but not yet paid under Section 3 above, and any benefits accrued or earned under the Company's benefit plans and programs or to which the Executive is otherwise entitled under applicable law.

(d) Compliance with Section 409A of the Code.

(i) Notwithstanding anything to the contrary in this Agreement, no severance pay or benefits to be paid or provided to the Executive, if any, pursuant to this Agreement that, when considered together with any other severance payments or separation benefits, are considered deferred compensation under Code Section 409A, and the final regulations and any guidance promulgated thereunder ("***Section 409A***") (together, the "***Deferred Payments***") will be paid or otherwise provided until the Executive has a "separation from service" within the meaning of Section 409A. Similarly, no severance payable to the Executive, if any, pursuant to this Agreement that otherwise would be exempt from Section 409A pursuant to Treasury Regulation Section l.409A-l(b)(9) will be payable until the Executive has a "separation from service" within the meaning of Section 409A.

(ii) Any severance payments or benefits under this Agreement that would be considered Deferred Payments will be paid on, or, in the case of installments, will not commence until, the sixtieth (60th) day following the Executive's separation from service, or, if later, such time as required by Section 5(d)(iv). Except as required by Section 5(d)(iv), any installment payments that would have been made to the Executive during the sixty (60) day period immediately following the Executive's separation from service but for the preceding sentence will be paid to the Executive on the sixtieth (60th) day following the Executive's separation from service and the remaining payments shall be made as provided in this Agreement.

(iii) It is intended that each installment of the payments provided for in this Section 5 is a separate "payment" for purposes of Treasury Regulations Section 1.409A-2(b)(2)(i). For the avoidance of doubt, it is intended that payments of the amounts set forth in this Section 5 satisfy, to the greatest extent possible, the exemptions from the application of Section 409A provided under Treasury Regulation 1.409A-1(b)(4) and l.409A-l(b)(9)(iii), and any amounts paid under this Agreement that qualify under either of such exemptions will not constitute Deferred Payments for purposes of clause (i) above.

(iv) Any provision of this Agreement to the contrary notwithstanding, if: at the time of the Executive's Date of Termination, the Executive is a "specified employee," within the meaning of Section 409A of the Code, then to the extent any payment or benefit that the Executive becomes entitled to under this Agreement on account of his separation from service would be considered nonqualified deferred

compensation under Section 409A of the Code, such payment or benefit shall be paid or provided at the date which is the earlier of (i) six (6) months and one day after the Date of Termination and (ii) the date of the Executive's death (the "***Delay Period***"). Upon the expiration of the Delay Period, all payments and benefits delayed pursuant to this Section 5(d) (whether they would have otherwise been payable in a single sum or in installments in the absence of such delay) shall be paid or provided to the Executive in a lump-sum, and any remaining payments and benefits due under this Agreement shall be paid or provided in accordance with the normal payment dates specified for them herein.

(v) Any reimbursements provided under this Agreement that constitute deferred compensation within the meaning of Section 409A of the Code shall be made or provided in accordance with the requirements of Section 409A of the Code, including, without limitation, that (i) in no event shall any fees, expenses or other amounts eligible to be reimbursed by the Company under this Agreement be paid later than the last day of the calendar year next following the calendar year in which the applicable fees, expenses or other amounts were incurred; (ii) the amount of expenses eligible for reimbursement in any given calendar year shall not affect the expenses that the Company is obligated to reimburse in any other calendar year, provided that the foregoing clause (ii) shall not be violated with regard to expenses reimbursed under any arrangement covered by Code Section 105(b) solely because such expenses are subject to a limit related to the period the arrangement is in effect; (iii) the Executive's right to have the Company pay or provide such reimbursements may not be liquidated or exchanged for any other benefit; and (iv) in no event shall the Company's obligations to make such reimbursements apply later than the Executive's remaining lifetime.

(vi) The foregoing provisions are intended to comply with the requirements of Section 409A so that none of the severance payments and benefits to be provided hereunder will be subject to the additional tax imposed under Section 409A, and any ambiguities herein will be interpreted to so comply. The Company and the Executive agree to work together in good faith to consider amendments to this Agreement and to take such reasonable actions which are necessary, appropriate or desirable to avoid imposition of any additional tax or income recognition prior to actual payment to the Executive under Section 409A.

(e) Non-Duplication of Payment or Benefits. If (i) a Qualifying Termination occurs prior to a Change in Control that qualifies the Executive for severance payments and benefits under Section 5(a) and (ii) a Change in Control occurs within the ninety (90) day period following the Qualifying Termination that qualifies Executive for severance payments and benefits under Section 5(b), then (A) the Executive will cease receiving any further payments or benefits under Section 5(a) and (B) the Executive will receive the payments and benefits under Section 5(b) instead but each of the payments and benefits otherwise payable under Section 5(b) will be offset by the corresponding payments or benefits the Executive already received under Section 5(a).

