As confidentially submitted to the Securities and Exchange Commission on June 24, 2021.

This Amendment No. 1 to the draft registration statement has not been publicly filed with the Securities and Exchange Commission and all information herein remains strictly confidential.

Registration No. 333-

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-1
REGISTRATION STATEMENT

UNDER

THE SECURITIES ACT OF 1933

Genelux Corporation

(Exact name of registrant as specified in its charter)

Delaware	**2834**	**77-0583520**
(State or other jurisdiction of incorporation or organization)	**(Primary Standard Industrial Classification Code Number)**	**(I.R.S. Employer Identification Number)**

Genelux Corporation
3030 Bunker Hill Street, Suite 300
San Diego, California 92109
(858) 483-0024
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Thomas Zindrick, J.D.
President and Chief Executive Officer
Genelux Corporation
3030 Bunker Hill Street, Suite 300
San Diego, California 92109
(858) 483-0024
(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

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(858) 550-6000

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Michael K. Bradshaw, Jr.
Nelson Mullins Riley & Scarborough LLP
101 Constitution Avenue NW, Suite 900
Washington, D.C., 20001
(202) 689-2800

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

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

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) 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(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.

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, par value $0.001 per share	$	$
Warrants to be issued to the representative of the underwriters(3)	—	—
Common stock underlying warrants to be issued to the representative of the underwriters(4)	$	$
Total	$	$

(1) Estimated solely for the purpose of calculating the registration fee in accordance with Rule 457(o) of the Securities Act of 1933, as amended.
(2) Includes the aggregate offering price of additional shares that the underwriters have the option to purchase, if any.
(3) No registration fee required pursuant to Rule 457(g).
(4) We have agreed to issue to the representative of the underwriters warrants to purchase shares of common stock representing up to 5% of the common stock issued in the offering. The representative's warrants are exercisable at a per share exercise price equal to 100% of the public offering price per share of the common stock offered hereby. As estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(g) under the Securities Act, the proposed maximum aggregate offering price of the representative's warrants is $ which is equal to 100% of $ (5% of $).

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

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 nor does it seek an offer to buy these securities in any jurisdiction where the offer or sale is not permitted.

Subject to Completion, Dated , 2021

Shares

Common Stock

This is an initial public offering of shares of common stock of Genelux Corporation. We are offering shares of our common stock.

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

We are an "emerging growth company" under applicable Securities and Exchange Commission rules and have elected to comply with certain reduced public company reporting requirements for this prospectus and future filings.

Investing in our common stock involves a high degree of risk. See the section titled "Risk Factors" beginning on page 10 to read about factors you should consider before deciding to invest in shares of our common stock.

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

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

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

We have granted the underwriters an option for a period of 45 days to purchase up to additional shares of common stock from us at the public offering price, less the underwriting discounts and commissions.

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

EF Hutton
division of Benchmark Investments, LLC

Brookline Capital Markets
a division of Arcadia Securities, LLC

Prospectus dated , 2021

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We are responsible for the information contained in this prospectus and in any free-writing prospectus we prepare or authorize. We have not, and the underwriters have not, authorized anyone to provide you with different information, and we take no, and the underwriters take no, responsibility for any other information others may give you. If anyone provides you with different or inconsistent information, you should not rely on it. We are not, and the underwriters are not, making an offer to sell these securities in any jurisdiction where the offer or sale is not permitted. You should not assume that the information contained in this prospectus is accurate as of any date other than the date on the front of this prospectus.

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

This prospectus includes our trademarks which are our property and are protected under applicable intellectual property laws. This prospectus also includes trademarks and trade names that are the property of other organizations. Solely for convenience, trademarks and trade names referred to in this prospectus appear without the ® and ™ symbols, but those references are not intended to indicate that we will not assert, to the fullest extent under applicable law, our rights, or that the applicable owner will not assert its rights, to these trademarks and trade names. We do not intend our use or display of other companies' trade names or trademarks to imply a relationship with, or endorsement or sponsorship of us by, any other companies.

PROSPECTUS SUMMARY

This summary highlights information contained elsewhere in this prospectus. This summary does not contain all of the information you should consider before investing in our common stock. You should read this entire prospectus carefully, including the sections in this prospectus titled "Risk Factors," "Management's Discussion and Analysis of Financial Condition and Results of Operations," and our financial statements and the related notes included elsewhere in this prospectus, before making an investment decision. Unless otherwise indicated, all references in this prospectus to "Genelux," the "company," "we," "our," "us" or similar terms refer to Genelux Corporation.

Overview

Genelux is a clinical-stage biopharmaceutical company focused on developing a pipeline of next-generation oncolytic viral immunotherapies for patients suffering from aggressive and/or difficult-to-treat solid tumor types. Our most advanced product candidate, Olvi-Vec (olvimulogene nanivacirepvec), is a proprietary, modified strain of the vaccinia virus (VACV), a stable DNA virus with a large engineering capacity. We have met the preestablished endpoint for our Phase 2 trial of Olvi-Vec in platinum resistant/refractory ovarian cancer. Employing our proprietary selection technology and discovery and development platform (CHOICE), we have developed an extensive library of isolated and engineered oncolytic vaccinia virus immunotherapeutic product candidates. These provide potential utility in multiple tumor types in both the monotherapy and combination therapy settings, via physician-preferred administration techniques, including regional (e.g., intraperitoneal) and systemic (e.g., intravenous) delivery routes. Informed by our CHOICE platform and supported by extensive clinical and pre-clinical data, we believe we have the capacity to develop a pipeline of treatment options to address high unmet medical needs for those patients with insignificant or unsatisfactory responses to standard-of-care therapies, including chemotherapies. From this library, we selected Olvi-Vec, which has the potential to exhibit robust anti-tumor properties, including potent oncolytic properties (tumor cell lysis) and to powerfully activate both the innate and adaptive arms of the immune system, to produce favorable changes within the tumor microenvironment. The personalized and multi-modal immune activation generated by Olvi-Vec is designed to yield clinically-meaningful anti-tumor responses to virus treatment alone and in combination with other existing treatment modalities. We believe Olvi-Vec currently represents the most advanced clinical development program throughout the oncolytic treatment landscape involving the non-local administration (i.e., non-intratumorally) of viral immunotherapies.

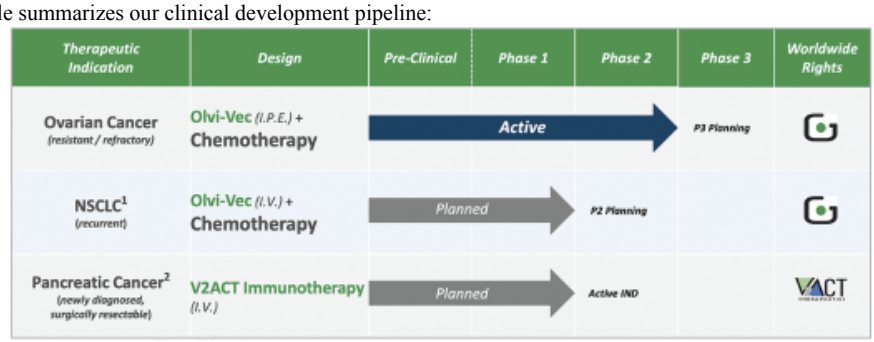
In September 2019, we completed enrollment of a single-arm, open-label Phase 1b/2 clinical trial of Olvi-Vec in heavily pre-treated patients with platinum-resistant/refractory ovarian cancer (PRROC). To date, the data from this trial suggests systemic anti-tumor responses to monotherapy and documented clinical responses to subsequent chemotherapy. Furthermore, no dose-limiting toxicity (DLT) or maximum tolerated dose (MTD) were reached and the most common observed adverse events were flu-like symptoms and abdominal pain. In November 2015, we completed an open-label Phase 1 study of Olvi-Vec in patients with documented progressive disease (i.e., Stage IV cancers). Our data from this study indicate changes in tumor growth rate post-Olvi-Vec treatment and that Olvi-Vec may have utility against a variety of cancers, particularly those diagnosed with non-small-cell lung cancer (NSCLC). Furthermore, no MTD was reached and the intravenous administration of Olvi-Vec appeared well tolerated. Additionally, we completed an open-label, non-randomized Phase 1 study of Olvi-Vec in patients with solid organ cancers. Our data from this study indicated high and condensed intravenous doses of Olvi-Vec resulted in endured viral pharmacokinetics (PK) in the blood, and led to infection of and immune cell infiltration into tumor tissues.

Based on our clinical trial results and discussions with the U.S. Food and Drug Administration (FDA), including regarding the potential for our Phase 3 clinical trial of Olvi-Vec in PRROC to serve as a registrational trial, we plan to submit an amendment to our Investigational New Drug (IND) application for our new in-house manufacturing process in the second quarter of 2021 seeking to demonstrate comparability of product manufactured under our new in-house process to product used in our Phase 2 trial of Olvi-Vec in PRROC. Subject to FDA authorization, we intend to initiate a registrational Phase 3 trial of Olvi-Vec in PRROC and a Phase 2 trial of Olvi-Vec in recurrent NSCLC in the second half of 2021.

Through our CHOICE discovery platform, we have developed an extensive library of potential product candidates and plan to pursue additional oncolytic immunotherapy product(s) for human and animal health applications, either internally or through partnerships and collaborations. For example, we have formed V2ACT Therapeutics, LLC (V2ACT), a joint venture with TVAX Biomedical Inc. (TVAX), to develop a product candidate, V2ACT Immunotherapy, that combines an oncolytic virus (e.g., Olvi-Vec) and neoantigen-primed adoptive cell therapy for cancer. In October 2020, V2ACT received an IND from the FDA authorizing the initiation of a Phase 1b/2a clinical trial to test V2ACT Immunotherapy as a treatment for newly-diagnosed, surgically-resectable pancreatic cancer. This clinical trial is not yet scheduled to be initiated.

Importantly, our oncolytic immunotherapy drug candidates are "off-the-shelf" personalized immunotherapies. In other words, while we administer the same virus product to different patients, the cellular immune response generated is specific to the unique neoantigens in that patient. We believe that our approach may offer significant advantages over other approaches to anti-cancer immune activation, such as targeted therapies that interdict a single cellular pathway or vaccines that rely upon a single antigen or a small collection of neoantigens, because the use of redundant biological pathways may overcome the therapeutic inhibition of such approaches and lead to clinical relapse. We also believe our manufacturing capacity is more cost-effective and efficient as compared to some other "personalized" immunotherapies that require individual product preparations at high costs for each patient.

The following table summarizes our clinical development pipeline:



1 Based on the results of our previously completed Phase 1 trials of Olvi-Vec administered intravenously to patients with solid tumors, we are planning to initiate a Phase 2 clinical trial of Olvi-Vec in recurrent NSCLC.

2 The Phase 1b/2a clinical trial is not yet scheduled to be initiated. This product candidate is being developed by V2ACT, a 50:50 joint venture between us and TVAX. See "Business — Development Program — *Virus and Neoantigen-primed Adoptive Cell Therapy (V2ACT Immunotherapy).*"

We were founded in 2001 by an academic team from Loma Linda University, led by Aladar A. Szalay, Ph.D., an internationally recognized leader in the monitoring of gene regulation and in whole cell and live organism imaging using light-emitting proteins or protein fusions. We have assembled a seasoned business leadership team with extensive experience involving oncology therapies, including advancing product candidates from preclinical research through clinical development and commercialization. James L. Tyree, our Chairman, previously held numerous executive positions at Abbott Laboratories, including Executive Vice President Global Pharmaceuticals, held the position of President of SUGEN, Inc., and held management positions in Bristol-Myers Squibb and Pfizer. Thomas D. Zindrick, J.D., President and CEO, previously held the position of President and Chief Executive Officer and Director, of Amitech Therapeutic Solutions, Inc. and held various executive management positions at Amgen Inc., including Associate Vice President, General Counsel and Chief Compliance Officer, and held legal positions of increasing responsibility in The Dow Chemical Company.

Since our inception, we have raised an aggregate of $178.0 million of gross proceeds from investors.

Our Strategy

Our strategy is to leverage our deep internal capabilities in the clinical development of oncolytic viruses to create a leading immunotherapy company, discovering, developing and commercializing next-generation products for the treatment of a broad range of cancers, including solid tumors, many of which are among the most difficult cancers to treat. We are focused on the execution and success of our clinical programs and, over time, on building our organization into a fully-integrated therapeutics company. Key elements of our strategy include:

- Advance our lead program, Olvi-Vec, through clinical development and seek regulatory approval.
- Initiate and pursue the collaborative development of our second-most advanced human therapeutic candidate, V2ACT Immunotherapy.
- Leverage our CHOICE discovery platform to build a portfolio of oncology product candidates that target a range of immune mechanisms and progress these product candidates into clinical development.
- Broaden and strengthen our internal manufacturing capabilities, utilizing our in-house manufacturing facility.
- Retain significant economic and commercial rights to our human therapeutic product candidates in key geographic areas.
- License our V-VET1 clinical program, which involves the administration of a proprietary oncolytic vaccinia virus to canine patients with cancer, to a leading animal health company.

Risks Associated with Our Business

Investing in our common stock involves substantial risk. The risks described under the heading “Risk Factors” immediately following this summary may cause us to not realize the full benefits of our strengths or may cause us to be unable to successfully execute all or part of our strategy. Some of the more significant challenges include the following:

- We have incurred significant losses since our inception and anticipate that we will incur significant and increasing losses for the foreseeable future and we may never achieve or maintain profitability.
- Even if we complete this offering, we will require substantial additional financing to advance the development of our product candidates, which may not be available on acceptable terms, or at all. Failure to obtain this necessary capital could force us to delay, limit, reduce or terminate our product development programs, potential commercialization efforts or other operations.
- Our product candidates are in preclinical and clinical stages of development, are not approved for commercial sale and might never receive regulatory approval or become commercially viable.
- Our product candidates are based on a novel approach to the treatment of cancer, which makes it difficult to predict the time and cost of product candidate development.
- We currently have only one product candidate, Olvi-Vec, in clinical development. A failure of this product candidate in clinical development would adversely affect our business and may require us to discontinue development of other product candidates based on the same therapeutic approach.
- Preclinical and clinical development involve a lengthy and expensive process with an uncertain outcome, and delays can occur for a variety of reasons outside of our control.
- Changes in product candidate manufacturing or formulation may result in additional costs or delay.
- If we are unable to manufacture and release any product candidates in the volumes that we require on a timely basis, or fail to comply with stringent regulations applicable to biopharmaceutical manufacturers, we may face delays in the development and commercialization of, or be unable to meet demand for, any product candidates and may lose potential revenues.

- If we are unable to obtain, maintain and protect our intellectual property rights for our technology and product candidates, or if our intellectual property rights are inadequate, our competitive position could be harmed.
- If we fail to comply with federal and state healthcare laws, including fraud and abuse and patient privacy and security laws, we could face substantial penalties and our business, financial condition, results of operations, stock price and prospects will be materially harmed.
- We are highly dependent on our key personnel, including our President and Chief Executive Officer and our Vice President, Clinical Trial Operations. If we are not successful in attracting, motivating and retaining highly qualified personnel, we may not be able to successfully implement our business strategy.
- Our business, financial condition and results of operations could be materially adversely affected by our level of indebtedness.
- Unfavorable market and economic conditions may have serious adverse consequences on our business, financial condition, results of operations, stock price and prospects.
- Public health crises such as pandemics, including the COVID-19 pandemic, or similar outbreaks could materially and adversely affect our preclinical studies and clinical trials, business, financial condition and results of operations.

Corporate Information

We incorporated in Delaware in September 2001. Our principal executive offices are located at 3030 Bunker Hill Street, Suite 300, San Diego, California 92109, and our telephone number is (858) 483-0024. Our website address is www.genelux.com. Information contained in, or that can be accessed through, our website is not incorporated by reference into this prospectus.

Implications of Being an Emerging Growth Company and Smaller Reporting Company

We are an "emerging growth company" as defined in the Jumpstart Our Business Startups Act of 2012 (the JOBS Act). We may take advantage of certain exemptions from various public company reporting requirements, including being permitted to provide 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, not being required to have our internal control over financial reporting audited by our independent registered public accounting firm under Section 404 of the Sarbanes-Oxley Act of 2002 (the Sarbanes-Oxley Act), reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements, and exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved. We may take advantage of these exemptions until the last day of the fiscal year ending after the fifth anniversary of this offering or until we are no longer an emerging growth company, whichever is earlier. We will cease to be an emerging growth company prior to the end of such five-year period if certain earlier events occur, including if we become a "large accelerated filer" as defined in Rule 12b-2 under the Securities Exchange Act of 1934, as amended (the Exchange Act), our annual gross revenues exceed $1.07 billion or we issue more than $1.0 billion of non-convertible debt in any three-year period. In particular, in this prospectus, we have provided only two years of audited financial statements and have not included all of the executive compensation-related information that would be required if we were not an emerging growth company, and we may elect to take advantage of other reduced reporting requirements in future filings. Accordingly, the information contained herein may be different than the information you receive from other public companies in which you hold stock.

In addition, the JOBS Act provides that 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 accounting standards that have different effective dates for public and private companies until those standards would otherwise apply to private companies. We have elected to use this extended transition period under the JOBS Act until the earlier of the date we (1) are no longer an emerging growth company or (2) affirmatively and irrevocably opt out of the extended transition period provided in the JOBS Act. As a result, our financial statements may not be comparable to companies that comply with new or revised accounting pronouncements as of public company effective dates.

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

The Offering

Common stock offered by us	shares.
Common stock to be outstanding after this offering	shares.
Option to purchase additional shares	We have granted the underwriters the option to purchase up to additional shares of our common stock. The underwriters can exercise this option at any time within 45 days after the date of this prospectus.
Use of proceeds	We estimate that the net proceeds from this offering will be approximately $ million (or approximately $ million if the underwriters' option to purchase up to additional shares of our common stock from us is exercised in full), after deducting underwriting discounts and commissions and estimated offering expenses payable by us. We intend to use the net proceeds from this offering to fund the clinical development of our lead product candidate, Olvi-Vec; to fund the payment of outstanding accounts payable and accrued liabilities; and for working capital and general corporate purposes. See the section titled "Use of Proceeds" for additional information.
Proposed Nasdaq Capital Market symbol	"GNLX"
Risk factors	See the section titled "Risk Factors" beginning on page 10 and other information included in this prospectus for a discussion of factors you should consider carefully before deciding to invest in our common stock.

The number of shares of our common stock to be outstanding after this offering is based on 59,586,752 shares of common stock outstanding as of March 31, 2021, after giving effect to (i) the automatic conversion of all outstanding shares of our convertible preferred stock into 22,702,889 shares of common stock and (ii) the automatic conversion of certain convertible promissory notes and accrued and unpaid interest and loan fees thereunder as of March 31, 2021 into 10,122,841 shares of common stock, each in connection with the closing of this offering, and excludes:

- 11,766,573 shares of our common stock issuable upon the exercise of outstanding stock options as of March 31, 2021, with a weighted average exercise price of $3.37 per share;
- 2,392,076 shares of our common stock issuable upon the exercise of warrants outstanding as of March 31, 2021, with exercise prices ranging from $0.01 to $3.50 per share;
- 51,113 shares of our common stock issuable as of March 31. 2021 upon the optional conversion of certain convertible promissory notes, with a conversion price of $3.50 per share of common stock and a conversion price of $12.00 per share of Series K preferred stock, as applicable;

- shares of our common stock reserved for future issuance under our 2021 Equity Incentive Plan (2021 Plan), which will become effective once the registration statement of which this prospectus forms a part is declared effective, as well as any automatic annual increases in the number of shares of common stock reserved for issuance under our 2021 Plan, as more fully described in the section titled "Executive Compensation—Employee Benefit and Stock Plans"; and
- shares of our common stock reserved for issuance under our 2021 Employee Stock Purchase Plan (ESPP), which will become effective once the registration statement of which this prospectus forms a part is declared effective, and any automatic annual increases in the number of shares of common stock reserved for future issuance under our ESPP.

In addition, unless we specifically state otherwise, the information contained in this prospectus, assumes or gives effect to:

- the automatic conversion of (i) all outstanding shares of our convertible preferred stock into an aggregate of 22,702,889 shares of our common stock in connection with the closing of this offering; and (ii) the automatic conversion of certain convertible promissory notes and accrued and unpaid interest and loan fees thereunder as of March 31, 2021 into 10,122,841 shares of common stock in connection with the closing of this offering;
- no exercise of the outstanding options or warrant described above;
- no exercise of the underwriters' option to purchase up to additional shares of common stock from us in this offering;
- an 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;
- a -for- reverse stock split of our common stock to be effected prior to the closing of this offering; and
- the filing and effectiveness of our amended and restated certificate of incorporation and the adoption of our amended and restated bylaws in connection with the closing of this offering.

Summary Financial Data

The following tables set forth our summary financial data for the periods and as of the dates indicated. We derived our statements of operations and comprehensive loss data for the years ended December 31, 2019 and 2020 from our audited financial statements included elsewhere in this prospectus. We derived our statements of operations and comprehensive loss data for the three months ended March 31, 2020 and 2021, and our summary balance sheet data as of March 31, 2021 from our unaudited condensed financial statements included elsewhere in this prospectus. The unaudited condensed financial statements were prepared on a basis consistent with our audited financial statements and include, in management's opinion, all adjustments, consisting only of normal recurring adjustments that we consider necessary for a fair presentation of the financial information set forth in those statements. Our historical results are not necessarily indicative of the results that may be expected in the future. You should read the following summary financial data in conjunction with our 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 summary financial data included in this section is not intended to replace the financial statements and are qualified in their entirety by our financial statements and the related notes included elsewhere in this prospectus.

	Years Ended December 31,		Three Months Ended March 31,	
	2019	2020	2020	2021
Statements of Operations Data (in thousands):			(Unaudited)	
Operating expenses:				
Research and development	$ 7,532	$ 6,227	$ 1,575	$ 1,673
General and administrative	3,338	6,195	1,811	981
Total operating expenses	10,870	12,422	3,386	2,654
Loss from operations	(10,870)	(12,422)	(3,386)	(2,654)
Other expenses:				
Interest expense	(761)	(1,147)	(386)	(330)
Debt discount amortization	—	(74)	—	(45)
Gain on settlement of convertible note payable	—	—	—	30
Total other expenses	(761)	(1,221)	(386)	(345)
Net loss	$ (11,631)	$ (13,643)	$ (3,772)	$ (2,999)
Basic and diluted loss per share(1)	$ (0.50)	$ (0.54)	$ (0.15)	$ (0.11)
Weighted-average common shares outstanding basic and diluted(1)	23,294,347	25,079,495	24,495,192	26,701,223
Pro forma net loss per share, basic and diluted (unaudited) (1)		$ (0.24)		$ (0.05)
Pro forma weighted-average common shares outstanding (unaudited)(1)		56,274,352		59,526,953

(1) See Note 2 to our annual financial statements and our interim condensed financial statements, each included elsewhere in this prospectus, for an explanation of the method used to calculate historical and pro forma net loss per share, basic and diluted, and the weighted-average number of shares of common stock used in the computation of the per share amounts.

	As of March 31, 2021		
	Actual	Pro Forma(1)	Pro Forma As Adjusted(2) (3)
		(unaudited) (in thousands)	
Balance Sheet Data:			
Cash	$ 8,125	$ 8,125	$
Working capital(4)	(4,009)	1,029	
Total assets	10,611	10,611	
Total liabilities	35,849	8,022	
Convertible preferred stock	22	—	
Convertible promissory notes, net of debt discount of $889	24,944	305	
Accumulated deficit	(171,198)	(171,198)	
Total stockholders' equity (deficit)	(25,238)	2,589	

(1) Gives effect to (i) the automatic conversion of certain convertible promissory notes and accrued and unpaid interest and loan fees thereunder as of March 31, 2021 into 10,122,841 shares of common stock, (ii) the automatic conversion of all outstanding shares of our convertible preferred stock into an aggregate of 22,702,889 shares of common stock and the related reclassification of the carrying value of our convertible preferred stock to permanent equity in connection with the closing of this offering, and (iii) the filing and effectiveness of our amended and restated certificate of incorporation that will be in effect in connection with the closing of this offering.

(2) Gives effect to (i) the items described in footnote (1) above and (ii) the issuance and sale of shares of our common stock in this offering at the assumed initial public offering price of $ per share, after deducting underwriting discounts and commissions and estimated offering expenses payable by us.

(3) The pro forma as adjusted information is illustrative only and will depend on the actual initial public offering price and other terms of this offering determined at pricing. A $1.00 increase (decrease) in the assumed initial public offering price of $ per share would increase (decrease) each of cash, working capital, total assets and total stockholders' equity (deficit) by $ million, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same, after deducting estimated underwriting discounts and commissions. 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 cash, 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 estimated underwriting discounts and commissions.

(4) We define working capital as current assets less current liabilities. See our unaudited condensed 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 carefully consider the risks and uncertainties described below, together with all of the other information in this prospectus, including our consolidated financial statements and the related notes appearing at the end of this prospectus and "Management's Discussion and Analysis of Results of Operations and Financial Condition," before deciding whether to purchase shares of our common stock. If any of the following risks are realized, our business, financial condition, results of operations, stock price and prospects could be materially and adversely affected. In that event, the price of our common stock could decline, and you could lose part or all of your investment. The risks and uncertainties described below are not the only ones we face. Additional risks and uncertainties not presently known to us or that we currently believe to be immaterial may also adversely affect our business.

Risks Related to our Financial Position and Need for Additional Capital

We have incurred significant losses since our inception and anticipate that we will incur significant and increasing losses for the foreseeable future and we may never achieve or maintain profitability.

We are a clinical stage biopharmaceutical company, and our operations to date have been focused substantially on organizing and staffing our company, business planning, raising capital, creating, assessing, and developing our technology, establishing our intellectual property portfolio, identifying potential product candidates, undertaking preclinical studies, commencing clinical trials and manufacturing. Additionally, as an organization, we have not yet demonstrated an ability to successfully complete clinical development, obtain regulatory approvals, manufacture a commercial-scale product, or conduct sales and marketing activities necessary for successful commercialization. We have never generated any revenue from product sales and have incurred significant operating losses. Our net loss was $11.6 million and $13.6 million for the years ended December 31, 2019 and 2020, respectively. Our net losses were $3.8 million and $3.0 million for the three months ended March 31, 2020 and 2021, respectively. As of March 31, 2021, we had an accumulated deficit of $171.2 million. We expect to continue to incur significant and increasing operating losses for the foreseeable future. Our prior losses, combined with expected future losses, have had and will continue to have an adverse effect on our stockholders' deficit and working capital.

We expect that it will be several years, if ever, before we have a commercialized product. The net losses we incur may fluctuate significantly from quarter to quarter and year to year. We anticipate that our expenses will increase substantially if, and as, we:

- advance the Phase 3 registration clinical trial for our lead product candidate, Olvi-Vec, in resistant/refractory ovarian cancer;
- initiate planned clinical trials of Olvi-Vec in other cancer indications;
- discover and develop new product candidates, and conduct research and development activities, preclinical studies and clinical trials;
- initiate preclinical studies and clinical trials for any additional product candidates that we may pursue in the future;
- manufacture preclinical, clinical and commercial supplies of our product candidates;
- seek regulatory approvals for any product candidates that successfully complete clinical trials;
- maintain, expand and protect our intellectual property portfolio;
- hire additional research and development, clinical, scientific and management personnel;
- add operational, financial and management information systems and personnel;
- ultimately establish a sales, marketing and distribution infrastructure to commercialize any product candidate for which we may obtain regulatory approval and we commercialize on our own or in collaboration with others; and

- incur additional legal, accounting and other expenses operating as a public company following the completion of this offering.

To become and remain profitable, we must succeed in developing and eventually commercializing products that generate significant revenue. This will require us to be successful in a range of challenging activities, including completing preclinical testing and clinical trials, obtaining regulatory approval for product candidates and manufacturing, marketing and selling products for which we may obtain marketing approval and satisfying any post-marketing requirements. We are only in the development stages of most of these activities. We may never succeed in these activities and, even if we do, may never generate revenue that is significant enough to achieve profitability. Even if we do achieve profitability, we may not be able to sustain or increase profitability on a quarterly or annual basis. Our failure to become and remain profitable would depress the value of our company and could impair our ability to raise capital, expand our business, maintain our research and development efforts or even continue our operations. A decline in the value of our company could also cause you to lose all or part of your investment.

Even if we complete this offering, we will require substantial additional financing to advance the development of our product candidates, which may not be available on acceptable terms, or at all. Failure to obtain this necessary capital could force us to delay, limit, reduce or terminate our product development programs, potential commercialization efforts or other operations.

The development of biopharmaceutical product candidates is capital-intensive. Our operations have consumed substantial amounts of cash since inception. As of March 31, 2021, we had approximately $8.13 million in cash. We expect to continue to spend substantial amounts to continue the preclinical and clinical development of, and seek regulatory approval for, our current and future product candidates. If we are able to gain marketing approval of any product candidate that we develop, including Olvi-Vec, we will require significant additional amounts of cash in order to launch and commercialize such product either alone or in collaboration with others. Because the design and outcome of our ongoing, anticipated and any future clinical trials is highly uncertain, we cannot reasonably estimate the actual amounts necessary to successfully complete the development and commercialization of any product candidate we develop.

Our future capital requirements depend on many factors, including:

- the scope, progress, results and costs of researching and developing Olvi-Vec and our other product candidates and programs, and of conducting preclinical studies and clinical trials;
- the timing of, and the costs involved in, obtaining marketing approvals for Olvi-Vec and future product candidates we develop if clinical trials are successful;
- the success of any future collaborations;
- the cost of commercialization activities for any approved product, including marketing, sales and distribution costs;
- the cost and timing of establishing, equipping, and operating our current and planned manufacturing activities;
- the cost of manufacturing Olvi-Vec and future product candidates for clinical trials in preparation for marketing approval and commercialization;
- our ability to establish and maintain strategic licensing or other arrangements and the financial terms of such agreements;
- the cost, timing and outcome of seeking United States Food and Drug Administration (FDA) and any other regulatory approvals for any future product candidates;
- the costs involved in preparing, filing, prosecuting, maintaining, expanding, defending and enforcing patent claims, including litigation costs and the outcome of such litigation;

- our ability to establish and maintain healthcare coverage and adequate reimbursement for our future products, if any;
- the timing, receipt, and amount of sales of, or royalties on, our future products, if any;
- the emergence of competing cancer therapies and other adverse market developments;
- our efforts to enhance operational systems and our ability to attract, hire and retain qualified personnel, including personnel to support the development of our product candidates;
- the costs associated with being a public company;
- our need and ability to retain key management and hire scientific, technical, medical and business personnel;
- the costs associated with expanding our facilities or building out our laboratory space; and
- the effects of the recent disruptions to and volatility in the credit and financial markets in the United States and the overall impact of the COVID-19 pandemic.

We do not have any committed external source of funds or other support for our development efforts. Until we can generate sufficient product revenue to finance our cash requirements, which we may never do, we expect to finance our future cash needs through a combination of public or private equity offerings and debt financings, or other capital sources such as potential collaborations, strategic alliances, licensing arrangements and other arrangements. Based on our research and development plans, we expect that the net proceeds from this offering, together with our existing cash balance, will enable us to fund our planned operating expenses and capital expenditure requirements for at least the next months. We have based this estimate on assumptions that may prove to be wrong, and we could exhaust our available capital resources sooner than we expect. In addition, because the design and outcome of our anticipated and any future clinical trials is highly uncertain, we cannot reasonably estimate the actual amounts necessary to successfully complete the development and commercialization of Olvi-Vec or any future product candidates. The net proceeds of this offering, together with our existing cash balance, will not be sufficient to complete development of Olvi-Vec or any other product candidate. Accordingly, we will be required to obtain further funding to achieve our business objectives.

We have never generated any revenue from product sales and may never become profitable.

Our ability to generate revenue from product sales and achieve profitability depends on our ability, alone or with future partners, to successfully complete the development of, and obtain the regulatory approvals necessary to commercialize, our development programs. We have no products approved for commercial sale, have not generated any revenue from product sales, and do not anticipate generating any revenue from product sales until after we have received marketing approval for the commercial sale of a product candidate, if ever. Our ability to generate revenue and achieve profitability depends heavily on our success in achieving a number of goals, including:

- completing research regarding, and preclinical and clinical development of product candidates and programs, including Olvi-Vec, and identifying and developing new product candidates;
- obtaining marketing approvals for any product candidates for which we complete clinical trials;
- obtaining regulatory approval to use and sell products generated by our existing or future manufacturing processes for Olvi-Vec and future product candidates, including at our existing manufacturing facility and/or by establishing and maintaining supply and manufacturing relationships with third parties;
- launching and commercializing product candidates for which we obtain marketing approvals, either directly by establishing a sales force and marketing, medical affairs and distribution infrastructure or, alternatively, with a collaborator or distributor;

- establishing and maintaining healthcare coverage and adequate reimbursement for our future products, if any;
- obtaining market acceptance of product candidates that we develop as viable treatment options;
- addressing any competing technological and market developments;
- identifying, assessing, acquiring and developing new product candidates;
- negotiating favorable terms in any collaboration, licensing, or other arrangements into which we may enter and performing our obligations in such collaborations;
- maintaining, protecting, and expanding our portfolio of intellectual property rights, including patents, trade secrets, and know-how; and
- attracting, hiring, and retaining qualified personnel.

Even if Olvi-Vec or any future product candidates that we develop are approved for commercial sale, we anticipate incurring significant costs associated with commercializing any such product candidate that we commercialize on our own or in collaboration with others. Our expenses could increase beyond expectations if we are required by the FDA or comparable foreign regulatory authorities, to change our manufacturing processes or assays, or to perform clinical, nonclinical, or other types of studies in addition to those that we currently anticipate.

If we are successful in obtaining regulatory approvals to market Olvi-Vec or any future product candidates, our revenue will be dependent, in part, upon the size of the markets in the territories for which we gain marketing approval, the accepted price for the product, the ability to get reimbursement at any price, and whether we own the commercial rights for that territory. If the number of our addressable patients is not as significant as we estimate, the indications approved by regulatory authorities are narrower than we expect, the labels for our product candidates contain significant safety warnings, regulatory authorities impose burdensome or restrictive distribution requirements, or the reasonably accepted patient populations for treatment are narrowed by competition, physician choice or treatment guidelines, we may not generate significant revenue from sales of such products, even if approved. If we are not able to generate revenue from the sale of any approved products, we could be prevented from or significantly delayed in achieving profitability.

Raising additional capital may cause dilution to our stockholders, including purchasers of common stock in this offering, restrict our operations or require us to relinquish rights to our technologies or product candidates.

To the extent that we raise additional capital through the sale of common stock or securities convertible or exchangeable into common stock, your ownership interest may be diluted. Any future debt financings we undertake, if available, are likely to involve restrictive covenants limiting or restricting our ability to take specific actions, such as incurring additional debt, making capital expenditures or declaring dividends. If we raise additional funds through licensing or collaboration arrangements with third parties, we may have to relinquish valuable rights to our product candidates, or grant licenses on terms that are not favorable to us. We also could be required to seek collaborators for product candidates at an earlier stage than otherwise would be desirable or relinquish our rights to product candidates or technologies that we otherwise would seek to develop or commercialize ourselves.

Failure to obtain capital when needed on acceptable terms may force us to delay, limit or terminate our product development and commercialization of our current or future product candidates, which could have a material and adverse effect on our business, financial condition, results of operations, stock price and prospects. Securing additional financing could also require a substantial amount of time from our management and may divert a disproportionate amount of their attention away from daily activities, which may adversely affect our management’s ability to oversee the development of Olvi-Vec or any future product candidates.

The report of our independent registered public accounting firm included a "going concern" explanatory paragraph.

The report of our independent registered public accounting firm on our financial statements as of and for the years ended December 31, 2019 and 2020 included an explanatory paragraph indicating that there was substantial doubt about our ability to continue as a going concern. If we are unable to raise additional capital as and when needed, our business, financial condition and results of operations will be materially and adversely affected, and we may be forced to delay our development efforts, limit our activities and reduce research and development costs. If we are unable to continue as a going concern, we may 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 financial statements. The inclusion of a going concern explanatory paragraph by our independent registered public accounting firm, 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, enter into licensing and collaboration arrangements or other contractual relationships with third parties and otherwise execute our development strategy.

Risks Related to Product Discovery, Development and Regulatory Approval

Our product candidates are in preclinical and clinical stages of development, are not approved for commercial sale and might never receive regulatory approval or become commercially viable.

All of our product candidates are in research, preclinical or clinical development. We have not completed the development of any product candidates, we currently generate no revenue, and we may never be able to develop a marketable product. We have completed enrollment for only one Phase 2 clinical trial, an open-label single-arm study, of our lead product candidate, Olvi-Vec, in September 2019. Additionally, we have a portfolio of oncolytic vaccinia virus constructs that are in early-to-mid stages of discovery and preclinical development and may never advance to late-stage clinical-stage development or marketing approval. Our ability to generate product revenues, which we do not expect will occur for several years, if ever, will depend on obtaining marketing approvals for, and successfully commercializing our product candidates, either alone or in collaboration with others, and we cannot guarantee that we will ever obtain marketing approval for any of our product candidates. Before obtaining marketing approval for the commercial distribution of our product candidates, we, or a future collaborator, must conduct extensive preclinical tests and clinical trials to demonstrate the safety and efficacy in humans of our product candidates.

The success of our current and future product candidates will depend on several factors, including the following:

- successful completion of preclinical studies and clinical trials;
- sufficiency of our financial and other resources to complete the necessary preclinical studies and clinical trials;
- acceptance of INDs/IND amendments for our planned clinical trials or future clinical trials;
- successful enrollment and completion of clinical trials;
- successful data from our clinical trials that support FDA conclusion of an acceptable risk-benefit profile of our product candidates in the intended populations;
- receipt of regulatory and marketing approvals from applicable regulatory authorities;
- obtaining and maintaining patent and trade secret protection or regulatory exclusivity for our product candidates;
- obtaining regulatory approval to use our existing or future manufacturing processes for the clinical and commercial manufacture of our product candidates at our existing or future manufacturing facilities or at the facilities of one or more third-party manufacturers with whom we would need to establish supply arrangements;

- successfully launching commercial sales of our product candidates, if and when approved, whether alone or in collaboration with others;
- acceptance of any products we develop and their benefits and uses, if and when approved, by patients, the medical community and third-party payors;
- effectively competing with other therapies;
- obtaining and maintaining healthcare coverage and adequate reimbursement from third-party payors; and
- maintaining a continued acceptable safety profile of the products following approval.

If we do not achieve one or more of these factors in a timely manner or at all, we could experience significant delays or an inability to successfully commercialize our drug candidates, which would materially harm our business.

We currently have only one product candidate, Olvi-Vec, in clinical development. A failure of this product candidate in clinical development would adversely affect our business and may require us to discontinue development of other product candidates based on the same therapeutic approach.

We have invested a significant portion of our efforts and financial resources in our oncolytic vaccinia virus platform and, in particular, in the development of our lead product candidate, Olvi-Vec. We have completed enrollment for only one Phase 2 clinical trial, an open-label single-arm study, of Olvi-Vec in September 2019. Following an End-of-Phase 2 meeting with the FDA on March 25, 2021 during which we discussed the potential of our planned Phase 3 clinical trial serving as a registrational trial, we plan to submit to the FDA in the second quarter of 2021 an IND amendment for our new in-house manufacturing process and our proposed Phase 3 registration clinical trial protocol. Provided the FDA has no objections to the content of these submissions and agrees with the demonstration of comparability of Olvi-Vec under the new manufacturing process to the material used in the Phase 2 trial, we expect to obtain authorization to initiate our Phase 3 registration clinical trial of Olvi-Vec in the second half of 2021. Olvi-Vec, as well as our other product candidates, are susceptible to the risks of failure inherent at any stage of product development, including the occurrence of unexpected or unacceptable adverse events or the failure to demonstrate efficacy in clinical trials. We will need to successfully complete such trials before submitting a marketing application to the FDA.

We have only submitted an IND application with respect to one product candidate, Olvi-Vec. V2ACT Therapeutics, LLC (V2ACT), a joint venture between TVAX and us, has also filed its own IND for V2ACT Immunotherapy, a combination of Olvi-Vec and vaccine-enhanced adoptive cell therapy for the treatment of newly-diagnosed, surgically-resectable pancreatic cancer patients. For V2ACT Immunotherapy, no clinical trial is yet scheduled to be initiated. We have not previously submitted a Biologics License Application (BLA) to the FDA, or similar regulatory approval filings to comparable foreign authorities, for any product candidate, and we cannot be certain that our product candidates will be successful in clinical trials or receive regulatory approval. Further, our product candidates may not receive regulatory approval even if they are successful in clinical trials.

Since Olvi-Vec is based on our oncolytic vaccinia virus platform, if Olvi-Vec fails in development as a result of any underlying problem with our oncolytic vaccinia virus platform, then we may be required to discontinue development of all product candidates that are based on this therapeutic approach. If we were required to discontinue development of Olvi-Vec or our other future product candidates, or if any of them were to fail to receive regulatory approval or achieve sufficient market acceptance, we could be prevented from or significantly delayed in achieving profitability. We can provide no assurance that we would be successful at developing other product candidates based on an alternative therapeutic approach.

Our product candidates are based on a novel approach to the treatment of cancer, which makes it difficult to predict the time and cost of product candidate development.

We have concentrated all of our research and development efforts on product candidates based on our oncolytic vaccinia virus platform, which is novel. We only have conducted clinical development of Olvi-Vec. Our future success depends on the successful development of our oncolytic vaccinia virus platform. Any development problems we experience in the future may cause significant delays or unanticipated costs, and we may not be able to solve any such development problems. Should we encounter development problems, including unfavorable preclinical or clinical trial results, the FDA or foreign regulatory authorities may place all, or part, of our clinical development on hold or refuse to approve our product candidates, or may require additional information, tests, or trials, which could significantly delay product development and significantly increase our development costs. Moreover, even if we are able to provide the requested information or trials to the FDA, there would be no guarantee that the FDA would accept them or approve our product candidates. We may also experience delays in developing and obtaining regulatory approval for a sustainable, reproducible and scalable manufacturing process, or developing or qualifying and validating product release assays, other testing and manufacturing methods, and our equipment and facilities in a timely manner, which may prevent us from completing our clinical trials or commercializing our product candidates on a timely or profitable basis, if at all.

In addition, the clinical trial requirements of the FDA and comparable foreign regulatory authorities and the criteria these regulators use to determine the safety and efficacy of a product candidate vary substantially according to the type, complexity, novelty and intended use and market of the potential products. The FDA and comparable foreign regulatory authorities have limited experience with the approval of viral immunotherapies. To date, there is only one FDA-approved viral immunotherapy—talimogene laherparepvec (T-VEC). Any viral immunotherapies that are approved may be subject to extensive post-approval regulatory requirements, including post-approval studies as well as requirements pertaining to manufacturing, distribution and promotion. We may need to devote significant time and resources to compliance with these requirements.

Preclinical and clinical development involve a lengthy and expensive process with an uncertain outcome, and delays can occur for a variety of reasons outside of our control.

In order to obtain FDA approval to market a new biological product, we must demonstrate proof of safety as well as purity and potency (i.e. efficacy) in humans. To meet these requirements, we will have to conduct adequate and well-controlled clinical trials. Before we can commence clinical trials for a product candidate, we must complete extensive preclinical testing and studies that support our planned INDs in the United States. We only have one product candidate currently being evaluated in clinical development, Olvi-Vec. In addition, the FDA has granted permission to proceed with a clinical trial under the IND for V2ACT Immunotherapy, but no clinical trial has been initiated or is currently scheduled to initiate. The rest of our product candidates are in preclinical development, have not yet been evaluated in IND-enabling studies and their risk of failure is high. We cannot be certain of the timely completion or outcome of our preclinical testing and studies or clinical trials and cannot predict if the FDA will accept our proposed clinical programs or if the outcome of our preclinical testing and studies or clinical trials will ultimately support the further development of our programs. As a result, we cannot be sure that we will be able to submit INDs or similar applications for our preclinical programs on the timelines we expect, if at all, we cannot be sure that submission of INDs or similar applications will result in the FDA or other regulatory authorities allowing clinical trials to begin and we cannot be sure that our planned clinical trials will begin on time or that our ongoing clinical trials will be completed on schedule.

Conducting preclinical testing and clinical development is a lengthy, time-consuming and expensive process. The length of time may vary substantially according to the type, complexity and novelty of the program, and often can be several years or more per program. Delays associated with programs for which we are directly conducting preclinical testing and studies may cause us to incur additional operating expenses. Moreover, we may be affected by delays associated with the preclinical testing and studies of certain programs that are the responsibility of any potential future partners over which we have no control. The commencement and rate of

completion of preclinical studies and clinical trials for a product candidate may be delayed by many factors, including, for example:

- inability to generate sufficient preclinical or other in vivo or in vitro data to support the initiation of clinical trials;
- unexpected toxicities observed in preclinical IND-enabling studies precluding the identification of a safe dose to move forward in human clinical trials;
- delays in obtaining regulatory approval for, and production or manufacturing of, clinical supply;
- delays in reaching a consensus with regulatory agencies on study or trial design; and
- regulatory authorities not allowing us to rely on previous findings of safety and efficacy for other similar but approved products and published scientific literature.

We may experience delays in initiating or completing clinical trials. We also may experience numerous unforeseen events during, or as a result of, any ongoing or future clinical trials that we could conduct that could delay or prevent our ability to receive marketing approval or commercialize Olvi-Vec or any future product candidates, including:

- delays or failures related to the COVID-19 pandemic, which may result in clinical site closures, delays to patient enrollment, patients withdrawing prior to receiving treatment (e.g., catheter implantation failure), patients discontinuing their treatment or follow up visits or changes to trial protocols;
- regulators or institutional review boards (IRBs), may not authorize us or our investigators to commence a clinical trial, conduct a clinical trial at a prospective trial site, or amend trial protocols, or may require that we modify or amend our clinical trial protocols;
- we may experience delays in reaching, or fail to reach, agreement on acceptable clinical trial contracts or clinical trial protocols with prospective trial sites and/or contract research organizations (CROs);
- clinical trials of our product candidates may produce negative or inconclusive results, or our studies may fail to reach the necessary level of statistical significance, and we may decide, or regulators may require us, to conduct additional clinical trials or abandon product development programs;
- the number of patients required for clinical trials of our product candidates may be larger than we anticipate, enrollment in these clinical trials may be slower than we anticipate, or participants may drop out of these clinical trials or be lost to follow-up at a higher rate than we anticipate, or may elect to participate in alternative clinical trials sponsored by our competitors with product candidates that treat the same indications as our product candidates;
- third-party contractors may fail to comply with regulatory requirements or the clinical trial protocol, or meet their contractual obligations to us in a timely manner, or at all, or we may be required to engage in additional clinical trial site monitoring;
- manufacturing delays;
- we, regulators, or IRBs may require that we or our investigators suspend or terminate clinical research for various reasons, including noncompliance with regulatory requirements or a finding that the participants are being exposed to unacceptable health risks, undesirable side effects, or other unexpected characteristics of the product candidate, or due to findings of undesirable effects caused by a biologically, chemically or mechanistically similar therapeutic or therapeutic candidate;
- changes could be adopted in marketing approval policies during the development period, rendering our data insufficient to obtain marketing approval;
- statutes or regulations could be amended, or new ones could be adopted;
- changes could be adopted in the regulatory review process for submitted product applications;

- the cost of clinical trials of our product candidates may be greater than we anticipate, or we may have insufficient funds for a clinical trial or product manufacture or to pay the substantial user fees required by the FDA upon the submission of a BLA or equivalent authorizations from comparable foreign regulatory authorities;
- the supply or quality of our product candidates or other materials necessary to conduct clinical trials of our product candidates may be insufficient or inadequate;
- the FDA or comparable foreign regulatory authorities may fail to approve the manufacturing processes or facilities of third-party manufacturers with which we contract for clinical and commercial supplies;
- we may decide, or regulators may require us, to conduct or gather, as applicable, additional clinical trials, analyses, reports, data, or preclinical trials, or we may abandon product development programs;
- we may fail to reach an agreement with regulators or IRBs regarding the scope, design, or implementation of our clinical trials, and the FDA or comparable foreign regulatory authorities may require changes to our study designs that make further study impractical or not financially prudent;
- regulators may ultimately disagree with the design or our conduct of our preclinical studies or clinical trials, finding that they do not support product candidate approval;
- we may have delays in adding new investigators or clinical trial sites, or we may experience a withdrawal of clinical trial sites;
- patients that enroll in our studies may misrepresent their eligibility or may otherwise not comply with the clinical trial protocol, resulting in the need to drop the patients from the study or clinical trial, increase the needed enrollment size for the clinical trial or extend its duration;
- there may be regulatory questions or disagreements regarding interpretations of data and results, or new information may emerge regarding our product candidates;
- the FDA or comparable foreign regulatory authorities may disagree with our trial design, including endpoints, or our interpretation of data from preclinical studies and clinical trials or find that a product candidate's benefits do not outweigh its safety risks;
- the FDA or comparable foreign regulatory authorities may not accept data from studies with clinical trial sites in foreign countries;
- the FDA or comparable foreign regulatory authorities may disagree with our intended indications;
- the FDA or comparable foreign regulatory authorities may fail to approve or subsequently find fault with the manufacturing processes or our manufacturing facilities for clinical and future commercial supplies;
- the data collected from clinical trials of our product candidates may not be sufficient to the satisfaction of the FDA or comparable foreign regulatory authorities to support the submission of a BLA or other comparable submission in foreign jurisdictions or to obtain regulatory approval in the United States or elsewhere;
- the FDA or comparable foreign regulatory authorities may take longer than we anticipate to make a decision on our product candidates; and
- we may not be able to demonstrate that a product candidate provides an advantage over current standards of care or current or future competitive therapies in development, including, for example due to a longer-and/or-higher-than-expected response rate determination in the active comparator group or a shorter-and/or-lower-than-expected response rate determination in the experimental drug group.

For example, in March 2021, the FDA informed us that when submitting for regulatory approval of our planned Phase 3 registration clinical trial of Olvi-Vec we must demonstrate comparability of product

manufactured under our new in-house manufacturing process to product used in the Phase 2 trial. We anticipate that we will be submitting our Phase 3 clinical trial protocol and an IND amendment for our new in-house manufacturing process to the FDA in the second quarter of 2021. Provided the FDA has no objections to the content of these submissions and agrees with the demonstration of comparability of Olvi-Vec under the new manufacturing process to the material used in the Phase 2 trial, we expect to obtain authorization to initiate our Phase 3 registration clinical trial of Olvi-Vec in the second half of 2021. Delays in obtaining regulatory authorization of our protocol or IND amendment may cause delays in the initiation of our Phase 3 registration clinical trial or the FDA may not authorize our Phase 3 study or IND amendment. Any delay in obtaining or failure to obtain required authorization of our Phase 3 study could materially adversely affect our ability to generate revenue from Olvi-Vec, which may materially harm our business, financial condition, results of operations, stock price and prospects.

Our product development costs will also increase if we experience delays in clinical testing or marketing approvals, and we may not have sufficient funding to complete the testing and approval process for any of our current or future product candidates. We may be required to obtain additional funds to complete clinical trials and prepare for possible commercialization of our product candidates. We do not know whether any preclinical tests or clinical trials beyond what we currently have planned will be required, will begin as planned, will need to be restructured, or will be completed on schedule or at all. Significant delays relating to any preclinical studies or clinical trials also could shorten any periods during which we may have the exclusive right to commercialize our product candidates or allow our competitors to bring products to market before we do and impair our ability to successfully commercialize our product candidates and may harm our business and results of operations. In addition, many of the factors that cause, or lead to, delays in clinical trials may ultimately lead to the denial of marketing approval of any of our product candidates. Any delays in our clinical development programs may harm our business, financial condition and results of operations significantly.

If we experience delays or difficulties in the enrollment of patients in clinical trials, our receipt of necessary regulatory approvals could be delayed or prevented.

We may not be able to initiate or continue clinical trials for our product candidates if we are unable to locate and enroll a sufficient number of eligible patients to participate in these trials as required by the FDA or foreign regulatory authorities.

Patient enrollment, a significant factor in the timing of clinical trials, is affected by many factors including the size and nature of the patient population, the proximity of patients to clinical sites, the eligibility criteria for the clinical trial, the design of the clinical trial, competing clinical trials, and clinicians' and patients' perceptions as to the potential advantages of the product candidate being studied in relation to other available therapies, including any new drugs that may be approved for the indications we are investigating.

The timely completion of clinical trials in accordance with their protocols depends, among other things, on our ability to enroll a sufficient number of patients who remain in the study until its conclusion. We may experience difficulties in patient enrollment or retention in our clinical trials for a variety of reasons. The enrollment of patients depends on many factors, including:

- availability and efficacy of approved therapies for the disease under investigation;
- patient eligibility criteria for the trial in question;
- risks that enrolled subjects will drop out before completion of the trial, including as a result of contracting COVID-19 or other health conditions or being forced to quarantine;
- perceived risks and benefits of the product candidate under study;
- efforts to facilitate timely enrollment in clinical trials;
- patient referral practices of physicians;

- the ability to monitor patients adequately during and after treatment;
- proximity and availability of clinical trial sites for prospective patients;
- withdraw of consent for any reasons;
- unforeseen limitations of protocol design; and
- protocol amendment by the sponsor and/or as requested by applicable regulatory authorities.

In addition, our planned clinical trials may compete with other clinical trials for product candidates that are in the same therapeutic areas as our product candidates, and this competition will reduce the number and types of patients available to us because some patients who might have opted to enroll in our trials may instead opt to enroll in a competing clinical trial.

Our inability to enroll a sufficient number of patients for our anticipated and any future clinical trials would result in significant delays or may require us to abandon one or more clinical trials altogether. Enrollment delays in our clinical trials may result in increased development costs for our product candidates, which could have an adverse effect on our business, financial condition, results of operations, and prospects. In addition, disruptions caused by the COVID-19 pandemic may increase the likelihood that we encounter patient enrollment difficulties.

Results of preclinical studies and early clinical trials may not be predictive of results of future clinical trials.

For our lead product candidate, Olvi-Vec, we completed enrollment of a single-arm, open-label Phase 2 clinical trial in September 2019, while other product candidates that may be generated from both our oncolytic vaccinia virus platform are in preclinical development. For the platinum-resistant/refractory ovarian cancer indication, we will be required to conduct at least one additional clinical trial of Olvi-Vec before we can submit a marketing application to the applicable regulatory authorities. Clinical development is expensive and can take many years to complete and its outcome is inherently uncertain. Olvi-Vec may not perform as we expect in clinical trials, particularly in an open-label, randomized, and controlled Phase 3 registration clinical trial, may ultimately have a different or no impact on tumors, may have a different mechanism of action than we expect and may not ultimately prove to be safe and effective.

The results of previous clinical trials of Olvi-Vec and results of preclinical studies or early clinical trials of any other product candidate we develop, may not be predictive of the results of subsequent and later-stage clinical trials. Many companies in the pharmaceutical and biotechnology industries have suffered significant setbacks in registration-stage clinical trials after achieving positive results in earlier development, and we could face similar setbacks. The design of a clinical trial can determine whether its results will support approval of a product and flaws in the design of a clinical trial may not become apparent until the clinical trial is well advanced. We do not have experience in designing a registration-stage clinical trial and may be unable to design and execute a clinical trial to support marketing approval. In addition, preclinical and clinical data are often susceptible to varying interpretations and analyses. Many companies that believed their product candidates performed satisfactorily in preclinical studies and clinical trials have nonetheless failed to obtain marketing approval for the product candidates. Even if we, or future collaborators, believe that the results of clinical trials for our product candidates warrant marketing approval, the FDA or comparable foreign regulatory authorities may disagree and may not grant marketing approval of our product candidates.

In some instances, there can be significant variability in safety or efficacy results between different clinical trials of the same product candidate due to numerous factors, including changes in trial procedures set forth in protocols, differences in the size and type of the patient populations, changes in and adherence to the clinical trial protocols, variations in conducting clinical trial at different sites, changes in medical practice, FDA requirements based on agency guidelines or precedence which may be more strict for a Phase 3 study, the rate of dropout among clinical trial participants and changes in the manufacturing process. Moreover, should there be an issue with the design of any of our clinical trials, our results may be impacted. We may not discover such a flaw until the clinical trial is at an advanced stage.

Interim, topline, and preliminary data from our clinical trials that we announce or publish from time to time may change as more patient data become available and are subject to audit and verification procedures that could result in material changes in the final data.

From time to time, we may publicly disclose interim, topline, or preliminary data from our clinical trials, which is based on a preliminary analysis of then-available data, and the results and related findings and conclusions are subject to change following a more comprehensive review of the data related to the particular study or trial. We also make assumptions, estimations, calculations, and conclusions as part of our analyses of data, and we may not have received or had the opportunity to fully and carefully evaluate all data. As a result, the interim, topline, or preliminary results that we report may differ from future results of the same studies, or different conclusions or considerations may qualify such results, once additional data have been received and fully evaluated. Interim, topline, and preliminary data also remain subject to audit and verification procedures that may result in the final data being materially different from the preliminary data we previously published. As a result, such data should be viewed with caution until the final data are available. From time to time, we may also disclose interim data from our clinical trials. Interim, topline, and preliminary data from clinical trials that we may complete are subject to the risk that one or more of the clinical outcomes may materially change as patient enrollment continues and more patient data become available. Adverse differences between preliminary, interim or topline data and final data could significantly harm our business prospects.

Further, others, including regulatory agencies, may not accept or agree with our assumptions, estimates, calculations, conclusions, or analyses or may interpret or weigh the importance of data differently, which could impact the value of the particular program, the approvability, or commercialization of the particular product candidate or product and our company in general. In addition, the information we choose to publicly disclose regarding a particular study or clinical trial is based on what is typically extensive information, and you or others may not agree with what we determine is the material or otherwise appropriate information to include in our disclosure, and any information we determine not to disclose may ultimately be deemed significant with respect to future decisions, conclusions, views, activities or otherwise regarding a particular product, product candidate, or our business. If the interim, topline, or preliminary data that we report differ from actual results, or if others, including regulatory authorities, disagree with the conclusions reached, our ability to obtain approval for, and commercialize Olvi-Vec and any future product candidates may be harmed, which could harm our business, operating results, prospects, or financial condition.

Serious adverse events, undesirable side effects or other unexpected properties of our current or future product candidates may be identified during development or after approval, which could halt their development or lead to the discontinuation of our clinical development programs, refusal by regulatory authorities to approve our product candidates or, if discovered following marketing approval, revocation of marketing authorizations or limitations on the use of our product candidates thereby limiting the commercial potential of such product candidate.

To date, Olvi-Vec is the only product candidate we have tested in humans. The most advanced trial conducted was our open-label, single-arm Phase 1b/2 clinical trial in platinum-resistant/refractory ovarian cancer. Enrollment was completed in September 2019, and we reported multiple data readouts in 2020. Additionally, we previously conducted five Phase 1 clinical studies and one Expanded Access Program (EAP) in different indications, using different routes of administration and different dosing regimens. The most common treatment-related toxicities generally observed in our trials from different routes of administration were pyrexia, nausea, chills and fatigue with additional common treatment-related toxicities observed in our intraperitoneal administration trials being abdominal pain and abdominal distension. As we continue our development of Olvi-Vec and initiate clinical trials of any future product candidates, serious adverse events, undesirable side effects or unexpected characteristics may emerge or be reported, causing us to abandon these product candidates or limit their development to more narrow uses or subpopulations in which the serious adverse events, undesirable side effects or other characteristics are less prevalent, less severe or more acceptable from a risk-benefit perspective. Even if our product candidates initially show promise in early clinical trials, the side effects

of therapies are frequently only detectable after they are tested in large, Phase 3 clinical trials or, in some cases, after they are made available to patients on a commercial scale after approval. Sometimes, it can be difficult to determine if the serious adverse or unexpected side effects were caused by the product candidate or another factor, especially in oncology subjects who may suffer from other medical conditions and be taking other medications. If serious adverse or unexpected side effects are identified during development and are determined to be attributed to our product candidates, we, the FDA or comparable foreign regulatory authorities, or IRBs and other reviewing entities, could interrupt, delay, or halt clinical trials and could result in a more restrictive label, a Risk Evaluation and Mitigation Strategy (REMS) or the delay or denial of regulatory approval by the FDA or comparable foreign regulatory authorities. The FDA or comparable foreign regulatory authorities may also require, or we may voluntarily develop strategies for managing adverse events during clinical development, which could include restrictions on our enrollment criteria, the use of stopping criteria, adjustments to a study's design, or the monitoring of safety data by a data monitoring committee, among other strategies. Any requests from the FDA or comparable foreign regulatory authority for additional data or information could also result in substantial delays in the approval of our product candidates.

Drug-related side effects could also affect subject recruitment or the ability of enrolled subjects to complete the trial or result in potential product liability claims. Any of these occurrences may harm our business, financial condition and prospects significantly.

In addition, if one or more of our product candidates receives marketing approval, and we or others later identify undesirable side effects caused by such products, a number of potentially significant negative consequences could result, including:

- regulatory authorities may withdraw approvals of such product;
- regulatory authorities may require additional warnings on the label;
- we may be required to create a medication guide outlining the risks of such side effects for distribution to patients;
- we may be forced to suspend marketing of that product, or decide to remove the product form the marketplace;
- we may be required to change the way the product is administered;
- we could be subject to fines, injunctions, or the imposition of criminal or civil penalties;
- we could be sued and held liable for harm caused to patients; and
- the product may become less competitive, and our reputation may suffer.

The therapeutic-related side effects could affect patient recruitment or the ability of enrolled patients to complete the trial or result in potential product liability claims. Any of these events could prevent us from achieving or maintaining market acceptance of the particular product candidate, if approved, and could significantly harm our business, financial condition, results of operations, stock price and prospects.

We anticipate that many of our product candidates will be used in combination with third-party drugs, some of which may still be in development, and we have limited or no control over the supply, regulatory status or regulatory approval of such drugs.

We anticipate developing our product candidates for use in combination with other oncology therapeutics, including chemotherapies, or medical devices (e.g. intraperitoneal catheter). For example, in our planned Phase 3 registration clinical trial, we anticipate developing the intraperitoneal (catheter) delivery of Olvi-Vec in combination with a platinum-based chemotherapy doublet and bevacizumab (e.g., AVASTIN). In the future, we may enter into additional agreements for the supply of immune checkpoint inhibitors for use in connection with the development of one or more of our product candidates. Our ability to develop and ultimately commercialize

our product candidates used in combination with platinum-based and other chemotherapies, and bevacizumab, or any other combination products (e.g., cellular and targeted therapies), and used with devices (e.g., catheters) will depend on our ability to access such drugs and devices on commercially reasonable terms for the clinical trials and their availability for use with the commercialized product, if approved. We cannot be certain that current or potential future commercial relationships will provide us with a steady supply of such drugs or devices on commercially reasonable terms or at all.

Any failure to maintain or enter into new successful commercial relationships, or the expense of purchasing platinum-based and other chemotherapies, and bevacizumab, or any other combination products, or any devices in the market, may delay our development timelines, increase our costs and jeopardize our ability to develop our product candidates as commercially viable therapies. If any of these occur, our business, financial condition, results of operations, stock price and prospects may be materially harmed.

Moreover, the development of product candidates for use in combination with another product or product candidate may present challenges that are not faced for single agent product candidates. For our product candidates that may be used in combination with platinum-based and other chemotherapies, and bevacizumab, or any other combination products or any devices, the FDA may require us to use more complex clinical trial designs in order to evaluate the contribution of each product and product candidate to any observed effects. It is possible that the results of these trials could show that any positive previous trial results are attributable to the combination therapy and not our product candidates. Moreover, following product approval, the FDA may require that products or devices used in conjunction with each other be cross labeled for combined use. To the extent that we do not have rights to the other product or device, this may require us to work with a third party to satisfy such a requirement. The ability to obtain cooperation from the third party may impact our ability to respond to the FDA's requests which could impact our ability to achieve regulatory approval. Moreover, developments related to the other product or device may impact our clinical trials as well as our commercial prospects should we receive marketing approval. Such developments may include changes to the safety or efficacy profile of the other product or device, changes to the availability of the approved product or device, and changes to the standard of care.

In the event that any future collaborator or supplier of platinum-based and other chemotherapies, and bevacizumab, or any other products administered in combination, or any devices used, with our product candidates does not supply their products on commercially reasonable terms or in a timely fashion, we would need to identify alternatives for accessing these products. This could cause our clinical trials to be delayed and limit the commercial opportunities for our product candidates, in which case our business, financial condition, results of operations, stock price and prospects may be materially harmed.

We may not be successful in our efforts to expand our pipeline of product candidates and develop marketable products.

We expect initially to develop our lead product candidate, Olvi-Vec. We anticipate pursuing clinical development of additional product candidates. Research programs to identify new product candidates require substantial technical, financial and human resources. Developing, obtaining marketing approval for, and commercializing additional product candidates will require substantial additional funding beyond the net proceeds of this offering and will be subject to the risks of failure inherent in medical product development. We cannot assure you that we will be able to successfully advance any of these additional product candidates through the development process.

Even if we obtain approval from the FDA or comparable foreign regulatory authorities to market additional product candidates for the treatment of cancer, we cannot assure you that any such product candidates will be successfully commercialized, widely accepted in the marketplace, or more effective than other commercially available alternatives. If we are unable to successfully develop and commercialize additional product candidates our commercial opportunity may be limited and our business, financial condition, results of operations, stock price and prospects may be materially harmed.

We may expend our limited resources to pursue a particular product candidate or indication and fail to capitalize on product candidates or indications that may be more profitable or for which there is a greater likelihood of success.

Because we have limited financial and managerial resources, we must prioritize our research programs and will need to focus our product candidates on the potential treatment of certain indications. As a result, we may forego or delay pursuit of opportunities with other product candidates or for other indications that later prove to have greater commercial potential. Our resource allocation decisions may cause us to fail to capitalize on viable commercial products or profitable market opportunities. Our spending on current and future research and development programs and product candidates for specific indications may not yield any commercially-viable products.

Additionally, we may pursue additional in-licenses or acquisitions of development-stage assets or programs, which entails additional risk to us. Identifying, selecting and acquiring promising product candidates requires substantial technical, financial, and human resources expertise. Efforts to do so may not result in the actual acquisition or license of a particular product candidate, potentially resulting in a diversion of our management's time and the expenditure of our resources with no resulting benefit. For example, if we are unable to identify programs that ultimately result in approved products, we may spend material amounts of our capital and other resources evaluating, acquiring and developing products that ultimately do not provide a return on our investment.

If we do not achieve our product development goals in the timeframes we announce and expect, the commercialization of our product candidates may be delayed and as a result our share price may decline.

Drug development is inherently risky and uncertain. We cannot be certain that we will be able to:

- complete IND-enabling preclinical studies or develop manufacturing processes and associated analytical methods that meet current good manufacturing practice (cGMP) requirements in time to initiate or to complete our anticipated or future clinical trials in the timeframes we announce;
- obtain sufficient clinical supply of our product candidates to support our anticipated or future clinical trials;
- initiate clinical trials within the timeframes we announce;
- enroll and maintain a sufficient number of subjects to complete or timely complete any clinical trials; or
- collect and analyze the data from any completed clinical trials in the timeframes we announce.

The actual timing of our development milestones could vary significantly compared to our estimates, in some cases for reasons beyond our control. If we are unable to achieve our goals within the timeframes we announce, the commercialization of our product candidates may be delayed and, as a result, the stock price of our common stock could fall and you may lose all of your investment.

Even if we complete the necessary preclinical studies and clinical trials, the marketing approval process is expensive, time-consuming and uncertain and may prevent us or any of our potential future collaboration partners from obtaining approvals for the commercialization of Olvi-Vec and any other product candidate we develop.

Any current or future product candidate we may develop, and the activities associated with their development and commercialization, including their design, testing, manufacture, safety, efficacy, recordkeeping, labeling, storage, approval, advertising, promotion, sale, and distribution, are subject to comprehensive regulation by the FDA and other regulatory authorities in the United States and by comparable authorities in other countries. Failure to obtain marketing approval for a product candidate will prevent us from

commercializing the product candidate in a given jurisdiction. We have not received approval to market any product candidates from regulatory authorities in any jurisdiction and it is possible that none of the product candidates we may seek to develop in the future will ever obtain regulatory approval.

Securing marketing approval requires the submission of extensive preclinical and clinical data and supporting information to regulatory authorities for each therapeutic indication to establish the product candidate's safety and efficacy for that indication. Securing marketing approval also requires the submission of information about the product manufacturing process to, and inspection of manufacturing facilities and clinical trial sites by, the regulatory authorities. If we do not receive approval from the FDA and comparable foreign regulatory authorities for any of our product candidates, we will not be able to commercialize such product candidates in the United States or in other jurisdictions. If significant delays in obtaining approval for and commercializing our product candidates occur in any jurisdictions, our business, financial condition, results of operations, stock price and prospects will be materially harmed. Even if our product candidates are approved, they may:

- be subject to limitations on the indicated uses or patient populations for which they may be marketed, distribution restrictions, or other conditions of approval;
- contain significant safety warnings, including boxed warnings, contraindications, and precautions;
- not be approved with label statements necessary or desirable for successful commercialization;
- contain requirements for costly post-market testing and surveillance, or other requirements, including the submission of a REMS to monitor the safety or efficacy of the products; or
- be withdrawn from the market because of a serious safety issue becomes know after approval is granted.

The process of obtaining marketing approvals, both in the United States and abroad, is expensive, takes many years even if successful, and can vary substantially in and among jurisdictions based upon a variety of factors, including the type, complexity, and novelty of the product candidates involved. The number and types of preclinical studies and clinical trials that will be required for regulatory approval also varies depending on the product candidate, the disease or condition that the product candidate is designed to address, and the regulations applicable to any particular product candidate. Changes in marketing approval policies during the development period, changes in or the enactment of additional statutes or regulations, or changes in regulatory review for each submitted product application, may cause delays in the approval or rejection of an application. The FDA and comparable authorities in other countries have substantial discretion in the approval process and may refuse to accept any application or may decide that our data are insufficient for approval and require additional preclinical, clinical or other studies. In addition, varying interpretations of the data obtained from preclinical and clinical testing could delay, limit, or prevent marketing approval of a product candidate. It is possible that our product candidates will never obtain the appropriate regulatory approvals necessary for us to commence product sales, or any marketing approval we ultimately obtain may be limited or subject to restrictions or post-approval commitments that render the approved product not commercially viable.

If we experience delays in obtaining approval or if we fail to obtain approval of any current or future product candidates we may develop, the commercial prospects for those product candidates may be harmed, and our ability to generate revenues will be materially impaired.

Regulatory approval by the FDA or comparable foreign regulatory authorities is limited to those specific indications and conditions for which approval has been granted, and we may be subject to substantial fines, criminal penalties, injunctions, or other enforcement actions if we are determined to be promoting the use of any products for unapproved or "off-label" uses, resulting in damage to our reputation and business.

We must comply with requirements concerning advertising and promotion for any product candidates for which we obtain marketing approval. Promotional communications with respect to therapeutics are subject to a

variety of legal and regulatory restrictions and continuing review by the FDA, Department of Justice, Department of Health and Human Services' Office of Inspector General, state attorneys general, members of Congress, and the public. When the FDA or comparable foreign regulatory authorities issue regulatory approval for a product candidate, the regulatory approval is limited to those specific uses and indications for which a product is approved. If we are not able to obtain FDA approval for desired uses or indications for our product candidates, we may not market or promote them for those indications and uses, referred to as off-label uses, and our business, financial condition, results of operations, stock price and prospects will be materially harmed. We also must sufficiently substantiate any claims that we make for any products we develop, including claims comparing our products to other companies' products, and must abide by the FDA's strict requirements regarding the content of promotion and advertising.

Because regulatory authorities in the United States generally do not restrict or regulate the behavior of physicians in their choice of treatment within the practice of medicine, physicians may in their independent medical judgment choose to prescribe products for uses that are not described in the product's labeling and for uses that differ from those tested in clinical trials and approved by the regulatory authorities. Regulatory authorities do, however, limit communications by biopharmaceutical companies concerning off-label use. Therefore, we are prohibited from marketing and promoting the products for indications and uses that are not specifically approved by the FDA.

If we are found to have impermissibly promoted any products that we may develop, we may become subject to significant liability and government fines. The FDA and other agencies actively enforce the laws and regulations regarding product promotion, particularly those prohibiting the promotion of off-label uses, and a company that is found to have improperly promoted a product may be subject to significant sanctions. The federal government has levied large civil and criminal fines against companies for alleged improper promotion and has enjoined several companies from engaging in off-label promotion. The FDA has also requested that companies enter into consent decrees or permanent injunctions under which specified promotional conduct is changed or curtailed.

In the United States, engaging in the impermissible promotion of our products, following approval, for off-label uses can also subject us to false claims and other litigation under federal and state statutes. These include fraud and abuse and consumer protection laws, which can lead to civil and criminal penalties and fines, agreements with governmental authorities that materially restrict the manner in which we promote or distribute therapeutic products and conduct our business. These restrictions could include corporate integrity agreements, suspension or exclusion from participation in federal and state healthcare programs, and suspension and debarment from government contracts and refusal of orders under existing government contracts. These False Claims Act (FCA) lawsuits against manufacturers of drugs and biological products have increased significantly in volume and breadth, leading to several substantial civil and criminal settlements, up to $3.0 billion, pertaining to certain sales practices and promoting off-label uses. In addition, FCA lawsuits may expose manufacturers to follow-on claims by private payers based on fraudulent marketing practices. This growth in litigation has increased the risk that a biopharmaceutical company will have to defend a false claim action, pay settlement fines or restitution, as well as criminal and civil penalties, agree to comply with burdensome reporting and compliance obligations, and be excluded from Medicare, Medicaid, or other federal and state healthcare programs. If we do not lawfully promote our approved products, if any, we may become subject to such litigation and, if we do not successfully defend against such actions, those actions may have a material adverse effect on our business, financial condition, results of operations, stock price and prospects.

In the United States, the promotion of biopharmaceutical products is subject to additional FDA requirements and restrictions on promotional statements. If after one or more of our product candidates obtains marketing approval the FDA determines that our promotional activities violate its regulations and policies pertaining to product promotion, it could request that we modify our promotional materials or subject us to regulatory or other enforcement actions, including issuance of warning letters or untitled letters, suspension or withdrawal of an approved product from the market, requests for recalls, payment of civil fines, disgorgement of money,

imposition of operating restrictions, injunctions or criminal prosecution, and other enforcement actions. Similarly, industry codes in foreign jurisdictions may prohibit companies from engaging in certain promotional activities and regulatory agencies in various countries may enforce violations of such codes with civil penalties. If we become subject to regulatory and enforcement actions our business, financial condition, results of operations, stock price and prospects will be materially harmed.

Obtaining and maintaining marketing approval for our product candidates in one jurisdiction would not mean that we will be successful in obtaining marketing approval of that product candidate in other jurisdictions, which could prevent us from marketing our products internationally.

Obtaining and maintaining marketing approval of our product candidates in one jurisdiction would not guarantee that we will be able to obtain or maintain marketing approval in any other jurisdiction, while a failure or delay in obtaining marketing approval in one jurisdiction may have a negative effect on the marketing approval process in others. For example, even if the FDA grants marketing approval of a product candidate, comparable foreign regulatory authorities must also approve the manufacturing, marketing and promotion of the product candidate in those countries. Approval procedures vary among jurisdictions and can involve requirements and administrative review periods different from, and greater than, those in the United States, including additional preclinical studies or clinical trials, as clinical trials conducted in one jurisdiction may not be accepted by regulatory authorities in other jurisdictions. In many jurisdictions outside the United States, a product candidate must be approved for reimbursement before it can be approved for sale in that jurisdiction. In some cases, the price that we intend to charge for our products is also subject to approval.

Regulatory authorities in jurisdictions outside of the United States have requirements for approval of product candidates with which we must comply prior to marketing in those jurisdictions. Obtaining foreign marketing approvals and compliance with foreign regulatory requirements could result in significant delays, difficulties and costs for us and could delay or prevent the introduction of our products in certain countries. If we fail to comply with the regulatory requirements in international markets and/or receive applicable marketing approvals, our target market will be reduced and our ability to realize the full market potential of our product candidates will be harmed. If we obtain approval for any product candidate and ultimately commercialize that product in foreign markets, we would be subject to additional risks and uncertainties, including the burden of complying with complex and changing foreign regulatory, tax, accounting and legal requirements and the reduced protection of intellectual property rights in some foreign countries.

Even if our product candidates receive regulatory approval, we will be subject to ongoing obligations and continued regulatory review, which may result in significant additional expense and limit how we manufacture and market our products.

Any product candidate for which we obtain marketing approval will be subject to extensive and ongoing requirements of and review by the FDA or comparable foreign regulatory authorities, including requirements related to the manufacturing processes, post-approval clinical data, labeling, packaging, distribution, adverse event reporting, storage, recordkeeping, export, import, advertising, marketing, and promotional activities for such product. These requirements further include submissions of safety and other post-marketing information, including manufacturing deviations and reports, registration and listing requirements, the payment of annual fees, continued compliance with cGMP requirements relating to manufacturing, quality control, quality assurance, and corresponding maintenance of records and documents, and good clinical practices (GCPs) for any clinical trials that we conduct post-approval.

The FDA and comparable foreign regulatory authorities will continue to closely monitor the safety profile of any product even after approval. If the FDA or comparable foreign regulatory authorities become aware of new safety information after approval of any of our product candidates, they may withdraw approval, issue public safety alerts, require labeling changes or establishment of a REMS or similar strategy, impose significant restrictions on a product's indicated uses or marketing, or impose ongoing requirements for potentially costly post-approval studies or post-market surveillance. Any such restrictions could limit sales of the product.

We and any of our suppliers or collaborators, including our contract manufacturers, could be subject to periodic unannounced inspections by the FDA to monitor and ensure compliance with cGMPs and other FDA regulatory requirements. Application holders must further notify the FDA, and depending on the nature of the change, obtain FDA pre-approval for product and manufacturing changes.

In addition, later discovery of previously unknown adverse events or of the product being less effective than previously thought or other problems with our products, manufacturers or manufacturing processes, or failure to comply with regulatory requirements both before and after approval, may yield various negative results, including:

- restrictions on manufacturing, distribution, or marketing of such products;
- restrictions on the labeling, including required additional warnings, such as black boxed warnings, contraindications, precautions, and restrictions on the approved indication or use;
- modifications to promotional pieces;
- issuance of corrective information;
- requirements to conduct post-marketing studies or other clinical trials;
- clinical holds or termination of clinical trials;
- requirements to establish or modify a REMS or similar strategy;
- changes to the way the product candidate is administered;
- liability for harm caused to patients or subjects;
- reputational harm;
- the product becoming less competitive;
- warning, untitled, or cyber letters;
- suspension of marketing or withdrawal of the products from the market;
- regulatory authority issuance of safety alerts, Dear Healthcare Provider letters, press releases, or other communications containing warnings or other safety information about the product candidate;
- refusal to approve pending applications or supplements to approved applications that we submit;
- recalls of products;
- fines, restitution or disgorgement of profits or revenues;
- suspension or withdrawal of marketing approvals;
- refusal to permit the import or export of our products;
- product seizure or detention;
- FDA debarment, suspension and debarment from government contracts, and refusal of orders under existing government contracts, exclusion from federal healthcare programs, consent decrees, or corporate integrity agreements; or
- injunctions or the imposition of civil or criminal penalties, including imprisonment.

Any of these events could prevent us from achieving or maintaining market acceptance of the particular product candidate, if approved, or could substantially increase the costs and expenses of commercializing such product, which in turn could delay or prevent us from generating significant revenues from its marketing and sale. Any of these events could further have other material and adverse effects on our operations and business and could adversely impact our business, financial condition, results of operations, stock price and prospects.

The FDA's policies or those of comparable foreign regulatory authorities may change and additional government regulations may be enacted that could prevent, limit or delay regulatory approval of our product candidates, limit the marketability of our product candidates, or impose additional regulatory obligations on us. Changes in medical practice and standard of care may also impact the marketability of our product candidates.

If we are slow or unable to adapt to changes in existing requirements, standards of care, or the adoption of new requirements or policies, or if we are not able to maintain regulatory compliance, we may lose any marketing approval that we may have obtained and be subject to regulatory enforcement action.

Should any of the above actions take place, we could be prevented from or significantly delayed in achieving profitability. Further, the cost of compliance with post-approval regulations may have a negative effect on our operations and business and could adversely impact our business, financial condition, results of operations, stock price and prospects.

Risks Related to Manufacturing

We are subject to multiple manufacturing risks, any of which could substantially increase our costs and limit supply of our product candidates.

The manufacture of biopharmaceutical products requires significant expertise and capital investment, including the development of advanced manufacturing techniques and process controls. The process of manufacturing viral immunotherapies, including our product candidates, is particularly complex, time-consuming, highly-regulated and costly.

Manufacturers of therapeutics often encounter difficulties in production, particularly in scaling up initial production, with such risks including:

- quality control, including stability of the product candidate and quality assurance testing;
- shortages of qualified personnel or key raw materials or components;
- product loss during the manufacturing process, including loss caused by contamination, equipment failure or improper installation or operation of equipment, or operator error. Even minor deviations from normal manufacturing processes could result in reduced production yields, product defects and other supply disruptions. If microbial, viral or other contaminations are discovered in our products or in the manufacturing facilities in which our products are made, such manufacturing facilities may need to be closed for an extended period of time to investigate and remedy the contamination;
- the manufacturing facilities in which our product candidates are made could be adversely affected by equipment failures, labor and raw material shortages, natural disasters, power failures and numerous other factors; and
- any adverse developments affecting manufacturing operations for our products may result in shipment delays, inventory shortages, lot failures, product withdrawals or recalls, or other interruptions in the supply of our product candidates. We may also have to take inventory write-offs and incur other charges and expenses for product candidate batches that fail to meet specifications, undertake costly remediation efforts or seek more costly manufacturing alternatives.

As product candidates are developed through preclinical studies to later-stage clinical trials towards approval and commercialization, it is common that various aspects of the development program, such as manufacturing methods and formulation, are altered along the way in an effort to optimize processes and results.

Changes in product candidate manufacturing or formulation may result in additional costs or delay.

We previously engaged a third-party Contract Manufacturing Organization (CMO) that specializes in the manufacture of vaccines to produce clinical-grade Olvi-Vec for all of our prior clinical trials.

We have leased a building in San Diego, California and have established and equipped our own manufacturing facility in order to secure supplies for pivotal studies and commercial launch. This building is intended to give us control over key aspects of the supply chain for our products and product candidates and has additional space for expansion.

We have developed a new process for larger-scale manufacturing using a closed, mammalian-cell-based production system. This process is being implemented in our manufacturing facility and is intended to produce Olvi-Vec and other clinical products for use in our subsequent clinical trials and in our commercial launches. We may also make further changes to our manufacturing facilities and processes at various points during development or commercialization, for a number of reasons, such as controlling costs, achieving scale, decreasing processing time, increasing manufacturing success rate or other reasons. The manufacturing changes could require changes in raw materials, components and services that are obtained from third-party suppliers. The inability of suppliers to provide those supplies or services or delays in acquiring the supplies or services would delay the manufacture of clinical or commercial product supplies.

These changes carry the risk that they will not achieve their intended objectives, and any of these changes could cause our product candidates to perform differently and affect the results of our planned or future clinical trials. In some circumstances, changes in the facility or the manufacturing process, as was done with regard to changing to mammalian-cell manufacture, require notification to, or approval by the FDA or a comparable foreign regulatory authority, which may be delayed or which we may never receive. Such changes may also require, prior to undertaking more advanced clinical trials, additional ex vivo or clinical testing, to show the comparability of the product used in earlier clinical phases or at earlier portions of a trial to the product used in later clinical phases or later portions of the trial. For example, in a Type C meeting with the FDA held on August 9, 2019, we discussed our plan to change the product manufacturing process to support our planned Phase 3 study. The FDA instructed us to submit our Chemistry, Manufacturing and Controls information for the Phase 3 product, for their review of product comparability between product made in chicken embryo fibroblasts (CEF) versus mammalian cells. We are in the process of generating the requested data and information for submission to the FDA. Accordingly, we do not know whether the FDA will find the data and information, once submitted, to be complete and satisfactory. Even if the FDA agrees the products are comparable, the products may, in fact, perform differently and affect the results of our planned or future clinical trials. This could delay completion of clinical trials, require the conduct of bridging clinical trials or studies, require the repetition of one or more clinical trials, increase clinical trial costs, delay approval of our product candidates and/or jeopardize our ability to commence product sales and generate revenue.