6. Confidential Information. The Executive agrees to enter into the Company's standard At-Will Employment, Confidential Information, Invention Assignment, and Arbitration Agreement (the "***Confidential Information Agreement***") upon commencing employment hereunder**.**

7. Limitation on Payments; Section 280G.

(a) In the event the severance and other benefits provided for in this Agreement or otherwise payable to the Executive (i) are "parachute payments" within the meaning of Section 280G of the Internal Revenue Code (the "Code") and (ii) but for this Section 7, would be subject to the excise tax imposed by Section 4999 of the Code, then the Executive's severance benefits will be either:

(i) delivered in full, or

(ii) delivered as to such lesser extent which would result in no portion of such severance benefits being subject to the excise tax under Section 4999 of the Code,

whichever of (a) or (b), taking into account the applicable federal, state and local income taxes and the excise tax imposed by Section 4999, results in the receipt by the Executive on an after-tax basis, of the greatest amount of benefits, notwithstanding that all or some portion of such benefits may be taxable under Section 4999 of the Code. If a reduction in the severance and other benefits constituting "parachute payments" is necessary so that no portion of such severance benefits is subject to excise tax under Section 4999 of the Code, (x) the Executive will have no rights to any additional payments and/or benefits that are being reduced, and (y) the reduction shall occur in the following order: (1) reduction of the cash payments, if any, which shall occur in reverse chronological order such that the cash payment owed on the latest date following the occurrence of the event triggering such excise tax will be the first cash payment to be reduced; (2) cancellation of accelerated vesting of equity awards other than stock options, if any; (3) cancellation of accelerated vesting of stock options, if any; and (4) reduction of other benefits, if any, paid or provided to the Executive, which shall occur in reverse chronological order such that the benefit owed on the latest date following the occurrence of the event triggering such excise tax will be the first benefit to be reduced. In the event that acceleration of vesting of equity awards or stock options is to be reduced, such acceleration of vesting shall be cancelled in the reverse order of the date of grant of the Executive's equity awards or stock options. If two or more equity awards or stock options are granted on the same date, each award or stock option will be reduced on a pro-rata basis. Notwithstanding, any excise tax imposed will be solely the responsibility of the Executive. Notwithstanding the foregoing, to the extent the Company submits any payment or benefit otherwise payable to the Executive under this Agreement or otherwise to the Company's stockholders for approval in accordance with Treasury Regulation Section 1.2800-1 Q&A 7, and such payments and benefits will be treated in accordance with the results of such vote, the foregoing provisions shall not apply following such submission and such payments and benefits will be treated in accordance with the results of such vote, except that any reduction in, or waiver of, such payments or benefits required by such vote will be applied without any application of discretion by the Executive and in the order prescribed by this Section 7(a). In no event shall the Executive have any discretion with respect to the ordering of the Executive's payment reductions.

(b) Unless the Company and the Executive otherwise agree in writing, any determination required under this Section 7 will be made in writing by a nationally recognized form of independent public accountants selected by the Company, the Company's legal counsel or such other person or entity to which the parties mutually agree (the "***Firm***"), whose determination will be conclusive and binding upon the Executive and the Company for all purposes. For purposes of making the calculations required by this Section 7, the Firm may make reasonable assumptions and approximations concerning applicable taxes and may rely on reasonable, good faith interpretations concerning the application of Sections 280G and 4999 of the Code. The Company and the Executive will furnish to the Firm such information and documents as the Firm may reasonably request in order to make a determination under this Section 7. The Company will bear all costs the Firm may reasonably incur in connection with any calculations contemplated by this Section 7.

8. Change in Control Retention Acceleration. If the Executive remains an employee or other service provider of the Company through the six (6) month anniversary of a Change in Control, the Executive's then-outstanding Company equity awards will accelerate vesting in full. For purposes of determining the number of shares that will vest pursuant to the foregoing provision with respect to any performance-based vesting equity award, the applicable performance criteria shall be deemed to have been attained at a 100% level.

9. Miscellaneous.

(a) Legal Costs. The Company shall reimburse the Executive for reasonable legal fees and expenses incurred if the Executive prevails on any issue which is the subject of such of a lawsuit or arbitration brought by the Executive or the Company as a result of any dispute with any party (including, but not limited to, the Company and/or any affiliate of the Company) regarding the provisions of this Agreement. Otherwise, the Executive and the Company shall be responsible for its own legal fees and expenses in connection with such action. The Company will reimburse the Executive for reasonable legal fees and expenses directly relating to the negotiation of this Agreement, in accordance with the applicable policy of the Company.

(b) Arbitration. Executive agrees that any and all controversies, claims, or disputes with anyone (including the Company and any employee, officer, director, shareholder or benefit plan of the Company in their capacity as such or otherwise) arising out of: relating to, or resulting from Executive's service to the Company, will be subject to arbitration in accordance with the provisions of the Confidential Information Agreement.

(c) No Mitigation. The Company agrees that, if the Executive's employment is terminated during the Term, the Executive is not required to seek other employment or to attempt in any way to reduce any amounts payable to the Executive by

the Company pursuant to this Agreement. Further, the amount of any payment or benefit provided for in Section 5 of this Agreement shall not be reduced by any compensation earned by the Executive as the result of employment by another employer, by retirement benefits, or offset against any amount claimed to be owed by the Executive to the Company or any of their respective subsidiaries. However, the severance benefits provided under this Agreement are intended to satisfy, to the greatest extent possible, any and all statutory obligations that may arise out of the Executive' s termination of employment including, without limitation, the Worker Adjustment and Retraining Notification Act.

(d) Successors. In addition to any obligations imposed by law upon any successor to the Company, the Company will require any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of the business and/or assets of the Company to expressly assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform it if no such succession had taken place.

(e) Binding Agreement. This Agreement shall inure to the benefit of and be enforceable by the Executive's personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees. If the Executive shall die while any amount would still be payable to the Executive hereunder (other than amounts which, by their terms, terminate upon the death of the Executive) if the Executive had continued to live, all such amounts, unless otherwise provided herein, shall be paid in accordance with the terms of this Agreement to the executors, personal representatives or administrators of the Executive's estate.

(f) Notices. For the purpose of this Agreement, notices and all other communications provided for in this Agreement shall be in writing and shall be deemed to have been duly given when delivered or mailed by United States certified mail, return receipt requested, postage prepaid, addressed to the respective addresses set forth below, or to such other address as either party may have furnished to the other in writing in accordance herewith, except that notice of change of address shall be effective only upon actual receipt:

To the Company:

2210 Faraday Ave.
Suite 100
Carlsbad, CA 92008

To the Executive:

Vincent J. Burgess
[ ]
[ ]

(g) Amendments. No provision of this Agreement may be modified, waived or discharged unless such waiver, modification or discharge is agreed to in writing and signed by the Executive and such officer as may be specifically designated by

the Company. No waiver by either party hereto at any time of any breach by the other party hereto of, or compliance with, any condition or provision of this Agreement to be performed by such other party shall be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time.

(h) Entire Agreement. Except as otherwise provided, this Agreement (including any documents referred to herein) contains the entire agreement between the parties concerning the subject matter hereof and supersedes all prior agreements, understandings, discussions, negotiations and undertakings, whether written or oral, express or implied, between the parties with respect thereto.

(i) Applicable Law. The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of California without regard to the principles of conflict of laws thereof.

(j) Captions. The captions of this Agreement are not part of the provisions hereof and shall have no force or effect.

(k) Withholding. Any payments provided for hereunder shall be paid net of any applicable withholding required under federal, state or local law and any additional withholding to which the Executive has agreed.

(l) Survivorship. The rights and obligations of the Company and the Executive under this Agreement shall survive the expiration of the Term.

(m) Mutual Intent. All parties participated in the drafting of the Agreement, and the language used in this Agreement is the language chosen by the Executive and the Company to express their mutual intent. The parties agree that in the event that any language, section, clause, phrase or word used in the Agreement is determined to be ambiguous, no presumption shall arise against or in favor of either party and that no rule of strict construction shall be applied against either party with respect to such ambiguity.

(n) Validity. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.

(o) Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original but all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

ACUTUS MEDICAL, INC.

By: /s/ Gary Doherty
Name: Gary Doherty
Title: Chief Financial Officer

EXECUTIVE

/s/ Vincent Burgess
Vincent Burgess

ACUTUS MEDICAL

September 24, 2015

Gary Doherty

Dear Gary:

It is my pleasure to offer you a position with Acutus Medical Inc. ("Acutus") as Director of Manufacturing Accounting. You will report to John Dahldorf – CFO. Your salary will be $180,000 per year. This position is considered an exempt position for purposes of state and federal wage and hour law.

As an added incentive, you will be awarded 130,000 shares of Incentive Stock Options for Acutus' common stock. This stock will vest at the rate of 1/4 at the end of 12 months and the balance (3/4) will vest at the rate of 1/48 of the total per contiguous month worked until fully vested (4 year vesting). The grant of these stock options and the exercise price are contingent upon approval by Acutus' Board of Directors and Closing of the Series C financing.

Acutus Medical's holiday and vacation schedules are consistent with industry standards for a medical device company at this stage. Acutus will provide you with three weeks of personal time off per year, assuming the time is cleared in advance with your supervisor. The three weeks of paid time off is for both vacation and sick time.

Acutus Medical offers a comprehensive medical and dental insurance program, for which Acutus will pay approximately 80% of the premiums depending on the plan you choose. You will be responsible for the remainder of the costs associated with the plan you choose. These costs will be deducted from your semi-monthly pay on a pre-tax basis.

You will be an employee at will, which means that either you or Acutus may terminate your employment at any time and for any reason or for no reason.

This offer is contingent upon the completion and acceptance (signature) of the enclosed application and terms and conditions, including but not limited to Acutus' Employment, Confidential Information, Invention Assignment, and Arbitration Agreement.

Your tentative start date will be October 19, 2015. This offer of employment will expire seven days from the date of this letter, although additional time for consideration of the offer can be made available if you find it necessary. If you wish to accept this offer, please sign in the place provided below and return it to me within the prescribed time.

I look forward to having you join Acutus. We have an exciting future and I know your contributions will help us achieve our goals. If you need any further information, please do not hesitate to contact me.

2210 Faraday Ave, Suite 100, Carlsbad, CA 92008 +1.442.232.6080

Sincerely,

/s/ John Dahldorf
NAME: John Dahldorf
TITLE: CFO

Accepted /s/ Gary Doherty

NAME: Gary Doherty

Date: 9/20/2015

Start Date: 10/19/2015

Enclosures

Exhibit 10.21

EMPLOYMENT AGREEMENT

This **Employment Agreement** (this "***Agreement***") is made by and amongst **ACUTUS MEDICAL, INC.** (the "***Company***"), having its principal offices at 2210 Faraday Ave., Suite 100 Carlsbad, CA 92008, and Steve McQuillan (the "***Executive***"), effective as of September 6, 2016.