We may rely on CMOs to conduct large-scale manufacture of Olvi-Vec in the future. The inability to identify and contract with suitable CMOs or their failure to meet their obligations to us could affect our ability to develop or commercialize Olvi-Vec in a timely manner.

If the FDA, state or a comparable foreign regulatory authority does not approve our manufacturing facility for the manufacture of our product candidates or if it withdraws any such approval in the future, or our current facility is unable to meet our volume requirements, we may need to find alternative manufacturing facilities, which would significantly impact our ability to develop, obtain regulatory approval for or market our product candidates, if approved. Any alternative manufacturing facility would require obtaining the necessary equipment and materials and, if a third-party manufacturer, the necessary manufacturing know-how, which may take substantial time and investment. We must also receive FDA approval for the use of any manufacturing facility for commercial supply.

In such instance, we may need to enter into an appropriate third-party relationship. We may not succeed in our efforts to establish manufacturing relationships or other alternative arrangements for any of our product candidates or programs. Any product candidates we develop compete with other products and product candidates for access to manufacturing facilities. There are a limited number of manufacturers that operate under cGMP regulations that are both capable of manufacturing and filling our viral product for us and willing to do so.

Reliance on third-party providers for certain manufacturing activities will reduce our control over these activities but will not relieve us of our responsibility to ensure compliance with all required regulations. Under certain circumstances, these third-party providers may be entitled to terminate their engagements with us. If a third-party provider terminates its engagement with us, or does not successfully carry out its contractual duties, meet expected deadlines or manufacture Olvi-Vec or any other product candidates in accordance with regulatory requirements, or if there are disagreements between us and a third-party provider, we may need to identify and qualify replacement suppliers, which may not be readily available or available on acceptable terms. In this instance, we may not be able to complete, or may be delayed in completing, the preclinical studies required to support future IND submissions, the clinical trials required for approval, and commercial supply of Olvi-Vec or any other product candidate and would thereby have a negative impact on our business, financial condition, results of operations and prospects.

If we are unable to manufacture and release any product candidates in the volumes that we require on a timely basis, or fail to comply with stringent regulations applicable to biopharmaceutical manufacturers, we may face delays in the development and commercialization of, or be unable to meet demand for, any product candidates, and may lose potential revenues.

We intend to self-manufacture our clinical trial and commercial product supplies for the foreseeable future. We currently have only one manufacturing facility for Olvi-Vec for use in our clinical trials. Our clinical product supply may be limited, interrupted, or of satisfactory quality or continue to be available at acceptable prices. Any delays in obtaining adequate supplies of our product candidates that meet the necessary quality standards may delay our development or commercialization.

We may be unable to comply with our specifications, applicable cGMP requirements or other FDA, state or foreign regulatory requirements of our product candidates for clinical trials and, if approved, commercial supply, and will be subject to FDA and comparable foreign regulatory authority inspection. These requirements include the qualification and validation of our manufacturing equipment and processes. We may not be able to develop, retain or acquire the internal expertise and resources necessary for effectively managing our ongoing manufacturing operations and complying with these requirements. Poor control of production processes can lead to the introduction of adventitious agents or other contaminants, or to inadvertent changes in the properties or stability of a product candidate that may not be detectable in final product testing. If we cannot successfully manufacture material that conforms to our specifications and the strict regulatory requirements of the FDA or other regulatory authorities, we will not be able to secure or maintain regulatory approval for our manufacturing facility. Any such deviations may also require remedial measures that may be costly and/or time-consuming for us to implement, particularly in areas relating to operations, quality, regulatory, facilities and information technology. Any such remedial measures imposed upon us may include the temporary or permanent suspension of a clinical trial or the temporary or permanent closure of our facility and could materially harm our business.

A failure to comply with the applicable regulatory requirements, including periodic regulatory inspections, may result in regulatory enforcement actions against us or our raw material and component suppliers (including fines and civil and criminal penalties, including imprisonment) suspension or restrictions of production, injunctions, delay or denial of product approval or supplements to approved products, clinical holds or termination of clinical trials, warning or untitled letters, regulatory authority communications warning the public about safety issues with the product candidate, refusal to permit the import or export of the products, product seizure, detention, or recall, operating restrictions, consent decrees, withdrawal of product approval, environmental or safety incidents and other liabilities. If the safety of any quantities supplied is compromised due to our failure or our raw material and component suppliers' failure to adhere to applicable laws or for other reasons, we may not be able to obtain regulatory approval for or successfully commercialize our product candidates.

Any problems or delays we experience in commercial-scale manufacturing of a product candidate or component may result in a delay in product development timelines and FDA or comparable foreign regulatory

authority approval of the product candidate or may impair our ability to manufacture commercial quantities or such quantities at an acceptable cost and quality, which could result in the delay, prevention, or impairment of clinical development and commercialization of any product candidates and may materially harm our business, financial condition, results of operations, stock price and prospects.

Risks Related to Reliance on Third Parties

We rely, and expect to continue to rely, on third parties to supply and quality-test the ingredients for our product candidates and components for our manufacturing process.

While we are responsible for the manufacturing of our product candidates, drug substance and drug product, reliance on raw material and component suppliers entails risks, including:

- reduced control for certain aspects of our manufacturing activities;
- termination or nonrenewal of the applicable supplier and service agreements in a manner or at a time that is costly or damaging to us;
- the possible breach by our third-party suppliers and service providers of our agreements with them;
- the failure of our third-party suppliers and service providers to comply with applicable regulatory requirements;
- disruptions to the operations of our third-party suppliers and service providers caused by conditions unrelated to our business or operations, including the bankruptcy of the manufacturer or service provider; and
- the possible misappropriation of our proprietary information, including our trade secrets and know-how.

Any failure or refusal to supply our product candidates or components for our product candidates that we may develop could delay, prevent or impair our clinical development or commercialization efforts. In addition, we do not have any long-term commitments or guaranteed prices from our suppliers of raw materials, manufacturing equipment components or devices or combination products. In particular, any change in our suppliers could require significant effort and expertise because there may be a limited number of qualified replacements. Further, the terms of any new arrangement could be less favorable and transfer costs relating to technology and processes could be significant.

Any of these events could lead to clinical trial delays or failure to obtain regulatory approval, impact our ability to successfully commercialize any of our product candidates or otherwise harm our business, financial condition, results of operations, stock price and prospects. Some of these events could be the basis for FDA or other regulatory authority action, including injunction, recall, seizure or total or partial suspension of product manufacture.

We rely, and expect to continue to rely, on third parties to conduct, supervise, and monitor our preclinical studies and clinical trials. If those third parties do not perform satisfactorily, including failing to meet deadlines for the completion of such trials or failing to comply with regulatory requirements, we may be unable to obtain regulatory approval for our product candidates or any other product candidates that we may develop in the future.

We rely, and will rely, on third-party CROs, study sites and others to conduct, supervise, and monitor our preclinical studies and clinical trials for our product candidates. We expect to continue to rely on third parties, such as CROs, clinical data management organizations, medical institutions, and clinical investigators, to conduct our preclinical studies and clinical trials. Although we have agreements governing their activities, we have limited influence over their actual performance and control only certain aspects of their activities. The

failure of these third parties to successfully carry out their contractual duties or meet expected deadlines could substantially harm our business because we may be delayed in completing or unable to complete the studies required to support future approval of our product candidates, or we may not obtain marketing approval for or commercialize our product candidates in a timely manner or at all. Moreover, these agreements might terminate for a variety of reasons, including a failure to perform by the third parties. If we need to enter into alternative arrangements, our product development activities would be delayed and our business, financial condition, results of operations, stock price and prospects may be materially harmed.

Our reliance on these third parties for development activities will reduce our control over these activities. Nevertheless, we are responsible for ensuring that each of our studies is conducted in accordance with the applicable protocol, legal, regulatory, and scientific standards and our reliance on third parties does not relieve us of our regulatory responsibilities. For example, we will remain responsible for ensuring that each of our trials is conducted in accordance with the general investigational plan and protocols for the trial. We must also ensure that our preclinical trials are conducted in accordance with the FDA's Good Laboratory Practice (GLP) regulations, as appropriate. Moreover, the FDA and comparable foreign regulatory authorities require us to comply with standards, commonly referred to as GCP guidelines, for conducting, recording, and reporting the results of clinical trials to assure that data and reported results are credible and accurate and that the rights, integrity, and confidentiality of trial participants are protected. Regulatory authorities enforce these requirements through periodic inspections of trial sponsors, clinical investigators, and trial sites. If we or any of our third parties fail to comply with applicable GCPs or other regulatory requirements, we or they may be subject to enforcement or other legal actions. For example, the data generated in our trials may not have been appropriately collected or documented, and thereby be deemed unreliable and the FDA or comparable foreign regulatory authorities may conclude the study findings are not adequate and require us to perform additional studies.

In addition, we will be required to report certain financial interests of our third-party investigators if these relationships exceed certain financial thresholds or meet other criteria. The FDA or comparable foreign regulatory authorities may question the integrity of the data from those clinical trials conducted by investigators who may have conflicts of interest.

We cannot assure you that upon inspection by a given regulatory authority, such regulatory authority will determine that any of our trials complies with the applicable regulatory requirements. In addition, our clinical trials must be conducted with product candidates that were produced under cGMP regulations. Failure to comply with these regulations may require us to repeat clinical trials, which would delay the regulatory approval process. We also are required to register certain clinical trials and post the results of certain completed clinical trials on one or more government-sponsored databases, e.g., ClinicalTrials.gov, within specified timeframes. Failure to do so can result in enforcement actions and adverse publicity.

The third parties with which we work may also have relationships with other entities, some of which may be our competitors, for whom they may also be conducting trials or other therapeutic development activities that could harm our competitive position. In addition, such third parties are not our employees, and except for remedies available to us under our agreements with such third parties we cannot control whether or not they devote sufficient time and resources to our ongoing clinical, non-clinical, and preclinical programs. If these third parties do not successfully carry out their contractual duties, meet expected deadlines or conduct our preclinical studies or clinical trials in accordance with regulatory requirements or our stated protocols, if they need to be replaced or if the quality or accuracy of the data they obtain is compromised due to the failure to adhere to our protocols, regulatory requirements or for other reasons, our trials may be repeated, extended, delayed, or terminated; we may not be able to obtain, or may be delayed in obtaining, marketing approvals for our product candidates; we may not be able to, or may be delayed in our efforts to, successfully commercialize our product candidates; or we or they may be subject to regulatory enforcement actions. As a result, our results of operations and the commercial prospects for our product candidates would be harmed, our costs could increase and our ability to generate revenues could be delayed. To the extent we are unable to successfully identify and manage the performance of third-party service providers in the future, our business, financial condition, results of operations, stock price and prospects may be materially harmed.

If any of our relationships with these third parties terminate, we may not be able to enter into arrangements with alternative providers or to do so on commercially reasonable terms. Switching or adding additional third parties involves additional cost and requires management time and focus. In addition, there is a natural transition period when a new third party commences work. As a result, delays could occur, which could compromise our ability to meet our desired development timelines.

We will also rely on other third parties to store and distribute our product candidates for the clinical trials that we conduct. Any performance failure on the part of our distributors could delay clinical development, marketing approval, or commercialization of our product candidates, which could result in additional losses and deprive us of potential product revenue.

We are dependent on our collaboration with TVAX for the development of V2ACT Immunotherapy and may depend on TVAX or additional parties for the development and commercialization of other programs and future product candidates. If we are not able to continue our TVAX collaboration and establish future collaborations on commercially reasonable terms, we may have to alter our development and commercialization plans.

In January 2019, we formed V2ACT as a joint venture with TVAX, a cellular therapy company. The purpose of the joint venture is to develop and test V2ACT Immunotherapy, a proprietary immuno-oncology modality composed of Olvi-Vec and TVAX's V-ACT (vaccine-enhanced adoptive cell therapy). To date, V2ACT's expenses have been funded through equal capital contributions made to V2ACT by us and TVAX. While it is the parties' current intent to continue to make equal ongoing capital contributions to fund V2ACT's expenses, neither party is contractually obligated to do so. The failure of either party to fund an ongoing capital contribution could likewise cause V2ACT to delay or cease operations. In the future, we may form or seek other strategic alliances, joint ventures, or collaborations, or enter into additional licensing arrangements with third parties that we believe will complement or augment our development and commercialization efforts with respect to product candidates we develop. The success of any collaboration arrangements may depend on the efforts and activities of our collaborators. Collaborators generally have significant discretion in determining the efforts and resources that they will apply to these arrangements. Disagreements between parties to a collaboration arrangement regarding clinical development and commercialization matters can lead to delays in the development process or commercializing the applicable product candidate and, in some cases, termination of the collaboration arrangement. These disagreements can be difficult to resolve if neither of the parties has final decision-making authority. The joint venture is managed by a four-member management committee that has equal representation from us and TVAX. As such, both management committee-level and member-level decisions relating to V2ACT require consensus between the parties, and any disagreement between the parties on these matters could result in delay or cessation of V2ACT's research and development activities.

Collaborations with biopharmaceutical companies and other third parties often are terminated or allowed to expire by the other party. Any such termination or expiration could adversely affect us financially and could harm our business reputation.

Our current collaboration with TVAX, and potential future collaborations we might enter into, may pose a number of risks, including the following:

- collaborators may not perform their obligations as expected;
- collaborators may not pursue development and commercialization of product candidates that achieve regulatory approval or may elect not to continue or renew development or commercialization programs based on clinical trial results, changes in the collaborators' strategic focus or available funding, or external factors, such as an acquisition, that divert resources or create competing priorities;
- collaborators may delay clinical trials, provide insufficient funding for a clinical trial program, stop a clinical trial or abandon a product candidate, repeat or conduct new clinical trials or require a new formulation of a product candidate for clinical testing;

- collaborators could fail to make timely regulatory submissions for a product candidate;
- collaborators may not comply with all applicable regulatory requirements or may fail to report safety data in accordance with all applicable regulatory requirements, which could subject them or us to regulatory enforcement actions;
- collaborators could independently develop, or develop with third parties, products that compete directly or indirectly with our products or product candidates if the collaborators believe that competitive products are more likely to be successfully developed or can be commercialized under terms that are more economically attractive than ours;
- product candidates discovered in collaboration with us may be viewed by our collaborators as competitive with their own product candidates or products, which may cause collaborators to cease to devote resources to the commercialization of our product candidates;
- a collaborator with marketing and distribution rights to one or more of our product candidates that achieve regulatory approval may not commit sufficient resources to the marketing and distribution of such product candidate or product;
- disagreements with collaborators, including disagreements over proprietary rights, contract interpretation or the preferred course of development, might cause delays or termination of the research, development or commercialization of product candidates, might lead to additional responsibilities for us with respect to product candidates, or might result in litigation or arbitration, any of which would be time consuming and expensive;
- collaborators may not properly maintain or defend our intellectual property rights or may use our proprietary information in such a way as to invite litigation that could jeopardize or invalidate our intellectual property or proprietary information or expose us to potential litigation; and
- collaborators may infringe the intellectual property rights of third parties, which may expose us to litigation and potential liability.

In addition, if we establish one or more collaborations, all of the risks relating to product development, regulatory approval and commercialization described in this prospectus would also apply to the activities of any such future collaborators.

If any collaborations we might enter into in the future do not result in the successful development and commercialization of products or if one of our future collaborators subsequently terminates its agreement with us, we may not receive any future research funding or milestone or royalty payments under such potential future collaboration. If we do not receive the funding we expect under the agreements, our development of our product candidates could be delayed and we may need additional resources to develop our product candidates and our product platform.

Additionally, if any future collaborator of ours is involved in a business combination, the collaborator might deemphasize or terminate development or commercialization of any product candidate licensed to it by us. If one of our future collaborators terminates its agreement with us, we may find it more difficult to attract new collaborators and our reputation in the business and financial communities could be adversely affected.

We face significant competition in seeking appropriate collaborators. Our ability to reach a definitive agreement for any collaboration will depend, among other things, upon our assessment of the collaborator’s resources and expertise, the terms and conditions of the proposed collaboration and the proposed collaborator’s evaluation of a number of factors.

If we are unable to reach agreements with suitable collaborators on a timely basis, on acceptable terms, or at all, we may have to curtail the development of a product candidate, reduce or delay its development program or one or more of our other development programs, delay its potential commercialization or reduce the scope of any sales or marketing activities, or increase our expenditures and undertake development or commercialization

activities at our own expense. If we elect to fund and undertake development or commercialization activities on our own, we may need to obtain additional expertise and additional capital, which may not be available to us on acceptable terms, or at all. If we fail to enter into collaborations and do not have sufficient funds or expertise to undertake the necessary development and commercialization activities, we may not be able to further develop our product candidates or bring them to market or continue to develop our product platform and our business may be materially and adversely affected.

Disruptions at the FDA and other government agencies caused by funding shortages or global health concerns could hinder their ability to hire and retain key leadership and other personnel, or otherwise prevent new products and services from being developed or commercialized in a timely manner, which could negatively impact our business.

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

Disruptions at the FDA and other agencies may also slow the time necessary for new drugs to be reviewed and/or approved by necessary government agencies, which would adversely affect our business. For example, over the last several years, including for 35 days beginning on December 22, 2018, the U.S. government has shut down several times and certain regulatory agencies, such as the FDA, have had to furlough critical employees and stop critical activities. If a prolonged government shutdown occurs, it could significantly impact the ability of the FDA to timely review and process our regulatory submissions, which could have a material adverse effect on our business.

Separately, the FDA and regulatory authorities outside the United States have and may adopt restrictions or other policy measures in response to the COVID-19 pandemic that divert resources and delay their attention to any submissions we may make. If a prolonged government shutdown occurs, or if global health concerns continue to prevent the FDA or other regulatory authorities from conducting their regular inspections, reviews, or other regulatory activities, it could significantly impact the ability of the FDA or other regulatory authorities to timely review and process our regulatory submissions, which could have a material adverse effect on our business.

Risks Related to Commercialization

If we are unable to successfully commercialize any product candidate for which we receive regulatory approval, or experience significant delays in doing so, our business will be materially harmed.

If we are successful in obtaining marketing approval from applicable regulatory authorities for Olvi-Vec or any other product candidate, our ability to generate revenues from any such products will depend on our success in:

- launching commercial sales of such products, whether alone or in collaboration with others;
- receiving approved labels with claims that are necessary or desirable for successful marketing, and that do not contain safety or other limitations that would impede our ability to market such products;
- creating market demand for such products through marketing, sales and promotion activities;
- hiring, training, and deploying a sales force or contracting with third parties to commercialize such products in the United States;
- creating partnerships with, or offering licenses to, third parties to promote and sell such products in foreign markets where we receive marketing approval;

- manufacturing such products in sufficient quantities and at acceptable quality and cost to meet commercial demand at launch and thereafter;
- establishing and maintaining agreements with wholesalers, distributors, and group purchasing organizations on commercially reasonable terms;
- maintaining patent and trade secret protection and regulatory exclusivity for such products;
- achieving market acceptance of such products by patients, the medical community, and third-party payors;
- achieving coverage and adequate reimbursement from third-party payors for such products;
- achieving patients' willingness to pay out-of-pocket in the absence of such coverage and adequate reimbursement from third-party payors;
- competing effectively with other therapies; and
- maintaining a continued acceptable safety profile of such products following launch.

To the extent we are not able to do any of the foregoing, our business, financial condition, results of operations, stock price and prospects will be materially harmed.

We face significant competition from other biopharmaceutical and biotechnology companies, academic institutions, government agencies, and other research organizations, which may result in others discovering, developing or commercializing products more quickly or marketing them more successfully than us. If their product candidates are shown to be safer or more effective than ours, our commercial opportunity may be reduced or eliminated.

The development and commercialization of cancer immunotherapy products is characterized by rapidly advancing technologies, intense competition and a strong emphasis on proprietary rights. We face competition with respect to our current product candidates, and will face competition with respect to any product candidates that we may seek to develop or commercialize in the future, from major biopharmaceutical companies, specialty biopharmaceutical companies, and biotechnology companies worldwide. There are a number of large biopharmaceutical and biotechnology companies that currently market and sell products or are pursuing the development of products for the treatment of solid tumors, including viral immunotherapy and cancer vaccine approaches. Potential competitors also include academic institutions, government agencies, and other public and private research organizations that conduct research, seek patent protection, and establish collaborative arrangements for research, development, manufacturing, and commercialization.

We are aware of a number of companies developing competing therapies for the treatment of cancer which generally fall into the following treatment groups:

- Oncolytic viral immunotherapies, including Amgen's IMLYGIC (talimogene laherparepvec), the only FDA-approved oncolytic immunotherapy, which is approved for the local treatment of unresectable cutaneous, subcutaneous, and nodal lesions in patients with melanoma recurrent after initial surgery and is in development for several other indications, and other oncolytic viruses in development by companies such as AstraZeneca, Boehringer Ingelheim, CG Oncology, DNAtrix, Johnson & Johnson, Merck, Oncolytics Biotech, Oncorus, Otuska, PsiOxus Therapeutics, Regeneron, Replimune, SillaJenM2N Company, Targovax, Transgene, Turnstone Biologics and Vyriad;
- Approved immunotherapy antibodies and immunotherapy agents in clinical development, including antibody agents, bispecific T cell engagers, including those in development by Amgen, and immuno- oncology companies focused on IL-12, such as Ziopharm Oncology;
- Cancer vaccines, including personalized vaccines and those targeting tumor neoantigens, including neoantigen therapies in development by companies such as Advaxis Immunotherapies, Agenus,

AstraZeneca, Bavarian Nordic, BioNTech, Genocea, Gritstone Oncology, Heat Biologics, ImmunityBio, Iovance Biotherapeutics, IMV, Moderna Therapeutics, Sotio, Transgene, Turnstone Biologics and VBI Vaccines;

- Cell-based therapies, including tumor infiltrating lymphocytes (TILs) in development by IOVANCE and approved and in-development CAR T cell therapies, including those commercialized by Bristol-Myers Squibb, Gilead Sciences and Novartis, T cell receptor and NK cell therapies;
- Therapies aimed at activating innate immunity such as those targeting stimulator of interferon genes protein (STING) and toll-like receptors (TLRs) including those in development by Bristol-Meyers Squibb, Checkmate Pharmaceuticals, Chinook Therapeutics, GSK, Idera, Merck, Mologen AG, Nektar, TriSalus Life Sciences, and UroGen Pharma; and
- Traditional cancer therapies, including chemotherapy, surgery, radiation and targeted therapies.

We are aware of several other companies developing therapies based on VACV. To our knowledge, the only clinical product based on VACV that has advanced beyond Phase 1 clinical development is Pexa-Vec, being jointly developed by M2N Company and Transgene. Pexa-Vec has a different product profile from Olvi-Vec, including a different strain of vaccinia virus and different transgenes. In August 2019, M2N Company announced the discontinuation of its Phase 3 PHOCUS trial of Pexa-Vec in advanced liver cancer for futility.

While certain of our product candidates may be used in combination with other drugs with different mechanisms of action, if and when marketed they will still compete with a number of drugs that are currently marketed or in development that also target cancer. To compete effectively with these drugs, our product candidates will need to demonstrate advantages in clinical efficacy and safety compared to these competitors when used alone or in combination with other drugs.

Our commercial opportunities could be reduced or eliminated if our competitors develop and commercialize products that are safer, more effective, have fewer or less severe side effects, are easier to administer or are less expensive alone or in combination with other therapies than any products that we may develop alone or in combination with other therapies. Our competitors also may obtain FDA or comparable foreign regulatory authorities' approval for their products more rapidly than we may obtain approval for ours, which could result in our competitors establishing a strong market position before we are able to enter the market. In addition, our ability to compete may be affected in many cases by third-party payors' coverage and reimbursement decisions.

Many of the companies with which we are competing or may compete in the future have significantly greater financial resources and expertise in research and development, manufacturing, preclinical testing, conducting clinical trials, obtaining regulatory approvals, and marketing approved products than we do. Mergers and acquisitions in the biopharmaceutical and biotechnology industries may result in even more resources being concentrated among a smaller number of our competitors. Early-stage companies may also prove to be significant competitors, particularly through collaborative arrangements with large and established companies. These third parties compete with us in recruiting and retaining qualified scientific and management personnel and establishing clinical trial sites and patient registration for clinical trials, as well as in developing or acquiring technologies complementary to, or necessary for, our programs. If we are unable to successfully compete with these companies our business, financial condition, results of operations, stock price and prospects may be materially harmed.

If we are unable to establish effective marketing, sales and distribution capabilities or enter into agreements with third parties to market and sell our product candidates, if they are approved, the revenues that we generate may be limited and we may never become profitable.

We currently do not have a commercial infrastructure for the marketing, sale, and distribution of any products that we may develop. If and when our product candidates receive marketing approval, we intend to commercialize our product candidates on our own or in collaboration with others and potentially with pharmaceutical or biotechnology partners in other geographies. In order to commercialize our products, we must

build our marketing, sales, and distribution capabilities or make arrangements with third parties to perform these services. We may not be successful in doing so. Should we decide to move forward in developing our own marketing capabilities, we may incur expenses prior to product launch or even approval in order to recruit a sales force and develop a marketing and sales infrastructure. If a commercial launch is delayed as a result of the FDA or comparable foreign regulatory authority requirements or other reasons, we would incur these expenses prior to being able to realize any revenue from sales of our product candidates. Even if we are able to effectively hire a sales force and develop a marketing and sales infrastructure, our sales force and marketing teams may not be successful in commercializing our product candidates. This may be costly, and our investment would be lost if we cannot retain or reposition our sales and marketing personnel.

We may also or alternatively decide to collaborate with third-party marketing and sales organizations to commercialize any approved product candidates, in which event, our ability to generate product revenues may be limited. To the extent we rely on third parties to commercialize any products for which we obtain regulatory approval, we may receive less revenues than if we commercialized these products ourselves, which could materially harm our prospects. In addition, we would have less control over the sales efforts of any other third parties involved in our commercialization efforts, and could be held liable if they failed to comply with applicable legal or regulatory requirements.

We have no prior experience in the marketing, sale, and distribution of biopharmaceutical products, and there are significant risks involved in building and managing a commercial infrastructure. The establishment and development of commercial capabilities, including compliance plans, to market any products we may develop will be expensive and time consuming and could delay any product launch, and we may not be able to successfully develop this capability. We will have to compete with other biopharmaceutical and biotechnology companies, including oncology-focused companies, to recruit, hire, train, manage, and retain marketing and sales personnel, which is expensive and time consuming and could delay any product launch. Developing our sales capabilities may also divert resources and management attention away from product development.

In the event we are unable to develop a marketing and sales infrastructure, we may not be able to commercialize our product candidates, which could limit our ability to generate product revenues and materially harm our business, financial condition, results of operations, stock price and prospects. Factors that may inhibit our efforts to commercialize our product candidates include:

- the inability to recruit, train, manage, and retain adequate numbers of effective sales and marketing personnel;
- the inability of sales personnel to obtain access to physicians or educate adequate numbers of physicians on the benefits of prescribing our product candidates;
- our inability to effectively oversee a geographically dispersed sales and marketing team;
- the costs associated with training personnel, including sales and marketing personnel, on compliance matters and monitoring their actions;
- an inability to secure coverage and adequate reimbursement by third-party payors, including government and private health plans;
- the unwillingness of patients to pay out-of-pocket in the absence of coverage and adequate reimbursement from third-party payors;
- the clinical indications for which the products are approved and the claims that we may make for the products;
- limitations or warnings, including distribution or use restrictions, contained in the products' approved labeling;
- any distribution and use restrictions imposed by the FDA or comparable foreign regulatory authorities or to which we agree as part of a mandatory REMS or voluntary risk management plan;

- liability for our personnel, including sales or marketing personnel, who fail to comply with applicable law;
- the lack of complementary products to be offered by sales personnel, which may put us at a competitive disadvantage relative to companies with more extensive product lines; and
- unforeseen costs and expenses associated with creating an independent sales and marketing organization or engaging a contract sales organization.

Even if any of our product candidates receive marketing approval, they may fail to achieve the degree of market acceptance by physicians, patients, hospitals, cancer treatment centers, third-party payors and others in the medical community necessary for commercial success. The revenues that we generate from their sales may be limited, and we may never become profitable.

We have never commercialized a product candidate for any indication. Even if our product candidates are approved by the appropriate regulatory authorities for marketing and sale, they may not gain acceptance among physicians, patients, third-party payors, and others in the medical community. If any product candidates for which we obtain regulatory approval does not gain an adequate level of market acceptance, we could be prevented from or significantly delayed in achieving profitability. Market acceptance of our product candidates by the medical community, patients, and third-party payors will depend on a number of factors, some of which are beyond our control. For example, physicians are often reluctant to switch their patients and patients may be reluctant to switch from existing therapies even when new and potentially more effective or safer treatments enter the market.

Efforts to educate the medical community and third-party payors on the benefits of our product candidates may require significant resources and may not be successful. If any of our product candidates is approved but does not achieve an adequate level of market acceptance, we could be prevented from or significantly delayed in achieving profitability. The degree of market acceptance of any product for which we receive marketing approval will depend on a number of factors, including:

- the efficacy of our product, including in combination with other cancer therapies;
- the commercial success of any cancer therapies with which our product may be co-administered;
- the prevalence and severity of adverse events associated with our product or those products with which it is co-administered;
- the clinical indications for which our product is approved and the approved claims that we may make with respect to the product;
- limitations or warnings contained in the FDA-approved labeling of the product or the labeling approved by comparable foreign regulatory authorities, including potential limitations or warnings for our product that may be more restrictive than other competitive products;
- changes in the standard of care for the targeted indications for our product, which could reduce the marketing impact of any claims that we could make following FDA approval or approval by comparable foreign regulatory authorities, if obtained;
- the relative convenience and ease of administration of our product and any products with which it is co-administered;
- the cost of treatment compared with the economic and clinical benefit of alternative treatments or therapies;
- the availability of coverage and adequate reimbursement by third-party payors, such as private insurance companies and government healthcare programs, including Medicare and Medicaid;
- patients' willingness to pay out-of-pocket in the absence of such coverage and adequate reimbursement from third-party payors;
- the price concessions required by third-party payors to obtain coverage and adequate reimbursement;

- the extent and strength of our marketing and distribution of our product;
- the safety, efficacy, and other potential advantages over, and availability of, alternative treatments already used or that may later be approved;
- distribution and use restrictions imposed by the FDA or comparable foreign regulatory authorities with respect to our product or to which we agree as part of a REMS or voluntary risk management plan;
- the timing of market introduction of our product, as well as competitive products;
- our ability to offer our product for sale at competitive prices;
- the willingness of the target patient population to try new therapies and of physicians to prescribe these therapies;
- the extent and strength of our raw material supplier and service provider support;
- the actions of companies that market any products with which our product is co-administered;
- the approval of other new products;
- adverse publicity about our product or any products with which it is co-administered, or favorable publicity about competitive products; and
- potential product liability claims.

The size of the potential market for our product candidates is difficult to estimate and, if any of our assumptions are inaccurate, the actual markets for our product candidates may be smaller than our estimates. If the market opportunities for any product candidates we develop are smaller than we believe they are, our potential revenues may be adversely affected, and our business may suffer.

The potential market opportunities for our product candidates are difficult to estimate and will depend in large part on the drugs with which our product candidates are co-administered and the success of competing therapies and therapeutic approaches. In particular, the market opportunity for viral immunotherapies is hard to estimate given that it is an emerging field with only one existing FDA-approved viral immunotherapy, T-VEC, which has yet to enjoy broad market acceptance. Our projections of both the number of people who have these diseases, as well as the subset of people with these diseases who have the potential to benefit from treatment with our product candidates, are based on estimates. Our estimates of the potential market opportunities are predicated on many assumptions, which may include industry knowledge and publications, third-party research reports, and other surveys. Although we believe that our internal assumptions are reasonable, these assumptions involve the exercise of significant judgment on the part of our management, are inherently uncertain, and their reasonableness has not been assessed by an independent source. These estimates may prove to be incorrect and new studies may change the estimated incidence or prevalence of these diseases. The number of patients in the United States, Europe, and elsewhere may turn out to be lower than expected, and patients may not be amenable to treatment with our product. If any of the assumptions proves to be inaccurate, the actual markets for our product candidates could be smaller than our estimates of the potential market opportunities. Additionally, because of the potential that any product candidates we develop could cure a target disease, we may not receive recurring revenues from patients and may deplete the patient population prevalence through curative therapy.

Negative developments in the field of immuno-oncology could damage public perception of our oncolytic vaccinia virus platform and our product candidates, including Olvi-Vec, and negatively affect our business.

The commercial success of our product candidates will depend in part on public acceptance of the use of cancer viral immunotherapies. Adverse events in clinical trials of our product candidates, including Olvi-Vec, or in clinical trials of others developing similar products and the resulting publicity, as well as any other negative developments with respect to the field of immuno-oncology that may occur in the future, including in connection

with competitor therapies, or with respect to products with which our product is co-administered, could result in a decrease in demand for Olvi-Vec or any other product candidates that we may develop. These events could also result in the suspension, discontinuation, or clinical hold of or modification to our clinical trials. If public perception is influenced by claims that the use of cancer immunotherapies is unsafe, whether related to our therapies or those of our competitors, our product candidates may not be accepted by the general public or the medical community and potential clinical trial subjects may be discouraged from enrolling in our clinical trials. As a result, we may not be able to continue or may be delayed in conducting our development programs.

As our product candidates consist of oncolytic vaccinia viruses, adverse developments in anti-cancer vaccines or clinical trials of other viral immunotherapy products based on viruses may result in a disproportionately negative effect for Olvi-Vec or our other product candidates as compared to other products in the field of immuno-oncology that are not based on viruses. We do not fully understand the biological characteristics of our therapeutic viruses, and their interactions with other drugs and the human immune and other defense systems, which may cause us to fail to demonstrate the safety and effectiveness of our product candidates in clinical trials. Therapeutic viruses are novel, and we are still determining the biological characteristics of these viruses. In addition, we are still investigating the response of the human immune system to our therapeutic viruses, and the immune system may play a role in limiting their tumor-killing effect. We also do not know the extent to which therapeutic viruses and our treatment processes may be toxic. Moreover, we do not understand all of the many factors that contribute to the formation of each individual patient's cancer; these factors make each tumor unique. The novelty and scientific uncertainties regarding our therapeutic viruses and the uniqueness of human cancers from patient to patient increase the risk that we will not successfully develop our product candidates or prove their safety and effectiveness in clinical trials. Even if we succeed in developing our product candidates, our product candidates may not have a therapeutic effect in a broad patient population.

Future negative developments in the field of immuno-oncology or the biopharmaceutical industry could also result in greater governmental regulation, stricter labeling requirements and potential regulatory delays in the testing or approvals of our products. Any increased scrutiny could delay or increase the costs of obtaining marketing approval for Olvi-Vec or our other product candidates.

Risks Related to Our Intellectual Property

If we are unable to obtain, maintain and protect our intellectual property rights for our technology and product candidates, or if our intellectual property rights are inadequate, our competitive position could be harmed.

Our commercial success will depend in 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 technology, including our oncolytic vaccinia virus platform, and Olvi-Vec, V2ACT Immunotherapy and our other product candidates. We also rely in part on trade secret, copyright and trademark laws, and confidentiality, licensing and other agreements with employees and third parties, all of which offer only limited protection. We seek to protect our proprietary position by filing and prosecuting patent applications in the United States and abroad related to our technology and product candidates.

The patent positions of biotechnology and pharmaceutical companies generally are highly uncertain, involve complex legal and factual questions and have in recent years been the subject of much litigation. As a result, the issuance, scope, validity, enforceability and commercial value of our licensed patents and any patents we own are highly uncertain. The steps we have taken to protect our proprietary rights may not be adequate to preclude misappropriation of our proprietary information or infringement of our intellectual property rights, both inside and outside of the United States.

Further, the examination process may require us to narrow the claims for our pending patent applications, which may limit the scope of patent protection that may be obtained if these applications issue. Our pending and

future patent applications may not result in patents being issued that protect our product candidates, in whole or in part, or which effectively prevent others from commercializing competitive product candidates. The scope of a patent may also be reinterpreted after issuance. The rights that may be granted under our issued patents may not provide us with the proprietary protection or competitive advantages we are seeking. Even if our patent applications issue as patents, they may not issue in a form that will provide us with any meaningful protection, prevent competitors from competing with us or otherwise provide us with any competitive advantage. If we are unable to obtain and maintain patent protection for our technology or for Olvi-Vec, V2ACT Immunotherapy or our other product candidates, or if the scope of the patent protection obtained is not sufficient, our competitors could develop and commercialize products similar or superior to ours in a non-infringing manner, and our ability to successfully commercialize Olvi-Vec, V2ACT Immunotherapy or our other product candidates and future technologies may be adversely affected. It is also possible that we will fail to identify patentable aspects of inventions made in the course of our development and commercialization activities before it is too late to obtain patent protection on them.

In addition, the patent prosecution process is expensive, time-consuming and complex, and we may not be able to file, prosecute, maintain, enforce or license all necessary or desirable patent applications at a reasonable cost or in a timely manner. 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, collaborators, 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. It is also possible that we will fail to identify patentable aspects of our research and development efforts in time to obtain patent protection.

For the core technology in our oncolytic vaccinia virus platform and Olvi-Vec and our other product candidates, patent applications are pending at each of the U.S. provisional, Patent Cooperation Treaty (PCT), and national stages with, at a minimum, filings submitted to the United States, European Patent Conventions (EPC) and Japan. As of February 28, 2021, our patent portfolio consisted of 23 issued U.S. patents, one pending U.S. patent application, 24 issued foreign patents and three pending foreign patent applications. V2ACT has one pending U.S. patent application and two pending non-U.S. patent applications. Any future provisional patent applications are not eligible to become issued patents until, among other things, we file a non-provisional patent application within 12 months of filing of one or more of our related provisional patent applications. If we do not timely file any non-provisional patent applications, we may lose our priority date with respect to our provisional patent applications and any patent protection on the inventions disclosed in our provisional patent applications. Although we intend to timely file non-provisional patent applications relating to our provisional patent applications, we cannot predict whether any of our future patent applications will result in the issuance of patents that effectively protect our technology or Olvi-Vec, V2ACT Immunotherapy or our other product candidates, or if any of our future issued patents will effectively prevent others from commercializing competitive products. We may be subject to a third-party pre-issuance submission of prior art to the U.S. Patent and Trademark Office (USPTO). 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 until they are issued as a patent. Therefore, we cannot be certain that we were the first to make the inventions claimed in our pending patent applications, or that we were the first to file for patent protection of such inventions.

Our pending applications cannot be enforced against third parties practicing the inventions claimed in such applications unless and until a patent issues from such applications with a claim that covers such third party activity. Because the issuance of a patent is not conclusive as to its inventorship, scope, validity or enforceability, issued patents that we license from third parties or own in the future may be challenged in the courts or patent offices in the United States and abroad, including through opposition proceedings, derivation proceedings, post-grant review, *inter partes* review, interference proceedings or litigation. Such proceedings may result in the loss of patent protection, the narrowing of claims in such patents or the invalidity or unenforceability of such patents, which could limit our ability to stop others from using or commercializing similar or identical products, or limit the duration of the patent protection for our technology. Protecting against the unauthorized use of our patented

inventions, trademarks and other intellectual property rights is expensive, time consuming, difficult and in some cases may not be possible. In some cases, it may be difficult or impossible to detect third-party infringement or misappropriation of our intellectual property rights, even in relation to issued patent claims, and proving any such infringement may be even more difficult. If we are unable to obtain, maintain, and protect our intellectual property our competitive advantage could be harmed, and it could result in a material adverse effect on our business, financial condition, results of operations, stock price and prospects.

If we fail to comply with our obligations in the agreements under which we may license intellectual property rights from third parties or otherwise experience disruptions to our business relationships with our licensors, we could lose intellectual property rights that are important to our business.

We may need to obtain licenses from others to advance our research and development activities or allow the commercialization of our current or future product candidates. We expect any such license agreements will impose various development, diligence, commercialization, and other obligations on us. In spite of our efforts, our licensors might conclude that we have materially breached our obligations under such license agreements and might therefore terminate the license agreements, thereby removing or limiting our ability to develop and commercialize products and technology covered by the intellectual property under any such license agreements. If such in-licenses were to be terminated, or if the underlying patents were to fail to provide the intended exclusivity, competitors or other third parties would have the freedom to seek regulatory approval of, and to market, products identical to ours and we may be required to cease our development and commercialization our product candidates. Any of the foregoing could have a material adverse effect on our competitive position, business, financial conditions, results of operations, and prospects.

Moreover, disputes may arise regarding intellectual property subject to a licensing agreement, including:

- the scope of rights granted under the license agreement and other interpretation-related issues;
- the extent to which our product candidates, technology and processes infringe on intellectual property of the licensor that is not subject to the licensing agreement;
- the sublicensing of patent and other rights under our collaborative development relationships;
- our diligence obligations under the license agreement and what activities satisfy those diligence obligations;
- the inventorship and ownership of inventions and know-how resulting from the joint creation or use of intellectual property by our licensors and us and our partners; and
- the priority of invention of patented technology.

In addition, the agreements under which we may license intellectual property or technology from third parties are likely to be 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, either of which could have a material adverse effect on our business, financial condition, results of operations, and prospects. Moreover, if disputes over intellectual property that we have licensed prevent or impair our ability to maintain our current licensing arrangements on commercially acceptable terms, we may be unable to successfully develop and commercialize the affected product candidates, which could have a material adverse effect on our business, financial conditions, results of operations, and prospects.

If we are unable to protect the confidentiality of our proprietary information and know-how, the value of our technology and products could be adversely affected.

In addition to seeking patent protection, we also rely on other proprietary rights, including protection of trade secrets, know-how and confidential and proprietary information. To maintain the confidentiality of our

trade secrets and proprietary information, we enter into confidentiality agreements with our employees, consultants, collaborators, contractors, and other third parties who have access to our trade secrets. Our agreements with employees and consultants also provide that any inventions conceived by the individual employee or consultant in the course of rendering services to us shall be our exclusive property. However, we may not obtain these agreements in all circumstances, and individuals with whom we have these agreements may not comply with their terms. 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. In addition, we cannot be certain that our trade secrets and other confidential proprietary information will not be disclosed or that competitors will not otherwise gain access to our trade secrets or independently develop substantially equivalent information and techniques. In the event of unauthorized use or disclosure of our trade secrets or proprietary information, these agreements, even if obtained, may not provide meaningful protection, particularly for our trade secrets or other confidential information. To the extent that our employees, consultants or contractors use technology or know-how owned by third parties in their work for us, disputes may arise between us and those third parties as to the rights in related inventions.

Adequate remedies may not exist in the event of unauthorized use or disclosure of our confidential information including a breach of our confidentiality agreements. Enforcing a claim that a party illegally disclosed or misappropriated a trade secret is difficult, expensive, and time consuming, and the outcome is unpredictable. In addition, some courts in and outside of the United States are less willing or unwilling to protect trade secrets. If any of our trade secrets were to be lawfully obtained or independently developed by a competitor or other third party, we would have no right to prevent them from using that technology or information to compete with us. The disclosure of our trade secrets or the independent development of our trade secrets by a competitor or other third party would impair our competitive position and may materially harm our business, financial condition, results of operations, stock price and prospects.

Third parties may initiate legal proceedings alleging that we are infringing their intellectual property rights, the outcome of which would be uncertain and could harm our business.

Our commercial success depends on our ability and the ability of any future collaborators to develop, manufacture, market and sell Olvi-Vec and our other product candidates, and to use our related proprietary technologies without infringing, misappropriating or otherwise violating the intellectual property and proprietary rights of third parties. The biotechnology and pharmaceutical industries are characterized by extensive litigation regarding patents and other intellectual property rights. We may become party to, or threatened with, adversarial proceedings or litigation regarding intellectual property rights with respect to our current and any other future product candidates, including interference proceedings, post-grant review, *inter partes* review and derivation proceedings before the USPTO. Third parties may assert infringement or other intellectual property claims against us based on existing patents or patents that may be granted in the future. Numerous U.S. and foreign-issued patents and pending patent applications, which are owned by third parties, exist in the fields in which we are pursuing development candidates. As the biotechnology and pharmaceutical industries expand and more patents are issued, the risk increases that we may be subject to claims of infringement of the patent rights of third parties. If we are found to infringe a third party's intellectual property rights, and we are unsuccessful in demonstrating that such intellectual property rights are invalid or unenforceable, we could be required to obtain a license from such third party to continue developing, manufacturing and commercializing Olvi-Vec and our other product candidates. However, we may not be able to obtain any required license on commercially reasonable terms or at all. Even if we were able to obtain a license, it could be non-exclusive, thereby giving our competitors and other third parties access to the same technologies licensed to us, and it could require us to make substantial licensing and royalty payments. We also could be forced, including by court order, to cease developing, manufacturing, and commercializing Olvi-Vec or our other product candidates. In addition, in any such proceeding or litigation, we could be found liable for significant monetary damages, including treble damages and attorneys' fees, if we are found to have willfully infringed a patent or other intellectual property right. Any of the foregoing could have a material adverse effect on our business, financial condition, results of operations,

stock price and prospects. Any claims by third parties that we have misappropriated their confidential information or trade secrets could have a similar material adverse effect on our business. Defense of these claims, regardless of their merit, would involve substantial litigation expense and would be a substantial diversion of employee resources from our business.

Parties making claims against us may be able to sustain the costs of complex patent litigation more effectively than we can because they have substantially greater resources. Furthermore, because of the substantial amount of discovery required in connection with intellectual property litigation or administrative proceedings, there is a risk that some of our confidential information could be compromised by disclosure. In addition, any uncertainties resulting from the initiation and continuation of any litigation could have material adverse effect on our ability to raise additional funds or otherwise have a material adverse effect on our business, results of operations, financial condition and prospects.

Furthermore, we plan to develop our product candidates in combination with products developed by companies that may be covered by patents or licenses held by those entities to which we do not have a license or a sublicense. In the event that a labeling instruction is required in product packaging recommending that combination, we could be accused of, or held liable for, infringement of the third-party patents covering the product candidate or product recommended for administration with Olvi-Vec or our other product candidates. In such a case, we could be required to obtain a license from the other company or institution to use the required or desired package labeling, which may not be available on commercially reasonable terms, or at all.

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

Filing, prosecuting and defending patents on our technology throughout the world would be prohibitively expensive, and our intellectual property rights in some countries outside the United States can be less extensive than those in the United States. In addition, the laws and practices of some foreign countries do not protect intellectual property rights to the same extent as federal and state laws in the United States. Consequently, we may not be able to prevent third parties from practicing our inventions in all countries outside the United States, or from selling or importing products made using our inventions in and into the United States or other jurisdictions. Competitors may use our technologies in jurisdictions where we have not obtained patent protection to develop and/or manufacture their own products, and may export otherwise infringing products to territories where we have patent protection but where enforcement is not as strong as that in the United States. These products may compete with our products and our patent claims or other intellectual property rights may not be effective or sufficient to prevent them from so competing.

Many companies have encountered significant problems in protecting and defending intellectual property rights in certain foreign jurisdictions. The legal systems of certain countries, particularly certain developing countries, do not favor the granting or enforcement of patents, trade secrets and other intellectual property protection, particularly those relating to biopharmaceuticals, which could make it difficult for us to obtain patent rights or stop the infringement of our patents or marketing of competing products in violation of our intellectual property and proprietary rights generally in those countries. Proceedings to enforce our intellectual property and proprietary rights in foreign jurisdictions could result in substantial cost and divert our efforts and attention from other aspects of our business, could put our patents at risk of being invalidated or interpreted narrowly and our patent applications at risk of not issuing and could provoke third parties to assert claims against us. We may not prevail in any lawsuits that we initiate, and the damages or other remedies awarded, if any, may not be commercially meaningful. Accordingly, our efforts to protect and enforce our intellectual property and proprietary rights around the world may be inadequate to obtain a significant commercial advantage from the intellectual property we develop or license.

In addition, the laws of certain foreign countries may not protect our rights to the same extent as the laws of the United States, and those foreign laws may also be subject to change. For example, methods of treatment and manufacturing processes may not be patentable in certain jurisdictions, and the requirements for patentability

may differ in certain countries. Furthermore, biosimilar product manufacturers or other competitors may challenge the scope, validity and enforceability of our patents, requiring us to engage in complex, lengthy and costly litigation or proceedings.

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

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 and to maintain patents after they are issued. For example, periodic maintenance fees, renewal fees, annuity fees and various other government fees on issued patents and patent applications often must be paid to the USPTO and foreign patent agencies over the lifetime of our licensed patents or any patents we own. In certain circumstances, we may rely on future licensing partners to take the necessary action to comply with these requirements with respect to licensed intellectual property. Although an unintentional lapse can be cured for a period of time 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 obtain and maintain the patents and patent applications covering our products or procedures, we may not be able to stop a competitor from marketing products that are the same as or similar to Olvi-Vec or our other product candidates, which could have a material adverse effect on our business.

Changes to the patent law in the United States and other jurisdictions could diminish the value of patents in general, thereby impairing our ability to protect Olvi-Vec, V2ACT Immunotherapy and our other product candidates.

As is the case with other biopharmaceutical companies, our success is heavily dependent on intellectual property, particularly patents. Obtaining and enforcing patents in the biopharmaceutical industry involves both technological and legal complexity and is therefore costly, time consuming and inherently uncertain. Changes in either the patent laws or interpretation of the patent laws in the United States or other jurisdictions in which we have or seek patent protection could increase the uncertainties and costs surrounding the prosecution of patent applications and the enforcement or defense of issued patents. Patent reform legislation in the United States and other countries, including the Leahy-Smith America Invents Act, or the Leahy-Smith Act, signed into law in the United States on September 16, 2011, could increase those uncertainties and costs surrounding the prosecution of our patent applications and the enforcement or defense of our issued patents. 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, redefine prior art and provide more efficient and cost-effective avenues for competitors to challenge the validity of patents. These include allowing third-party submission of prior art to the USPTO during patent prosecution and additional procedures to attack the validity of a patent by USPTO administered post-grant proceedings, including post-grant review, *inter partes* review, and derivation proceedings. After March 2013, under the Leahy-Smith Act, the United States transitioned to a first inventor to file system in which, assuming that the other statutory requirements are met, the first inventor to file a patent application will be entitled to the patent on an invention regardless of whether a third party was the first to invent the claimed invention. However,

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, results of operations, stock price and prospects.

The U.S. Supreme Court has ruled on several patent cases in recent years, either narrowing the scope of patent protection available in certain circumstances or weakening the rights of patent owners in certain situations. Depending on future actions by the U.S. Congress, the U.S. courts, the USPTO and the relevant law-making bodies in other countries, the laws and regulations governing patents could change in unpredictable ways that would weaken our ability to obtain new patents or to enforce our existing patents and patents that we might obtain in the future.

We may become involved in lawsuits to protect or enforce our intellectual property, which could be expensive, time-consuming and unsuccessful and have a material adverse effect on the success of our business.

Competitors may infringe our licensed patents or any patent we own, or misappropriate or otherwise violate our intellectual property rights. Litigation may be necessary in the future to enforce or defend our intellectual property rights, to protect our trade secrets, or to determine the validity and scope of our own intellectual property rights or the proprietary rights of others. If we were to initiate legal proceedings against a third party to enforce a patent covering our product candidates, the defendant could counterclaim that the patent covering our product candidate is invalid and/or unenforceable. In patent litigation in the United States, defendant counterclaims alleging invalidity and/or unenforceability are commonplace. Grounds for a validity challenge could be an alleged failure to meet any of several statutory requirements, including lack of novelty, obviousness, written description 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. The outcome following legal assertions of invalidity and unenforceability is unpredictable. Our licensed patents and any patents we own in the future may become involved in priority or other intellectual property related disputes. Interference or derivation proceedings provoked by third parties or brought by us or declared by the USPTO may be necessary to determine the priority of inventions with respect to our patents or patent applications. Also, third parties may initiate legal proceedings against us to challenge the validity or scope of our owned or licensed intellectual property rights. These proceedings can be expensive and time consuming. Many of our current and potential competitors have the ability to dedicate substantially greater resources to conduct intellectual property related litigations or proceedings than we can. We may not have sufficient financial or other resources to conduct such litigation or proceedings adequately. Accordingly, despite our efforts, we may not be able to prevent third parties from infringing upon or misappropriating our intellectual property. Litigation and other intellectual property related proceedings could result in substantial costs and diversion of management resources, which could harm our business and financial results. In addition, in an infringement proceeding, a court may decide that a patent owned by or licensed to us is invalid or unenforceable, or may 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. An adverse result in any litigation or other intellectual property related proceeding could put one or more of our patents at risk of being invalidated, held unenforceable or interpreted narrowly.

Furthermore, because of the substantial amount of discovery required in connection with intellectual property litigation in the United States, there is a risk that some of our confidential information could be compromised by disclosure during this type of litigation. There could also be public announcements of the results of hearings, motions or other interim proceedings or developments in any such proceedings. If securities analysts or investors perceive these results to be negative, it could have a material adverse effect on the price of shares of our common stock, and could have a material adverse effect on our ability to raise the funds necessary to continue our clinical trials, continue our research programs, license necessary technology from third parties, or enter into development partnerships that would help us bring our product candidates to market. Any of the foregoing may have a material adverse effect our business, financial condition, results of operations, stock price and prospects.

We may be subject to claims by third parties asserting that we, our employees or any future collaborators have misappropriated their intellectual property, or claiming ownership of what we regard as our own intellectual property.

Many of our employees, including our senior management team, were previously employed at, or consulted for, universities or other biotechnology or pharmaceutical companies, including our competitors or potential competitors. Some of these people, including each member of our senior management team, executed proprietary rights, non-disclosure and non-competition agreements, or similar agreements, in connection with such previous employment or consulting agreements, that assigned ownership of intellectual property relating to work performed under such agreements to the contracting third party. Although we try to ensure that our employees do not use, claim as theirs, or misappropriate the intellectual property, proprietary information or know-how of others in their work for us, we may be subject to claims that we or these employees have used, claimed as theirs, misappropriated or disclosed intellectual property, including trade secrets or other proprietary information, of any such individual's current or former employer. Litigation may be necessary to defend against such claims. If we fail in defending any such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights or personnel or sustain damages. Such intellectual property rights could be awarded to a third party, and we could be required to obtain a license from such third party to commercialize our technology or products. Such a license may not be available on commercially reasonable terms, or at all. Even if we are successful in defending against such claims, litigation could result in substantial costs and be a distraction to management. Any of the foregoing may have a material adverse effect on our business, financial condition, results of operations, stock price and prospects.

We may be subject to damages resulting from claims that we or our employees have wrongfully used or disclosed confidential information of third parties or are in breach of non-competition or non-solicitation agreements with our competitors.

We could be subject to claims that we or our employees, including senior management, have inadvertently or otherwise used or disclosed alleged trade secrets or other confidential information of former employers or competitors or others. Although we try to ensure that our employees and consultants do not use the intellectual property, proprietary information, know-how or trade secrets of others in their work for us, we may be subject to claims that we caused an employee to breach the terms of their non-competition or non-solicitation agreement, or that we or these individuals have, inadvertently or otherwise, used or disclosed the alleged trade secrets or other proprietary information of a former employer or competitor or other party. Litigation may be necessary to defend against these claims. Even if we are successful in defending against these claims, litigation could result in substantial costs and could be a distraction to management. If our defenses to these claims fail, in addition to requiring us to pay monetary damages, a court could prohibit us from using technologies or features that are essential to Olvi-Vec and our other product candidates, if such technologies or features are found to incorporate or be derived from the trade secrets or other proprietary information of the former employers, competitors or other parties. An inability to incorporate such technologies or features would have a material adverse effect on our business, and may prevent us from successfully commercializing Olvi-Vec and our other product candidates. In addition, we may lose valuable intellectual property rights or personnel as a result of such claims. Moreover, any such litigation or the threat thereof may adversely affect our ability to hire employees or consultants. A loss of key personnel or their work product could hamper or prevent our ability to develop and commercialize Olvi-Vec and our other product candidates, which could have an adverse effect on our business, financial condition, results of operations, stock price and prospects.

If we obtain any issued patents covering our technology, such patents could be found invalid or unenforceable if challenged in court or before the USPTO or comparable foreign regulatory authority.

If we or one of our licensing partners initiate legal proceedings against a third party to enforce a patent covering any of our technology, the defendant could counterclaim that the patent covering our product candidate is invalid or unenforceable. In patent litigation in the United States, defendant counterclaims alleging invalidity

or unenforceability are commonplace, and there are numerous grounds upon which a third party can assert invalidity or unenforceability of a patent. Grounds for a validity challenge could be, among other things, 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, among other things, 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 also raise similar claims before administrative bodies in the United States or abroad, even outside the context of litigation. Such mechanisms include re-examination, *inter partes* review, post-grant review, interference proceedings, derivation proceedings and equivalent proceedings in foreign jurisdictions, such as opposition proceedings. Such proceedings could result in revocation, cancellation or amendment to our patents in such a way that they no longer cover and protect Olvi-Vec, V2ACT Immunotherapy and our other product candidates. The outcome following legal assertions of invalidity and unenforceability is unpredictable. For example, with respect to the validity of our licensed patents or any patents we obtain in the future, we cannot be certain that there is no invalidating prior art of which we, our or our licensing partner's patent counsel, and the patent examiner were unaware during prosecution. If a third party were to prevail on a legal assertion of invalidity and/or unenforceability, we would lose at least part, and perhaps all, of the patent protection on Olvi-Vec, V2ACT Immunotherapy and our other product candidates. Such a loss of patent protection could have a material adverse impact on our business.

Patent terms may be inadequate to protect our competitive position on our products for an adequate amount of time, and our product candidates for which we intend to seek approval as biological products may face competition sooner than anticipated.

Patents have a limited lifespan. In the United States, if all maintenance fees are timely paid, the natural expiration of a patent is generally 20 years from its earliest U.S. non-provisional filing date. Various extensions may be available, but the life of a patent, and the protection it affords, is limited. Even if patents covering our product candidates are obtained, once the patent life has expired, we may be open to competition from competitive products, including generics or biosimilars. Given the amount of time required for the development, testing and regulatory review of new product candidates, such as Olvi-Vec and our other product candidates, patents protecting such candidates might expire before or shortly after such candidates are commercialized. As a result, our owned and licensed patent portfolio may not provide us with sufficient rights to exclude others from commercializing products similar or identical to ours.

In the United States, the Drug Price Competition and Patent Term Restoration Act of 1984 permits a patent term extension of up to five years beyond the normal expiration of the patent, but no longer than 14 years from the product's approval date, which is limited to the approved indication (or any additional indications approved during the period of extension). However, the applicable authorities, including the FDA and the USPTO in the United States, and any equivalent regulatory authorities in other countries, may not agree with our assessment of whether such extensions are available, and may refuse to grant extensions to our patents, or may grant more limited extensions than we request. If this occurs, our competitors may be able to take advantage of our investment in development and clinical trials by referencing our clinical and preclinical data and launch their products earlier than might otherwise be the case, which could have a material adverse effect on our business, financial condition, results of operations, stock price and prospects.

The enactment of the Biologics Price Competition and Innovation Act of 2009 (BPCIA) as part of the Patient Protection and Affordable Care Act as amended by the Health Care and Education Reconciliation Act of 2010 (collectively, the ACA) created an abbreviated pathway for the approval of biosimilar and interchangeable biological products. The abbreviated regulatory pathway establishes legal authority for the FDA to review and approve biosimilar biological products, including the possible designation of a biosimilar as "interchangeable" based on its similarity to an existing brand product. Under the BPCIA, an application for a biosimilar product cannot be approved by the FDA until 12 years after the original branded product was approved under a BLA. Certain changes, however, and supplements to an approved BLA, and subsequent applications filed by the same sponsor, manufacturer, licensor, predecessor in interest, or other related entity do not qualify for the 12-year exclusivity period.

Olvi-Vec and our other product candidates are all biological product candidates. We anticipate being awarded market exclusivity for each of our biological product candidates that is subject to its own BLA for 12 years in the United States, 10 years in Europe and significant durations in other markets. However, the term of the patents that cover such product candidates may not extend beyond the applicable market exclusivity awarded by a particular country. For example, in the United States, if all of the patents that cover our particular biological product expire before the 12-year market exclusivity expires, a third party could submit a marketing application for a biosimilar product four years after approval of our biological product, the FDA could immediately review the application and approve the biosimilar product for marketing 12 years after approval of our biological product, and the biosimilar sponsor could then immediately begin marketing. Alternatively, a third party could submit a full BLA for a similar or identical product any time after approval of our biological product, and the FDA could immediately review and approve the similar or identical product for marketing and the third party could begin marketing the similar or identical product upon expiry of all of the patents that cover our particular biological product.

There is also a risk that this exclusivity could be changed in the future. For example, this exclusivity could be shortened due to congressional action or through other actions, including future proposed budgets, international trade agreements and other arrangements or proposals. Additionally, there is a risk that the FDA will not consider our product candidates to be reference products for competing products, potentially creating the opportunity for biosimilar competition sooner than anticipated. The extent to which a biosimilar, once approved, will be substituted for any one of our reference products in a way that is similar to traditional generic substitution for non-biological products is not yet clear, and will depend on a number of marketplace and regulatory factors that are still developing. It is also possible that payors will give reimbursement preference to biosimilars over reference biological products, even absent a determination of interchangeability.

To the extent that we do not receive any anticipated periods of regulatory exclusivity for our product candidates or the FDA or foreign regulatory authorities approve any biosimilar, interchangeable, or other competing products to our product candidates, it could have a material adverse effect on our business, financial condition, results of operations, stock price and prospects.

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

Our current or future trademarks or trade names may be challenged, infringed, circumvented or declared generic or descriptive or determined to be infringing on other marks. We may not be able to protect our rights to these trademarks and trade names or may be forced to stop using these names, which we need for name recognition by potential partners or customers in our markets of interest.

During trademark registration proceedings, we may receive rejections of our applications by the USPTO or in other foreign jurisdictions. Although we would be given an opportunity to respond to those rejections, we may be unable to overcome such rejections. In addition, in the USPTO and in 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. If we are unable to establish name recognition based on our trademarks and trade names, we may not be able to compete effectively and our business may be adversely affected. We may license our trademarks and trade names to third parties, such as distributors. Although these license agreements may provide guidelines for how our trademarks and trade names may be used, a breach of these agreements or misuse of our trademarks and tradenames by our licensees may jeopardize our rights in or diminish the goodwill associated with our trademarks and trade names.

Moreover, any name we have proposed to use with our product candidate in the United States must be approved by the FDA, regardless of whether we have registered it, or applied to register it, as a trademark. Similar requirements exist in Europe. The FDA typically conducts a review of proposed product names,

including an evaluation of potential for confusion with other product names. If the FDA (or an equivalent administrative body in a foreign jurisdiction) objects to any of our proposed proprietary product names, it may be required to expend significant additional resources in an effort to identify a suitable substitute name that would qualify under applicable trademark laws, not infringe the existing rights of third parties and be acceptable to the FDA. Furthermore, in many countries, owning and maintaining a trademark registration may not provide an adequate defense against a subsequent infringement claim asserted by the owner of a senior trademark. At times, competitors or other third parties may adopt trade names or trademarks similar to ours, thereby impeding our ability to build brand identity and possibly leading to market confusion. In addition, there could be potential trade name or trademark infringement claims brought by owners of other registered trademarks or trademarks that incorporate variations of our registered or unregistered trademarks or trade names. If we assert trademark infringement claims, a court may determine that the marks we have asserted are invalid or unenforceable, or that the party against whom we have asserted trademark infringement has superior rights to the marks in question. In this case, we could ultimately be forced to cease use of such trademarks.

Risks Related to Government Regulation

If we fail to comply with federal and state healthcare laws, including fraud and abuse and patient privacy and security laws, we could face substantial penalties and our business, financial condition, results of operations, stock price and prospects will be materially harmed.

Our current and future arrangements with healthcare providers, third-party payors, customers, and others may expose us to broadly applicable healthcare fraud and abuse, patient privacy and security, and other healthcare laws, which may constrain the business or financial arrangements and relationships through which we research, as well as sell, market and distribute any products for which we obtain marketing approval. The applicable federal, state and foreign healthcare laws and regulations that may affect our ability to operate include, but are not limited to:

- The federal Anti-Kickback Statute, which prohibits, among other things, individuals and entities from knowingly and willfully soliciting, receiving, offering or paying any remuneration (including any kickback, bribe, or rebate), directly or indirectly, overtly or covertly, in cash or in kind, to induce, or in return for, either the referral of an individual for, or the purchase, lease, order or recommendation of, any good, facility, item or service for which payment may be made, in whole or in part, under a federal healthcare program, such as the Medicare and Medicaid programs.
- The federal civil and criminal false claims laws, including, without limitation, the civil FCA, and the federal Civil Monetary Penalties Law, which prohibit individuals or entities from, among other things, knowingly presenting, or causing to be presented, false or fraudulent claims for payment of federal funds, and knowingly making, or causing to be made, a false record or statement material to a false or fraudulent claim to avoid, decrease or conceal an obligation to pay money to the federal government.
- The Health Insurance Portability and Accountability Act of 1996 (HIPAA), which prohibits, among other things, knowingly and willfully executing, or attempting to execute, a scheme or artifice to defraud any healthcare benefit program 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), willfully obstructing a criminal investigation of a healthcare offense, 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 statements in connection with the delivery of, or payment for, healthcare benefits, items or services relating to healthcare matters.
- The U.S. Federal Food, Drug and Cosmetic Act, which prohibits, among other things, the adulteration or misbranding of drugs, biological products and medical devices.
- The federal physician payment transparency requirements, sometimes referred to as the Physician Payments Sunshine Act, created under the ACA and its implementing regulations, which require

certain manufacturers of drugs, devices, biological products and medical supplies for which payment is available under Medicare, Medicaid or the Children's Health Insurance Program (with certain exceptions) to report annually to the Centers for Medicare & Medicaid Services (CMS) information related to payments or other transfers of value made to physicians (defined to include doctors, dentists, optometrists, podiatrists and chiropractors) and teaching hospitals, as well as ownership and investment interests held by such physicians and their immediate family members. Beginning in 2022, applicable manufacturers also will be required to report such information regarding payments and transfers of value provided, during the previous year to physician assistants, nurse practitioners, clinical nurse specialists, anesthesiologist assistants, certified nurse anesthetists and certified nurse-midwives.

- HIPAA, as amended by the Health Information Technology for Clinical Health Act of 2009 (HITECH) and their respective implementing regulations, which impose obligations on "covered entities," including certain healthcare providers, health plans, and healthcare clearinghouses, and their respective "business associates" and covered subcontractors that create, receive, maintain or transmit individually identifiable health information for or on behalf of a covered entity, with respect to safeguarding the privacy, security and transmission of individually identifiable health information.
- Analogous state and foreign anti-kickback and false claims laws that may apply to sales or marketing arrangements and claims involving healthcare items or services reimbursed by non-governmental third-party payors, including private insurers, or that apply regardless of payor; state laws that require pharmaceutical companies to comply with the pharmaceutical industry's voluntary compliance guidelines and the relevant compliance guidance promulgated by the federal government; state and local laws that require drug manufacturers to report information related to payments and other transfers of value to physicians and other healthcare providers or marketing expenditures; state laws that require the reporting of information related to drug pricing; state and local laws requiring the registration of pharmaceutical sales representatives; and state and foreign laws governing the privacy and security of health information in some circumstances, many of which differ from each other in significant ways and often are not preempted by HIPAA, thus complicating compliance efforts.

If we or our operations are found to be in violation of any federal or state healthcare law, or any other governmental laws or regulations that apply to us, we may be subject to penalties, including significant civil, criminal, and administrative penalties, damages, monetary fines, disgorgement, imprisonment, suspension and debarment from government contracts, and refusal of orders under existing government contracts, exclusion from participation in U.S. federal or state health care programs, additional reporting requirements and/or oversight if we become subject to corporate integrity agreements or similar agreement to resolve allegations of non-compliance, contractual damages, reputational harm, diminished profits and future earnings, and the curtailment or restructuring of our operations, any of which could materially adversely affect our ability to operate our business and our financial results. If any of the physicians or other healthcare providers or entities with whom we expect to do business is found not to be in compliance with applicable laws, it may be subject to significant criminal, civil or administrative sanctions, including but not limited to, exclusions from participation in U.S. federal or state healthcare programs, which could also materially affect our business.

Although an effective compliance program can mitigate the risk of investigation and prosecution for violations of these laws, the risks cannot be entirely eliminated. Moreover, achieving and sustaining compliance with such laws may prove costly. Any action against us for violation of these laws, even if we successfully defend against it, could cause us to incur significant legal expenses and divert our management's attention from the operation of our business.

If the government or third-party payors fail to provide adequate coverage, reimbursement and payment rates for our product candidates, or if health maintenance organizations or long-term care facilities choose to use therapies that are less expensive or considered a better value, our revenue and prospects for profitability will be limited.

In both domestic and foreign markets, sales of our products will depend in part upon the availability of coverage and adequate reimbursement from third-party payors. Such third-party payors include government health programs such as Medicare and Medicaid, managed care providers, private health insurers, and other organizations. Coverage decisions may depend upon clinical and economic standards that disfavor new therapeutic products when more established or lower cost therapeutic alternatives are already available or subsequently become available, even if our products are alone in a class. Third-party payors establish reimbursement levels. Therefore, even if coverage is provided, the approved reimbursement amount may not be high enough to allow us to establish or maintain a market share sufficient to realize a sufficient return on our or their investments. If reimbursement is not available, or is available only to limited levels, our product candidates may be competitively disadvantaged, and we may not be able to successfully commercialize our product candidates. Alternatively, securing favorable reimbursement terms may require us to compromise pricing and prevent us from realizing an adequate margin over cost.

There is significant uncertainty related to third-party payor coverage and reimbursement of newly approved therapeutics. Marketing approvals, pricing, and reimbursement for new therapeutic products vary widely from country to country. Current and future legislation may significantly change the approval requirements in ways that could involve additional costs and cause delays in obtaining approvals. Some countries require approval of the sale price of a therapeutic before it can be marketed. In many countries, the pricing review period begins after marketing or product licensing approval is granted. In some foreign markets, prescription biopharmaceutical pricing remains subject to continuing governmental control even after initial approval is granted. As a result, we might obtain marketing approval for a product in a particular country, but then be subject to price regulations that delay commercial launch of the product, possibly for lengthy time periods, which may negatively impact the revenues we are able to generate from the sale of the product in that country. Adverse pricing limitations may hinder our ability to recoup our investment in one or more product candidates, even if our product candidates obtain marketing approval. Our ability to commercialize our product candidates will depend in part on the extent to which coverage and reimbursement for these products and related treatments will be available from third-party payors.

A significant trend within the healthcare industry is cost containment, both in the United States and elsewhere. Third-party payors, whether foreign or domestic, or governmental or commercial, are developing increasingly sophisticated methods of controlling healthcare costs. Certain third-party payors are requiring that companies provide them with predetermined discounts from list prices, are using preferred drug lists to leverage greater discounts in competitive classes, are disregarding therapeutic differentiators within classes, are challenging the prices charged for therapeutics, and are negotiating price concessions based on performance goals. In addition, third-party payors are increasingly requiring higher levels of evidence of the benefits and clinical outcomes of new technologies, benchmarking against other therapies, seeking performance-based discounts, and challenging the prices charged. We cannot be sure that coverage will be available for any product candidate that we commercialize and, if available, that the reimbursement rates will be adequate. If payors subject our product candidates to maximum payment amounts, or impose limitations that make it difficult to obtain reimbursement, providers may choose to use therapies which are less expensive when compared to our product candidates. Additionally, if payors require high copayments, beneficiaries may seek alternative therapies. We may need to conduct post-marketing studies in order to demonstrate the cost-effectiveness of any products to the satisfaction of hospitals, other target customers and their third-party payors. Such studies might require us to commit a significant amount of management time and financial and other resources. Our products might not ultimately be considered cost-effective. Adequate third-party coverage and reimbursement might not be available to enable us to maintain price levels sufficient to realize an appropriate return on investment in product development.

In addition, in the United States, no uniform policy of coverage and reimbursement for products exists among third-party payors. Therefore, coverage and reimbursement for products can differ significantly from payor to payor. Further, we believe that future coverage and reimbursement will likely be subject to increased restrictions both in the United States and in international markets. Third-party coverage and reimbursement for our products or product candidates for which we receive regulatory approval may not be available or adequate in either the United States or international markets, which could have a negative effect on our business, financial condition, results of operations, stock price and prospects.

There may also be delays in obtaining coverage and reimbursement for newly approved therapeutics, and coverage may be more limited than the indications for which the product is approved by the FDA or comparable foreign regulatory authorities. Such delays have made it increasingly common for manufacturers to provide newly approved drugs to patients experiencing coverage delays or disruption at no cost for a limited period in order to ensure that patients are able to access the drug. Moreover, eligibility for reimbursement does not imply that any therapeutic will be paid for in all cases or at a rate that covers our costs, including research, development, manufacture, sale, and distribution. Interim reimbursement levels for new therapeutics, if applicable, may also not be sufficient to cover our costs and may only be temporary. Reimbursement rates may vary, by way of example, according to the use of the product and the clinical setting in which it is used. Reimbursement rates may also be based on reimbursement levels already set for lower cost products or may be incorporated into existing payments for other services.

An inability to promptly obtain coverage and adequate reimbursement from third-party payors for any of our product candidates for which we obtain marketing approval could have a material adverse effect on our operating results, our ability to raise capital needed to commercialize products and our overall financial condition.

We are subject to new legislation, regulatory proposals and third-party payor initiatives that may increase our costs of compliance, and adversely affect our ability to market our products, obtain collaborators, and raise capital.

In the United States and some foreign jurisdictions, there have been a number of legislative and regulatory changes and proposed changes regarding the healthcare system that could prevent or delay marketing approval of our product candidates, restrict or regulate post-approval activities and affect our ability to profitably sell any products for which we obtain marketing approval. We expect that current laws, as well as other healthcare reform measures that may be adopted in the future, may result in more rigorous coverage criteria and in additional downward pressure on the price that we may receive for any approved products.

For example, the ACA was passed in March 2010 and substantially changed the way healthcare is financed by both governmental and private insurers, and continues to significantly impact the United States pharmaceutical industry.

There have been executive, judicial and congressional challenges to certain aspects of the ACA. For example, legislation enacted in 2017, informally titled the Tax Cuts and Jobs Act of 2017 (the Tax Act), includes a provision repealing, effective January 1, 2019, the tax-based shared responsibility payment imposed by the ACA 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.” On June 17, 2021 the U.S. Supreme Court dismissed a challenge on procedural grounds that argued the ACA is unconstitutional in its entirety because the “individual mandate” was repealed by Congress. Thus, the ACA will remain in effect in its current form. Further, prior to the U.S. Supreme Court ruling, on January 28, 2021, President Biden issued an executive order to initiate a special enrollment period for purposes of obtaining health insurance coverage through the ACA marketplace, which began on February 15, 2021 and will remain open through August 15, 2021. The executive order also instructs certain governmental agencies to review and reconsider their existing policies and rules that limit access to healthcare, including among others, reexamining Medicaid demonstration projects and waiver programs that

include work requirements, and policies that create unnecessary barriers to obtaining access to health insurance coverage through Medicaid or the ACA. It is possible that the ACA will be subject to judicial or Congressional challenges in the future. It is unclear how any such challenges and the healthcare reform measures of the Biden administration will impact the ACA and our business.

Other legislative changes have been proposed and adopted in the United States since the ACA. For example, through the process created by the Budget Control Act of 2011, there are automatic reductions of Medicare payments to providers up to 2% per fiscal year, which went into effect in April 2013 and, following passage of the BBA, will remain in effect through 2030 unless additional Congressional action is taken. However, COVID-19 relief support legislation suspended the 2% Medicare sequester from May 1, 2020 through December 31, 2021.

In addition, there have been a number of other legislative and regulatory proposals aimed at changing the biopharmaceutical industry. For instance, the Drug Quality and Security Act of 2013 imposes obligations on manufacturers of biopharmaceutical products related to product tracking and tracing. Further, manufacturers have product investigation, quarantine, disposition, and notification responsibilities related to counterfeit, diverted, stolen, and intentionally adulterated products that would result in serious adverse health consequences of death to humans, as well as products that are the subject of fraudulent transactions or which are otherwise unfit for distribution such that they would be reasonably likely to result in serious health consequences or death.

Compliance with the federal track and trace requirements may increase our operational expenses and impose significant administrative burdens. As a result of these and other new proposals, we may determine to change our current manner of operation, provide additional benefits or change our contract arrangements, any of which could have a material adverse effect on our business, financial condition, results of operations, stock price and prospects.

There has been heightened governmental scrutiny in the United States of pharmaceutical pricing practices in light of the rising cost of prescription drugs and biological products. Such scrutiny has resulted in presidential executive orders, congressional inquiries and proposed and enacted federal and state legislation designed to, among other things, bring more transparency to product pricing, review the relationship between pricing and manufacturer patient programs, and reform government program reimbursement methodologies for products.

At the federal level, the Trump administration used several means to propose or implement drug pricing reform, including through federal budget proposals, executive orders and policy initiatives. For example, on July 24, 2020 and September 13, 2020, the Trump administration announced several executive orders related to prescription drug pricing that attempt to implement several of the administration's proposals. The FDA also released a final rule, effective November 30, 2020, implementing a portion of the importation executive order providing guidance for states to build and submit importation plans for drugs from Canada. Further, on November 20, 2020, HHS finalized a regulation removing safe harbor protection for price reductions from pharmaceutical manufacturers to plan sponsors under Part D, either directly or through pharmacy benefit managers, unless the price reduction is required by law. The implementation of the rule has been delayed by the Biden administration from January 1, 2022 to January 1, 2023 in response to ongoing litigation. The rule also creates a new safe harbor for price reductions reflected at the point-of-sale, as well as a new safe harbor for certain fixed fee arrangements between pharmacy benefit managers and manufacturers, the implementation of which have also been delayed until January 1, 2023. On November 20, 2020, CMS issued an interim final rule implementing President Trump's Most Favored Nation executive order, which would tie Medicare Part B payments for certain physician-administered drugs to the lowest price paid in other economically advanced countries, effective January 1, 2021. On December 28, 2020, the United States District Court in Northern California issued a nationwide preliminary injunction against implementation of the interim final rule. On January 13, 2021, in a separate lawsuit brought by industry groups in the U.S. District of Maryland, the government defendants entered a joint motion to stay litigation on the condition that the government would not appeal the preliminary injunction granted in the U.S. District Court for the Northern District of California and

that performance for any final regulation stemming from the MFN Model interim final rule shall not commence earlier than sixty (60) days after publication of that regulation in the Federal Register. Additionally, on March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 into law, which eliminates the statutory Medicaid drug rebate cap, currently set at 100% of a drug's average manufacturer price, for single source and innovator multiple source drugs, beginning January 1, 2024.

At the state level, legislatures have increasingly passed legislation and implemented regulations designed to control pharmaceutical and biological product pricing, including price or patient reimbursement constraints, discounts, restrictions on certain product access and marketing cost disclosure and transparency measures, and, in some cases, designed to encourage importation from other countries and bulk purchasing.

Any new laws or regulations, including those that may result in additional reductions in Medicare and other healthcare funding, could have a material adverse effect on customers for our products, if approved, and, accordingly, on our results of operations.

We expect that the ACA, as well as other federal and state healthcare reform measures that may be adopted in the future, may result in more rigorous coverage criteria, increased regulatory burdens and operating costs, decreased net revenue from our biopharmaceutical products, decreased potential returns from our development efforts, and additional downward pressure on the price that we receive for any approved product. It is also possible that additional governmental action is taken in response to the COVID-19 pandemic. Any reduction in reimbursement from Medicare or other government healthcare programs may result in a similar reduction in payments from private payors. The implementation of cost containment measures or other healthcare reforms may prevent us from commercializing our products and being able to generate revenue, and we could be prevented from or significantly delayed in achieving profitability.

We are subject to the U.S. Foreign Corrupt Practices Act and other anti-corruption laws, as well as import and export control laws, customs laws, sanctions laws and other laws governing our operations. If we fail to comply with these laws, we could be subject to civil or criminal penalties, and other consequences, which could adversely affect our business, financial condition, results of operations, stock price and prospects.

Our operations are subject to anti-corruption laws, including the U.S. Foreign Corrupt Practices Act (FCPA) and other anti-corruption laws that apply in countries where we do business. The FCPA and these other anti-corruption laws generally prohibit us and our employees and intermediaries from authorizing, promising, offering, providing, soliciting, or receiving, directly or indirectly, corrupt or improper payments or anything else of value to or from recipients in the public or private sector. We can be held liable for the corrupt or other illegal activities of our personnel or intermediaries, even if we do not explicitly authorize or have prior knowledge of such activities.

We are also subject to other laws and regulations governing our international operations, including applicable import and export control regulations, economic sanctions on countries and persons, anti-money laundering laws, customs requirements and currency exchange regulations, collectively referred to as the trade control laws.

We can provide no assurance that we will be completely effective in ensuring our compliance with all applicable anti-corruption laws or other legal requirements, including trade control laws. If we are not in compliance with applicable anti-corruption laws or trade control laws, we may be subject to criminal and civil penalties, disgorgement and other sanctions and remedial measures, and legal expenses, which could have an adverse impact on our business, financial condition, results of operations, stock price and prospects. In addition, we cannot predict the nature, scope or effect of future regulatory requirements to which our international operations might be subject or the manner in which existing laws might be administered or interpreted. An investigation of any potential violations of anti-corruption laws or trade control laws by U.S. or other authorities could also have an adverse impact on our reputation, our business, financial condition, results of operations, stock price and prospects.

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

We may be subject to or affected by evolving federal, state and foreign data protection laws and regulations, such as laws and regulations that address privacy and data security. In the United States, numerous federal and state laws and regulations, including federal and state health information privacy laws, state data breach notification laws, and federal and state consumer protection laws, such as Section 5 of the Federal Trade Commission Act, govern the collection, use, disclosure and protection of health information and other personal information could apply to our operations. These laws and regulations are subject to differing interpretations and may be inconsistent among jurisdictions, and guidance on implementation and compliance practices are often updated or otherwise revised, which adds to the complexity of processing personal information. In addition, we may obtain health information from third parties, including research institutions from which we obtain clinical trial data, that are subject to privacy and security requirements under HIPAA, as amended by HITECH, and its implementing rules and regulations. Depending on the facts and circumstances, we could be subject to significant penalties if we violate HIPAA.

Foreign data protection laws, including European Union (EU) Regulation 2016/679, known as the General Data Protection Regulation (GDPR) may also apply to health-related and other personal information obtained outside of the United States. The GDPR went into effect on May 25, 2018. The GDPR introduced new data protection requirements in the EU. Companies that violate the GDPR can face private litigation, restrictions on data processing, as well as fines up to the greater of €20 million or 4% of annual global revenue. The GDPR, which is wide-ranging in scope, imposes several requirements relating to control over personal data by individuals to whom personal data relates, the information that an organization must provide to individuals, the documentation an organization must maintain, the security and confidentiality of personal data, data breach notification, and the use of third party processors in connection with the processing of personal data. The GDPR also imposes strict rules on the transfer of personal data out of the European Economic Area (EEA) to the United States. Although there are legal mechanisms to allow for the transfer of personal data from the EEA and Switzerland to the United States, there is current litigation challenging such mechanisms, and uncertainty about compliance with EU data protection laws remains. Such mechanisms may not be available or applicable with respect to the personal data processing activities necessary to research, develop, and market our products and services. Further, the United Kingdom's vote in favor of exiting the EU, often referred to as Brexit, has created uncertainty with regard to data protection regulation in the United Kingdom. In particular, it is unclear how data transfers to and from the United Kingdom will be regulated. The GDPR, the applicable laws of EU Member States, and the applicable privacy laws of the United Kingdom may impact our business activities and increase our compliance costs and potential liability.