WHEREAS, the Company desires to employ the Executive in the position of Senior Vice-President of Clinical, Regulatory and Quality of the Company; and

WHEREAS, the Executive desires to be employed by the Company as its Senior Vice-President of Clinical, Regulatory and Quality.

NOW THEREFORE, in consideration of the premises and the mutual covenants herein contained, the Company and the Executive hereby agree as follows:

1. Definitions. For purposes of this Agreement, the following terms shall have the meanings set forth below:

(a) "***Annual Base Salary***" shall mean the Executive's rate of regular base annual compensation prior to any reduction under (i) a salary reduction agreement pursuant to Section 401(k) or Section 125 of the Code or (ii) any plan or arrangement deferring any base salary.

(b) "***Board***" shall mean the Board of Directors of the Company.

(c) "***Cause***" any of the following: (i) the Executive's failure to perform the Executive's assigned duties or responsibilities pursuant to this Agreement (other than a failure resulting from the Executive's Disability) after notice thereof from the Company describing the Executive's failure to perform such duties or responsibilities; (ii) the Executive's engaging in any act of dishonesty, fraud, misrepresentation, embezzlement or other acts that are or would reasonably be expected to be injurious in a material respect to the Company; (iii) the Executive's violation of any federal or state law or regulation applicable to the business of the Company or its affiliates; (iv) the Executive's breach of any confidentiality agreement or invention assignment agreement between the Executive and the Company (or any affiliate of the Company); (v) the Executive's being convicted of, or entering a plea of *nolo contendere* to, any crime or committing any act of moral turpitude; (vi) the Executive's continuing gross negligence or gross misconduct after notice thereof from the Company describing the applicable conduct; or (vii) the Executive's breach of any material term of any employment agreement between the Executive and the Company.

(d) "***Change in Control***" shall have the meaning ascribed to it in the Company's 2011 Equity Incentive Plan, as it may be amended from time to time.

(e) "***Change in Control Period***" shall mean the period commencing ninety (90) days prior to the effective date of a Change in Control and ending twelve (12) months following the effective date a Change in Control.

(f) "***COBRA***" shall mean the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, as well as any state law of similar effect.

(g) "***Code***" shall mean the Internal Revenue Code of 1986, as amended, and, as applicable, Treasury Regulations promulgated thereunder.

(h) "***Confidential Information Agreement***" shall mean the At-Will Employment, Confidential Information, Invention Assignment and Arbitration Agreement that the Executive has entered or is required to enter into with the Company in connection with the Executive's employment with the Company.

(i) "***Date of Termination***" shall mean the date of the termination of the Executive's employment.

(j) "***Disability***" shall mean the Executive's disability within the meaning of Treasury Regulation Section 1.409A-3(i)(4)(i).

(k) "***Good Reason***" shall mean the Executive's resignation within thirty (30) days following the expiration of any Company cure period (discussed below) following the occurrence of one or more of the following, without the Executive's consent: (i) a material reduction of the Executive's authority, duties or responsibilities; (ii) a reduction of more than ten percent (10%) by the Company (or its successor) in the Executive's base cash compensation as in effect immediately prior to such reduction, unless the Company also similarly reduces the base cash compensation of all other similarly situated service providers of the Company; or (iii) a material change in the geographic location of the Executive's primary work facility or location; provided, that a relocation of less than fifty (50) miles from the Executive's then-present location will not be considered a material change in geographic location. The Executive may not resign for Good Reason without first providing the Company with written notice of the acts or omissions constituting the grounds for "Good Reason" within ninety (90) days of the initial existence of the grounds for "Good Reason" and a reasonable cure period of thirty (30) days following the date the Company receives such notice during which such condition must not have been cured.

(l) "***Qualifying Termination***" shall mean the Company's termination of the Executive's employment other than for Cause, death, or Disability or the Executive's resignation for Good Reason.

(m) "***Release***" shall mean a general release of the Executive of any claims related to or arising from Executive's service with or separation from the Company (which may include an agreement not to disparage the Company, non-solicit provisions and other standard terms and conditions) in a form reasonably satisfactory to the Company. The Release must be signed by the Executive and become irrevocable and effective in accordance with its terms not later than sixty (60) days following the Date of Termination.

(n) "***Severance Commencement Date***" shall mean the date on or following the Date of Termination and on which the Release becomes effective and irrevocable in accordance with its terms; provided, however, that if the Date of Termination occurs within sixty (60) days prior to the end of a calendar year, the Severance Commencement Date will be the later of (i) the date on which the Release becomes effective and irrevocable in accordance with its terms, or (i) the first day of the calendar year immediately following the Date of Termination.

2. Term of this Agreement. The term of this Agreement, as amended, shall commence upon the date of this Agreement set forth above and shall continue until terminated in accordance with Section 5 (the "***Term***").

3. Duties; Scope of Employment; Compensation and Benefits.

(a) Position and Duties. The Company shall employ the Executive to the position of Senior Vice-President of Clinical, Regulatory and Quality of the Company. During the Term, the Executive will devote substantially all of the Executive's business efforts and time to the Company. The Executive agrees not to actively engage in any other employment, occupation or consulting activity for any direct or indirect remuneration without the prior approval of the Board.