In addition, the California Consumer Privacy Act (CCPA) took effect on January 1, 2020. The CCPA creates new individual privacy rights for California consumers (as the word is broadly defined in the law) and places increased privacy and security obligations on many organizations that handle personal information of consumers or households. The CCPA requires covered companies to provide disclosures to consumers about such companies' data collection, use and sharing practices, provide such consumers with data privacy rights such as rights to access and delete their personal information, receive detailed information about how their personal information is used, and opt-out of certain sharing of personal information. The CCPA provides for civil penalties for violations, as well as a private right of action for certain data breaches that is expected to increase data breach litigation. The Attorney General and local government attorneys may also bring enforcement actions for alleged violations of the CCPA. Although there are some exemptions for clinical trial data and health information, the CCPA may impact our business activities and increase our compliance costs and potential liability. Many similar privacy laws have been proposed at the federal level and in other states.

Compliance with U.S. and foreign data protection laws and regulations could require us to take on more onerous obligations in our contracts, increase our costs of legal compliance, restrict our ability to collect, use and disclose data, or in some cases, impact our or our partners' suppliers' ability to operate in certain jurisdictions. Our or our vendors' actual or perceived failure to comply with U.S. and foreign data protection laws and regulations could result in government investigations and/or enforcement actions (which could include civil, criminal, and administrative penalties), private litigation and/or adverse publicity and could negatively affect our operating results and business. Moreover, clinical trial subjects about whom we or our potential collaborators obtain information, as well as the providers who share this information with us, may contractually limit our ability to use and disclose the information. Claims that we have violated individuals' privacy rights, failed to comply with data protection laws, or breached our contractual obligations, even if we are not found liable, could be expensive and time consuming to defend and could result in adverse publicity that could harm our business.

We publish privacy policies, self-certifications, and other documentation regarding our collection, use and disclosure of personal information and/or other confidential information. Although we endeavor to comply with our published policies, certifications, and documentation, we may at times fail to do so or may be perceived to have failed to do so. Moreover, despite our efforts, we may not be successful in achieving compliance if our employees or vendors fail to comply with our published policies, certifications, and documentation. Such failures can subject us to potential international, local, state and federal action if they are found to be deceptive, unfair, or misrepresentative of our actual practices.

Violations of or liabilities under environmental, health and safety laws and regulations could subject us to fines, penalties or other costs that could have a material adverse effect on the success of our business.

We are subject to numerous federal, state and local environmental, health and safety laws and regulations, including those governing laboratory procedures, the handling, use, storage, treatment and disposal of hazardous materials and wastes and the cleanup of contaminated sites. Our operations involve the controlled production, storage, use and disposal of hazardous and flammable materials, including chemicals and biological materials such as infectious agents and various radioactive compounds. We would incur substantial costs as a result of violations of or liabilities under environmental requirements in connection with our operations or property, including fines, penalties and other sanctions, investigation and cleanup costs and third-party claims. Although we generally contract with third parties for the disposal of hazardous materials and wastes from our operations, we cannot eliminate the risk of contamination or injury from these materials. In the event of contamination or injury resulting from our use of hazardous materials, we could be held liable for any resulting damages, and any liability could exceed our resources. We also could incur significant costs associated with civil or criminal fines and penalties, as well as our curtailment of the use of these materials or even shutting down our facilities and operations.

Although we maintain workers' compensation insurance to cover us for costs and expenses we may incur due to injuries to our employees resulting from the use of hazardous materials, this insurance may not provide adequate coverage against potential liabilities. While we maintain insurance covering our manufacturing facility only, and not our other facilities, for environmental liability or toxic tort claims that may be asserted against us in connection with our storage or disposal of biological or hazardous materials, such insurance coverage may not be sufficient to cover extraordinary or unanticipated events at our manufacturing facility.

Risks Related to Our Business and Operations

We are highly dependent on our key personnel, including our President and Chief Executive Officer and our Vice President, Clinical Trial Operations. If we are not successful in attracting, motivating and retaining highly qualified personnel, we may not be able to successfully implement our business strategy.

Our ability to compete in the highly competitive biotechnology and pharmaceutical industries depends upon our ability to attract, motivate and retain highly qualified managerial, scientific and medical personnel. We are

highly dependent on our management and particularly on the services of our scientific personnel including Thomas Zindrick, J.D., our President and Chief Executive Officer and Tony Yu, Ph.D., our Vice President, Clinical Trial Operations. We believe that their drug discovery and development experience and overall biopharmaceutical company management experience, would be difficult to replace. Any of our executive officers could leave our employment at any time, as all of our employees are "at-will" employees. We currently do not have "key person" insurance on any of our employees. The loss of the services of our key personnel and any of our other executive officers, key employees, and scientific and medical advisors, and our inability to find suitable replacements, could result in delays in our research and development objectives and harm our business.

Recruiting and retaining qualified employees, consultants and advisors for our business, including scientific and technical personnel, also will be critical to our success. We conduct our operations at our facilities in Southern California, a region that is home to many other biopharmaceutical companies and many academic and research institutions. Competition for skilled personnel is intense and the turnover rate can be high. We may not be able to attract and retain personnel on acceptable terms given the competition among numerous pharmaceutical and biotechnology companies and academic institutions for skilled individuals. In addition, failure to succeed in preclinical studies, clinical trials or applications for marketing approval may make it more challenging to recruit and retain qualified personnel. The inability to recruit, or the loss of services of certain executives, key employees, consultants or advisors, may impede the progress of our research, development and commercialization objectives and have a material adverse effect on our business, financial condition, results of operations, stock price and prospects.

To induce valuable employees to remain at our company, in addition to salary and cash incentives, we have provided stock option grants that vest over time. The value to employees of these equity grants that vest over time may be significantly affected by movements in our stock price that are beyond our control, and may at any time be insufficient to counteract more lucrative offers from other companies. Although we have employee agreements with our key employees, these agreements provide for at-will employment, which means that any of our employees could leave our employment at any time, with or without notice. We do not maintain "key person" insurance policies on the lives of all of these individuals or the lives of any of our other employees.

We will need to continue to expand the size of our organization, and we may experience difficulties in managing this growth, which could disrupt our operations.

As of March 31, 2021, we had 13 full-time and part-time employees, including 8 employees engaged in research and development and manufacturing. As our development and commercialization plans and strategies develop, and as we transition into operating as a public company, we expect to need additional managerial, operational, sales, marketing, financial and other personnel. Future growth would impose significant added responsibilities on members of management, including:

- identifying, recruiting, integrating, maintaining and motivating additional employees;
- managing our internal development efforts effectively, including the clinical, FDA and comparable foreign regulatory review process for our product candidates, while complying with our contractual obligations to contractors and other third parties; and
- improving our operational, financial and management controls, reporting systems and procedures.

Our future financial performance and our ability to commercialize Olvi-Vec and any other product candidates we develop will depend, in part, on our ability to effectively manage any future growth, and our management may also have to divert a disproportionate amount of its attention away from day-to-day activities in order to devote a substantial amount of time to managing these growth activities.

We currently rely, and for the foreseeable future will continue to rely, in substantial part on certain independent organizations, advisors and consultants to provide certain services. The services include substantially all aspects of

clinical trial management and manufacturing. We cannot assure you that the services of independent organizations, advisors and consultants will continue to be available to us on a timely basis when needed, or that we can find qualified replacements. In addition, if we are unable to effectively manage our outsourced activities or if the quality or accuracy of the services provided by consultants is compromised for any reason, our clinical trials may be extended, delayed or terminated, and we may not be able to obtain marketing approval of Olvi-Vec and our other product candidates or otherwise advance our business. We cannot assure you that we will be able to manage our existing consultants or find other competent outside contractors and consultants on economically reasonable terms, or at all.

If we are not able to effectively expand our organization by hiring qualified new employees and expanding our groups of consultants and contractors, we may not be able to successfully implement the tasks necessary to further develop and commercialize Olvi-Vec and our other product candidates and, accordingly, may not achieve our research, development and commercialization goals.

If we engage in future acquisitions or strategic partnerships, this may increase our capital requirements, dilute our stockholders, cause us to incur debt or assume contingent liabilities, and subject us to other risks.

We may evaluate various acquisitions and strategic partnerships, including licensing or acquiring complementary products, intellectual property rights, technologies, or businesses. Any potential acquisition or strategic partnership may entail numerous risks, including:

- increased operating expenses and cash requirements;
- the assumption of additional indebtedness or contingent liabilities;
- the issuance of our equity securities;
- assimilation of operations, intellectual property and products of an acquired company, including difficulties associated with integrating new personnel;
- the diversion of our management's attention from our existing product programs and initiatives in pursuing such a strategic merger or acquisition;
- retention of key employees, the loss of key personnel, and uncertainties in our ability to maintain key business relationships;
- risks and uncertainties associated with the other party to such a transaction, including the prospects of that party, their regulatory compliance status, and their existing products or product candidates and marketing approvals; and
- our inability to generate revenue from acquired technology and/or products sufficient to meet our objectives in undertaking the acquisition or even to offset the associated acquisition and maintenance costs.

In addition, if we undertake acquisitions, we may issue dilutive securities, assume or incur debt obligations, incur large one-time expenses and acquire intangible assets that could result in significant future amortization expense. Moreover, we may not be able to locate suitable acquisition opportunities and this inability could impair our ability to grow or obtain access to technology or products that may be important to the development of our business. Any of the foregoing may materially harm our business, financial condition, results of operations, stock price and prospects.

Our business, financial condition and results of operations could be materially adversely affected by our level of indebtedness.

As of March 31, 2021, our indebtedness includes a convertible promissory note, dated April 2016, as amended, in the amount of $2.7 million (the Convertible Note). The Convertible Note bears interest at a rate of 10.50% per annum, matures May 1, 2022, and was convertible into 1,177,401 shares of our common stock at a conversion rate

of $2.26 per share as of March 31, 2021. The Convertible Note was subsequently amended in May 2021 and the principal balance as of July 1, 2021 will be $1.5 million with outstanding loan fees of $380,000 and will be convertible into 790,384 shares of our common stock at a conversion rate of $2.26 per share as of July 1, 2021.

Additionally, our indebtedness includes a number of other convertible promissory notes with a principal and accrued interest balance of $0.4 million in the aggregate as of March 31, 2021 (the Other Convertible Notes). We are currently in default under the Other Convertible Notes. Depending on the actions taken by the lenders under the Other Convertible Notes, such lenders could elect to declare all principal and accrued interest, to be due and payable. If the indebtedness under any or all of our promissory notes were to be accelerated, our cash available for operations would be adversely affected by the repayment. As of the date of this filing, we have not received any formal notifications from the holders of the Other Convertible Notes demanding any amounts to be paid in full.

We may also incur additional substantial indebtedness in the future. Our level of indebtedness and other financial obligations increase the possibility that we may be unable to generate cash sufficient to pay, when due, the principal of, interest on or other amounts due, with respect to our indebtedness, including the notes in the event we are required to make such payments on the notes pursuant to our guarantee.

Our substantial indebtedness could have other adverse consequences, including:

- increasing our vulnerability to adverse economic, competitive, regulatory and industry conditions, including those currently present;
- limiting our ability to compete and our flexibility in planning for, or reacting to, current changes in our business and the industry;
- requiring us to dedicate a substantial portion of our cash flow from operations to the payment of our indebtedness, thereby reducing the funds available to us for working capital, capital expenditures and any future business opportunities;
- exposing us to the risk of increased interest rates as certain of our indebtedness is at variable rates of interest;
- restricting us from making strategic acquisitions or causing us to make non-strategic divestitures;
- limiting our planning flexibility for, or ability to react to, changes in our business and the industries in which we operate;
- placing us at a competitive disadvantage with competitors who may have less indebtedness and other obligations or greater access to financing; and
- limiting our ability to obtain additional financing in the future for working capital, capital expenditures, acquisitions, general corporate purposes or other purposes on satisfactory terms, or at all.

Unfavorable market and economic conditions may have serious adverse consequences on our business, financial condition, results of operations, stock price and prospects.

Our results of operations could be adversely affected by general conditions in the global economy and in the global financial markets. A severe or prolonged economic downturn could result in a variety of risks to our business, including a reduced ability to raise additional capital when needed on acceptable terms, if at all. A weak or declining economy could also strain our suppliers, possibly resulting in supply disruption. Any of the foregoing could harm our business and we cannot anticipate all of the ways in which the current economic climate and financial market conditions could adversely impact our business.

Public health crises such as pandemics, including the COVID-19 pandemic, or similar outbreaks could materially and adversely affect our preclinical studies and clinical trials, business, financial condition and results of operations.

In March 2020, the World Health Organization declared COVID-19 a global pandemic and the United States declared a national emergency with respect to COVID-19. In response to the COVID-19 pandemic, a number of governmental orders and other public health guidance measures have been implemented across much of the United States, including in the locations of our office, clinical trial sites and third parties on whom we rely. As the COVID-19 pandemic started to spread in the first half of 2020, our clinical trial sites reported it had the most impact on patient care as facilities were generally ill prepared to conduct business as usual; adequate clinical evaluations, physical exams and tests were either absent or drastically reduced. Our clinical trial sites further reported that their institutions better adjusted to pandemic conditions beginning in the second half of 2020. Additionally, we have experienced disruption to our manufacturing supply chain which has delayed receipt of ordered materials and delayed our manufacturing timeline; while we now have received all ordered materials, we do not have insight into whether, or to what extent, there may be future delays.

Any further negative impact on our clinical development timelines could materially and adversely affect our business, financial condition and results of operations. Further, we have implemented a work-from-home policy allowing employees who can work from home to do so, while those needing to work in laboratory and manufacturing facilities work in shifts to reduce the number of people gathered together at one time. Business travel has been suspended, and online and teleconference technology is used to meet virtually rather than in person. We have taken measures to secure our research and development project activities, while work in laboratories has been organized to reduce risk of COVID-19 transmission. Our increased reliance on personnel working from home may negatively impact productivity, or disrupt, delay or otherwise adversely impact our business. For example, with our personnel working from home, some of our research activities that require our personnel to be in our laboratories could be delayed.

As a result of the COVID-19 pandemic, or similar pandemics, and related governmental orders and other public health guidance measures, we have and may in the future experience disruptions that could materially and adversely impact our preclinical studies, clinical trials, business, financial condition and results of operations. Potential disruptions might include but are not limited to:

- delays or difficulties in enrolling patients in our clinical trials;
- delays or difficulties in initiating or expanding clinical trials, including delays or difficulties with clinical site initiation and recruiting clinical site investigators and clinical site staff;
- increased rates of patients withdrawing from our clinical trials following enrollment as a result of contracting COVID-19 or other health conditions or being forced to quarantine;
- interruption of key clinical trial activities, such as clinical trial site data monitoring and efficacy, safety and translational data collection, processing and analyses, due to limitations on travel imposed or recommended by federal, state or local governments, employers and others or interruption of clinical trial subject visits, which may impact the collection and integrity of subject data and clinical study endpoints;
- diversion of healthcare resources away from the conduct of clinical trials, including the diversion of hospitals serving as our clinical trial sites and hospital staff supporting the conduct of our clinical trials;
- delays or disruptions in preclinical experiments and studies due to restrictions of on-site staff and unforeseen circumstances at CROs and vendors;
- interruption or delays in the operations of the FDA and comparable foreign regulatory agencies;
- interruption of, or delays in receiving, supplies of our product candidates from third-party providers due to staffing shortages, production slowdowns or stoppages and disruptions in delivery systems;

- limitations on employee or other resources that would otherwise be focused on the conduct of our clinical trials and preclinical work, including because of sickness of employees or their families, the desire of employees to avoid travel or contact with large groups of people, an increased reliance on working from home, school closures or mass transit disruptions;
- changes in regulations as part of a response to the COVID-19 pandemic which may require us to change the ways in which our clinical trials are conducted, which may result in unexpected costs, or to discontinue the clinical trials altogether; and
- delays in necessary interactions with regulators, ethics committees and other important agencies and contractors due to limitations in employee resources or forced furlough of government or contractor personnel.

The extent to which the ongoing COVID-19 global pandemic may affect our preclinical activities, clinical trials, business, financial condition and results of operations will depend on future developments, which are highly uncertain and cannot be predicted at this time, such as the ultimate geographic spread of the disease, the duration of the outbreak, travel restrictions and actions to contain the outbreak or treat its impact, such as social distancing and quarantines or lock-downs or vaccine rollout in the United States, business closures or business disruptions and the effectiveness of actions taken in the United States to contain and treat the disease. Future developments in these and other areas present material uncertainty and risk with respect to our clinical trials, business, financial condition and results of operations.

We depend on our information technology systems, and any failure of these systems could harm our business. Security breaches, loss of data, and other disruptions could compromise sensitive information related to our business or prevent us from accessing critical information and expose us to liability, which could adversely affect our business, results of operations and financial condition.

We collect and maintain information in digital and other forms that is necessary to conduct our business, and we are increasingly dependent on information technology systems and infrastructure to operate our business. In the ordinary course of our business, we collect, store and transmit large amounts of confidential information, including intellectual property, proprietary business information and personal information. It is critical that we do so in a secure manner to maintain the privacy, security, confidentiality, availability and integrity of such confidential information. We have established physical, electronic and organizational measures to safeguard and secure our systems to prevent a data compromise, and rely on commercially-available systems, software, tools, and monitoring to provide security for our information technology systems and the processing, transmission and storage of digital information. We have also outsourced elements of our information technology infrastructure, and as a result a number of third-party vendors may or could have access to our confidential information. Our internal information technology systems and infrastructure, and those of our current and any future collaborators, contractors consultants, vendors, and other third parties on which we rely, are vulnerable to damage or unauthorized access or use resulting from computer viruses, malware, natural disasters, terrorism, war, telecommunication and electrical failures, cyber-attacks or cyber-intrusions over the Internet, denial or degradation of service attacks, ransomware, hacking, phishing and other social engineering attacks, attachments to emails, persons inside our organization, or persons with access to systems inside our organization. Ransomware attacks, including those from organized criminal threat actors, nation-states and nation-state supported actors, are becoming increasingly prevalent and severe and can lead to significant interruptions, delays, or outages in our operations, disruption of clinical trials, loss of data (including data related to clinical trials), loss of income, significant extra expenses to restore data or systems, reputational loss and the diversion of funds. To alleviate the financial, operational and reputational impact of a ransomware attack it may be necessary to make extortion payments, but we may be unable to do so if applicable laws prohibit such payments.

The risk of a security breach or disruption or data loss, particularly through cyber-attacks or cyber intrusion, including by computer hackers, foreign governments and cyber terrorists, has generally increased as the number, intensity and sophistication of attempted attacks and intrusions from around the world have increased. In addition, the

prevalent use of mobile devices that access confidential information increases the risk of lost or stolen devices, security incidents, and data security breaches, which could lead to the loss of confidential information or other intellectual property. As a result of the COVID-19 pandemic and its effect on future working arrangements, we may face increased risks of a security breach or disruption due to our reliance on internet technology and the number of our employees who are working remotely, which may create additional opportunities for cybercriminals to exploit vulnerabilities. The costs to us to mitigate network security problems, bugs, viruses, worms, malicious software programs and security vulnerabilities could be significant, and while we have implemented security measures to protect our data security and information technology systems, our efforts to address these problems may not be successful, and these problems could result in unexpected interruptions, delays, cessation of service, negative publicity, and other harm to our business and our competitive position. If such an event were to occur and cause interruptions in our operations, it could result in a material disruption of our product development programs. For example, the loss of clinical trial data from completed or ongoing or planned clinical trials could result in delays in our regulatory approval efforts and significantly increase our costs to recover or reproduce the data. Any security compromise affecting us, our partners or our industry, whether real or perceived, could harm our reputation, erode confidence in the effectiveness of our security measures, and lead to regulatory scrutiny. Moreover, if a computer security breach affects our systems or results in the unauthorized access to or unauthorized use, disclosure, release or other unauthorized processing of personal information, our reputation could be materially damaged. In addition, such a breach may require notification to governmental agencies, the media or individuals pursuant to various federal, state, and foreign privacy and security laws, if applicable, including HIPAA, as amended by HITECH, and its implementing rules and regulations, as well as regulations promulgated by the Federal Trade Commission, state data breach notification laws, and the GDPR. We would also be exposed to a risk of loss, governmental investigations or enforcement, or litigation and potential liability, any of which could materially adversely affect our business, results of operations and financial condition.

We face potential product liability exposure, and if successful claims are brought against us, we may incur substantial liability and have to limit the commercialization of any approved products and/or our product candidates.

The use of our product candidates in clinical trials, and the sale of any product for which we obtain regulatory approval, exposes us to the risk of product liability claims. We face inherent risk of product liability related to the testing of our product candidates in human clinical trials, including liability relating to the actions and negligence of our investigators, and will face an even greater risk if we commercially sell any product candidates that we may develop. For example, we may be sued if any product candidate we develop allegedly causes injury or is found to be otherwise unsuitable during clinical testing, manufacturing, marketing or sale. Any such product liability claims may include allegations of defects in manufacturing, defects in design, a failure to warn of dangers inherent in the product, negligence, strict liability or a breach of warranties. Claims could also be asserted under state consumer protection acts. Product liability claims might be brought against us by consumers, healthcare providers or others using, administering or selling our products. If we cannot successfully defend ourselves against these claims, we will incur substantial liabilities or be required to limit commercialization of our product candidates. Even successful defense would require significant financial and management resources. Regardless of merit or eventual outcome, liability claims may result in:

- loss of revenue from decreased demand for our products and/or product candidates;
- impairment of our business reputation or financial stability;
- costs of related litigation;
- substantial monetary awards to patients or other claimants;
- diversion of management attention;
- withdrawal of clinical trial participants and potential termination of clinical trial sites or entire clinical programs;
- the inability to commercialize our product candidates;

- significant negative media attention;
- decreases in our stock price;
- initiation of investigations and enforcement actions by regulators; and
- product recalls, withdrawals or labeling, marketing or promotional restrictions, including withdrawal of marketing approval.

We believe we have sufficient insurance coverage in place for our business operations. However, our insurance coverage may not reimburse us or may not be sufficient to reimburse us for any expenses or losses we may suffer. Moreover, insurance coverage is becoming increasingly expensive, and, in the future, we may not be able to maintain insurance coverage at a reasonable cost or in sufficient amounts to protect us against losses due to liability. We intend to expand our insurance coverage to include clinical trials and the sale of commercial products if we obtain FDA or comparable foreign regulatory approval for our product candidates in development, but we may be unable to obtain commercially reasonable product liability insurance for any products approved for marketing, or at all. Failure to obtain and retain sufficient product liability insurance at an acceptable cost could prevent or inhibit the commercialization of products we develop. On occasion, large judgments have been awarded in class action lawsuits based on therapeutics that had unanticipated side effects. A successful product liability claim or series of claims brought against us could cause our stock price to fall and, if judgments exceed our insurance coverage, could decrease our cash, and materially harm our business, financial condition, results of operations, stock price and prospects.

Our employees, independent contractors, consultants, commercial partners, principal investigators, CMOs, or CROs may engage in misconduct or other improper activities, including noncompliance with regulatory standards and requirements and insider trading, which could have a material adverse effect on our business.

We are exposed to the risk of employee fraud or other misconduct. Misconduct by employees, independent contractors, consultants, commercial partners, principal investigators, CMOs or CROs could include intentional, reckless, negligent, or unintentional failures to comply with FDA regulations, comply with applicable fraud and abuse laws, provide accurate information to the FDA, properly calculate pricing information required by federal programs, report financial information or data accurately or disclose unauthorized activities to us. This misconduct could also involve the improper use or misrepresentation of information obtained in the course of clinical trials, which could result in regulatory sanctions and serious harm to our reputation. It is not always possible to identify and deter this type of misconduct, and the precautions we take to detect and prevent this activity may not be effective in controlling unknown or unmanaged risks or losses or in protecting us from governmental investigations or other actions or lawsuits stemming from a failure to be in compliance with such laws or regulations. Moreover, it is possible for a whistleblower to pursue a False Claims Act case against us even if the government considers the claim unmeritorious and/or declines to intervene, which could require us to incur costs defending against such a claim. In addition, we are subject to the risk that a person or government could allege such fraud or other misconduct, even if none occurred. If any such actions are instituted against us, and we are not successful in defending ourselves or asserting our rights, those actions could have a significant impact on our business, financial condition, results of operations, stock price and prospects, including the imposition of significant civil, criminal and administrative penalties, damages, monetary fines, disgorgement, possible exclusion from participation in U.S. federal healthcare programs, integrity oversight and reporting obligations to resolve allegations of non-compliance, imprisonment, contractual damages, reputational harm, diminished profits and future earnings, and curtailment of our operations.

We have generated significant net operating loss (NOL) carryforwards and research and development tax credits, and our ability to utilize our net operating loss carryforwards and research and development tax credits to reduce future tax payments may be limited or restricted.

We have generated significant NOL carryforwards and research and development tax credits (R&D credits) as a result of our incurrence of losses and our conduct of research activities since inception. As of December 31, 2020, we had federal and state NOL carryforwards of $125.0 million and $86.0 million, respectively. We do not

anticipate generating revenue from sales of products for the foreseeable future, if ever, and we may never achieve profitability. Our U.S. federal NOL carryforwards generated prior to January 1, 2018 will begin to expire if not utilized in 2037. These NOL carryforwards could expire unused and be unavailable to offset future income tax liabilities. Under the Tax Act, as modified by the CARES Act, U.S. federal NOLs incurred in tax years beginning after December 31, 2017 totaling $22.3 million may be carried forward indefinitely, but the utilization of U.S. federal NOLs generated in tax years beginning after December 31, 2020 is limited. As of December 31, 2020, we also had federal and state R&D credit carryforwards of $2.6 million and $2.0 million, respectively. If not utilized, our federal R&D credit carryforwards begin to expire in 2038 and our state credits carry forward indefinitely. The California credits carry forward indefinitely. These R&D credit carryforwards could expire unused and be unavailable to offset future income tax liabilities.

Under Sections 382 and 383 of the Code, and corresponding provisions of state law, if a corporation undergoes an "ownership change," the corporation's ability to use its pre-change NOL carryforwards and R&D credits to offset its post-change income and taxes, respectively, may be limited. For purposes of these rules, an "ownership change" generally occurs if one or more stockholders or groups of stockholders who own at least 5% of our stock increase their ownership by more than 50 percentage points over their lowest ownership percentage within a rolling three-year period. The application of these rules could limit the amount of NOLs or R&D credit carryforwards that we can utilize annually to offset future taxable income or tax liabilities. In addition, at the state level, there may be periods during which the use of NOLs is suspended or otherwise limited, which could accelerate or permanently increase state taxes owed.

Our NOL and R&D credit carryforwards are subject to review and possible adjustment by U.S. and state tax authorities.

If we fail to maintain proper and effective internal controls over financial reporting our ability to produce accurate and timely financial statements could be impaired.

We are required to maintain internal controls over financial reporting. Commencing with our fiscal year ending the year after this offering is completed, we must perform system and process design evaluation and testing of the effectiveness of our internal controls over financial reporting to allow management to report on the effectiveness of our internal controls over financial reporting in our Form 10-K filing for that year, as required by Section 404 of the Sarbanes-Oxley Act. This will require that we incur substantial additional professional fees and internal costs to expand our accounting and finance functions and that we expend significant management efforts. Prior to this offering, we have never been required to test our internal controls within a specified period and, as a result, we may experience difficulty in meeting these reporting requirements in a timely manner.

If we are not able to comply with the requirements of Section 404 of the Sarbanes-Oxley Act in a timely manner, or if we are unable to maintain proper and effective internal controls over financial reporting, we may not be able to produce timely and accurate financial statements. If that were to happen, our investors could lose confidence in our reported financial information, the market price of our stock could decline and we could be subject to sanctions or investigations by the SEC, Nasdaq or other regulatory authorities.

These inherent limitations include the realities that judgments in decision-making can be faulty, and that breakdowns can occur because of simple error or mistake. For example, our directors or executive officers could inadvertently fail to disclose a new relationship or arrangement causing us to fail to make a required related party transaction disclosure. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people or by an unauthorized override of the controls. Accordingly, because of the inherent limitations in our control system, misstatements due to error or fraud may occur and not be detected.

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

Upon the completion of this offering, we will become subject to the periodic reporting requirements of the Exchange Act. We must design our disclosure controls and procedures to reasonably assure that information we

must disclose in reports we file or submit under the Exchange Act is accumulated and communicated to management, and recorded, processed, summarized and reported within the time periods specified in the rules and forms of the SEC. We believe that any disclosure controls and procedures or internal controls and procedures, no matter how well-conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. We may discover weaknesses in our system of internal financial and accounting controls and procedures that could result in a material misstatement of our consolidated financial statements. Our internal control over financial reporting will not prevent or detect all errors and all fraud. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud will be detected.

These inherent limitations include the realities that judgments in decision-making can be faulty, and that breakdowns can occur because of simple error or mistake. For example, our directors or executive officers could inadvertently fail to disclose a new relationship or arrangement causing us to fail to make a required related party transaction disclosure. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people or by an unauthorized override of the controls. Accordingly, because of the inherent limitations in our control system, misstatements due to error or fraud may occur and not be detected.

Risks Related to Our Common Stock and this Offering

An active trading market for our common stock may not develop, and you may not be able to resell your shares at or above the initial public offering price.

Prior to this offering, there has been no public market for shares of our common stock. Although we have applied to list our common stock on The Nasdaq Capital Market, an active trading market for our shares may never develop or be sustained following this offering. The initial public offering price of our common stock was determined through negotiations between us and the underwriters. This initial public offering price may not be indicative of the market price of our common stock after this offering. In the absence of an active trading market for our common stock, investors may not be able to sell their common stock at or above the initial public offering price or at the time that they would like to sell. An inactive trading market may also impair our ability to raise capital to continue to fund operations by selling shares and may impair our ability to enter into collaborations or acquire other companies or technologies using our shares as consideration.

Our operating results may fluctuate significantly or may fall below the expectations of investors or securities analysts, each of which may cause our stock price to fluctuate or decline.

We expect our operating results to be subject to quarterly fluctuations, which makes it difficult for us to predict our future operating results. Our net loss and other operating results will be affected by numerous factors, including:

- the timing and cost of, and level of investment in, research and development and commercialization activities relating to our current and any future product candidates, which will change from time to time;
- the total expenses we incur in connection with establishing, equipping, and operating our current and any future manufacturing facility(ies);
- the cost of manufacturing our current and any future product candidates, which may vary depending on the FDA's and comparable foreign regulatory authorities' guidelines and requirements, the quantity of production and the terms of any agreements with suppliers;
- results of preclinical studies and future clinical trials, or the addition or termination of future clinical trials or funding support by us, or future collaborators or licensing partners;
- our execution of any collaboration, licensing or similar arrangements, and the timing of payments we may make or receive under existing or future arrangements or the termination or modification of any such existing or future arrangements;

- any intellectual property infringement lawsuit or opposition, interference or cancellation proceeding in which we may become involved;
- additions and departures of key personnel;
- strategic decisions by us, such as acquisitions, divestitures, spin-offs, joint ventures, strategic investments or changes in business strategy;
- if any of our product candidates receives regulatory approval, the terms of such approval and market acceptance and demand for such product candidates;
- regulatory developments affecting our product candidates;
- changes in accounting pronouncements or changes in our accounting policies;
- changes in the variables used as a basis for valuing these stock-based awards, resulting in a changes in the magnitude of the expense that we must recognize; and
- potential unforeseen business disruptions that increase our costs or expenses.

These factors could result in large fluctuations and unpredictability in our quarterly and annual operating results. As a result, comparing our operating results on a period-to-period basis may not be meaningful. Investors should not rely on our past results as an indication of our future performance.

This variability and unpredictability could also 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, or if the forecasts we provide to the market are below the expectations of analysts or investors, the price of our common stock could decline substantially. Such a stock price decline could occur even when we have met any previously publicly stated revenue and/or earnings guidance we may provide.

The market price of our common stock may be volatile and fluctuate substantially, which could result in substantial losses for purchasers of our common stock in this offering.

Our stock price is likely to be volatile. The stock market in general, and the markets for pharmaceutical, biopharmaceutical and biotechnology stocks in particular, have experienced extreme price and volume fluctuations that have been often unrelated or disproportionate to the operating performance of the issuer. In particular, the trading prices for pharmaceutical, biopharmaceutical and biotechnology companies have been highly volatile as a result of the COVID-19 pandemic. As a result of this volatility, you may not be able to sell your common stock at or above the initial public offering price. The market price for our common stock may be influenced by many factors, including:

- results from, and any delays in, our clinical trial for Olvi-Vec, our preclinical studies and any other future clinical development programs, including any delays related to the COVID-19 pandemic;
- actual or anticipated changes in estimates as to financial results, development timelines or recommendations by securities analysts;
- commencement or termination of collaboration, licensing or similar arrangements for our development programs;
- announcements by our competitors of significant acquisitions, strategic partnerships, joint ventures, collaborations or capital commitments;
- failure or discontinuation of any of our development programs;
- our ability to commercialize Olvi-Vec and our other product candidates, if approved, inside and outside of the United States, either independently or working with third parties;

- developments or setbacks related to drugs that are co-administered with any of our product candidates, such as checkpoint inhibitors;
- regulatory or legal developments in the United States and other countries;
- developments or disputes concerning patent applications, issued patents or other proprietary rights;
- the recruitment or departure of key personnel;
- the level of expenses related to the development of Olvi-Vec and any other product candidate we may develop;
- changes in the competitive landscape in our industry, including results of clinical trials of existing and potential future products that compete with Olvi-Vec and our other product candidates;
- our ability to adequately support future growth;
- variations in our financial results or those of companies that are perceived to be similar to us;
- future accounting pronouncements or changes in our accounting policies;
- announcements or expectations of additional financing efforts by us;
- sales of our common stock by us, our insiders or other stockholders;
- expiration of market stand-off or lock-up agreements;
- recommendations and changes in estimates or recommendations by securities analysts, if any, that cover our stock;
- changes in the structure of healthcare payment systems;
- market conditions in the pharmaceutical and biotechnology sectors;
- general economic, political, and market conditions and overall fluctuations in the financial markets in the United States and abroad, including the COVID-19 pandemic; and
- investors' general perception of us and our business.

These and other market and industry factors may cause the market price and demand for our common stock to fluctuate substantially, regardless of our actual operating performance, which may limit or prevent investors from selling their shares at or above the price paid for the shares and may otherwise negatively affect the liquidity of our common stock.

If you purchase our common stock in this offering, you will incur immediate and substantial dilution in the book value of your shares.

You will suffer immediate and substantial dilution with respect to the common stock you purchase in this offering. Based on an 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, and assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and that the underwriters do not exercise their option to acquire additional common stock in this offering, purchasers of common stock in this offering will experience immediate dilution of $ per share, representing the difference between our pro forma as adjusted net tangible book value per share after giving effect to this offering and the assumed initial public offering price, and, following the completion of this offering, investors purchasing common stock in this offering will have contributed % of the total amount invested by stockholders since inception but will only own % of the shares of common stock outstanding. In the past, we have issued options and warrants to purchase common stock at prices significantly below the initial public offering price. To the extent these outstanding securities are ultimately exercised, investors purchasing common stock in this offering will sustain further dilution. See "Dilution" for a more detailed description of the dilution to new investors in the offering.

We have broad discretion in how we use the proceeds of this offering and may not use these proceeds effectively, which could affect our results of operations and cause our stock price to decline.

We will have considerable discretion in the application of the net proceeds of this offering. Because of the number and variability of factors that will determine our use of the net proceeds, their ultimate use may vary substantially from their currently intended use. Management might not apply our net proceeds in ways that ultimately increase the value of your investment. While we expect to use the net proceeds from this offering as set forth in "Use of Proceeds," we are not obligated to do so. As a result, investors will be relying upon management's judgment with only limited information about our specific intentions for the use of the balance of the net proceeds of this offering. We may use the net proceeds for purposes that do not yield a significant return or any return at all for our stockholders. In addition, pending their use, we may invest the net proceeds from this offering in a manner that does not produce income or that loses value.

We do not intend to pay dividends on our common stock so any returns will be limited to the value of our stock.

You should not rely on an investment in our common stock to provide dividend income. We currently anticipate that we will retain future earnings for the development, operation and expansion of our business and do not anticipate declaring or paying any cash dividends for the foreseeable future. Any return to stockholders will therefore be limited to the appreciation of their stock, which may never occur, as the only way to realize any return on their investment.

Our executive officers, directors, and stockholders and their affiliates who beneficially own more than 5% of our common stock will continue to exercise significant influence over our company after this offering, which will limit your ability to influence corporate matters and could delay or prevent a change in corporate control.

Based upon the number of shares of our common stock outstanding as of March 31, 2021, and after giving effect to the automatic conversion of all outstanding shares of our convertible preferred stock into an aggregate of shares of our common stock upon the closing of this offering and the sale of shares in this offering, immediately following the completion of this offering, the existing holdings of our executive officers, directors, and stockholders and their affiliates who beneficially own more than 5% of our common stock will represent beneficial ownership, in the aggregate, of approximately % of our outstanding common stock, assuming no exercise of the underwriters' option to acquire additional common stock in this offering. As a result, these stockholders, if they act together, will be able to exercise significant influence over our management and affairs and the outcome of matters submitted to our stockholders for approval, including the election of directors and any sale, merger, consolidation, or sale of all or substantially all of our assets. These stockholders acquired their shares of common stock at prices per share that were substantially less than the per share price of the shares of common stock being sold in this offering, these stockholders may have interests with respect to their common stock that are different from those of investors in this offering, and the concentration of voting power among these stockholders may have an adverse effect on the price of our common stock. In addition, this concentration of ownership might adversely affect the market price of our common stock by:

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

See "Principal Stockholders" in this prospectus for more information regarding the ownership of our outstanding common stock by our executive officers, directors, principal stockholders and their respective affiliates.

Conflicts of interest may arise because some members of our board of directors are representatives of our principal stockholders.

Certain of our principal stockholders or their affiliates are investment funds or other investment vehicles that could invest in companies that directly or indirectly compete with us. As a result of these relationships, conflicts may arise between the interests of the principal stockholders or their affiliates and the interests of other stockholders, and members of our board of directors that are representatives of such principal stockholders may not be disinterested in such conflicts. We expect that all decisions made by our executive officers and directors will be made in accordance with their duties and obligations to deal fairly and in good faith and to act in the best interests of us and our stockholders, as well as in compliance with our Code of Conduct, which will be adopted in connection with this offering and includes a "conflicts of interest" section applicable to all employees, executive officers and directors.

Sales of a substantial number of shares of our common stock by our existing stockholders in the public market could cause our stock price to fall.

If our existing stockholders sell, or indicate an intention to sell, substantial amounts of our common stock in the public market after the lock-up and other legal restrictions on resale discussed in this prospectus lapse, the trading price of our common stock could decline. Based on shares of common stock outstanding as of March 31, 2021, upon the closing of this offering we will have outstanding a total of shares of common stock. Of these shares, only the shares of common stock sold in this offering by us, plus any shares sold upon exercise of the underwriters' option to purchase additional shares, will be freely tradable without restriction in the public market immediately following this offering.

We expect that the lock-up agreements pertaining to this offering will expire 180 days from the date of this prospectus. After the lock-up agreements expire, up to an additional shares of common stock will be eligible for sale in the public market, of which shares are held by directors, executive officers and other affiliates and will be subject to volume limitations under Rule 144 under the Securities Act. In addition, shares of common stock that are either subject to outstanding options or reserved for future issuance under our employee benefit plans will become eligible for sale in the public market to the extent permitted by the provisions of various vesting schedules, the lock-up agreements, and Rule 144 and Rule 701 under the Securities Act. If these additional shares of common stock are sold, or if it is perceived that they will be sold, in the public market, the trading price of our common stock could decline.

After this offering, the holders of shares of our common stock will be entitled to rights with respect to the registration of their shares under the Securities Act, subject to the 180-day lock-up agreements described above. See the section titled "Description of Capital Stock—Registration Rights." Registration of these shares under the Securities Act would result in the shares becoming freely tradable without restriction under the Securities Act, except for shares held by affiliates, as defined in Rule 144 under the Securities Act. Any sales of securities by these stockholders could have a material adverse effect on the trading price of our common stock.

Future sales and issuances of our common stock or rights to purchase common stock, including pursuant to our equity incentive plans, could result in additional dilution of the percentage ownership of our stockholders and could cause our stock price to fall.

We expect that we will need significant additional capital in the future to continue our planned operations, including conducting clinical trials, commercialization efforts, expanded research and development activities, and costs associated with operating a public company. To raise capital, we may sell common stock, convertible securities or other equity securities in one or more transactions at prices and in a manner we determine from time to time. If we sell common stock, convertible securities or other equity securities, investors may be materially diluted by subsequent sales. Such sales may also result in material dilution to our existing stockholders, and new investors could gain rights, preferences and privileges senior to the holders of our common stock, including shares of common stock sold in this offering.

Pursuant to our 2021 Plan, our management is authorized to grant stock options to our employees, directors and consultants. Additionally, the number of shares of our common stock reserved for issuance under our 2021 Plan will automatically increase on January 1 of each year, beginning on January 1, 2022 (assuming the 2021 Plan becomes effective before such date) and continuing through and including January 1, 2031, by % of the total number of shares of our capital stock outstanding on December 31 of the preceding calendar year, or a lesser number of shares determined by our board of directors. In addition, pursuant to our ESPP, the number of shares of our common stock reserved for issuance will automatically increase on January 1 of each calendar year, beginning on January 1, 2022 (assuming the ESPP becomes effective in 2021) through January 1, 2031, by the lesser of (i) % of the total number of shares of our common stock outstanding on the last day of the calendar month before the date of the automatic increase, and (ii) shares; provided that before the date of any such increase, our board of directors may determine that such increase will be less than the amount set forth in clauses (i) and (ii). Unless our board of directors elects not to increase the number of shares available for future grant each year, our stockholders may experience additional dilution, which could cause our stock price to fall.

Participation in this offering by our existing stockholders and/or their affiliated entities may reduce the public float for our common stock.

To the extent certain of our existing stockholders and their affiliated entities participate in this offering, such purchases would reduce the non-affiliate public float of our shares, meaning the number of shares of our common stock that are not held by officers, directors and controlling stockholders. A reduction in the public float could reduce the number of shares that are available to be traded at any given time, thereby adversely impacting the liquidity of our common stock and depressing the price at which you may be able to sell shares of common stock purchased in this offering.

We are an emerging growth company and a smaller reporting company, and the reduced reporting requirements applicable to emerging growth companies and smaller reporting companies may make our common stock less attractive to investors.

We are an "emerging growth company" as defined in the JOBS Act. For as long as we continue to be an emerging growth company, we may take advantage of certain exemptions from various public company reporting requirements, including being permitted to provide 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 have our internal control over financial reporting audited by our independent registered public accounting firm under Section 404 of the Sarbanes-Oxley Act, reduced disclosure obligations regarding executive compensation in this prospectus and our periodic reports and proxy statements, and exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved. We may take advantage of these exemptions until the last day of the fiscal year ending after the fifth anniversary of this offering or until we are no longer an emerging growth company, whichever is earlier. We will cease to be an emerging growth company prior to the end of such five-year period if certain earlier events occur, including if we become a "large accelerated filer" as defined in Rule 12b-2 under the Exchange Act, our annual gross revenues exceed $1.07 billion or we issue more than $1.0 billion of non-convertible debt in any three-year period.

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 use this extended transition period under the JOBS Act until the earlier of the date we (i) are no longer an emerging growth company or (ii) affirmatively and irrevocably opt out of the extended transition period provided in the JOBS Act.

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, which would allow us to take advantage of many of the same exemptions available to emerging growth companies, including not being

required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act and reduced disclosure obligations regarding executive compensation. We 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. Investors may find our common stock less attractive because we may rely on these exemptions. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock price may be more volatile.

Provisions in our amended and restated certificate of incorporation and bylaws and under Delaware law could make an acquisition of us, which may be beneficial to our stockholders, more difficult and may prevent attempts by our stockholders to replace or remove our current management.

Provisions in our amended and restated certificate of incorporation and our bylaws that will become effective upon the completion of this offering and provisions of Delaware law may discourage, delay or prevent a merger, acquisition or other change in control of us that stockholders may consider favorable, including transactions in which you might otherwise receive a premium for your shares. These provisions also could limit the price that investors might be willing to pay in the future for shares of our common stock, thereby depressing the market price of our common stock. In addition, because our board of directors is responsible for appointing the members of our management team, these provisions may frustrate or prevent any attempts by our stockholders to replace or remove our current management by making it more difficult for stockholders to replace members of our board of directors. Among other things, these provisions:

- establish a classified board of directors such that not all members of the board are elected at one time;
- allow the authorized number of our directors to be changed only by resolution of our board of directors;
- limit the manner in which stockholders can remove directors from the board;
- establish advance notice requirements for stockholder proposals that can be acted on at stockholder meetings and nominations to our board of directors;
- require that stockholder actions must be effected at a duly called stockholder meeting and prohibit actions by our stockholders by written consent;
- prohibit our stockholders from calling a special meeting of our stockholders;
- authorize our board of directors to issue preferred stock without stockholder approval, which could be used to institute a stockholder rights plan, or so-called “poison pill,” that would work to dilute the stock ownership of a potential hostile acquirer, effectively preventing acquisitions that have not been approved by our board of directors; and
- require the approval of the holders of at least 66 2/3% of the votes that all our stockholders would be entitled to cast to amend or repeal certain provisions of our charter or bylaws.

Moreover, because we are incorporated in Delaware, we are governed by the provisions of Section 203 of the Delaware General Corporation Law, which prohibits a person who owns 15% or more of our outstanding voting stock from merging or combining with us for a period of three years after the date of the transaction in which the person acquired 15% or more of our outstanding voting stock, unless the merger or combination is approved in a prescribed manner. These provisions could discourage potential acquisition proposals and could delay or prevent a change in control transaction. They could also have the effect of discouraging others from making tender offers for our common stock, including transactions that may be in your best interests. These provisions may also prevent changes in our management or limit the price that investors are willing to pay for our stock.

Our amended and restated certificate of incorporation provides 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 certificate of incorporation, which will become effective upon the completion of this offering, will provide that the Court of Chancery of the State of Delaware will be the exclusive forum for the following types of actions or proceedings under Delaware statutory or common law:

- any derivative action or proceeding brought on our behalf;
- any action or proceeding asserting a claim of breach of a fiduciary duty owed by any of our current or former directors, officers or other employees to us or our stockholders;
- any action or proceeding asserting a claim against us or any of our current or former directors, officers or other employees, arising out of or pursuant to any provision of the Delaware General Corporation Law, our certificate of incorporation or our bylaws;
- any action or proceeding to interpret, apply, enforce or determine the validity of our certificate of incorporation or our bylaws; and
- any action asserting a claim against us or any of our directors, officers or other employees 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. Furthermore, Section 22 of the Securities Act creates concurrent jurisdiction for federal and state courts over all such Securities Act actions. Accordingly, both state and federal courts have jurisdiction to entertain such claims. To prevent having to litigate claims in multiple jurisdictions and the threat of inconsistent or contrary rulings by different courts, among other considerations, our amended and restated certificate of incorporation further provides that the federal district courts of the United States will be the exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act. While the Delaware courts have determined that such choice of forum provisions are facially valid, a stockholder may nevertheless seek to bring a claim in a venue other than those designated in the exclusive forum provisions. In such instance, we would expect to vigorously assert the validity and enforceability of the exclusive forum provisions of our amended and restated certificate of incorporation. This may require significant additional costs associated with resolving such action in other jurisdictions and the provisions may be enforced by a court in those other jurisdictions.

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 these types of lawsuits. If a court were to find either exclusive forum provision contained in our amended and restated certificate of incorporation to be inapplicable or unenforceable in an action, we may incur further significant additional costs associated with resolving such action in other jurisdictions, which could seriously harm our business.

General Risk Factors

We will incur significantly increased costs as a result of operating as a public company, and our management will be required to devote substantial time to new compliance initiatives and corporate governance practices.

As a public company, we will incur significant legal, accounting, and other expenses that we did not incur as a private company. We will be subject to the reporting requirements of the Exchange Act, which will require, among other things, that we file with the SEC annual, quarterly, and current reports with respect to our business and financial condition. In addition, the Sarbanes-Oxley Act, as well as rules subsequently adopted by the SEC and Nasdaq to implement provisions of the Sarbanes-Oxley Act, impose significant requirements on public companies, including requiring establishment and maintenance of effective disclosure and financial controls and changes in corporate governance practices. Further, in July 2010, the Dodd-Frank Wall Street Reform and

Consumer Protection Act, or the Dodd-Frank Act, was enacted. There are significant corporate governance and executive compensation related provisions in the Dodd-Frank Act that require the SEC to adopt additional rules and regulations in these areas such as "say on pay" and proxy access. Emerging growth companies and smaller reporting companies are exempted from certain of these requirements, but we may be required to implement these requirements sooner than budgeted or planned and thereby incur unexpected expenses. Stockholder activism, the current political environment and the current high level of government intervention and regulatory reform may lead to substantial new regulations and disclosure obligations, which may lead to additional compliance costs and impact the manner in which we operate our business in ways we cannot currently anticipate.

We expect the rules and regulations applicable to public companies to substantially increase our legal and financial compliance costs and to make some activities more time-consuming and costly. If these requirements divert the attention of our management and personnel from other business concerns, they could have a material adverse effect on our business, financial condition, and results of operations. The increased costs will decrease our net income or increase our net loss, and may require us to reduce costs in other areas of our business or increase the prices of our products or services. For example, we expect these rules and regulations to make it more difficult and more expensive for us to obtain director and officer liability insurance and we may be required to incur substantial costs to maintain the same or similar coverage. We cannot predict or estimate the amount or timing of additional costs we may incur to respond to these requirements. The impact of these requirements could also make it more difficult for us to attract and retain qualified persons to serve on our board of directors, our board committees or as executive officers.

Failure to build our finance infrastructure and improve our accounting systems and controls could impair our ability to comply with the financial reporting and internal controls requirements for publicly traded companies.

As a public company, we will operate in an increasingly demanding regulatory environment, which requires us to comply with the Sarbanes-Oxley Act, the regulations of the Nasdaq Capital Market, the rules and regulations of the Securities and Exchange Commission, expanded disclosure requirements, accelerated reporting requirements and more complex accounting rules. Company responsibilities required by the Sarbanes-Oxley Act include establishing corporate oversight and adequate internal control over financial reporting and disclosure controls and procedures. Effective internal controls are necessary for us to produce reliable financial reports and are important to help prevent financial fraud. Commencing with our fiscal year ending the year after this offering is completed, we must perform system and process evaluation and testing of our internal controls over financial reporting to allow management to report on the effectiveness of our internal controls over financial reporting in our Form 10-K filing for that year, as required by Section 404 of the Sarbanes-Oxley Act. Prior to this offering, we have never been required to test our internal controls within a specified period and, as a result, we may experience difficulty in meeting these reporting requirements in a timely manner.

We anticipate that the process of building our accounting and financial functions and infrastructure will require significant additional professional fees, internal costs and management efforts. For example, we expect that we will need to implement new systems to enhance and streamline the management of our financial, accounting, human resources and other functions.

However, such systems will likely require us to complete many processes and procedures for the effective use of the systems, which may result in substantial costs. Any disruptions or difficulties in implementing or using these systems could adversely affect our controls and harm our business. Moreover, such disruption or difficulties could result in unanticipated costs and diversion of management attention. In addition, we may discover weaknesses in our system of internal financial and accounting controls and procedures that could result in a material misstatement of our financial statements. Our internal control over financial reporting will not prevent or detect all errors and all fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the control system's objectives will be met. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud will be detected.

If we are not able to comply with the requirements of Section 404 of the Sarbanes-Oxley Act in a timely manner, or if we are unable to maintain proper and effective internal controls, we may not be able to produce timely and accurate financial statements. If we cannot provide reliable financial reports or prevent fraud, our business and results of operations could be harmed, investors could lose confidence in our reported financial information and we could be subject to sanctions or investigations by Nasdaq, the SEC or other regulatory authorities.

Future changes in financial accounting standards or practices may cause adverse and unexpected revenue fluctuations and adversely affect our reported results of operations.

Future changes in financial accounting standards may cause adverse, unexpected revenue fluctuations and affect our reported financial position or results of operations. Financial accounting standards in the United States are constantly under review and new pronouncements and varying interpretations of pronouncements have occurred with frequency in the past and are expected to occur again in the future. As a result, we may be required to make changes in our accounting policies. Those changes could affect our financial condition and results of operations or the way in which such financial condition and results of operations are reported. We intend to invest resources to comply with evolving standards, and this investment may result in increased general and administrative expenses and a diversion of management time and attention from business activities to compliance activities. See the section titled "Management's Discussion and Analysis of Financial Condition and Results of Operations—Recent Accounting Pronouncements."

Changes in tax laws or regulations that are applied adversely to us or our customers may have a material adverse effect on our business, cash flow, financial condition or results of operations.

New income, sales, use or other tax laws, statutes, rules, regulations or ordinances could be enacted at any time, which could adversely affect our business operations and financial performance. Further, existing tax laws, statutes, rules, regulations or ordinances could be interpreted, changed, modified or applied adversely to us. For example, the Tax Act enacted many significant changes to the U.S. tax laws. Future guidance from the Internal Revenue Service and other tax authorities with respect to the Tax Act may affect us, and certain aspects of the Tax Act could be repealed or modified in future legislation. For example, the CARES Act modified certain provisions of the Tax Act. In addition, it is uncertain if and to what extent various states will conform to the Tax Act or any newly enacted federal tax legislation. Changes in corporate tax rates, the realization of net deferred tax assets relating to our operations, the taxation of foreign earnings, and the deductibility of expenses under the Tax Act or future reform legislation could have a material impact on the value of our deferred tax assets, could result in significant one-time charges, and could increase our future U.S. tax expense.

If securities analysts do not publish research or reports about our business or if they publish negative evaluations of our stock, the price of our stock 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. We may never obtain research coverage by industry or financial analysts. If no or few analysts commence coverage of us, the trading price of our stock would likely decrease. Even if we do obtain analyst coverage, if one or more of the analysts covering our business downgrade their evaluations of our stock, the price of our stock could decline. If one or more of these analysts cease to cover our stock, we could lose visibility in the market for our stock, which, in turn, could cause our stock price to decline.

Our failure to meet Nasdaq's continued listing requirements could result in a delisting of our common stock.

If, after listing, we fail to satisfy the continued listing requirements of Nasdaq, such as the corporate governance requirements or the minimum closing bid price requirement, Nasdaq may take steps to delist our common stock. Such a delisting would likely have a negative effect on the price of our common stock and would impair your ability to sell or purchase our common stock when you wish to do so. In the event of a delisting, we can provide no assurance that any action taken by us to restore compliance with listing requirements would allow

our common stock to become listed again, stabilize the market price or improve the liquidity of our common stock, prevent our common stock from dropping below the Nasdaq minimum bid price requirement or prevent future non-compliance with the listing requirements of Nasdaq.

We could be subject to securities class action litigation.

In the past, securities class action litigation has often been brought against public companies following declines in the market prices of their securities. This risk is especially relevant for biopharmaceutical companies, which have experienced significant stock price volatility in recent years. If we face such litigation, it could result in substantial costs and a diversion of management's attention and our resources, which could harm our business.

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus contains forward-looking statements about us and our industry. All statements other than statements of historical facts contained in this prospectus, including statements regarding our future results of operations and financial position, business strategy, research and development costs; the anticipated timing, costs and conduct of our clinical trials for our product candidates; the timing and likelihood of regulatory filings and approvals for our product candidates; our ability to commercialize our product candidates, if approved; the pricing and reimbursement of our product candidates, if approved; the potential benefits of strategic collaborations and our ability to enter into strategic arrangements; the timing and likelihood of success, plans and objectives of management for future operations; future results of anticipated product development efforts; our expected future financing needs; and expected uses of the net proceeds from this offering, are forward-looking statements. These statements involve known and unknown risks, uncertainties and other important factors that may cause our actual results, performance or achievements to be materially different from any future results, performance or achievements expressed or implied by the forward-looking statements.

In some cases, you can identify forward-looking statements by terms such as “may,” “will,” “should,” “expect,” “plan,” “anticipate,” “could,” “intend,” “target,” “project,” “contemplates,” “believes,” “estimates,” “predicts,” “potential” or “continue” or the negative of these terms or other similar expressions. The forward-looking statements in this prospectus are only predictions. We have based these forward-looking statements largely on our current expectations and projections about future events and financial trends that we believe may affect our business, financial condition and results of operations. These forward-looking statements speak only as of the date of this prospectus and are subject to a number of risks, uncertainties and assumptions described under the sections titled “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and elsewhere in this prospectus. Because forward-looking statements are inherently subject to risks and uncertainties, some of which cannot be predicted or quantified and some of which are beyond our control, you should not rely on these forward-looking statements as predictions of future events. The events and circumstances reflected in our forward-looking statements may not be achieved or occur and actual results could differ materially from those projected in the forward-looking statements. Moreover, we operate in an evolving environment. New risk factors and uncertainties may emerge from time to time, and it is not possible for management to predict all risk factors and uncertainties. Except as required by applicable law, we undertake no obligation to publicly update or revise any forward-looking statements contained herein, whether as a result of any new information, future events, changed circumstances or otherwise. You should, however, review the factors and risks we describe in the reports we will file from time to time with the SEC after the date of this prospectus. See the section titled “Where You Can Find Additional Information.”

In addition, statements that “we believe” and similar statements reflect our beliefs and opinions on the relevant subject. These statements are based on information available to us as of the date of this prospectus, and while we believe such information provides a reasonable basis for these statements, such information may be limited or incomplete. Our statements should not be read to indicate that we have conducted an exhaustive inquiry into, or review of, all potentially available relevant information. These statements are inherently uncertain, and you are cautioned not to unduly rely on these statements.

MARKET, INDUSTRY AND OTHER DATA

We obtained the industry, market, and competitive position data used throughout this prospectus from our own internal estimates and research, as well as from independent market research, industry, and general publications and surveys, governmental agencies, and publicly available information in addition to research, surveys, and studies conducted by third parties. Internal estimates are derived from publicly available information released by industry analysts and third-party sources, our internal research, and our industry experience, and are based on assumptions made by us based on such data and our knowledge of our industry and market, which we believe to be reasonable. In some cases, we do not expressly refer to the sources from which this data is derived. In that regard, when we refer to one or more sources of this type of data in any paragraph, you should assume that other data of this type appearing in the same paragraph is derived from the same sources, unless otherwise expressly stated or the context otherwise requires. In addition, while we believe the industry, market, and competitive position data included in this prospectus is reliable and based on reasonable assumptions, such data involve risks and uncertainties and are subject to change based on various factors, including those discussed in the section titled "Risk Factors." These and other factors could cause results to differ materially from those expressed in the estimates made by the independent parties or by us.

USE OF PROCEEDS

We estimate that we will receive net proceeds from this offering of approximately $ million (or approximately $ million if the underwriters' option to purchase additional shares of our common stock is exercised in full) based on the assumed initial public offering price of $ per share, after deducting underwriting discounts and commissions and estimated offering expenses payable by us.

A $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 approximately $ million, assuming the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same, and after deducting underwriting discounts and commissions. Similarly, each increase (decrease) of 1.0 million shares in the number of shares of common stock offered by us would increase (decrease) the net proceeds to us from this offering by approximately $ million, assuming the initial public offering price of $ per share remains the same, and after deducting underwriting discounts and commissions.

The principal purposes of this offering are to increase our financial flexibility, create a public market for our common stock, and facilitate our future access to capital markets.

We currently intend to use the net proceeds from this offering as follows:

- approximately $ million to fund the clinical development of our lead product candidate, Olvi-Vec in ovarian cancer, approximately $ to fund the clinical development of Olvi-Vec in recurrent NSCLC, and approximately $ to fund the clinical development of V2ACT Immunotherapy in pancreatic cancer;
- approximately $ million to pay outstanding accounts payable; and
- any remaining proceeds for working capital and general corporate purposes.

We may also use a portion of the remaining net proceeds and our existing cash balance to in-license, acquire, or invest in complementary businesses, technologies, products, or assets. However, we have no current commitments or obligations to do so.

We believe, based on our current operating plan, that the net proceeds from this offering, together with our cash balance as of March 31, 2021, will be sufficient to fund our operations for the next months during which time we expect to reach the stage of development for Olvi-Vec in ovarian cancer, the stage of development for Olvi-Vec in recurrent NSCLC, and the stage of development for V2ACT Immunotherapy in pancreatic cancer. Our expected use of proceeds from this offering described above represents our current intentions based on our present plans and business condition. As of the date of this prospectus, we cannot predict with certainty all of the particular uses for the proceeds to be received upon the closing of this offering or the actual amounts that we will spend on the uses set forth above.

The amounts and timing of our actual expenditures will depend on numerous factors, including the time and cost necessary to conduct our clinical trials, the results of our clinical trials and other factors described in the section titled "Risk Factors" in this prospectus, as well as the amount of cash used in our operations and any unforeseen cash needs. Therefore, our actual expenditures may differ materially from the estimates described above. We may find it necessary or advisable to use the net proceeds for other purposes, and we will have broad discretion in the application of the net proceeds.

We will have broad discretion over how to use the net proceeds to us from this offering. We intend to invest the net proceeds to us from the offering that are not used as described above in short-term, investment-grade, interest-bearing instruments.

DIVIDEND POLICY

We do not anticipate declaring or paying, in the foreseeable future, any cash dividends on our capital stock. We intend to retain all available funds and future earnings, if any, to fund the development and expansion of our business, and we do not anticipate paying any cash dividends in the foreseeable future. Any future determination regarding 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 financial condition, operating results, contractual restrictions, capital requirements, business prospects and other factors our board of directors may deem relevant.

CAPITALIZATION

The following table sets forth our cash balance and capitalization as of March 31, 2021:

- on an actual basis;
- on a pro forma basis, giving effect to (i) the automatic conversion of certain convertible promissory notes and accrued and unpaid interest and loan fees thereunder as of March 31, 2021 into 10,122,841 shares of common stock in connection with the closing of this offering, (ii) the automatic conversion of all outstanding shares of our convertible preferred stock into an aggregate of 22,702,889 shares of common stock and the related reclassification of the carrying value of our convertible preferred stock to permanent equity in connection with the closing of this offering, and (iii) the filing and effectiveness of our amended and restated certificate of incorporation that will be in effect in connection with the closing of this offering; and
- on a pro forma as adjusted basis, giving effect to (i) the pro forma adjustments set forth above and (ii) our receipt of net proceeds from the sale of shares of common stock in this offering at the assumed initial public offering price of $ per share, after deducting underwriting discounts and commissions and estimated offering expenses payable by us.

The pro forma as adjusted information below is illustrative only, and our capitalization following the closing of this offering will be adjusted based on the actual initial public offering price and other terms of this offering determined at pricing.

You should read this table together with the section titled “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” and “Description of Capital Stock” and our financial statements and related notes included elsewhere in this prospectus.

	As of March 31, 2021		
	Actual	Pro Forma	Pro Forma As Adjusted
	(In thousands, except share and per share amounts)	(Unaudited)	
Cash	$ 8,125	$ 8,125	$ —
Convertible notes payable, net of debt discount of $889	$ 24,944	$ 305	$ —
Shareholders’ Equity (Deficit)			
Preferred stock, Series A through K, par value $0.001, 29,927,994 shares authorized; 22,094,889 shares issued and outstanding; no shares issued and outstanding pro forma (unaudited)	22	—	
Common stock, par value $0.001, 75,000,000 shares authorized; 26,761,022 shares issued and outstanding; 59,586,752 shares issued and outstanding pro forma (unaudited)	27	60	
Additional paid-in capital	147,209	175,025	
Accumulated deficit	(171,198)	(171,198)	
Total shareholder’s equity (deficit)	$ (25,238)	$ 2,589	$ —
Total capitalization	$ (294)	$ 2,894	$ —

A $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 balance, additional paid-in capital, total stockholders’ equity (deficit) and total capitalization by approximately $ million, assuming the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same, and after deducting

underwriting discounts and commissions. Similarly, each increase (decrease) of 1.0 million shares in the number of shares common stock offered by us would increase (decrease) each of our pro forma as adjusted cash balance, additional paid-in capital, total stockholders' equity (deficit) and total capitalization by approximately $ million, assuming the assumed initial public offering price of $ per share remains the same, and after deducting underwriting discounts and commissions.

The number of shares of our common stock to be outstanding after this offering pro forma and pro forma as adjusted reflected in the table above is based on 59,586,752 shares of common stock outstanding as of March 31, 2021, after giving effect to (i) the automatic conversion of certain convertible promissory notes and accrued and unpaid interest and loan fees thereunder as of March 31, 2021 into 10,122,841 shares of common stock and (ii) the automatic conversion of all outstanding shares of our convertible preferred stock into 22,702,889 shares of common stock, each in connection with the closing of this offering, and excludes:

- 11,766,573 shares of our common stock issuable upon the exercise of outstanding stock options as of March 31, 2021, with a weighted average exercise price of $3.37 per share;
- 2,392,076 shares of our common stock issuable upon the exercise of warrants outstanding as of March 31, 2021, with exercise prices ranging from $0.01 to $3.50;
- 51,113 shares of our common stock issuable as of March 31, 2021 upon the optional conversion of certain convertible promissory notes, with a conversion price of $3.50 per share of common stock and a conversion price of $12.00 per share of Series K preferred stock, as applicable;
- shares of our common stock reserved for future issuance under our 2021 Plan, which will become effective once the registration statement of which this prospectus forms a part is declared effective, as well as any automatic annual increases in the number of shares of common stock reserved for issuance under our 2021 Plan, as more fully described in the section titled "Executive Compensation—Employee Benefit and Stock Plans"; and
- shares of our common stock reserved for issuance under our ESPP, which will become effective once the registration statement of which this prospectus forms a part is declared effective, and any automatic annual increases in the number of shares of common stock reserved for future issuance under our ESPP.

DILUTION

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

As of March 31, 2021, we had a historical net tangible book value (deficit) of $(25.2) million, or $(0.94) per share of common stock based on 26,761,022 shares of common stock outstanding as of such date. Our historical net tangible book value (deficit) per share represents total tangible assets less total liabilities and convertible preferred stock, which is not included within permanent equity, divided by the number of shares of common stock outstanding as of March 31, 2021.

Our pro forma net tangible book value as of March 31, 2021 was $2.6 million, or $0.04 per share. Pro forma net tangible book value per share represents the amount of our total tangible assets less our total liabilities, divided by 59,586,752 shares of common stock outstanding as of such date, after giving effect to (i) the automatic conversion of certain convertible promissory notes and accrued and unpaid interest and loan fees thereunder as of March 31, 2021 into 10,122,841 shares of common stock in connection with the closing of this offering, (ii) the automatic conversion of all outstanding shares of our convertible preferred stock into an aggregate of 22,702,889 shares of common stock and the related reclassification of the carrying value of our convertible preferred stock to permanent equity in connection with the closing of this offering, and (iii) the filing and effectiveness of our amended and restated certificate of incorporation that will be in effect in connection with the closing of this offering.

After giving effect to the sale by us of shares of common stock in this offering at the assumed initial public offering price of $ per share, and after deducting underwriting discounts and commissions and estimated offering expenses payable by us, our pro forma as adjusted net tangible book value as of March 31, 2021 would have been $ million, or $ per share. This amount represents an immediate increase in pro forma as adjusted net tangible book value of $ per share to our existing stockholders and an immediate dilution in pro forma as adjusted net tangible book value of $ per share to investors purchasing common stock in this offering. We determine dilution by subtracting the pro forma as adjusted net tangible book value per share after this offering from the amount of cash paid by an investor for a share of common stock in this offering. 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 March 31, 2021	$(0.94)	
Pro forma increase in historical net tangible book value per share attributable to the pro forma transactions described in the preceding paragraphs	0.98	
Pro forma net tangible book value per share as of March 31, 2021	0.04	
Increase in pro forma as adjusted net tangible book value per share attributable to investors purchasing shares in this offering		
Pro forma as adjusted net tangible book value per share after this offering		
Dilution in pro forma as adjusted net tangible book value per share to 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. A $1.00 increase (decrease) in the assumed initial public offering price of $ per share would increase (decrease) our pro forma as adjusted net tangible book value per share after this offering by $ per share and increase (decrease) the dilution to investors purchasing shares in this offering by $ per share, in each case 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 underwriting discounts and commissions. Similarly, each increase or decrease of 1.0 million shares in the number of shares of common stock offered by us would increase (decrease) our pro forma as adjusted net tangible book value by approximately $ per share and decrease (increase) the dilution to investors purchasing shares in this offering by approximately $ per share, in each case assuming the assumed initial public offering price of $ per share remains the same, and after deducting underwriting discounts and commissions.

If the underwriters exercise their option to purchase additional shares of common stock in full, the pro forma as adjusted net tangible book value per share would be $ per share, and the dilution in pro forma as adjusted net tangible book value per share to investors in this offering would be $ per share.

The foregoing discussion and table above (other than the historical net tangible book value (deficit) calculation) are based on 59,586,752 shares of common stock outstanding as of March 31, 2021, after giving effect to (i) the automatic conversion of certain convertible promissory notes and accrued and unpaid interest and loan fees thereunder as of March 31, 2021 into 10,122,841 shares of common stock and (ii) the automatic conversion of all outstanding shares of our convertible preferred stock and into 22,702,889 shares of common stock each in connection with the closing of this offering, and exclude:

- 11,766,573 shares of our common stock issuable upon the exercise of outstanding stock options as of March 31, 2021, with a weighted average exercise price of $3.37 per share;
- 2,392,076 shares of our common stock issuable upon the exercise of warrants outstanding as of March 31, 2021, with exercise prices ranging from $0.01 to $3.50 per share;
- 51,113 shares of our common stock issuable as of March 31, 2021 upon the optional conversion of certain convertible promissory notes, with a conversion price of $3.50 per share of common stock and a conversion price of $12.00 per share of Series K preferred stock, as applicable;
- shares of our common stock reserved for future issuance under our 2021 Plan, which will become effective once the registration statement of which this prospectus forms a part is declared effective, as well as any automatic annual increases in the number of shares of common stock reserved for issuance under our 2021 Plan, as more fully described in the section titled "Executive Compensation—Employee Benefit and Stock Plans"; and
- shares of our common stock reserved for issuance under our ESPP, which will become effective once the registration statement of which this prospectus forms a part is declared effective, and any automatic annual increases in the number of shares of common stock reserved for future issuance under our ESPP.

To the extent that any outstanding options or warrants are exercised or new options are issued under our stock-based compensation plans, or we issue additional shares of common stock in the future, there will be further dilution to investors participating in this offering.

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

The following discussion and analysis should be read in conjunction with "Selected Financial Data" and our financial statements and related notes included elsewhere in this prospectus. This discussion and analysis and other parts of this prospectus contain forward-looking statements based upon current beliefs that involve risks, uncertainties and assumptions, such as statements regarding our plans, objectives, expectations and intentions. Our actual results and the timing of selected events could differ materially from those described in or implied by these forward-looking statements as a result of several factors, including those set forth under "Risk Factors" and elsewhere in this prospectus. You should carefully read the "Risk Factors" section of this prospectus to gain an understanding of the important factors that could cause actual results to differ materially from our forward-looking statements. Please also see the section entitled "Special Note Regarding Forward-Looking Statements."

Overview

Genelux is a clinical-stage biopharmaceutical company focused on developing a pipeline of next-generation oncolytic viral immunotherapies for patients suffering from aggressive and/or difficult-to-treat solid tumor types. Our most advanced product candidate, Olvi-Vec (olvimulogene nanivacirepvec), is a proprietary, modified strain of the vaccinia virus (VACV), a stable DNA virus with a large engineering capacity. We have met the preestablished endpoint for our Phase 2 trial of Olvi-Vec in platinum resistant/refractory ovarian cancer. Employing our proprietary selection technology and discovery and development platform (CHOICE), we have developed an extensive library of isolated and engineered oncolytic vaccinia virus immunotherapeutic product candidates. These provide potential utility in multiple tumor types in both the monotherapy and combination therapy settings, via physician- preferred administration techniques, including regional (e.g., intraperitoneal), local and systemic (e.g., intravenous) delivery routes. Informed by our CHOICE platform and supported by extensive clinical and pre-clinical data, we believe we have the capacity to develop a pipeline of treatment options to address high unmet medical needs for those patients with insignificant or unsatisfactory responses to standard-of-care therapies, including chemotherapies. From this library, we selected Olvi-Vec, which has the potential to exhibit robust anti-tumor properties, including potent oncolytic properties (tumor cell lysis) and to powerfully activate both the innate and adaptive arms of the immune system, to produce favorable changes within the tumor microenvironment. The personalized and multi-modal immune activation generated by Olvi-Vec is designed to yield clinically-meaningful anti-tumor responses to virus treatment alone and in combination with other existing treatment modalities. We believe Olvi-Vec currently represents the most advanced clinical development program throughout the oncolytic treatment landscape involving the non-local administration (i.e., non-intratumorally) of viral immunotherapies.

Since inception, our operations have focused on organizing and staffing our company, business planning, raising capital, acquiring and developing our technology, establishing our intellectual property portfolio, identifying potential product candidates and undertaking preclinical studies and manufacturing. We do not have any products approved for sale and have not generated any revenue from product sales. From inception through March 31, 2021, we had raised an aggregate of approximately $178.0 million of gross proceeds through the sale and issuance of Series A through Series K convertible preferred stock and common stock, and debt financings.

Since inception, we have incurred significant operating losses. Our net losses were $11.6 million and $13.6 million for the years ended December 31, 2019 and 2020, respectively. Our net losses were $3.8 million and $3.0 million for the three months ended March 31, 2020 and 2021, respectively. As of March 31, 2021, we had an accumulated deficit of $171.2 million. We expect to continue to incur significant and increasing expenses and operating losses for the foreseeable future, as we advance our current and future product candidates through preclinical and clinical development, manufacture drug product and drug supply, seek regulatory approval for our current and future product candidates, maintain and expand our intellectual property portfolio, hire additional research and development and business personnel and operate as a public company.

In March 2020, the World Health Organization declared COVID-19 a global pandemic and the United States declared a national emergency with respect to COVID-19. In response to the COVID-19 pandemic, a number of governmental orders and other public health guidance measures have been implemented across much of the United States, including in the locations of our office, clinical trial sites and third parties on whom we rely. As the COVID-19 pandemic started to spread in the first half of 2020, our clinical trial sites reported it had the most impact on patient care as facilities were generally ill prepared to conduct business as usual; adequate clinical evaluations, physical exams and tests were either absent or drastically reduced. Our clinical trial sites further reported that their institutions better adjusted to pandemic conditions beginning in the second half of 2020. Further, we have implemented a work-from-home policy allowing employees who can work from home to do so, while those needing to work in manufacturing facilities work in shifts to reduce the number of people gathered together at one time. Business travel has been suspended, and online and teleconference technology is used to meet virtually rather than in person. We have taken measures to secure our research and development project activities, while work in laboratories has been organized to reduce risk of COVID-19 transmission. Our increased reliance on personnel working from home may negatively impact productivity, or disrupt, delay or otherwise adversely impact our business. For example, with our personnel working from home, some of our research activities that require our personnel to be in our laboratories could be delayed.

We will not generate revenue from product sales unless and until we successfully complete clinical development and obtain regulatory approval for our product candidates. In addition, if we obtain regulatory approval for our product candidates and do not enter into a third-party commercialization partnership, we expect to incur significant expenses related to developing our commercialization capability to support product sales, marketing, manufacturing, and distribution activities.

As a result, we will need substantial additional funding to support our continuing operations and pursue our growth strategy. Until we can generate significant revenue from product sales, if ever, we expect to finance our operations through a combination of public or private equity offerings and debt financings or other sources, such as potential collaboration agreements, strategic alliances and licensing arrangements. We may be unable to raise additional funds or enter into such other agreements or arrangements when needed on acceptable terms, or at all. Our failure to raise capital or enter into such agreements as, and when needed, could have a material adverse effect on our business, results of operations and financial condition.

The report of our independent registered public accounting firm on our financial statements as of and for the year ended December 31, 2020 included an explanatory paragraph indicating that there was substantial doubt about our ability to continue as a going concern. See Note 1 to our annual financial statements appearing at the end of this prospectus for additional information on our assessment.

As of March 31, 2021, we had a cash balance of $8.13 million. We believe that our existing cash, together with the anticipated net proceeds from this offering, will enable us to fund our operating expenses and capital expenditure requirements into .

Joint Venture with TVAX Biomedical, Inc.

In January 2019, we formed V2ACT as a joint venture with TVAX for the purpose of developing and testing V2ACT Immunotherapy. The joint venture is governed by an Amended and Restated Limited Liability Company Agreement entered into in June 2021, which provides each of us and TVAX with 50% ownership interests, identical voting and management rights and responsibilities, equal representation on the governing four-member management committee, and equal sharing of profits and losses of V2ACT. To date, V2ACT's expenses have been de minimis and have been funded through equal capital contributions made to V2ACT by us and TVAX, and we expect this to continue for the foreseeable future.

Through March 31, 2021, there had been virtually no operating activities at V2ACT and de minimis financial activities, all of which our partner had day-to-day control over. For accounting purposes, we treated the

joint venture as a non-consolidated subsidiary and all expenses, totaling less than $0.01 million during the year ended December 31, 2020, and three months ended March 31, 2021, have been expensed as incurred. Through the date of this filing, the joint venture has also not entered into any material third party commitments.

Components of Results of Operations

Net sales

We have not generated any sales to date. There was no revenue recorded from any sources during the years ended December 31, 2019 and 2020 or the three months ended March 31, 2021.

Operating Expenses

Our operating expenses consist of (i) research and development expenses and (ii) general and administrative expenses.

Research and Development Expenses

Research and development expenses consist primarily of costs incurred for our research and development activities, including our product candidate discovery efforts and preclinical and clinical studies under our research programs, which include:

- employee-related expenses, including salaries, benefits and stock-based compensation expense for our research and development personnel;
- costs of funding research performed by third parties that conduct research and development and preclinical and clinical activities on our behalf;
- costs of manufacturing drug product and drug supply related to our current or future product candidates;
- costs of conducting preclinical studies and clinical trials of our product candidates;
- consulting and professional fees related to research and development activities, including equity-based compensation to non-employees;
- costs of maintaining our laboratory, including purchasing laboratory supplies and non-capital equipment used in our preclinical studies;
- costs related to compliance with clinical regulatory requirements; and
- facility costs and other allocated expenses, which include expenses for rent and maintenance of facilities, insurance, depreciation and other supplies.

Research and development costs are expensed as incurred. Costs for certain activities are recognized based on an evaluation of the progress to completion of specific tasks using data such as information provided to us by our vendors and analyzing the progress of our preclinical and clinical studies or other services performed. Significant judgment and estimates are made in determining the accrued expense balances at the end of any reporting period.

The successful development of our product candidates is highly uncertain. We cannot reasonably estimate or know the nature, timing, and estimated costs of the efforts that will be necessary to complete development of our current or future product candidates. We are also unable to predict when, if ever, material net cash inflows will commence from the sale of our product candidates, if they are approved. This is due to the numerous risks and uncertainties associated with developing product candidates, including the uncertainty of:

- the scope, rate of progress, and expenses of our ongoing research activities as well as any preclinical studies and clinical trials and other research and development activities;
- establishing an appropriate safety profile;

- successful enrollment in and completion of clinical trials;
- whether our product candidates show safety and efficacy in our clinical trials;
- receipt of marketing approvals from applicable regulatory authorities;
- establishing commercial manufacturing capabilities or making arrangements with third-party manufacturers;
- obtaining and maintaining patent and trade secret protection and regulatory exclusivity for our product candidates;
- commercializing product candidates, if and when approved, whether alone or in collaboration with others; and
- continued acceptable safety profile of the products following any regulatory approval.

A change in the outcome of any of these variables with respect to the development of our current and future product candidates would significantly change the costs and timing associated with the development of those product candidates.

Research and development activities are central to our business model. Product candidates in later stages of clinical development generally have higher development costs than those in earlier stages of clinical development, primarily due to the increased size and duration of later-stage clinical trials. We expect research and development costs to increase significantly for the foreseeable future as we commence clinical trials and continue the development of our current and future product candidates. However, we do not believe that it is possible at this time to accurately project expenses through commercialization. There are numerous factors associated with the successful commercialization of any of our product candidates, including future trial design and various regulatory requirements, many of which cannot be determined with accuracy at this time based on our stage of development. Additionally, future commercial and regulatory factors beyond our control will impact our clinical development programs and plans.

General and Administrative Expenses

General and administrative expenses include salaries and other compensation-related costs, including stock-based compensation, for personnel in executive, finance and accounting, business development, operations and administrative roles. Other significant costs include professional service and consulting fees, including legal fees relating to intellectual property and corporate matters, accounting fees, recruiting costs and costs for consultants who we utilize to supplement our personnel, insurance costs, travel costs, facility and office-related costs not included in research and development expenses.

We anticipate that our general and administrative expenses will increase in the future as our business expands to support expected growth in research and development activities, including our future clinical programs. These increases will likely include increased costs related to the hiring of additional personnel and fees to outside service providers, among other expenses. We also anticipate increased expenses associated with being a public company, including costs for audit, legal, regulatory and tax-related services related to compliance with the rules and regulations of the Securities and Exchange Commission, or the SEC, and listing standards applicable to companies listed on a national securities exchange, director and officer insurance premiums, and investor relations costs. In addition, if we obtain regulatory approval for any of our product candidates and do not enter into a third-party commercialization collaboration, we expect to incur significant expenses related to building a sales and marketing team to support product sales, marketing and distribution activities.

Other Expenses

Other expenses consist of interest expense in 2019, and interest expense and debt discount amortization in 2020. During the three months ended March 31, 2020, other expenses consist of interest expense and during the three months ended March 31, 2021, other expenses consist of interest expense and debt discount amortization, while other income consists of a gain on settlement of a convertible note payable.

Results of Operations

Comparison of the Three Months Ended March 31, 2020 and 2021

The following table summarizes our results of operations for the three months ended March 31, 2020 and 2021 (in thousands):

	March 31, 2020	March 31, 2021
Operating Expenses:		
Research and development	$ 1,575	$ 1,673
General and administrative	1,811	981
Total operating expenses	3,386	2,654
Loss from operations	(3,386)	(2,654)
Interest expense	(386)	(330)
Debt discount amortization	—	(45)
Gain on settlement of convertible note payable	—	30
Net loss	$ (3,772)	$ (2,999)

Research and Development Expenses

The table below summarizes our research and development expenses for the three months ended March 31, 2020 and 2021 (in thousands):

	March 31, 2020	March 31, 2021
Research and Development Expenses:		
Employee compensation and related expenses	$ 365	$ 346
Stock compensation	303	330
Laboratory supplies and expenses	300	139
Outsourced manufacturing and services	168	363
Clinical and regulatory expenses	54	79
Facility-related expenses, including depreciation	270	282
Other expenses	115	134
Total research and development expenses	$ 1,575	$ 1,673

Research and development expenses increased from $1.6 million for the three months ended March 31, 2020 to $1.7 million for the three months ended March 31, 2021. The increase of $0.1 million, or 6%, was primarily the result of:

- a $0.1 million decrease in laboratory supply costs in 2021, primarily resulting from the completion of enrollment in a Phase 2 clinical trial in 2019 and the first quarter of 2020; and
- a $0.2 million increase in outsourced manufacturing and services in 2021, primarily related to expansion of our manufacturing activities in preparation of initiating a Phase 3 clinical trial.