(b) Annual Base Salary. The Executive's Annual Base Salary shall equal $300,000. The Annual Base Salary amount shall be subject to review and may be adjusted based upon the Company's normal performance review practices. The Annual Base Salary will be paid periodically in accordance with the Company's normal payroll practices and be subject to the usual, required withholdings.

(c) Bonus. The Executive's annual target bonus opportunity shall be 30% of the Executive's Annual Base Salary (the "***Target Bonus***"). The Target Bonus amount shall be subject to review and may be adjusted based upon the Company's normal performance review practices. The Executive's actual annual bonus earned shall be determined based on the Executive's performance and achievement of target objectives and such other terms to be determined by the Board in its sole discretion. Any such annual bonus that is earned will be paid, less applicable withholdings, no later than the payroll period after the Board determines that such annual bonus has been earned, but in no event shall such earned annual bonus be paid after the later of (i) the fifteenth (15th) day of the third (3rd) month following the close of the Company's fiscal year in which the annual bonus is earned or (ii) March 15 following the calendar year in which the annual bonus is earned.

(d) Employee Benefits. During the Term, the Executive and the Executive's dependents, if applicable, shall be eligible to participate in the employee benefit plans and programs currently and hereafter sponsored by the Company on the same terms and conditions generally applicable to similarly situated executives of the Company. The Company reserves the right to cancel or change the employee benefit plans and programs it offers to its employees at any time.

(e) Equity Plans. The Executive shall be eligible to participate in any stock option, restricted stock, stock appreciation rights, or any other equity compensation plan or program sponsored by the Company or its affiliates on the terms and conditions determined by the Board in its sole discretion.

(f) Expenses. The Executive shall be entitled to receive prompt reimbursement for all reasonable expenses incurred by the Executive in the furtherance of or in connection with the performance of Executive's duties hereunder, in accordance with the applicable policy of the Company, as in effect from time to time.

(g) Paid Time Off. The Executive shall be entitled to paid time off in accordance with the Company's paid time off policy, as in effect from time to time.

4. At-Will Employment. The parties agree that the Executive's employment with the Company will be "at-will" employment and may be terminated at any time with or without cause or notice. The Executive understands and agrees that neither his job performance nor promotions, commendations, bonuses, or the like from the Company give rise to or in any way serve as the basis for modification, amendment, or extension, by implication or otherwise, of his employment with the Company. However, as described in this Agreement, the Executive may be entitled to severance benefits depending on the circumstances of the termination of the Executive's employment with the Company.

5. Termination. The Term and the Executive's employment shall terminate upon the occurrence of any of the following events:

(a) Qualifying Termination Outside of the Change in Control Period.

(i) The Company may remove the Executive at any time, with or without Cause, from the position in which the Executive is employed hereunder, with or without notice.

(ii) Upon a Qualifying Termination outside of the Change in Control Period, the Executive shall be entitled to receive, subject to the effectiveness and irrevocability of the Release, the following severance benefits, subject to standard deductions and withholdings:

(1) The Executive shall receive cash severance equal to 50 % of the Annual Base Salary in effect immediately prior to the Date of Termination (or if the Qualifying Termination is due to a resignation for Good Reason based on a material reduction in base cash compensation, then the Executive's Annual Base Salary in effect immediately prior to such reduction). Subject to any delay in payment required by Section 5(d), the Company will pay such cash severance, in substantially equal installments on the Company's regular payroll schedule over the six-month period immediately following the Date of Termination. However, no payments of such cash severance will be made prior to the Severance Commencement Date. On the first payroll pay day on or following the Severance Commencement Date, the Company will pay the Executive in a lump sum the cash severance the Executive would otherwise have received on or prior to such date but for the delay in payment related to the effectiveness and irrevocability of the Release, with the balance of the cash severance being paid as originally scheduled; and

(2) If the Executive timely elects continuation health care coverage pursuant to COBRA for himself and/or his eligible dependents, the Company will reimburse the Executive for the applicable COBRA premiums for such coverage for up to six months, or such earlier time as the Executive ceases to be eligible for such continuation coverage; provided, however, that if the Company determines in its sole discretion that it cannot make the COBRA reimbursements without potentially violating applicable law (including, without limitation, Section 2716 of the Public Health Service Act), the Company will in lieu thereof provide to Executive a taxable monthly payment, payable on the last day of a given month, in an amount equal to the monthly COBRA premium that the Executive would be

required to pay to continue the Executive's group health coverage in effect on the termination of employment date (which amount will be based on the premium for the first month of COBRA continuation coverage), which payments will be made regardless of whether the Executive elects COBRA continuation coverage and will commence on the month following the Executive's termination of employment and will end on the earlier of (x) the date upon which the Executive obtains other employment or (y) the date the Company has paid an amount equal to six monthly payments. For the avoidance of doubt, the taxable payments in lieu of COBRA reimbursements may be used for any purpose, including, but not limited to continuation coverage under COBRA, and will be subject to all applicable tax withholding.