General and Administrative Expenses

The table below summarizes our general and administrative expenses for the three months ended March 31, 2020 and 2021 (in thousands):

	March 31, 2020	March 31, 2021
General and Administrative Expenses:		
Employee compensation and related expenses	$ 278	$ 253
Stock compensation	1,311	157
Professional services	37	227
Facility-related expenses	54	57
Insurance expenses	56	76
Consulting/contract labor expenses	8	167
Other expenses	67	44
Total general and administrative expenses	$ 1,811	$ 981

General and administrative expenses decreased from $1.8 million for the three months ended March 31, 2020 to $1.0 million for the three months ended March 31, 2021. The decrease of $0.8 million, or 46%, was primarily the result of:

- a $1.2 million decrease in stock compensation expense in 2021, primarily due to certain stock option grants in the first quarter of 2020 that all vested during that quarter;
- a $0.2 million increase in professional service expenses in 2021, primarily resulting from increased legal costs related to intellectual property, and to accounting expenses related to current period audits; and
- a $0.2 million increase in consulting and contract labor expenses in 2021, primarily related to an increase in contract accounting expenses.

Other Expenses

Other expenses decreased from $0.4 million for the three months ended March 31, 2020 to $0.3 million for the three months ended March 31, 2021. The decrease of $0.1 million, or 11%, was the result of decreased interest expense in 2021, offset by debt discount amortization in 2021 and a gain on the settlement of a convertible note payable.

Comparison of the Years Ended December 31, 2019 and 2020

The following table summarizes our results of operations for the years ended December 31, 2019 and 2020 (in thousands):

Operating Expenses:	December 31, 2019	December 31, 2020
Research and development	$ 7,532	$ 6,227
General and administrative	3,338	6,195
Total operating expenses	10,870	12,422
Loss from operations	(10,870)	(12,422)
Interest expense	(761)	(1,147)
Debt discount amortization	—	(74)
Net loss	$ (11,631)	$ (13,643)

Research and Development Expenses

The table below summarizes our research and development expenses for the years ended December 31, 2019 and 2020 (in thousands):

Research and Development Expenses:	December 31, 2019	December 31, 2020
Employee compensation and related expenses	$ 1,301	$ 1,427
Stock compensation	2,539	1,260
Laboratory supplies and expenses	1,335	562
Outsourced manufacturing and services	306	1,145
Clinical and regulatory expenses	752	402
Facility-related expenses, including depreciation	789	1,037
Other expenses	510	394
Total research and development expenses	$ 7,532	$ 6,227

Research and development expenses were $7.5 million and $6.2 million for the years ended December 31, 2019 and 2020. The decrease of $1.3 million was primarily the result of:

- a $0.1 million increase in employee compensation and related expenses in 2020, including salaries and employee benefits, due to increased headcount in 2020 as compared to 2019;
- a $1.3 million decrease in stock compensation expense in 2020 due to a decrease in stock option grants to existing and new employees and consultants in 2020;
- a $0.8 million decrease in laboratory supply costs in 2020, primarily resulting from the completion of enrollment in a Phase 2 clinical trial in 2019;
- a $0.8 million increase in outsourced manufacturing and services in 2020, primarily related to expansion of our manufacturing activities in preparation of initiating a Phase 3 registration clinical trial;
- a $0.4 million decrease in clinical and regulatory expenses in 2020, primarily resulting from completion of enrollment in a Phase 2 clinical trial in 2019;
- a $0.2 million increase in facility-related expenses in 2020, primarily due to the increase in depreciation of $0.2 million; and
- a $0.1 million decrease in other expenses, primarily relating to consulting expenses.

General and Administrative Expenses

The table below summarizes our general and administrative expenses for the years ended December 31, 2019 and 2020 (in thousands):

General and Administrative Expenses:	December 31, 2019	December 31, 2020
Employee compensation and related expenses	$ 1,032	$ 1,032
Stock compensation	1,308	4,065
Professional services	394	234
Facility-related expenses	209	195
Insurance expenses	184	227
Other expenses	211	442
Total general and administrative expenses	$ 3,338	$ 6,195

General and administrative expenses were $3.3 million and $6.2 million for the years ended December 31, 2019 and 2020. The increase of $2.9 million was primarily the result of:

- a $2.8 million increase in stock compensation expense in 2020 due to an increase in stock option grants to employees, consultants and directors in 2020;
- a $0.2 million decrease in professional service expenses in 2020, primarily resulting from decreased legal costs related to intellectual property, and to accounting expenses related to prior year audits completed in 2019; and
- a $0.2 million increase in other expenses in 2020, primarily related to an increase in consulting expenses.

Other Expenses

Other expenses were $0.8 million and $1.2 million for the years ended December 31, 2019 and 2020. The increase of $0.4 million was primarily due to increased debt borrowings, and debt discount amortization due to the issuance of stock warrants in connection with a debt financing.

Liquidity and Capital Resources

Going Concern

The accompanying financial statements have been prepared on a going concern basis, which contemplates the realization of assets and the settlement of liabilities and commitments in the normal course of business. As reflected in the accompanying financial statements, we have not yet generated revenues and have incurred recurring net losses since our inception. During the year ended December 31, 2020, we incurred a net loss of $13.6 million and used cash in operations of $7.2 million, and had a shareholders' deficit of $22.7 million as of December 31, 2020. During the three months ended March 31, 2021, we incurred a net loss of $3.0 million and used cash in operations of $2.8 million, and had a shareholders' deficit of $25.2 million as of March 31, 2021. These factors raise substantial doubt about our ability to continue as a going concern. Our ability to continue as a going concern is dependent upon our ability to raise additional funds and implement our strategies. The financial statements do not include any adjustments that might be necessary if we are unable to continue as a going concern.

At March 31, 2021, we had cash on hand in the amount of $8.1 million. The ability to continue as a going concern is dependent on our ability to attain and maintain profitable operations in the future and to raise additional capital as needed to meet our obligations and repay our liabilities arising from normal business operations when they come due. Since inception, we have funded our operations primarily through equity and debt financings and we expect to continue to rely on these sources of capital in the future. During the year ended December 31, 2020, we received $18.2 million through the issuance of loans payable and sales of our common stock and warrants. During the three months ended March 31, 2021, we received $1.1 million through the issuance of loans payable and the sales of our common stock.

No assurance can be given that any future financing will be available or, if available, that it will be on terms that are satisfactory to us. Even if we are able to obtain additional financing, it may contain restrictions on our operations, in the case of debt financing, or cause substantial dilution for our stockholders, in the case of equity financing.

Cash Flows

The table below summarizes our cash flow activities for the years ended December 31, 2019 and 2020 and the three months ended March 31, 2020 and 2021 (in thousands):

Net cash provided by (used in):	December 31, 2019	December 31, 2020	March 31, 2020	March 31, 2021
Operating activities	$ (7,223)	$ (7,205)	$ (1,704)	$ (2,842)
Investing activities	(1,771)	(20)	(20)	—
Financing activities	7,888	18,150	1.748	(383)
Net increase (decrease) in cash	$ (1,106)	$ 10,925	$ 24	$ (3,225)

Operating Activities

During the year ended December 31, 2019, we used cash from operating activities of $7.2 million, compared to $7.2 million used during the year ended December 31, 2020. During the year ended December 31, 2019, we incurred a net loss of $11.6 million and had non-cash expenses of $4.3 million, compared to a net loss of $13.6 million and non-cash expenses of $6.1 million during the year ended December 31, 2020. The primary non-cash expense during both years was stock compensation, totaling $3.7 million and $5.3 million during the years ended December 31, 2019 and 2020, respectively. The net change in assets and liabilities during the year ended December 31, 2019 provided cash of $0.1 million compared to $0.4 million provided during the year ended December 31, 2020. The primary use of cash during the year ended December 31, 2019 was the decrease in accounts payable and accrued expenses of $0.4 million, while the primary sources were the increase in accrued compensation and accrued interest payable totaling $0.7 million. The primary use of cash during the year ended December 31, 2020 was the decrease in accounts payable and accrued expenses of $0.1 million, while the primary sources were the increase in accrued compensation and accrued interest payable totaling $0.6 million.

During the three months ended March 31, 2020, we used cash from operating activities of $1.7 million, compared to $2.8 million used during the three months ended March 31, 2021. During the three months ended March 31, 2020, we incurred a net loss of $3.8 million and had non-cash expenses of $1.8 million, compared to a net loss of $3.0 million and non-cash expenses of $0.7 million during the three months ended March 31, 2021. The primary non-cash expense during both periods was stock compensation, totaling $1.6 million and $0.5 million during the three months ended March 31, 2020 and 2021, respectively. The net change in assets and liabilities during the three months ended March 31, 2020 provided cash of $0.3 million, compared to $0.6 million used during the three months ended March 31, 2021. The primary use of cash during the three months ended March 31, 2020 was the decrease in accounts payable and accrued expenses of $0.2 million, while the primary sources were the increase in accrued compensation and accrued interest payable totaling $0.5 million. The primary use of cash during the three months ended March 31, 2021 was the decrease in accounts payable and accrued expenses and accrued interest payable totaling $0.5 million, while the primary source was the increase in accrued compensation of $40,000.

Investing Activities

Net cash used in investing activities for the years ended December 31, 2019 and 2020 was $1.8 million and $0.02 million, respectively, and consisted of the purchase of property and equipment.

Net cash used in investing activities for the three months ended March 31, 2020 was $20,000, consisting of the purchase of property and equipment. There was no cash used in investing activities for the three months ended March 31, 2021.

Financing Activities

Net cash provided by financing activities for the years ended December 31, 2019 and 2020 was $7.9 million and $18.2 million respectively. For the year ended December 31, 2019, cash provided by financing activities consisted of proceeds from the issuance of convertible notes payable totaling $1.9 million and proceeds from the sale of common stock and warrants totaling $6.4 million. Cash used in financing activities during the year ended December 31, 2019 related to the repayment of a note payable totaling $0.4 million. For the year ended December 31, 2020, cash provided by financing activities consisted of proceeds from the issuance of various debt offerings totaling $11.7 million, proceeds from a Paycheck Protection Plan loan totaling $0.3 million and proceeds from the sale of common stock and warrants totaling $9.0 million. Cash used in financing activities during the year ended December 31, 2020 related to the repayment of various notes payable totaling $2.9 million.

Net cash provided by financing activities for the three months ended March 31, 2020 was $1.7 million and net cash used in financing activities for the three months ended March 31, 2021 was $0.4 million. For the three months ended March 31, 2020, cash provided by financing activities consisted of proceeds from the issuance of convertible notes payable from shareholders totaling $2.0 million and proceeds from the sale of common stock and warrants totaling $2.2 million. Cash used in financing activities during the three months ended March 31, 2020 related to the repayment of various debt totaling $2.4 million. For the three months ended March 31, 2021, cash provided by financing activities consisted of proceeds from the issuance of various debt totaling $0.9 million and proceeds from the sale of common stock and warrants totaling $0.1 million. Cash used in financing activities during the three months ended March 31, 2021 related to the repayment of a convertible note payable of $1.4 million.

Convertible Notes Payable

As of December 31, 2020, we owed a former collaborative partner the principal amount of $1.5 million under a convertible note payable agreement and owed several investors the aggregate total principal amount of $0.3 million under their collective convertible note payable agreements. These principal amounts totaling $1.8 million had matured as of December 31, 2020, along with $0.4 million of accrued and unpaid interest.

During the three months ended March 31, 2021, we entered into an omnibus amendment and conversion election agreement with the former collaborative partner. Under the agreement, we paid the note holder $1.4 million and issued the loan holder 56,063 shares of our common stock in exchange for the retirement of principal of $1.5 million and accrued and unpaid interest of $0.3 million. As of March 31, 2021, no amounts were due under the agreement.

As of the date of this filing, we have not received any formal notifications from the investors holding the matured convertible note payable agreements demanding the amounts be paid back. As of March 31, 2021, we owed these investors total principal of $0.3 million and accrued and unpaid interest of $0.1 million. We intend to repay the total amount due from our existing cash balance prior to the completion of the offering contemplated by this prospectus.

Funding Requirements

We expect our expenses to increase in connection with our ongoing activities, particularly as we continue our research and development, initiate and conduct preclinical studies and clinical trials, and seek marketing approval for our current and any of our future product candidates. In addition, if we obtain marketing approval for any of our current or our future product candidates, we expect to incur significant commercialization expenses related to product sales, marketing, manufacturing and distribution, which costs we may seek to offset through entry into collaboration agreements with third parties. Furthermore, upon the completion of this offering, we expect to incur additional costs associated with operating as a public company. Accordingly, we will need to obtain substantial additional funding in connection with our continuing operations. If we are unable to raise capital when needed or on acceptable terms, we would be forced to delay, reduce or eliminate our research and development programs or future commercialization efforts.

We believe that our existing cash, together with the anticipated net proceeds from this offering, will enable us to fund our operating expenses and capital expenditure requirements for at least months. We have based this estimate on assumptions that may prove to be wrong, and we may use our available capital resources sooner than we currently expect. Our future capital requirements will depend on a number of factors, including:

- the costs of conducting preclinical studies and clinical trials;
- the costs of manufacturing;
- the scope, progress, results and costs of discovery, preclinical development, laboratory testing, and clinical trials for product candidates we may develop, if any;
- the costs, timing, and outcome of regulatory review of our product candidates;
- our ability to establish and maintain collaborations on favorable terms, if at all;
- the achievement of milestones or occurrence of other developments that trigger payments under any license or collaboration agreements we might have at such time;
- the costs and timing of future commercialization activities, including product sales, marketing, manufacturing and distribution, for any of our product candidates for which we receive marketing approval;
- the amount of revenue, if any, received from commercial sales of our product candidates, should any of our product candidates receive marketing approval;
- the costs of preparing, filing and prosecuting patent applications, obtaining, maintaining and enforcing our intellectual property rights, and defending intellectual property-related claims;
- our headcount growth and associated costs as we expand our business operations and research and development activities; and
- the costs of operating as a public company.

The net proceeds of this offering, together with our existing cash, will not be sufficient to complete development of Olvi-Vec or any other product candidate. Accordingly, we will be required to obtain further funding to achieve our business objectives.

Until such time, if ever, as we can generate substantial product revenues, we expect to finance our cash needs through public or private equity offerings and debt financings or other sources, such as potential collaboration agreements, strategic alliances and licensing arrangements. To the extent that we raise additional capital through the sale of equity or convertible debt securities, your ownership interests may be diluted, and the terms of these securities may include liquidation or other preferences that could adversely affect your rights as a common stockholder. Additional debt financing, if available, may involve agreements that include restrictive covenants that limit our ability to take specific actions, such as incurring additional debt, making capital expenditures or declaring dividends, that could adversely impact our ability to conduct our business.

If we raise funds through potential collaborations, strategic alliances or licensing arrangements with third parties, we may have to relinquish valuable rights to our technologies, future revenue streams, research programs or product candidates, or to grant licenses on terms that may not be favorable to us. If we are unable to raise additional funds when needed, we may be required to delay, limit, reduce or terminate our product development or future commercialization efforts or grant rights to develop and market product candidates that we would otherwise prefer to develop and market ourselves.

Critical Accounting Policies and Significant Judgments and Estimates

This Management's Discussion and Analysis of Financial Condition and Results of Operations is based on our financial statements, which have been prepared in accordance with accounting principles generally accepted in the

United States, or GAAP. The preparation of these financial statements requires us to make estimates, judgments and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities as of the date of the balance sheets and the reported amounts of expenses during the reporting periods. In accordance with GAAP, we base our estimates on historical experience and on various other assumptions that we believe are reasonable under the circumstances at the time such estimates are made. Actual results may differ materially from our estimates and judgments under different assumptions or conditions. We periodically review our estimates in light of changes in circumstances, facts and experience. The effects of material revisions in estimates are reflected in our financial statements prospectively from the date of the change in estimate.

We define our critical accounting policies as those accounting principles that require us to make subjective estimates and judgments about matters that are uncertain and are likely to have a material impact on our financial condition and results of operations, as well as the specific manner in which we apply those principles. While our significant accounting policies are more fully described in Note 2 to our audited financial statements appearing elsewhere in this prospectus, we believe the following are the critical accounting policies used in the preparation of our financial statements that require significant estimates and judgments.

Accrued Research and Development Expenses

As part of the process of preparing our financial statements, we are required to estimate our accrued expenses as of each balance sheet date. This process involves reviewing open contracts and purchase orders, communicating with our personnel to identify services that have been performed on our behalf, and estimating the level of service performed and the associated cost incurred for the service when we have not yet been invoiced or otherwise notified of the actual cost. The majority of our service providers invoice us monthly in arrears for services performed or when contractual milestones are met. We make estimates of our accrued expenses as of each balance sheet date based on facts and circumstances known to us at that time. We periodically confirm the accuracy of our estimates with the service providers and make adjustments if necessary.

The significant estimates in our accrued research and development expenses include the costs incurred for services performed by our vendors in connection with research and development activities for which we have not yet been invoiced. We base our expenses related to research and development activities on our estimates of the services received and efforts expended pursuant to quotes and contracts with vendors that conduct research and development on our behalf. The financial terms of these agreements are subject to negotiation, vary from contract to contract and may result in uneven payment flows. There may be instances in which payments made to our vendors will exceed the level of services provided and result in a prepayment of the research and development expense.

In accruing service fees, we estimate the time period over which services will be performed and the level of effort to be expended in each period. If the actual timing of the performance of services or the level of effort varies from our estimate, we adjust the accrual or prepaid balance accordingly. Non-refundable advance payments for goods and services that will be used in future research and development activities are expensed when the activity has been performed or when the goods have been received rather than when the payment is made.

Although we do not expect our estimates to be materially different from amounts incurred, if our estimates of the status and timing of services performed differ from the actual status and timing of services performed, it could result in us reporting amounts that are too high or too low in any particular period.

Stock-Based Compensation

We measure stock options and other stock-based awards granted to employees and directors based on the fair value of the award on the date of the grant and recognize compensation expense for those awards over the requisite service period, which is generally the vesting period of the respective award. We recognize forfeitures

as they occur. The reversal of compensation cost previously recognized for an award that is forfeited because of a failure to satisfy a service or performance condition is recognized in the period of the forfeiture. Generally, we issue stock options with only service-based vesting conditions and record the expense for these awards using the straight-line method over the requisite service period.

We classify equity-based compensation expense in our statements of operations in the same manner in which the award recipient's salary and related costs are classified or in which the award recipient's service payments are classified. In future periods, we expect equity-based compensation expense to increase, due in part to our existing unrecognized stock-based compensation expense and as we grant additional stock-based awards to continue to attract and retain employees.

Determination of the Fair Value of Equity-Based Awards

We estimate the fair value of stock option awards granted using the Black-Scholes option-pricing model, which uses as inputs the fair value of our common stock and subjective assumptions we make, including expected stock price volatility, the expected term of the award, the risk-free interest rate, and expected dividends. Due to the lack of a public market for the trading of our common stock and a lack of company-specific historical and implied volatility data, we base the estimate of expected stock price volatility on the historical volatility of a representative group of publicly traded companies for which historical information is available. The historical volatility is generally calculated based on a period of time commensurate with the expected term assumption. We use the simplified method to calculate the expected term for options granted to employees and directors. We utilize this method as we do not have sufficient historical exercise data to provide a reasonable basis upon which to estimate the expected term. For options granted to non-employees, we utilize the contractual term. The risk-free interest rate is based on a U.S. treasury instrument whose term is consistent with the expected term of the stock options. The expected dividend yield is assumed to be zero, as we have never paid dividends and do not have current plans to pay any dividends on our common stock. We determine the fair value of restricted common stock awards based on the fair value of our common stock on the date of grant.

As there has been no public market for our common stock, the estimated fair value of our common stock has been approved by our board of directors, with input from management, as of the date of each award grant, considering our most recently available sale of our common stock to independent investors and our board of directors' assessment of additional objective and subjective factors deemed relevant that may have changed from the date of the most recent valuation through the date of the grant.

The additional objective and subjective factors considered by our board of directors in determining the fair value of our common stock included the following:

- the prices of our common stock and preferred stock sold to outside investors in arm's length transactions, if any, and the rights, preferences and privileges of our preferred stock as compared to those of our common stock, including the liquidation preferences of our preferred stock;
- the progress of our research and development efforts, including the status of preclinical studies and planned clinical trials for our product candidates;
- the lack of liquidity of our equity as a private company;
- our stage of development and business strategy and the material risks related to our business and industry;
- the valuation of publicly traded companies in the biotechnology industry, as well as recently completed mergers and acquisitions of peer companies;
- any external market conditions affecting the biotechnology industry, and trends within the biotechnology industry;

- the likelihood of achieving a liquidity event, such as an IPO or a sale of our company in light of prevailing market conditions; and
- the analysis of IPOs and the market performance of similar companies in the biotechnology industry.

The assumptions underlying our board of directors' valuations represented our board's best estimates, which involved inherent uncertainties and the application of our board's judgment. As a result, if factors or expected outcomes had changed or our board of directors had used significantly different assumptions or estimates, our equity-based compensation expense could have been materially different. Following the completion of this offering, our board of directors will determine the fair value of our common stock based on the quoted market prices of our common stock.

Off-Balance Sheet Arrangements

During the years ended December 31, 2019 and 2020 and the three months ended March 31, 2021, we did not have, and we do not currently have, any off-balance sheet arrangements (as defined under SEC rules).

Quantitative and Qualitative Disclosures about Market Risk

We are not currently exposed to significant market risk related to changes in foreign currency exchange rates. However, we have contracted with and may continue to contract with foreign vendors that are located in Europe. Our operations may be subject to fluctuations in foreign currency exchange rates in the future.

Inflation generally affects us by increasing our cost of labor. We do not believe that inflation had a material effect on our business, financial condition or results of operations during the years ended December 31, 2019 or 2020 and the three months ended March 31, 2021.

Recent Accounting Pronouncements

For a description of recently issued accounting standards that may have a material impact on our financial statements or will otherwise apply to our operations, please see Note 2 to our audited financial statements appearing elsewhere in this prospectus.

BUSINESS

Overview

Genelux is a clinical-stage biopharmaceutical company focused on developing a pipeline of next-generation oncolytic viral immunotherapies for patients suffering from aggressive and/or difficult-to-treat solid tumor types. Our most advanced product candidate, Olvi-Vec (olvimulogene nanivacirepvec), is a proprietary, modified strain of the vaccinia virus (VACV), a stable DNA virus with a large engineering capacity. We have met the preestablished endpoint for our Phase 2 trial of Olvi-Vec in platinum resistant/refractory ovarian cancer. Employing our proprietary selection technology and discovery and development platform (CHOICE), we have developed an extensive library of isolated and engineered oncolytic vaccinia virus immunotherapeutic product candidates. These provide potential utility in multiple tumor types in both the monotherapy and combination therapy settings, via physician- preferred administration techniques, including regional (e.g., intraperitoneal), local and systemic (e.g., intravenous) delivery routes. Informed by our CHOICE platform and supported by extensive clinical and pre-clinical data, we believe we have the capacity to develop a pipeline of treatment options to address high unmet medical needs for those patients with insignificant or unsatisfactory responses to standard-of-care therapies, including chemotherapies. From this library, we selected Olvi-Vec, which has the potential to exhibit robust anti-tumor properties, including potent oncolytic properties (tumor cell lysis) and to powerfully activate of both the innate and adaptive arms of the immune system, to produce favorable changes within the tumor microenvironment. The personalized and multi-modal immune activation generated by Olvi-Vec is designed to yield clinically-meaningful anti-tumor responses to virus treatment alone and in combination with other existing treatment modalities. We believe Olvi-Vec currently represents the most advanced clinical development program throughout the oncolytic treatment landscape involving the non-local administration (i.e., non-intratumorally) of viral immunotherapies.

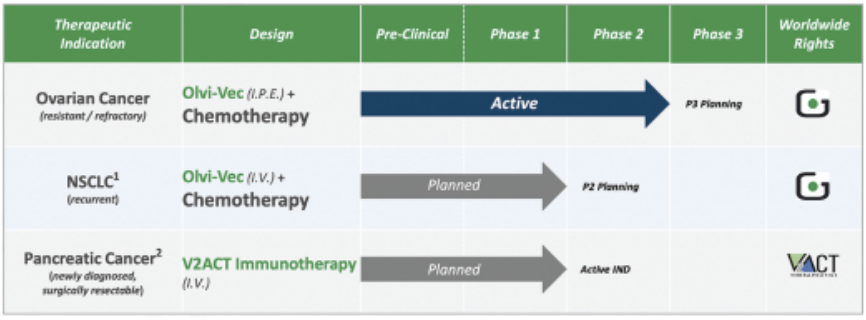
In September 2019, we completed enrollment of a single-arm, open-label Phase 1b/2 clinical trial of Olvi-Vec in heavily pre-treated patients with platinum-resistant/refractory ovarian cancer (PRROC). To date, the data from this trial suggests systemic anti-tumor responses to monotherapy and documented clinical responses to subsequent chemotherapy. Furthermore, no dose-limiting toxicity (DLT) or maximum tolerated dose (MTD) were reached and the most common observed adverse events were flu-like symptoms and abdominal pain. In November 2015, we completed an open-label Phase 1 study of Olvi-Vec in patients with documented progressive disease (i.e., Stage IV cancers). Our data from this study indicate changes in tumor growth rate post-Olvi-Vec treatment and that Olvi-Vec may have utility against a variety of cancers, particularly those diagnosed with non-small-cell lung cancer (NSCLC). Furthermore, no MTD was reached and the intravenous administration of Olvi-Vec appeared well tolerated. Additionally, we completed an open-label, non-randomized Phase 1 study of Olvi-Vec in patients with solid organ cancers. Our data from this study indicated high and condensed intravenous doses of Olvi-Vec resulted in endured viral pharmacokinetics (PK) in the blood, and led to infection of and immune cell infiltration into tumor tissues.

Based on our clinical trial results and discussions with the U.S. Food and Drug Administration (FDA), including regarding the potential for our Phase 3 clinical trial of Olvi-Vec in PRROC to serve as a registrational trial, we plan to submit an amendment to our Investigational New Drug (IND) application for our new in-house manufacturing process in the second quarter of 2021 seeking to demonstrate comparability of product manufactured under our new in-house process to product used in our Phase 2 trial of Olvi-Vec in PRROC. Subject to FDA authorization, we intend to initiate a registrational Phase 3 trial of Olvi-Vec in PRROC and a Phase 2 trial of Olvi-Vec in recurrent NSCLC in the second half of 2021.

Through our CHOICE discovery platform, we have developed an extensive library of potential product candidates and plan to pursue additional oncolytic immunotherapy product(s) for human and animal health applications, either internally or through partnerships and collaborations. For example, we have formed V2ACT Therapeutics, LLC (V2ACT), a joint venture with TVAX Biomedical Inc. (TVAX), to develop a product candidate, V2ACT Immunotherapy, that combines an oncolytic virus (e.g., Olvi-Vec) and neoantigen-primed adoptive cell therapy for cancer. In October 2020, V2ACT received an IND from the FDA authorizing the initiation of a Phase 1b/2a clinical trial to test V2ACT Immunotherapy as a treatment for newly-diagnosed, surgically-resectable pancreatic cancer. This clinical trial is not yet scheduled to be initiated.

Importantly, our oncolytic immunotherapy drug candidates are "off-the-shelf" personalized immunotherapies. In other words, while we administer the same virus product to different patients, the cellular immune response generated is specific to the unique neoantigens in that patient. We believe that our approach may offer significant advantages over other approaches to anti-cancer immune activation, such as targeted therapies that interdict a single cellular pathway or vaccines that rely upon a single antigen or a small collection of neoantigens, because the use of redundant biological pathways may overcome the therapeutic inhibition of such approaches and lead to clinical relapse. We also believe our manufacturing capacity is more cost-effective and efficient as compared to some other "personalized" immunotherapies that require individual product preparations at high costs for each patient.

The following table summarizes our clinical development pipeline:



1 Based on the results of our previously completed Phase 1 trials of Olvi-Vec administered intravenously to patients with solid tumors, we are planning to initiate a Phase 2 clinical trial of Olvi-Vec in recurrent NSCLC.

2 This Phase 1b/2a clinical trial is not yet scheduled to be initiated. This product candidate is being developed by V2ACT, a 50:50 joint venture between us and TVAX. See "Business – Development Program – *Virus and Neoantigen-primed Adoptive Cell Therapy (V2ACT Immunotherapy)*."

We were founded in 2001 by an academic team from Loma Linda University, led by Aladar A. Szalay, Ph.D., an internationally recognized leader in the monitoring of gene regulation and in whole cell and live organism imaging using light-emitting proteins or protein fusions. We have assembled a seasoned business leadership team with extensive experience involving oncology therapies, including advancing product candidates from preclinical research through clinical development and commercialization. James L. Tyree, our Chairman, previously held numerous executive positions at Abbott Laboratories, including Executive Vice President Global Pharmaceuticals, held the position of President of SUGEN, Inc., and held management positions in Bristol-Myers Squibb and Pfizer. Thomas D. Zindrick, J.D., President and CEO, previously held the position of President and Chief Executive Officer and Director, of Amitech Therapeutic Solutions, Inc. and held various executive management positions at Amgen Inc., including Associate Vice President, General Counsel and Chief Compliance Officer, and held legal positions of increasing responsibility in The Dow Chemical Company.

Since our inception, we have raised an aggregate of $178.0 million of gross proceeds from investors.

Our Strategy

Our strategy is to leverage our deep internal capabilities in the clinical development of oncolytic viruses to create a leading immunotherapy company, discovering, developing and commercializing next-generation products for the treatment of a broad range of cancers, including solid tumors, many of which are among the most difficult

cancers to treat. We are focused on the execution and success of our clinical programs and, over time, on building our organization into a fully-integrated therapeutics company. Key elements of our strategy include:

- ***Advance our lead program, Olvi-Vec, through clinical development and seek regulatory approval.*** In the second half of 2021, we anticipate receiving FDA authorization to initiate a randomized, controlled Phase 3 registration clinical trial involving the intraperitoneal delivery of Olvi-Vec in approximately 160 patients with PRROC, and a Phase 2 clinical trial involving the intravenous delivery of Olvi-Vec in approximately 50 patients with recurrent NSCLC. We also are in the early stages of planning Phase 2 clinical trials of Olvi-Vec in additional indications and involving different therapeutic combinations.
- ***Initiate and pursue the collaborative development of our second-most advanced human therapeutic candidate, V2ACT Immunotherapy.*** V2ACT holds an active IND for the clinical investigation of V2ACT Immunotherapy in a Phase 1/2a trial for the treatment of newly diagnosed surgically-resectable pancreatic cancer. This clinical trial is not yet scheduled to be initiated. We and TVAX intend to utilize our respective clinical, regulatory and manufacturing capabilities to efficiently further the development of this program and thereby strategically build upon our novel immunotherapy platform to a robust pipeline.
- ***Leverage our CHOICE discovery platform to build a portfolio of oncology product candidates that target a range of immune mechanisms and progress these product candidates into clinical development.*** We plan to continue to strengthen our leading position in the oncolytic viral immunotherapy field through ongoing product development and investments in VACV product candidates generated by our CHOICE platform. We plan to introduce into the clinic at least one next-generation oncolytic virus, aimed at further optimizing delivery and activating multiple immune mechanisms for the treatment of a broad range of cancers.
- ***Broaden and strengthen our internal manufacturing capabilities, utilizing our in-house manufacturing facility.*** We have strong in-house pharmaceutical development and manufacturing capabilities and have established, equipped and are operating our own Current Good Manufacturing Practice (cGMP) manufacturing facility in San Diego, California for multi-product cGMP manufacturing. Our facility is producing cGMP material that we intend to use in our subsequent clinical trials of Olvi-Vec and for the initial commercial launch of Olvi-Vec, if approved. We plan to continue to invest in growing our manufacturing capabilities.
- ***Retain significant economic and commercial rights to our human therapeutic product candidates in key geographic areas.*** We intend to retain rights in the United States for our product candidates and to develop an oncology-focused commercial organization of internal and/or contract resources. When economically attractive, we intend to accelerate development and commercialization of, and patient access to, our product candidates by pursuing strategic partnerships with leading biopharmaceutical companies in those geographic areas where we are unlikely to pursue development and commercialization on our own.
- ***License our V-VET1 clinical program to a leading animal health company.*** We have conducted a Phase 1 study of our proprietary oncolytic vaccinia virus, V-VET1, in canine patients with several different types of cancer. We believe the results of this study warrant further development of this novel treatment strategy alone and in combination with other cancer therapeutics. We plan to explore the out-licensing of this program to a leading animal health company, allowing us to retain a financial stake in its future development and potential commercialization.

Immuno-oncology Background and Limitations of Existing Therapies

Cancer is a broad group of diseases in which normal cells are transformed into a state of rapid and uncontrolled cell division, typically resulting in tumors. Cancer originates from a particular tissue in the body, such as the lung or ovary, and often spreads, or metastasizes, as the disease progresses and, if uncontrolled, can lead to death. Tumors are comprised of multiple cell types, including cancerous cells and the body's own immune cells. The composition and the type of tumor dictate the aggressiveness of a particular cancer, its susceptibility to treatment, and ultimately, patient outcome.

Historically, cancer treatment has been limited to surgical removal, cytotoxic chemotherapy and/or radiation. However, those treatments are not long-term solutions, as not all cancer cells may be killed or removed from the patient and those which remain may become resistant to standard-of-care treatment over time.

Another potential approach to cancer treatment is to activate the immune system by targeting specific genetic changes in individual tumors and redirecting the patient's immune system to eliminate tumors.

The immune system contains many different cell types that fall into two general categories—cells of the innate immune system and cells of the adaptive immune system. The innate immune system is a first-line, ubiquitous, non-specific defense mechanism and involves a diverse set of cells, which generate a rapid response to any foreign body, particularly microbial pathogens and parasites, as well as tumor cells. The adaptive immune system is a second line of defense that is specific to particular foreign or mutated proteins, known as antigens, and is triggered when the innate immune system releases signals to activate and recruit cells from the adaptive immune system. The adaptive immune system is composed of T cells and B cells which can form immunologic memory and therefore be activated upon reintroduction of the initial antigens. Activation of both the innate and adaptive components of the immune system is believed to be essential for the induction of an effective anti-cancer immune response by the body.

Immuno-oncology therapies have been developed recently to activate or modulate the anti-cancer immune responses in some patients. Unfortunately, most patients either are not eligible for or do not respond to these therapies. For example, only about 15–60% of patients respond to immune checkpoint inhibitors (ICIs) in general, with a response rate that is lower than ten percent for certain cancer types, such as recurrent ovarian cancer or cancers with negative programmed death-ligand. While these therapies have advanced the treatment of cancer for some patients, many are still underserved.

Tumors have many defense mechanisms against anti-cancer therapies, which is why cancer patients often respond to initial treatment but then relapse when the tumors regrow. To overcome these defense mechanisms, it is commonly believed that multiple mechanisms of action will be required to unlock the full potential of available therapies. Given the limitations of current standards of care, whether traditional cancer therapy or newer immune-oncology therapies, there remains an urgent need for new therapeutic options that offer improved clinical outcomes for cancer patients.

We see a vast opportunity for therapies that stimulate robust anti-tumor responses by activating both the innate and adaptive immune systems and modifying the immunosuppressive tumor microenvironment by making cancer cells more receptive to subsequent treatments. This includes sensitizing cancer cells that are otherwise resistant to standard-of-care therapies.

Oncolytic immunotherapy is the treatment of cancer with viruses that selectively replicate in tumors but not in normal tissues. Viral immunotherapies cause immunogenic tumor cell death by way of viral oncolysis, which has the therapeutic benefit of exposing all the tumor's neoantigens to the immune system. Tumor neoantigens are uniquely present in tumors, as compared to normal tissue, because they result from the genetic changes that occur as cancer develops. Immunogenic tumor cell death triggers both innate and adaptive immune responses and the establishment of lasting antitumor immunity, resulting in the further destruction of existing tumors and those that may form later. We believe that viral immunotherapies are the most promising modality available today to activate multiple arms of the immune system and improve outcomes for cancer patients.

Cancer is the second most common cause of death in the United States and worldwide, exceeded only by cardiovascular disease. The American Cancer Society (ACS) estimates that almost 1.9 million new cancer cases are expected to be diagnosed in 2021 and approximately 600,000 Americans are expected to die of cancer in 2021. This estimate excludes basal cell and squamous cell skin cancers, which are not required to be reported to cancer registries, and carcinoma in situ (noninvasive cancer) except for urinary bladder cancer. According to estimates from the International Agency for Research on Cancer (IARC), in 2018, there were 17.0 million new cancer cases worldwide with a corresponding estimated number of cancer deaths of 9.5 million.

The death rate is expected to continue to increase despite introduction of scores of new treatments. Curative treatment requires elimination of all cancer cells, including cancer stem cells, an objective that current systemic treatments achieve only infrequently. For most patients, current systemic treatments provide incremental benefit with substantial toxic side effects. There is a significant unmet medical need for safer and more effective treatments for a wide array of human cancers.

The Genelux Approach

Oncolytic Vaccinia Virus

We utilize VACV as the backbone of our therapeutics and diagnostics platform. VACV is a member of the Orthopoxvirus genus and contains a single linear double-stranded deoxyribonucleic acid (DNA) genome. Like other large DNA viruses, VACV exhibits greater complexity and depends less on its host for replication than other viruses. The DNA genome of a number of strains of VACV has been sequenced and found to encode approximately 150–200 proteins. VACV particles include a large number of viral enzymes and related factors that allow the virus to produce functional messenger ribonucleic acid (RNA) within the host cell cytoplasm. Therefore, VACV has a high level of independence from host cell functions with its genome encoding most of the proteins required for the production of virions, the infectious form of the virus.

Our approach is based on the mechanism of action of VACV, which has the following characteristics we consider desirable in an oncolytic virus for clinical applications:

- Not dependent on any known receptor and can infect nearly any type of cancer cells;
- Large insertion capacity (> 25 kb) for the expression of multiple exogenous genes;
- High genetic stability;
- Lack of a known natural host;
- Not associated with naturally-occurring disease in humans;
- Remains in the cytoplasm (mitigating its potential for mutagenesis by incorporation into the host genome);
- Short, well-characterized life cycle;
- Upregulates a unique profile of pro-inflammatory chemokines/cytokines and other apoptotic/cytotoxic factors;
- Induces a Th1-type immune (cellular) response, which is an optimal immune response for cancer killing;
- Well-tolerated with low incidence of side effects when previously administered as the backbone of the vaccination campaign that eradicated smallpox;
- Limited pre-existing immunity (waning over time as immunizations ended in the general population in the 1970s); and
- Amenable to large scale production of high levels of active virus.

Mechanism of Action

Oncolytic vaccinia viral immunotherapies, such as Olvi-Vec, have multiple properties that differentiate them from other anti-tumor therapies, including the ability to transform so-called immunologically “cold” tumors into “hot” tumors:

Viral Infection of Tumor Cells – Vaccinia virus has shown a natural tropism, or an ability to productively infect a particular cell through mechanisms that are believed to contribute to the selective “targeting” of tumor cells as compared to normal cells.

- *Cellular tropism* refers to the observation that virus replication can be permissive, semi-permissive or abortive in cultured cells of different lineages or species. The binding and entry of poxviruses into

mammalian cells is an efficient process. The intracellular events of the infected cell that affect replication efficiency of the virus include cell-cycle status, lineage and differentiation state, the availability of trans-acting transcription factors from the host, and its intrinsic antiviral state. There is evidence that mitogenically-stimulated quiescent cells favor viral replication; therefore, it is expected that VACV may replicate more effectively in proliferating cells, such as tumor cells.

- *Tissue tropism* refers to the frequently observed increased levels of virus replication in specific host organs or tissues, which can be influenced by factors that mediate cellular tropism as well as by tissue-specific antiviral responses. VACV are relatively large particles (350 nm in diameter) that require leaky vasculature (fenestrations) for transfer of the virus out of the circulation. The aberrant angiogenic signaling in tumors results in a vasculature that is leaky and tortuous. Therefore, after a systemic delivery, VACV is preferentially delivered or "targeted" to tumors.

Amplification and Oncolysis – Once inside the tumor cells, VACV particles replicate rapidly in the cells' cytoplasm. Reasons for such amplification include:

- *Compromised immunosurveillance* refers to the impairment of the immune processes, such as a downregulated interferon pathway, by which cells of the immune system look for and recognize foreign pathogens, such as bacteria and viruses, or pre-cancerous and cancerous cells. The immunosuppressive nature of tumor tissues creates a virtual "safe haven" favoring the survival of VACV in the tumor tissues without immune system interference. In addition, with such defects in cellular anti-viral pathways, cancerous cells are also intrinsically susceptible to viral infection. In fact, specific defects in interferon pathway was noted as potential biomarkers for sensitivity towards oncolytic virotherapy.
- *Genetic modifications* refer to inactivation of one or more genes of the virus genome to further enhance the favoring of VACV replication in tumor tissues over normal ones. For example, inactivation of the thymidine kinase (TK) gene forces the virus to be dependent on host cell nucleotides, which are more available in rapidly dividing tumor cells as compared to resting normal cells.

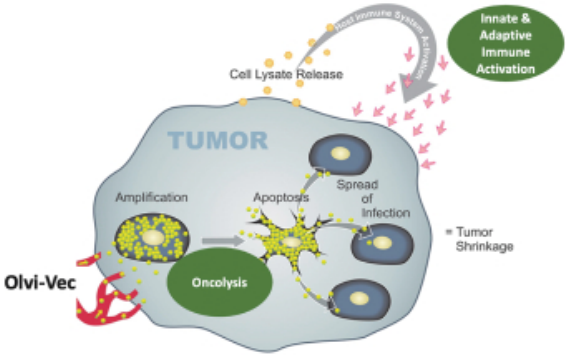
Viral replication ultimately causes tumor cell necrosis (oncolysis) and release of mature viral particles into the tumor. These newly-released viral particles repeat the process by infecting and killing neighboring tumor cells. The oncolytic process can also cause bystander cell killing and viral-changes in tumor-associated vasculature.

Viral Particle and Tumor Antigen Release – The oncolytic process also harnesses the body's immune system to fight the cancer. As viral particles begin destroying tumor cells, tumors release tumor antigens and tumor cell debris, including neoantigens specific to the patient, which could otherwise be hidden from the immune system. This process of necrotic cell death releases intra-cellular markers of "danger," the danger associated molecular patterns (DAMPs), while the virus produces pathogen associated molecular patterns (PAMPs).

Immune Stimulation – The release of DAMPs and PAMPs activates the innate immune system through multiple pattern recognition receptors, each resulting in the production of interferon which activates natural killer cells. Innate immune activation also helps to trigger adaptive anti-cancer immunity, in which antigen presenting cells (APCs) are attracted to the infected tumor. APCs internalize cancer antigens, including neoantigens, and traffic back to the draining lymph nodes where they present the antigens to T cells.

Tumor Regression – The T cells are then primed to proliferate and disperse systemically to seek cancer cells with the same antigen profile throughout the body and destroy distant tumor deposits, with enhanced tumor infiltrating lymphocytes (TILs) correlated with improved survival in many solid tumor cancers. As such, while oncolysis is an important step, once anti-tumor immune stimulation and immune cell memory are developed, ongoing oncolysis (i.e., continued virus presence) is not necessary. The inflammatory cascade within the tumor microenvironment also can initiate or enhance an anti-tumor response upon subsequent administration of chemotherapies or targeted therapies.

The following graphic demonstrates the expected mechanism of action of Olvi-Vec based on the factors described above:



Given its paradigm-shifting biology, we believe that VACV has the potential to unlock the full power of viral immunotherapies and to fundamentally change the way cancer is treated.

Development Program

We are developing a pipeline of oncolytic immunotherapy clinical and preclinical product candidates with the potential to address many significant unmet medical needs in oncology. Specifically, our clinical and preclinical product candidates are intended to selectively kill tumor cells and induce a robust immune response against a patient's tumor neoantigens.

Importantly, our oncolytic immunotherapy drug candidates are "off-the-shelf" personalized immunotherapies. In other words, while we administer the same virus product to different patients, the cellular immune response generated is expected to be specific to the unique neoantigens in that patient.

We believe that our approach may offer significant advantages over other approaches to anti-cancer immune activation, such as targeted therapies that interdict a single cellular pathway or vaccines that rely upon single antigen or a small collection of neoantigens, because the use of redundant biological pathways may overcome the therapeutic inhibition of such approaches and lead to clinical relapse. We also believe our manufacturing capacity is more cost-effective and efficient as compared to some other "personalized" immunotherapies that require individual product preparations at high costs for each patient.

Our technology is broadly based on the use of genetically-engineered organisms, such as viruses, bacteria, and mammalian cells (e.g., stem cells), that deliver therapeutic and diagnostic constructs to tumors. This depth and breadth of approach allows for a deeper scientific understanding of the biological mechanisms of tumor biology and potentially allows for future discoveries and expansion of our clinical pipeline.

Lead Product Candidate: Olvi-Vec

Our current development focus is on our lead product candidate, Olvi-Vec (USAN: olvimulogene nanivacirepvec; laboratory name: GLV-1h68; previously known as GL-ONC1), a genetically stable, attenuated Lister-Institute of Viral Preparations (LIVP) strain of vaccinia virus.

We modified the LIVP strain by integrating three foreign gene expression cassettes—*Ruc-GFP* (a fusion gene of *Renilla* luciferase and green fluorescent protein); *LacZ* (ß-galactosidase gene from *E. coli*); and *gusA* (ß-glucuronidase from *E. coli*)—to selectively disrupt non-essential vaccinia genes (*F14.5L*, thymidine kinase (*TK*), and hemagglutinin (*HA*) loci, respectively). The following table sets forth a description of the genomic modifications made to the LIVP strain.

Loci	Change	Gene	Rationale
F14.5L	inactivation	5.5k hypothetical protein F14.5L	Higher tumor selectivity
	insertion	Renilla luciferase-Aequorea green fluorescent protein (RUC-GFP)	Visual detection of infection Cytotoxicity High immune response
J2R	inactivation	thymidine kinase	Tumor selectivity
	insertion	b-galactosidase (*E. coli*)	High immune response; potential for enzyme-prodrug therapy
A56R	inactivation	hemagglutinin	Reducing infectivity
	insertion	b-glucuronidase (*E. coli*)	High immune response; potential for enzyme-prodrug therapy

Clinical Development of Olvi-Vec

We are developing Olvi-Vec for the treatment of multiple cancers based on the results of pre-clinical studies that suggest Olvi-Vec has the potential to infect and directly kill a wide range of tumor cell types *in vitro* and *in vivo* and produce an anti-tumor immune response. To date, Olvi-Vec has been studied in multiple early- and mid-phase clinical trials via regional, local and systemic deliveries, as a monotherapy and in combination with other therapies, in approximately 150 patients with a variety of cancer types. All of our clinical trials have yielded data that has informed our future clinical strategy and trial design involving multiple indications and methods of delivery.

In all of our clinical trials, irrespective of the route of administration, dosing regimen or cancer type, Olvi-Vec was:

- Observed to be well tolerated, and whether administered in a single dose or multiple doses per cycle, no MTD was reached in any of the trials and there were no significant issues with virus shedding into the environment;
- Shown to infect and selectively kill tumor cells, initiate an anti-tumoral response and modulate the tumor microenvironment, including re-sensitizing certain tumors to chemotherapy;
- Observed to have a virus-dose dependent benefit on disease control (including tumor growth reduction), progression-free survival (PFS), overall survival (OS) and other clinical benefits in a monotherapy setting; and
- Shown to enhance chemotherapeutic activities in a combination therapy setting.

In addition, in clinical trials in which Olvi-Vec was systemically administered, Olvi-Vec was:

- Shown to likely overcome pre-existing anti-vaccinia antibody levels by high and condensed dosing;
- Detectable in the active state as live virus in blood circulation even at two hours after infusion, which we believe is ample time for the virus to reach distal metastases; and
- Could infect tumor tissues and reduce circulating tumor cells.

The following table summarizes the clinical trials in which Olvi-Vec has been administered in approximately 150 patients to date.

Clinical Trial Summary

Protocol Number	Trial Dates	Indication	Modality & Route	Dose & Regimen	# of Patients	Treatment Related SAEs (Grades 3-5)	Ph1 Objectives/ Ph2 Endpoints	Results
GL- ONC1-002/MA (United Kingdom: Phase 1 - NCT00794131)	11/19/08 to 11/14/15	Advanced solid tumors	Monotherapy as intravenous infusion	**Phase 1: Cohorts 1 to 5b:** Single Dose/Cycle 28-day cycle Dose: 1 × 10^5 pfu up to 3 × 10^9 pfu Cohorts 6 & ^ Multiple Dose/Cycle 28-day cycle Dose: 1.667 × 10^7 pfu to 1.667 × 10^8 pfu × 3 consecutive days/cycle **Phase 1b:** Multiple/Single Dose/Cycle 28, 14 or 7 day/cycle Cycle 1 Dose: 1.667 × 10^9 pfu × 3 consecutive days Cycles 2-6 Dosing: Single dose at either 3 × 10^9 pfu or 5 × 10^9 pfu/cycle	43	**Phase 1:** Three treatment-related SAEs in one (1) patient in Cohort 5 (1 × 10^9 pfu): Grade 3 Pain in leg Grade 3 Left leg stiffness Grade 3 Arterial embolism One treatment-related SAE in one (1) patient in Cohort 5a (3 × 10^9 pfu): Grade 3 aspartate aminotransferase (liver enzyme) levels **Phase 1b:** One treatment-related SAE in one (1) patient in Cohort 8c treated (Cycle 1: 3 doses @ 1.667 × 10^9 pfu each; Cycles 2-6: 5 × 10^9 pfu each): Grade 3 airway obstruction-trachea	Primary Objective: To assess safety and tolerability Secondary Objectives: To assess anti-tumor activity, infection and replication in the primary tumor and metastatic disease; and anti-vaccinia virus immune response	Well-tolerated and maximum tolerated dose not reached. Multiple high doses of virus delivered by i.v. route: (A) demonstrated to be feasible: (i) extended PK (overcoming neutralizing antibodies), (ii) confirmed viral infection, replication at tumor sites distal to site of administration and in circulating tumor cells, (iii) induction of proinflammatory response and triggering activation of adaptive immunity (B) demonstrated to generate anti-tumor activity and clinical benefits, including a virus-dose-dependent overall survival benefit, especially in patients with primary lung cancer or other tumor types with lung metastases. Of the 22 evaluable patients with such lung disease, 11 patients who received the lower cumulative dose had a mOS of 4.6 mos vs. a mOS of 16.8 mos for the 11 patients who received the higher cumulative dose ($p = 0.026$); when further extending the analysis, the five patients who received the lowest cumulative dose had a mOS of 4.6 months vs a mOS of 20,9 mos for the 11 patients who received the highest cumulative dose ($p = 0.002$).

Clinical Trial Summary

Protocol Number	Trial Dates	Indication	Modality & Route	Dose & Regimen	# of Patients	Treatment Related SAEs (Grades 3-5)	Ph1 Objectives/ Ph2 Endpoints	Results
GL-ONC1-003/MSK (United States: Phase 1 (Investigator Sponsored) - NCT01766739)	01/11/13 to 01/20/21	Malignant pleural effusion related either to malignant pleural mesothelioma or metastatic disease	Monotherapy as intrapleural catheter delivery	Single dose, 3 consecutive doses Dose: 1 × 107 pfu to 6 × 109 pfu (multiple dose cohort)	18	No treatment-related SAEs (Grades 3-5) reported	Primary Objective: To determine the recommended Phase II dose Secondary Objectives: To assess safety and tolerability of intrapleural delivery; tumor infection and replication; immune response; and possible therapeutic efficacy	Well-tolerated, no dose-limiting toxicities, and maximum tolerated dose not reached No virus shedding detected Confirmed viral availability and PK in pleural fluid after multiple high doses of virus delivered by i.v. route: Confirmed viral infection and replication in tumor tissues Confirmed trend of survival advantage for patients with epithelioid subtype of mesothelioma when compared to well-documented historical data. The median overall survival (mOS) was 22.3 mos vs. historical 14 mos in all epithelioid subtype patients: for those who did not have subsequent surgery, the mOS was 23.4 mos vs. historical 10 mos; and for those who had subsequent surgery, the mOS was 22.3 mos vs. historical 19 mos.

Clinical Trial Summary

Protocol Number	Trial Dates	Indication	Modality & Route	Dose & Regimen	# of Patients	Treatment Related SAEs (Grades 3-5)	Ph1 Objectives/ Ph2 Endpoints	Results
GL- ONC1-004/TUE (Germany: Phase 1 - NCT01443260)	11/29/11 to 03/10/15	Peritoneal carcinomatosis	Monotherapy as intraperitoneal catheter delivery	Treatment once per cycle (every 28 days) for up to 4 cycles Dose: 1 × 107 pfu up to 1 × 109 pfu/cycle	9	1 treatment-related SAE in one (1) patient in Cohort 1 (1 × 107 pfu): Grade 3 Fatigue	Primary Objective: To determine the maximum tolerated Secondary Objectives: To determine recommended dose/schedule for Phase 2; anti-tumor activity, assess tumor infection and replication; evaluate anti-vaccinia virus immune response	Well-tolerated, and no dose-limiting toxicities, and maximum tolerated dose not reached Confirmed viral infection and replication in tumor tissues and oncolysis of tumor cells; and induction of proinflammatory response and anti-tumor immune response Confirmed anti-tumor activity: Of the 6 patients receiving more than one dose, 67% exhibited SD by RECIST 1.1 (with one exhibiting PR by CHOI criteria).
GL-ONC1-005/UCSD (United States: Phase 1 - NCT01584284)	09/05/11 to 03/10/15	Newly diagnosed head and neck cancer	Combination therapy with intravenous or bolus injection with cisplatin and radiotherapy	1, 2 or up to 4 treatments Dose: 3 × 108 pfu up to 3 × 109 pfu	19	No treatment-related SAEs (Grades 3-5) reported	Primary Objective: To assess safety and tolerability Secondary: Objectives: To assess viral shedding To assess tumor infection and replication, and therapeutic outcomes.	Well tolerate and no maximum tolerated dose reached. No virus shedding detected Confirmed (i) viral infection and replication of tumor tissues and (ii) induction of proinflammatory response and T-cell activation pathways Confirmed 90% (17/19) ORR [77% (13/17) with CR], compared to historical of 64% ORR. Favorable PFS and OS as compared to well-documented historical data: The 1-year progression-free survival (PFS) rate was 66%, and 1-year overall survival (OS) rate was 86% in HPV-negative Stage IV patients, relative to historical data, including both Stage III & Stage IV patients, of 1-year PFS at 60%, and 1-year OS at 70%.

Clinical Trial Summary

Protocol Number	Trial Dates	Indication	Modality & Route	Dose & Regimen	# of Patients	Treatment Related SAEs (Grades 3-5)	Ph1 Objectives/ Ph2 Endpoints	Results
GL- ONC1-011/UCSD (United States: Phase 1 (Investigator Sponsored) - NCT02714374)	03/21/16 to 03/25/20	Solid Organ Cancer	Neoadjuvant monotherapy as intravenous bolus infusion followed by surgical resection of tumor	3 or 5 daily treatment during Week 1 Dose: 2 × 10^9 pfu × 5 daily doses or 2,3,5 × 10^9 pfu	5	No treatment-related SAEs (Grades 3-5) reported	Primary Objective: To assess safety and tolerability in patients undergoing surgery Secondary Objectives: To assess tumor infection and replication To evaluate anti-vaccinia and anti-tumor immune responses	Well tolerated and no dose-limiting toxicities and maximum tolerated dose not reached Confirmed feasibility of systemic route of delivery: (i) live virus detected in blood circulation hours after completion of virus infusion; (ii) viral infection and replication in tumor tissues and (iii) induction of increased tumor-infiltrating lymphocytes into virus-infected tumor tissues
GL- ONC1-021/AHCI (United States: EAP - NCT03420430)	02/05/18 - present	Advanced cancers (solid tumors & blood cancer)	Monotherapy as intravenous bolus infusion	3 or 5 daily treatment during Week 1 Dose: 2 × 10^9 pfu × 5 daily doses or 2,3,5 × 10^9 pfu	8	No treatment-related SAEs (Grades 3-5) reported	Primary Objective: To assess safety and tolerability Secondary Objectives: To assess clinical benefit	Well tolerated and no dose-limiting toxicities and maximum tolerated dose not reached Confirmed objective response and clinical benefit of monotherapy and immunochemotherapy. Clinically-significant anti-tumor effects were documented in two of three solid tumor patients who received Olvi-Vec-primed immunochemotherapy.

Clinical Trial Summary

Protocol Number	Trial Dates	Indication	Modality & Route	Dose & Regimen	# of Patients	Treatment Related SAEs (Grades 3-5)	Ph1 Objectives/ Ph2 Endpoints	Results
GL—ONC1-015/AHCI (United States: Phase 1b/2 - NCT02759588)	05/03/16 - present	Platinum resistant/ refractory ovarian cancer, fallopian cancer or primary peritoneal carcinomatosis	IP Infusion as Monotherapy or as combination therapy with carboplatin doublet chemotherapy ± bevacizumab	3×10^9 pfu × 2 consecutive days 1×10^{10} pfu × 2 consecutive days $2.5 \times 10^{10} \times 2$ consecutive days	46	Seven treatment-related SAEs occurred in six (6) patients: Two (2) patients in Cohort 1 (3×10^9 pfu × 2 infusions): Grade 3 Vomiting Grade 3 Dehydration Three (3) patients in Cohort A (3×10^9 pfu × 2 infusions): Grade 3 Vomiting × 2 patients Grade 3 Abdominal pain Grade 3 Anorexia One (1) patient in Cohort C (3×10^9 pfu × 2 infusions): Grade 3 Fatigue	Primary Endpoints: Phase 1b: To assess safety and tolerability Phase 2 Cohorts A& B: To assess progression-free survival Phase 2 Cohorts C & D: To assess overall response rate by RECIST 1.1 and GCIG CA125 criteria Exploratory Objectives: All Cohorts: Infection, replication and cancer cell killing; and anti-tumor immune response; confirm presence of Olvi-Vec in tumor tissue by VPA, immunohistochemistry & qPCR; determine prognostic value of circulating tumor cells	Primary endpoints met Well tolerated and no dose-limiting toxicities and maximum tolerated dose not reached Confirmed trend of favorable PFS, ORR and OS. The mPFS was 11.0 mos, ORR was 54%, and OS was 15.7 mos as compared to well-documented historical data <4 mos, <20%, < 12 mos, respectively; and as compared to a mPFS of 4.5 mos on the patients' immediate prior line of therapy (historically, mPFS generally decreases with each subsequent line of therapy. Exploratory Objectives: Demonstrated viral infection and replication in tumor tissues, and oncolysis of tumor cells Demonstrated virus-mediated modulation of tumor immune microenvironment; induction of anti-tumor immune response

Clinical Program Development Strategy

The previously conducted intraperitoneal study (NCT01443260) was a Phase 1 trial designed to test various dosing regimens and, primarily, to assess safety and tolerability and translational anti-tumor effects in a variety of solid tumors. We believed the results of the study supported advancement into our Phase 1b/2 study (NCT02759588) in resistant/refractory ovarian cancer, the results of which we believe support advancement into a Phase 3 registration clinical trial.

The previously conducted intravenous studies (NCT00794131; NCT01584284; NCT02714374; NCT03420430) were all Phase 1 trials designed to test various dosing regimens and, primarily, to assess safety and tolerability and translational anti-tumor effects in a variety of solid tumors. We believe the results of the studies support advancement of intravenous systemic administration of Olvi-Vec in multiple solid tumor types, and we have initially elected to pursue a Phase 2 trial in recurrent NSCLC because of the serious unmet medical need in this indication.

The previously conducted intrapleural study (NCT01766739) was a Phase 1 Investigator-initiated trial designed to test various dosing regimens and, primarily, to assess safety and tolerability and translational anti-tumor effects in a variety of solid tumors. While we believe the trial results warrant further study of the intrapleural systemic administration of Olvi-Vec, particularly in malignant pleural mesothelioma, at the present time we have determined to commit our resources to our other clinical development programs described above.

Ovarian Cancer Program

According to GLOBOCAN 2020 (produced by the IARC), worldwide, there were 313,959 cases of ovarian cancer and 207,252 deaths in 2020 and worldwide, in 2018, almost 600,000 women were living within five years of an ovarian cancer diagnosis (five year prevalence). It also predicted that by 2035 there will be a worldwide increase of annual incidence to 371,000, and an increase in deaths to 254,000. The American Cancer Society estimates in 2021 there will be approximately 21,410 new cases of ovarian cancer and approximately 13,770 deaths from the disease in the United States. The Surveillance, Epidemiology, and End Results Program database estimates in 2017 there were an estimated 233,364 women living with ovarian cancer in the United States (including those who had been cured of the disease). A majority who respond to treatment will relapse.

According to GlobalData (2019), the ovarian cancer market was valued at $1.8 billion in 2018 across the seven major markets – U.S., EU5 (UK, Germany, France, Italy, Spain) and Japan, and it is expected to grow to $6.7 billion in the following ten years with a compound annual growth rate (CAGR) of 14.4%. North America dominates the global market for ovarian cancer diagnostics and therapeutics, and Europe is the second largest market. Asia-Pacific is expected to show high growth rates in the next few years due to the large aging population, with China and India the fastest growing markets. Based on our internal research and analysis, we estimate the U.S. market potential of our existing products to grow from $108.4 million in 2025 to $1.7 billion in 2029. Our projections are subject to a number of assumptions, risks and uncertainties that could cause them to be smaller than we currently estimate.

In the United States, patients diagnosed with ovarian cancer across all stages are generally treated with surgery followed by combination platinum-based chemotherapy (platinum). The majority of newly-diagnosed patients respond to platinum (so called platinum-sensitive) and many platinum-sensitive patients are eligible to receive maintenance poly-ADP ribose polymerase therapy. Unfortunately, most patients who initially respond to platinum will relapse and become resistant to further platinum therapy. Standard treatment of PRROC is largely palliative, relying on single agent non-platinum chemotherapies with or without the addition of bevacizumab. In platinum-resistant ovarian cancer, single agent therapies generally result in a 10 to 15% overall response rate (ORR), with three to four months PFS and approximately 12 months of OS. In a study of Avastin (bevacizumab) added to single agent non-platinum chemotherapy in patients with platinum-resistant ovarian cancer, sponsored by Hoffmann-La Roche, the addition of bevacizumab approximately doubles PFS; however, the 3.3 month improvement in OS (13.3 vs 16.6 months) did not reach statistical significance. The combination of non-platinum single agent therapies with bevacizumab have shown a significant increase of PFS.

Despite optimization of surgical and chemotherapy protocols, and initiation of clinical trials incorporating targeted therapy, the majority of patients with advanced-stage PRROC unfortunately relapse and eventually develop chemotherapy resistance. Also, importantly, common treatments continue to be associated with decreased patient quality of life due to toxicity. The treatment options for PRROC are very limited and only modest gains have been achieved in prolonging of survival of ovarian cancer. The five-year survival rate for women with Stage IV invasive epithelial ovarian cancer is only about 17%. Therefore, there is a critical unmet need to develop new therapeutic modalities that address intrinsic and acquired chemotherapy resistance in epithelial ovarian cancer.

A main manifestation of metastatic ovarian cancer is widespread peritoneal metastasis, which at late stage is often beyond the scope of surgery. We believe that peritoneal metastasis, because of its significant surface area and easy access in a limited space, is a potential ideal infection target for Olvi-Vec. We selected PRROC as our first registration-path indication because it represents a difficult-to-treat disease with significant unmet medical need, and intraperitoneal delivery allows for high and condensed dosing of Olvi-Vec.

Ovarian epithelial cancer, fallopian tube cancer and primary peritoneal cancer form in the same kind of tissue and are treated in the same way. These cancers are often advanced at diagnosis. Less common types of ovarian tumors include ovarian germ cell tumors and ovarian low malignant potential tumors. Epithelial ovarian cancer remains the most lethal gynecologic malignancy, owing to relatively late detection, intrinsic and acquired chemo-resistance, and relatively stable genomic makeup characterized by low mutation burden, microsatellite stable signature and infrequent PD-L1 staining.

Phase 1b/2 (GL-ONC1-015/AHCI Study)

We conducted a Phase 1b/2 clinical trial of Olvi-Vec, which was administered intraperitoneally at high doses in a single round of treatment consisting of a bolus infusion on two consecutive days. Patients enrolled into the trial were heavily pretreated (with a median of four prior lines of therapy), with progressive disease at the time of enrollment, and had PRROC, with poor responses to conventional chemotherapies.

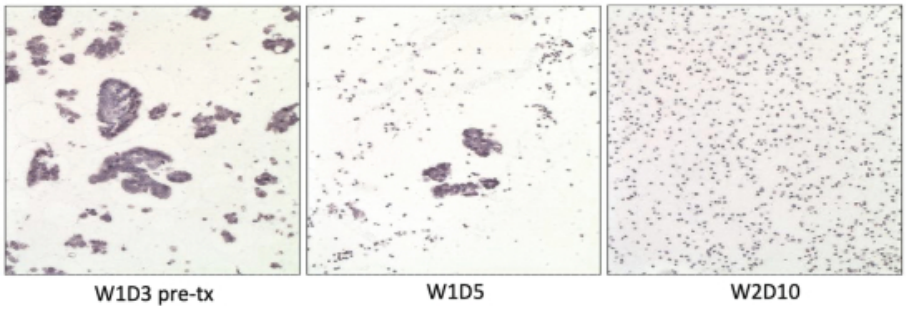
In the Phase 1b portion of the clinical trial, a total of 11 patients were treated in the first two dose escalation cohorts. Olvi-Vec was observed to be well tolerated with transient overnight flu-like symptoms. Daily intravenous hydration during the treatment process relieved the symptoms and prevented dehydration. No virus-related severe organ toxicity was observed by clinical or serologic parameters and an MTD was not reached.

In the Phase 2 portion of the clinical trial, we implemented a cohort designed to treat patients with Olvi-Vec, at the dose of the first cohort in the Phase 1b portion, and approximately six weeks thereafter, patients were administered a chemotherapy regimen consisting of a platinum-based doublet (+/- bevacizumab). Olvi-Vec treatment was observed to be well tolerated, consistent with the previous Phase 1b results.

Olvi-Vec Monotherapy

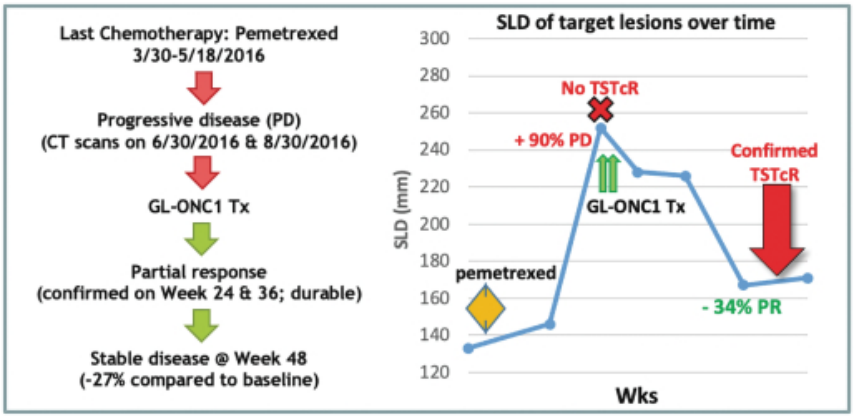
The following mechanisms of action were observed: (1) *Direct Lysis*—virus colonized and replicated in the tumor, killing of tumor cells in ascites, and reduced circulating tumor cells; and (2) *Immunotherapy*—virus-induced immune activation with enhanced tumor infiltration of CD8+ T cells and generation of tumor-specific T cell response. Killing and reduction of tumor cells, as well as a concurrent massive increase of immune cells, were confirmed by cytology analyses of ascites.

The following figure shows a typical tumor-cell and immune-cell dynamic observed across different patients (i.e., the tumor cell clusters evident pre-treatment (W1D3) were cleared within days after virus infusion (W1D5, two days post-treatment), while at the same time, increasing infiltration of immune cells were observed after virotherapy (W2D10, seven days post-treatment)).

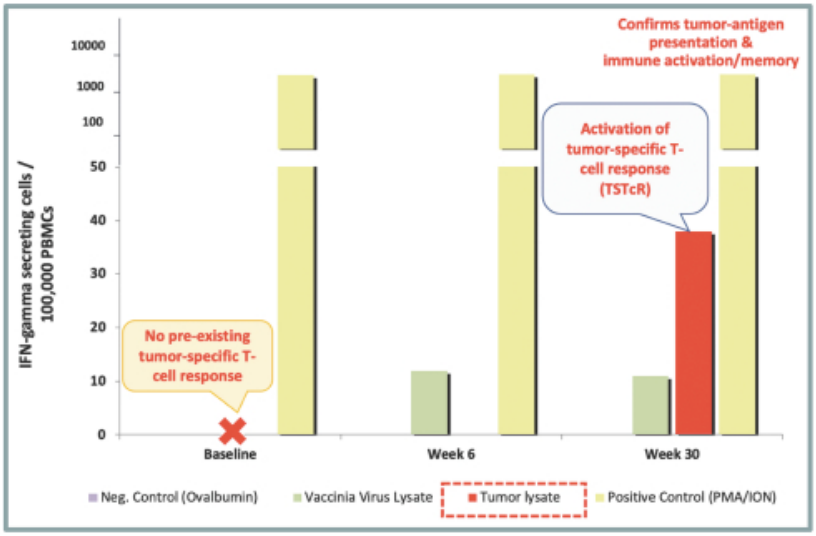


In an exemplary patient, a favorable and long-lasting tumor-specific T cell response could still be detected at Week 30 after Olvi-Vec treatment alone as confirmed by interferon-g (IFN-g) ELISPOT assay. As shown in the following figure, this patient was heavily pretreated with nine prior lines of chemotherapy and failed the last line of pemetrexed treatment, with rapidly progressive disease by CT scan at time of enrollment into our study. No tumor-specific T cell response (TSTcR) was detected in the patient's peripheral blood mononuclear cell (PBMC) sample at baseline. The patient subsequently achieved objective response as partial response (PR) per RECIST 1.1 criteria, measured by the significant reduction of sum of longest diameter (SLD) of the patient's tumor target lesions from the Olvi-Vec monotherapy. Response evaluation criteria in solid tumors (RECIST) 1.1 is the standard approach to objectively measure the response of a solid tumor to treatment in adult and pediatric cancer clinical trials. RECIST 1.1 defines a CR, PR, SD and PD as follows:

Category	Description
Complete Response (CR)	Disappearance of all tumor lesions
Partial Response (PR)	Reduction of >30% of the sum of target diameters
Stable Disease (SD)	Reduction of <30% or increase of <20% of the sum of target diameters
Progressive Disease (PD)	Increase of >20% of the sum of target diameters

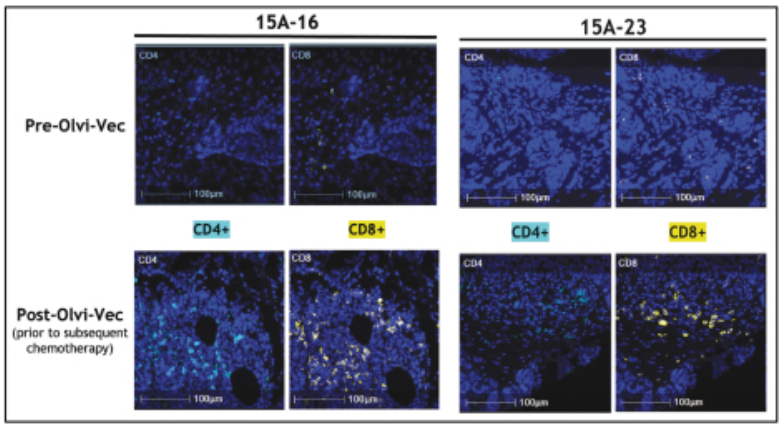


As shown in the following figure, more importantly, we confirmed the favorable and long-lasting TSTcR in the patient's blood by ELISPOT analysis coincided with the timing of objective response of PR by CT scan.

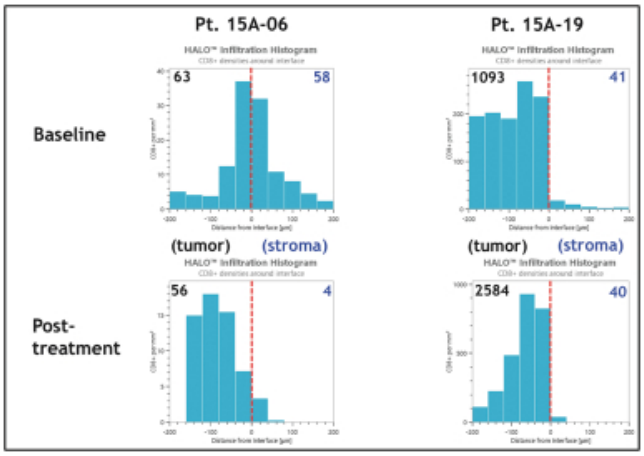


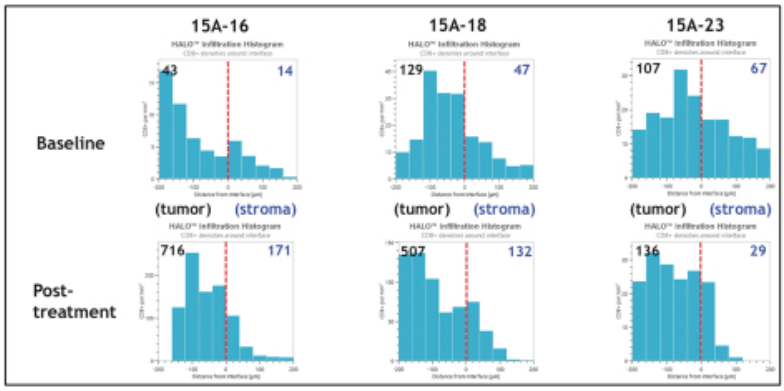
Enhanced tumor infiltration and/or activity of both cytotoxic T lymphocytes (CTLs) and CD4+ helper T cells has been a main aim of immunotherapy strategies and underlines the potent immune activation effect from virotherapy and its potential as an immunotherapy. In particular, the so-called immune-excluded phenotype, in which high levels of T cells and other immune cells accumulate at the tumor margin but cannot invade malignant cell nests, is generally linked to poor disease outcome, as compared to the "inflamed" or "hot" phenotype, in which intra-tumoral immune cells are abundant and get into direct apposition with neoplastic cells.

To investigate the influx of virus-induced CD8+ T cells into tumor tissues, multiplex immunohistochemistry (IHC) analyses in paired tumor biopsies before and after virotherapy (prior to starting subsequent chemotherapy) were conducted. The following figure shows that the virus induced a large influx of CD4+ and CD8+ T cells into tumor tissues, in two representative patients. Both of these patients had recurrent cancer and achieved objective response by RECIST 1.1, with extended 11.4 and 13.0 months of PFS respectively, after subsequent platinum-based chemotherapy.



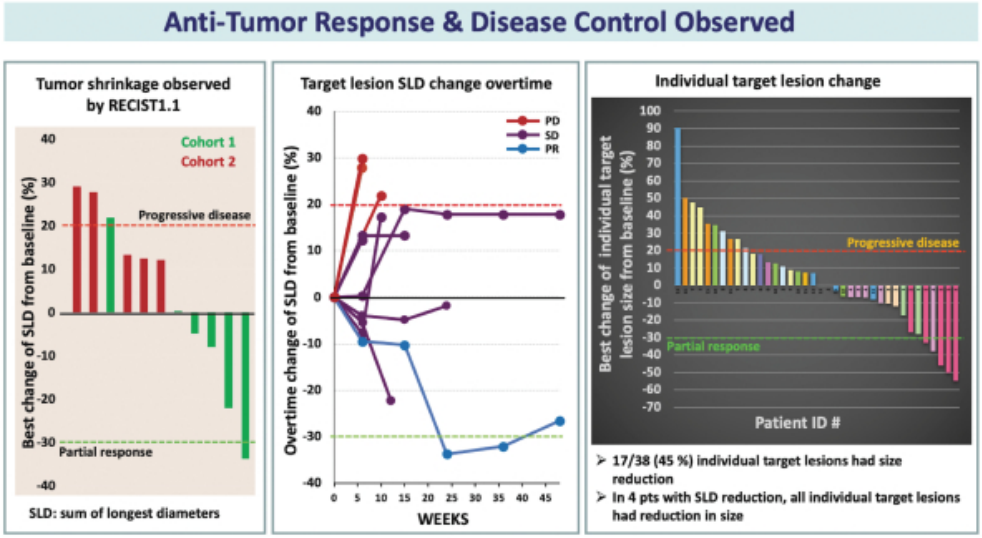
While studying CD4+ and CD8+ T cell infiltration in paired tumor biopsies by multiplex IHC, we also analyzed the number of T cells in distance relationship to the outlined tumor-stromal interface (set as '0' on the x axis) on a HALOTM infiltration histogram, with negative values of the x-axis to the left representing tumor region, and positive values to the right representing non-tumor stromal region. In five representative patients, a so-called "left-shift" of CD4+ and CD8+ T cells deeper into the tumor region occurred (i.e., away from stroma). The following figures show the CD8+ data described above.



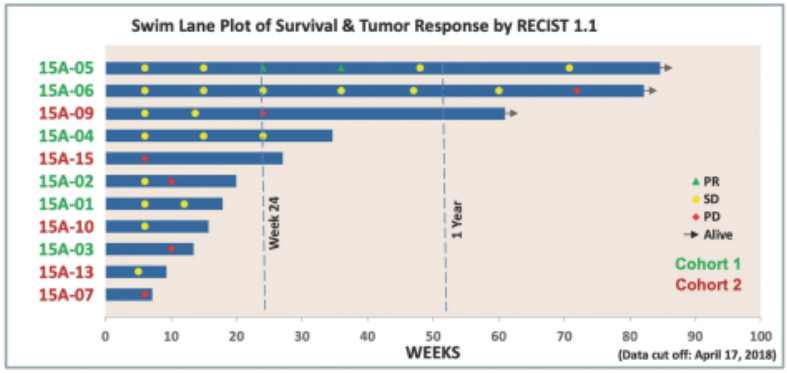


Clinically-significant anti-tumor effects of monotherapy were observed in both the Phase 1b and Phase portions of the trial.

As shown in the following figure, in the Phase 1b portion of the trial, the Clinical Benefit Rate (Complete Response + Partial Response + Stable Disease) was eight of 11 (73%); four out of 11 (36%) patients had a reduction in the SLD of target lesions, as confirmed by RECIST 1.1; and 17 of 38 (45%) of individual target lesions had a size reduction, with all target lesions reduced in size in the four patients with a reduction in SLD.



As shown in the following figure, stable disease of ³15 weeks was 55% (six out of eleven patients); and an extended PFS also was documented with 23, 35, 59 (confirmed partial response) and 71 weeks of PFS, respectively, in four out of eleven patients (three in Cohort 1 and one in Cohort 2). Additionally, four patients (two in Cohort 1 and two in Cohort 2) showed more than doubling of PFS compared to the patient's immediately-prior chemotherapy regimen.



Olvi-Vec Primed Immunochemotherapy

Patients who received Olvi-Vec-primed immunochemotherapy demonstrated responsiveness to platinum-based therapy, which they previously were deemed resistant or refractory. As shown in in the following figure, this was documented by multiple efficacy evaluation endpoints (based on pre-chemotherapy baseline), such as ORR, as determined by RECIST 1.1 Criteria by CT scans and GCIG CA-125 Response Criteria, and durability of responses as determined by duration of response, PFS and OS.

Importantly, relative to historical comparisons, patients receiving Olvi-Vec-primed immunochemotherapy generally showed marked clinical benefits, particularly with respect to ORR per RECIST 1.1 (54%) with durable

response, median PFS (11.0 months) and median OS (15.7 months). Historically, the expected ORR per RECIST 1.1 would be < 20%, median PFS < 3 months, and median OS < 12 months. Of note, an ORR by RECIST 1.1 of 50%, median PFS (10.8 months) was achieved in patients with platinum-refractory disease versus the historically expected ORR per RECIST 1.1 would be < 20%, median PFS < 5 months; these patients progressed during, or within one month after, receiving their most recent prior platinum-based therapy.

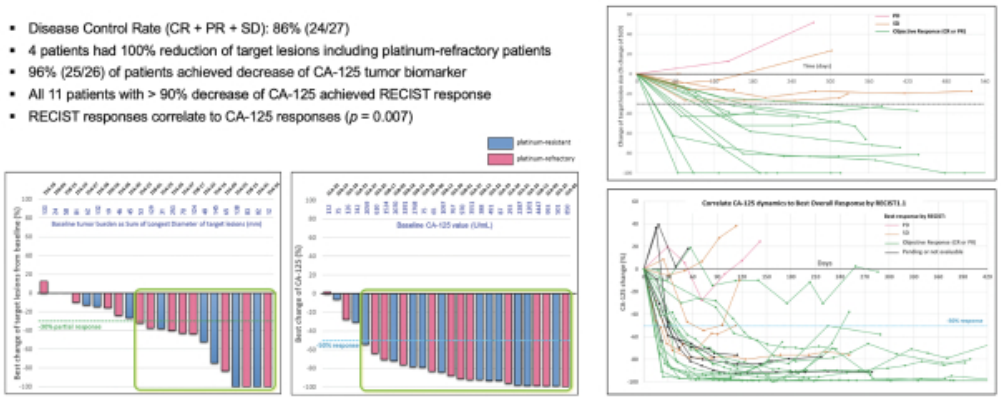
The trial results exceeded the pre-defined threshold of 13 or more of 28 evaluable patients (minimum 43%) demonstrating an objective response by RECIST 1.1; in total, and as shown in the figure below, 13 out of 24 patients (54%), evaluable by RECIST 1.1, demonstrated an objective response by RECIST 1.1.

Overall Response Rate (ORR), Progression-Free Survival (PFS), and Overall Survival (OS)

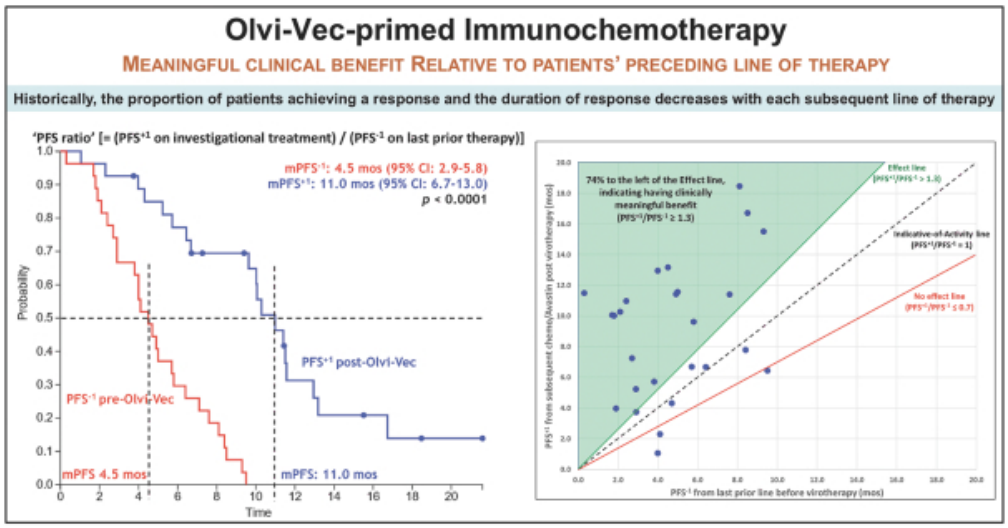
All patients had documented progressive disease at enrollment into Phase 2 trial. Results are in eligible for evaluation patients.