(b) Qualifying Termination During the Change in Control Period. Upon a Qualifying Termination during the Change in Control Period, then subject to the Executive's timely provision of an effective and irrevocable Release, and effective as of the later of the Severance Commencement Date or the effective date of the Change in Control, the Executive will be entitled to receive the following severance benefits, subject to standard deductions and withholdings:

(i) the Executive shall receive cash severance equal to 100% of the sum of the Annual Base Salary and the Target Bonus, each as in effect immediately prior to the Date of Termination (or if the Qualifying Termination is due to a resignation for Good Reason based on a material reduction in base cash compensation, then the Executive's Annual Base Salary or Target Bonus in effect immediately prior to such reduction, as applicable). Subject to any delay in payment required by Section 5(d), such cash severance will be paid in a single lump sum on the first regular payroll pay day on or following the Severance Commencement Date;

(ii) the Executive shall receive a lump-sum payment equal to (A) the Target Bonus that the Executive would have earned for the fiscal year in which the Executive's Qualifying Termination occurs had the Executive remained employed with the Company through the date the Executive was required to continue employment with the Company in order to be eligible to receive such bonus multiplied by (B) the fraction obtained by dividing (x) the number of days the Executive has worked during such fiscal year by (y) the total number of days in such fiscal year, which will be paid at the same time as other similarly situated employees of the Company receive bonus payments for the fiscal year but in no event later than March 15 of the year following the year of the Qualifying Termination, subject to any delay in payment required by Section 5(d);

(iii) if the Executive timely elects continuation health care coverage pursuant to COBRA for himself and/or his eligible dependents, the Company will reimburse the Executive for the applicable COBRA premiums for such coverage for up to twelve months, or such earlier time as the Executive ceases to be eligible for such continuation coverage; provided, however, that if the Company determines in its sole discretion that it cannot make the COBRA reimbursements without potentially violating applicable law (including, without limitation, Section 2716 of the Public Health Service Act), the Company will in lieu thereof provide to Executive a taxable monthly payment, payable on the last day of a given month, in an amount equal to the monthly COBRA premium that the Executive would be required to pay to continue the Executive's group health coverage in effect on the termination of employment date (which amount will be based on the premium for the first month of COBRA continuation coverage),

which payments will be made regardless of whether the Executive elects COBRA continuation coverage and will commence on the month following the Executive's termination of employment and will end on the earlier of (x) the date upon which the Executive obtains other employment or (y) the date the Company has paid an amount equal to twelve monthly payments. For the avoidance of doubt, the taxable payments in lieu of COBRA reimbursements may be used for any purpose, including, but not limited to continuation coverage under COBRA, and will be subject to all applicable tax withholding; and

(iv) the Executive's equity awards will accelerate vesting in full. For purposes of determining the number of shares that will vest pursuant to the foregoing provision with respect to any performance-based vesting equity award, the applicable performance criteria shall be deemed to have been attained at a 100% level.

(c) Termination for Cause or Due to Death or Disability; Voluntary Resignation Without Good Reason. In the event that the Executive voluntarily terminates his employment for any reason other than Good Reason or in the event that Company terminates the Executive's employment for Cause or due to the Executive's death or Disability, no further payments shall be due under this Agreement, except that the Executive shall be entitled to any amounts earned, accrued or owing but not yet paid under Section 3 above, and any benefits accrued or earned under the Company's benefit plans and programs or to which the Executive is otherwise entitled under applicable law.

(d) Compliance with Section 409A of the Code.

(i) Notwithstanding anything to the contrary in this Agreement, no severance pay or benefits to be paid or provided to the Executive, if any, pursuant to this Agreement that, when considered together with any other severance payments or separation benefits, are considered deferred compensation under Code Section 409A, and the final regulations and any guidance promulgated thereunder ("***Section 409A***") (together, the "***Deferred Payments***") will be paid or otherwise provided until the Executive has a "separation from service" within the meaning of Section 409A. Similarly, no severance payable to the Executive, if any, pursuant to this Agreement that otherwise would be exempt from Section 409A pursuant to Treasury Regulation Section 1.409A-1(b)(9) will be payable until the Executive has a "separation from service" within the meaning of Section 409A.

(ii) Any severance payments or benefits under this Agreement that would be considered Deferred Payments will be paid on, or, in the case of installments, will not commence until, the sixtieth (60^{th}) day following the Executive's separation from service, or, if later, such time as required by Section 5(d)(iv). Except as required by Section 5(d)(iv), any installment payments that would have been made to the Executive during the sixty (60) day period immediately following the Executive's separation from service but for the preceding sentence will be paid to the Executive on the sixtieth (60^{th}) day following the Executive's separation from service and the remaining payments shall be made as provided in this Agreement.

(iii) It is intended that each installment of the payments provided for in this Section 5 is a separate "payment" for purposes of Treasury Regulations Section 1.409A- 2(b)(2)(i). For the avoidance of doubt, it is intended that payments of the amounts set forth in

this Section 5 satisfy, to the greatest extent possible, the exemptions from the application of Section 409A provided under Treasury Regulation 1.409A-1(b)(4) and 1.409A-1(b)(9)(iii), and any amounts paid under this Agreement that qualify under either of such exemptions will not constitute Deferred Payments for purposes of clause (i) above.

(iv) Any provision of this Agreement to the contrary notwithstanding, if, at the time of the Executive's Date of Termination, the Executive is a "specified employee," within the meaning of Section 409A of the Code, then to the extent any payment or benefit that the Executive becomes entitled to under this Agreement on account of his separation from service would be considered nonqualified deferred compensation under Section 409A of the Code, such payment or benefit shall be paid or provided at the date which is the earlier of (i) six (6) months and one day after the Date of Termination and (ii) the date of the Executive's death (the "***Delay Period***"). Upon the expiration of the Delay Period, all payments and benefits delayed pursuant to this Section 5(d) (whether they would have otherwise been payable in a single sum or in installments in the absence of such delay) shall be paid or provided to the Executive in a lump-sum, and any remaining payments and benefits due under this Agreement shall be paid or provided in accordance with the normal payment dates specified for them herein.

(v) Any reimbursements provided under this Agreement that constitute deferred compensation within the meaning of Section 409A of the Code shall be made or provided in accordance with the requirements of Section 409A of the Code, including, without limitation, that (i) in no event shall any fees, expenses or other amounts eligible to be reimbursed by the Company under this Agreement be paid later than the last day of the calendar year next following the calendar year in which the applicable fees, expenses or other amounts were incurred; (ii) the amount of expenses eligible for reimbursement in any given calendar year shall not affect the expenses that the Company is obligated to reimburse in any other calendar year, provided that the foregoing clause (ii) shall not be violated with regard to expenses reimbursed under any arrangement covered by Code Section 105(b) solely because such expenses are subject to a limit related to the period the arrangement is in effect; (iii) the Executive's right to have the Company pay or provide such reimbursements may not be liquidated or exchanged for any other benefit; and (iv) in no event shall the Company's obligations to make such reimbursements apply later than the Executive's remaining lifetime.

(vi) The foregoing provisions are intended to comply with the requirements of Section 409A so that none of the severance payments and benefits to be provided hereunder will be subject to the additional tax imposed under Section 409A, and any ambiguities herein will be interpreted to so comply. The Company and the Executive agree to work together in good faith to consider amendments to this Agreement and to take such reasonable actions which are necessary, appropriate or desirable to avoid imposition of any additional tax or income recognition prior to actual payment to the Executive under Section 409A.

(e) Non-Duplication of Payment or Benefits. If (i) a Qualifying Termination occurs prior to a Change in Control that qualifies the Executive for severance payments and benefits under Section 5(a) and (ii) a Change in Control occurs within the 3-month period following the Qualifying Termination that qualifies Executive for severance payments and benefits under Section 5(b), then (A) the Executive will cease receiving any further payments or

benefits under Section 5(a) and (B) the Executive will receive the payments and benefits under Section 5(b) instead but each of the payments and benefits otherwise payable under Section 5(b) will be offset by the corresponding payments or benefits the Executive already received under Section 5(a).

6. Confidential Information. The Executive agrees to enter into the Company's standard At-Will Employment, Confidential Information, Invention Assignment, and Arbitration Agreement (the "***Confidential Information Agreement***") upon commencing employment hereunder.

7. Limitation on Payments; Section 280G.

(a) In the event the severance and other benefits provided for in this Agreement or otherwise payable to the Executive (i) are "parachute payments" within the meaning of Section 280G of the Internal Revenue Code (the "Code") and (ii) but for this Section 7, would be subject to the excise tax imposed by Section 4999 of the Code, then the Executive's severance benefits will be either.

(i) delivered in full, or

(ii) delivered as to such lesser extent which would result in no portion of such severance benefits being subject to the excise tax under Section 4999 of the code,

whichever of (a) or (b), taking into account the applicable federal, state and local income taxes and the excise tax imposed by Section 4999, results in the receipt by the Executive on an after-tax basis, of the greatest amount of benefits, notwithstanding that all or some portion of such benefits may be taxable under Section 4999 of the Code. If a reduction in the severance and other benefits constituting "parachute payments" is necessary so that no portion of such severance benefits is subject to excise tax under Section 4999 of the Code, (x) the Executive will have no rights to any additional payments and/or benefits that are being reduced, and (y) the reduction shall occur in the following order: (1) reduction of the cash payments, if any, which shall occur in reverse chronological order such that the cash payment owed on the latest date following the occurrence of the event triggering such excise tax will be the first cash payment to be reduced; (2) cancellation of accelerated vesting of equity awards other than stock options, if any; (3) cancellation of accelerated vesting of stock options, if any; and (4) reduction of other benefits, if any, paid or provided to the Executive, which shall occur in reverse chronological order such that the benefit owed on the latest date following the occurrence of the event triggering such excise tax will be the first benefit to be reduced. In the event that acceleration of vesting of equity awards or stock options is to be reduced, such acceleration of vesting shall be cancelled in the reverse order of the date of grant of the Executive's equity awards or stock options. If two or more equity awards or stock options are granted on the same date, each award or stock option will be reduced on a pro-rata basis. Notwithstanding, any excise tax imposed will be solely the responsibility of the Executive. Notwithstanding the foregoing, to the extent the Company submits any payment or benefit otherwise payable to the Executive under this Agreement or otherwise to the Company's stockholders for approval in accordance with Treasury Regulation Section 1.280G-1 Q&A 7, and such payments and benefits will be treated in accordance with the results of such vote, the foregoing provisions shall not apply following such submission and such

payments and benefits will be treated in accordance with the results of such vote, except that any reduction in, or waiver of, such payments or benefits required by such vote will be applied without any application of discretion by the Executive and in the order prescribed by this Section 7(a). In no event shall the Executive have any discretion with respect to the ordering of the Executive's payment reductions.