	ORR by RECIST1.1	Duration of Response	ORR by CA-125	Median PFS	Median OS
All patients (n= 27) (95% CI)	**54%** (13/24) (33, 74)	**7.6 mos** (3.7, 9.6)	**85%** (22/26) (65, 96)	**11.0 mos** (6.7, 13.0)	**15.7 mos** (12.3, 23.5)
Platinum-resistant (n=13) (95% CI)	**60%** (6/10) (26, 88)	**7.6 mos** (3.7, NA)	**85%** (11/13) (55, 98)	**11.0 mos** (5.2, NA)	**17.4 mos** (6.9, 23.5)
Platinum-refractory (n=14) (95% CI)	**50%** (7/14) (23, 77)	**8.0 mos** (3.7, NA)	**85%** (11/13) (55, 98)	**10.8 mos** (4.3, 13.2)	**15.2 mos** (10.8, 33.6)

- Disease Control Rate (CR + PR + SD): 86% (24/27)
- 4 patients had 100% reduction of target lesions including platinum-refractory patients
- 96% (25/26) of patients achieved decrease of CA-125 tumor biomarker
- All 11 patients with > 90% decrease of CA-125 achieved RECIST response
- RECIST responses correlate to CA-125 responses (p = 0.007)



Importantly, the majority of patients treated with Olvi-Vec-primed immunochemotherapy showed clinical benefits exceeding their own last prior line of therapy (PFS of 11.0 months vs 4.5 months) with preserved or improved performance status. Historically, it is well known that patients with recurrent ovarian cancer suffer a decrease in PFS with each subsequent line of therapy. The effectiveness of subsequent lines of therapy have been described using the "PFS Ratio," with any ratio greater than 1.3 considered clinically meaningful. The Kaplan-Meyer survival curves on the left show the median PFS was 4.5 months pre Olvi-Vec and 11.0 months post Olvi-Vec. The figure on the right shows that 74% of patients are on the left of the effect line, suggesting a clinically meaningful benefit following Olvi-Vec primed immunochemotherapy relative to prior lines of therapy.



Potential Mechanism of Action of Olvi-Vec-Primed Immunochemotherapy

We believe the high rate of responses and significantly prolonged PFS, in such a heavily-pretreated population with platinum-resistant/refractory disease, may be the result of mutual sensitization mechanisms between oncolytic vaccinia virus and chemotherapy/bevacizumab.

One such possible mechanism is so-called "prime & boost," wherein Olvi-Vec may prime immune activation against tumor (neo)antigens, which is further boosted by immunogenic cell death by cytotoxic chemotherapies.

Combining Olvi-Vec-based immunotherapy with chemotherapy may have a particular clinical benefit against established tumors by increasing the tumor antigen-specific CD8+ T cell immune response through "cross-presentation" of the apoptotic tumor by subsequent cytotoxic chemotherapy, which is originally primed by virus-mediated vaccination.

Carboplatin/paclitaxel/gemcitabine are also known to decrease tumor-induced immune suppression by abrogating MDSC and T-reg activities. Together the immunogenic cell death and abrogation of inhibitory signals by chemotherapy deliver a strong boost to the viral primed antitumor immunity and provide a sound rationale for the clinical application of the combination regimen as virus-primed immunochemotherapy.

We believe the combination treatment regimen established an efficient and robust mechanism, which resulted in the observed clinical results. Specifically, the oncolytic activity of Olvi-Vec primed anti-tumor immunity by the release and immunogenic presentation of tumor antigens (including neoantigens), and of virus-encoded foreign antigens (including vaccinia viral proteins and virus-encoded transgene products) which served as functional adjuvants. Subsequent cycles of cytotoxic chemotherapeutic drugs further generated immunogenic cell death and abrogated inhibitory signals, to deliver a strong boost to the viral-primed antitumor immunity. We believe that together, the virus-primed immunochemotherapy can potentially generate powerful and durable clinical benefits in otherwise difficult-to-treat cancer indications.

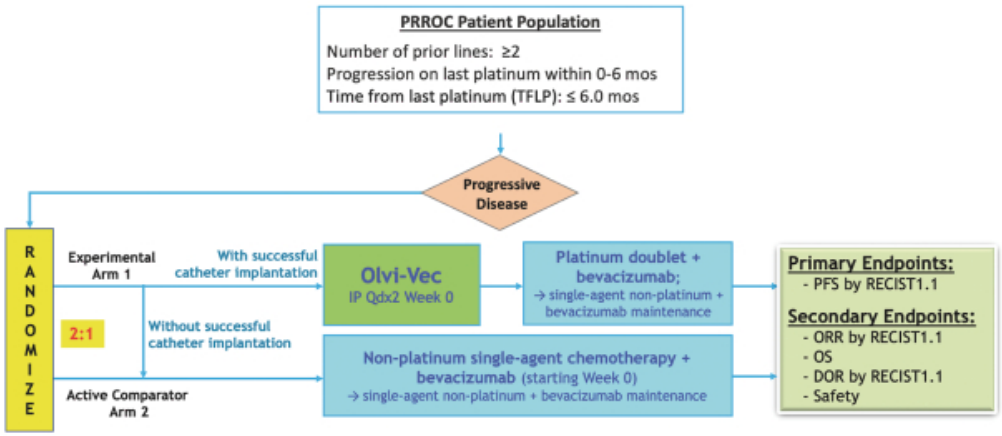
Another such possible mechanism is STAT1 upregulation, wherein Olvi-Vec-mediated upregulation of STAT1 may (re-)sensitize resistant tumors to chemotherapy. High STAT1 protein levels, along with STAT1-induced chemokines and intra-epithelial CD8+ T cell infiltration correlate with improved chemotherapy response and better PFS in ovarian cancer.

We believe Olvi-Vec plays a crucial role in this process by activation of CD8+ T cells and intra-tumoral infiltration, which modifies the tumor microenvironment through both immune priming and changes of gene expression profile. CD8+ effector T cells play a key role, via activated STAT1 signaling, in abrogating stroma-mediated chemoresistance in ovarian cancer.

To characterize changes to the tumor microenvironment by Olvi-Vec treatment in patients, we conducted gene expression analysis by NanoString RNA profiling (PanCancer IO 360 Gene Expression Panel, including 770 genes that examine vital components involved in the complex interplay between the tumor, microenvironment and immune response in cancer) in paired (before and after virotherapy) tumor biopsies. Notably the gene expression of STAT1 of the IFN pathway was shown to be significantly upregulated ($p = 0.008$), which in combination with the observed virus-induced intra-tumoral influx of CD8+ T cells, together support the potential role of Olvi-Vec in abrogating platinum resistance in ovarian cancer.

PRROC Development Plan: Phase 3 Registration Trial

We envision that Olvi-Vec-primed immunochemotherapy may overcome chemotherapy for patients with end-stage ovarian cancer that would otherwise consider palliative care or use of drugs with historically poor response rates. After an End-of-Phase 2 meeting held with the FDA in March 2021 during which we discussed the potential of our planned Phase 3 clinical trial serving as a registrational trial, we are planning to initiate a Phase 3 registration trial in PRROC. The proposed trial will have an open-label, randomized control design (2:1 randomization), enrolling patients who received their last platinum within six months from enrollment (i.e., patients who would not be responsive to platinum re-challenge). The Experimental Arm patients would receive a single cycle (two doses) of Olvi-Vec administered intraperitoneally and, approximately four weeks later, a regimen of a platinum-based doublet plus bevacizumab followed by maintenance therapy. The Active Comparator Arm patients would receive a regimen of a non-platinum, single agent chemotherapy plus bevacizumab. The estimated enrollment will be approximately 160 patients. The following graphic summarizes the study design for the planned Phase 3 registration trial.



We are conducting the necessary activities to submit an IND amendment for our new in-house manufacturing information and our Phase 3 clinical trial protocol in the second quarter of 2021. Provided the FDA has no objections to the content of these submissions and agrees with the demonstration of comparability of Olvi-Vec under our new in-house manufacturing process to the material used in the Phase 2 trial, we expect to obtain authorization to initiate our Phase 3 registration clinical trial of Olvi-Vec in the second half of 2021.

Systemic Administration Program

The intravenous administration of viral immunotherapies is an attractive approach for potentially improving the standard of care for many oncology patients because it allows for all tumors in a patient to be treated, including micro-metastases that are often difficult to detect and treat. Historically, there have been several immunologic challenges and potential limitations to the intravenous use of oncolytic viruses in clinical practice. We have generated promising data in several clinical trials studying the intravenous administration of Olvi-Vec, including over multiple cycles as a monotherapy and in combination with chemotherapy.

Phase 1 Study (GL-ONC1-002)/MA

We conducted an open-label, non-randomized Phase 1 study to evaluate the safety profile and clinical activities of Olvi-Vec when administered intravenously as monotherapy to patients with advanced solid tumors. Patients were enrolled in various cohorts with different dosing regimens and different total cumulative doses. A total of 43 patients were treated.

All patients entered the trial with documented progressive disease. The majority of patients presented with Stage IV cancers, and a small fraction with Stage III cancers. These patients had failed previous treatment(s) with disease progression when entering the trial. Thirteen patients from early to later dose cohorts had radiographic evidence of stable disease by computerized tomography (CT) scans from 8, 12, 13, 24 weeks and up to 48 weeks as compared to baseline tumor imaging.

Clear changes in tumor growth rate post Olvi-Vec treatment were documented by CT scans. In such cases, patients failed previous therap(ies) with progressive diseases, but experienced significant reduction in tumor growth after receiving Olvi-Vec treatment. OS was compared in patients with progressive disease (PD) or with stable disease (SD). A statistically significant difference ($p = 0.024$) was documented between the two groups, indicating a potential clinical benefit of Olvi-Vec therapy in the group of patients who entered the trial with progressive diseases. The intravenous administration of Olvi-Vec was observed to be well tolerated and MTD was not reached in this trial.

Tumor colonization

Viral colonization in tumor biopsies were confirmed by immunohistochemistry.

Transient elevation of anti-tumor cytokines/chemokines and biomarkers

To elucidate immune stimulation from intravenous-delivered Olvi-Vec, we conducted immune analyses of cytokine levels at Day 8 after treatment compared to baseline levels. Overall, the data from this trial showed a profile of proinflammatory response.

There was an elevated level of various proteins involved in inflammation and Th-1 type related immune response, including acute-phase reactants, cytokines, and chemokines. Several IFN-g or interleukin-1 (IL-1)-induced proteins were significantly increased after virus treatment, including IP-10, ITAC, MCP-2 or MCP-4 (induced by IL-1 and TNF*a*), in addition to an increase in the interferon gamma-inducing factor, IL-18, all indirectly indicating an elevation in IFN gamma and IL-1 levels after virus treatment.

Increase of CD4+ and CD8+ cell populations

We investigated the potential impact of a peripheral blood mononuclear cells (PBMCs) immune cell response on the therapeutic responses to Olvi-Vec. We included only the evaluable patients in the analysis, by looking at the relationship between the change from baseline for each PBMC subset population and the responses to the Olvi-Vec treatment. Six of the seven patients with stable disease showed an increase in the CD4+CD69+ cell population (newly activated CD4+ cells) on Day 8 after Olvi-Vec treatment, whereas patients with

progressive disease did not show a major difference in concentration of these cells between baseline and Day 8 ($p = 0.028$). Similarly, there was a trend ($p = 0.13$) in elevated CD8+CD3+CD69+ cells (newly activated CTLs) in patients with SD compared to patients with PD. Interestingly, a drop in CD19+ cell population (B-lymphocytes) was observed in six out of seven SD patients, while out of ten patients with progressive disease, five showed reduced B lymphocyte levels, two did not have any changes and three showed increased levels of this cell type.

Infection of Circulating Tumor Cells (CTCs)

We used the CellSearch system to analyze the blood of selected patients after Olvi-Vec administration, allowing detection by GFP fluorescence of circulating tumor cells which were infected with Olvi-Vec.

Clinical benefit in patients with pre-existing anti-vaccinia virus antibody titers

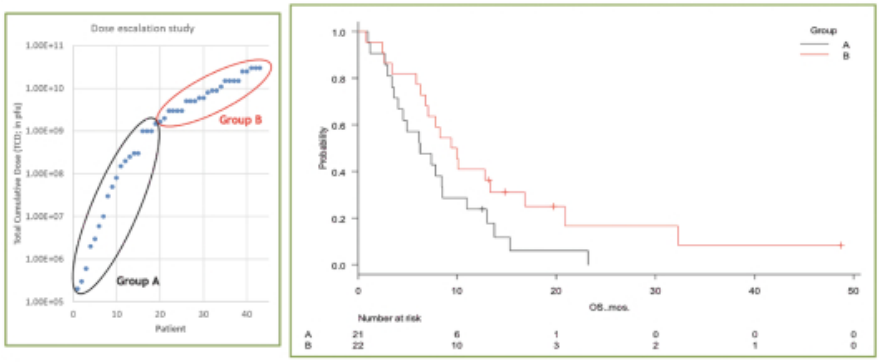
We examined the possible relationship of the baseline value of anti-vaccinia virus antibody titer and the anti-tumor activity of Olvi-Vec. Patients enrolled into this trial had failed previous line(s) of treatment with PD. Twenty seven of the 43 patients treated were evaluable by CT, and 13 of them showed SD for at least 12 to 24 weeks post treatment. The other 14 patients had progressive disease by Week 12. We grouped these patients into those that received low, mid and high doses of virus, and examined how baseline anti-vaccinia titer (NAb) may or may not have affected their SD or PD status post treatment. We found that the anti-vaccinia virus titer does not plateau until around eight days after the first virus dose and does not continue to increase after repeated virus injections.

Only at the mid-dose level did we find that there was a statistically significant difference on baseline Nab between patients with SD or PD, which indicates that the baseline NAb affected the outcome of viral therapy. At the mid-dose level, patients with low to nonexistent baseline NAb tended to have stable disease, and patients with high baseline NAb tended to have progressive disease ($p = 0.007$). At low-dose levels, lower baseline NAb titer does not significantly correlate to stable disease status and higher baseline NAb does not signal progressive disease status ($p = 0.18$). This is understandable because such low doses are most likely sub-therapeutic. When high doses of virus were given, there was no statistical difference ($p = 0.74$). This tells us that high doses of virus may effectively ‘neutralize’ the NAb, regardless of the pre-existing baseline NAb level, and therefore the existence of baseline NAb titer does not pose significant inhibition to viral therapy or forecast poor response.

Dose-dependent clinical benefit

Olvi-Vec, intravenously administered over months of time, as a monotherapy in patients with advanced solid tumors, with no standard of care option, showed a virus-dose-dependent clinical benefit on OS from multiple intravenous cycles. For purposes of the analyses below, virus dose is expressed in total cumulative dose received in all cycles in each patient. As stated above, 43 patients with advanced solid tumors were treated in this study.

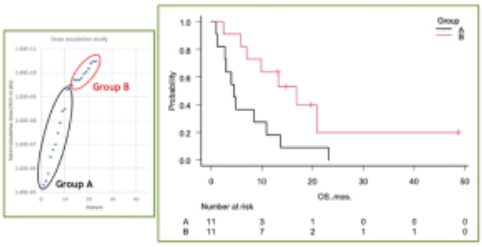
In the following figure, we show that, of the 43 patients, the 21 who received the lowest cumulative dose had a median OS of 6.2 months and the 23 who received the highest cumulative dose had median OS of 9.7 months. The results show a trend of OS favoring the higher-dose group.



Group A: (n=21; **lower-dose group** patients with TCD ranging from 2×10^5 pfu - 2×10^9 pfu)
Group B : (n=22; **higher-dose group** patients with TCD ranging from 3×10^9 pfu - 3×10^{10} pfu)

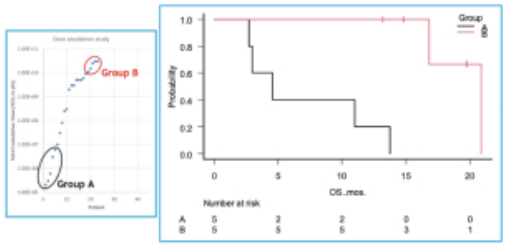
Groups A vs B: median OS at **6.2 months** (95% CI: 3.6 – 8.5) vs **9.7 months** (95% CI: 6.3 – 16.8); $p = 0.067$; with a trend favoring the higher dose group.

In the following figure, we further show the results of the 22 evaluable patients within the total treated population, with intractable primary lung cancers and/or lung metastases of other tumor types. We show that, of the 22 patients, the 11 patients who received the lowest cumulative dose had a median OS of 4.6 months and the other 11 patients who received the highest cumulative dose had median OS of 16.8 months. The results show a statistically significant OS benefit favoring the higher-dose group (p = 0.026). When we further extend the analysis, of the 22 patients, the five patients who received the lowest cumulative dose had a median OS of 4.6 months and the 11 who received the highest cumulative dose had median OS of 20.9 months. The results show a statistically significant OS benefit favoring the higher-dose group (p = 0.002).



Group A : (n=11; **lower-dose group** with TCD ranging from 2×10^5 pfu - 2×10^9 pfu)
Group B : (n=11; **higher-dose group** with TCD ranging from 3×10^9 pfu - 3×10^{10} pfu)

Groups lower vs higher TCD:
median Overall Survival at **4.6 months** (95% CI: 1.3 – 11.0) vs **16.8 months** (95% CI: 5.9 – NA);
$p = 0.026$; a statistically significant clinical benefit favoring the higher dose group.



Group A : (n=5; **lowest-dose group** with TCD ranging from 2×10^5 pfu - 1×10^6 pfu)
Group B : (n=5; **highest-dose group** with TCD ranging from 1×10^{10} pfu - 3×10^{10} pfu)

Groups lowest vs highest TCD:
median Overall Survival at **4.6 months** (95% CI: 2.7 – NA) vs **20.9 months** (95% CI: 16.8 – NA);
$p = 0.002$; a statistically significant clinical benefit favoring the highest dose group.

Virus dose is in Total Cumulative Dose (TCD) received in all cycles in each patient

Data from this study suggest that Olvi-Vec may have activity against a variety of cancers, particularly with lung disease from either primary lung cancer or lung metastases from other cancer types, when intravenously administered initially prior to immune activation and potentially thereafter for multiple cycles.

Phase 1 Study (GL-ONC1-011/UCSD)

We conducted an open-label, non-randomized Phase 1 study, which administered Olvi-Vec intravenously on multiple consecutive-days in a single cycle, as neoadjuvant treatment to patients with solid organ cancers prior to undergoing surgery. The objective of this study was to test a more aggressive dosing protocol in solid tumor patients by intravenously delivering high doses of virus on consecutive days in a single cycle from one week to one month prior to surgery. The intent was to obtain and analyze biological samples from the patients. As the surgeries were for curative intent, anti-tumor activity data was not obtained. The IV treatment was shown to be well tolerated and no DLTs were reported.

Neutralizing antibody dynamics suggest optimum dosing regimen

Anti-vaccinia antibody (NAb) levels were measured in blood before and after Olvi-Vec treatments. Substantial levels of NAb were detected by Day 8 in three out of five patients (NAb were low at Day 5 in two of these three patients), and were not reached in the other two patients at that time point. Therefore, these data indicate that there may be a window of opportunity for at least five days to allow condensed intravenous delivery of virus (e.g., consecutive days; even multiple doses per day) without significant neutralization effect from anti-vaccinia NAb. In one patient where long-term follow-up data was available, the Nab level dropped back to a low, near-baseline, level by six months post treatment. This data suggests that repeat dosing over extended time periods is possible. Overall, we believe the data described above indicates that a four-consecutive-day treatment schedule may balance efficiency of virus delivery and convenience of scheduling at the clinic.

Since patients received virus under neoadjuvant setting prior to surgery, primarily for curative intent, we were not able to determine therapeutic responses to Olvi-Vec among these patients. Nevertheless, data from this study suggest that high and condensed (up to five consecutive days) intravenous doses of Olvi-Vec result in endured viral pharmacokinetics in the blood and lead to infection of and immune cell infiltration into tumor tissues.

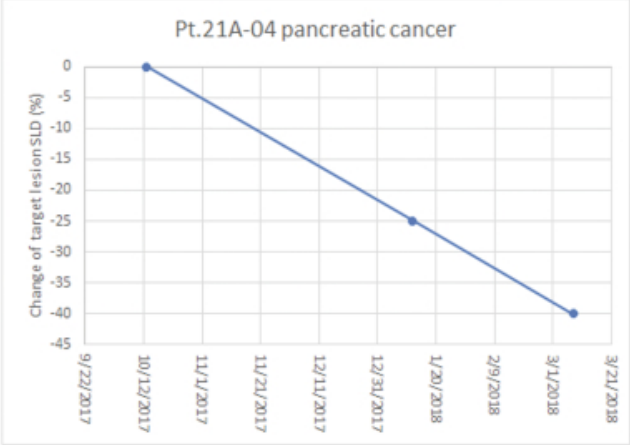
Expanded Access Program (GL-ONC1-021/AHCI)

We are conducting an open-label, non-randomized expanded access study, during which Olvi-Vec was administered on multiple consecutive-day intravenous doses in a single cycle to patients with advanced cancers and no standard of care or eligibility for other clinical trials and who otherwise would be provided hospice care.

The intravenous treatment was shown to be well tolerated. Since patients received virus under an expanded access protocol, biological sampling was limited, and tumor biopsy materials were not collected.

Clinically-significant anti-tumor effects were observed in two of three solid tumor patients who received Olvi-Vec-primed immunochemotherapy, with results pending for a fourth patient currently undergoing treatment. Case reports for the two patients who had clinically-significant results are set forth below.

- Case Report Patient #21A-04: A high-grade pancreatic cancer patient with lung and liver metastases received five consecutive daily intravenous doses of Olvi-Vec. The patient achieved a 59% drop of the cancer biomarker CA19.9 and an objective partial response (38% target lesion size reduction from pre-Olvi-Vec baseline) per RECIST 1.1 documented by CT scans from intravenous Olvi-Vec monotherapy, as depicted in the figure below. After subsequent disease progression, the patient then received subsequent chemotherapy and again achieved a partial response (-30% target lesion size reduction from pre-chemo baseline) by RECIST 1.1, with 83% drop of CA 19.9, and PFS of 31 weeks.



- Case Report Patient #21A-06: A patient with terminal recurrent metastatic cervical cancer with metastases in the lung also received five consecutive daily intravenous doses of Olvi-Vec. The patient had disease progression with multiple bilateral pulmonary tumor nodules increased in size compared with the prior exam at time of enrollment. Following Olvi-Vec treatment, the first CT scan at six weeks after treatment revealed growth arrest of her tumor lesions; her disease was stable for 24 weeks. The patient then went on to receive platinum doublet and bevacizumab after virotherapy and was assessed by the investigator to have had a partial response to treatment. PFS for this patient was for 70 weeks, and her ongoing OS is at 36+ months with excellent performance status. Her current treating medical oncologist has recommended to again consider Olvi-Vec virotherapy when needed.

Data from this trial suggest that Olvi-Vec-primed immunochemotherapy may have utility when administered intravenously in cancers beyond ovarian and in combination with therapies beyond platinum-based regimens.

Olvi-Vec-Primed Immunochemotherapy for the Treatment of Non-Small-Cell Lung Cancer (NSCLC)

The first indication we intend to pursue through intravenous administration is NSCLC. NSCLC is the most common type of lung cancer, accounting for 84% of all lung cancer diagnoses. The most common types of NSCLC are squamous cell carcinoma, large cell carcinoma, and adenocarcinoma. Metastatic NSCLC has a poor prognosis. For example, the five-year OS rate for Stage IV NSCLC patients is less than five percent. Survival was similar in the recurrent diseases regardless of stage at diagnosis, with median OS of 6.6 months for Stage I, 6.7 months for Stage II, and 6.9 months for those with initial Stage III disease. Patients with de novo or recurrent Stage IV disease have median OS of 4.9 months.

Patients experiencing a recurrence of, or with advanced NSCLC, have few treatment options and are treated with chemotherapy or precision cancer medicines. The most commonly used regimens include either cisplatin or carboplatin; combined with one of several other drugs approved for the treatment of NSCLC; pemetrexed, paclitaxel, docetaxel, gemcitabine, irinotecan, or vinorelbine. Bevacizumab in combination with the chemotherapy drugs paclitaxel and carboplatin, is FDA-approved for the first-line treatment of advanced, non-squamous NSCLC.

Despite advances in treatment and management of recurrent advanced NSCLC, NSCLC represents a high unmet medical need and novel therapies are needed to improve therapeutic outcomes, especially in patients who do not have driver mutations for targeted therapies and/or immunotherapy, or who have developed resistance to their previous treatment(s). According to Datamonitor (2021), the market for NSCLC is expected to reach

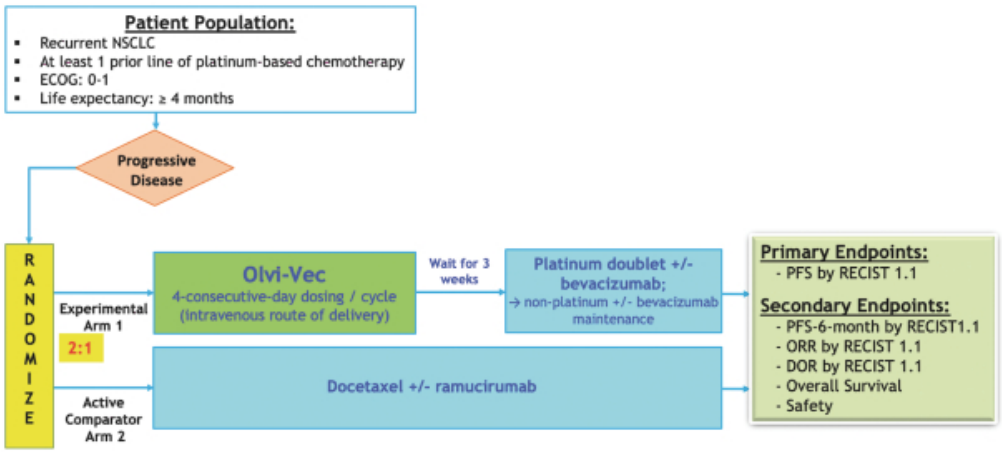
$39 billion by 2029 in the seven major markets (U.S., EU5 and Japan). The growth of the NSCLC market will be driven partly by increasing incident cases, as the population ages. In addition, premium-priced immuno-oncology and targeted pipeline agents are expected to drive the uptake of new therapies and prolong the duration of treatment in the first-line and beyond. Based on our internal research and analysis, we estimate the U.S. market potential of our existing products to grow from $163.4 million in 2028 to $1.9 billion in 2034. Our projections are subject to a number of assumptions, risks and uncertainties that could cause them to be smaller than we currently estimate.

NSCLC Development Plan: Phase 2 Clinical Trial

We selected NSCLC as our first registration-path indication for intravenous delivery of Olvi-Vec-primed immunochemotherapy because of the promising data generated in patients with lung disease (primary or metastatic) in our GL-ONC1-002/MA and GL-ONC1-021/AHCI clinical trials. We believe intravenous delivery of Olvi-Vec to the lung, unlike other viruses that are administered intra-tumorally and that are less amenable to repeat injections, is particularly compelling because of the 'first pass effect' (i.e., after administration the virus reaches the heart and is then first transported to the lungs). In preclinical studies, we have repeatedly observed the eradication of distal pulmonary metastases from multiple tumor types by intravenously administered Olvi-Vec virus.

In the second half of 2021, we anticipate FDA authorization to initiate a Phase 2, open-label, randomized, and controlled study designed to evaluate the efficacy and safety of intravenously delivered Olvi-Vec oncolytic vaccinia virus followed by platinum-doublet chemotherapy +/- bevacizumab (followed by non-platinum chemotherapy and bevacizumab maintenance) vs. docetaxel +/- ramucirumab (approved for disease progression on or after platinum based-chemotherapy) for patients with recurrent NSCLC.

We plan to randomize approximately 50 patients initially (2:1 randomization) for interim analyses (ORR by RECIST 1.1; PFS-6-month by RECIST 1.1). If evidence of clinical benefit is demonstrated, we would discuss with the FDA pursuing an application for accelerated approval or a subsequent registration trial. The following graphic summarizes the study design for the planned Phase 2 clinical trial.



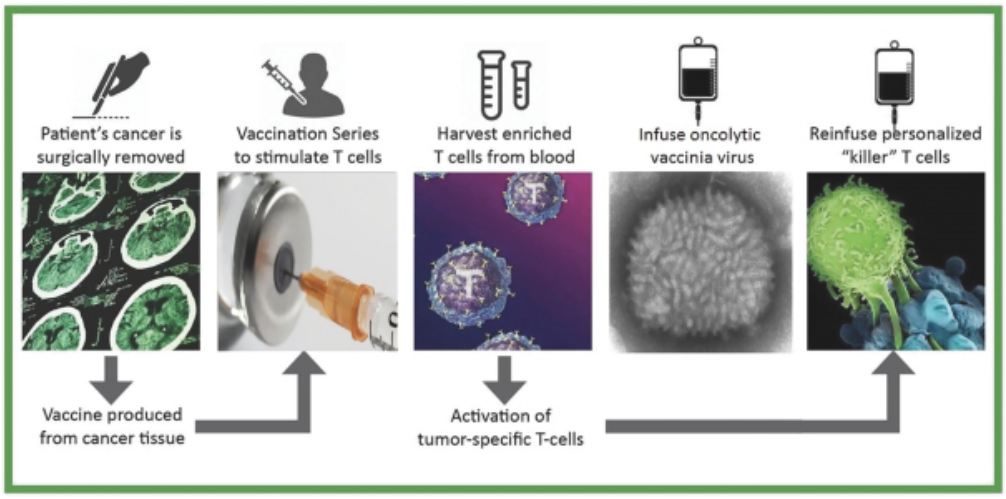
Virus and Neoantigen-primed Adoptive Cell Therapy (V2ACT Immunotherapy)

V2ACT Immunotherapy is a proprietary, indication-agnostic personalized immunotherapy designed to safely maximize the number and effect of cancer neoantigen-specific effector T cells within cancer tissues. It combines immunotherapeutic modalities, neoantigen-primed effector T cell immunotherapy (NACT) and oncolytic immunotherapy (initially, Olvi-Vec), each of which is supported by extensive preclinical and clinical proof-of-concept data, including Phase 1 and 2 clinical trials, in various cancer indications. We are developing V2ACT Immunotherapy through a joint venture with TVAX.

Immunotherapies can be subcategorized into: 1) cytokines (e.g., Interleukin 2, Interferon beta); 2) vaccines (e.g., Bacillus Calmette-Guerin, Sipuleucel-T); 3) ICIs (e.g., ipilimumab, pembrolizumab, and nivolumab); 4) oncolytic viruses (e.g., T-Vec); and 5) adoptive CAR T cell transfer (e.g., Yescarta). Each has had significant therapeutic success in certain patient populations and the listed examples are FDA-approved products. It is generally believed that combinations of immunotherapies could broaden their applicability and increase overall efficacy.

V2ACT Immunotherapy is designed to combine the benefits of agents from four of the five subcategories. Neoantigen-specific adoptive T cell therapy and Olvi-Vec employ different and potentially synergistic mechanisms for cancer cell killing and prolonging patient survival. Adoptive transfer of cancer neoantigen-specific effector T cells has proven to be an effective treatment for multiple cancers. Reducing cancer tissue associated immunosuppression could increase the anti-cancer effects of adoptively transferred neoantigen-specific effector T cells. In addition to lysing cancer cells, Olvi-Vec induces an acute inflammatory response within cancer tissue that modulates the immune microenvironment in a way that would be anticipated to enhance the effects of adoptively transferred neoantigen-specific effector T cells.

The following diagram sets forth the potential synergistic use and mechanism of action of V2ACT Immunotherapy:



The scientific rationale for V2ACT Immunotherapy is as follows:

- *Patient's cancer is surgically removed*. Surgery performed for clinical benefit removes cancer tissue for manufacture of an attenuated autologous cancer cell vaccine.
- *Vaccination series to generate neoantigen-primed T cells.* Vaccination with the patient's own neoantigen-containing cancer cells combined with a powerful immunological adjuvant generates an immune response that produces high numbers of primed cancer neoantigen-specific effector T cell precursors in the patient's body.
- *Harvest enriched T cells from blood.* Immune cells obtained from a blood draw are stimulated with T cell activators ex vivo to convert neoantigen-specific effector T cell precursors into effector T cells and increases their numbers.
- *Infuse oncolytic vaccinia virus.* Olvi-Vec selectively enters cancer tissue and i) kills cancer cells; ii) generates an immunostimulatory acute inflammatory response, a "hot spot" that increases receptivity to

the anti-cancer effects of adoptively transferred neoantigen-specific effector T cells; and iii) boosts anti-cancer immune responses.

- *Re-infuse personalized "killer" T cells*. Ex vivo-activated neoantigen-specific effector T cells are carried to cancer tissue throughout the body, enter cancer tissue and initiate a cascade of immunological events that produce cancer cell killing, which are propagated with a course of low-dose interleukin 2 to stimulate continued multiplication of the infused cancer neoantigen-specific effector T cells.

Neoantigen-primed Adoptive Cell Therapy (NACT)

In addition to Olvi-Vec, NACT is the other component of V2ACT Immunotherapy.

Following successful completion of preclinical studies, Phase 1/2a proof-of-concept studies of NACT were performed in humans. Those studies were conducted under an investigator-initiated, university-sponsored IND and an IND sponsored by TVAX.

Patients vaccinated with an attenuated autologous cancer cells and an immunological adjuvant generally produced a detectable immune response across a wide variety of cancer types in these studies. Specifically, 130 patients were vaccinated twice with 10^7 live attenuated autologous cancer cells and granulocyte macrophage colony-stimulating factor (GM-CSF). Patients were tested for generation of adaptive T cell-mediated immune responses using delayed-type hypersensitivity skin testing with attenuated autologous cancer cells. The average percent positivity was 89% + 3% (estimated mean ± standard error). The following table sets forth the results of this study:

Cancer Types	Subjects Tested	Immune Responses*
Brain	36	92%
Breast	20	90%
Colon	13	92%
Lung	**25**	**88%**
Kidney	17	88%
Melanoma	14	75%
Ovary	5	100%
Total	**130**	**89%**

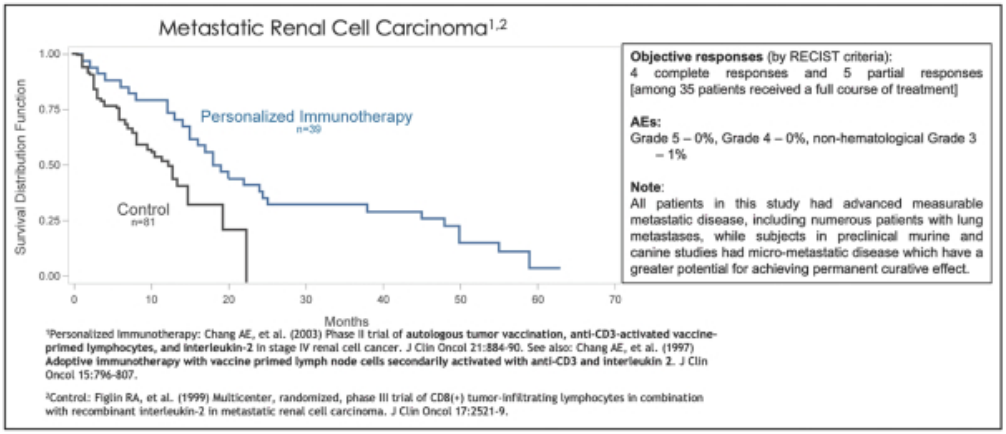
89% of patients across cancer types showed positive cancer - specific DTH skin test immune response

*% delayed type hypersensitivity (DTH) skin test positivity following a single vaccination; multiple vaccinations push percentage positivity to 100%. Multiple autologous cancer vaccine publications have confirmed these data and added positive data related to leukemia, pancreatic cancer, prostate cancer and sarcoma (list available)

Benefits of vaccination with neoantigen-expressing cancer cells:

1. Increases number of primed neoantigen-specific T cells in patient's body that can be used to manufacture cancer neoantigen-specific effector T cells for treatment
2. Increases number of primed neoantigen-specific T cells in cancer tissue that are available for subsequent stimulation *in situ*

In a single-arm Phase 2a clinical trial, metastatic renal cell cancer patients were treated with the combination of attenuated autologous cancer cell/immunological adjuvant vaccination and adoptive cell therapy of T cells activated ex vivo with anti-CD3 and a T cell proliferation-stimulating cytokine. The objective clinical response rate was 25% (5PR, 4CR) and all nine patients were long-term survivors. The following figure sets forth the results of this trial relative to historical control data.



Pancreatic Cancer Development Plan: Phase 1/2a Trial

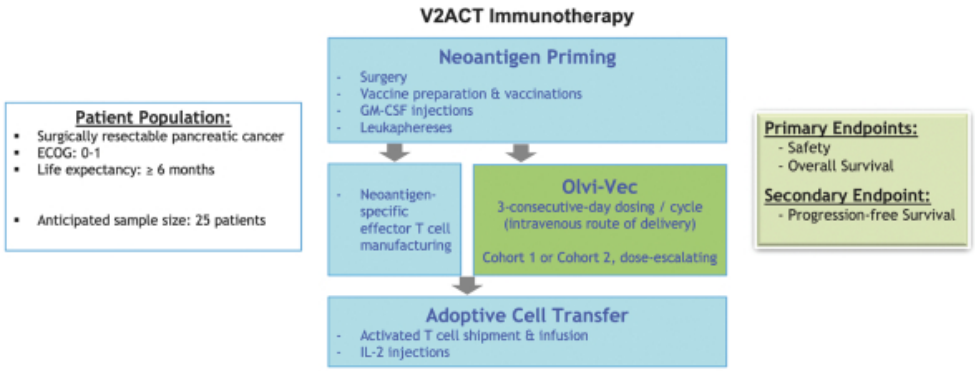
According to GlobalData (2021), pancreatic cancer has a global incidence of 495,773 cases annually, with 466,003 deaths attributable. From 2014 to 2018, the worldwide five-year survival rate for pancreatic cancer increased two percent to nine percent. The American Cancer Society estimates in 2021 there will be 60,430 new cases of pancreatic cancer and 49,220 will die from the disease in the United States. According to GLOBOCAN 2020, the market for pancreatic cancer in the eight major markets (U.S., EU5, Japan and urban China) is expected to increase to $4.1 billion in 2029 at a moderate compound annual growth rate (CAGR) of 8.2%. Based on our internal research and analysis, we estimate the U.S. market potential of our existing products to grow from $55.1 million in 2027 to $997.7 million in 2034. Our projections are subject to a number of assumptions, risks and uncertainties that could cause them to be smaller than we currently estimate.

Pancreatic cancer can develop from two kinds of cells in the pancreas: exocrine cells and neuroendocrine cells, such as islet cells. Survival is significantly better for patients with locally advanced disease (median survival 9–15 months) than for those with metastatic disease (three to six months). Unfortunately, pancreatic cancer often presents late and only a portion of patients with pancreatic cancer have disease at time of presentation that can be surgically resected with an expectation that surgery will generate clinical benefit.

Chemotherapy, primarily gemcitabine, is the mainstay of treatment for patients with advanced disease. Importantly, the targeted therapies and checkpoint inhibitor therapies that have demonstrated efficacy in some other forms of cancer have provided minimal benefit in pancreatic cancer. Despite advances in surgical and medical treatment of pancreatic cancer there has been a minimal improvement in the 5-year survival rates.

In October 2020, V2ACT received an IND from the FDA authorizing the initiation of a Phase 1b/2a clinical trial to test V2ACT Immunotherapy as a treatment for newly-diagnosed, surgically-resectable pancreatic cancer. This clinical trial is not yet scheduled to be initiated. The trial is designed to enroll 25 patients. All patients will have surgery to remove all or a portion of their primary cancer. The patients then will receive V2ACT

Immunotherapy. This Phase 1/2a study is designed to obtain preliminary safety and efficacy data on this combination in order to design a larger Phase 2b clinical trial. The following graphic summarizes the study design for the planned Phase 1/2a clinical trial.



Joint Venture with TVAX Biomedical, Inc.

Limited Liability Company Agreement

In January 2019, we formed V2ACT as a joint venture with TVAX for the purpose of developing and testing V2ACT Immunotherapy. The joint venture is governed by an Amended and Restated Limited Liability Company Agreement entered into in June 2021 (LLC Agreement) which provides each of us and TVAX with 50% ownership interests, identical voting and management rights and responsibilities, equal representation on the governing four-member management committee, and equal sharing of profits and losses of V2ACT. To date, V2ACT's expenses have been funded through equal capital contributions made to V2ACT by us and TVAX, and we expect this to continue for the foreseeable future.

The LLC Agreement requires a majority vote by the management committee to approve general business matters and a supermajority vote of the members to approve specified major transactions, including a merger or consolidation of V2ACT and the sale, lease, exchange, or other disposition of all or substantially all of the assets of V2ACT. Cash available for distribution, if any, is determined by the management committee quarterly and distributed to the members on a pro rata basis. Transfers of a member's ownership interest require the other member's consent, other than transfers to affiliates or successors. The LLC Agreement provides for the dissolution of V2ACT upon a supermajority vote of the members, among other specified events.

License Agreement with V2ACT Therapeutics

In June 2021, we entered into a License Agreement with V2ACT (V2ACT License), pursuant to which we granted V2ACT a worldwide, non-exclusive, fully paid, royalty free license for our proprietary oncolytic virus ("Licensed Virus(es)") to research, develop and commercialize any product, procedure or method for the treatment of cancer that combines (a) Licensed Virus(es), and (b) autologous or allogeneic cancer-specific T lymphocytes (T-Cell Therapeutic(s)) for the diagnosis, prevention and treatment of cancer in humans (Products). V2ACT is solely responsible, by itself or through its sublicensees, for all research, development, manufacturing and commercialization activities with respect to Products in the applicable field. V2ACT is required to use commercially reasonable efforts to research, develop, manufacture and commercialize Products in the applicable field and is solely responsible for all costs and expenses incurred in connection with such activities. We have the sole right and discretion to prepare, file, prosecute, maintain, enforce and defend the licensed patents at our cost and expense.

Pursuant to the V2ACT License, unless V2ACT fails to initiate any human clinical trial of any Product within 18 months of the effective date of the V2ACT License, or fails to dose any subjects for a period of 18 months after the initiation of any such human clinical trial, we and our affiliates (other than an acquiror) may not directly or indirectly, engage in any development, commercialization, manufacturing, import and/or export activities, or enter into any collaboration or license agreement with any third party in connection with any such activities related to any Product. This non-compete does not limit or restrict our ability to develop, commercialize or exploit the Licensed Virus(es) as a stand-alone product or in combination with any product that is not a T-Cell Therapeutic(s).

Under the V2ACT License, V2ACT may request that we perform certain research, development and/or manufacturing services related to the Licensed Virus(es) in connection with the research, development and manufacture of Products in the applicable field.

Each party may terminate the V2ACT License for the uncured material breach of the other party or in the case of bankruptcy. In addition, we may terminate the V2ACT License if V2ACT challenges any of the licensed patents, and V2ACT may terminate the V2ACT License for convenience with a specified prior notice period.

License Agreement between V2ACT Therapeutics and TVAX

In June 2021, TVAX entered into a License Agreement with V2ACT (TVAX License), pursuant to which TVAX granted V2ACT a worldwide, non-exclusive, fully paid, royalty free license for its proprietary T-Cell Therapeutics ("Licensed T-Cell Therapeutic(s)") to research, develop and commercialize any product, procedure or method for the treatment of cancer that combines (a) any virus-based cancer therapeutics, and (b) Licensed T-Cell Therapeutic(s) for the diagnosis, prevention and treatment of cancer in humans (Products). In addition, TVAX granted V2ACT an exclusive (even as to TVAX and its affiliates), a fully paid, royalty free license under certain patents related to the use of virus and cell therapies in combination to research, develop and commercialize Products in the applicable field. V2ACT is solely responsible, by itself or through its sublicensees, for all research, development, manufacturing and commercialization activities with respect to Products in the applicable field. V2ACT is required to use commercially reasonable efforts to research, develop, manufacture and commercialize Products in the applicable field and is solely responsible for all costs and expenses incurred in connection with such activities.

TVAX has the sole right and discretion to prepare, file, prosecute, maintain, enforce and defend the licensed patents (other than the combination therapy patents) at its cost and expense. TVAX will continue to prosecute and maintain the combination therapy patents at its cost and expense but must transfer the patent prosecution of the combination therapy patents to V2ACT at the request of V2ACT.

Pursuant to the TVAX License, unless V2ACT fails to initiate any human clinical trial of any Product within 18 months of the effective date of the TVAX License, or fails to dose any subjects for a period of 18 months after the initiation of any such human clinical trial, TVAX and its affiliates (other than an acquiror) may not directly or indirectly, engage in any development, commercialization, manufacturing, import and/or export activities, or enter into any collaboration or license agreement with any third party in connection with any such activities related to any Product. This non-compete does not limit or restrict TVAX's ability to develop, commercialize or exploit the Licensed T-Cell Therapeutic(s) as a stand-alone product or in combination with any product that is not a therapeutic virus.

Under the TVAX License, V2ACT may request that TVAX perform certain research, development and/or manufacture services related to the Licensed T-Cell Therapeutics in connection with the research, development and manufacture of Products in the applicable field.

Each party may terminate the TVAX License for the uncured material breach of the other party or in the case of bankruptcy. In addition, TVAX may terminate the TVAX License if V2ACT challenges any of the licensed patents, and V2ACT may terminate the TVAX License for convenience with a specified prior notice period.

Additional Potential Indications for Olvi-Vec

We believe our pre-clinical and clinical data support the broad development of Olvi-Vec in patients with liquid or (metastatic) solid tumors, as a monotherapy or in combination with other therapies. Our current plan is to expand our clinical development program by pursuing additional indications via intravenous delivery. Other indications will be selected from the balance of more than 20 major human cancers against which Olvi-Vec has shown activity in pre-clinical studies, including blood (other leukemia/lymphoma), breast, colon, kidney, lung, prostate and skin (melanoma) cancers.

For example, one program expansion may be to conduct a basket trial of Olvi-Vec in patients who are either refractory and/or intolerant to standard of care and who have primary lung cancer or who have lung tumors metastatic from other primary tumors such as breast cancer, colon cancer, prostate cancer, sarcoma, bladder cancer, neuroblastoma and Wilm's tumor.

A second program expansion may include clinical trials to assess the potential therapeutic benefit of Olvi-Vec in frontline settings, such as in ovarian cancer. In that regard, we have observed the potential benefits of combining Olvi-Vec with platinum compounds in pre-clinical studies, and in a completed Phase 1 clinical trial combining Olvi-Vec with cisplatin and radiation as front-line therapy in newly diagnosed head and neck cancer patients. Olvi-Vec was well tolerated and demonstrated favorable trends in PFS and OS.

We believe that the potential to induce immune responses may represent an important mechanism to control tumor growth, prevent the spread of tumors, improve the ability to surgically remove tumors and perhaps reduce the need for surgery, and reduce or delay the onset of relapse.

We may also pursue additional indications via regional delivery. Potential indications include appendiceal, colorectal and gastric cancers, other gynecologic malignancies, and peritoneal mesothelioma.

Preclinical Studies of Olvi-Vec

Our pre-clinical studies demonstrate Olvi-Vec has the potential to infect and directly kill a wide range of tumor cell types *in vitro* and *in vivo* and produce an anti-tumor immune response. Our pre-clinical animal data show regression and elimination of the more than 20 major liquid and solid cancer types tested in pre-clinical models, including some of those deemed "very difficult to treat," such as having known chemo-resistance or radio-resistance. We have also demonstrated the combination of oncolytic immunotherapy and clinically used chemo-, immuno-, and radio-therapies have the potential to enhance outcomes.

In vitro Cytotoxicity Studies

In a preclinical study conducted with the National Institutes of Health, we demonstrated the virus can replicate in a large panel of cell lines of different cancer types. We also have shown in many *in vitro* cytotoxicity studies that Olvi-Vec can infect and replicate more efficiently in human tumor cells than in normal cells. For example, we conducted *in vitro* cell culture experiments to test the tumor-cell killing (plaque forming) efficiency of Olvi-Vec in a fibrosarcoma cell line compared to the plaque forming efficiency in primary dermal fibroblasts. We showed a preferential infection and killing of fibrosarcoma tumor cells as compared to the noncancerous primary dermal fibroblasts.

Preclinical Studies (GLV-1h68)

Based on pre-clinical studies of Olvi-Vec (Lab name: GLV-1h68), we believe Olvi-Vec not only has the potential to enhance the anti-tumor effect of chemotherapies and radiation therapies, but also to immunotherapies (e.g., immune checkpoint inhibitors and co-stimulatory molecules).

Lymphoma: Effect of VACV with Immune-modulating Checkpoint Inhibitor Following Local Tumor Irradiation

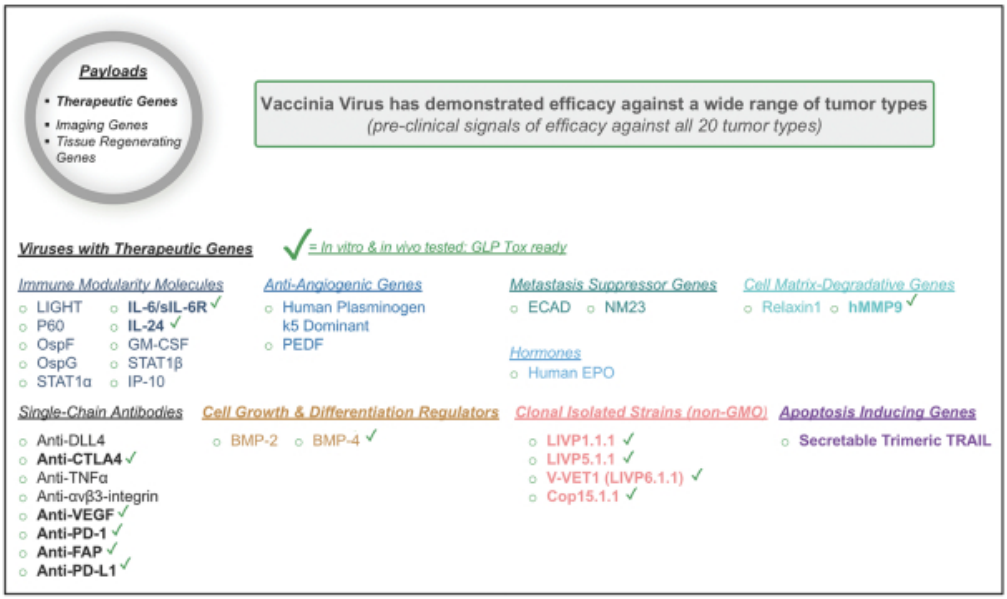
We examined the activity of a proprietary VACV (GLV-6b500), as both a single agent and as a combination agent with a checkpoint inhibitor and radiation, in a syngeneic animal model of hematologic malignancies to simulate advanced lymphoma. Murine lymphoma A20 cells were injected subcutaneously on bilateral flanks of BALB/c mice and treatment initiated on day 17 to only the right flank tumor with local irradiation, intra-tumoral VACV (Irr-VACV) and intra-tumoral anti-CTLA-4 monoclonal antibody (Irr-VACV-CTLA4). The Irr-VACV-CTLA4 regimen was most effective in eradicating or shrinking not only the treated tumor but also the non-treated tumor and extending survival, followed by the Irr-VACV regimen.

CHOICE Discovery Platform

Our proprietary CHOICE discovery platform is the foundation of our oncolytic immunotherapy product development program and is designed to allow us to develop new product candidates rapidly from conception through the initiation of clinical trials. The discovery platform is based on our collection of various strains of VACV based on multiple selection criteria, both in vitro (e.g., viral replication rate, plaque size, transgene expression efficiency, etc.) and in vivo (e.g., viral titer, antitumor activities, safety, etc.).

Through genetic engineering, recombinant strains have been generated to carry single or multiple exogenous therapeutic and/or diagnostic gene expression cassette(s) under different synthetic or natural promoters to regulate the timing and strength for transgene expression. We can generate custom-made viruses based on desired transgene(s) and specific parental viral strain, designed to optimize safety by reducing toxicity, tumor selectivity and desired diagnostic and/or therapeutic potential, e.g., to act at several key points in the pathways involved in the initiation of an immune response.

We have generated an extensive portfolio of oncolytic vaccinia immunotherapy clinical candidates. We have made over 500 different versions of the vaccinia virus armed with greater than 110 transgenes, having a variety of engineered attributes, including immune modulatory and cell killing properties. We intend to develop one or more therapies derived from this platform to address multiple types of tumors, utilizing transgenes such as those set forth in the following table:



Leveraging the knowledge and experience gained through the development of Olvi-Vec, we intend to nominate at least one additional product candidate after initiating and establishing our Phase 3 registrational trial in ovarian cancer and our Phase 2 clinical trial in NSCLC, and to begin IND-enabling toxicology studies following nomination.

Selection criteria for nomination of next product candidate(s) will be based in part on our current and future pre-clinical and clinical experience with Olvi-Vec. We will evaluate our clinical candidates based on preclinical observations in animal model demonstrations that these viruses can more effectively lyse tumor cells, stimulate the immune system and/or enhance the ability to reach tumor sites after intravenous administration, including repeated dosing.

Our Animal Health Program

Cancer is the leading cause of death for dogs and the number one pet health concern for dog owners in the United States. In addition to surgery, currently available canine cancer treatment typically provides limited survival benefit.

The National Cancer Institute's Center for Cancer Research Comparative Oncology Program has reported that as many as six million pet dogs and six million pet cats are diagnosed with cancer annually in the United States. The veterinary oncology market is estimated to reach $909.4 million by 2026, with North America expected to hold a dominant position.

V-VET1 (Laboratory name: LIVP6.1.1), our lead animal health product candidate, is a genetically characterized, veterinary-grade replication-competent oncolytic vaccinia virus that is a naturally-attenuated isolate.

V-VET1-001/CVS (Canine Veterinary Oncology Study)

We conducted a canine cancer study in which V-VET1 was administered as a single intravenous dose in multiple cycles to a total of 11 canine patients.

We did not observe any significant treatment related hematologic toxicities at any time. There was no report of skin rash from any dogs, and no report of horizontal transmission of virus. Samples were negative from canine patients who had nasal and lesion swabs taken post-virus administration and tested by viral plaque assay. One dog in the highest dose level cohort had oral swabs taken at ten minutes post-administration of virus injection and virus was detected on Cycle 1, Day 3 and Cycle 2, Day 1. No MTD was reached in this dose-escalation trial, even at the highest dose (3×10^9 pfu/25 kg body weight) out of four dose levels tested.

The following tables summarizes the individual best overall responses for the 11 evaluable canine patients.

Tumor Type	Total # of Dogs	Best Overall Response
Mast Cell Tumor	2	1 PR / 1 SD
Osteosarcoma	2	2 SD
Soft Tissue Sarcoma	4	3 SD / 1 PD
Anal Gland Carcinoma	2	2 SD
T Cell Lymphoma	1	1 PR
Overall Response	**11**	**2 PR / 8 SD / 1 PD**

PR = Partial Response / SD = Stable Disease / PD = Progressive Disease

Overall, evidence of antitumor responses and disease control was documented in patients with different tumor types. Two objective responses (partial response) in lymphoma and mast cell tumor, respectively, were documented among these patients, with an ORR of 18% and disease control rate (CR+PR+SD) of 91% (ten out of 11).

Competition

The biotechnology and pharmaceutical industries are characterized by rapidly advancing technologies, intense competition and a strong emphasis on proprietary rights. We face significant competition from many sources, including pharmaceutical, biopharmaceutical and biotechnology companies, as well as universities and private and public research institutions. Many of our potential competitors, alone or with their strategic partners, may have substantially greater financial, technical and other resources than we do, such as larger research and development, clinical, marketing and manufacturing organizations. Mergers and acquisitions in the biotechnology and pharmaceutical industries may result in even more resources being concentrated among a smaller number of competitors.

We are focused on developing next-generation viral immunotherapies for the treatment of cancer. Any viral immunotherapies that we successfully develop and commercialize will compete with existing therapies and new therapies that may become available in the future.

Competition in cancer therapeutics comes in many forms, where different technologies are employed against different molecular targets or biological systems. We are aware of other companies either marketing or focused on developing competing therapies for the treatment of cancer which generally fall into the following treatment groups:

- Oncolytic viral immunotherapies, including Amgen's IMLYGIC (talimogene laherparepvec), the only FDA-approved oncolytic immunotherapy, which is approved for the local treatment of unresectable cutaneous, subcutaneous, and nodal lesions in patients with melanoma recurrent after initial surgery and is in development for several other indications, and other oncolytic viruses in development by companies such as AstraZeneca, Boehringer Ingelheim, CG Oncology, DNAtrix, Johnson & Johnson, Merck, Oncolytics Biotech, Oncorus, Otuska, PsiOxus Therapeutics, Regeneron, Replimune, SillaJenM2N Company, Targovax, Transgene, Turnstone Biologics and Vyriad;
- Approved immunotherapy antibodies and immunotherapy agents in clinical development, including antibody agents, bispecific T cell engagers, including those in development by Amgen, and immuno-oncology companies focused on IL-12, such as Ziopharm Oncology;
- Cancer vaccines, including personalized vaccines and those targeting tumor neoantigens, including neoantigen therapies in development by companies such as Advaxis Immunotherapies, Agenus, AstraZeneca, Bavarian Nordic, BioNTech, Genocea, Gritstone Oncology, Heat Biologics, ImmunityBio, Iovance Biotherapeutics, IMV, Moderna Therapeutics, Sotio, Transgene, Turnstone Biologics and VBI Vaccines;
- Cell-based therapies, including TILs in development by IOVANCE and approved and in-development CAR T cell therapies, including those commercialized by Bristol-Myers Squibb, Gilead Sciences and Novartis, T cell receptor and NK cell therapies;
- Therapies aimed at activating innate immunity such as those targeting stimulator of interferon genes protein (STING) and toll-like receptors (TLRs) including those in development by Bristol-Meyers Squibb, Checkmate Pharmaceuticals, Chinook Therapeutics, GSK, Idera, Merck, Mologen AG, Nektar, TriSalus Life Sciences, and UroGen Pharma; and
- Traditional cancer therapies, including chemotherapy, surgery, radiation and targeted therapies.

These technologies and compounds can focus on very specific targets, such as up- and down-regulating genes, hyperactive protective factors, growth factors, and the immune system or broadly attack the cancer in the manner of conventional chemotherapy and radiation. We believe that our product candidates, if and when marketed, would largely complement rather than compete directly with these existing treatment options.

We are aware of several other companies developing therapies based on VACV. To our knowledge, the only clinical product based on VACV that has advanced beyond Phase 1 clinical development is Pexa-Vec, being

jointly developed by M2N Company and Transgene. Pexa-Vec has a different product profile from Olvi-Vec, including a different strain of vaccinia virus and different transgenes. In August 2019, M2N Company announced the discontinuation of its Phase 3 PHOCUS trial of Pexa-Vec in advanced liver cancer for futility.

Currently marketed products for ovarian cancer, include generic products cisplatin (manufactured by 18 companies), carboplatin (manufactured by 22 companies) and paclitaxel (manufactured by 19 companies), along with Sanofi's Taxotere, Celgene's Abraxane, Esai Inc.'s Hexalen, Roche's Xeloda, Roche/Genentech's Avastin, Baxter Healthcare's Cytoxan and Ifex, Etoposide (manufactured by ten companies), Eli Lilly's Gemzar and Alimta, Pfizer's Camtosar, Janssen's Doxil, GSK's Alkeran, Sandoz' Topotecan, Pierre Fabre's Navelbine, GSK's Zejula, AstraZeneca's Lynparza, and Clovis' Rubraca.

We are also aware of other companies either marketing or focused on developing competing therapies for the treatment of other cancers which generally fall into the following treatment groups:

NSCLC

- Chemotherapies which include carboplatin (manufactured by sixteen companies), vinorelbine tartrate (manufactured by six companies), paclitaxel (manufactured by seven companies), taxotere (manufactured by fifteen companies), doxorubicin hydrochloride (manufactured by thirteen companies) along with Celgene's Abraxane, Eli Lilly's Gemzar and Lilly's Alimta.
- BRAF (v-Raf murine sarcoma viral oncogene homolog B) kinase inhibitors which include Novartis's Tafinlar and Novartis's Mekinist.
- ALK (anaplastic lymphoma kinase) inhibitors which include Pfizer's Xalkori, Novartis's Zykadia, Genentech's Alecensa, Takeda's Alunbrig and Pfizer's Lorbrena.
- EGFR (epidermal growth factor receptor) inhibitors which include AstraZeneca's Tagrisso, AstraZeneca/Teva's Iressa, Astellas/Chugai/Roche/Genentech's Tarceva, Boehringer Ingelheim Pharmaceutical's Gilotrif, Pfizer's Vizimpro and Eli Lilly's Portrazza.
- TRK (tropomyosin receptor kinase) inhibitors which include Genentech's Rozlytrek, Bayer's Vitrakvi and Novartis AG's Tabrecta.
- RET (rearranged during transfection) kinase inhibitors which include Eli Lilly's Retevmo and Blueprint Medicines/Roche's Gavreto.
- Anti-angiogenesis medications which include Genentech's Avastin and Amgen's Mvasi (in combination with cisplatin and paclitaxel) and Eli Lilly's Cyramza (in combination with docetaxel and erlotinib).

Pancreatic Cancer

- Chemotherapies which include fluorouracil (manufactured by six companies), along with Genentech's Xeloda, Eli Lilly's Gemzar, Pfizer's Camptosar, GSK's Wellcovorin, Celgene's Abraxane, Ipsen Biopharm Ltd's Onivyde and Sanofi-Aventis's Eloxatin.
- Targeted therapies which include AstraZeneca/Roche/Genentech's Tarceva, AstraZeneca's Lynparza and Loxo Oncology's Vitrakvi.
- Immunotherapy which includes Merck's Keytruda.

Manufacturing and Distribution

We have assembled a seasoned management team with extensive experience in developing and manufacturing biological, viral and gene therapies. We have strong in-house process development and manufacturing capabilities for VACV. Concurrent with the clinical development of Olvi-Vec, we have been

developing a large-scale manufacturing process designed to optimize production of cGMP material that we expect will result in a high yield and lower overall cost of goods. We transitioned from using an external contract manufacturing organization for production of Olvi-Vec in chicken embryo fibroblasts, to establishing our in-house manufacturing facility for larger-scale manufacturing using a mammalian-cell production system. Product is harvested, purified and filled into vials and maintained at -70°C plus or minus 10°C.

We signed a long-term lease for a 7,569 square-foot building in San Diego, California and have established and equipped our own manufacturing facility in order to secure supplies for clinical studies and commercial launch. The facility includes laboratories, cleanrooms and vialing rooms, and installed equipment, to accept and prepare raw materials, and produce drug substance and drug product in accordance with cGMPs and all other applicable laws and regulations. This building has additional space for expansion.

We maintain agreements with our raw material and equipment suppliers, as well as with contract laboratories to provide services such as analytical development and validation, raw material testing, release testing of drug substance and drug product and stability testing. We also contract with a third party for the labeling, packaging and distribution of our clinical material and we expect to do so in the future for commercial Olvi-Vec product, assuming it receives regulatory approval. We do not have long-term supply arrangements in place with our raw material and equipment suppliers.

We continue to invest in our internal development capabilities to establish critical in-house manufacturing expertise to support our pipeline. We expect to continue to invest to improve our proprietary processes that will enable us to be at a competitive advantage when manufacturing product candidates for our VACV immunotherapy program.

Sales and Marketing

None of our product candidates has been approved for sale. If and when our product candidates receive marketing approval, we intend to commercialize them on our own, or jointly with a partner, in the United States and potentially with pharmaceutical or biotechnology partners in other geographies. We currently have no sales, marketing or commercialization capabilities and have no experience as a company performing such activities. However, we intend to build the necessary capabilities and infrastructure over time following the advancement of our product candidates through clinical development. Clinical data, the size of the opportunity and the size of the commercial infrastructure required will influence our commercialization plans and decision making.

Intellectual Property

Our success depends upon our protecting and enhancing the proprietary technologies, inventions and improvements that we believe are important to our business, and we strive to and intend to seek, maintain and defend intellectual property rights, whether developed internally or licensed from third parties. We rely on a combination of patent, trademark, copyright and trade secret laws in the United States and other jurisdictions as well as confidentiality procedures and contractual provisions to protect our proprietary technology and our brand. We also enter into confidentiality and invention assignment agreements with our employees and consultants and confidentiality agreements with other third parties, and we rigorously control access to proprietary technology.

We believe our rights under issued patents and patent applications, if granted, will provide a competitive advantage. As of February 28, 2021, our patent portfolio consisted of 23 issued U.S. patents, one pending U.S. patent application, 24 issued foreign patents, and three pending foreign patent applications, which relate generally to the composition of our current and potential future products, and their methods of use.

As briefly summarized, below, the 4802 Series and 4803 Series claims cover Olvi-Vec and our other technologies from different perspectives. Patent protection for Olvi-Vec in the United States from regulatory extension of issued claims may extend until 2031.

- "4802" Series – This series of patents includes claims directed to a recombinant vaccinia virus that contains modifications at three gene loci: the thymidine kinase (TK/J2R) gene, hemagglutinin (HA/A56R) gene and F3 (also named F14.5L) gene loci. Granted claims in the 4802 series include claims directed to isolated cells containing the modified vaccinia virus, pharmaceutical products (including a vaccine) containing the modified vaccinia virus, combinations of the modified vaccinia virus with an anti-cancer agent and methods for eliminating cancerous cells by administering the modified vaccinia virus. There are issued patents in the United States, Australia, Canada, China, Europe (the United Kingdom, France, Germany, Italy), Japan and Mexico. The United States patents expire in 2026 and 2024; one U.S. patent expires on November 29, 2026 (U.S. Patent No. 7588767) and the other U.S. patents and patents outside the United States expire June 18, 2024, absent any regulatory extensions.
- "4803" Series – This series of patents with granted claims includes claims for uses of vaccinia viruses, including the LIVP strain, and other microorganisms, including particular strains of bacteria, for diagnosis or diagnosis and therapy of cancer. Pending and granted claims in this series include claims directed to intravenous administration of vaccinia viruses in general or administration of LIVP vaccinia viruses specifically for therapy of cancer. Claims in this family have been issued in the United States, Australia, Canada, China, Europe (the United Kingdom, France, Germany, Italy), Japan and Mexico. The U.S. patents and patents outside the United States expire on July 3, 2022, absent any regulatory extensions.
- "4816/112" Series – Several issued patents and pending applications contain claims directed to modified viruses engineered to express various gene products, natural LIVP viruses and methods of use for diagnosis and therapy, including in combination with one or more anti-cancer treatments. The patents in this series include one jointly filed with Sloan Kettering Institute for Cancer Research. United States patents have issued; they are directed to subject matter that described generally as: microorganisms and methods for diagnosis and treatment of wounded and inflamed tissues; bacterial facilitated imaging techniques, including uses of probiotic bacteria for the detection of cancer. These patents expire in 2027 and 2028, absent any patent term extensions.
- "4816" Series – There are five issued U.S. patents directed to vaccinia viruses that encode a diagnostic or therapeutic protein, combinations of the virus and a chemotherapeutic compound, isolated cells that contain the virus, and methods of treatment by administering the virus. These patents expire in 2027 and 2028, absent any patent term adjustments or extensions.
- "4832" Series – There are pending applications and granted patents directed to clonal isolates of LIVP that demonstrate relatively low toxicity and/or high anti-tumor activity, and thus include possible next generation clinical candidates. These patents expire in April 2032, absent any patent term adjustment (in the United States) and/or regulatory extensions.
- "4849" Series – There is an issued U.S. patent and a pending PCT application directed to methods for producing viruses that include culturing host cells in a bioreactor. The PCT application, filed upon allowance of the U.S. application, which did not publish, does not claim priority to the U.S. patent. The U.S. patent expires in 2038, and any patent that issues from the PCT application is expected to expire in 2040, absent any patent term adjustments or extensions.

In addition to the foregoing, we own several other series of patent applications that we believe will add substantial value to our intellectual property, if issued.

In 2016, TVAX filed a PCT application covering V2ACT Immunotherapy. The application was nationalized and applications are pending in the United States, Europe and Japan. Patents in this family are expected to expire in 2037, absent any patent term adjustments or extensions.

Any future provisional patent applications will not be eligible to become issued patents until, among other things, we file a non-provisional patent application within 12 months of filing of one or more of our related provisional patent applications. If we do not timely file any non-provisional patent applications, we may lose our priority date with respect to our provisional patent applications and any patent protection on the inventions disclosed in our provisional patent applications.

Although we intend to timely file non-provisional patent applications relating to our provisional patent applications, we cannot predict whether any of our future patent applications will result in the issuance of patents that effectively protect our technology or our product candidates, or if any of our future issued patents will effectively prevent others from commercializing competitive products. We may be subject to a third-party pre-issuance submission of prior art to the USPTO. 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 until they are issued as a patent. Therefore, we cannot be certain that we were the first to make the inventions claimed in our pending patent applications, or that we were the first to file for patent protection of such inventions.

Furthermore, we rely upon trade secrets and know-how and continuing technological innovation and in-licensing opportunities to develop, strengthen and maintain our competitive position. We seek to protect our proprietary information, in part, using confidentiality agreements with our collaborators, employees and consultants and invention assignment agreements with our employees. We also have confidentiality agreements or invention assignment agreements with selected consultants. These agreements are designed to protect our proprietary information and, in the case of the invention assignment agreements, to grant us ownership of technologies that are developed through a relationship with a third party. These agreements may be breached, and we may not have adequate remedies for any breach. In addition, our trade secrets may otherwise become known or be independently discovered by competitors. To the extent that our collaborators, employees and consultants use intellectual property owned by others in their work for us, disputes may arise as to the rights in related or resulting know-how and inventions. We also protect our proprietary information by physical security of our premises and our information technology systems.

Our commercial success will also depend in part on not infringing upon the proprietary rights of third parties. It is uncertain whether the issuance of any third-party patent would require us to alter our development or commercial strategies, or our product candidates or processes, obtain licenses, or cease certain activities. Our breach of any license agreements or failure to obtain a license to proprietary rights that we may require to develop or commercialize our future product candidates may have an adverse impact on us.

U.S. Patent Term Restoration and Marketing Exclusivity

The term of individual patents depends upon the legal term of the patents in the countries in which they are obtained. In most countries in which we file, the patent term is 20 years from the earliest date of filing a non-provisional patent application. However, the actual protection afforded by a patent varies on a product-by-product basis, from country to country and depends upon many factors, including the type of patent, the scope of its coverage, the availability of regulatory-related extensions, the availability of legal remedies in a particular country and the validity and enforceability of the patent.

Depending upon the timing, duration and specifics of FDA approval of product candidates, some of a sponsor's U.S. patents may be eligible for limited patent term extension under the Drug Price Competition and Patent Term Restoration Act of 1984. The Hatch-Waxman Amendments permit a patent restoration term of up to five years as compensation for patent term lost during product development and FDA regulatory review process. However, patent term restoration cannot extend the remaining term of a patent beyond a total of 14 years from the product's approval date. The patent term restoration period generally is one-half the time between the effective date of an IND and the submission date of a BLA plus the time between the submission date of a BLA and the approval of that application. Only one patent applicable to an approved biologic product is eligible for

the extension and the application for the extension must be submitted prior to the expiration of the patent. Moreover, a given patent may only be extended once based on a single product. An application for patent extension must be filed within 60 days of FDA approval of the product. The USPTO, in consultation with the FDA, reviews and approves the application for any patent term extension or restoration.

Patent term extension also may be available in other jurisdictions, including the European Union, the United Kingdom and Japan, and is scheduled to be available in China as of June 1, 2021.

The BPCIA creates an abbreviated approval pathway for biological products shown to be highly similar to or interchangeable with an FDA-licensed biological reference product. Biosimilarity sufficient to reference a prior FDA-approved product requires a high similarity to the reference product notwithstanding minor differences in clinically inactive components, and no clinically meaningful differences between the biological product and the reference product in terms of safety, purity, and potency. Biosimilarity must be shown through analytical studies, animal studies, and at least one clinical trial, absent a waiver by the FDA. There must be no difference between the reference product and a biosimilar in mechanism of action, conditions of use, route of administration, dosage form, and strength. A biosimilar product may be deemed interchangeable with a prior approved product if it meets the higher hurdle of demonstrating that it can be expected to produce the same clinical results as the reference product and, for products administered multiple times, the biosimilar and the reference biologic may be switched after one has been previously administered without increasing safety risks or risks of diminished efficacy relative to exclusive use of the reference biologic.

A reference biologic is granted 12 years of exclusivity from the time of first licensure of the reference product, and no application for a biosimilar can be submitted for four years from the date of licensure of the reference product. However, certain changes and supplements to an approved BLA, and subsequent applications filed by the same sponsor, manufacturer, licensor, predecessor in interest, or other related entity do not qualify for the twelve-year exclusivity period. The Public Health Service Act (PHSA) also includes provisions to protect reference products that have patent protection. The biosimilar product sponsor and reference product sponsor may exchange certain patent and product information for the purpose of determining whether there should be a legal patent challenge. Based on the outcome of negotiations surrounding the exchanged information, the reference product sponsor may bring a patent infringement suit and injunction proceedings against the biosimilar product sponsor. The biosimilar applicant may also be able to bring an action for declaratory judgment concerning the patent.

Biosimilar protection may be available in other jurisdictions, including the European Union, United Kingdom and Japan.

Also, certain indications, such as pancreatic cancer, for which we plan to develop our products may qualify as an Orphan, or Rare, Disease. A product qualifying for Orphan Drug status is eligible for 7 years of exclusivity following FDA marketing approval. A Rare Disease is defined as affecting fewer than 200,000 persons in the United States; a sponsor may request Orphan Drug status for a drug for only a subset of persons with a particular disease or condition that otherwise affects 200,000 or more people if the sponsor demonstrates that, due to one or more properties of the drug, the remaining persons with such disease would not be appropriate candidates for use of the drug. Orphan Drug status may also be available in other jurisdictions, including the European Union, the United Kingdom and Japan.

Trademarks

We believe our rights under issued and pending trademarks are important and valuable and we strive to and intend to seek, maintain and defend our trademark rights.

“Genelux” is the subject of a pending trademark application in the United States, as well as issued trademark registrations in the European Union, the United Kingdom, China and in several other countries.

Our unregistered trademarks include “CHOICE”.

Government Regulation and Product Approval

In the United States, the FDA regulates biological products under the Federal Food, Drug, and Cosmetic Act, or the FDCA, the PHSA, and regulations and guidance documents implementing these laws. The FDCA, PHSA and their corresponding regulations govern, among other things, the testing, manufacturing, safety, purity, potency, labeling, packaging, storage, record keeping, distribution, reporting, advertising and other promotional practices involving biological products. Consent from the FDA is required before conducting human clinical testing of biological products. FDA licensure also must be obtained before marketing of biological products. The process of obtaining regulatory approvals and the subsequent compliance with appropriate federal, state, local and foreign statutes and regulations require the expenditure of substantial time and financial resources.

U.S. Biological Products Development Process

Any biologic product must be licensed by the FDA before it may be legally marketed in the United States. The process required by the FDA before a biologic product candidate may be marketed in the United States generally involves the following:

- Completion of preclinical laboratory tests and in vivo studies in accordance with the FDA's GLP regulations and applicable requirements for the humane use of laboratory animals or other applicable regulations;
- Submission to the FDA of an investigational new drug (IND) application, which allows human clinical trials to begin unless FDA objects within 30 calendar days;
- Approval by an independent institutional review board, or IRB, reviewing each clinical site before each clinical trial may be initiated;
- Performance of adequate and well-controlled human clinical trials according to the FDA's Good Clinical Practice (GCP) regulations, and any additional requirements for the protection of human research subjects and their health information, to establish the safety, purity and potency of the proposed biologic product candidate for its intended use;
- Preparation and submission to the FDA of a biological products license application, or BLA, for marketing approval that includes substantial evidence of safety, purity and potency from results of nonclinical testing and clinical trials;
- Review of the product by an FDA advisory committee, if applicable;
- Satisfactory completion of an FDA inspection of the manufacturing facility or facilities where the biologic product candidate is produced to assess compliance with current Good Manufacturing Practice (cGMP) requirements and to assure that the facilities, methods and controls are adequate to preserve the biologic product candidate's identity, safety, strength, quality, potency and purity;
- Potential FDA audit of the nonclinical and clinical trial sites that generated the data in support of the BLA; and
- Payment of user fees and FDA review and approval, or licensure, of the BLA.

The testing and approval process of product candidates requires substantial time, effort, and financial resources. Satisfaction of the FDA's pre-market approval requirements typically takes many years and the actual time required may vary substantially based upon the type, complexity, and novelty of the product or disease. Before testing any biologic product candidate in humans, the product candidate must undergo preclinical testing. Preclinical tests, also referred to as nonclinical studies, include laboratory evaluations of product chemistry, toxicity and formulation, as well as in vivo studies to assess the potential safety and activity of the product candidate and to establish a rationale for therapeutic use. The conduct of the preclinical tests must comply with federal regulations and requirements including GLPs.

Concurrent with clinical trials, companies usually must complete some long-term preclinical testing, such as animal tests of reproductive adverse events and carcinogenicity, and must also develop additional information about the chemistry and physical characteristics of the drug and finalize a process for manufacturing the drug in commercial quantities in accordance with cGMP requirements. The manufacturing process must be capable of consistently producing quality batches of the product candidate and, among other things, the manufacturer must develop methods for testing the identity, strength, quality and purity of the final drug product. Additionally, appropriate packaging must be selected and tested and stability studies must be conducted to demonstrate that the product candidate does not undergo unacceptable deterioration over its shelf life.

A clinical trial sponsor must submit the results of the preclinical tests, together with manufacturing information, analytical data, any available clinical data or literature and a proposed clinical protocol, to the FDA as part of the IND. Some preclinical testing may continue even after the IND is submitted. The IND automatically becomes effective 30 calendar days after receipt by the FDA, unless before that time the FDA raises concerns or questions related to a proposed clinical trial, including concerns that human research subjects will be exposed to unreasonable health risks, and places the clinical trial on a clinical hold. In such a case, the IND sponsor and the FDA must resolve any outstanding concerns before the clinical trial can begin. The FDA also may impose partial or full clinical holds on a biologic product candidate at any time before or during clinical trials due to safety concerns or non-compliance. If the FDA imposes a clinical hold, trials may not recommence without FDA authorization and then only under terms authorized by the FDA. Accordingly, we cannot be sure that submission of an IND will result in the FDA allowing clinical studies to begin, or that, once begun, issues will not arise that partially or fully suspend or terminate such studies.

Human Clinical Trials Under an IND

Clinical trials involve the administration of the investigational product to healthy volunteers or patients under the supervision of qualified investigators which generally are physicians not employed by, or under, the control of the trial sponsor. Clinical trials must be conducted under written study protocols detailing, among other things, the objectives of the trial, subject selection and exclusion, the trial procedures, the parameters to be used in monitoring safety, the effectiveness criteria to be evaluated, and a statistical analysis plan. Each protocol and any amendments to the protocol must be submitted to the FDA as part of the IND.

Further, clinical trials must be conducted in accordance with federal regulations and GCP requirements, which include the requirements that all research subjects provide their informed consent in writing for their participation in any clinical trial, as well as review and approval by an IRB at each study site participating in the clinical trial or a central IRB. An IRB is charged with protecting the welfare and rights of trial participants and considers items such as whether the risks to individuals participating in the clinical trials are minimized and are reasonable in relation to anticipated benefits. The IRB also approves the form and content of the informed consent that must be signed by each clinical trial subject, or their legal representative, reviews and approves the study protocol, and must monitor the clinical trial until completed.

Human clinical trials typically are conducted in three sequential phases that may overlap or be combined:

- *Phase 1*. The biologic product candidate initially is introduced into a small number of healthy human subjects and tested for safety, dosage tolerance, absorption, metabolism, distribution, excretion and, if possible, to gain an early understanding of its effectiveness. In the case of some product candidates for severe or life-threatening diseases, especially when the product candidate may be too inherently toxic to ethically administer to healthy volunteers, the initial human testing is often conducted in patients.
- *Phase 2*. The biologic product candidate is evaluated in a limited patient population to identify possible adverse effects and safety risks, to preliminarily evaluate the efficacy of the product candidate for specific targeted diseases and to determine dosage tolerance, optimal dosage and dosing schedule.
- *Phase 3*. Phase 3 clinical trials are commonly referred to as “pivotal” or “registrational” studies, which typically denotes a study which presents the data that the FDA or other relevant regulatory agency will

use to determine whether or not to approve a biologic product. In Phase 3 studies, the biologic product candidate is administered to an expanded patient population, generally at multiple geographically dispersed clinical trial sites in adequate and well-controlled clinical trials to generate sufficient data to statistically confirm the potency and safety of the product for approval. These clinical trials are intended to establish the overall risk/benefit ratio of the product candidate and provide an adequate basis for product labeling.

Post-approval clinical trials, sometimes referred to as Phase 4 clinical trials, may be conducted after initial approval. These clinical trials are used to gain additional experience from the treatment of patients in the intended therapeutic indication, particularly for long-term safety follow-up.

During all phases of clinical development, regulatory agencies require extensive monitoring and auditing of all clinical activities, clinical data and clinical trial investigators. Annual progress reports detailing the results of the clinical trials must be submitted to the FDA.

Written IND safety reports must be promptly submitted to the FDA and the investigators for: serious and unexpected adverse events; any findings from other studies, in vivo laboratory tests or in vitro testing that suggest a significant risk for human subjects; or any clinically important increase in the rate of a serious suspected adverse reaction over that listed in the protocol or investigator brochure. The sponsor must submit an IND safety report within 15 calendar days after the sponsor determines that the information qualifies for reporting. The sponsor also must notify the FDA of any unexpected fatal or life-threatening suspected adverse reaction within seven calendar days after the sponsor's initial receipt of the information. Relevant additional information obtained by the sponsor that pertains to a previously submitted IND safety report must be submitted as a follow-up IND safety report. Such report should be submitted within 15 calendar days after the sponsor receives the information.

Information about certain clinical trials, including a description of the study and, in some cases, study results, must be submitted within specific timeframes to the National Institutes of Health, or NIH, for public dissemination on their clinicaltrials.gov website. Manufacturers or distributors of investigational products for the diagnosis, monitoring, or treatment of one or more serious or life-threatening diseases or conditions where no other comparable or satisfactory therapeutic options exist must also have a publicly available policy on evaluating and responding to requests for expanded access, sometimes called "compassionate use," requests.

Additionally, some clinical trials are overseen by an independent group of qualified experts organized by the clinical trial sponsor that regularly reviews accumulated data and advises the study sponsor regarding the continuing safety of the trial. This group may also review interim data to assess the continuing validity and scientific merit of the clinical trial. This group receives special access to unblinded data during the clinical trial and may advise the sponsor to halt the clinical trial if it determined there is an unacceptable safety risk for subjects or on other grounds, such as no demonstration of efficacy.

The FDA may order the temporary, or permanent, discontinuation of a clinical trial at any time, or impose other sanctions, if it believes that the clinical trial either is not being conducted in accordance with FDA requirements or presents an unacceptable risk to the clinical trial patients. An IRB may also require the clinical trial at the site to be halted, either temporarily or permanently, for failure to comply with the IRB's requirements or if the trial poses an unexpected serious harm to subjects. The FDA or an IRB may also impose conditions on the conduct of a clinical trial. Clinical trial sponsors may also choose to discontinue clinical trials as a result of risks to subjects, a lack of favorable results, or changing business priorities.

Compliance with cGMP Requirements

Manufacturers of biological products must comply with applicable cGMP regulations, including quality control and quality assurance and maintenance of records and documentation. Manufacturers and others involved in the manufacture and distribution of such products also must register their establishments with the FDA and

certain state agencies. Both domestic and foreign manufacturing establishments must register and provide additional information to the FDA upon their initial participation in the manufacturing process. Establishments may be subject to periodic, unannounced inspections by government authorities to ensure compliance with cGMP requirements and other laws. Discovery of problems may result in a government entity placing restrictions on a product, manufacturer or holder of an approved BLA, and may extend to requiring withdrawal of the product from the market. The FDA will not approve a BLA unless it determines that the manufacturing processes and facilities are in compliance with cGMP requirements and adequate to assure consistent production of the product within required specification.