(b) Unless the Company and the Executive otherwise agree in writing, any determination required under this Section 7 will be made in writing by a nationally recognized firm of independent public accountants selected by the Company, the Company's legal counsel or such other person or entity to which the parties mutually agree (the "***Firm***") whose determination will be conclusive and binding upon the Executive and the Company for all purposes. For purposes of making the calculations required by this Section 7, the Firm may make reasonable assumptions and approximations concerning applicable taxes and may rely on reasonable, good faith interpretations concerning the application of Sections 280G and 4999 of the Code. The Company and the Executive will furnish to the Firm such information and documents as the Firm may reasonably request in order to make a determination under this Section 7. The Company will bear all costs the Firm may reasonably incur in connection with any calculations contemplated by this Section 7.

8. Miscellaneous.

(a) Legal Costs. The Company shall reimburse the Executive for reasonable legal fees and expenses incurred if the Executive prevails on any issue which is the subject of such of a lawsuit or arbitration brought by the Executive or the Company as a result of any dispute with any party (including, but not limited to, the Company and/or any affiliate of the Company) regarding the provisions of this Agreement. Otherwise, the Executive and the Company shall be responsible for its own legal fees and expenses in connection with such action. The Company will reimburse the Executive for reasonable legal fees and expenses directly relating to the negotiation of this Agreement, in accordance with the applicable policy of the Company.

(b) Arbitration. Executive agrees that any and all controversies, claims, or disputes with anyone (including the Company and any employee, officer, director, shareholder or benefit plan of the Company in their capacity as such or otherwise) arising out of, relating to, or resulting from Executive's service to the Company, will be subject to arbitration in accordance with the provisions of the Confidential Information Agreement.

(c) No Mitigation. The Company agrees that, if the Executive's employment is terminated during the Term, the Executive is not required to seek other employment or to attempt in any way to reduce any amounts payable to the Executive by the Company pursuant to this Agreement. Further, the amount of any payment or benefit provided for in Section 5 of this Agreement shall not be reduced by any compensation earned by the Executive as the result of employment by another employer, by retirement benefits, or offset against any amount claimed to be owed by the Executive to the Company or any of their respective subsidiaries. However, the severance benefits provided under this Agreement are intended to satisfy, to the greatest extent possible, any and all statutory obligations that may arise out of the Executive's termination of employment including, without limitation, the Worker Adjustment and Retraining Notification Act.

(d) Successors. In addition to any obligations imposed by law upon any successor to the Company, the Company will require any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of the business and/or assets of the Company to expressly assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform it if no such succession had taken place.

(e) Binding Agreement. This Agreement shall inure to the benefit of and be enforceable by the Executive's personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees. If the Executive shall die while any amount would still be payable to the Executive hereunder (other than amounts which, by their terms, terminate upon the death of the Executive) if the Executive had continued to live, all such amounts, unless otherwise provided herein, shall be paid in accordance with the terms of this Agreement to the executors, personal representatives or administrators of the Executive's estate.

(f) Notices. For the purpose of this Agreement, notices and all other communications provided for in this Agreement shall be in writing and shall be deemed to have been duly given when delivered or mailed by United States certified mail, return receipt requested, postage prepaid, addressed to the respective addresses set forth below, or to such other address as either party may have furnished to the other in writing in accordance herewith, except that notice of change of address shall be effective only upon actual receipt:

To the Company:

2210 Faraday Ave.
Suite 100
Carlsbad, CA 92008

To the Executive:

Steve McQuillan
At the address most recently on file with the Company

(g) Amendments. No provision of this Agreement may be modified, waived or discharged unless such waiver, modification or discharge is agreed to in writing and signed by the Executive and such officer as may be specifically designated by the Company. No waiver by either party hereto at any time of any breach by the other party hereto of, or compliance with, any condition or provision of this Agreement to be performed by such other party shall be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time.

(h) Entire Agreement. Except as otherwise provided, this Agreement (including any documents referred to herein) contains the entire agreement between the parties concerning the subject matter hereof and supersedes all prior agreements, understandings, discussions, negotiations and undertakings, whether written or oral, express or implied, between the parties with respect thereto.

(i) Applicable Law. The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of California without regard to the principles of conflict of laws thereof.

(j) Captions. The captions of this Agreement are not part of the provisions hereof and shall have no force or effect.

(k) Withholding. Any payments provided for hereunder shall be paid net of any applicable withholding required under federal, state or local law and any additional withholding to which the Executive has agreed.

(l) Survivorship. The rights and obligations of the Company and the Executive under this Agreement shall survive the expiration of the Term.

(m) Mutual Intent. All parties participated in the drafting of the Agreement, and the language used in this Agreement is the language chosen by the Executive and the Company to express their mutual intent. The parties agree that in the event that any language, section, clause, phrase or word used in the Agreement is determined to be ambiguous, no presumption shall arise against or in favor of either party and that no rule of strict construction shall be applied against either party with respect to such ambiguity.

(n) Validity. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.

(o) Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original but all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

ACUTUS MEDICAL, INC.

By: /s/ Vince Burgess
Name: Vince Burgess
Title: Board Member

EXECUTIVE

/s/ Steve McQuillan
Steve McQuillan 9/29/2016

Exhibit 21.1

Name of Subsidiary	Jurisdiction of Incorporation or Organization
Acutus Medical, N.V.	Belgium