Concurrent with clinical trials, companies usually complete additional preclinical studies and must also develop additional information about the physical characteristics of the biologic product candidate as well as finalize a process for manufacturing the product candidate in commercial quantities in accordance with cGMP requirements. To help reduce the risk of the introduction of adventitious agents or of causing other adverse events with the use of biological products, the PHSA emphasizes the importance of manufacturing control for products whose attributes cannot be precisely defined. The manufacturing process must be capable of consistently producing quality batches of the product candidate and, among other requirements, the sponsor must develop methods for testing the identity, strength, quality, potency and purity of the final biologic product. Additionally, appropriate packaging must be selected and tested and stability studies must be conducted to demonstrate that the biologic product candidate does not undergo unacceptable deterioration over its shelf life.

In relation to the clinical trials that may be conducted in other countries with a view to obtaining a marketing authorization, there are equivalent cGMP requirements and other regulatory rules that are implemented nationally.

U.S. FDA Review and Approval Process

Assuming successful completion of the required clinical and preclinical testing, the results of the preclinical tests and clinical trials together with detailed information relating to the product's CMC, including negative or ambiguous results as well as positive findings, and proposed labeling, among other things, are submitted to the FDA as part of a BLA requesting approval to market the product for one or more indications.

Under the Prescription Drug User Fee Act, or PDUFA, as amended, each BLA must be accompanied by a significant user fee. The FDA adjusts the PDUFA user fees on an annual basis. The PDUFA also imposes an annual program fee for approved biological products. Fee waivers or reductions are available in certain circumstances, including a waiver of the application fee for the first application filed by a small business. Additionally, no user fees are assessed on BLAs for product candidates designated as orphan drugs, unless the product candidate also includes a non-orphan indication.

In addition, under the Pediatric Research Equity Act, or PREA, a BLA or supplement to a BLA for a new active ingredient, indication, dosage form, dosage regimen, or route of administration, must contain data that are adequate to assess the safety and effectiveness of the product for the claimed indications in all relevant pediatric subpopulations, and to support dosing and administration for each pediatric subpopulation for which the product is safe and effective. Also, applications for product candidates intended for the treatment of adult cancer which are directed at molecular targets that the FDA determines to be substantially relevant to the growth or progression of pediatric cancer, in place of the PREA investigations, sponsors must submit, with the application, reports from molecularly targeted pediatric cancer investigations designed to yield clinically meaningful pediatric study data, using appropriate formulations, to inform potential pediatric labeling. The FDA may, on its own initiative or at the request of the applicant, grant deferrals for submission of some or all pediatric data until after approval of the product for use in adults, or full or partial waivers from the pediatric data requirements. Orphan products are also exempt from the PREA requirements.

The FDA reviews a BLA within 60 days of submission to determine if it is substantially complete before the agency accepts it for filing. The FDA may refuse to file any BLA that it deems incomplete or not properly

reviewable at the time of submission and may request additional information. In that event, the BLA must be resubmitted with the additional information. The resubmitted application also is subject to review before the FDA accepts it for filing. Once the submission is accepted for filing, the FDA begins an in-depth, substantive review of the BLA.

The FDA reviews the BLA to determine, among other things, whether the proposed product candidate is safe and potent, or effective, for its intended use, has an acceptable purity profile and whether the product candidate is being manufactured in accordance with cGMP to assure and preserve the product candidate's identity, safety, strength, quality, potency and purity. The FDA may refer applications for novel biological products or biological products that present difficult questions of safety or efficacy to an advisory committee, typically a panel that includes clinicians and other experts, for review, evaluation and a recommendation as to whether the application should be approved and under what conditions. The FDA is not bound by the recommendations of an advisory committee, but it considers such recommendations carefully when making decisions. During the product approval process, the FDA also will determine whether a risk evaluation and mitigation strategy, or REMS, is necessary to assure the safe use of the product candidate. REMS use risk minimization strategies beyond the professional labeling to ensure that the benefits of the product outweigh the potential risks. To determine whether a REMS is needed, the FDA will consider the size of the population likely to use the product, seriousness of the disease, expected benefit of the product, expected duration of treatment, seriousness of known or potential adverse events, and whether the product is a new molecular entity. A REMS could include medication guides, physician communication plans and elements to assure safe use, such as restricted distribution methods, patient registries and other risk minimization tools. If the FDA concludes a REMS is needed, the sponsor of the BLA must submit a proposed REMS; the FDA will not approve the BLA without a REMS, if required.

Before approving a BLA, the FDA will inspect the facilities at which the product candidate is manufactured. The FDA will not approve the product candidate unless it determines that the manufacturing processes and facilities are in compliance with cGMP requirements and adequate to assure consistent production of the product candidate within required specifications. Additionally, before approving a BLA, the FDA typically will inspect one or more clinical sites to assure that the clinical trials were conducted in compliance with IND trial requirements and GCP requirements.

On the basis of the BLA and accompanying information, including the results of the inspection of the manufacturing facilities, the FDA may issue an approval letter or a complete response letter. An approval letter authorizes commercial marketing of the biologic product with specific prescribing information for specific indications. A complete response letter generally outlines the deficiencies in the submission and may require substantial additional testing or information in order for the FDA to reconsider the application. If and when those deficiencies have been addressed to the FDA's satisfaction in a resubmission of the BLA, the FDA will issue an approval letter.

If a product candidate receives regulatory approval, the approval may be significantly limited to specific diseases and dosages or the indications for use may otherwise be limited. Further, the FDA may require that certain contraindications, warnings or precautions be included in the product labeling. The FDA may impose restrictions and conditions on product distribution, prescribing or dispensing in the form of a REMS, or otherwise limit the scope of any approval. The FDA may also require post-marketing clinical trials, sometimes referred to as Phase 4 clinical trials, designed to further assess a biologic product's safety and effectiveness, and testing and surveillance programs to monitor the safety of approved products that have been commercialized.

The FDA has agreed to specified performance goals in the review of BLAs under the PDUFA. One such goal is to review standard BLAs in ten months after the FDA accepts the BLA for filing, and priority BLAs in six months, whereupon a review decision is to be made. The FDA does not always meet its PDUFA goal dates for standard and priority BLAs and its review goals are subject to change from time to time. The review process and the PDUFA goal date may be extended by three months if the FDA requests or the BLA sponsor otherwise provides additional information or clarification regarding information already provided in the submission within the last three months before the PDUFA goal date.

Post-Approval Requirements

After approval, there also are continuing annual program user fee requirements for approved products, excluding, under certain circumstances, orphan products.

Rigorous and extensive FDA regulation of biological products continues after approval, particularly with respect to cGMP requirements. Manufacturers are required to comply with applicable requirements in the cGMP regulations, including quality control and quality assurance and maintenance of records and documentation. To help reduce the increased risk of the introduction of adventitious agents, the PHSA emphasizes the importance of manufacturing controls for products whose attributes cannot be precisely defined. The PHSA also provides authority to the FDA to immediately suspend licenses in situations where there exists a danger to public health, to prepare or procure products in the event of shortages and critical public health needs, and to authorize the creation and enforcement of regulations to prevent the introduction or spread of communicable diseases in the United States and between states.

Other post-approval requirements applicable to biological products include reporting of cGMP deviations that may affect the identity, potency, purity and overall safety of a distributed product, record-keeping requirements, reporting of adverse effects, reporting updated safety and efficacy information and complying with electronic record and signature requirements. After a BLA is approved, the product also may be subject to official lot release. If the product is subject to official release by the FDA, the manufacturer submits samples of each lot of product to the FDA, together with a release protocol, showing a summary of the history of manufacture of the lot and the results of all tests performed on the lot. The FDA also may perform certain confirmatory tests on lots of some products before releasing the lots for distribution. In addition, the FDA conducts laboratory research related to the regulatory standards on the safety, purity, potency and effectiveness of biological products.

In addition, manufacturers and other entities involved in the manufacture and distribution of approved therapeutics are required to register their establishments with the FDA and certain state agencies, list their products, and are subject to periodic announced and unannounced inspections by the FDA and these state agencies for compliance with current cGMP and other requirements, which impose certain procedural and documentation requirements upon us and third-party manufacturers. Manufacturers must continue to expend time, money, and effort in the areas of production and quality-control to maintain compliance with current cGMPs. Regulatory authorities may withdraw product approvals or request product recalls if a company fails to comply with regulatory standards, if it encounters problems following initial marketing, or if previously unrecognized problems are subsequently discovered. In addition, changes to the manufacturing process or facility generally require prior FDA approval or notification before being implemented, and other types of changes to the approved product, such as adding new indications and additional labeling claims, are also subject to further FDA review and approval.

Moreover, the Drug Quality and Security Act imposes obligations on manufacturers of biopharmaceutical products related to product tracking and tracing.

Adverse event reporting and submission of periodic reports, including annual reports and deviation reports, are required following FDA approval of a BLA. Later discovery of previously unknown problems with a product, including adverse events of unanticipated severity or frequency, or with manufacturing processes, or failure to comply with regulatory requirements, may result in significant regulatory actions. Such actions may include refusal to approve pending applications, license suspension or revocation, imposition of a partial or full clinical hold or termination of clinical trials, warning letters, untitled letters, cyber letters, modification of promotional materials or labeling, provision of corrective information, imposition of post-market requirements including the need for additional testing, imposition of distribution or other restrictions under a REMS, product recalls, product seizures or detentions, refusal to allow imports or exports, total or partial suspension of production or distribution, FDA debarment, injunctions, fines, consent decrees, corporate integrity agreements, suspension and debarment from government contracts, and refusal of orders under existing government contracts, exclusion from

participation in federal and state healthcare programs, restitution, disgorgement, or civil or criminal penalties, including fines and imprisonment, and result in adverse publicity, among other adverse consequences.

A sponsor also must comply with the FDA's advertising and promotion requirements, such as the prohibition on promoting products for uses or in-patient populations that are not described in the product's approved labeling (known as "off-label use"). The FDA and other agencies actively enforce the laws and regulations prohibiting the promotion of off-label uses, and a company that is found to have improperly promoted off-label uses may be subject to significant liability. Violations relating to the promotion of off-label uses may lead to investigations alleging violations of federal and state healthcare fraud and abuse and other laws, as well as state consumer protection laws. Companies, however, may generally share truthful and non-misleading information that is otherwise consistent with a product's FDA approved labeling. Discovery of previously unknown problems or the failure to comply with the applicable regulatory requirements may result in restrictions on the marketing of a product or withdrawal of the product from the market as well as possible civil or criminal sanctions.

Failure to comply with the applicable U.S. requirements at any time during the product development process, approval process or after approval, may subject an applicant or manufacturer to administrative or judicial civil or criminal actions and adverse publicity. These actions could include refusal to approve pending applications or supplemental applications, withdrawal of an approval, clinical hold, suspension or termination of a clinical trial by an IRB, warning or untitled letters, product recalls, product seizures, total or partial suspension of production or distribution, injunctions, fines or other monetary penalties, refusals of government contracts, mandated corrective advertising or communications with healthcare providers, debarment, restitution, disgorgement of profits or other civil or criminal penalties.

Broadly equivalent requirements and controls typically apply in other countries to the submission of marketing authorization applications and, post-approval, to the holding of such marketing authorizations.

Other Healthcare Laws and Regulations

Our business activities, including but not limited to, research, sales, promotion, distribution, medical education, and other activities following product approval will be subject to regulation by numerous federal and state regulatory and law enforcement authorities in the United States in addition to the FDA, including potentially the Department of Justice, the Department of Health and Human Services and its various divisions, including the CMS and the Health Resources and Services Administration, the Department of Veterans Affairs, the Department of Defense, and state and local governments. Healthcare providers and third-party payors play a primary role in the recommendation and use of pharmaceutical products that are granted marketing approval. Arrangements with third-party payors, existing or potential customers and referral sources, including healthcare providers, are subject to broadly applicable fraud and abuse laws and regulations, and these laws and regulations may constrain the business or financial arrangements and relationships through which manufacturers conduct clinical research, market, sell and distribute the products for which they obtain marketing approval. Such restrictions under applicable federal and state healthcare laws and regulations include the following:

- The federal Anti-Kickback Statute, which prohibits, among other things, persons and entities from knowingly and willfully soliciting, receiving, offering or paying remuneration, directly or indirectly, in cash or kind, in exchange for, or to induce, either the referral of an individual for, or the purchase, order or recommendation of, any good or service for which payment may be made under federal healthcare programs such as the Medicare and Medicaid programs. This statute has been interpreted to apply to arrangements between pharmaceutical manufacturers, on the one hand, and prescribers, purchasers, formulary managers and other individuals and entities on the other. The ACA amended the intent requirement of the federal Anti-Kickback Statute such that a person or entity no longer needs to have actual knowledge of this statute or specific intent to violate it in order to commit a violation;

- The federal civil and criminal false claims, including the civil FCA, and Civil Monetary Penalties Laws which prohibit, among other things, individuals or entities from knowingly presenting, or causing to be presented, claims for payment from Medicare, Medicaid or other third-party payors that are false or fraudulent, or making a false statement to avoid, decrease, or conceal an obligation to pay money to the federal government. Certain marketing practices, including off-label promotion, also may implicate the FCA. In addition, the ACA 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 FCA;
- The federal Physician Payments Sunshine Act, which requires certain manufacturers of drugs, devices, biological products and medical supplies for which payment is available under Medicare, Medicaid, or the Children's Health Insurance Program, with specific exceptions, to report annually to the Centers for Medicare & Medicaid Services, or the CMS, information related to payments and other transfers of value made to physicians (defined to include doctors, dentists, optometrists, podiatrists and chiropractors), certain other healthcare providers and teaching hospitals, and ownership and investment interests held by physicians and other healthcare providers and their immediate family members. Beginning in 2022, applicable manufacturers also will be required to report such information regarding payments and transfers of value provided during the previous year to physician assistants, nurse practitioners, clinical nurse specialists, anesthesiologist assistants, certified nurse anesthetists and certified nurse-midwives;
- HIPAA prohibits knowingly and willfully executing, or attempting to execute, a scheme to defraud or to 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, a healthcare benefit program, regardless of whether the payor is public or private, in connection with the delivery or payment for health care benefits, knowingly and willfully embezzling or stealing from a health care benefit program, willfully obstructing a criminal investigation of a health care offense and knowingly and willfully falsifying, concealing, or covering up by any trick or device a material fact or making any materially false statements in connection with the delivery of, or payment for, healthcare benefits, items, or services relating to healthcare matters. Additionally, the ACA amended the intent requirement of certain of these criminal statutes under HIPAA so that a person or entity no longer needs to have actual knowledge of the statute, or the specific intent to violate it, to have committed a violation;
- HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act, and their implementing regulations, which impose certain obligations, including mandatory contractual terms, with respect to safeguarding the transmission, security and privacy of protected health information by entities subject to HIPAA, such as health plans, health care clearinghouses and certain healthcare providers, and their respective business associates that perform services for them that involve the use, or disclosure of, individually identifiable health information and their covered subcontractors; and
- 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 pharmaceutical companies to comply with the pharmaceutical industry's voluntary compliance guidelines and the relevant compliance guidance promulgated by the federal government or otherwise restrict payments that may be made to healthcare providers and other potential referral sources; state laws that require drug manufacturers to report information related to payments and other transfers of value to physicians and other healthcare providers and drug pricing and/or marketing expenditures; and state and local laws requiring the registration of pharmaceutical sales representatives and state 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.

Further, we may be subject to data privacy and security regulation by both the federal government and the states in which we conduct our business. HIPAA, as amended by HITECH, and its respective implementing

regulations imposes certain requirements on covered entities relating to the privacy, security, and transmission of certain individually identifiable health information known as protected health information. Among other things, HITECH, through its implementing regulations, makes HIPAA's security standards and certain privacy standards directly applicable to business associates, defined as a person or organization, other than a member of a covered entity's workforce, that creates, receives, maintains, or transmits protected health information on behalf of a covered entity for a function or activity regulated by HIPAA. HITECH also strengthened the civil and criminal penalties that may be imposed against covered entities, business associates, subcontractors, and individuals, 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 attorneys' fees and costs associated with pursuing federal civil actions. In addition, other federal and state laws may govern the privacy and security of health and other information in certain circumstances, many of which differ from each other in significant ways and may not be preempted by HIPAA, thus complicating compliance efforts.

To the extent that any of our products are sold in a foreign country, we may be subject to similar foreign laws and regulations, which may include, for instance, applicable post-marketing requirements, including safety surveillance, anti-fraud and abuse laws, and implementation of corporate compliance programs and reporting of payments or transfers of value to healthcare professionals.

In the European Union, the data privacy laws are generally perceived to be stricter than those which apply in the United States and include specific requirements for the transfer of personal data outside the European Union to the United States to ensure that European Union standards of data privacy will be applied to such data.

Violation of the laws described above or any other governmental laws and regulations may result in significant penalties, including administrative, civil and criminal penalties, damages, fines, the curtailment or restructuring of operations, the exclusion from participation in federal and state healthcare programs, disgorgement, contractual damages, reputational harm, diminished profits and future earnings, imprisonment, and additional reporting requirements and oversight if a person becomes subject to a corporate integrity agreement or similar agreement to resolve allegations of non-compliance with these laws. Furthermore, efforts to ensure that business activities and business arrangements comply with applicable healthcare laws and regulations can be costly for manufacturers of branded prescription products.

Coverage and Reimbursement

Significant uncertainty exists as to the coverage and reimbursement status of any products for which we may obtain regulatory approval. In the United States, sales of any product candidates for which regulatory approval for commercial sale is obtained will depend in part on the availability of coverage and adequate reimbursement from third-party payors. Third-party payors include government authorities and health programs in the United States such as Medicare and Medicaid, managed care providers, private health insurers and other organizations. These third-party payors are increasingly reducing reimbursements for medical products and services. The process for determining whether a payor will provide coverage for a drug product may be separate from the process for setting the reimbursement rate that the payor will pay for the drug product. Third-party payors may limit coverage to specific drug products on an approved list, or formulary, which might not include all of FDA-approved drugs for a particular indication. Additionally, the containment of healthcare costs has become a priority of federal and state governments, and the prices of drugs have been a focus in this effort. The U.S. government, state legislatures and foreign governments have shown significant interest in implementing cost-containment programs, including price controls, restrictions on reimbursement and requirements for substitution of generic products. Adoption of price controls and cost-containment measures, and adoption of more restrictive policies in jurisdictions with existing controls and measures, could further limit our net revenue and results.

A payor's decision to provide coverage for a drug product does not imply that an adequate reimbursement rate will be approved. Further, coverage and reimbursement for drug products can differ significantly from payor

to payor. As a result, the coverage determination process is often a time-consuming and costly process that will require us to provide scientific and clinical support for the use of our products to each payor separately, with no assurance that coverage and adequate reimbursement will be applied consistently or obtained in the first instance.

Third-party payors are increasingly challenging the price and examining the medical necessity and cost-effectiveness of medical products and services, in addition to their safety and efficacy. New metrics frequently are used as the basis for reimbursement rates, such as average sales price, average manufacturer price and actual acquisition cost. In order to obtain coverage and reimbursement for any product that might be approved for sale, it may be necessary to conduct expensive pharmacoeconomic studies in order to demonstrate the medical necessity and cost-effectiveness of the products, in addition to the costs required to obtain regulatory approvals. If third-party payors do not consider a product to be cost-effective compared to other available therapies, they may not cover the product after approval as a benefit under their plans or, if they do, the level of payment may not be sufficient to allow a company to sell its products at a profit.

The marketability of any product candidates for which we or our collaborators receive regulatory approval for commercial sale may suffer if the government and third-party payors fail to provide adequate coverage and reimbursement. In addition, emphasis on managed care in the United States has increased and we expect will continue to increase the pressure on pharmaceutical pricing. Coverage policies and third-party reimbursement rates may change at any time. Even if favorable coverage and reimbursement status is attained for one or more products for which we or our collaborators receive regulatory approval, less favorable coverage policies and reimbursement rates may be implemented in the future. The cost containment measures that healthcare payors and providers are instituting and any healthcare reform could significantly reduce our revenues from the sale of any approved product candidates. We cannot provide any assurances that we will be able to obtain and maintain third-party coverage or adequate reimbursement for our product candidates in whole or in part.

In the European Union, pricing and reimbursement schemes vary widely from country to country. Some countries provide that products may be marketed only after a reimbursement price has been agreed. Some countries may require the completion of additional studies that compare the cost-effectiveness of a particular product candidate to currently available therapies. European Union member states may approve a specific price for a product or it may instead adopt a system of direct or indirect controls on the profitability of the company placing the product on the market. Other member states allow companies to fix their own prices for products, but monitor and control company profits. The downward pressure on health care costs has become intense. As a result, increasingly high barriers are being erected to the entry of new products. In addition, in some countries, cross-border imports from low-priced markets exert competitive pressure that may reduce pricing within a country. Any country that has price controls or reimbursement limitations may not allow favorable reimbursement and pricing arrangements.

Health Reform

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. In the United States, the biopharmaceutical industry has been a particular focus of these efforts and has been significantly affected by federal and state legislative initiatives, including those designed to limit the pricing, coverage, and reimbursement of pharmaceutical and biopharmaceutical products, especially under government-funded health care programs, and increased governmental control of drug pricing.

By way of example, in March 2010, the ACA was signed into law, intended to broaden access to health insurance, reduce or constrain the growth of healthcare spending, enhance remedies against fraud and abuse, add transparency requirements for the healthcare and health insurance industries, impose taxes and fees on the healthcare industry and impose additional health policy reforms. Among the provisions of the ACA of importance to our business are:

- An annual, nondeductible fee on any entity that manufactures or imports specified branded prescription drugs and biologic agents, apportioned among these entities according to their market share in certain government healthcare programs;
- An increase in the statutory minimum rebates a manufacturer must pay under the Medicaid Drug Rebate Program to 23.1% and 13.0% of the average manufacturer price for branded and generic drugs, respectively;
- A new methodology by which rebates owed by manufacturers under the Medicaid Drug Rebate Program are calculated for drugs that are inhaled, infused, instilled, implanted or injected;
- Extension of a manufacturer's Medicaid rebate liability to covered drugs dispensed to individuals who are enrolled in Medicaid managed care organizations;
- Expansion of eligibility criteria for Medicaid programs by, among other things, allowing states to offer Medicaid coverage to certain individuals with income at or below 133% of the federal poverty level, thereby potentially increasing a manufacturer's Medicaid rebate liability;
- A new Medicare Part D coverage gap discount program, in which manufacturers must now agree to offer 70% point-of-sale discounts off negotiated prices of applicable brand drugs to eligible beneficiaries during their coverage gap period, as a condition for a manufacturer's outpatient drugs to be covered under Medicare Part D;
- Expansion of the entities eligible for discounts under the Public Health Service pharmaceutical pricing program; and
- A new Patient-Centered Outcomes Research Institute to oversee, identify priorities in, and conduct comparative clinical effectiveness research, along with funding for such research.

There have been executive, judicial and Congressional challenges to certain aspects of the ACA. On December 22, 2017, President Trump signed into law the Tax Act which included a provision repealing the tax-based shared responsibility payment imposed by the ACA 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." On June 17, 2021 the U.S. Supreme Court dismissed a challenge on procedural grounds that argued the ACA is unconstitutional in its entirety because the "individual mandate" was repealed by Congress. Thus, the ACA will remain in effect in its current form. Further, prior to the U.S. Supreme Court ruling, on January 28, 2021, President Biden issued an executive order to initiate a special enrollment period for purposes of obtaining health insurance coverage through the ACA marketplace, which began on February 15, 2021 and will remain open through August 15, 2021. The executive order also instructs certain governmental agencies to review and reconsider their existing policies and rules that limit access to healthcare, including among others, reexamining Medicaid demonstration projects and waiver programs that include work requirements, and policies that create unnecessary barriers to obtaining access to health insurance coverage through Medicaid or the ACA.

The heightened governmental scrutiny in the United States of pharmaceutical pricing practices in light of the rising cost of prescription drugs and biologics, also has resulted in executive orders, congressional inquiries and proposed and enacted federal and state legislation designed to, among other things, bring more transparency to product pricing, review the relationship between pricing and manufacturer patient programs, and reform government program reimbursement methodologies for products. At the federal level, President Trump used several means to propose or implement drug pricing reform, including through federal budget proposals, executive orders, and policy initiatives. For example, on July 24, 2020 and September 13, 2020, the Trump administration announced several executive orders related to prescription drug pricing that attempt to implement

several of the administration's proposals. The FDA also released a final rule, effective November 30, 2020, implementing a portion of the importation executive order providing guidance for states to build and submit importation plans for drugs from Canada. Further, on November 20, 2020, HHS finalized a regulation removing safe harbor protection for price reductions from pharmaceutical manufacturers to plan sponsors under Part D, either directly or through pharmacy benefit managers, unless the price reduction is required by law. The implementation of the rule has been delayed by the Biden administration from January 1, 2022 to January 1, 2023 in response to ongoing litigation. The rule also creates a new safe harbor for price reductions reflected at the point-of-sale, as well as a new safe harbor for certain fixed fee arrangements between pharmacy benefit managers and manufacturers, the implementation of which have also been delayed until January 1, 2023. On November 20, 2020, CMS issued an interim final rule implementing President Trump's Most Favored Nation executive order, which would tie Medicare Part B payments for certain physician-administered drugs to the lowest price paid in other economically advanced countries, effective January 1, 2021. On December 28, 2020, the United States District Court in Northern California issued a nationwide preliminary injunction against implementation of the interim final rule. On January 13, 2021, in a separate lawsuit brought by industry groups in the U.S. District of Maryland, the government defendants entered a joint motion to stay litigation on the condition that the government would not appeal the preliminary injunction granted in the U.S. District Court for the Northern District of California and that performance for any final regulation stemming from the MFN Model interim final rule shall not commence earlier than sixty (60) days after publication of that regulation in the Federal Register. Additionally, on March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 into law, which eliminates the statutory Medicaid drug rebate cap, currently set at 100% of a drug's average manufacturer price, for single source and innovator multiple source drugs, beginning January 1, 2024.

At the state level, individual states in the United States have increasingly passed legislation and implemented regulations designed to control pharmaceutical and biological product pricing, including price or patient reimbursement constraints, discounts, restrictions on certain product access and marketing cost disclosure and transparency measures, and, in some cases, designed to encourage importation from other countries and bulk purchasing. Some third-party payors also require pre-approval of coverage for new or innovative devices or therapies before they will reimburse healthcare providers that use such therapies.

We expect that these initiatives, as well as other healthcare reform measures that may be adopted in the future, as well as the trend toward managed healthcare and increasing influence of managed care organizations, may result in more rigorous coverage criteria and lower reimbursement, and in additional downward pressure on the price that we receive for any approved product. It is also possible that additional governmental action is taken in response to the COVID-19 pandemic. Any reduction in reimbursement from Medicare or other government-funded programs may result in a similar reduction in payments from private payors. The implementation of current and future cost containment measures or other healthcare reforms may adversely affect our operations and prevent us from being able to generate revenue, attain profitability or commercialize our product candidates.

Data Privacy and Security

In the ordinary course of our business, we collect, process and store confidential and sensitive information, including personal information, intellectual property, trade secrets, and proprietary information owned or controlled by ourselves or other third parties. We, and third parties upon whom we rely, use sophisticated information technology, software and services to process, store, use, generate, transfer and disclose information, as well as other sensitive information controlled by ourselves or other third parties.

We may also be subject to federal, state, and foreign data privacy and security laws and regulations. In the United States, numerous federal and state laws and regulations, including state data breach notification laws, state health information privacy laws, and federal and state consumer protection laws and regulations (e.g., Section 5 of the FTC Act), govern the collection, use, disclosure, and protection of health-related and other personal information could apply to our operations or the operations of our partners, vendors, or other third parties on whom we rely. The legislative and regulatory framework related to the collection, use, retention,

safeguarding, disclosure, sharing, transfer, security and other processing of personal data worldwide is rapidly evolving. The number and scope of data protection laws and regulations is changing, subject to differing applications and interpretations, and may be inconsistent among jurisdictions, or in conflict with other rules, laws or other data processing obligations. Efforts to ensure that our current and future business arrangements, including our relationship with our CROs or other vendors who process data on our behalf, comply with applicable data privacy and data security laws and regulations will involve substantial costs.

For example, HIPAA, as amended by HITECH, and its implementing regulations, impose requirements relating to the privacy, security and transmission of individually identifiable health information on certain health care providers, health plans and health care clearinghouses, known as covered entities, as well as their business associates and covered subcontractors that perform certain services that involve creating, receiving, maintaining or transmitting individually identifiable health information for or on behalf of such covered entities. Entities that are found to be in violation of HIPAA as the result of a breach of unsecured protected health information, a complaint about privacy practices or an audit by HHS, may be subject to significant civil, criminal and administrative fines and penalties and/or additional reporting and oversight obligations if required to enter into a resolution agreement and corrective action plan with HHS to settle allegations of HIPAA non-compliance. Further, entities that knowingly obtain, use, or disclose individually identifiable health information maintained by a HIPAA covered entity in a manner that is not authorized or permitted by HIPAA may be subject to civil and criminal penalties. Even when HIPAA does not apply, according to the FTC, violating consumers' privacy rights or failing to take appropriate steps to keep consumers' personal information secure may constitute unfair acts or practices in or affecting commerce in violation of Section 5 of the FTC Act. The FTC expects a company's data security measures to be reasonable and appropriate in light of the sensitivity and volume of consumer information it holds, the size and complexity of its business, and the cost of available tools to improve security and reduce vulnerabilities. Individually identifiable health information is considered sensitive data that merits stronger safeguards.

Likewise, we expect that there will continue to be new proposed laws, regulations and industry standards relating to privacy and data protection in the United States, the European Union and other jurisdictions, such as the California Consumer Privacy Act of 2018, or CCPA, which has been characterized as the first "GDPR-like" privacy statute to be enacted in the United States. Although the CCPA exempts certain data processed in the context of clinical trials, the CCPA, to the extent applicable to our business and operations, may increase our compliance costs and potential liability with respect to the personal information we maintain about California residents. The CCPA among other effects, creates individual privacy rights for California consumers (as defined in the law), places increased privacy and security obligations on entities handling certain personal data of consumers or households, requires covered companies to provide disclosures to consumers regarding data collection, use and sharing practices, requires covered companies to allow users to opt-out of certain sales or transfers of personal information, and provides consumers with a private right of action for certain data breaches. The CCPA became effective on January 1, 2020, and the California Attorney General's authority to begin bringing enforcement actions began July 1, 2020. As currently written, the CCPA may impact our business activities and exemplifies the vulnerability of our business to the evolving regulatory environment related to personal data and protected health information. Further, the California Privacy Rights Act (CPRA) was recently voted into law by California residents. The CPRA significantly amends the CCPA, and imposes additional data protection obligations on covered companies doing business in California, including additional consumer rights processes and opt outs for certain uses of sensitive data. It also creates a new California data protection agency specifically tasked to enforce the law, which would likely result in increased regulatory scrutiny of California businesses in the areas of data protection and security. The substantive requirements for businesses subject to the CPRA will go into effect on January 1, 2023, and become enforceable on July 1, 2023. A similar law, the Consumer Data Protection Act (CDPA), was recently passed in Virginia and goes into effect on January 1, 2023.

We also are or will become subject to privacy laws in the jurisdictions in which we are established or in which we sell or market our products or run clinical trials. For example, in the European Union we are subject to Regulation (EU) 2016/679, the GDPR, in relation to our collection, control, processing, and other use of personal

data (i.e. data relating to an identified or identifiable living individual). We process personal data in relation to participants in our clinical trials in the European Economic Area, or EEA, including the health and medical information of these participants. The GDPR is directly applicable in each EU and EEA Member State, however, it provides that EU and EEA Member States may introduce further conditions, including limitations which could limit our ability to collect, use and share personal data (including health and medical information), or could cause our compliance costs to increase, ultimately having an adverse impact on our business. As noted above, the GDPR imposes onerous accountability obligations requiring data controllers and processors to maintain a record of their data processing and implement policies as part of its mandated privacy governance framework. It also requires data controllers to be transparent and disclose to data subjects (in a concise, intelligible and easily accessible form) how their personal information is to be used, imposes limitations on retention of personal data; defines for the first time pseudonymized (i.e., key-coded) data; introduces mandatory data breach notification requirements; and sets higher standards for data controllers to demonstrate that they have obtained valid consent for certain data processing activities. We are also subject to EEA rules with respect to cross-border transfers of personal data out of the EEA. As noted above, recent legal developments in the European Union have created complexity and uncertainty regarding transfers of personal data from the EEA to the United States, e.g. on July 16, 2020, the Court of Justice of the European Union, or the CJEU, invalidated the EU-U.S. Privacy Shield Framework, or the Privacy Shield, under which personal data could be transferred from the EEA to U.S. entities who had self-certified under the Privacy Shield scheme. While the CJEU upheld the adequacy of the standard contractual clauses (a standard form of contract approved by the European Commission as an adequate personal data transfer mechanism, and potential alternative to the Privacy Shield), it made clear that reliance on them alone may not necessarily be sufficient in all circumstances. Use of the standard contractual clauses must now be assessed on a case-by-case basis taking into account the legal regime applicable in the destination country, in particular applicable surveillance laws and rights of individuals and additional measures and/or contractual provisions may need to be put in place, however, the nature of these additional measures is currently uncertain. On June 4, 2021, the European Commission adopted new standard contractual clauses under the GDPR for data transfers from entities that are subject to the GDPR to transfer personal data outside of the EEA. The new standard contractual clauses impose additional obligations, including the obligation to conduct a transfer impact assessment and, depending on a party's role in the transfer, to implement additional security measures and to update internal privacy practices. If we elect to rely on the standard contractual clauses for data transfers, we may be required to incur significant time and resources to update our contractual arrangements and to comply with new obligations. Additionally, as noted above, on September 8, 2020, the Swiss Data Protection Authority (the Federal Data Protection and Information Commissioner) concluded that the Swiss-U.S. Privacy Shield does not provide an adequate level of protection for personal data transfer from Switzerland to the U.S. pursuant to the Swiss Federal Act on Data Protection. As supervisory authorities issue further guidance on personal data export mechanisms, including circumstances where the standard contractual clauses cannot be used, and/or start taking enforcement action, we could suffer additional costs, complaints and/or regulatory investigations or fines, and/or if we are otherwise unable to transfer personal data between and among countries and regions in which we operate, it could affect the manner in which we provide our services, the geographical location or segregation of our relevant systems and operations, and could adversely affect our financial results.

We are subject to the supervision of local data protection authorities in those EU jurisdictions where we are established or otherwise subject to the GDPR, and we maintain an office in Switzerland, which has its own set of stringent privacy and data protection laws and regulations. Fines for certain breaches of the GDPR are significant: up to the greater of €20.0 million or 4% of total global annual turnover. Further, following the withdrawal of the United Kingdom from the European Union on January 31, 2020, pursuant to the transitional arrangements agreed between the United Kingdom and the European Union, we will have to comply with the GDPR and separately the GDPR as implemented in the United Kingdom, each regime having the ability to fine up to the greater of €20 million / £17 million or 4% of global turnover. Following December 31, 2020, and the expiry of the post-Brexit transitional arrangements between the United Kingdom and European Union, although it is likely that the data protection obligations of the GDPR will continue to apply to UK-related processing of personal data in substantially unvaried form and fashion, for at least the short term thereafter, the relationship between the United Kingdom and the European Union in relation to certain aspects of data protection law remains unclear. For example, it is not yet clear whether the

United Kingdom will be the subject of a so-called adequacy decision of the European Commission, and it is therefore unclear how data transfers between EU/EEA Member States and the United Kingdom will be treated. Any changes relating to the UK and EU position regarding aspects of data protection law may lead to additional compliance costs and could increase our overall risk. In addition to the foregoing, a breach of the GDPR or other applicable privacy and data protection laws and regulations could result in regulatory investigations, reputational damage, orders to cease/change our use of data, enforcement notices, an inability to process personal data or to operate in certain jurisdictions, or potential civil claims including class action type litigation.

Moreover, we use third-party service providers and subprocessors to help us operate our business and engage in processing on our behalf. If we, our service providers, partners, or other relevant third-parties have experienced, or in the future experience, any security incident(s) that result in any data loss, deletion or destruction, unauthorized access to, loss of, unauthorized acquisition or disclosure of, or inadvertent exposure or disclosure of sensitive information, or compromise related to the security, confidentiality, integrity of our (or their) information technology, software, services, communications or data, it may result in a material adverse impact, including without limitation, regulatory investigations or enforcement actions, litigation, or an inability to process data in some jurisdictions. Furthermore, applicable data protection laws, privacy policies and data protection obligations may require us to notify relevant stakeholders of security breaches, including affected individuals, customers, and regulators. Such disclosures are costly, and the disclosure or the failure to comply with such requirements, could result in a material adverse impact, including without limitation, regulatory investigations or enforcement actions.

For more information on the potential impact of the GDPR, and associated EEA data protection laws, on our business, see the section titled “Risk Factors—Failure to comply with health and data protection laws and regulations could lead to government enforcement actions (which could include civil or criminal penalties), private litigation and/or adverse publicity and could negatively affect our operating results and business.”

Additional Regulation

In addition to the foregoing, state and federal laws regarding environmental protection and hazardous substances, including the Occupational Safety and Health Act, the Resource Conservation and Recovery Act and the Toxic Substances Control Act, affect our business. These and other laws govern the use, handling and disposal of various biologic, chemical and radioactive substances used in, and wastes generated by, operations. If our operations result in contamination of the environment or expose individuals to hazardous substances, we could be liable for damages and governmental fines. Equivalent laws have been adopted in other countries that impose similar obligations.

U.S. Foreign Corrupt Practices Act

The U.S. Foreign Corrupt Practices Act, or FCPA, prohibits U.S. corporations and individuals from engaging in certain activities to obtain or retain business abroad or to influence a person working in an official capacity. It is illegal to pay, offer to pay or authorize the payment of anything of value, directly or indirectly, to any foreign government official, government staff member, official or employee of a public international organization, or a political party or political candidate for the purpose of influencing any act or decision of the foreign entity in an attempt to obtain or retain business or to otherwise influence a person working in an official capacity. The scope of the FCPA includes interactions with healthcare professionals of foreign state-owned or affiliated hospitals, universities, or research institutions. The FCPA also obligates companies whose securities are listed in the United States to comply with accounting provisions requiring the company to maintain books and records that accurately and fairly reflect all transactions of the corporation, including international subsidiaries, and to devise and maintain an adequate system of internal accounting controls for international operations. Activities that violate the FCPA, even if they occur wholly outside the United States, can result in criminal and civil fines, imprisonment, disgorgement, oversight, and suspension and debarment from government contracts, and refusal of orders under existing government contracts.

Equivalent laws have been adopted in other foreign countries that impose similar or arguably broader obligations.

Employees

As of March 31, 2021, we had 13 full-time and part-time employees, including four who hold Ph.D. or M.D. degrees. Of these, 8 employees were engaged in research and development and manufacturing; our remaining employees are management and administrative staff. None of our employees is subject to a collective bargaining agreement or represented by a trade or labor union. We consider our relationship with our employees to be good.

Facilities

Our current corporate headquarters are located in San Diego, California, and consist of 6,880 square feet of research and development and pharmaceutical development laboratory and office space. The lease for this facility expires in February 2023. We also lease a 7,569 square-foot facility in San Diego, California, which contains our manufacturing operations and our translational science laboratory. The lease expires in September 2023, and we have the option to extend the lease for an additional five years. We have a business office located in Redlands, California, consisting of 1,884 square feet. The lease for this facility expires in December 2021. We are currently planning on opening a new headquarters in a yet-to-be determined leased facility in Westlake Village, California.

We believe that our existing and planned facilities will be adequate to meet our current needs and that our leases can be renewed, or suitable alternative spaces will be available in the future, on commercially reasonable terms.

Legal Proceedings

From time to time, we may be involved in various other claims and legal proceedings relating to claims arising out of our operations. We are not currently a party, nor have we received threat or notice that we will be a party, to any material legal proceedings.

MANAGEMENT

Executive Officers and Directors

The following table sets forth information regarding our executive officers and directors as of June 15, 2021.

Name	Age	Position
Executive Officers:		
Thomas Zindrick, J.D.	62	President and Chief Executive Officer
Paul Scigalla, M.D., Ph.D.	76	Chief Medical Officer
Tony Yu, Ph.D.	50	Vice President Clinical Trial Operations
Non-Employee Directors:		
Mary Mirabelli(1) (2) (3)	64	Director
John Thomas, Ph.D.(1) (2) (3)	63	Director
James L. Tyree	68	Director
Gabe Woodward(1) (2) (3)	41	Director

(1) Member of the compensation committee.
(2) Member of the nominating and corporate governance committee.
(3) Member of the audit committee.

Executive Officers

Thomas Zindrick, J.D. has been our President and Chief Executive Officer, and has served on our board of directors, since May 2014. He has served as Executive Vice Chairman of Aeromics Inc, a clinical-stage pharmaceutical company developing products for the control of edema (brain swelling) in ischemic stroke by targeting aquaporins, since August 2018. Mr. Zindrick served as Chief Executive Officer of Amitech Therapeutic Solutions, Inc., from 2012 to 2014. From 1993 to 2009, Mr. Zindrick was at Amgen Inc., where he held positions of increasing responsibility, including Vice President Associate General Counsel from 2001 to 2004 and again from 2008 to 2009. At Amgen Inc., from 2004 to 2008, Mr. Zindrick served as Chief Compliance Officer. Prior to joining Amgen, Mr. Zindrick was an attorney at The Dow Chemical Company. Mr. Zindrick served on the board of directors of Amitech Therapeutic Solutions, Inc. from 2011 to February 2021 and DNX Biopharmaceuticals, Inc. from November 2014 to March 2020. Mr. Zindrick received his J.D. from the University of Illinois College of Law and a B.A. in biology from North Central College in Naperville, Illinois.

We believe Mr. Zindrick's extensive experience managing and leading companies within the pharmaceutical and biotechnology industries qualify him to serve on our board of directors.

Paul Scigalla, M.D., Ph.D. has been our Chief Medical Officer since September 2011. He has served as Chief Medical Officer to Nuevolution AB on a consultancy basis since January 2018. He served as Executive Vice President at SUGEN, Inc., from 1998 to 2001 and as Vice President Research Oncology, at Pharmacia/Pfizer Bedminster, New Jersey from 2001 to 2003. Dr. Scigalla received an M.D. and a Ph.D. in pediatrics from Humboldt University in Berlin.

Tony Yu, Ph.D. has served as our Vice President of Clinical Trial Operations since January 2010. Previously, he served as our Associate Vice President of Preclinical Operations and Preclinical Business Development from 2008 to 2010. From 2002 to 2008, Dr. Yu was employed with us as a Research Scientist, Director of the Imaging Group. Dr. Yu received a B.A. in biology from the University of Utah and a Ph.D. in anatomy and biochemistry from Loma Linda University.

Non-Employee Directors

Mary Mirabelli has served on our board of directors since June 2021. Ms. Mirabelli has served as the senior vice president at the Healthcare Finance Management Association since April 2018. Previously, Ms. Mirabelli has served as the Vice President of Global Healthcare Services at Hewlett-Packard from June 2014 to April 2017. Ms. Mirabelli served as a senior executive at Hospital Corporation of America from 2010 to 2014. Ms. Mirabelli holds a B.S. in occupational therapy from University of Illinois at Urbana-Champaign and an M.S. in management from Northwestern University's Kellogg Graduate School of Management.

We believe Ms. Mirabelli's extensive experience managing and leading companies within the healthcare industry qualify her to serve on our board of directors.

John Thomas, Ph.D. has served as a member of our board of directors since September 2002. Dr. Thomas served as our first Chief Financial Officer from 2002 to 2004. Dr. Thomas has been the Dean of the School of Business and Management at La Sierra University since 1988. Dr. Thomas has served on the boards of directors of KSGN Good News Radio since January 2004, Loma Linda Broadcasting Network International since January 2009 and ADRA International as a member of the finance committee since September 2015. He previously served as a member of the board of directors of the Family Service Association from 1992 to 2018. Dr. Thomas holds an M.B.A. in finance from La Sierra University and an M.B.A. in marketing from Symbiosis Institute of Management Studies, an M.A. in international political economy from Claremont Graduate University and a Ph.D. in political economy from Claremont Graduate University.

We believe that Dr. Thomas's extensive training, expertise and experience in finance, qualifies him to serve on our board of directors.

James L. Tyree has served as a member of our board of directors since May 2012 and has served as Chairman of our board since 2014. Mr. Tyree is the retired co-founder and managing partner of Tyree & D'Angelo Partners, a private equity investment firm founded in 2014. Mr. Tyree also serves as a member of the board of directors of ChemoCentryx since June 2012, where he serves as a member of both the audit and nominating and governance committees as well as the chair of the compensation committee. He has served as a member of the board of directors and chair of the compensation committee of Assertio Holdings, Inc. since October 2016. He previously served as a member of the board of directors of SonarMed, Inc. (now a subsidiary of Medtronic plc) and as a member of the Advisory Board of the University of Chicago Booth Graduate School of Business, a member of the Chicago Council on Global Affairs, and co-chairman of the Global Health Policy Roundtable. Prior to founding Tyree & D'Angelo Partners, Mr. Tyree was Executive Vice President and President of Abbott Biotech Ventures, a subsidiary of Abbott Laboratories (now AbbVie, Inc.) focused on investments in early stage biotechnology companies. Prior to that, Mr. Tyree held numerous executive positions at Abbott, including Executive Vice President Global Pharmaceuticals, Senior Vice President Global Nutrition, Corporate Vice President Pharmaceutical and Nutritional Products Group Business Development and Divisional Vice President and General Manager, Japan. He previously served as chairman of the board of directors of the Illinois Biotechnology Industry Organization. Mr. Tyree earned his bachelor's degrees in psychology and forensic studies and an M.B.A. from Indiana University.

We believe that Mr. Tyree's extensive experience in biotechnology and pharmaceuticals, qualifies him to serve on our board of directors.

Gabe Woodward has served as a member of our board of directors since February 2021. Mr. Woodward co-founded Woodward Diversified Capital, a family wealth management and private equity investment firm, in March 2020. Mr. Woodward serves as the Chief Executive Officer and chairman of the board of directors for Nexus 3D Consulting since November 2017, the President of the Kern County Cancer Foundation non-profit since August 2019 and as the Director of Aquatics for The Masters University based in Santa Clarita, California since February 2017. Mr. Woodward has owned The Bakersfield Swim Academy since May 2012.

Mr. Woodward worked at Wells Fargo Private Bank as from April 2009 to March 2020 where he served as SVP-Private Wealth Advisor from April 2019 to March 2020. Mr. Woodward won Olympic medals in swimming in 2004 and 2007. Mr. Woodward graduated from the University of Southern California with a B.A. in social sciences.

We believe Mr. Woodward's extensive experience in private equity and wealth management, qualifies him to serve on our board of directors.

Composition of Our Board of Directors

Our business and affairs are organized under the direction of our board of directors, which currently consists of four members. The primary responsibilities of our board of directors are to provide oversight, strategic guidance, counseling and direction to our management. Our board of directors meets on a regular basis and additionally as required.

Certain members of our board of directors were elected under the provisions of our amended and restated certificate of incorporation, which is provides for members of the board to be nominated and elected as follows: (i) one director designated by the holders of a majority of the outstanding shares of common stock, the Series D preferred stock, the Series E preferred stock, the Series F preferred stock and the Series K preferred stock, (ii) two directors designated by the holders of a majority of the outstanding shares of Series A preferred stock, (iii) one director designated by the holders of a majority of the outstanding shares of Series B preferred stock, (iv) one director designated by the holders of a majority of the outstanding shares of Series C preferred stock, and (v) any additional directors authorized by the board which are not elected pursuant to (i)-(iv) above, designated by the holders of a majority of the outstanding shares of our common stock and the Series A through K preferred stock, and any other series of preferred stock that may be designated by the board to receive such voting rights. Our current directors elected to our board of directors pursuant to the amended and restated certificate of incorporation will continue to serve as directors until their successors are duly elected and qualified by holders of our common stock.

Our board of directors may establish the authorized number of directors from time to time by resolution. In accordance with our amended and restated certificate of incorporation to be filed in connection with this offering, immediately after this offering, our board of directors will be divided into three classes with staggered three-year terms. At each annual meeting of stockholders, the successors to directors whose terms then expire will be elected to serve from the time of election and qualification until the third annual meeting following election. Our directors will be divided among the three classes as follows:

- the Class I directors will be , , and , and their terms will expire at the annual meeting of stockholders to be held in 2022;
- the Class II directors will be , , and , and their terms will expire at the annual meeting of stockholders to be held in 2023; and
- the Class III directors will be , , and , and their terms will expire at the annual meeting of stockholders to be held in 2024.

We expect that 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 the directors. The division of our board of directors into three classes with staggered three-year terms may delay or prevent a change of our management or a change in control.

Director Independence

Under the listing requirements and rules of Nasdaq, independent directors must comprise a majority of our board of directors as a listed company within one year of the listing date.

Our board of directors has undertaken a review of the independence of each director. Based on information provided by each director concerning his background, employment, and affiliations, our board of directors has determined that Ms. Mirabelli, Dr. Thomas, Mr. Tyree, and Mr. Woodward do not have relationships 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 listing standards. 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 shares by each non-employee director and the transactions described in "Certain Relationships and Related Person Transactions."

Committees of Our Board of Directors

Our board of directors has established an audit committee, a compensation committee, and a nominating and corporate governance committee. The composition and responsibilities of each of the committees of our board of directors are described below. Members serve on these committees until their resignation or until otherwise determined by our board of directors. Our board of directors may establish other committees as it deems necessary or appropriate from time to time.

Audit Committee

Our audit committee currently consists of Ms. Mirabelli, Dr. Thomas, and Mr. Woodward, each of whom our board of directors has determined satisfies the independence requirements under listing standards and Rule 10A-3(b)(1) of the Exchange Act. The chair of our audit committee is Dr. Thomas, who our board of directors has determined is an "audit committee financial expert" within the meaning of SEC regulations. Each member of our audit committee can read and understand fundamental financial statements in accordance with applicable requirements. In arriving at these determinations, the board of directors has examined each audit committee member's scope of experience and the nature of their employment in the corporate finance sector.

The primary purpose of the audit committee is to discharge the responsibilities of our board of directors with respect to our corporate accounting and financial reporting processes, systems of internal control and financial-statement audits, and to oversee our independent registered accounting firm. Specific responsibilities of our audit committee include:

- helping our board of directors oversee our corporate accounting and financial reporting processes;
- managing the selection, engagement, qualifications, independence, and performance of a qualified firm to serve as the independent registered public accounting firm to audit our financial statements;
- discussing the scope and results of the audit with the independent registered public accounting firm, and reviewing, with management and the independent accountants, our interim and year-end operating results;
- developing procedures for employees to submit concerns anonymously about questionable accounting or audit matters;
- reviewing related person transactions;
- obtaining and reviewing a report by the independent registered public accounting firm, that describes our internal quality control procedures, any material issues with such procedures, and any steps taken to deal with such issues when required by applicable law; and
- approving, or, as permitted, pre-approving, audit and permissible non-audit services to be performed by the independent registered public accounting firm.

Compensation Committee

Our compensation committee currently consists of Ms. Mirabelli, Dr. Thomas, and Mr. Woodward. The chair of our compensation committee is Mr. Woodward. Our board of directors has determined that each member of the compensation committee is independent under Nasdaq listing standards and a "non-employee director" as defined in Rule 16b-3 promulgated under the Exchange Act.

The primary purpose of our compensation committee is to discharge the responsibilities of our board of directors in overseeing our compensation policies, plans, and programs and to review and determine the compensation to be paid to our executive officers, directors, and other senior management, as appropriate. Specific responsibilities of our compensation committee include:

- reviewing and approving the compensation of our chief executive officer, other executive officers and senior management;
- reviewing and approving the compensation paid to our directors;
- reviewing and approving the compensation arrangements with our executive officers and other senior management;
- administering our equity incentive plans and other benefit programs;
- reviewing, adopting, amending, and terminating the terms of any employment agreements, stock option plans, stock appreciation rights plans, severance arrangements, pension and profit sharing plans, incentive plans, stock bonus plans, stock purchase plans, bonus plans, deferred compensation plans, change-of-control protections, and any other compensatory arrangements for our executive officers and other senior management;
- reviewing, evaluating and recommending to our board of directors succession plans for our executive officers; and
- reviewing and establishing general policies relating to compensation and benefits of our employees, including our overall compensation philosophy.

Nominating and Corporate Governance Committee

Our nominating and corporate governance committee consists of Ms. Mirabelli, Dr. Thomas, and Mr. Woodward. The chair of our nominating and corporate governance committee is Ms. Mirabelli. Our board of directors has determined that each member of the nominating and corporate governance committee is independent under Nasdaq listing standards.

Specific responsibilities of our nominating and corporate governance committee include:

- identifying and evaluating candidates, including the nomination of incumbent directors for reelection and nominees recommended by stockholders, to serve on our board of directors;
- considering and making recommendations to our board of directors regarding the composition and chairmanship of the committees of our board of directors;
- instituting plans or programs for the continuing education of our board of directors and orientation of new directors;
- developing and making recommendations to our board of directors regarding corporate governance guidelines and matters; and
- overseeing periodic evaluations of the board of directors' performance, including committees of the board of directors and management.

Code of Conduct

In connection with this offering, we intend to adopt a written Code of Conduct that applies to all our employees, officers, and directors. This includes our principal executive officer, principal financial officer and principal accounting officer or controller, or persons performing similar functions. The full text of our Code of Conduct will be posted on our website at www.genelux.com. We intend to disclose on our website any future amendments of our Code of Conduct or waivers that exempt any principal executive officer, principal financial officer, principal accounting officer or controller, persons performing similar functions or our directors from provisions in the Code of Conduct. Information contained on, or that can be accessed through, our website is not incorporated by reference into this prospectus, and you should not consider information on our website to be part of this prospectus.

Compensation Committee Interlocks and Insider Participation

None of the members of the compensation committee is currently, or has been at any time, one of our officers or employees. None of our executive officers currently serves, or has served during the last calendar year, as a member of the board of directors or compensation committee of any entity that has one or more executive officers serving as a member of our board of directors or compensation committee.

Clinical Advisory Board

We have assembled a clinical advisory board with expertise in oncology and clinical trials. The members of our clinical advisory board have made significant scientific contributions in their individual fields. Members of our clinical advisory board provide strategic advice to us in fields pertinent to gynecologic oncology and perform other such services as may be mutually determined by us and the clinical advisory board member. Our clinical advisory board meets on an as-needed basis, based on our need for advice in their fields of expertise from time to time.

We provide compensation for their time and on a per meeting basis to members of our clinical advisory board. We also reimburse each member of our clinical advisory board for all reasonable and necessary travel expenses in connection with the performance of his services. We have also granted Dr. Holloway an option to purchase shares of our common stock. Our clinical advisory board includes:

- ***Robert L. Coleman, M.D.*** Chief Scientific Officer of US Oncology Research, President of the Society of Gynecologic Oncology, council member, Secretary Treasurer and President Elect of the International Gynecologic Cancer Society and member of the board of directors of Gynecologic Oncology Group, Director of GOG-Partners.
- ***Thomas J. Herzog, M.D.*** Deputy director of the University of Cincinnati Cancer Institute and Vice-Chair of Quality and Safety for Obstetrics and Gynecology at the University of Cincinnati College of Medicine in Cincinnati, Ohio, Secretary Treasurer and Associate Director of the GOG-Foundation
- ***Robert W. Holloway, M.D.*** Medical director of gynecologic oncology at the AdventHealth Cancer Institute in Orlando, Florida, principal investigator for VIRO-15, founding member of the Global Robotics Institute and chairman of our clinical advisory board.
- ***Alberto A. Mendivil, M.D.*** Co-director of gynecologic oncology and complex pelvic surgery at Hoag Memorial Hospital Presbyterian in Newport Beach, California and site principal investigator for VIRO-15.
- ***David M. O'Malley, M.D.*** Ohio State University Professor and Division Director of the Ohio State University Comprehensive Cancer Center – James Cancer Hospital & Solove Research Institute in Columbus, Ohio, clinical trial advisor/lead for ovarian cancer within GOG Partners, a committee member for the NCI Gynecologic Cancer Steering Committee's Ovarian Task Force and NRG Oncology, and a panel member of the national Comprehensive Cancer Network Guidelines for Ovarian Cancer.

Non-Employee Director Compensation

The following table sets forth in summary form information concerning the compensation that we paid or awarded during the year ended December 31, 2020 to each of our non-employee directors who served on our board of directors during 2020:

Name	Fees Earned or Paid in Cash ($)	Option Awards ($)(1)(2)	Total ($)
Leslie P. Busick(3)	—	65,533	65,533
Byron Georgiou(4)	—	91,474	91,474
Peter Kroll, M.D.(5)	—	207,511	207,511
Billy J. Parrott(6)	—	219,798	219,798
Albert Roeder, M.D.(7)	—	—	—
Ronald Roy A. Simus, D.D.S.(8)	—	1,926,810	1,926,810
John Thomas, Ph.D.	—	81,234	81,234
James L. Tyree	—	248,114	248,114

(1) The amounts disclosed represent the aggregate grant date fair value of the stock options granted to our non-employee directors during fiscal year 2020 under our 2019 Plan, computed in accordance with Financial Accounting Standards Board (FASB), Accounting Standards Codification, or ASC, Topic 718. The assumptions used in calculating the grant date fair value of the stock options are set forth in Note 11 to our annual financial statements included elsewhere in this prospectus. This amount does not reflect the actual economic value that may be realized by the non-employee director.

(2) As of December 31, 2020, the aggregate number of shares underlying outstanding options to purchase our common stock held by our non-employee directors was 1,894,127 shares. As of December 31, 2020, none of our non-employee directors held other unvested stock awards.

(3) Mr. Busick resigned from our board of directors on April 13, 2021.

(4) Mr. Georgiou resigned from our board of directors on February 19, 2021.

(5) Mr. Kroll resigned from our board of directors on April 29, 2021.

(6) Mr. Parrott resigned from our board of directors on April 29, 2021.

(7) Dr. Roeder resigned from our board of directors on March 10, 2020 and did not receive any compensation for his service on our board of directors in 2020.

(8) Dr. Simus resigned from our board of directors on April 20, 2021.

We have reimbursed and will continue to reimburse all of our non-employee directors for their reasonable out-of-pocket expenses incurred in attending board of directors and committee meetings.

In September 2020, we granted options to purchase (1) 26,400 shares of our common stock to Mr. Busick; (2) 36,580 shares of our common stock to Mr. Georgiou; (3) 30,800 shares of our common stock to Dr. Kroll; (4) 35,750 shares of our common stock to Mr. Parrott; (4) 26,400 shares of our common stock to Dr. Simus; (5) 32,725 shares of our common stock to Dr. Thomas; and (6) 47,025 shares of our common stock to Mr. Tyree, each in connection with his service on our board of directors.

In September 2020, Mr. Tyree was granted an option award to purchase 52,927 shares of our common stock in connection with his service as chairman of our board of directors.

In September 2020, Dr. Simus was granted an option award to purchase 712,500 shares of our common stock, in connection with the expiration of a prior stock option grant covering an equivalent number of shares that had been granted to Dr. Simus in November 2010 in connection with his service as an employee and a member of our board of directors. The per share exercise price of the option award was equal to the per share fair market value of our common stock on the date of grant.

Our board of directors adopted a non-employee director compensation policy in , 2021 that will become effective immediately prior to and contingent upon the execution and delivery of the underwriting agreement related to this offering and will be applicable to all of our non-employee directors. This compensation policy provides that each such non-employee director will receive the following compensation for service on our board of directors:

- an annual cash retainer of $;
- an additional annual cash retainer of $ to the chairman of our board of directors;
- an additional annual cash retainer (not applicable to committee chairs) of $, $, and $ for service as a member of our audit committee, compensation committee and nominating and corporate governance committee, respectively;
- an additional annual cash retainer of $, $, and $ for service as chair of our audit committee, compensation committee and nominating and corporate governance committee, respectively;
- an initial option grant to purchase shares of our common stock on the date of each such non-employee director's appointment to our board of directors, vesting monthly over three years; and
- an annual option grant to purchase shares of our common stock on the date of each of our annual stockholder meetings, vesting on the earlier of (i) the first anniversary of the grant date and (ii) the date of the next annual meeting.

Each of the option grants described above will be granted under our 2021 Plan, the terms of which are described in more detail below under the section titled "Executive Compensation—Employee Benefit and Stock Plans—2021 Equity Incentive Plan." Each such option grant will vest and become exercisable subject to the director's continuous service to us, provided that each grant will vest in full upon a change in control of our company, as defined in the 2021 Plan. The term of each option will be ten years, subject to earlier termination as provided in the 2021 Plan.

EXECUTIVE COMPENSATION

Our named executive officers for the year ended December 31, 2020, consisting of our principal executive officer and the next two most highly compensated executive officers who were serving in such capacity as of December 31, 2020, were:

- Thomas Zindrick, J.D., our President and Chief Executive Officer;
- Paul Scigalla, M.D., Ph.D., our Chief Medical Officer; and
- Tony Yu, Ph.D., our Vice President of Clinical Trial Operations.

Summary Compensation Table

The following table presents all of the compensation awarded to or earned by or paid to our named executive officers during the fiscal year ended December 31, 2020.

Name and Principal Position	Fiscal Year	Salary ($)	Option Awards ($)(1)	All Other Compensation ($)	Total ($)
Thomas Zindrick, J.D. *President and Chief Executive Officer*	2020	519,231	1,356,142(2)	30,925	1,906,388
Paul Scigalla, M.D., Ph.D. *Chief Medical Officer*	2020	192,000	127,971(3)	—	319,971
Tony Yu, Ph.D. *Vice President, Clinical Trial Operations*	2020	249,231	—	524	249,755

(1) The amounts disclosed represent the aggregate grant date fair value of the stock options granted to our named executive officers during fiscal year 2020 under our 2019 Plan, computed in accordance with FASB ASC Topic 718. As required by SEC rules, the amounts shown exclude the impact of estimated forfeitures related to service-based vesting conditions. The assumptions used in calculating the grant date fair value of the stock options are set forth in Note 11 to our annual financial statements included elsewhere in this prospectus. This amount does not reflect the actual economic value that may be realized by the named executive officer upon vesting or exercise of the stock options, or the sale of the common stock underlying such awards.

(2) The amount disclosed includes $29,535 related to company-paid housing; $1,584 related to commuting expenses; and $443 related to life insurance premiums paid by us for Mr. Zindrick's benefit.

(3) The amount disclosed includes $524 related to life insurance premiums paid by us for Dr. Yu's benefit.

Annual Base Salary

The 2020 annual base salaries for our named executive officers are set forth in the table below.

Name	2020 Base Salary
Thomas Zindrick, J.D.	$519,231
Paul Scigalla, M.D., Ph.D.	$192,000(1)
Tony Yu, Ph.D.	$249,755

(1) Pursuant to Dr. Scigalla's consulting agreement, he receives a consulting fee of $16,000 per month of service.

Equity-Based Incentive Awards

Our equity-based incentive awards are designed to align our interests and those of our stockholders with those of our employees and consultants, including our executive officers. Our board of directors or an authorized committee thereof is responsible for approving equity grants.

We have generally used stock options as an incentive for long-term compensation to our executive officers because stock options allow our executive officers to realize value from this form of equity compensation only if our stock price increases. We may grant equity awards at such times as our board of directors determines appropriate. Our executives generally are awarded an initial grant in the form of a stock option in connection with their commencement of employment with us. Additional grants may occur periodically in order to specifically incentivize executives with respect to achieving certain corporate goals or to reward executives for exceptional performance.

Prior to this offering, we granted stock options to each of our named executive officers pursuant to our 2009 Plan, the terms of which are described below under "—Employee Benefit and Stock Plans—2009 Equity Incentive Plan," and our 2019 Plan, the terms of which are described below under "—Employee Benefit and Stock Plans—2019 Equity Incentive Plan." Following the completion of this offering, we may grant additional equity awards to our named executive officers pursuant to our 2021 Plan, the terms of which are described below under the subsection titled "—Employee Benefit and Stock Plans—2021 Equity Incentive Plan."

All stock options are granted with an exercise price per share that is no less than the fair market value of our common stock on the date of grant of such award. Our stock option awards generally vest over a four-year period and may be subject to acceleration of vesting and exercisability under certain termination and change in control events, as described in more detail under the subsection titled "—Employee Benefit and Stock Plans."

In March 2020, we granted an option to Mr. Zindrick to purchase 472,116 shares of our common stock at an exercise price of $3.50 per share. The shares subject to the option award fully vested as of the date of grant and may be exercised at any time prior to expiration. The option award expires upon the earlier of the following: (a) immediately upon the termination of Mr. Zindrick's Continuous Service for Cause (as such terms are defined in our 2019 Plan); and (b) the day before the tenth (10th) anniversary of the date of grant.

In September 2020, we granted an option to Mr. Zindrick to purchase 70,705 shares of our common stock at an exercise price of $3.50 per share. The shares subject to the option award fully vested as of the date of grant and may be exercised for the full ten-year term of the option regardless of any earlier termination of service.

In September 2020, we granted an option to Dr. Scigalla to purchase 50,000 shares of our common stock at an exercise price of $3.00 per share. Dr. Scigalla's option was granted pursuant to his consulting agreement with us. The shares subject to the option award fully vested as of the date of grant and may be exercised within ten years from the date of grant subject to Dr. Scigalla's continuing service.

Following the completion of this offering, we may grant additional equity awards to our executive officers pursuant to our 2021 Plan, the terms of which are described below under "—Employee Benefit and Stock Plans—2021 Equity Incentive Plan."

Outstanding Equity Awards as of December 31, 2020

The following table presents the outstanding equity incentive plan awards held by each named executive officer as of December 31, 2020.

		Option Awards(1)			
Name	Grant Date	Number of Securities Underlying Unexercised Options (#) Exercisable	Number of Securities Underlying Unexercised Options (#) Unexercisable	Option Exercise Price Per Share ($)(2)	Option Expiration Date
Thomas Zindrick, J.D.	8/15/2014(3)	1,000,000		$ 3.00	8/15/2024
	9/19/2017(4)	600,000		$ 3.50	2/18/2027
	9/19/2017(5)	2,175,000		$ 3.50	9/19/2027
	3/23/2020(6)	472,116		$ 3.50	3/23/2030
	9/24/2020(7)	70,705		$ 3.50	9/24/2030
Paul Scigalla, M.D., Ph.D.	11/4/2014(8)	91,666		$ 3.00	11/4/2024
	5/01/2015(8)	50,000		$ 3.00	5/01/2025
	3/17/2016(8)	50,000		$ 3.00	3/17/2026
	12/31/2016(8)	50,000		$ 3.00	12/31/2026
	12/31/2017(8)	50,000		$ 3.00	12/31/2027
	12/31/2018(8)	50,000		$ 3.00	12/31/2028
	12/31/2019(8)	50,000		$ 3.00	12/31/2029
	9/24/2020(8)	50,000		$ 3.00	9/24/2030
Tony Yu, Ph.D.	9/21/2019(9)	718,960		$ 3.50	9/21/2029

(1) All of the option awards were granted under the 2009 Plan or 2019 Plan, the terms of which plans are described below under "—Employee Benefit and Stock Plans—2009 Equity Incentive Plan and 2019 Equity Incentive Plan."

(2) All of the option awards were granted with a per share exercise price equal to or greater than the fair market value of one share of our common stock on the date of grant, as determined in good faith by our board of directors or compensation committee, except for Mr. Scigalla's grants in 2019 and 2020, in which the fair value of our shares was $3.50 per share.

(3) All of the shares subject to the option award fully vested at the date of grant and shall remain exercisable for the full ten-year term of the option regardless of any earlier termination of service.

(4) All of the shares subject to the option award fully vested in accordance with the achievement of performance milestones, as determined by the board on September 19, 2017. The option may not be exercised to any extent by anyone after the first to occur of the following events: (a) the Option Expiration Date; and (b) the date of Mr. Zindrick's Termination of Service as a result of his Misconduct (as such terms are defined in the 2009 Plan).

(5) All of the shares subject to the option award fully vested as of the date of grant and may not be exercised to any extent by anyone after the first to occur of the following events: (a) the Option Expiration Date; and (b) the date of Mr. Zindrick's Termination of Service as a result of his Misconduct (as such terms are defined in the 2009 Plan).

(6) All of the shares subject to the option award fully vested as of the date of grant and may be exercised any time prior to expiration. The option expires upon the earlier of the following: (a) immediately upon the termination of Mr. Zindrick's Continuous Service for Cause (as such terms are defined in our 2019 Plan); and (b) the day before the tenth anniversary of the date of grant.

(7) All of the shares subject to the option award fully vested at the date of grant and shall remain exercisable for the full ten-year term of the option regardless of any earlier termination of service.

(8) All of the shares subject to the option award fully vested at the date of grant which has a term of ten years subject to Dr. Scigalla's continuous service.

(9) One-half of the shares subject to the option award were fully vested as of the Vesting Commencement Date, and the balance shall vest in two equal annual installments measured from the Vesting Commencement Date, subject to Dr. Yu's continuous service as of each such date and the potential vesting acceleration in Section 1 of the Option Agreement.

Emerging Growth Company Status

We are an "emerging growth company," as defined in the Jumpstart Our Business Startups Act of 2012, or the JOBS Act. As an emerging growth company we will be exempt from certain requirements related to executive compensation, including the requirements to hold a nonbinding advisory vote on executive compensation and to provide information relating to the ratio of total compensation of our Chief Executive Officer to the median of the annual total compensation of all of our employees, each as required by the Investor Protection and Securities Reform Act of 2010, which is part of the Dodd-Frank Act.

Agreements with Named Executive Officers

Below are descriptions of our offer letter and consulting agreements with Dr. Scigalla and Dr. Yu. We do not currently have an offer letter agreement with Mr. Zindrick.

Dr. Scigalla. We entered into a consulting agreement with Dr. Scigalla in September 2011, which governs the terms of his consultancy as Chief Medical Officer. Pursuant to the agreement, Dr. Scigalla was entitled to a consulting fee of $340 per hour, up to a maximum of $2,720 per day and reimbursement for pre-approved out-of-pocket expenses incurred directly in the performance of services under the consulting agreement. Pursuant to the consulting agreement, the initial term was for 12 months and a maximum of 480 hours with additional hours requiring pre-approval. In April 2012, the consulting agreement was amended via a letter agreement with Dr. Scigalla under which he was entitled to a consulting fee of $16,000 per month, as well as a grant of 50,000 stock options per year at an exercise price of $3.00, and remained entitled to reimbursement for pre-approved out-of-pocket expenses. This letter agreement renewed on an annual basis. In March 2018, we entered into a memorandum of understanding, under which it was clarified that Dr. Scigalla serves as a consultant and the consulting agreement was extended to December 31, 2019 and later extended through an extension of memorandum of understanding to December 2020. Dr. Scigalla's current contract is on a month-to-month basis.

Dr. Yu. We entered into an offer letter agreement with Dr. Yu in July 2002, which governed the terms of his employment as a Research Scientist, Director of the Imaging Group. Pursuant to the agreement, Dr. Yu was entitled to an annual salary of $75,000 and was provided group health coverage. Dr. Yu's salary was raised to $95,000 in December 2005. In June 2008, we entered into an offer letter agreement with Dr. Yu, which governed the terms of his employment as Associate Vice President of Preclinical Operations and Preclinical Business Development. Pursuant to the agreement, Dr. Yu was entitled to an annual salary of $150,000. In January 2010, we entered into an offer letter agreement with Dr. Yu which governed the terms of his employment as of Vice President of Clinical Trial Operations. Pursuant to the agreement, Dr. Yu was entitled to a base salary of $175,000 annually and his other benefits remained unchanged. In December 2010, Dr. Yu's position was extended for an additional two years and his salary raised to $200,000 annually. In August 2019, Dr. Yu's salary was increased to $240,000 annually.

All of our current named executive officers are eligible to participate in our employee benefit plans, including our medical, dental, vision, and life insurance plans, in each case on the same basis as all of our other employees. We pay the premiums for the life, disability, accidental death, and dismemberment insurance for all of our employees, including our named executive officers.

Employee Benefit and Stock Plans

We believe that our ability to grant equity-based awards is a valuable and necessary compensation tool that aligns the long-term financial interests of our employees, consultants and directors with the financial interests of

our stockholders. In addition, we believe that our ability to grant options and other equity-based awards helps us to attract, retain and motivate employees, consultants, and directors, and encourages them to devote their best efforts to our business and financial success. The principal features of our equity incentive plans and our 401(k) plan are summarized below. These summaries are qualified in their entirety by reference to the actual text of the plans, which, other than the 401(k) plan, are filed as exhibits to the registration statement of which this prospectus is a part.

2021 Equity Incentive Plan

Our board of directors adopted our 2021 Plan in 2021 and our stockholders approved our 2021 Plan in 2021. Our 2021 Plan provides for the grant of incentive stock options (ISOs), to employees, including employees of any parent or subsidiary, and for the grant of nonstatutory stock options (NSOs), stock appreciation rights, restricted stock awards, restricted stock unit awards, performance awards and other forms of stock awards to employees, directors, and consultants, including employees and consultants of our affiliates. Our 2021 Plan is a successor to our 2019 Plan, which is described below. The 2021 Plan will become effective immediately prior to and contingent upon the execution of the underwriting agreement related to this offering. No further grants will be made under our 2021 Plan.

Authorized Shares. Initially, the maximum number of shares of our common stock that may be issued under our 2021 Plan after it becomes effective will not exceed shares, which is the sum of (1) new shares, plus (2) the number of shares that remain available for issuance under our 2019 Plan at the time our 2021 Plan becomes effective. In addition, the number of shares of our common stock reserved for issuance under our 2021 Plan will automatically increase on January 1 of each calendar year, starting on January 1, 2022 (assuming the 2021 Plan becomes effective in 2021) through January 1, 2031, in an amount equal to 5% of the total number of shares of our common stock outstanding on the last day of the calendar month before the date of each automatic increase, or a lesser number of shares determined by our board of directors. The maximum number of shares of our common stock that may be issued on the exercise of incentive stock options under our 2021 Plan is ..

Shares subject to stock awards granted under our 2021 Plan that expire or terminate without being exercised in full, or that are paid out in cash rather than in shares, do not reduce the number of shares available for issuance under our 2021 Plan. Additionally, shares become available for future grant under our 2021 Plan if they were issued under stock awards under our 2021 Plan that we repurchase or that are forfeited. This includes shares used to pay the exercise price of a stock award or to satisfy the tax withholding obligations related to a stock award.

Plan Administration. Our board of directors, or a duly authorized committee of our board of directors, will administer our 2021 Plan. Our board has delegated concurrent authority to administer our 2021 Plan to the compensation committee. We refer to the board of directors, or the applicable committee with the power to administer our 2021 Plan, as the plan administrator. Our plan administrator may also delegate to one or more of our officers the authority to (1) designate employees (other than officers) to receive specified stock awards and (2) determine the number of shares subject to such stock awards. Under our 2021 Plan, the plan administrator has the authority to determine and amend the terms of awards and underlying agreements, including:

- recipients;
- the exercise, purchase or strike price of stock awards, if any;
- the number of shares subject to each stock award;
- the vesting schedule applicable to the awards, together with any vesting acceleration; and
- the form of consideration, if any, payable on exercise or settlement of the award.

Under the 2021 Plan, the plan administrator also generally has the authority to effect, with the consent of any adversely affected participant:

- the reduction of the exercise, purchase, or strike price of any outstanding award;

- the cancellation of any outstanding option or stock appreciation right and the grant in substitution therefore of other awards, cash, or other consideration; or
- any other action that is treated as a repricing under generally accepted accounting principles.

Stock Options. ISOs and NSOs are granted under stock option agreements adopted by the plan administrator. The plan administrator determines the exercise price for stock options, within the terms and conditions of the 2021 Plan, provided that the exercise price of a stock option generally cannot be less than 100% of the fair market value of our common stock on the date of grant. Options granted under the 2021 Plan vest at the rate specified in the stock option agreement as determined by the plan administrator.

Tax Limitations on ISOs. The aggregate fair market value, determined at the time of grant, of our common stock with respect to ISOs that are exercisable for the first time by an optionholder during any calendar year under all of our stock plans may not exceed $100,000. Options or portions thereof that exceed such limit will generally be treated as NSOs. No ISO may be granted to any person who, at the time of the grant, owns or is deemed to own stock possessing more than 10% of our total combined voting power or that of any of our affiliates unless (1) the option exercise price is at least 110% of the fair market value of the stock subject to the option on the date of grant, and (2) the option is not exercisable after the expiration of five years from the date of grant.

Restricted Stock Unit Awards. Restricted stock units are granted under restricted stock unit award agreements adopted by the plan administrator. Restricted stock units may be granted in consideration for any form of legal consideration that may be acceptable to our board of directors and permissible under applicable law. A restricted stock unit may be settled by cash, delivery of stock, a combination of cash and stock as deemed appropriate by the plan administrator, or in any other form of consideration set forth in the restricted stock unit agreement. Additionally, dividend equivalents may be credited in respect of shares covered by a restricted stock unit. Except as otherwise provided in the applicable award agreement or other written agreement between us and the participant, restricted stock units that have not vested will be forfeited once the participant's continuous service ends for any reason.

Restricted Stock Awards. Restricted stock awards are granted under restricted stock award agreements adopted by the plan administrator. A restricted stock award may be awarded in consideration for cash, check, bank draft or money order, past services to us, or any other form of legal consideration that may be acceptable to our board of directors and permissible under applicable law. The plan administrator determines the terms and conditions of restricted stock awards, including vesting and forfeiture terms. If a participant's service relationship with us ends for any reason, we may receive any or all of the shares of common stock held by the participant that have not vested as of the date the participant terminates service with us through a forfeiture condition or a repurchase right.

Stock Appreciation Rights. Stock appreciation rights are granted under stock appreciation grant agreements adopted by the plan administrator. The plan administrator determines the purchase price or strike price for a stock appreciation right, which generally cannot be less than 100% of the fair market value of our common stock on the date of grant. A stock appreciation right granted under the 2021 Plan vests at the rate specified in the stock appreciation right agreement as determined by the plan administrator.

Performance Awards. The 2021 Plan permits the grant of performance-based stock and cash awards. The plan administrator may structure awards so that the shares of our stock, cash, or other property will be issued or paid only following the achievement of certain pre-established performance goals during a designated performance period. The performance criteria that will be used to establish such performance goals may be based on any measure of performance selected by the plan administrator.

The performance goals may be based on a company-wide basis, with respect to one or more business units, divisions, affiliates, or business segments, and in either absolute terms or relative to the performance of one or

more comparable companies or the performance of one or more relevant indices. Unless specified otherwise (i) in the award agreement at the time the award is granted or (ii) in such other document setting forth the performance goals at the time the goals are established, we will appropriately make adjustments in the method of calculating the attainment of performance goals as follows: (1) to exclude restructuring and/or other nonrecurring charges; (2) to exclude exchange rate effects; (3) to exclude the effects of changes to generally accepted accounting principles; (4) to exclude the effects of any statutory adjustments to corporate tax rates; (5) to exclude the effects of items that are "unusual" in nature or occur "infrequently" as determined under generally accepted accounting principles; (6) to exclude the dilutive effects of acquisitions or joint ventures; (7) to assume that any business divested by us achieved performance objectives at targeted levels during the balance of a performance period following such divestiture; (8) to exclude the effect of any change in the outstanding shares of our common stock by reason of any stock dividend or split, stock repurchase, reorganization, recapitalization, merger, consolidation, spin-off, combination or exchange of shares or other similar corporate change, or any distributions to common stockholders other than regular cash dividends; (9) to exclude the effects of stock based compensation and the award of bonuses under our bonus plans; (10) to exclude costs incurred in connection with potential acquisitions or divestitures that are required to be expensed under generally accepted accounting principles; and (11) to exclude the goodwill and intangible asset impairment charges that are required to be recorded under generally accepted accounting principles. In addition, we retain the discretion to reduce or eliminate the compensation or economic benefit due upon attainment of the goals. The performance goals may differ from participant to participant and from award to award.

Other Stock Awards. The plan administrator may grant other awards based in whole or in part by reference to our common stock. The plan administrator will set the number of shares under the stock award and all other terms and conditions of such awards.

Non-Employee Director Compensation Limit. The aggregate value of all compensation granted or paid to any non-employee director with respect to any period commencing on the date of our annual meeting of stockholders for a particular year and ending on the day immediately prior to the date of the meeting for the next subsequent year, including stock awards granted and cash fees paid by us to such non-employee director, will not exceed $750,000 in total value, or in the event such non-employee director is first appointed or elected to the board during such annual period, $1,000,000 in total value (in each case, calculating the value of any such stock awards based on the grant date fair value of such stock awards for financial reporting purposes).

Changes to Capital Structure. In the event there is a specified type of change in our capital structure, such as a stock split, reverse stock split, or recapitalization, appropriate adjustments will be made to (1) the class and maximum number of shares reserved for issuance under the 2021 Plan, (2) the class and maximum number of shares by which the share reserve may increase automatically each year, (3) the class and maximum number of shares that may be issued on the exercise of incentive stock options, and (4) the class and number of shares and exercise price, strike price, or purchase price, if applicable, of all outstanding stock awards.

Corporate Transactions. The following applies to stock awards under the 2021 Plan in the event of a corporate transaction, unless otherwise provided in a participant's stock award agreement or other written agreement with us or one of our affiliates or unless otherwise expressly provided by the plan administrator at the time of grant.

In the event of a corporate transaction, any stock awards outstanding under the 2021 Plan may be assumed, continued or substituted for by any surviving or acquiring corporation (or its parent company), and any reacquisition or repurchase rights held by us with respect to the stock award may be assigned to the successor (or its parent company). If the surviving or acquiring corporation (or its parent company) does not assume, continue or substitute for such stock awards, then with respect to any such stock awards that are held by participants whose continuous service has not terminated prior to the effective time of the transaction, or current participants, the vesting (and exercisability, if applicable) of such stock awards will be accelerated in full to a date prior to the effective time of the transaction (contingent upon the effectiveness of the transaction), and such stock awards

will terminate if not exercised (if applicable) at or prior to the effective time of the transaction, and any reacquisition or repurchase rights held by us with respect to such stock awards will lapse (contingent upon the effectiveness of the transaction). With respect to performance awards with multiple vesting levels depending on performance level, unless otherwise provided by an award agreement or by the administrator, the award will accelerate at 100% of target. If the surviving or acquiring corporation (or its parent company) does not assume, continue or substitute for such stock awards, then with respect to any such stock awards that are held by persons other than current participants, such awards will terminate if not exercised (if applicable) prior to the effective time of the transaction, except that any reacquisition or repurchase rights held by us with respect to such stock awards will not terminate and may continue to be exercised notwithstanding the transaction. The plan administrator is not obligated to treat all stock awards or portions of stock awards in the same manner and is not obligated to take the same actions with respect to all participants.

In the event a stock award will terminate if not exercised prior to the effective time of a corporate transaction, the plan administrator may provide, in its sole discretion, that the holder of such stock award may not exercise such stock award but instead will receive a payment equal in value to the excess (if any) of (1) the value of the property the participant would have received upon the exercise of the stock award over (2) any exercise price payable by such holder in connection with such exercise.

Under our 2021 Plan, a corporate transaction is defined to include the consummation of: (1) a sale of all or substantially all of our assets, (2) the sale or disposition of at least 50% of our outstanding securities, (3) a merger or consolidation where we do not survive the transaction, and (4) a merger or consolidation where we do survive the transaction but the shares of our common stock outstanding before such transaction are converted or exchanged into other property by virtue of the transaction, unless otherwise provided in an award agreement or other written agreement between us and the award holder.

Change in Control. In the event of a change in control, as defined under our 2021 Plan, awards granted under our 2021 Plan will not receive automatic acceleration of vesting and exercisability, although this treatment may be provided for in an award agreement.

Under the 2021 Plan, a change in control is defined to include (1) the acquisition by any person or company of more than 50% of the combined voting power of our then outstanding stock; (2) a consummated merger, consolidation or similar transaction in which our stockholders immediately before the transaction do not own, directly or indirectly, more than 50% of the combined voting power of the surviving entity (or the parent of the surviving entity); (3) the approval by the stockholders or the board of directors of a plan of complete dissolution or liquidation of the company, or the occurrence of a complete dissolution or liquidation of the company, except for a liquidation into a parent corporation; (4) a consummated sale, lease, exclusive license or other disposition of all or substantially all of our assets other than to an entity more than 50% of the combined voting power of which is owned by our stockholders; and (5) an unapproved change in the majority of the board of directors.

Transferability. A participant may not transfer stock awards under our 2021 Plan other than by will, the laws of descent and distribution, or as otherwise provided under our 2021 Plan.

Plan Amendment or Termination. Our board of directors has the authority to amend, suspend, or terminate our 2021 Plan, provided that such action does not materially impair the existing rights of any participant without such participant's written consent. Certain material amendments also require the approval of our stockholders. No incentive stock options may be granted after the tenth anniversary of the date our board of directors adopted our 2021 Plan. No stock awards may be granted under our 2021 Plan while it is suspended or after it is terminated.

2019 Equity Incentive Plan

Our 2019 Plan was originally adopted by our board of directors and approved by our stockholders in October 2018 as the successor to and continuation of our 2009 Equity Incentive Plan, or 2009 Plan. Our 2019

Plan allows for the grant of ISOs, NSOs, stock appreciation rights, restricted stock awards, restricted stock units and other stock-based awards to employees, directors, and consultants.

Once our 2021 Plan becomes effective, no further grants will be made under our 2019 Plan. Any outstanding awards granted under our 2019 Plan will remain subject to the terms of our 2019 Plan and applicable award agreements.

Authorized Shares. The maximum number of shares of our common stock that may be issued under our 2019 Plan is 6,177,220 shares. Outstanding stock awards granted under the 2009 Plan that (i) expire or terminate for any reason prior to exercise or settlement; (ii) are forfeited because of failure to meet a contingency or condition required to vest such shares or otherwise return to us; or (iii) are required or withheld (or not issued) to satisfy a tax withholding obligation in connection with an award or to satisfy the purchase price or exercise price of a stock award can be added to the authorized shares as Returning Shares, not to exceed 11,322,780 shares.

The maximum number of shares of our common stock under our 2019 Plan that may be issued pursuant to the exercise of ISOs is 37,000,000 shares.

Shares subject to stock awards granted under our 2019 Plan that expire, are forfeited, or terminate without being exercised in full do not reduce the number of shares available for issuance under our 2021 Plan. Additionally, shares used to pay the exercise price of a stock award or to satisfy the tax withholding obligations related to a stock award become available for future grant under our 2019 Plan.

As of December 31, 2020, there were 1,362,904 shares available for the grant of stock awards under our 2019 Plan, and there were outstanding stock options covering a total of 4,814,316 shares that were granted under our 2019 Plan. In addition, no outstanding stock options were issued subsequent to December 31, 2020.

Plan Administration. Our board of directors or a duly authorized committee of our board of directors (referred to herein as the plan administrator) administers our 2019 Plan and the stock awards granted under it. Under our 2019 Plan, the plan administrator has the authority to determine the terms of awards, including: (i) recipients; (ii) when and how each stock award will be granted; (iii) what type of stock award will be granted; (iv) the provisions of each award (which need not be identical), including when a person will be permitted to exercise or otherwise receive cash or common stock under the stock award; (v) the number of shares subject to each stock award; and (vi) the fair market value applicable to a stock award.

Under the 2019 Plan, the plan administrator also generally has the authority to amend, modify or terminate any outstanding stock awards, including, but not limited to, substituting the award, changing the date of exercise or settlement, and converting an incentive stock option to a nonstatutory stock option; the holder's consent is required unless the plan administrator determines that the action would not materially and adversely affect the holder or the action is otherwise permitted by the 2019 Plan.

Stock Options. ISOs and NSOs are granted pursuant to award agreements adopted by the plan administrator. The plan administrator determines the exercise price for a stock option, within the terms and conditions of the 2019 Plan, provided that the exercise price of a stock option generally cannot be less than 100% (or 110% in the case of ISOs granted to certain stockholders) of the fair market value of our common stock on the date of grant. Options granted under the 2019 Plan vest at the rate specified by the plan administrator. Acceptable consideration for the purchase of common stock issued upon the exercise of a stock option will be determined by the plan administrator and may include (1) cash, check, bank draft or money order; (2) pursuant to a program developed under Regulation T as promulgated by the Federal Reserve Board that, prior to the issuance of the stock subject to the option, results in either the receipt of cash (or check) by the Company or the receipt of irrevocable instructions to pay the aggregate exercise price to the Company from the sales proceeds, (3) delivery or attestation of shares of our common stock previously owned by the holder, (4) a net exercise of the stock option, (5) according to a deferred payment or similar arrangement with the optionholder and which the interest

will compound at least annually and will be charged at the minimum rate of interest to avoid (A) the imputation of interest income to us and compensation income to the optionholder under any applicable provisions of the Code, and (B) the classification of the option as a liability for financial accounting purposes; or (6) any other form of legal consideration that may be acceptable to our board of directors and specified in the applicable stock award agreement.

The plan administrator determines the term of stock options granted under the 2019 Plan, up to a maximum of ten years. The plan administrator shall determine the effect on a stock award of the disability, death, retirement, authorized leave of absence, or any other change or purported change in a holder's status. Unless the plan administrator provides otherwise, stock options generally are not transferable except by will, the laws of descent and distribution.

Changes to Capital Structure. In the event of a "capitalization adjustment," the board of directors, in its discretion, will make appropriate and proportionate adjustments to (1) the class(es) and maximum number of shares reserved for issuance under the 2019 Plan, (2) the class(es) and maximum number of shares that may be issued on the exercise of ISOs, and (3) the class(es) and number of shares and exercise price, strike price, or purchase price, if applicable, of all outstanding stock awards. For purposes of the 2019 Plan, "capitalization adjustment" generally means any change that is made in (or other events occurring with respect to) our common stock subject to the 2019 Plan or any award without the receipt of consideration by us through merger, consolidation, reorganization, recapitalization, reincorporation, stock dividend, dividend in property other than cash, large nonrecurring cash dividend, stock split, reverse stock split, liquidating dividend, combination or exchange of shares, change in corporate structure, or other similar equity restructuring transaction (within the meaning of Statement of Financial Accounting Standards Board ASC Topic 718).

Transactions. Our 2019 Plan provides that, in the event of a "change in control" or a "corporate transaction," unless otherwise provided in an award agreement or other written agreement between us and the award holder or unless otherwise expressly provided by our board of directors at the time of grant of a stock award, our board of directors, the plan administrator, may take one or more of the following actions with respect to such stock awards contingent upon the closing or completion of the transaction:

- arrange for the assumption of, continuation of or substitution of the stock award by the surviving or acquiring corporation;
- arrange for the assignment of any reacquisition or repurchase rights held by us to the surviving or acquiring corporation;
- provide for acceleration of vesting of any stock award;
- arrange for the lapse of any reacquisition or repurchase rights held by us with respect to the stock award;
- provide for the cancellation of any stock award in exchange for an amount of cash with a value equal to what could have been obtained on exercise or settlement of the vested portion of such equity award; or
- make a payment equal to the excess, if any, of (A) the value of the property that would have been received upon the exercise of the stock award immediately prior to the effective time of the transaction, over (B) any exercise price payable by such holder in connection with such exercise.

The plan administrator is not obligated to treat all stock awards or portions of stock awards in the same manner and is not obligated to treat all participants in the same manner.

Under the 2019 Plan, a "change in control" is generally defined as (1) certain acquisitions by a person or company of more than 50% of the combined voting power of our then outstanding stock, (2) a merger, consolidation or similar transaction in which our stockholders immediately before the transaction do not own,

directly or indirectly, more than 50% of the combined voting power of the surviving entity (or the parent of the surviving entity) in substantially the same proportions as their ownership immediately prior to such transaction, or (3) a sale, lease, exclusive license or other disposition of all or substantially all of our consolidated assets other than to an entity more than 50% of the combined voting power of which is owned by our stockholders in substantially the same proportions as their ownership of our outstanding voting securities immediately prior to such transaction, and a "corporate transaction" is generally defined as the consummation, in a single transaction or in a series of related transactions, of any one or more of the following events: (a) a sale of all or substantially all of our assets or similar transaction, (b) the sale or disposition of more than 50% of our outstanding securities, (c) a merger or consolidation where we do not survive the transaction or similar transaction, or (d) a merger, consolidation or similar transaction where we do survive the transaction but the shares of our common stock outstanding immediately before such transaction are converted or exchanged into other property by virtue of the transaction.

Change in Control. A stock award may be subject to additional acceleration of vesting and exercisability upon or after a change in control as may be provided in an applicable award agreement or other written agreement, but in the absence of such provision, no such acceleration will occur.

Plan Amendment or Termination. Our board of directors has the authority to amend, suspend, or terminate our 2019 Plan; provided that no amendment of the 2019 Plan shall materially and adversely affect any outstanding stock award without the consent of the affected holder. Certain material amendments require the approval of our stockholders.

2009 Equity Incentive Plan

Our board of directors and stockholders adopted the 2009 Plan in August 2009. Our 2009 Plan provided for the grant of ISOs within the meaning of Section 422 of the Code to our employees, and for the grant of Non-Qualified Stock Options (which together with ISOs, are referred to below as Options), Restricted Stock awards, Stock Appreciation Rights, Dividend Equivalent awards, Stock Payment awards, and Restricted Stock Unit awards to employees, non-employee directors and consultants. The 2009 Plan was replaced by our 2019 Plan in September 2018. Upon the adoption of the 2019 Plan, no further grants were made under our 2009 Plan, except 61,111 shares granted during the year ended December 31, 2019. Any outstanding awards granted under our 2009 Plan will remain subject to the terms of our 2009 Plan and applicable award agreements.

Authorized Shares. Initially, the maximum number of shares of our common stock that were issuable under our 2009 Plan was 8,500,000 shares. In addition, the number of shares of our common stock reserved for issuance under our 2009 Plan automatically increased on January 1 of each calendar year, from January 1, 2010 through January 1, 2019, in an amount equal to 1,000,000 shares or a lesser number of shares determined by our board of directors. The maximum number of shares of our common stock that may be issued on the exercise of incentive stock options under our 2021 Plan was 18,500,000 shares.

Plan Administration. Our board of directors, or a duly authorized committee of our board of directors to which the board delegates its administrative authority, will administer our 2009 Plan and is referred to as the "plan administrator" herein. Under our 2009 Plan, the plan administrator has the authority to, among other things, determine who would be granted stock awards, to determine the terms and conditions of each stock award (including the number of shares subject to the stock award, when the stock award will vest and, as applicable, become exercisable), to accelerate the time(s) at which a stock award may vest or be exercised, and to construe and interpret the terms of our 2009 Plan and stock awards granted thereunder.

Stock Options. Options were granted under stock option agreements adopted by the plan administrator. The plan administrator determined the exercise price for stock options, within the terms and conditions of the 2009 Plan, provided that the exercise price of a stock option generally cannot be less than 100% of the fair market value of our common stock on the date of grant (or 110% of the fair market value for certain major stockholders).

Options granted under the 2009 Plan vest at the rate specified in the stock option agreement as determined by the plan administrator.

The plan administrator determines the term of stock options granted under the 2009 Plan, up to a maximum of 10 years (or five years, for certain major stockholders). The plan administrator shall determine the effect on a stock award of the disability, death, retirement, authorized leave of absence, or any other change or purported change in a holder's status.

Acceptable consideration for the purchase of common stock issued upon the exercise of a stock option were determined by the plan administrator and could include (1) cash, (2) a promissory note, (3) shares of our common stock previously owned by the optionholder, or (4) other legal consideration approved by the plan administrator.

Unless the plan administrator provided otherwise, options generally are not transferable.

Changes to Capital Structure. In the event of a stock dividend, stock split, combination or exchange of shares, merger, consolidation, spin-off, recapitalization, distribution of Company assets to stockholders (other than normal cash dividends), or any other corporate event affecting the Stock or the share price of our stock, the plan administrator will make equitable adjustments to the terms and conditions of and outstanding awards (including, without limitation, any applicable performance targets or criteria with respect thereto), and to the grant or exercise price per share for any outstanding awards under the Plan.

Corporate Transactions. Our 2009 Plan provides that in the event of certain changes to the capital structure describe above, the plan administrator may take one or more of the following actions with respect to such stock awards:

- to arrange for the termination of the award in exchange for payment equal to the excess, if any, of (A) the value of the property the participant would have received on exercise of the award immediately before the effective time of the transaction, over (B) any exercise price payable by the participant in connection with the exercise;
- arrange for the assumption, continuation, or substitution of a stock award by a surviving or acquiring corporation;
- accelerate the vesting and exercisability, as applicable, in whole or in part, of the stock award and provide for its termination if not exercised (if applicable) at or before the effective time of the transaction;
- cancel or arrange for the cancellation of the stock award, to the extent not vested or not exercised before the effective time of the transaction.

Plan Amendment or Termination. Our 2009 Plan was terminated upon the adoption and approval of our 2019 Plan.

2021 Employee Stock Purchase Plan

Our board of directors adopted, and our stockholders approved, our 2021 Employee Stock Purchase Plan, or ESPP, in 2021. The ESPP will become effective immediately prior to and contingent upon the execution of the underwriting agreement related to this offering. The purpose of the ESPP is to secure the services of new employees, to retain the services of existing employees, and to provide incentives for such individuals to exert maximum efforts toward our success and that of our affiliates. The ESPP includes two components. One component is designed to allow eligible U.S. employees to purchase our common stock in a manner that may qualify for favorable tax treatment under Section 423 of the Code. In addition, purchase rights may be granted under a component that does not qualify for such favorable tax treatment because of deviations necessary to permit participation by eligible employees who are foreign nationals or employed outside of the U.S. while complying with applicable foreign laws.

Share Reserve. Following this offering, the ESPP authorizes the issuance of shares of our common stock under purchase rights granted to our employees or to employees of any of our designated affiliates. The number of shares of our common stock reserved for issuance will automatically increase on January 1 of each calendar year, beginning on January 1, 2022 (assuming the ESPP becomes effective in 2021) through January 1, 2031, by the lesser of 1% of the total number of shares of our common stock outstanding on the last day of the calendar month before the date of the automatic increase, and (2) shares; provided, that before the date of any such increase, our board of directors may determine that such increase will be less than the amount set forth in clauses (1) and (2). As of the date hereof, no shares of our common stock have been purchased under the ESPP.

Administration. Our board of directors has delegated its authority to administer the ESPP to our compensation committee. The ESPP is implemented through a series of offerings under which eligible employees are granted purchase rights to purchase shares of our common stock on specified dates during such offerings. Under the ESPP, we may specify offerings with durations of not more than 27 months and may specify shorter purchase periods within each offering. Each offering will have one or more purchase dates on which shares of our common stock will be purchased for employees participating in the offering. We currently intend to have 24-month offerings with multiple purchase periods (of approximately six months in duration) per offering, except that the first purchase period under our first offering may be shorter or longer than six months, depending on the date on which the underwriting agreement relating to this offering becomes effective. An offering under the ESPP may be terminated under certain circumstances.

Payroll Deductions. Generally, all regular employees, including executive officers, employed by us or by any of our designated affiliates, may participate in the ESPP and may contribute, normally through payroll deductions, up to 15% of their earnings (as defined in the ESPP) for the purchase of our common stock under the ESPP. Unless otherwise determined by our board of directors, common stock will be purchased for the accounts of employees participating in the ESPP at a price per share that is at least the lesser of (1) 85% of the fair market value of a share of our common stock on the first date of an offering, or (2) 85% of the fair market value of a share of our common stock on the date of purchase. For the initial offering, which we expect will commence on the execution and delivery of the underwriting agreement relating to this offering, the fair market value on the first day of the offering period will be the price at which shares of common stock are first sold to the public.

Limitations. Employees may have to satisfy one or more of the following service requirements before participating in the ESPP, as determined by our board of directors, including: (1) being customarily employed for more than 20 hours per week, (2) being customarily employed for more than five months per calendar year, or (3) continuous employment with us or one of our affiliates for a period of time (not to exceed two years). No employee may purchase shares under the ESPP at a rate in excess of $25,000 worth of our common stock based on the fair market value per share of our common stock at the beginning of an offering for each year such a purchase right is outstanding. Finally, no employee will be eligible for the grant of any purchase rights under the ESPP if immediately after such rights are granted, such employee has voting power over 5% or more of our outstanding capital stock measured by vote or value under Section 424(d) of the Code.

Changes to Capital Structure. In the event that there occurs a change in our capital structure through such actions as a stock split, merger, consolidation, reorganization, recapitalization, reincorporation, stock dividend, dividend in property other than cash, large nonrecurring cash dividend, liquidating dividend, combination of shares, exchange of shares, change in corporate structure, or similar transaction, the board of directors will make appropriate adjustments to: (1) the number of shares reserved under the ESPP, (2) the maximum number of shares by which the share reserve may increase automatically each year, (3) the number of shares and purchase price of all outstanding purchase rights, and (4) the number of shares that are subject to purchase limits under ongoing offerings.

Corporate Transactions. In the event of certain significant corporate transactions, including the consummation of (1) a sale of all or substantially all of our assets, (2) the sale or disposition of more than 50% of

our outstanding securities, (3) a merger or consolidation where we do not survive the transaction, or (4) a merger or consolidation where we do survive the transaction but the shares of our common stock outstanding immediately before such transaction are converted or exchanged into other property by virtue of the transaction, any then-outstanding rights to purchase our stock under the ESPP may be assumed, continued or substituted for by any surviving or acquiring entity (or its parent company). If the surviving or acquiring entity (or its parent company) elects not to assume, continue, or substitute for such purchase rights, then the participants' accumulated payroll contributions will be used to purchase shares of our common stock within ten business days before such corporate transaction, and such purchase rights will terminate immediately.

ESPP Amendment or Termination. Our board of directors has the authority to amend or terminate our ESPP, provided that except in certain circumstances such amendment or termination may not materially impair any outstanding purchase rights without the holder's consent. We will obtain stockholder approval of any amendment to our ESPP as required by applicable law or listing requirements.

401(k) Plan

We maintain a 401(k) plan that provides eligible U.S. employees with an opportunity to save for retirement on a tax advantaged basis. Eligible employees are able to defer eligible compensation up to certain Code limits, which are updated annually. We have the ability to make employer profit sharing contributions to the 401(k) plan. The 401(k) plan is intended to be qualified under Section 401(a) of the Code, with the related trust intended to be tax exempt under Section 501(a) of the Code. As a tax-qualified retirement plan, contributions to the 401(k) plan are deductible by us when made, and contributions and earnings on those amounts are not generally taxable to the employees until withdrawn or distributed from the 401(k) plan.

Limitations on Liability and Indemnification

On the closing of this offering, our amended and restated certificate of incorporation will contain provisions that limit the liability of our current and former directors for monetary damages to the fullest extent permitted by Delaware law. Delaware law provides that directors of a corporation will not be personally liable for monetary damages for any breach of fiduciary duties as directors, except liability for:

- 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 certificate of incorporation will authorize us to indemnify our directors, officers, employees, and other agents to the fullest extent permitted by Delaware law. Our amended and restated bylaws will provide that we are required to indemnify our directors and officers to the fullest extent permitted by Delaware law and may indemnify our other employees and agents. Our amended and restated bylaws 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, executive officers, and other employees as determined by the board of directors. 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 any action or proceeding.

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.

Rule 10b5-1 Plans

Our directors and officers may adopt written plans, known as Rule 10b5-1 plans, in which they will contract with a broker to buy or sell shares of our common stock on a periodic basis. Under a Rule 10b5-1 plan, a broker executes trades under parameters established by the director or officer when entering into the plan, without further direction from them. The director or officer may amend a Rule 10b5-1 plan in some circumstances and may terminate a plan at any time. Our directors and executive officers may also buy or sell additional shares outside of a Rule 10b5-1 plan when they do not possess of material nonpublic information, subject to compliance with the terms of our insider trading policy. During the first 180 days from this offering, the sale of any shares under such plan would be subject to the lock-up agreement that the director or officer has entered into with the underwriters.

CERTAIN RELATIONSHIPS AND RELATED PERSON TRANSACTIONS

The following includes a summary of transactions since January 1, 2018 to which we have been a party in which the amount involved exceeded or will exceed the lesser of $120,000 or 1% of the average of our total assets as of December 31, 2019 and 2020, and in which any of our directors, executive officers or, to our knowledge, beneficial owners of more than 5% of our capital stock or any member of the immediate family of any of the foregoing persons had or will have a direct or indirect material interest, other than equity and other compensation, termination, change in control and other arrangements, which are described under "Executive Compensation." We also describe below certain other transactions with our directors, executive officers and stockholders.

Settlement Agreement

In March 2016, we agreed to pay Leslie P. Busick, Trustee of the Busick Inter Vivos Trust dated June 11, 1974 as Amended and Restated, the amount of $2.1 million, plus interest, in connection with the settlement of a dispute relating to a loan previously made to us by Mr. Busick. In February 2020, March 2020 and September 2020, we entered into three separate amendments to the settlement agreement, each of which extended the due date of the settlement payment and accrued additional interest. We subsequently paid the amounts due and as of April 30, 2021, no payments were owed under the settlement agreement.

Mr. Busick was appointed to our board of directors in March 2020 and resigned from our board of directors in April 2021.

Convertible Notes and Warrants

Billy J. Parrott and Related Entities

In November 2019, we entered into a convertible note purchase agreement with Billy J. Parrott under which we issued Mr. Parrott a convertible promissory note in the amount of $500,000 bearing simple interest on the outstanding principal at the rate of 5% per annum with a conversion price of $4.00 per share of our common stock. The convertible promissory note was amended in January 2020 to add an additional $150,000 to the principal amount. Under the agreement, if Mr. Parrott converts, he is entitled to, in addition to the shares purchased, a warrant for 25% of the purchased shares, at an exercise price of $3.50 per share of our common stock for up to three years from the date of purchase. In connection with this offering, the convertible note and accrued and unpaid interest thereunder will automatically convert into shares of our common stock.

In December 2019, we entered into a convertible note purchase agreement with Parrott (4) LLC under which we issued to Parrott (4) LLC a convertible promissory note in the amount of $100,000 bearing simple interest on the outstanding principal at the rate of 5% per annum with a conversion price of $4.00 per share of our common stock. Under the agreement, if Parrott (4) LLC converts, it is entitled to, in addition to the shares purchased, a warrant for 25% of the purchased shares, at an exercise price of $3.50 per share of our common stock for up to three years from the date of purchase. In connection with this offering, the convertible note and accrued and unpaid interest thereunder will automatically convert into shares of our common stock.

In November 2019, we entered into an umbrella agreement with Mr. Parrott, under which we specified that the 25% warrant coverage provided for in each of the November 2019 and December 2019 convertible promissory notes, as amended, is in consideration for a total investment of greater than $500,000.

Mr. Parrott served on our board of directors from 2014 until his resignation from our board of directors in April 2021.

Peter Kroll and Related Persons and Entities

In November 2019, we entered into convertible note purchase agreements with the Christian Community Foundation dba WaterStone (Kroll Kingdom Fund) under which we issued convertible promissory notes in the amount of $210,000 and $30,000 bearing simple interest on the outstanding principal at the rate of 5% per annum with a conversion price of $4.00 per share of our common stock. Under the agreements, upon conversion, the Kroll Kingdom Fund is entitled to, in addition to the shares purchased, a warrant for 25% of the purchased shares, at an exercise price of $3.50 per share of our common stock for up to three years from the date of purchase. In connection with this offering, the convertible note and accrued and unpaid interest thereunder will automatically convert into shares of our common stock.

In November 2019, we entered into convertible note purchase agreements with Gordon Bietz, Christian Community Foundation dba WaterStone (The Mark and Gissela Kroll Giving Fund), T Dianne Kroll – T. Dianne Kroll Revocable Trust, dated January 5, 1996, Christian Community Foundation dba WaterStone (Donor Advisory Fund), Peter and Julie Kroll, and the Christian Community Foundation dba WaterStone (Donor Advisory Fund) under which we issued convertible promissory notes in the amount of $20,000, $100,000, $80,000, $200,000, and $100,000 respectively, each bearing simple interest on the outstanding principal at the rate of 5% per annum with a conversion price of $4.00 per share of our common stock. Under the agreements, upon conversion, each note holder is entitled to, in addition to the shares purchased, a warrant for 25% of the purchased shares, at an exercise price of $3.50 per share of our common stock for up to three years from the date of purchase. In connection with this offering, the convertible note and accrued and unpaid interest thereunder will automatically convert into shares of our common stock.

In November 2019, we entered into a convertible note purchase agreement with Mark Kroll under which we issued Mr. Kroll a convertible promissory note in the amount of $140,000 bearing simple interest on the outstanding principal at the rate of 5% per annum with a conversion price of $4.00 per share of our common stock. The convertible promissory note was amended in February 2020 and in March 2020 to increase the principal amount of the loan to $540,000. Under the agreement, upon conversion, Mr. Kroll is entitled to, in addition to the shares purchased, a warrant for 25% of the purchased shares, at an exercise price of $3.50 per share of our common stock for up to three years from the date of purchase. In connection with this offering, the convertible note and accrued and unpaid interest thereunder will automatically convert into shares of our common stock.

In June 2020, we entered into a convertible note purchase agreement with the Kroll Kingdom Fund under which we issued a convertible promissory note in the amount of $50,000 bearing simple interest on the outstanding principal at the rate of 5% per annum with a conversion price of $4.00 per share of our common stock. Under the agreement, upon conversion, the Kroll Kingdom Fund is entitled to, in addition to the shares purchased, a warrant for 25% of the purchased shares, at an exercise price of $3.50 per share of our common stock for up to three years from the date of purchase. In connection with this offering, the convertible note and accrued and unpaid interest thereunder will automatically convert into shares of our common stock.

In November 2019, we entered into an umbrella agreement with the Christian Community Foundation dba WaterStone (Kroll Kingdom Fund), Mark Kroll, Gordon Bietz, Christian Community Foundation dba WaterStone (The Mark and Gissela Kroll Giving Fund), T Dianne Kroll – T. Dianne Kroll Revocable Trust, dated January 5, 1996, Peter and Julie Kroll, and the Christian Community Foundation dba WaterStone (Donor Advisory Fund) (collectively, the Krolls), under which we specified that the 25% warrant coverage provided for in each of the convertible promissory notes described below is (1) conditioned upon total funding, pursuant to each individual convertible note purchase agreement and (2) that the total invested funds under the combined individual agreements of this umbrella agreement must be no less than $500,000 for us to provide the 25% warrant coverage to each investing party.

Dr. Kroll served on our board of directors in 2014 until his resignation from our board of directors in April 2021.

Note and Warrant Purchase Agreement

In September 2020, we entered into a note and warrant purchase agreement, or purchase agreement, with WDC Fund 1, or WDC, under which we issued WDC a convertible promissory note in the amount of $3,500,000 bearing simple interest on the outstanding principal amount at the rate of 6% per annum with a conversion price of $3.50 per share of our common stock. At a subsequent closing in October 2020, we issued WDC a second convertible promissory note under the purchase agreement in the amount of $3,500,000 bearing simple interest on the outstanding principal amount at the rate of 6% per annum with a conversion price of $3.50 per share of our common stock. At a subsequent closing in December 2020, we issued WDC a third convertible promissory note under the purchase agreement in the amount of $1,000,000 bearing simple interest on the outstanding principal amount at the rate of 6% per annum with a conversion price of $3.50 per share of our common stock. At a second subsequent closing in December 2020, as amended in February 2021, we issued WDC a fourth convertible promissory note under the purchase agreement in the amount of $919,000 bearing simple interest on the outstanding principal amount at the rate of 6% per annum with a conversion price of $3.50 per share of our common stock. Of the $1,065,000 of proceeds that were received, a total of $146,000 was received during the year ended December 31, 2020 and $919,000 was received subsequent to December 31, 2020.

In connection with the note and warrant purchase agreement described above, in September 2020, we issued a warrant for 172,500 shares of our common stock to WDC at an exercise price of $3.50 per share. In October 2020, we issued an additional warrant for 172,500 shares of our common stock to WDC at an exercise price of $3.50 per share. In December 2020, we issued an additional warrant for 49,286 shares of our common stock to WDC at an exercise price of $3.50 per share. In a subsequent December 2020 closing, as amended in February 2021, we issued an additional warrant for 39,385 shares of our common stock to WDC at an exercise price of $3.50 per share. Each of the warrants has a five-year exercise period from the date of issuance. Of the 45,642 warrant shares that were granted, a total of 6,257 were granted on December 31, 2020 and 39,385 were granted on February 19, 2021.

In February 2021, Gabe Woodward, a partner of WDC, was appointed to our board of directors.

Offer Letter, Consulting Agreements and Stock Option Grants

We have entered into offer letter and consulting agreements with certain of our named executive officers, and granted stock options to our named executive officers and certain of our directors, as more fully described in the sections titled “Executive Compensation” and “Management—Non-Employee Director Compensation.”

Indemnification Agreements

Our amended and restated certificate of incorporation will contain provisions limiting the liability of directors, and our amended and restated bylaws will provide that we will indemnify each of our directors and officers to the fullest extent permitted under Delaware law. Our amended and restated certificate of incorporation and amended and restated bylaws will also provide our board of directors with discretion to indemnify our employees and other agents when determined appropriate by the board. In addition, we have entered into or intend to enter into an indemnification agreement with each of our directors and executive officers, which will require us to indemnify them. For more information regarding these agreements, see “Executive Compensation—Limitations on Liability and Indemnification.”

Policies and Procedures for Transactions with Related Persons

We intend to adopt a written policy 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 approval or ratification of our board of directors or our audit committee. Under the policy, 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 (or, if less, 1% of the average of our total assets in a fiscal year) and such person would have a direct or indirect interest, must be presented to our board of directors or our audit committee for review, consideration and approval. In approving or rejecting any such proposal, our board of directors or our audit committee is to consider the material facts of the transaction, including whether the transaction is on terms comparable to the 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.

PRINCIPAL STOCKHOLDERS

The following table sets forth information regarding beneficial ownership of our capital stock as of March 31, 2021 by:

- each person, or group of affiliated persons, known by us to beneficially own more than 5% of our common stock;
- each of our directors;
- each our of named executive officers; and
- all of our current executive officers and directors as a group.

We have determined beneficial ownership in accordance with the rules and regulations of the SEC, and the information is not necessarily indicative of beneficial ownership for any other purpose. Except as indicated by the footnotes below, we believe, based on information furnished to us, that the persons and entities named in the table below have sole voting and sole investment power with respect to all shares that they beneficially own, subject to applicable community property laws.

Applicable percentage ownership before the offering is based on 59,586,752 shares of common stock outstanding as of March 31, 2021, after giving effect to (i) the automatic conversion of all outstanding shares of our convertible preferred stock into 22,702,889 shares of common stock and (ii) the automatic conversion of certain convertible promissory notes and accrued and unpaid interest and loan fees thereunder as of March 31, 2021 into 10,122,841 shares of common stock in connection with the closing of this offering.

Applicable percentage ownership after the offering is based on shares of common stock outstanding immediately after the closing of this offering, after giving effect to (i) the automatic conversion of certain convertible promissory notes and accrued and unpaid interest and loan fees thereunder as of March 31, 2021 into 10,122,841 shares of common stock and (ii) the automatic conversion of all outstanding shares of our convertible preferred stock into 22,702,889 shares of common stock each in connection with the closing of this offering. In computing the number of shares beneficially owned by a person and the percentage ownership of such person, we deemed to be outstanding all shares subject to options held by the person that are currently exercisable, or exercisable within 60 days of March 31, 2021. However, except as described above, we did not deem such shares outstanding for the purpose of computing the percentage ownership of any other person.

Unless otherwise indicated, the address for each beneficial owner listed in the table below is c/o Genelux Corporation, 3030 Bunker Hill Street, Suite 300 San Diego, California 92109.

Name of Beneficial Owner	Number of Shares Beneficially Owned	Percentage of Shares Beneficially Owned	
		Before Offering	After Offering
Greater than 5% Holders:			
Aladar Szalay, Ph.D.(1)	13,800,000	23.2%	%
Directors and Named Executive Officers:			
Mary Mirabelli		0	*%
John Thomas, Ph.D.(2)	1,667,225	2.8%	%
James L. Tyree(3)	379,702	*%	%
Gabe Woodward(4)	126,000	*%	%
Thomas Zindrick, J.D.(5)	4,317,821	6.8%	%
Paul Scigalla, M.D., Ph.D.(6)	441,666	*%	%
Tony Yu, Ph.D.(7)	1,168,960	1.9%	%
All directors and executive officers as a group (7 persons)(8)	8,101,374	13.6%	%

* Represents beneficial ownership of less than 1%.

(1) Consists of (i) 96,503 shares of our common stock held by Dr. Szalay; (ii) 5,276,282 shares of our common stock held by The Szalay 2009 Irrevocable Trust; (iii) 4,768,733 shares of our common stock held by The Szalay 2010 Retained Annuity Trust; (iv) 150,000 shares of our common stock held by The Szalay Children's Trust; (v) 508,482 shares of our common stock held by Margot Szalay; and (vi) 1,500,000 shares of our common stock issuable upon the conversion of our Series A Preferred Stock held by The Szalay 2009 Irrevocable Trust; and (vii) 1,500,000 shares of our common stock issuable upon the conversion of our Series A Preferred Stock held by The Szalay Children's Trust.

(2) Consists of shares of our common stock after the conversion of (i) 1,500,000 shares of Series A Preferred Stock held by Dr. Thomas; and (ii) 167,225 shares of our common stock issuable to Dr. Thomas pursuant to options exercisable within 60 days of December 31, 2020.

(3) Consists of 379,702 shares of our common stock issuable to Mr. Tyree pursuant to options exercisable within 60 days of December 31, 2020.

(4) Consists of (i) 7,000 shares of Series J Preferred Stock held by WFCS as Custodian FBO Gabriel T. Woodward; (ii) 6,000 shares of Series K Preferred Stock held by The Gabe and Staci Woodward Family Trust Dated June 5, 2009; (iii) 13,000 shares of Series I Preferred Stock held by Olympic Xploration; and (iv) 100,000 shares of our common stock issuable to Mr. Woodward and Staci Woodward pursuant to options exercisable within 60 days of December 31, 2020.

(5) Consists of 4,317,821 shares of our common stock issuable to Mr. Zindrick pursuant to options exercisable within 60 days of December 31, 2020.

(6) Consists of 441,666 shares of our common stock issuable to Dr. Scigalla pursuant to options exercisable within 60 days of December 31, 2020.

(7) Consists of (i) 450,000 shares of our common stock; and (ii) 718,960 shares of our common stock issuable to Dr. Yu pursuant to options exercisable within 60 days of December 31, 2020.

(8) Consists of the shares described in note (2) through note (7) above.

DESCRIPTION OF CAPITAL STOCK

General

The following description of our capital stock and certain provisions of our amended and restated certificate of incorporation and amended and restated bylaws are summaries and are qualified by reference to the amended and restated certificate of incorporation and the amended and restated bylaws, each of which will become effective upon the closing of this offering. Copies of these documents have been filed with the SEC as exhibits to our registration statement, of which this prospectus forms a part. The descriptions of the common stock and preferred stock reflect changes to our capital structure that will be in effect on the closing of this offering.

Upon filing of our amended and restated certificate of incorporation and the closing of this offering, our authorized capital stock will consist of shares of common stock, par value $0.001 per share, and shares of preferred stock, par value $0.001 per share. All of our authorized shares of preferred stock will be undesignated.

As of March 31, 2021, after giving effect to (i) the automatic conversion of certain convertible promissory notes and accrued and unpaid interest and loan fees thereunder as of March 31, 2021 into 10,122,841 shares of our common stock in connection with the closing of this offering, and (ii) the automatic conversion of all outstanding shares of our convertible preferred stock into 22,702,889 shares of our common stock in connection with the closing of this offering, there were 59,586,752 shares of common stock outstanding and held of record by 595 stockholders.

Common Stock

Voting Rights

The common stock is entitled to one vote per share on any matter that is submitted to a vote of our stockholders. Our amended and restated certificate of incorporation does not provide for cumulative voting for the election of directors. Our amended and restated certificate of incorporation establishes a classified board of directors that is divided into three classes with staggered three-year terms. Only the directors in one class will be subject to election by a plurality of the votes cast at each annual meeting of our stockholders, with the directors in the other classes continuing for the remainder of their respective three-year terms.

Economic Rights

Except as otherwise expressly provided in our amended and restated certificate of incorporation or required by applicable law, all shares of common stock will have the same rights and privileges and rank equally, share ratably, and be identical in all respects for all matters, including those described below.

Dividends. Subject to preferences that may apply to any shares of preferred stock outstanding at the time, the holders of our common stock are entitled to receive dividends out of funds legally available if our board of directors, in its discretion, determines to issue dividends and then only at the times and in the amounts that our board of directors may determine. See the section titled “Dividend Policy” for further information.

Liquidation Rights. On our liquidation, dissolution, or winding-up, the holders of common stock will be entitled to share equally, identically, and ratably in all assets remaining after the payment of any liabilities, liquidation preferences and accrued or declared but unpaid dividends, if any, with respect to any outstanding preferred stock, unless a different treatment is approved by the affirmative vote of the holders of a majority of the outstanding shares of such affected class, voting separately as a class.

No Preemptive or Similar Rights

The holders of our shares of common stock are not entitled to preemptive rights, and are not subject to conversion, redemption or sinking fund provisions.

Fully Paid and Non-Assessable

In connection with this offering, our legal counsel will opine that the shares of our common stock to be issued under this offering will be fully paid and non-assessable.

Preferred Stock

As of March 31, 2021, there were:

- 4,500,000 shares of our Series A convertible preferred stock outstanding, held of record by three holders,
- 608,000 shares of our Series B convertible preferred stock outstanding, held of record by 14 holders,
- 5,000,000 shares of our Series C convertible preferred stock outstanding, held of record by 122 holders,
- 3,000,000 shares of our Series D convertible preferred stock outstanding, held of record by 186 holders,
- 1,591,994 shares of our Series E convertible preferred stock outstanding, held of record by 76 holders,
- 953,000 shares of our Series F convertible preferred stock outstanding, held of record by 83 holders,
- 536,000 shares of our Series H convertible preferred stock outstanding, held of record by 31 holders,
- 2,757,442 shares of our Series I convertible preferred stock outstanding, held of record by 131 holders,
- 1,281,600 shares of our Series J convertible preferred stock outstanding, held of record by 260 holders, and
- 1,866,853 shares of our Series K convertible preferred stock outstanding, held of record by 356 holders.

Immediately prior to the closing of this offering, each outstanding share of our convertible preferred stock will convert into one share of our common stock. In addition, in connection with the closing of this offering, our certificate of incorporation will be amended and restated to delete all references to such shares of convertible preferred stock. Under the amended and restated certificate of incorporation, our board of directors will have the authority, without further action by the stockholders, to issue up to shares of preferred stock in one or more series, to establish from time to time the number of shares to be included in each such series, to fix the rights, preferences, and privileges of the shares of each wholly unissued series and any qualifications, limitations, or restrictions thereon and to increase or decrease the number of shares of any such series, but not below the number of shares of such series then outstanding.

Our board of directors may authorize the issuance of preferred stock with voting or conversion rights that could adversely affect the voting power or other rights of the holders of the common stock. The issuance of preferred stock, while providing flexibility in connection with possible acquisitions and other corporate purposes, could, among other things, have the effect of delaying, deferring or preventing a change in our control that may otherwise benefit holders of our common stock and may adversely affect the market price of the common stock and the voting and other rights of the holders of common stock. We have no current plans to issue any shares of preferred stock.

Warrants

As of March 31, 2021, we had outstanding warrants to purchase up to 2,392,076 shares of our common stock with exercise prices ranging from $0.01 to $3.50 per share.

The above warrants have a net exercise provision under which the holder may, in lieu of payment of the exercise price in cash, surrender the warrant and receive a net amount of shares based on the fair market value of

our common stock at the time of the net exercise of the warrant after deduction of the aggregate exercise price. The warrants also contain provisions for the adjustment of the exercise price and the aggregate number of shares issuable upon the exercise of the warrant in the event of stock dividends, stock splits, reclassifications, exchanges, combinations or substitutions. In the event that, upon the expiration date, the fair market value of our common stock is greater than the exercise price of the warrant, then the warrant will automatically be deemed to be exercised.

Registration Rights

We are party to an Investor Rights Agreement, or Rights Agreement, which provides for the grant of registration rights to AbbVie Inc., formerly Abbott Laboratories (AbbVie), and the other holders of registrable securities set forth therein. The registration of shares of our common stock by the exercise of these registration rights would enable the holders to sell these shares without restriction under the Securities Act when the applicable registration statement is declared effective.

Generally, in an underwritten offering, the managing underwriter, if any, has the right, subject to specified conditions, to limit the number of shares such holders may include. The demand, piggyback and Form S-3 registration rights described below with respect to any holder will expire upon the earliest to occur of: (i) the fifth anniversary of the closing of the initial public offering or (ii) such date, on or after of the closing of the initial public offering of our common stock pursuant to an effective registration statement filed under the Securities Act, on which all shares of registrable securities held or entitled to be held upon conversion of AbbVie (together with its affiliates) may immediately be sold under Rule 144 during any 90-day period provided that such registration right under (ii) will not terminate until such time as AbbVie ceases to hold securities representing 1% or more of our outstanding securities.

Demand Registration Rights

With certain exceptions, at any time beginning 180 days after the effective date of the registration statement of which this prospectus is a part, AbbVie may make a written request that we effect the registration of its registrable securities, following which we will be obligated to register the registrable securities specified in AbbVie's request, together with the registrable securities of any other holder joining in such request. We are not required to initiate more than two demand registrations requested by AbbVie, nor are we obligated to take any action to effect registration if AbbVie, together with the holders of any other of our securities entitled to inclusion in such registration statement, propose to sell registrable securities for aggregate proceeds (after deduction for underwriting discounts and commissions related to the issuance) less than $5,000,000.

Piggyback Registration Rights

After this offering, in the event that we propose to register any of our securities under the Securities Act, either for our own account or for the account of other security holders, AbbVie and the other holders of registrable securities will be entitled to certain piggyback registration rights allowing the holder to include their shares in such registration, subject to certain exceptions. As a result, whenever we propose to file a registration statement under the Securities Act, other than with respect to a demand registration (including a Form S-3 registration) or a registration (i) relating solely to employee benefit plans, (ii) relating to solely a Rule 145 transaction, or (iii) on Form S-4 or any similar short-form registration statement, the holders of these shares are entitled to notice of the registration and have the right to include their shares in the registration, subject to limitations that the underwriters may impose on the number of shares included in the offering.

Form S-3 Registration Rights

After 12 months following this offering, AbbVie will be entitled to certain Form S-3 registration rights. AbbVie can make a written request that we register its shares on Form S-3 if we are qualified to file a registration

statement on Form S-3 and if the reasonably anticipated aggregate net proceeds of the shares offered would equal or exceed $1,000,000, following which we will be obligated to register the registrable securities specified in AbbVie's request, together with the registrable securities of any other holder joining in such request. We will not be required to effect more than two registrations on Form S-3 within any 12-month period. After this offering, we are obligated to use our best efforts to qualify for and remain eligible to use Form S-3 registration or a similar short-form registration.

Indemnification

The Rights Agreement contains customary cross indemnification provisions, under which we are obligated to indemnify holders of registrable securities in the event of material misstatements or omissions in a registration statement attributable to us, and they are obligated to indemnify us for material misstatements or omissions attributable to them.

Expenses

Generally, other than underwriting discounts and commissions, we will be required to pay all expenses incurred by us related to any registration effected pursuant to the exercise of these registration rights. These expenses may include all registration and filing fees, printing and accounting fees, fees and disbursements of our counsel, reasonable fees and disbursements of a counsel for the selling securityholders.

Anti-Takeover Provisions

The provisions of Delaware law, our amended and restated certificate of incorporation and our amended and restated bylaws, which are summarized below, may have the effect of delaying, deferring or discouraging another person from acquiring control of our company. They are also designed, in part, to encourage persons seeking to acquire control of us to negotiate first with our board of directors. We believe that the benefits of increased protection of our potential ability to negotiate with an unfriendly or unsolicited acquirer outweigh the disadvantages of discouraging a proposal to acquire us because negotiation of these proposals could result in an improvement of their terms.

Certificate of Incorporation and Bylaws to be in Effect in Connection with the Closing of this Offering

Because our stockholders do not have cumulative voting rights, stockholders holding a majority of the voting power of our shares of common stock will be able to elect all of our directors. Our amended and restated certificate of incorporation and amended and restated bylaws to be effective in connection with the closing of this offering will provide for stockholder actions at a duly called meeting of stockholders or, before the date on which all shares of common stock convert into a single class, by written consent. A special meeting of stockholders may be called by a majority of our board of directors, the chair of our board of directors, or our chief executive officer or president. Our amended and restated bylaws will establish an advance notice procedure for stockholder proposals to be brought before an annual meeting of our stockholders, including proposed nominations of persons for election to our board of directors.

As described above in "Management—Composition of Our Board of Directors," in accordance with our amended and restated certificate of incorporation to be filed in connection with this offering, immediately after this offering, our board of directors will be divided into three classes with staggered three-year terms.

The foregoing provisions will make it more difficult for another party to obtain control of us by replacing our board of directors. Since our board of directors has the power to retain and discharge our officers, these provisions could also make it more difficult for existing stockholders or another party to effect a change in management. In addition, the authorization of undesignated preferred stock makes it possible for our board of directors to issue preferred stock with voting or other rights or preferences that could impede the success of any attempt to change our control.

These provisions are designed to reduce our vulnerability to an unsolicited acquisition proposal and to discourage certain tactics that may be used in proxy fights. However, such provisions could have the effect of discouraging others from making tender offers for our shares and may have the effect of deterring hostile takeovers or delaying changes in our control or management. As a consequence, these provisions may also inhibit fluctuations in the market price of our stock that could result from actual or rumored takeover attempts.

Section 203 of the Delaware General Corporation Law

Upon completion of this offering, we will be subject to Section 203 of the Delaware General Corporation Law, which prohibits a Delaware corporation from engaging in any business combination with any interested stockholder for a period of three years after the date that such stockholder became an interested stockholder, subject to certain exceptions.

Choice of Forum

Our amended and restated certificate of incorporation and amended and restated bylaws will provide that the Court of Chancery of the State of Delaware will be the sole and exclusive forum for the following types of actions or proceedings under Delaware statutory or common law: (i) any derivative action or proceeding brought on our behalf; (ii) any action or proceeding asserting a claim of breach of a fiduciary duty owed by any of our current or former directors, officers, or other employees to us or our stockholders; (iii) any action or proceeding asserting a claim against us or any of our current or former directors, officers, or other employees, arising out of or pursuant to any provision of the Delaware General Corporation Law, our amended and restated certificate of incorporation or our amended and restated bylaws; (iv) any action or proceeding to interpret, apply, enforce, or determine the validity of our amended and restated certificate of incorporation or our amended and restated bylaws; (v) any action or proceeding as to which the Delaware General Corporation Law confers jurisdiction to the Court of Chancery of the State of Delaware; and (vi) any action asserting a claim against us or any of our directors, officers, or other employees governed by the internal affairs doctrine, in all cases to the fullest extent permitted by law and subject to the court's having personal jurisdiction over the indispensable parties named as defendants. These provisions would not apply to suits brought to enforce a duty or liability created by the Exchange Act. Furthermore, Section 22 of the Securities Act creates concurrent jurisdiction for federal and state courts over all such Securities Act actions. Accordingly, both state and federal courts have jurisdiction to entertain such claims. To prevent having to litigate claims in multiple jurisdictions and the threat of inconsistent or contrary rulings by different courts, among other considerations, our amended and restated certificate of incorporation and our amended and restated bylaws will 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 or causes of action arising under the Securities Act, including all causes of action asserted against any defendant to such complaint. For the avoidance of doubt, this provision is intended to benefit and may be enforced by us, our officers and directors, the underwriters to any offering giving rise to such complaint, and any other professional entity whose profession gives authority to a statement made by that person or entity and who has prepared or certified any part of the documents underlying this offering. While the Delaware courts have determined that such choice of forum provisions are facially valid, a stockholder may nevertheless seek to bring a claim in a venue other than those designated in the exclusive forum provisions. In such instance, we would expect to vigorously assert the validity and enforceability of the exclusive forum provisions of our amended and restated certificate of incorporation and our amended and restated bylaws.

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 and may discourage these types of lawsuits. Furthermore, the enforceability of similar choice of forum provisions in other companies' certificates of incorporation or bylaws has been challenged in legal proceedings, and it is possible that a court could find these types of provisions to be inapplicable or unenforceable. We note that investors cannot waive compliance with the federal securities laws and the rules and regulations thereunder.

Limitations on Liability and Indemnification

See "Executive Compensation—Limitations on Liability and Indemnification."

Exchange Listing

Our common stock is currently not listed on any securities exchange. We have applied to list our common stock on the Nasdaq Capital Market under the symbol "GNLX."

Transfer Agent and Registrar

On the closing of this offering, the transfer agent and registrar for our common stock will be American Stock Transfer & Trust Company, LLC. The transfer agent and registrar's address is 6201 15th Avenue, Brooklyn, New York 11219.

SHARES ELIGIBLE FOR FUTURE SALE

Before the closing of this offering, there has been no public market for our common stock. Future sales of substantial amounts of our common stock, including shares issued on the exercise of outstanding options, in the public market after this offering, or the possibility of these sales or issuances occurring, could adversely affect the prevailing market price for our common stock or impair our ability to raise equity capital.

Based on our shares outstanding as of March 31, 2021, upon the closing of this offering, a total of shares of common stock will be outstanding, assuming (i) the automatic conversion of certain convertible promissory notes and accrued and unpaid interest and loan fees thereunder as of March 31, 2021 into 10,122,841 shares of our common stock in connection with the closing of this offering; and (ii) the automatic conversion of all outstanding shares of our convertible preferred stock into 22,094,889 shares of our common stock in connection with the closing of this offering. Of these shares, all of the common stock sold in this offering by us, plus any shares sold by us on exercise of the underwriters' option to purchase additional common stock, will be freely tradable in the public market without restriction or further registration under the Securities Act, unless these shares are held by "affiliates," as that term is defined in Rule 144 under the Securities Act.

The remaining shares of common stock will be, and shares of common stock subject to stock options will be on issuance, "restricted securities," as that term is defined in Rule 144 under the Securities Act. These restricted securities are eligible for public sale only if they are registered under the Securities Act or if they qualify for an exemption from registration under Rules 144 or 701 under the Securities Act, which are summarized below. Restricted securities may also be sold outside of the United States to non-U.S. persons in accordance with Rule 904 of Regulation S.

Subject to the lock-up agreements described below and the provisions of Rule 144 or Regulation S under the Securities Act, as well as our insider trading policy, these restricted securities will be available for sale in the public market after the date of this prospectus.

Rule 144

In general, under Rule 144 as currently in effect, once we have been subject to public company reporting requirements of Section 13 or Section 15(d) of the Exchange Act for at least 90 days, an eligible stockholder is entitled to sell such 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. To be an eligible stockholder under Rule 144, such stockholder must not be 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 must have 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. 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 such person is entitled to sell such shares without complying with any of the requirements of Rule 144, subject to the expiration of the lock-up agreements described below.

In general, under Rule 144, as currently in effect, our affiliates or persons selling shares on behalf of our affiliates are entitled to sell shares on expiration of the lock-up agreements described below. Beginning 90 days after the date of this prospectus, within any three-month period, such stockholders may sell a number of shares that does not exceed the greater of:

- 1% of the number of shares of common stock then outstanding, which will equal approximately shares immediately after this offering, assuming no exercise of the underwriters' option to purchase additional shares of common stock from us; or
- the average weekly trading volume of our common stock on the Nasdaq Capital Market during the four calendar weeks preceding the filing of a notice on Form 144 with respect to such 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 was issued shares under 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 on 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 under Rule 701, subject to the expiration of the lock-up agreements described below.

Form S-8 Registration Statements

We intend to file one or more registration statements on Form S-8 under the Securities Act with the SEC to register the offer and sale of shares of our common stock that are issuable under our 2009 Plan, 2019 Plan, 2021 Plan and ESPP. These registration statements will become effective immediately on filing. Shares covered by these registration statements will then be eligible for sale in the public markets, subject to vesting restrictions, any applicable lock-up agreements described below, and Rule 144 limitations applicable to affiliates.

Lock-up Arrangements

We, our executive officers and directors, and holders of greater than 5% of our outstanding shares of common stock on a fully diluted basis (including shares underlying options, warrants and convertible securities), have agreed, subject to certain exceptions, not to offer, sell, assign, transfer, pledge, contract to sell, or otherwise dispose of or announce the intention to otherwise dispose of, or enter into any swap, hedge or similar agreement or arrangement that transfers, in whole or in part, the economic risk of ownership of, directly or indirectly, engage in any short selling of any common stock or securities convertible into or exchangeable or exercisable for any common stock, whether currently owned or subsequently acquired, without the prior written consent of the representative, for a period of 180 days from the date of this prospectus. These agreements are described in "Underwriting—Lock-Up Agreements."

Registration Rights

Upon the closing of this offering, pursuant to our amended and restated investors' rights agreement, the holders of shares of our common stock, or their transferees, will be entitled to certain rights with respect to the registration of the offer and sale of their shares under the Securities Act, subject to the terms of the lock-up agreements described under "—Lock-up Arrangements" above. Registration of these shares under the Securities Act would result in the shares becoming freely tradable without restriction under the Securities Act immediately on the effectiveness of the registration. Substantial sales of securities by these stockholders could have a material adverse effect on the trading price of our common stock. See "Description of Capital Stock—Registration Rights" for additional information.

MATERIAL U.S. FEDERAL INCOME TAX CONSEQUENCES TO NON-U.S. HOLDERS

The following is a summary of the material U.S. federal income tax consequences to non-U.S. holders (as defined below) of the purchase, ownership and disposition of our common stock issued pursuant to this offering. This discussion is not a complete analysis of all potential U.S. federal income tax consequences relating thereto, does not address the potential application of the Medicare contribution tax on net investment income, and does not address any estate or gift tax consequences or any tax consequences arising under any state, local or foreign tax laws, or any other U.S. federal tax laws. This discussion is based on the Internal Revenue Code of 1986, as amended, or the Code, Treasury Regulations promulgated thereunder, judicial decisions, and published rulings and administrative pronouncements of the Internal Revenue Service, or the IRS, all as in effect on the date of this prospectus. These authorities are subject to differing interpretations and may change, possibly retroactively, resulting in U.S. federal income tax consequences different from those discussed below. We have not requested a ruling from the IRS with respect to the statements made and the conclusions reached in the following summary, and there can be no assurance that the IRS or a court will agree with such statements and conclusions.

This discussion is limited to non-U.S. holders who purchase our common stock pursuant to this offering and who 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 of the U.S. federal income tax consequences that may be relevant to a particular holder in light of such holder's circumstances. This discussion also does not consider any specific facts or circumstances that may be relevant to holders subject to special rules under the U.S. federal income tax laws, including:

- certain former citizens or long-term residents of the United States;
- partnerships or other pass-through entities (and investors therein);
- "controlled foreign corporations";
- "passive foreign investment companies";
- corporations that accumulate earnings to avoid U.S. federal income tax;
- banks, financial institutions, investment funds, insurance companies, brokers, dealers or traders in securities;
- tax-exempt organizations and governmental organizations;
- regulated investment companies and real estate investment trusts;
- 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;
- persons subject to the alternative minimum tax;
- persons subject to special tax accounting rules under Section 451(b) of the Code;
- persons that own or have owned, actually or constructively, more than 5% of our common stock;
- traders in securities that elect to use mark-to-market accounting for their securities holdings; and
- persons holding our common stock as part of a hedging or conversion transaction or straddle, synthetic security, constructive sale, or other risk reduction strategy or integrated investment.

If an entity or arrangement that is classified as a partnership for U.S. federal income tax purposes holds our common stock, the U.S. federal income tax treatment of a partner in the partnership will generally depend on the status of the partner, the activities of the partnership and certain determinations made at the partner level. Partnerships holding our common stock and the partners in such partnerships are urged to consult their tax advisors about the particular U.S. federal income tax consequences to them of holding and disposing of our common stock.

THIS DISCUSSION IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TAX ADVICE. PROSPECTIVE INVESTORS SHOULD CONSULT THEIR TAX ADVISORS REGARDING THE PARTICULAR U.S. FEDERAL INCOME TAX CONSEQUENCES TO THEM OF ACQUIRING, OWNING AND DISPOSING OF OUR COMMON STOCK, AS WELL AS ANY TAX CONSEQUENCES ARISING UNDER ANY STATE, LOCAL OR FOREIGN TAX LAWS AND ANY OTHER U.S. FEDERAL TAX LAWS.

Definition of Non-U.S. Holder

For purposes of this discussion, a "non-U.S. holder" is any beneficial owner of our common stock that is not a "U.S. person" or a partnership (including any entity or arrangement treated as a partnership) for U.S. federal income tax purposes. A U.S. person is any person that, for U.S. federal income tax purposes, is or is treated as any of the following:

- an individual who is a citizen or resident of the United States;
- a corporation (or entity treated as a corporation for U.S. federal income tax purposes) created or organized in or under the laws of the United States, any state thereof or the District of Columbia;
- an estate, the income of which is subject to U.S. federal income tax regardless of its source; or
- a trust (1) whose administration is subject to the primary supervision of a U.S. court and which has one or more "United States persons" (within the meaning of Section 7701(a)(30) of the Code) who have the authority to control all substantial decisions of the trust or (2) that has a valid election in effect under applicable Treasury Regulations to be treated as a U.S. person.

Distributions on Our Common Stock

As described under "Dividend Policy," we do not anticipate declaring or paying, in the foreseeable future, any cash dividends on our capital stock. However, if we do distribute cash or other property on our common stock, such distributions will constitute dividends for U.S. federal income tax purposes to the extent paid from our current or accumulated earnings and profits, as determined under U.S. federal income tax principles. Amounts not treated as dividends for U.S. federal income tax purposes will constitute a return of capital and will first be applied against and reduce a holder's tax basis in our common stock, but not below zero. Any excess will be treated as gain realized on the sale or other disposition of our common stock and will be treated as described under "—Gain on Disposition of Our Common Stock" below.

Subject to the discussions below regarding effectively connected income, backup withholding and FATCA (as defined below), dividends paid to a non-U.S. holder of our common stock generally will be subject to U.S. federal withholding tax at a rate of 30% of the gross amount of the dividends or such lower rate specified by an applicable income tax treaty. To receive the benefit of a reduced treaty rate, a non-U.S. holder must furnish us or our withholding agent with a valid IRS Form W-8BEN or IRS Form W-8BEN-E (or applicable successor form) certifying such holder's qualification for the reduced rate. This certification must be provided to us or our withholding agent before the payment of dividends and must be updated periodically. If the non-U.S. holder holds our common stock through a financial institution or other agent acting on the non-U.S. holder's behalf, the non-U.S. holder will be required to provide appropriate documentation to the agent, which then will be required to provide certification to us or our withholding agent, either directly or through other intermediaries.

Non-U.S. holders that do not provide the required certification on a timely basis, but that qualify for a reduced treaty rate, may obtain a refund of any excess amounts withheld by timely filing an appropriate claim for refund with the IRS. Non-U.S. holders should consult their tax advisors regarding any applicable income tax treaties that may provide for different rules.

If a non-U.S. holder holds our common stock in connection with the conduct of a trade or business in the United States, and dividends paid on our common stock are effectively connected with such holder's U.S. trade

or business (and are attributable to such holder's permanent establishment or fixed base in the United States if required by an applicable tax treaty), the non-U.S. holder will be exempt from U.S. federal withholding tax. To claim the exemption, the non-U.S. holder must generally furnish a valid IRS Form W-8ECI (or applicable successor form) to the applicable withholding agent properly certifying such exemption.

However, any such effectively connected dividends paid on our common stock generally will be subject to U.S. federal income tax on a net income basis at the regular U.S. federal income tax rates in the same manner as if such holder were a resident of the United States. A non-U.S. holder that is a foreign corporation also may be subject to an additional branch profits tax equal to 30% (or such lower rate specified by an applicable income tax treaty) of its effectively connected earnings and profits for the taxable year, as adjusted for certain items.

Gain on Disposition of Our Common Stock

Subject to the discussions below regarding backup withholding and FATCA, a non-U.S. holder generally will not be subject to U.S. federal income tax on any gain realized on the sale, exchange or other disposition of our common stock, unless:

- the gain is effectively connected with the non-U.S. holder's 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 the non-U.S. holder in the United States;
- the non-U.S. holder is a nonresident alien individual present in the United States for 183 days or more during the taxable year of the disposition, and certain other requirements are met; or
- we are or become a United States real property holding corporation, or a USRPHC, for U.S. federal income tax purposes at any time within the shorter of the five-year period preceding the disposition or the non-U.S. holder's holding period for our common stock, and our common stock is not "regularly traded" on an established securities market (as defined by applicable Treasury Regulations).

Determining whether we are a USRPHC depends on the fair market value of our U.S. real property interests relative to the fair market value of our other trade or business assets and our foreign real property interests. We believe that we are not currently and we do not anticipate becoming a USRPHC for U.S. federal income tax purposes, although there can be no assurance we will not in the future become a USRPHC.

Gain described in the first bullet point above generally will be subject to U.S. federal income tax on a net income basis at the regular U.S. federal income tax rates in the same manner as if such holder were a resident of the United States. A non-U.S. holder that is a foreign corporation also may be subject to an additional branch profits tax equal to 30% (or such lower rate specified by an applicable income tax treaty) of its effectively connected earnings and profits for the taxable year, as adjusted for certain items. Gain described in the second bullet point above will be subject to U.S. federal income tax at a flat 30% rate (unless an applicable income tax treaty provides for different treatment), but may be offset by certain U.S.-source capital losses (even though the individual is not considered a resident of the United States), provided that the non-U.S. holder has timely filed U.S. federal income tax returns with respect to such losses. Gain described in the third bullet point above will generally be subject to U.S. federal income tax in the same manner as gain that is effectively connected with the conduct of a U.S. trade or business, except that the branch profits tax generally will not apply.

Non-U.S. holders should consult their tax advisors regarding any applicable income tax treaties that may provide for different rules.

Information Reporting and Backup Withholding

Annual reports are required to be filed with the IRS and provided to each non-U.S. holder indicating distributions on our common stock paid to such holder and the amount of any tax withheld with respect to those

distributions. These information reporting requirements apply even if no withholding was required because the distributions were effectively connected with the holder's conduct of a U.S. trade or business, or withholding was reduced or eliminated by an applicable income tax treaty. This information also may be made available under a specific treaty or agreement with the tax authorities in the country in which the non-U.S. holder resides or is established. Backup withholding, currently at a 24% rate, generally will not apply to payments to a non-U.S. holder of dividends on or the gross proceeds of a disposition of our common stock provided the non-U.S. holder furnishes the required certification for its non-U.S. status, such as by providing a valid IRS Form W-8BEN, IRS Form W-8BEN-E or IRS Form W-8ECI, or certain other requirements are met, and if the payor does not have actual knowledge, or reason to know, that the holder is a U.S. person.

Backup withholding is not an additional tax. If any amount is withheld under the backup withholding rules, the non-U.S. holder should consult with a U.S. tax advisor regarding the possibility of and procedure for obtaining a refund or a credit against the non-U.S. holder's U.S. federal income tax liability, if any.

Withholding on Foreign Entities

Sections 1471 through 1474 of the Code, which are commonly referred to as FATCA, impose a U.S. federal withholding tax of 30% on certain payments made to a "foreign financial institution" (as specially defined under these rules) unless such institution enters into an agreement with the U.S. government to withhold on certain payments and to collect and provide to the U.S. tax authorities certain information regarding certain U.S. account holders of such institution (which includes certain equity and debt holders of such institution, as well as certain account holders that are foreign entities with U.S. owners) or an exemption applies. FATCA also generally imposes a U.S. federal withholding tax of 30% on certain payments made to a non-financial foreign entity unless such entity provides the withholding agent a certification identifying certain direct and indirect U.S. owners of the entity or an exemption applies. An intergovernmental agreement between the United States and an applicable foreign country may modify these requirements. Under certain circumstances, a non-U.S. holder might be eligible for refunds or credits of such taxes. FATCA currently applies to dividends paid on our common stock and would have applied also to payments of gross proceeds from the sale or other disposition of our common stock. The U.S. Treasury Department has released proposed regulations under FATCA providing for the elimination of the federal withholding tax of 30% applicable to gross proceeds of a sale or other disposition of our common stock. Under these proposed Treasury Regulations (which may be relied upon by taxpayers prior to finalization), FATCA will not apply to gross proceeds from sales or other dispositions of our common stock.

Prospective investors are encouraged to consult with their own tax advisors regarding the possible implications of FATCA on their investment in our common stock.

UNDERWRITING

We have entered into an underwriting agreement with EF Hutton, division of Benchmark Investments, LLC (EF Hutton), as representative of the underwriters named below, with respect to the shares of our common stock subject to this offering. Subject to the terms and conditions in the underwriting agreement, we have agreed to sell to the underwriters, and each underwriter has, severally and not jointly, agreed to purchase from us on a firm commitment basis, the respective number of shares of our common stock set forth opposite its name in the table below:

Underwriters	Number of Shares
EF Hutton, division of Benchmark Investments, LLC	
Brookline Capital Markets, a division of Arcadia Securities, LLC	
Total	

The underwriting agreement provides that the obligation of the underwriters to purchase all of the shares of our common stock being offered to the public is subject to approval of legal matters by counsel and the satisfaction of other conditions. These conditions include, among others, the continued accuracy of representations and warranties made by us in the underwriting agreement, delivery of legal opinions and the absence of any material changes in our assets, business or prospects after the date of this prospectus. The underwriters are obligated to purchase all of the shares in this offering, other than those covered by the over-allotment option described below, if they purchase any of our shares.

EF Hutton has advised us that the underwriters propose to offer the shares of our common stock directly to the public at the initial public offering price listed on the cover page of this prospectus and to selected dealers, who may include the underwriters, at the initial public offering price less a selling concession not in excess of $ per share for the common stock. The underwriters may offer the shares through one or more of their affiliates or selling agents. Upon execution of the underwriting agreement, the underwriters will be obligated to purchase the shares at the prices and upon the terms stated therein. If all of the shares are not sold at the initial public offering price, the underwriters may change the offering price and the other selling terms.

Pursuant to the underwriting agreement, we have agreed to indemnify the underwriters against certain liabilities, including liabilities under the Securities Act, or to contribute to payments which the underwriters or other indemnified parties may be required to make in respect of any such liabilities.

Pricing of the Offering

Prior to this offering, there has been no public market for shares of our common stock. The initial public offering price will be determined by negotiations between us and EF Hutton. In determining the initial public offering price, we and EF Hutton expect to consider a number of factors including:

- the information set forth in this prospectus and otherwise available to EF Hutton;
- our history and prospects and the history and prospects for the industry in which we compete;
- an assessment of our management;
- our past and present financial performance;
- our prospects for future earnings and the present state of our development;
- 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 the shares of our common stock, or that the shares will trade in the public market at or above the initial public offering price.

Over-Allotment Option

We have granted the underwriters an over-allotment option. This option, which is exercisable for up to 45 days after the date of this prospectus, permits the underwriters to purchase a maximum of additional shares of our common stock, representing 15% of the total number of shares of our common stock being offered by us in this offering, from us to cover over-allotments, if any. If the underwriters exercise all or part of this option, each underwriter will be obligated to purchase its proportionate number of shares covered by the option at the initial public offering price that appears on the cover page of this prospectus, less the underwriting discounts.

Underwriting Discount and Expenses

The underwriting discount is equal to the initial public offering price per share, less the amount paid by the underwriters to us per share. The underwriting discount was determined through an arms' length negotiation between us and the underwriters. We have agreed to sell the shares of our common stock to the underwriters at the offering price of $ per share, which represents the initial public offering price of our shares set forth on the cover page of this prospectus less a 7.0% underwriting discount.

The following table provides information regarding the amount of the underwriting discounts to be paid to the underwriters by us. These amounts are shown assuming both no exercise and full exercise of the underwriters' option to purchase additional shares to cover over-allotments, if any.

		Total	
	Per Share	Without Over-Allotment	With Over-Allotment
Underwriting discounts paid by us	$	$	$
Proceeds, before expenses, to us	$	$	$

We have agreed to pay EF Hutton's out-of-pocket accountable expenses, including EF Hutton's legal fees, up to a maximum amount of $150,000.

We estimate that the total expenses of the offering payable by us, not including the underwriting discount, will be approximately $.

Representative's Warrants

We have agreed to issue to EF Hutton or its designees, as the closing of this offering, warrants to purchase up to a total of shares of common stock (5% of the number of shares of common stock sold in this offering). The Representative's Warrants will be exercisable at any time, and from time to time, in whole or in part, during the four and a half-year period commencing six months from the effective date of the offering, which period shall not extend further than five years from the effective date of the offering in compliance with FINRA Rule 5110(g)(8)(A). The Representative's Warrants are exercisable at a per share price equal to 100% of the public offering price per share in the offering. The Representative's Warrants have been deemed compensation by FINRA and are therefore subject to a 180-day lock-up pursuant to Rule 5110(e)(1) of FINRA. EF Hutton (or permitted assignees under Rule 5110(e)(1)) will not sell, transfer, assign, pledge, or hypothecate these warrants or the securities underlying these warrants, nor will they engage in any hedging, short sale, derivative, put, or call transaction that would result in the effective economic disposition of the warrants or the underlying securities for a period of 180 days from the date of this prospectus. The Representative's Warrants will provide for cashless

exercise and customary anti-dilution provisions (for share dividends, splits and recapitalizations and the like) consistent with FINRA Rule 5110, and the number of shares underlying the Representative's Warrants shall be reduced, or the exercise price increased, if necessary, to comply with FINRA rules or regulations. In addition, the Representative's Warrants provide for registration rights upon request, in certain cases. The one-time demand registration right provided will not be greater than five years from the effective date of the registration statement in compliance with FINRA Rule 5110(g)(8)(C). The unlimited piggyback registration right provided will not be greater than seven years from the effective date of the registration statement in compliance with FINRA Rule 5110(g)(8)(D).

Right of First Refusal

We have also granted EF Hutton an irrevocable right of first refusal for a period of 12 months after the date this offering is completed, to act as an investment banker, book-runner, and/or placement agent, at EF Hutton's sole discretion, for each and every future public and private equity and debt offering, including all equity linked financings, during such 12 month period, of the Company, or any successor to or any current or future subsidiary of the Company, on customary terms and conditions to be mutually agreed upon by EF Hutton and us.

Tail Period

In the event that EF Hutton does not consummate the offering as contemplated therein, for a period of 12 months from the termination of our engagement agreement with EF Hutton, unless such agreement is terminated by us for cause (as defined therein), in the event that we receive any proceeds from the sale of securities to certain investors with whom EF Hutton engaged in substantive discussions or negotiations regarding us and we have direct knowledge of such investor's participation, we have agreed to pay to EF Hutton a cash fee equal to 8.0% of such gross proceeds.

Lock-Up Agreements

Pursuant to certain "lock-up" agreements, we, our executive officers and directors, and holders of greater than 5% of our outstanding shares of common stock on a fully diluted basis (including shares underlying options, warrants and convertible securities) have agreed, subject to certain exceptions, not to offer, sell, assign, transfer, pledge, contract to sell, or otherwise dispose of or announce the intention to otherwise dispose of, or enter into any swap, hedge or similar agreement or arrangement that transfers, in whole or in part, the economic risk of ownership of, directly or indirectly, engage in any short selling of any common stock or securities convertible into or exchangeable or exercisable for any common stock, whether currently owned or subsequently acquired, without the prior written consent of the representative, for a period of 180 days from the date of this prospectus.

Stock Exchange

We have applied to list our common stock on the Nasdaq Capital Market under the symbol "GNLX."

Stabilization

In connection with this offering, the underwriters may engage in activities that stabilize, maintain or otherwise affect the price of the shares of our common stock during and after this offering, including:

- stabilizing transactions;
- short sales;
- purchases to cover positions created by short sales;
- imposition of penalty bids; and
- syndicate covering transactions.

Stabilizing transactions consist of bids or purchases made for the purpose of preventing or retarding a decline in the market price of the shares of our common stock while this offering is in progress. Stabilization

transactions permit bids to purchase the underlying security so long as the stabilizing bids do not exceed a specified maximum. These transactions may also include making short sales of the shares of our common stock, which involve the sale by the underwriters of a greater number of shares of our common stock than they are required to purchase in this offering and purchasing shares of our common stock on the open market to cover short positions created by short sales. Short sales may be "covered short sales," which are short positions in an amount not greater than the underwriters' option to purchase additional shares referred to above, or may be "naked short sales," which are short positions in excess of that amount.

The underwriters may close out any covered short position by either exercising their option, 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 as compared to the price at which they may purchase shares through the over-allotment option.

Naked short sales are short sales made in excess of the over-allotment option. The underwriters must close out any naked short position by purchasing shares in the open market. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the shares of our common stock in the open market that could adversely affect investors who purchased in this offering.

The underwriters also may impose a penalty bid. This occurs when a particular underwriter repays to the underwriters a portion of the underwriting discount received by it because EF Hutton has repurchased shares sold by or for the account of that underwriter in stabilizing or short covering transactions.

These stabilizing transactions, short sales, purchases to cover positions created by short sales, the imposition of penalty bids and syndicate covering transactions may have the effect of raising or maintaining the market price of our common stock or preventing or retarding a decline in the market price of our common stock. As a result of these activities, the price of our common stock may be higher than the price that otherwise might exist in the open market. The underwriters may carry out these transactions on the Nasdaq Capital Market, in the over-the-counter market or otherwise. Neither we nor the underwriters make any representation or prediction as to the effect that the transactions described above may have on the price of the shares. Neither we, nor any of the underwriters make any representation that the underwriters will engage in these stabilization transactions or that any transaction, once commenced, will not be discontinued without notice.

Affiliations

The underwriters and their respective affiliates are full service financial institutions engaged in various activities, which may include securities trading, commercial and investment banking, financial advisory, investment management, investment research, principal investment, hedging, financing and brokerage activities. The underwriters and their affiliates may from time to time in the future engage with us and perform services for us or in the ordinary course of their business for which they will receive customary fees and expenses. In the ordinary course of their various business activities, the underwriters and their respective affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers, and such investment and securities activities may involve securities and/or instruments of us. The underwriters and their respective affiliates may also make investment recommendations and/or publish or express independent research views in respect of these securities or instruments and may at any time hold, or recommend to clients that they acquire, long and/or short positions in these securities and instruments.

Electronic Offer, Sale and Distribution of Securities

A prospectus in electronic format may be made available on the websites maintained by one or more of the underwriters or selling group members. EF Hutton 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 underwriters and selling group members that will make internet distributions on the same basis as other allocations. Other than the prospectus in electronic format, the information on these websites is not part of, nor incorporated by reference into, this prospectus or the registration statement of which this prospectus forms a part, has not been approved or endorsed by us, and should not be relied upon by investors.

Notice to Prospective Investors in Canada

Shares of our common stock 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 of our common stock must be made in accordance with an exemption from, or in a transaction not subject to, the prospectus requirements of applicable securities laws.

Securities legislation in certain provinces or territories of Canada may provide a purchaser with remedies for rescission or damages if this prospectus (including any amendment thereto) contains a misrepresentation, provided that the remedies for rescission or damages are exercised by the purchaser within the time limit prescribed by the securities legislation of the purchaser's province or territory. The purchaser should refer to any applicable provisions of the securities legislation of the purchaser's province or territory for particulars of these rights or consult with a legal advisor.

Pursuant to section 3A.3 (or, in the case of securities issued or guaranteed by the government of a non-Canadian jurisdiction, section 3A.4) of National Instrument 33-105 Underwriting Conflicts (NI 33-105), the underwriters are not required to comply with the disclosure requirements of NI 33-105 regarding underwriter conflicts of interest in connection with this offering.

Notice to Prospective Investors in the European Economic Area and the United Kingdom

In relation to the Member States of the European Economic Area and the United Kingdom (each, a "Relevant State"), no offer of shares of our common stock which are the subject of the offering contemplated by this prospectus to the public may be made in that Relevant State other than:

- to any legal entity that is a "qualified investor" as defined in the Prospectus Regulation;
- to fewer than 150 natural or legal persons (other than "qualified investors" as defined in the Prospectus Regulation), subject to obtaining the prior consent of the relevant representative or representatives nominated by us for any such offer; or
- in any other circumstances falling within Article 1(4) of the Prospectus Regulation,

provided that no such offer of shares of our common stock described in this prospectus shall result in a requirement for the publication of a prospectus, by us or any of the underwriters, pursuant to Article 3 of the Prospectus Regulation.

Each purchaser of shares of our common stock described in this prospectus located within a Relevant State will be deemed to have represented, acknowledged and agreed that (1) it is a "qualified investor" within the meaning of the Prospectus Regulation; and (2) in the case of any shares of our common stock acquired by it as a financial intermediary as that term is used in Article 5(1) of the Prospectus Regulation, each such financial intermediary will be deemed to have represented, acknowledged and agreed that the shares of our common stock 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 to the public other than their offer or resale in a Relevant State to qualified investors, as that term is defined in the Prospectus Regulation, or in circumstances in which the prior consent of the underwriters has been given to the

offer or resale; or where shares of our common stock have been acquired by it on behalf of persons in any Relevant State other than qualified investors, the offer of those shares of our common stock to it is not treated under the Prospectus Regulation as having been made to such persons.

For purposes of this provision, the expression an "offer to the public" in relation to the shares of our common stock in any Relevant State means the communication in any form and by any means of sufficient information on the terms of the offer and the shares of our common stock to be offered so as to enable an investor to decide to purchase or subscribe to the shares and the expression "Prospectus Regulation" means Regulation (EU) 2017/1129.

We and the underwriters have not authorized and do not authorize the making of any offer of shares of our common stock through any financial intermediary on their behalf, other than offers made by the underwriters with a view to the final placement of the shares as contemplated in this prospectus. Accordingly, no purchaser of the shares of our common stock, other than the underwriters, is authorized to make any further offer of the shares on behalf of us or the underwriters.

References to the Prospectus Regulation includes, in relation to the UK, the Prospectus Regulation as it forms part of UK domestic law by virtue of the European Union (Withdrawal) Act 2018.

The above selling restriction is in addition to any other selling restrictions set out below.

Additional Notice to Prospective Investors in the United Kingdom

The communication of this prospectus and any other document or materials relating to the issue of the shares of our common stock offered hereby is not being made, and such documents and/or materials have not been approved, by an authorized person for the purposes of section 21 of the United Kingdom's Financial Services and Markets Act 2000, as amended, or the FSMA. Accordingly, such documents and/or materials are not being distributed to, and must not be passed on to, the general public in the United Kingdom. The communication of such documents and/or materials as a financial promotion is only being made to those persons in the United Kingdom who have professional experience in matters relating to investments and who fall within the definition of investment professionals (as defined in Article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, as amended, or the Financial Promotion Order), or who fall within Article 49(2)(a) to (d) of the Financial Promotion Order, or who are any other persons to whom it may otherwise lawfully be made under the Financial Promotion Order (all such persons together being referred to as "relevant persons"). In the United Kingdom, the shares of our common stock offered hereby are only available to, and any investment or investment activity to which this prospectus relates will be engaged in only with, relevant persons. Any person in the United Kingdom that is not a relevant person should not act or rely on this prospectus or any of its contents.

Any invitation or inducement to engage in investment activity (within the meaning of Section 21 of the FSMA) in connection with the issue or sale of the shares of our common stock may only be communicated or caused to be communicated in circumstances in which Section 21(1) of the FSMA does not apply to us.

All applicable provisions of the FSMA must be complied with in respect to anything done by any person in relation to the shares of our common stock in, from or otherwise involving the United Kingdom.

Notice to Prospective Investors in Hong Kong

Shares of our common stock may not be offered or sold by means of any document other than (i) in circumstances which do not constitute an offer to the public within the meaning of the Companies Ordinance (Cap.32, Laws of Hong Kong), (ii) to "professional investors" within the meaning of the Securities and Futures Ordinance (Cap.571, Laws of Hong Kong) and any rules made thereunder or (iii) in other circumstances which

do not result in the document being a "prospectus" within the meaning of the Companies Ordinance (Cap.32, Laws of Hong Kong), and no advertisement, invitation or document relating to shares of our common stock may be issued or may be in the possession of any person for the purpose of issue (in each case 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 in Hong Kong (except if permitted to do so under the laws of Hong Kong) other than with respect to shares of our common stock which are or are intended to be disposed of only to persons outside Hong Kong or only to "professional investors" within the meaning of the Securities and Futures Ordinance (Cap.571, Laws of Hong Kong) and any rules made thereunder.

Notice to Prospective Investors in Japan

No registration pursuant to Article 4, paragraph 1 of the Financial Instruments and Exchange Law of Japan (Law No. 25 of 1948, as amended) (the "FIEL") has been made or will be made with respect to the solicitation of the application for the acquisition of the shares of our common stock.

Accordingly, the shares of our common stock have not been, directly or indirectly, offered or sold and will not be, directly or indirectly, offered or sold 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 re-sale, directly or indirectly, in Japan or to, or for the benefit of, any resident of Japan except pursuant to an exemption from the registration requirements, and otherwise in compliance with, the FIEL and the other applicable laws and regulations of Japan.

For Qualified Institutional Investors (QII)

Please note that the solicitation for newly-issued or secondary securities (each as described in Paragraph 2, Article 4 of the FIEL) in relation to the shares of our common stock constitutes either a "QII only private placement" or a "QII only secondary distribution" (each as described in Paragraph 1, Article 23-13 of the FIEL). Disclosure regarding any such solicitation, as is otherwise prescribed in Paragraph 1, Article 4 of the FIEL, has not been made in relation to the shares of our common stock. The shares of our common stock may only be transferred to QIIs.

For Non-QII Investors

Please note that the solicitation for newly-issued or secondary securities (each as described in Paragraph 2, Article 4 of the FIEL) in relation to the shares of our common stock constitutes either a "small number private placement" or a "small number private secondary distribution" (each as is described in Paragraph 4, Article 23-13 of the FIEL). Disclosure regarding any such solicitation, as is otherwise prescribed in Paragraph 1, Article 4 of the FIEL, has not been made in relation to the shares of our common stock. The shares of our common stock may only be transferred en bloc without subdivision to a single investor.

Notice to Prospective Investors in Singapore

This prospectus has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, this prospectus and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of shares of our common stock may not be circulated or distributed, nor may the shares of our common stock be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor under Section 274 of the Securities and Futures Act, Chapter 289 of Singapore, or the SFA, (ii) to a relevant person, or any person pursuant to Section 275(1A), 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 shares of our common stock are subscribed or purchased under Section 275 by a relevant person which is: (i) a corporation (which is not an accredited investor) 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 is an accredited investor, shares, debentures and units of shares and debentures of that corporation or the beneficiaries' rights and interest in that trust shall not be transferable for 6 months after that corporation or that trust has acquired shares of our common stock under Section 275 except: (a) to an institutional investor under Section 274 of the SFA or to a relevant person, or any person pursuant to Section 275(1A), and in accordance with the conditions, specified in Section 275 of the SFA; (b) where no consideration is given for the transfer; or (c) by operation of law.

LEGAL MATTERS

Cooley LLP, San Diego, California, which has acted as our counsel in connection with this offering, will pass on certain legal matters in connection with this offering. Nelson Mullins Riley & Scarborough LLP, Washington, D.C., has acted as counsel to the underwriters in connection with this offering.

EXPERTS

The financial statements as of 2019 and 2020 and for each of the two years in the period ended December 31, 2020, included in this prospectus and in the registration statement have been so included in reliance on the report of Weinberg & Company, P.A., an independent registered public accounting firm appearing elsewhere herein and in the registration statement, given on the authority of said firm as experts in auditing and accounting.

CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

On February 24, 2021, we dismissed BDO USA, LLP (BDO), as our independent auditor. This dismissal was approved by the audit committee of our board of directors.

BDO audited our financial statements for the fiscal year ended December 31, 2018, which were issued under auditing standards generally accepted in the United States. The audit report issued by BDO on October 15, 2019, did not contain an adverse opinion or a disclaimer of opinion and was not qualified or modified as to audit scope or accounting principles, but was modified as to a going concern uncertainty. BDO USA, LLP did not provide an audit opinion on our financial statements for any period subsequent to the fiscal year ended December 31, 2018 although they reviewed certain 2019 financials as part of their 2018 audit.

During the years ended December 31, 2019 and 2020 and the subsequent interim period through February 24, 2021, (i) there were no "disagreements" between us and BDO (as that term is defined in Item 304(a)(1)(iv) of Regulation S-K) on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreements, if not resolved to the satisfaction of BDO, would have caused them to make reference to the subject matter of the disagreements in connection with their report on the financial statements for such period, and (ii) there were no "reportable events" as such term is defined in Item 304(a)(1)(v) of Regulation S-K.

We will provide BDO with a copy of the foregoing disclosures and will request BDO to furnish us with a letter addressed to the SEC stating whether or not BDO agrees with the above disclosures. A copy of BDO's letter will be filed as Exhibit 16.1 to the registration statement of which this prospectus is a part.

On February 24, 2021, we engaged Weinberg & Company, P.A. (Weinberg), as our independent registered public accounting firm, which engagement has been ratified by the audit committee of our board of directors. During the years ended December 31, 2019 and 2020, we (or any person on our behalf) did not consult with Weinberg regarding any of the matters described in Items 304(a)(2)(i) or 304(a)(2)(ii) of Regulation S-K.

WHERE YOU CAN FIND ADDITIONAL 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 contain all the information set forth 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. For

further information with respect to us and our common stock, we refer you to the registration statement, including the exhibits filed as a part of the registration statement. Statements contained in this prospectus concerning the contents of any contract or any other document are not necessarily complete. If a contract or document has been filed as an exhibit to the registration statement, please see the copy of the contract or document that has been filed. Each statement in this prospectus relating to a contract or document filed as an exhibit is qualified in all respects by the filed exhibit. The SEC also maintains an internet website that contains reports and other information about issuers, like us, that file electronically with the SEC. The address of that website is www.sec.gov.

On the closing of this offering, we will be subject to the information reporting requirements of the Exchange Act, and we will file reports, proxy statements and other information with the SEC. These reports, proxy statements and other information will be available for inspection and copying at the public reference room and website of the SEC referred to above.

We also maintain a website at www.genelux.com. Information contained in, or accessible through, our website is not a part of this prospectus, and the inclusion of our website address in this prospectus is only as an inactive textual reference.

Genelux Corporation

Index to the Financial Statements

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Shareholders
Genelux Corporation
San Diego, California

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Genelux Corporation (the "Company") as of December 31, 2019 and 2020, the related consolidated statements of operations, shareholders' deficit, and cash flows for the years then ended and the related notes (collectively referred to as the "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 2020, and the results of its operations and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

Going Concern

The accompanying financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in Note 1, the Company has not yet generated revenues and has incurred recurring net losses since inception. During the year ended December 31, 2020, the Company used cash in operations and at December 31, 2020, the Company had a shareholders' deficit and is in default on notes payable and convertible notes payable in the aggregate amount of $1.8 million. These matters raise substantial doubt about the Company's ability to continue as a going concern. Management's plans in regard to these matters are also described in Note 1 to the financial statements. These financial statements do not include any adjustments that might result from the outcome of this uncertainty.

Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the Public 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. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audit we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement, 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 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 financial statements. We believe that our audits provide a reasonable basis for our opinion.

We have served as the Company's auditor since 2021.

Weinberg & Company, P.A.
Los Angeles, California
May 7, 2021

Genelux Corporation
Balance Sheets
(In thousands, except for share amounts and par value data)

	December 31,		Pro Forma December 31,
	2019	2020	2020 (Unaudited)
ASSETS			
Current Assets			
Cash	$ 425	$ 11,350	$ 11,350
Prepaid expenses and other current assets	126	127	127
Total Current Assets	551	11,477	11,477
Property and equipment, net	2,234	1,701	1,701
Right of use asset	416	750	750
Other assets	80	80	80
Total Other Assets	2,730	2,531	2,531
TOTAL ASSETS	$ 3,281	$ 14,008	$ 14,008
LIABILITIES AND SHAREHOLDERS' EQUITY (DEFICIT)			
Current Liabilities			
Accounts payable and accrued expenses	$ 3,834	$ 3,708	$ 3,708
Accrued compensation	2,390	2,840	2,840
Accrued interest payable	163	338	241
Accrued interest payable - director and shareholders	3,731	3,717	863
Lease liability, current portion	103	285	285
Note payable	633	—	—
Loan payable - director and shareholder	2,117	—	—
Convertible notes payable - shareholders, current portion, including $1,755 past due at December 31, 2020	1,755	3,605	1,755
Total Current Liabilities	14,726	14,493	9,692
Long-term Liabilities			
Lease liability, long-term portion	322	476	476
U.S. Small Business Administration PPP loan payable	—	314	314
Convertible notes payable, long-term portion, net of debt discount of $1,411 in 2020	50	6,785	50
Convertible notes payable - shareholders, long-term portion	12,994	14,595	2,661
Total Long-term Liabilities	13,366	22,170	3,501
Total Liabilities	28,092	36,663	13,193
Shareholders' Equity (Deficit)			
Preferred stock, Series A through K, par value $0.001, 29,927,994 shares authorized; 22,094,889 shares issued and outstanding, respectively; no shares issued and outstanding pro forma (unaudited)	22	22	—
Common stock, par value $0.001, 75,000,000 shares authorized; 24,100,431 and 26,669,245 shares issued and outstanding, respectively 57,864,103 shares issued and outstanding pro forma (unaudited)	24	27	58
Treasury stock, 1,300,000 shares, at cost	(1,300)	(1,300)	(1,300)
Additional paid-in capital	131,026	146,822	170,283
Accumulated other comprehensive income	2	2	2
Accumulated deficit	(154,585)	(168,228)	(168,228)
Total Shareholder's Equity (Deficit)	(24,811)	(22,655)	815
TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY (DEFICIT)	$ 3,281	$ 14,008	$ 14,008

The accompanying notes are an integral part of these financial statements.

Genelux Corporation
Statements of Operations
(in thousands, except for share amounts and per share data)

	Years Ended December 31,	
	2019	2020
Revenues	$ —	$ —
Operating expenses:		
Research and development	7,532	6,227
General and administrative	3,338	6,195
Total operating expenses	10,870	12,422
Loss from operations	(10,870)	(12,422)
Other expenses:		
Interest expense	(761)	(1,147)
Debt discount amortization	—	(74)
Total other expenses	(761)	(1,221)
NET LOSS	$ (11,631)	$ (13,643)
BASIC AND DILUTED LOSS PER SHARE	$ (0.50)	$ (0.54)
WEIGHTED-AVERAGE COMMON SHARES OUTSTANDING BASIC AND DILUTED	23,294,347	25,079,495
PRO FORMA NET LOSS PER SHARE, BASIC AND DILUTED (Unaudited)		$ (0.24)
PRO FORMA WEIGHTED-AVERAGE COMMON SHARES OUTSTANDING (Unaudited)		56,274,352

The accompanying notes are an integral part of these financial statements.

Genelux Corporation
Statements of Shareholders' Deficit
(in thousands, except share amounts)

	Preferred Stock Series A through K		Common Stock		Treasury Stock		Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Income	Total
	Shares	Amount	Shares	Amount	Shares	Amount				
Balance, December 31, 2018	22,094,889	$ 22	22,273,924	$ 22	$1,300,000	$ (1,300)	$ 120,798	$ (142,954)	$ 2	$(23,410)
Common shares issued for cash, net	—	—	1,826,507	2	—	—	6,381	—	—	6,383
Fair value of stock warrant issued in connection with a settlement agreement	—	—	—	—	—	—	102	—	—	102
Stock compensation	—	—	—	—	—	—	3,745	—	—	3,745
Net loss for the year ended December 31, 2019	—	—	—	—	—	—	—	(11,631)	—	(11,631)
Balance, December 31, 2019	22,094,889	22	24,100,431	24	1,300,000	(1,300)	131,026	(154,585)	2	(24,811)
Common shares issued for cash, net	—	—	2,568,814	3			8,986	—	—	8,989
Stock compensation	—	—	—	—	—	—	5,325	—	—	5,325
Fair value of beneficial conversion feature and stock warrants issued in connection with convertible loans payable	—	—	—	—	—	—	1,485	—	—	1,485
Net loss for the year ended December 31, 2020	—	—	—	—	—	—	—	(13,643)	—	(13,643)
Balance, December 31, 2020	22,094,889	$ 22	26,669,245	$ 27	1,300,000	$ (1,300)	$ 146,822	$ (168,228)	$ 2	$(22,655)

The accompanying notes are an integral part of these financial statements.

Genelux Corporation
Statements of Cash Flows
(In thousands)

	Years Ended December 31,	
	2019	2020
Cash Flows from Operating Activities		
Net loss	$(11,631)	$ (13,643)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation expense	376	553
Amortization of right-of-use asset	101	105
Amortization of debt discount	—	74
Fair value of stock warrant issued in connection with a settlement agreement	102	—
Stock compensation	3,745	5,325
Changes in Assets and Liabilities		
(Increase) Decrease in:		
Prepaid expenses and other assets	(124)	(1)
(Decrease) Increase in:		
Accounts payable and accrued expenses	(406)	(126)
Accrued compensation	292	450
Accrued interest payable	415	161
Lease liability	(93)	(103)
Net cash used in operating activities	(7,223)	(7,205)
Cash Flows from Investing Activities		
Purchases of property and equipment	(1,771)	(20)
Net cash used in investing activities	(1,771)	(20)
Cash Flows from Financing Activities		
Proceeds from convertible note payable - shareholders	1,900	3,601
Repayment of convertible notes payable shareholders	—	(150)
Proceeds from convertible notes payable	50	8,146
Repayment of note payable	(445)	(633)
Repayment of loan payable - director and shareholder	—	(2,117)
Proceeds from U.S. Small Business Administration PPP loan payable	—	314
Proceeds from common stock and warrants issued for cash	6,383	8,989
Net cash provided by financing activities	7,888	18,150
Net increase (decrease) in cash	(1,106)	10,925
Cash beginning of year	1,531	425
Cash end of year	$ 425	$ 11,350
Supplemental cash flows disclosures:		
Interest paid	$ —	$ 675
Taxes paid	$ —	$ —
Supplemental non-cash financing disclosures:		
Initial recognition of right-of-use assets and operating lease liabilities upon execution of new lease in December 2020	$ —	$ 439
Initial recognition of right-of-use assets and operating lease liabilities upon adoption of ASC Topic 842	$ 518	$ —
Fair value of conversion feature and warrants recorded as debt discount on issuance of convertible note payable	$ —	$ 1,485

The accompanying notes are an integral part of these financial statements.

GENELUX CORPORATION
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2019 and 2020
(In thousands, except for share amounts and per share data)

NOTE 1 – BASIS OF PRESENTATION

Organization and Operations

Genelux Corporation ("Genelux" or the "Company"), a Delaware corporation, incorporated on September 4, 2001, is a biomedical company located in San Diego, California. The Company is engaged in the research and development of diagnostic and therapeutic solutions for cancer for which there is no effective treatment today. The Company is focused on the development of therapeutic approaches for cancer that are designed to generate a personalized multi-prong attack to overwhelm a tumor's sophisticated defense mechanisms.

COVID-19 Considerations

In the year ended December 31, 2020, the COVID-19 pandemic did not have a material net impact on the Company's operating results, but did have an impact on the Company's supply chain. In response to the COVID-19 pandemic, a number of governmental orders and other public health guidance measures have been implemented across much of the United States, including in the locations of the Company's office, clinical trial sites and third parties on whom the Company relies. The Company anticipates that its clinical development timelines could be negatively affected by COVID-19, which could materially and adversely affect its business, financial condition and results of operations.

The Company's ability to operate without significant negative operational impact from the COVID-19 pandemic will in part depend on its ability to protect its employees and its supply chain. The Company has endeavored to follow the recommended actions of government and health authorities to protect its employees. Since the onset of the COVID-19 pandemic, the Company maintained the consistency of its operations. However, the uncertainty resulting from the pandemic could result in an unforeseen disruption to its workforce and supply chain (for example, an inability of a key supplier or transportation supplier to source and transport materials) that could negatively impact its operations.

Through December 31, 2020, the COVID-19 pandemic has not negatively impacted the Company's liquidity position as of such date. Through December 31, 2020, the Company continues to generate cash flows through financing activities, such as shareholder loans and equity financings, to meet its short-term liquidity needs, and it expects to maintain access to those shareholder loans and equity financings. The Company has not observed any material impairments of its assets or a significant change in the fair value of its assets due to the COVID-19 pandemic.

Going Concern

The accompanying financial statements have been prepared on a going concern basis, which contemplates the realization of assets and the settlement of liabilities and commitments in the normal course of business. As reflected in the accompanying financial statements, the Company has not yet generated revenues and has incurred recurring net losses since inception. During the year ended December 31, 2020, the Company incurred a net loss of $13,643 and used cash in operations of $7,205, and had a shareholders' deficit of $22,655 as of December 31, 2020. These factors raise substantial doubt about the Company's ability to continue as a going concern. The ability of the Company to continue as a going concern is dependent upon the Company's ability to raise additional funds and implement its strategies. The financial statements do not include any adjustments that might be necessary if the Company is unable to continue as a going concern.

At December 31, 2020, the Company had cash on hand in the amount of $11,350. The ability to continue as a going concern is dependent on the Company attaining and maintaining profitable operations in the future and

raising additional capital to meet its obligations and repay its liabilities arising from normal business operations when they come due. Since inception, the Company has funded its operations primarily through equity and debt financings and it expects to continue to rely on these sources of capital in the future. During the year ended December 31, 2020, the Company received $18,150 through the issuance of loans payable and the sales of its common stock.

No assurance can be given that any future financing will be available or, if available, that it will be on terms that are satisfactory to the Company. Even if the Company is able to obtain additional financing, it may contain undue restrictions on its operations, in the case of debt financing, or cause substantial dilution for its stockholders, in case of equity financing.

NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Use of Estimates

The preparation of the financial statements in conformity with accounting principles generally accepted in the U.S. requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities at the financial statement date, and reported amounts of revenue and expenses during the reporting period. Significant estimates are used in the valuation of accruals for potential liabilities, valuations of stock-based compensation, and realization of deferred tax assets, among others. Actual results could differ from these estimates.

Income (Loss) Per Share

Basic loss per share is computed by dividing net loss applicable to common stockholders by the weighted average number of outstanding common shares during the period. Diluted loss per share is computed by dividing the net loss applicable to common stockholders by the weighted average number of common shares outstanding plus the number of additional common shares that would have been outstanding if all dilutive potential common shares had been issued.

For the years ended December 31, 2019 and 2020, the basic and diluted shares outstanding were the same, as potentially dilutive shares were considered anti-dilutive. The potentially dilutive securities consisted of the following:

	December 31, 2019	December 31, 2020
Convertible notes payable	5,156,732	8,491,969
Common stock equivalent of Series A through K convertible preferred stock	22,702,889	22,702,889
Stock options	10,790,786	11,766,573
Stock warrants	1,892,148	2,352,691
Stock warrants, issuable upon conversion of notes payable	344,456	679,996
Total	40,887,011	45,994,118

Concentration of Credit Risk

Financial instruments, which potentially subject the Company to concentration of credit risk, consist primarily of cash deposits. The Company maintains deposits in federally insured financial institutions in excess of federally insured limits. Management believes that the Company is not exposed to significant credit risk due to the financial position of the depository institutions in which those deposits are held. The Company has not experienced any losses on deposits since inception.

Property and Equipment

Property and equipment are recorded at cost, less accumulated depreciation and amortization. Property and equipment is depreciated over the estimated useful life of the asset or the term of the lease, whichever is shorter, using the straight-line method. Maintenance and repairs are charged to expense as incurred. At the time depreciable property is retired or otherwise disposed of, the related cost and accumulated depreciation or amortization are removed from the accounts and any resulting gain or loss is reflected in operations. The Company has determined the estimated useful lives of its property and equipment, as follows:

Furniture and office equipment	5 years
Laboratory equipment	5 years
Computer equipment	3 years
Leasehold improvements	Life of lease

Management assesses the carrying value of property and equipment whenever events or changes in circumstances indicate that the carrying value may not be recoverable. If there is indication of impairment, management prepares an estimate of future cash flows expected to result from the use of the asset and its eventual disposition. If these cash flows are less than the carrying amount of the asset, an impairment loss is recognized to write down the asset to its estimated fair value.

Convertible Notes Payable

The Company accounts for convertible notes payable (when it has determined that the embedded conversion options should not be bifurcated from their host instruments) in accordance with ASC 470-20, *Debt with Conversion and Other Options*. Accordingly, the Company records, when necessary, discounts to convertible notes payable for the intrinsic value of conversion options embedded in debt instruments based upon the differences between the fair value of the underlying common stock at the commitment date of the note transaction and the effective conversion price embedded in the note. Debt discounts under these arrangements are amortized over the term of the related debt to their earliest date of redemption. The Company determined that the embedded conversion options in its issued convertible notes payable do not meet the definition of a derivative liability.

Fair Value of Financial Instruments

The Company determines the fair value of its assets and liabilities based on the exchange price in U.S. dollars that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. Valuation techniques used to measure fair value maximize the use of observable inputs and minimize the use of unobservable inputs. The Company uses a fair value hierarchy with three levels of inputs, of which the first two are considered observable and the last unobservable, to measure fair value:

- *Level 1* — Quoted prices in active markets for identical assets or liabilities.
- *Level 2* — Inputs, other than Level 1, that are observable, either directly or indirectly, such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.
- *Level 3* — Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

The carrying amounts of financial instruments such as cash, and accounts payable and accrued liabilities, approximate the related fair values due to the short-term maturities of these instruments. The carrying amounts of the Company's convertible notes payable approximate their fair values as the interest rates of the notes are based on prevailing market rates.

Income Taxes

Income tax expense is based on pretax financial accounting income. Deferred tax assets and liabilities are recognized for the expected tax consequences of temporary differences between the tax bases of assets and liabilities and their reported amounts. Valuation allowances are recorded to reduce deferred tax assets to the amount that will more likely than not be realized. The Company recorded a valuation allowance against its deferred tax assets as of December 31, 2019 and 2020.

The Company accounts for uncertainty in income taxes using a two-step approach to recognizing and measuring uncertain tax positions. The first step is to evaluate the tax position for recognition by determining if the weight of available evidence indicates that it is more likely than not that the position will be sustained on audit, including resolution of related appeals or litigation processes, if any. The second step is to measure the tax benefit as the largest amount that is more than 50 percent likely of being realized upon settlement. The Company classifies the liability for unrecognized tax benefits as current to the extent that the Company anticipates payment (or receipt) of cash within one year. Interest and penalties related to uncertain tax positions are recognized in the provision for income taxes.

Patents and Patent Application Costs

Although the Company believes that its patents and underlying technology have continuing value, the amount of future benefits to be derived from the patents is uncertain. Patent costs are therefore expensed as incurred.

Research and Development Costs

Research and development expenses are expensed as incurred. Research and development expenses consist of costs incurred to discover, research and develop drug candidates, including compensation-related expenses for research and development personnel, including stock-based compensation expense, preclinical and clinical activities, costs of manufacturing, overhead expenses including facilities and laboratory expenses, materials and supplies, amounts paid to consultants and outside service providers, and depreciation and amortization.

Stock-Based Compensation

The Company measures all stock options and other stock-based awards granted based on the fair value of the award on the date of the grant and recognizes compensation expense for those awards over the requisite service period, which is generally the vesting period of the respective award. The Company has elected to recognize forfeitures as they occur. The reversal of compensation cost previously recognized for an award that is forfeited because of a failure to satisfy a service or performance condition is recognized in the period of the forfeiture. Generally, the Company issues stock options with only service-based vesting conditions and records the expense for these awards using the straight-line method over the requisite service period.

The Company classifies stock-based compensation expense in its statements of operations in the same manner in which the award recipient's payroll costs are classified or in which the award recipients' service payments are classified.

The Company estimates the fair value of common stock using an appropriate valuation methodology, in accordance with the framework of the American Institute of Certified Public Accountants' Technical Practice Aid, Valuation of Privately-Held Company Equity Securities Issued as Compensation. Each valuation methodology includes estimates and assumptions that require the Company's judgment. These estimates and assumptions include a number of objective and subjective factors, including external market conditions, guideline public company information, the prices at which the Company sold its common stock to third parties in arms' length transactions, the rights and preferences of securities senior to the Company's common stock at the time, and the likelihood of achieving a liquidity event such as an initial public offering or sale. Significant changes to the assumptions used in the valuations could result in different fair values of stock options at each valuation date, as applicable.

The fair value of each stock option grant is estimated 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 within the biotechnology industry with characteristics similar to the Company. The expected term of the Company's stock options has been determined utilizing the "simplified" method for awards that qualify as "plain-vanilla" options. The expected term of stock options granted to non-employees is equal to the contractual term of the option award. 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.

Leases

Effective January 1, 2019, the Company adopted the guidance of ASC 842, Leases, which requires an entity to recognize a right-of-use asset and a lease liability for virtually all leases. As a result, we recorded a right-of-use asset of $518 and a lease liability of $519, as of that date. In accordance with ASC 842, the right-of-use asset is being amortized over the life of the underlying lease, and monthly lease payments are being recorded as reductions to the lease liability and imputed interest expense. See Note 4 for additional information**.**

Pro Forma Financial Information (unaudited)

Upon the closing of a qualified IPO (as defined in the Company's Certificate of Incorporation), all of the Company's outstanding shares of Series A through Series K preferred stock and certain convertible notes payable will automatically convert into shares of common stock. The accompanying unaudited pro forma balance sheet as of December 31, 2020 has been prepared to give effect to the automatic conversion of all outstanding shares of preferred stock into an aggregate of 22,702,889 shares of common stock and the automatic conversion of certain convertible notes payable and accrued interest into an aggregate of 8,491,968 shares of common stock as if the Company's proposed IPO had occurred on December 31, 2020. The shares of common stock issuable and the proceeds expected to be received in the proposed IPO are excluded from such pro forma financial information.

The unaudited pro forma basic and diluted net loss per share in the accompanying statements of operations for the year ended December 31, 2020 have been computed to give effect to the automatic conversion of all outstanding shares of preferred stock and certain convertible notes payable into shares of common stock. The unaudited pro forma basic and diluted net loss per share for the year ended December 31, 2020 was computed using the weighted average number of shares of common stock outstanding, including the pro forma effect of the conversion of all outstanding shares of preferred shares of common stock and certain convertible notes payable, as if the Company's proposed IPO had occurred on January 1, 2019. The unaudited pro forma net loss per share does not include the shares expected to be sold or related proceeds to be received in the proposed IPO.

The following table summarizes the Company's unaudited pro forma net loss per share:

	Year Ended December 31, 2020
Numerator:	
Net loss	$ (13,643)
Denominator:	
Weighted average number of common shares outstanding	25,079,495
Pro forma weighted average shares outstanding after giving effect to the conversion of convertible preferred stock and certain convertible notes payable	31,194,857
Pro forma weighted average common shares outstanding	56,274,352
Pro forma net loss per share, basic and diluted	$ (0.24)

Recent Accounting Pronouncements

In August 2020, the FASB issued ASU No. 2020-06, Accounting for Convertible Instruments and Contracts in an Entity's Own Equity (ASU 2020-06), which simplifies the accounting for certain financial instruments with characteristics of liabilities and equity, including convertible instruments and contracts in an entity's own equity. Among other changes, ASU 2020-06 removes from U.S. GAAP the liability and equity separation model for convertible instruments with a cash conversion feature, and as a result, after adoption, entities will no longer separately present in equity an embedded conversion feature for such debt. Similarly, the embedded conversion feature will no longer be amortized into income as interest expense over the life of the instrument. Instead, entities will account for a convertible debt instrument wholly as debt unless (1) a convertible instrument contains features that require bifurcation as a derivative under ASC Topic 815, Derivatives and Hedging, or (2) a convertible debt instrument was issued at a substantial premium. Among other potential impacts, this change is expected to reduce reported interest expense, increase reported net income, and result in a reclassification of certain conversion feature balance sheet amounts from stockholders' equity to liabilities as it relates to the Company's convertible senior notes. Additionally, ASU 2020-06 requires the application of the if-converted method to calculate the impact of convertible instruments on diluted earnings per share (EPS), which is consistent with the Company's accounting treatment under the current standard. ASU 2020-06 is effective for fiscal years beginning after December 15, 2021, with early adoption permitted for fiscal years beginning after December 15, 2020, and can be adopted on either a fully retrospective or modified retrospective basis. The Company is currently evaluating the timing, method of adoption and overall impact of this standard on its financial statements.

Other recent accounting pronouncements issued by the FASB, including its Emerging Issues Task Force, the American Institute of Certified Public Accountants, and the Securities and Exchange Commission did not or are not believed by management to have a material impact on the Company's present or future financial statements.

NOTE 3 - PROPERTY AND EQUIPMENT

Property and equipment consisted of the following at December 31, 2019 and 2020:

	2019	2020
Furniture and office equipment	$ 148	$ 148
Laboratory equipment	2,713	2,713
Computer equipment	107	127
Leasehold improvements	557	557
	3,525	3,545
Less: accumulated depreciation and amortization	(1,291)	(1,844)
Property and equipment, net	$ 2,234	$ 1,701

Depreciation expense for the years ended December 31, 2019 and 2020 was $376 and $553, respectively.

NOTE 4 – LEASE LIABILITIES

Operating Lease

The Company adopted ASU 2016-02, Leases, effective January 1, 2019, which requires a lessee to record a right-of-use asset and a corresponding lease liability at the inception of the lease initially measured at the present value of the lease payments. In July 2018, the Company entered into a long-term non-cancellable lease agreement for its manufacturing facility that requires aggregate average monthly payments of $10 beginning October 2018. The lease terminates in September 2023. The Company classified the lease as an operating lease and determined that the value of the right of use asset and lease liability at the adoption date was $518 and $519, respectively, using a discount rate of 4.00%.

In December 2020, the Company entered into a long-term non-cancellable lease agreement for its corporate headquarters and laboratory facility that requires aggregate average monthly payments of $18 beginning January 2021. The lease terminates in February 2023. The Company classified the lease as an operating lease and determined that the value of the right of use asset and lease liability at the adoption date was $439, respectively, using a discount rate of 4.00%.

During the years ended December 31, 2019 and 2020, the Company made combined aggregate payments of $95 and $103, respectively, towards the lease liabilities. As of December 31, 2019 and 2020, the combined lease liability amounted to $425 and $761, respectively.

ASC 842 requires recognition in the statement of operations of a single lease cost, calculated so that the cost of the lease is allocated over the lease term, generally on a straight-line basis. Rent expense for the two leases during the years ended December 31, 2019 and 2020 was $19 and $15, respectively. During the years ended December 31, 2019 and 2020, the Company reflected combined amortization of the right of use assets of $101 and $105, respectively, related to this leases, resulting in a combined net asset balance of $416 and $750 as of December 31, 2019 and 2020, respectively.

The maturities of the Company's lease liabilities are as follows as of December 31, 2020:

Years ending	
2021	$285
2022	333
2023	143
Total	$761

Other Leases

In May 2018, the Company entered into a short-term lease agreement for one of its office facilities, extending the lease from April 2018 to December 2019. In November 2019, it was extended until December 2020 and in October 2020, it was extended until December 2021. Rent expense was $33 and $35 during the years ended December 31, 2019 and 2020, respectively.

NOTE 5 – NOTE PAYABLE

In March 2018, the Company entered into a promissory note payable agreement with one of its service providers in the amount of $1,179. The loan was entered into by the Company to repay the service provider for past due invoices. The note bears interest at 4% per annum, is unsecured and matured in September 2020. Interest is due monthly. The balance on the note at December 31, 2018 was $1,078. During the year ended December 31, 2019, principal and interest payments totaling $445 and $35, respectively, were made on the note. As of December 31, 2019, the outstanding principal balance on the note was $633. During the year ended December 31, 2020, principal and interest payments totaling $633 and $11, respectively, were made on the note. As of December 31, 2020, there was no principal or unpaid interest due on the note.

NOTE 6 – LOAN PAYABLE – DIRECTOR AND SHAREHOLDER

In March 2016, the Company entered into a loan agreement with one of its Directors and shareholders in the amount of $2,117, as part of a settlement agreement. The loan bears interest at 10% per annum, is unsecured and had an initial maturity date of February 2020. As of December 31, 2018, the principal balance on the loan was $2,117 and the accrued and unpaid interest was $884. During the year ended December 31, 2019, no payments were made on the loan and the loan accrued $212 of interest. As of December 31, 2019, the principal balance on the loan was $2,117 and the accrued and unpaid interest was $1,096. During the year ended December 31, 2020, the Company entered into three separate amendments to the loan agreement, each one extending the maturity date and accruing additional interest. The Company entered into the final settlement agreement in September 2020, under which the Company agreed to pay the Director a total of $3,484. During the year ended December 31, 2020, a total of $271 of interest was accrued on the loan and the Company made principal and interest payments of $2,117 and $673, respectively. As of December 31, 2020, there was no principal balance due on the loan and the accrued and unpaid interest was $694. The unpaid interest is scheduled to be paid in three equal installments through March 2021.

NOTE 7 – CONVERTIBLE NOTES PAYABLE – SHAREHOLDERS

Convertible notes payable to shareholders consisted of the following as of December 31, 2019 and 2020:

	December 31, 2019	December 31, 2020
Convertible notes payable - shareholders (a)	$ 7 988	$ 7,988
Convertible note payable - shareholder (b)	2,661	2,661
Convertible note payable – shareholder (c)	1,500	1,500
Convertible notes payable – shareholders (d)	700	700
Convertible notes payable - shareholders (e)	1,900	5,351
	14,749	18,200
Less: current portion	(1,755)	(3,605)
Convertible notes payable – shareholders - long-term portion	$ 12,994	$ 14,595

(a) During the years ended December 31, 2011 through 2016, the Company entered into convertible note payable agreements with several individuals aggregating to a total amount of $7,988. The notes accrue

interest at 8% per annum, are unsecured, had an initial maturity of November 2016 and are convertible into the Company's Series K preferred stock at $12.00 per share. In December 2016, the Company entered into amended agreements with certain of the individuals holding notes with an aggregate balance of $7,733. Under the amended agreements, the notes were extended until November 2019, the interest rate was changed to 0.61% per annum and the note became convertible into the Company's common stock at the price of $2.26 per share. The Company accounted for the change in terms of the agreements as a debt extinguishment on the date of the amended agreement. In November 2019, the notes were amended again, extending the maturity date to November 2022 and increasing the interest rate to 1.68% per annum. As of December 31, 2019 and 2020, the principal amount due on the amended notes aggregated to $7,733, respectively, and the amount due on the notes that were not amended and extended aggregated to $255, respectively. The notes that were not amended kept their initial terms and were past due as of December 31, 2019 and 2020. During the years ended December 31, 2019 and 2020, the notes accrued interest in the aggregate amount of $76 and $149, respectively, and as of December 31, 2019 and 2020, total accrued and unpaid interest of $2,559 and $2,708, respectively, was owed on the notes. In the event the Company closes an underwritten public offering of its common stock pursuant to an effective registration statement, then the principal amount of $7,733, plus accrued and unpaid interest relating to that amount, will automatically convert into shares of the Company's common stock.

(b) In April 2016, the Company entered into a convertible note payable agreement with a shareholder in the amount of $2,661. The note accrued interest at 11.51% per annum, was unsecured, had an initial maturity date of May 2018 and was convertible into the Company's common stock at the price of $2.26 per share, which was the fair value of the common stock on the date of the agreement. Interest payments are due monthly. In consideration for the loan, the Company issued the shareholder a stock warrant to purchase up to 532,185 shares of its common stock with an exercise price of $3.00 per share, valued at $951, based at the fair value of the stock on the date of issuance. The Company recorded the fair value of the warrants as a discount to the debt during the year ended December 31, 2016, which was amortized as interest expense through May 2018. The warrants expire ten years from the date of grant. The agreement also contains a provision that in the case the shareholder converts the note into shares of the Company's common stock, the shareholder will receive a warrant to purchase up to 25% of the shares converted at the exercise price of $3.00 per share, as long as the amount converted was $1,000 or more. The warrant, if issued, will expire ten years from the date of grant. The Company considered whether it was appropriate to account for the value of the warrant at the time of issuance of the note, and record the relative fair value of the warrants as debt discount, with such discount to be amortized over the life of the notes, or upon the actual conversion of the note. The Company determined that it was more appropriate to account for the relative fair value of the warrants at the time of issuance, and amortize such cost as interest over the life of the note. In making this decision, the Company believed that there was a high degree of certainty that the note holders would convert and the warrants would be issued. In May 2018, the note was amended. The amended agreement extended the maturity date to May 2021 and included a provision under which the loan will accrue $10 per month of loan fees through the date the loan is repaid or is converted into the Company's common stock. The loan fees can be converted into shares of the Company's common stock at $3.00 per share. In December 2020, the note was amended again, extending the maturity date to May 2022 and reducing the interest rate to 10.5%. During the years ended December 31, 2019 and 2020, the Company made no principal payments on the note and made interest payments of $306 and $295, respectively. During the years ended December 31, 2019 and 2020, the note accrued loan fees in the amount of $120,000 each year, and as of December 31, 2019 and 2020, total accrued and unpaid loan fees of $200 and $320, respectively, was owed on the note. The accrued loan fee amounts are included in Accounts payable and accrued expenses on the accompanying Balance Sheets, and loan fee expense is included in General and administrative expenses on the accompanying Statements of Operations. As of December 31, 2019 and 2020, a total of $2,661 of principal was owed on the note.

(c) In November 2017, the Company entered into a convertible note payable agreement in the amount of $1,500 as part of a settlement agreement with a former collaborative partner. The note bears interest at 5% per annum, is unsecured, matures in November 2020 and is convertible into the Company's common stock at a conversion price of $5.00 per share. As of December 31, 2018, $1,500 of principal was owed on the note

and $87 of accrued interest. During the years ended December 31, 2019 and 2020, no payments were made on the note and the note accrued interest each year in the amount of $75. As of December 31, 2019 and 2020, total accrued and unpaid interest of $162 and $237, respectively, was owed on the note. As of December 31, 2020, the note was past due and is due on demand. Subsequent to December 31, 2020, the Company entered into an omnibus amendment and conversion election agreement with the loan holder (see Note 13).

(d) In April 2018, the Company entered into two convertible note payable agreements with a shareholder under which the Company borrowed an aggregate total of $700. The notes accrue interest at 5.0% per annum, are unsecured, and are convertible into the Company's common stock at the price of $4.00 per share, which was greater than the fair value of the common stock on the date of the agreement. One of the notes totaling $200 had an initial maturity date of March 2019, while the other note totaling $500, had an initial maturity date of April 2021. The agreements also contain a provision that in the case the shareholder converts the notes into shares of the Company's common stock, the shareholder will receive a warrant to purchase up to 25% of the shares converted, at the exercise price of $3.50 per share. The warrant, if issued, will expire three years from the date of grant. The Company considered whether it was appropriate to account for the value of the warrant at the time of issuance of the note, and record the relative fair value of the warrants as debt discount, with such discount to be amortized over the life of the notes, or upon the actual conversion of the note. The Company determined that it was more appropriate to account for the relative fair value of the warrants at the time of issuance, and amortize such cost as interest over the life of the note. In making this decision, the Company believed that there was a high degree of certainty that the note holders would convert and the warrants would be issued. As of December 31, 2018, the Company owed $700 of principal on the notes and $24 of accrued and unpaid interest. During the year ended December 31, 2020, the notes were amended, which extended the maturity dates to December 31, 2021. During the years ended December 31, 2019 and 2020, no principal payments were made on the notes and the notes accrued interest each year in the amount of $35, and as of December 31, 2019 and 2020, total accrued and unpaid interest of $59 and $94, respectively, was owed on the notes. In the event the Company closes an underwritten public offering of its common stock pursuant to an effective registration statement, then all of the principal plus accrued and unpaid interest will automatically convert into shares of the Company's common stock.

(e) During the year ended December 31, 2019, the Company entered into convertible note payable agreements with several shareholders under which the Company borrowed an aggregate amount of $1,900. The notes accrue interest at 5.0% per annum, are unsecured, have a maturity date of December 31, 2021 and are convertible into the Company's common stock at the price of $4.00 per share, which was greater than the fair value of the common stock on the date of the agreement. The agreements contain a provision under which each investing "family" (as defined by the agreements) must invest at least $500 in the aggregate in order to participate in these agreements. The agreements also contain a provision that in the case a shareholder converts the notes into shares of the Company's common stock, the shareholder will receive a warrant to purchase up to 25% of the shares converted, at the exercise price of $3.50 per share. The warrant, if issued, will expire three years from the date of grant. The Company considered whether it was appropriate to account for the value of the warrant at the time of issuance of the note, and record the relative fair value of the warrants as debt discount, with such discount to be amortized over the life of the notes, or upon the actual conversion of the note. The Company determined that it was more appropriate to account for the relative fair value of the warrants at the time of issuance, and amortize such cost as interest over the life of the note. In making this decision, the Company believed that there was a high degree of certainty that the note holders would convert and the warrants would be issued. As of December 31, 2019, $1,900 was owed on the notes. During the year ended December 31, 2020, the Company entered into the same convertible note payable agreements with several families under which the Company borrowed an aggregate amount of $3,601. The Company also repaid $150 of the notes entered into during the year ended December 31, 2019. The notes entered into during the year ended December 31, 2020 have the same terms and conditions as the notes entered into during the year ended December 31, 2019, except that they have maturity dates ranging from December 31, 2021 to December 31, 2023. As of December 31, 2020, a balance of $5,351 was owed on the notes. During the years ended December 31, 2019 and 2020, the notes accrued interest in the amount of $17 and $204, respectively, and as of December 31, 2019 and 2020, total accrued and unpaid interest of

$17 and $221, respectively, was owed on the notes. In the event the Company closes an underwritten public offering of its common stock pursuant to an effective registration statement, then all of the principal plus accrued and unpaid interest will automatically convert into shares of the Company's common stock. During the years ended December 31, 2019 and 2020, two of the Company's Board members were investors in the family loans. Those Board members resigned from the Board in April 2021.

NOTE 8 – CONVERTIBLE NOTES PAYABLE

Convertible notes payable consisted of the following as of December 31, 2019 and 2020:

	December 31, 2019	December 31, 2020
Convertible note payable (a)	$ 50	$ 50
Convertible notes payable (b)	—	8,146
Convertible notes payable	50	8,196
Less: debt discount	—	(1,411)
Convertible notes payable, net	$ 50	$ 6,785

(a) In October 2018, the Company entered into a convertible note payable agreement with a venture capital firm in the amount of $50. The note bears interest at 6% per annum, is unsecured, matures in October 2023 and is convertible into the Company's common stock at the price of $3.50 per share, which was equal to the fair value of the common stock on the date of the agreement. During the years ended December 31, 2019 and 2020, no payments were made on the note and the loan accrued interest of $1 and $3, respectively. As of December 31, 2019 and 2020, the principal balance due on the loan was $50 and the accrued and unpaid interest was $1 and $4, respectively.

(b) During the year ended December 31, 2020, the Company entered into convertible note payable agreements with an investing group under which the Company borrowed $8,146. The notes accrue interest at 6.0% per annum, are unsecured, have a maturity date of September 2025 and are convertible into the Company's common stock at the price of $3.50 per share, which was the fair value of the common stock on the date of the agreement. In consideration for the note, the Company issued the note holder stock warrants to purchase up to 401,542 shares of its common stock with an exercise price of $3.50 per share. The warrants expire five years from the date of grant.

The Company calculated the fair value of the warrants issued to the noteholder to be $864 using a Black Scholes option pricing model and performed a relative fair value allocation. The Company then made a calculation to determine if a beneficial conversion feature (BCF) existed. The beneficial conversion was based upon the effective conversion price based on the proceeds received that were allocated to the convertible instrument. Based upon the Company's calculation, it was determined that a beneficial conversion feature existed amounting to $594 and was recorded as a debt discount. As such the Company recognized a debt discount at the date of issuance in the aggregate amount of $1,485 consisting of the $27 fees paid relating to the loan, the relative value of the warrants and the BCF. The note discount is being amortized over the term of the notes and the unamortized portion is recognized as a reduction to the carrying amount of the notes (a valuation debt discount). As of December 31, 2020, the Company had amortized $74 of debt discount, leaving an unamortized balance of $1,411 at December 31, 2020.

During the year ended December 31, 2020, no principal or interest was paid on the notes, and as of December 31, 2020, a total of $8,146 of principal and $97 of accrued and unpaid interest was due on the notes. In the event the Company closes an underwritten public offering of its common stock pursuant to an effective registration statement, then all of the principal plus accrued and unpaid interest will automatically convert into shares of the Company's common stock. Subsequent to December 31, 2020, the Company borrowed an additional $919 under the agreement and a partner in the investing group was appointed as a Director of the Company (see Note 13).

NOTE 9 – U.S. SMALL BUSINESS ADMINISTRATION LOAN PAYABLE

During the year ended December 31, 2020, the Company entered into a loan agreement with MUFG Union Bank, N.A., under which the Company borrowed $314, pursuant to the U.S. Small Business Administration's Paycheck Protection Program ("PPP").The loan is unsecured, accrues interest at 1.0% and is due on April 23, 2022. Beginning in March 2021, the Company is required to make monthly interest payments and all principal and unpaid interest is due in April 2022. The loan term may be extended to April 2025 if mutually agreed to by the Company and lender. The Company applied ASC 470, Debt, to account for the PPP loan. The PPP loan may be prepaid at any time prior to maturity with no prepayment penalties. Funds from the PPP loan may only be used for qualifying expenses as described in the CARES Act, including qualifying payroll costs, qualifying group health care benefits, qualifying rent and debt obligations, and qualifying utilities. The Company intends to use the entire loan amount for qualifying expenses. Under the terms of the PPP, certain amounts of the loan may be forgiven if they are used for qualifying expenses. The Company intends to apply for forgiveness of the PPP loan with respect to these qualifying expenses, however, it cannot assure that such forgiveness of any portion of the PPP loan will occur. As for the potential loan forgiveness, once the PPP loan is, in part or wholly, forgiven and a legal release is received, the liability would be reduced by the amount forgiven and a gain on extinguishment would be recorded. The terms of the PPP loan provide for customary events of default including, among other things, payment defaults, breach of representations and warranties, and insolvency events. The Company was in compliance with the terms of the PPP loan as of December 31, 2020.

NOTE 10 – AGGREGATE ANNUAL MATURITIES OF DEBT

The aggregate annual maturities of all of the Company's debt as of December 31, 2020 are as follows:

Years ending	
2021	$ 3,605
2022	12,259
2023	2,701
2025	8,146
Total	$ 26,711

NOTE 11 - SHAREHOLDERS' EQUITY

Preferred Stock

Authorized shares and shares issued and outstanding of the Company's preferred stock by series as of December 31, 2019 and 2020 are as follows:

	Authorized Shares	Issued and Outstanding	Par Value
Series A Preferred Stock	4,500,000	4,500,000	4,500
Series B Preferred Stock	608,000	608,000	608
Series C Preferred Stock	5,000,000	5,000,000	5,000
Series D Preferred Stock	3,000,000	3,000,000	3,000
Series E Preferred Stock	1,591,994	1,591,994	1,592
Series F Preferred Stock	953,000	953,000	953
Series H Preferred Stock	5,000,000	536,000	536
Series I Preferred Stock	2,775,000	2,757,442	2,757
Series J Preferred Stock	2,500,000	1,281,600	1,282
Series K Preferred Stock	4,000,000	1,866,853	1,867
Total	29,927,994	22,094,889	22,095

Convertible Series A Preferred Stock

In August 2002, the Company entered into an asset purchase agreement to purchase specific assets and issued 1,500,000 shares of convertible Series A preferred stock ("Series A") to the founder of the Company. In August 2002, the Company also entered into a credit agreement with a single investor, whereas the investor provided an unsecured line of credit to the Company of $50,000 and the Company issued 1,500,000 shares of the Company's Series A as consideration. In December 2009, the Board of Directors approved the issuance of 1,500,000 shares of Series A stock to the founder of the Company in exchange for 1,500,000 of common stock.

Convertible Series B Preferred Stock

In December 2002, the Company issued 608,000 shares of convertible Series B preferred stock ("Series B") at $1.00 per share for gross proceeds of $608.

Convertible Series C Preferred Stock

From September 2004 to June 2005, the Company issued 5,000,000 shares of convertible Series C preferred stock ("Series C") at $1.00 per share for gross proceeds of $5,000.

Convertible Series D Preferred Stock

From December 2005 to July 2006, the Company issued 3,000,000 shares of convertible Series D preferred stock ("Series D") at $3.00 per share for gross proceeds of $9,000.

Convertible Series E Preferred Stock

In November 2006, the Company offered up to $5,000 principal amount of 8% convertible notes. Each note was sold with an attached warrant to purchase 110,000 shares of common stock at an exercise price of $4.55 per share. Each warrant was exercisable immediately upon its issuance date and had a seven year term. The amount allocated to the fair value of the warrants was insignificant. In the period from November 2006 to October 2007, a total amount of $4,985,000 was issued to various investors with a convertible Series E preferred stock ("Series E") conversion price of $3.50 per share. On June 9, 2008, outstanding principal and interest in the amount of $4,985 and $475 were converted to 1,591,994 shares of Series E, respectively.

Convertible Series F Preferred Stock

In June 2008, the Company issued 953,000 shares of convertible Series F preferred stock ("Series F") at $5.00 per share for gross proceeds of $4,765.

Convertible Series H Preferred Stock

In February 2009, the Company issued 536,000 units at $5.00 per unit for gross proceeds of $2,680. Each unit consisted of one share of convertible Series H preferred stock ("Series H") and one warrant which entitled the holder to acquire a half share of the Company's common stock at an exercise price of $5.00 per share. In May 2010, 236,000 warrants were exercised by investors and 118,000 shares of common stock were purchased at a price of $5.00 per share. The remaining warrants expired as of December 31, 2010.

Convertible Series I Preferred Stock

From May 2009 to February 2010, the Company issued 2,757,442 shares of convertible Series I preferred stock ("Series I") at $6.00 per share for gross proceeds of approximately $16,545.

Convertible Series J Preferred Stock

From 2010 through 2012, the Company issued 1,281,600 shares of convertible Series J preferred stock ("Series J") at $10.00 per share for gross proceeds of $12,816.

Convertible Series K Preferred Stock

From April 1, 2012 to December 31, 2017, the Company sold 1,866,853 shares of Series K convertible preferred stock ("Series K") resulting in gross proceeds of approximately $22,402.

The significant terms of the Convertible Preferred Stock are as follows:

Dividends

Each share of Convertible Preferred Stock is entitled to dividends on a pari passu basis with Series A, Series B, Series C, Series D, Series E, Series F, Series I, Series J and Series K as and when declared by the Board. Series H dividends are payable in cash or in kind at the election of the Company at such time as dividends may lawfully be declared and paid thereon by the Company, in an amount equal to 9% per annum. Series H dividends accrue at the rate of 2.25% per quarter until such time as they are declared and paid. There have been no dividends declared or paid to date.

Voting

Holders of the Series A, Series B, Series C, Series D, Series E, Series F, Series H, Series I, Series J and Series K generally have one vote for each full share of common stock into which such holder's shares would be convertible on the record date for any vote of the stockholders. Holders of the Series A are entitled to elect two members to the Board of Directors; holders of the Series B are entitled to elect one member to the Board of Directors; holders of the Series C are entitled to elect one member to the Board of Directors; holders of common stock voting together with the holders of the Series D, Series E, Series F, Series I, Series J and Series K are entitled to elect one director to the Board of Directors; and holders of all issued shares of common stock and preferred stock voting together as a class are entitled to elect two members to the Board of Directors.

Conversion

Holders of the Series A, Series B, Series C, Series D, Series E, Series F, Series H, Series I, Series J and Series K may convert their shares at any time into shares of the Company's Common Stock at the effective conversion rate for each such series on date of conversion. The conversion rate is initially $1.00 per share for the Series A and Series C, $0.50 per share for the Series B, $3.00 per share for the Series D, $3.50 per share for the Series E, $5.00 per share for the Series F, $5.00 per share for the Series H, $6.00 per share for the Series I, $10.00 per share for the Series J and $12.00 per share for Series K. Pursuant to these conversion prices, the Series A, Series C, Series D, Series E, Series F, Series H, Series I, Series J and Series K are convertible into common stock on a one-for-one basis and the Series B is convertible into common stock on a two-for-one basis. The conversion prices are subject to adjustment according to a weighted-average anti-dilution formula. In addition, if the Company closes a firmly underwritten public offering of common stock, the outstanding shares of preferred stock will be converted automatically into common stock at the conversion rate then in effect.

Liquidation

In the event of any liquidation, dissolution or winding up of the Company, whether voluntary or involuntary, the holders of Series B, Series C, Series D, Series E, Series F, Series H, Series I, Series J and Series K shall be entitled to receive, prior and in preference to any distribution of any of the assets or funds of the Company to the holders of Series A or common stock, on a pari passu basis, an amount equal to the Original Issue Price for each

such series as set forth in the Company's Certificate of Incorporation, as amended. Prior to any distribution of the remaining assets and funds to the holders of the Company's common stock, if the distribution to the holders of the Series B through Series K has been paid in full, then the holders of record of Series A shall be entitled to a distribution equal to its Original Issue Price per share. If any assets are remaining following the distributions, prior to any distribution being made on the common stock, the holders of Series A through K shall also be entitled to receive upon liquidation, on a pari passu basis, an additional liquidation amount equal to such holder's Original Issue Price per share of preferred stock owned of record by such holder as of the date of liquidation. Following such distributions on the Series A through Series K, all remaining amounts of assets and funds shall be distributed to the holders of common stock and Series A through Series K, pari passu, as if only shares of common stock were then outstanding as of the date of such distribution. To the extent that there are not sufficient assets or funds remaining in the Company at the date of liquidation after payment of all other debts and obligations of the Company through such date, then the holders of the capital stock of the Company shall receive whatever amounts are then available for distribution in the same proportion as if there were sufficient assets and funds upon liquidation to satisfy the entire distribution contemplated above, with the Series A and common stock ranking junior in right of payment to the shares of Series B through Series K outstanding as of such date of liquidation. The Original Issue Price for each series of preferred stock is subject to equitable adjustment for any combinations, consolidations, stock distributions, stock splits or stock dividends with respect to such series.

Common Stock

Authorized shares

The Company's Certificate of Incorporation authorizes the Company to issue up to 75,000,000 of its common shares. Holders of shares of common stock have full voting rights, one vote for each share held of record. Common shareholders are entitled to receive dividends as may be declared by the Board out of funds legally available therefore and share pro rata in any distributions to shareholders upon liquidation. Common shareholders have no conversion, pre-emptive or subscription rights. All outstanding shares of common stock are fully paid and non-assessable. As of December 31, 2019 and 2020, there were 24,100,431 and 26,669,245 shares of common stock issued and outstanding, respectively.

Common Shares Issued for Cash

During the year ended December 31, 2019, the Company received $6,383 from the sale of 1,826,507 shares of its common stock. In connection with the sale, the Company issued warrants to certain of the shareholders to purchase 10,714 shares of the Company's common stock under the Company's "family" loan and equity program (see Note 7, footnote (e)). The warrants expire five years from the date of grant and have an exercise price of $3.50 per share.

During the year ended December 31, 2020, the Company received $8,989 from the sale of 2,568,814 shares of its common stock. In connection with the sale, the Company issued warrants to the shareholders to purchase 60,001 shares of the Company's common stock under the Company's "family" loan and equity program (see Note 7, footnote (e)). The warrants expire five years from the date of grant and have an exercise price of $3.50 per share.

Stock Options

In August 2009, the Company's Board of Directors approved the adoption of the 2009 Equity Incentive Plan (2009 Plan). The 2009 Plan was initiated to encourage and enable employees, directors and consultants of the Company to acquire and retain a proprietary interest in the Company by ownership of its common stock. A total of 18,500,000 of the authorized shares of the Company's common stock may be subject to, or issued pursuant to, the terms of the plan. As of December 31, 2020, a total of 6,739,672 shares were available for grant under the 2009 plan.

In September 2018, the Company's Board of Directors approved the adoption of the 2019 Equity Incentive Plan (2019 Plan). The 2019 Plan was initiated to encourage and enable employees, directors and consultants of the

Company to acquire and retain a proprietary interest in the Company by ownership of its common stock. The 2019 Plan allows for the following types of awards: (i) Incentive Stock Options; (ii) Nonstatutory Stock Options; (iii) Stock Appreciation Rights; (iv) Restricted Stock Awards; (v) Restricted Stock Unit Awards; (vi) Other Stock Awards. A total of 6,177,220 of the authorized shares of the Company's common stock may be subject to, or issued pursuant to, the terms of the plan. As of December 31, 2020, a total of 1,362,904 shares were available for grant under the 2019 plan.

Option exercise prices are set forth in the Grant Notice, without commission or other charge, provided however, that the price per share of the shares subject to the option shall not be less than the greater of (i) 100% of the fair market value of a share of stock on the grant date, or (ii) 110% of the fair market value of a share of stock on the grant date in the case of a Participant then owning more than 10% of the total combined voting power of all classes of stock of the Company or any "subsidiary corporation" of the Company or any "parent corporation" of the Company. Options to employees, directors and consultants generally vest and become exercisable over a period not exceeding four years. Options typically expire ten years after date of grant.

The Company's policy is to recognize compensation cost for awards with only service conditions on a straight-line basis over the requisite service period for the entire award. Additionally, the Company's policy is to issue new shares of common stock to satisfy stock option exercises. The Company applied fair value accounting for all share based payments awards. The fair value of each option granted is estimated on the date of grant using the Black-Scholes option-pricing model.

The table below summarizes the Company's stock option activities for the years ended December 31, 2019 and 2020:

	Number of Option Shares	Exercise Price Range Per Share	Weighted Average Exercise Price
Balance, December 31, 2018	11,699,217	$ 3.00 - 5.00	$ 3.21
Granted	2,751,524	3.50	3.50
Cancelled	(1,516,829)	3.00	3.00
Exercised	—	—	—
Expired	(2,143,126)	3.00 - 5.00	3.19
Balance, December 31, 2019	10,790,786	3.00 - 3.50	3.31
Granted	2,123,903	3.50	3.50
Cancelled	(435,616)	3.00 - 3.50	3.23
Exercised	—	—	—
Expired	(712,500)	3.00	3.00
Balance, December 31, 2020	11,766,573	$3.00 – 3.50	$ 3.37
Vested and exercisable, December 31, 2020	10,291,346	$3.00 – 3.50	$ 3.35
Unvested, December 31, 2020	1,475,227	$ 3.50	$ 3.50

The following table summarizes information concerning outstanding and exercisable options as of December 31, 2020:

	Options Outstanding			Options Exercisable		
Range of Exercise Prices	Number Outstanding	Average Remaining Contractual Life (in years)	Weighted Average Exercise Price	Number Exercisable	Average Remaining Contractual Life (in years)	Weighted Average Exercise Price
$ 3.00	3,144,500	4.53	$ 3.00	3,144,500	4.53	$ 3.00
3.50	8,622,073	7.97	3.50	7,146,846	7.72	3.50
$ 3.00 - 3.50	11,766,573	7.05	$ 3.37	10,291,346	6.74	$ 3.35

Stock Option Grants during the Year Ended December 31, 2019

During the year ended December 31, 2019, the Company granted options to consultants, employees and Directors to purchase an aggregate total of 2,751,524 shares of its common stock with exercise prices of $3.00 and $3.50 per share. All of the options granted were under the 2019 Plan except for 61,111 shares, which were granted under the 2009 Plan. The options expire ten years from the date of grant and have an aggregate fair value of $6,545 at the date of grant. The shares have various vesting schedules but all vest within four years and 1,269,118 vested on the date of grant. The Company valued the options using a Black-Scholes option pricing model. During the year ended December 31, 2019, the Company recorded $3,745 of stock compensation for the value of the options vesting during the period.

The assumptions used for all of the options granted during the year ended December 31, 2019 are as follows:

Exercise price	$3.00 - 3.50
Expected dividends	—
Expected volatility	78.5% – 90.7%
Risk free interest rate	1.6% - 2.4%
Expected life of options	2.5 – 5.9

Stock Option Grants during the Year Ended December 31, 2020

During the year ended December 31, 2020, the Company granted options to consultants, employees and directors to purchase an aggregate total of 2,123,903 shares of its common stock with exercise prices of $3.00 and $3.50 per share. All of the options granted were under the 2019 Plan. The options expire ten years from the date of grant and have an aggregate fair value of $5,418 at the date of grant. The shares have various vesting schedules, but all vest within four years and 1,450,153 vested on the date of grant. The Company valued the options using a Black-Scholes option pricing model.

The assumptions used for all of the options granted during the year ended December 31, 2020 are as follows:

Exercise price	$3.00 - 3.50
Expected dividends	—
Expected volatility	93.7% – 95.0%
Risk free interest rate	0.27% - 0.38%
Expected life of options	5.0 – 5.9

During the year ended December 31, 2020, the Company recorded $5,325 of stock compensation for the value of the options vesting during the period, and as of December 31, 2020, unvested compensation of $3,458 remained that will be amortized over the remaining vesting period, through September 2024. The weighted average grant-date fair value per share of options granted during the years ended December 31, 2019 and 2020 was $2.38 and $2.55, respectively. The aggregate intrinsic value for option shares outstanding at December 31, 2020 was $1,572.

At the time of the issuances of stock options, the Company believed the Company's estimates of the fair value for financial reporting purposes of the Company's common stock were reasonable and consistent with the Company's understanding of how similarly situated companies in the industry were valued.

The following table summarizes the stock-based compensation expense, for stock options only, by line item in the statements of operations for the years ended December 31, 2019 and 2020, respectively.

	December 31, 2019	December 31, 2020
Research and development	$ 2,539	$ 1,260
General and administrative	1,206	4,065
Total stock-based compensation expense	$ 3,745	$ 5,325

Stock Warrants

The table below summarizes the Company's warrants activities for the years ended December 31, 2019 and 2020:

	Number of Warrant Shares	Exercise Price Range Per Share	Weighted Average Exercise Price
Balance, December 31, 2018	1,800,325	$0.01 - 3.00	$ 2.18
Granted	91,823	3.00 - 3.50	3.28
Cancelled	—	—	—
Exercised	—	—	—
Expired	—	—	—
Balance, December 31, 2019	1,892,148	$0.01 - 3.50	$ 2.24
Granted	460,543	3.50	3.50
Cancelled	—	—	—
Exercised	—	—	—
Expired	—	—	—
Balance, December 31, 2020	2,352,691	$0.01 - 3.50	$ 2.48
Vested and exercisable, December 31, 2020	2,352,691	$0.01 - 3.50	$ 2.48

The following table summarizes information concerning outstanding and exercisable warrants as of December 31, 2020:

	Warrants Outstanding			Warrants Exercisable		
Range of Exercise Prices	Number Outstanding	Average Remaining Contractual Life (in years)	Weighted Average Exercise Price	Number Exercisable	Average Remaining Contractual Life (in years)	Weighted Average Exercise Price
$ 0.01 – 1.00	624,140	3.96	$ 0.64	624,140	3.96	$ 0.64
3.00	1,216,185	4.20	3.00	1,216,185	4.20	3.00
3.50	512,366	4.03	3.50	512,366	4.03	3.50
$ 0.01 – 3.50	2,352,691	4.10	$ 2.48	2,352,691	4.10	$ 2.48

During the year ended December 31, 2019, in connection with the sale of its common stock, the Company issued warrants to purchase 51,823 shares with an exercise price of $3.50 per share. The warrants expire two to three years from the date of grant. In connection with a settlement agreement, the Company issued a warrant to purchase 40,000 shares with an exercise price of $3.00 per share. The warrant vested upon grant and expires ten years from the date of grant. The Company valued the warrant at $102 using a Black Scholes pricing model, with valuation inputs including a stock price of $3.00, a volatility metric of 85.7%, a risk-free interest rate of 2.5%, and an expected life of five years. The value of the warrant was included in the Statement of Operations for the year ended December 31, 2019.

During the year ended December 31, 2020, in connection with the issuance of convertible notes payable, the Company issued warrants to purchase 400,542 shares with an exercise price of $3.50 per share, and in connection with the sale of its common stock, the Company issued warrants to purchase 60,001 shares with an exercise price of $3.50 per share. The warrants expire three to five years from the date of grant.

The Company has entered into convertible debt agreements with various lenders under which the agreements contain a provision that in the case the lender converts the notes into shares of the Company's common stock, the lender will receive a warrant to purchase up to 25% of the shares converted, with exercise prices ranging from

$3.00 to $4.00 per share. The warrants, if issued, will expire over various periods from the date of grant, but none exceeding ten years. The maximum total number of warrant shares that could be granted upon conversion of all convertible debt agreements containing this provision is 679,996.

The aggregate intrinsic value for warrant shares outstanding at December 31, 2020 was $2,390.

Common Stock Reserved for Future Issuance

Common stock reserved for future issuance consists of the following at December 31, 2020:

	December 31, 2020
Series A Preferred Stock	4,500,000
Series B Preferred Stock	1,216,000
Series C Preferred Stock	5,000,000
Series D Preferred Stock	3,000,000
Series E Preferred Stock	1,591,994
Series F Preferred Stock	953,000
Series H Preferred Stock	536,000
Series I Preferred Stock	2,757,442
Series J Preferred Stock	1,281,600
Series K Preferred Stock	1,866,853
Stock options granted and outstanding	11,766,573
Warrants issued	2,352,691
Authorized for future option grants	8,102,576
Total	44,924,729

NOTE 12 - INCOME TAXES

Significant components of the provision for income taxes for the years ended December 31, 2019 and 2020 are as follows:

	December 31, 2019	December 31, 2020
Current		
Federal	$ (1,953)	$ (1,576)
State	(698)	(679)
Total	(2,651)	(2,255)
Deferred		
Federal	(999)	(2,389)
State	119	(255)
Total	(880)	(2,644)
Total income tax expense before change in valuation allowance	(3,531)	(4,899)
Change in valuation allowance	3,531	4,899
Total income tax expense	$ —	$ —

The reconciliation of income tax attributable to income before provision for income taxes at the U.S. federal statutory tax rate to income tax expense for the years ended December 31, 2019 and 2020 is as follows:

	December 31, 2019	December 31, 2020
Statutory federal income tax rate of 21% applied to loss before income taxes	$ (2,442)	$ (2,865)
State income tax rate of 7%, net of federal benefit	(814)	(955)
Convertible note interest	11	11
Other temporary differences	477	1,278
Change in valuation allowance	2,768	2,531
Total income tax expense	$ —	$ —

Significant components of the Company's deferred tax assets and liabilities as of December 31, 2019 and 2020 were as follows:

	December 31, 2019	December 31, 2020
Deferred tax assets		
Stock-based compensation	$ 5,699	$ 6,681
Accruals	3,006	3,164
Fixed assets	83	67
Net operating losses	32,412	33,922
Tax credits	4,549	4,549
Total deferred tax assets	45,749	48,383
Deferred tax liabilities		
State taxes	(2,584)	(2,637)
Prepaid expenses	(38)	(38)
Fixed assets	(133)	(168)
Total deferred tax liabilities	(2,755)	(2,843)
Net deferred tax assets before valuation allowance	42,994	45,540
Valuation allowance	(42,994)	(45,540)
Net deferred tax assets	$ —	$ —

Deferred income tax assets and liabilities are recorded for differences between the financial statement and tax basis of the assets and liabilities that will result in taxable or deductible amounts in the future based on enacted laws and rates applicable to the periods in which the differences are expected to affect taxable income. Valuation allowances are established when necessary to reduce deferred tax assets to the amount expected to be realized.

The Company has evaluated the available evidence supporting the realization of its gross deferred tax assets, including the amount and timing of future taxable income, and has determined it is more likely than not that the assets will not be realized. Due to uncertainties surrounding the realizability of the deferred tax assets, the Company has recorded a full valuation allowance against its deferred tax assets at December 31, 2019 and 2020.

At December 31, 2019 and 2020, the Company had federal income tax net operating loss carryforwards of approximately $118,000 and $125,000 respectively. At December 31, 2019 and 2020, the Company had California income tax net operating loss carryforwards of approximately $87,000 and $86,000, respectively. Of the total federal net operating loss, $22,330 has an indefinite carryforward period as of December 31, 2020. The remaining federal and California net operating loss carryforwards will expire through December 31, 2037 unless previously utilized. At December 31, 2020, the Company also has federal and California research and development tax credits of $2,579 and $1,970, respectively. The federal credits will expire through 2038 unless previously utilized. The California credits carryforward indefinitely. The utilization of net operating loss and tax

credit carryforwards may be subject to limitation under the provisions of the Internal Revenue Code Section 382 and similar state provisions.

The Company has adopted the provisions in ASC 740 relating to the accounting for uncertain tax positions. This provision requires that the Company recognize the impact of a tax position in its financial statements if the position is more likely than not to be sustained upon examination and on the technical merits of the position. The Company's also has a policy to recognize interest and/or penalties on the income tax expense related to uncertain tax positions. The Company had no material uncertain tax positions as of December 31, 2019 and 2020, respectively, and consequently, no interest or penalties have been accrued by the Company.

The Company is subject to taxation in the United States and state jurisdictions. The Company's tax years for 2007 and forward are subject to examination by the United States and California tax authorities due to the carry forward of unutilized net operating losses.

NOTE 13 - SUBSEQUENT EVENTS

In February 2021, the Company received an additional $919 under a convertible note payable agreement with an investing group dated December 31, 2020 (see Note 8, footnote (b)). The total amount borrowed under the agreement after this funding was $9,065. The note accrues interest at 6.0% per annum, is unsecured, has a maturity date of September 2025 and is convertible into the Company's common stock at the price of $3.50 per share, which was the fair value of the common stock on the date of the agreement. In consideration for the note, the Company issued the note holder a stock warrant to purchase up to 39,385 shares of its common stock with an exercise price of $3.50 per share. The warrant was dated in February 2021 and expires five years from the date of grant.

In March 2021, the Company entered into an omnibus amendment and conversion election agreement with a loan holder with a principal balance of $1,500 plus accrued interest (see Note 7, footnote (c)). Under the agreement, the Company agreed to issue the loan holder 56,063 shares of its common stock with a conversion price of $5.00 per share and to pay the loan holder $1,445. As of the date of this filing, no amounts are due under this agreement.

Subsequent to December 31, 2020, the Company made payments of $694 under one of its loan agreements (see Note 6). As of the date of this filing, no amounts were owed under that agreement. The Company also entered into convertible note payable agreements with two shareholders dated prior to December 31, 2020 under which the Company borrowed an aggregate amount of $17. The notes accrue interest at 5.0% per annum, are unsecured, have a maturity date of December 31, 2023 and are convertible into the Company's common stock at the price of $4.00 per share, which was greater than the fair value of the common stock on the date of the agreement. See Note 7, footnote (e) for more information regarding the family loans.

Subsequent to December 31, 2020, the Company received $125 from the sale of 35,714 shares of its common stock at $3.50 per share under agreements dated prior to December 31, 2020. Also, three stock warrant holders exercised their warrants totaling 41,109 shares at an exercise price of $3.50 per share for proceeds of $144.

Genelux Corporation
Condensed Balance Sheets
(In thousands, except for share amounts and par value data)

	December 31, 2020	March 31, 2021 (Unaudited)	Pro Forma March 31, 2021 (Unaudited)
ASSETS			
Current Assets			
Cash	$ 11,350	$ 8,125	$ 8,125
Prepaid expenses and other current assets	127	168	168
Total Current Assets	11,477	8,293	8,293
Property and equipment, net	1,701	1,562	1,562
Right of use asset	750	676	676
Other assets	80	80	80
Total Other Assets	2,531	2,318	2,318
TOTAL ASSETS	$ 14,008	$ 10,611	$ 10,611
LIABILITIES AND SHAREHOLDERS' EQUITY (DEFICIT)			
Current Liabilities			
Accounts payable and accrued expenses	$ 3,708	$ 3,641	$ 3,641
Accrued compensation	2,840	2,874	2,874
Accrued interest payable	338	230	178
Accrued interest payable - director and shareholders	3,717	3,136	—
Lease liability, current portion	285	316	316
Convertible notes payable - shareholders, current portion, including $1,755 and $255 past due, respectively	3,605	2,105	255
Total Current Liabilities	14,493	12,302	7,264
Long-term Liabilities			
Lease liability, long-term portion	476	394	394
U.S. Small Business Administration PPP loan payable	314	314	314
Convertible notes payable, net of debt discount of $1,411 and $889, respectively	6,785	8,226	50
Convertible notes payable - shareholders, long-term portion	14,595	14,613	—
Total Long-term Liabilities	22,170	23,547	758
Total Liabilities	36,663	35,849	8,022
Shareholders' Equity (Deficit)			
Preferred stock, Series A through K, par value $0.001, 29,927,994 shares authorized; 22,094,889 shares issued and outstanding, respectively; no shares issued and outstanding pro forma (unaudited)	22	22	—
Common stock, par value $0.001, 75,000,000 shares authorized; 26,669,245 and 26,761,022 shares issued and outstanding, respectively 59,586,752 shares issued and outstanding pro forma (unaudited)	27	27	60
Treasury stock, 1,300,000 shares, at cost	(1,300)	(1,300)	(1,300)
Additional paid-in capital	146,822	147,209	175,025
Accumulated other comprehensive income	2	2	2
Accumulated deficit	(168,228)	(171,198)	(171,198)
Total Shareholder's Equity (Deficit)	(22,655)	(25,238)	2,589
TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY (DEFICIT)	$ 14,008	$ 10,611	$ 10,611

The accompanying notes are an integral part of these condensed financial statements.

Genelux Corporation
Condensed Statements of Operations
(in thousands, except for share amounts and per share data)

	Three Months Ended March 31,	
	2020	2021
	(Unaudited)	
Revenues	$ —	$ —
Operating expenses:		
Research and development	1,575	1,673
General and administrative	1,811	981
Total operating expenses	3,386	2,654
Loss from operations	(3,386)	(2,654)
Other income (expenses):		
Interest expense	(386)	(330)
Debt discount amortization	—	(45)
Gain on settlement of convertible note payable	—	30
Total other expenses	(386)	(345)
NET LOSS	$ (3,772)	$ (2,999)
BASIC AND DILUTED LOSS PER SHARE	$ (0.15)	$ (0.11)
WEIGHTED-AVERAGE COMMON SHARES OUTSTANDING BASIC AND DILUTED	24,495,192	26,701,223
PRO FORMA NET LOSS PER SHARE, BASIC AND DILUTED (Unaudited)		$ (0.05)
PRO FORMA WEIGHTED-AVERAGE COMMON SHARES OUTSTANDING (Unaudited)		59,526,953

The accompanying notes are an integral part of these condensed financial statements.

Genelux Corporation
Condensed Statements of Shareholders' Deficit (Unaudited)
(in thousands, except share amounts)

	Preferred Stock Series A through K		Common Stock		Treasury Stock		Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Income	Total
	Shares	Amount	Shares	Amount	Shares	Amount				
Balance, December 31, 2019	22,094,889	$ 22	24,100,431	$ 24	$1,300,000	$ (1,300)	$ 131,026	$ (154,585)	$ 2	$(24,811)
Common shares issued for cash, net	—	—	614,582	1	—	—	2,149	—	—	2,150
Stock compensation	—	—	—	—	—	—	1,614	—	—	1,614
Net loss for the three months ended March 31, 2020	—	—	—	—	—	—	—	(3,772)	—	(3,772)
Balance, March 31, 2020 (unaudited)	22,094,889	22	24,715,013	25	1,300,000	(1,300)	134,789	(158,357)	2	(24,819)
Balance, December 31, 2020	22,094,889	$ 22	26,669,245	$ 27	$1,300,000	$ (1,300)	$ 146,822	$ (168,228)	$ 2	$(22,655)
Adjustment for adoption of ASU 2020-06	—	—	—	—	—	—	(594)	29	—	(565)
Common shares issued for cash, net	—	—	35,714	—			125	—	—	125
Stock compensation	—	—	—	—	—	—	487	—	—	487
Shares issued upon conversion of note payable	—	—	56,063	—	—	—	281	—	—	281
Fair value of stock warrant issued in connection with convertible loan payable	—	—	—	—	—	—	88	—	—	88
Net loss for the three months ended March 31, 2021	—	—	—	—	—	—	—	(2,999)	—	(2,999)
Balance, March 31, 2021 (unaudited)	22,094,889	$ 22	26,761,022	$ 27	1,300,000	$ (1,300)	$ 147,209	$ (171,198)	$ 2	$(25,238)

The accompanying notes are an integral part of these condensed financial statements.

Genelux Corporation
Condensed Statements of Cash Flows
(In thousands)

	Three Months Ended March 31,	
	2020	**2021**
	(Unaudited)	
Cash Flows from Operating Activities		
Net loss	$(3,772)	$ (2,999)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation expense	138	139
Amortization of right-of-use asset	26	74
Amortization of debt discount	—	45
Gain on settlement of convertible note payable	—	(30)
Stock compensation	1,614	487
Changes in Assets and Liabilities		
(Increase) Decrease in:		
Prepaid expenses and other assets	1	(41)
(Decrease) Increase in:		
Accounts payable and accrued expenses	(151)	(67)
Accrued compensation	166	34
Accrued interest payable	300	(433)
Lease liability	(26)	(51)
Net cash used in operating activities	(1,704)	(2,842)
Cash Flows from Investing Activities		
Purchases of property and equipment	(20)	—
Net cash used in investing activities	(20)	—
Cash Flows from Financing Activities		
Proceeds from convertible note payable - shareholders	1,955	18
Repayment of convertible notes payable shareholders	(150)	(1,445)
Proceeds from convertible notes payable	—	919
Repayment of note payable	(207)	—
Repayment of loan payable - director and shareholder	(2,000)	—
Proceeds from common stock and warrants issued for cash	2,150	125
Net cash provided by (used in) financing activities	1,748	(383)
Net increase (decrease) in cash	24	(3,225)
Cash beginning of period	425	11,350
Cash end of period	$ 449	$ 8,125
Supplemental cash flows disclosures:		
Interest paid	$ 82	$ 764
Taxes paid	$ —	$ —
Supplemental non-cash financing disclosures:		
Conversion of convertible note payable and accrued interest into shares of common stock	$ —	$ 281
Fair value of warrant recorded as debt discount on issuance of convertible note payable	$ —	$ 88
Effect of adoption of ASU 2020-06	$ —	$ 565

The accompanying notes are an integral part of these condensed financial statements.

GENELUX CORPORATION
NOTES TO CONDENSED FINANCIAL STATEMENTS (UNAUDITED)
FOR THE THREE MONTHS ENDED MARCH 31, 2020 and 2021
(In thousands, except for share amounts and per share data)

NOTE 1 – BASIS OF PRESENTATION

Organization and Operations

Genelux Corporation ("Genelux" or the "Company"), a Delaware Corporation, incorporated on September 4, 2001, is a biomedical company located in San Diego, California. The Company is engaged in the research and development of diagnostic and therapeutic solutions for cancer for which there is no effective treatment today. The Company is focused on the development of therapeutic approaches for cancer that are designed to generate a personalized multi-prong attack to overwhelm a tumor's sophisticated defense mechanisms.

Basis of Presentation of Unaudited Financial Information

The condensed financial statements of the Company at March 31, 2021, and for the three months ended March 31, 2020 and 2021, are unaudited. In the opinion of management of the Company, all adjustments, including normal recurring accruals, have been made that are necessary to present fairly the financial position of the Company as of March 31, 2021, and the results of its operations for the three months ended March 31, 2020 and 2021, and its cash flows for the three months ended March 31, 2020 and 2021. Operating results for the interim periods presented are not necessarily indicative of the results to be expected for a full fiscal year. The balance sheet at December 31, 2020 has been derived from the Company's audited financial statements at such date. The condensed financial statements and related notes have been prepared pursuant to the rules and regulations of the Securities and Exchange Commission (the "SEC"). Accordingly, certain information and footnote disclosures normally included in financial statements prepared in accordance with generally accepted accounting principles have been omitted pursuant to such rules and regulations. These condensed financial statements should be read in conjunction with the financial statements and other information for the fiscal year ended December 31, 2020 found elsewhere in this document.

COVID-19 Considerations

In the period ended March 31, 2021, the COVID-19 pandemic did not have a material net impact on our operating results, but did have an impact on our supply chain. In response to the COVID-19 pandemic, a number of governmental orders and other public health guidance measures have been implemented across much of the United States, including in the locations of our office, clinical trial sites and third parties on whom we rely. We anticipate that our clinical development timelines could be negatively affected by COVID-19, which could materially and adversely affect our business, financial condition and results of operations.

Our ability to operate without significant negative operational impact from the COVID-19 pandemic will in part depend on our ability to protect our employees and our supply chain. The Company has endeavored to follow the recommended actions of government and health authorities to protect our employees. Since the onset of the COVID-19 pandemic, we maintained the consistency of our operations. However, the uncertainty resulting from the pandemic could result in an unforeseen disruption to our workforce and supply chain (for example, an inability of a key supplier or transportation supplier to source and transport materials) that could negatively impact our operations.

Through March 31, 2021, the COVID-19 pandemic has not negatively impacted the Company's liquidity position as of such date. Through March 31, 2021, the Company continues to generate cash flows through financing activities, such as shareholder loans and equity financings, to meet its short-term liquidity needs, and it expects to maintain access to those shareholder loans and equity financings. The Company has not observed any material impairments of its assets or a significant change in the fair value of its assets due to the COVID-19 pandemic

Going Concern

The accompanying financial statements have been prepared on a going concern basis, which contemplates the realization of assets and the settlement of liabilities and commitments in the normal course of business. As reflected in the accompanying financial statements, the Company has not yet generated revenues and has incurred recurring net losses since inception. During the three months ended March 31, 2021, the Company incurred a net loss of $2,999 and used cash in operations of $2,841, and had a shareholders' deficit of $25,238 as of March 31, 2021. These factors raise substantial doubt about the Company's ability to continue as a going concern. The ability of the Company to continue as a going concern is dependent upon the Company's ability to raise additional funds and implement its strategies. The financial statements do not include any adjustments that might be necessary if the Company is unable to continue as a going concern.

In addition, the Company's independent registered public accounting firm, in its report on the Company's December 31, 2020 financial statements, has raised substantial doubt about the Company's ability to continue as a going concern.

At March 31, 2021, the Company had cash on hand in the amount of $8,125. The ability to continue as a going concern is dependent on the Company attaining and maintaining profitable operations in the future and raising additional capital to meet its obligations and repay its liabilities arising from normal business operations when they come due. Since inception, the Company has funded its operations primarily through equity and debt financings and it expects to continue to rely on these sources of capital in the future. During the three months ended March 31, 2021, the Company received $1,062 through the issuance of loans payable and the sales of its common stock.

No assurance can be given that any future financing will be available or, if available, that it will be on terms that are satisfactory to the Company. Even if the Company is able to obtain additional financing, it may contain undue restrictions on our operations, in the case of debt financing, or cause substantial dilution for our stockholders, in case of equity financing.

NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Use of Estimates

The preparation of the financial statements in conformity with accounting principles generally accepted in the U.S requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities at the financial statement date, and reported amounts of revenue and expenses during the reporting period. Significant estimates are used in the valuation of accruals for potential liabilities, valuations of stock-based compensation, and realization of deferred tax assets, among others. Actual results could differ from these estimates.

Income (Loss) Per Share

Basic loss per share is computed by dividing net loss applicable to common stockholders by the weighted average number of outstanding common shares during the period. Diluted loss per share is computed by dividing the net loss applicable to common stockholders by the weighted average number of common shares outstanding plus the number of additional common shares that would have been outstanding if all dilutive potential common shares had been issued.

For the three months ended March 31, 2020 and 2021, the basic and diluted shares outstanding were the same, as potentially dilutive shares were considered anti-dilutive. The potentially dilutive securities consisted of the following:

	March 31, 2020	March 31, 2021
Convertible notes payable	6,887,725	10,122,841
Common stock equivalent of Series A through K convertible preferred stock	22,702,889	22,702,889
Stock options	10,144,413	11,766,573
Stock warrants	1,906,434	2,392,076
Stock warrants, issuable upon conversion of notes payable	466,644	679,996
Total	42,108,105	47,664,375

Fair Value of Financial Instruments

The Company determines the fair value of its assets and liabilities based on the exchange price in U.S. dollars that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. Valuation techniques used to measure fair value maximize the use of observable inputs and minimize the use of unobservable inputs. The Company uses a fair value hierarchy with three levels of inputs, of which the first two are considered observable and the last unobservable, to measure fair value:

- *Level 1* — Quoted prices in active markets for identical assets or liabilities.
- *Level 2* — Inputs, other than Level 1, that are observable, either directly or indirectly, such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.
- *Level 3* — Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

The carrying amounts of financial instruments such as cash, and accounts payable and accrued liabilities, approximate the related fair values due to the short-term maturities of these instruments. The carrying amounts of the Company's convertible notes payable approximate their fair values as the interest rates of the notes are based on prevailing market rates.

Stock-Based Compensation

The Company measures all stock options and other stock-based awards granted based on the fair value of the award on the date of the grant and recognizes compensation expense for those awards over the requisite service period, which is generally the vesting period of the respective award. The Company has elected to recognize forfeitures as they occur. The reversal of compensation cost previously recognized for an award that is forfeited because of a failure to satisfy a service or performance condition is recognized in the period of the forfeiture. Generally, the Company issues stock options with only service-based vesting conditions and records the expense for these awards using the straight-line method over the requisite service period.

The Company classifies stock-based compensation expense in its statements of operations in the same manner in which the award recipient's payroll costs are classified or in which the award recipients' service payments are classified.

The Company estimates the fair value of common stock using an appropriate valuation methodology, in accordance with the framework of the American Institute of Certified Public Accountants' Technical Practice Aid, Valuation of Privately-Held Company Equity Securities Issued as Compensation. Each valuation methodology includes estimates and assumptions that require the Company's judgment. These estimates and assumptions include a number of objective and subjective factors, including external market conditions, guideline public company information, the prices at which the Company sold its common stock to third parties in arms' length transactions, the rights and preferences of securities senior to the Company's common stock at the time, and the likelihood of achieving a liquidity event such as an initial public offering or sale. Significant changes to the assumptions used in the valuations could result in different fair values of stock options at each valuation date, as applicable.

The fair value of each stock option grant is estimated 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 within the biotechnology industry with characteristics similar to the Company. The expected term of the Company's stock options has been determined utilizing the "simplified" method for awards that qualify as "plain-vanilla" options. The expected term of stock options granted to non-employees is equal to the contractual term of the option award. 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.

Pro Forma Financial Information (unaudited)

Upon the closing of a qualified IPO (as defined in the Company's Certificate of Incorporation), all of the Company's outstanding shares of Series A through Series K preferred stock and certain convertible notes payable will automatically convert into shares of common stock. The accompanying unaudited pro forma balance sheet as of March 31, 2021 has been prepared to give effect to the automatic conversion of all outstanding shares of preferred stock into an aggregate of 22,702,889 shares of common stock and the automatic conversion of certain convertible notes payable and accrued interest and loan fees into an aggregate of 10,122,841 shares of common stock as if the Company's proposed IPO had occurred on March 31, 2021. The shares of common stock issuable and the proceeds expected to be received in the proposed IPO are excluded from such pro forma financial information.

The unaudited pro forma basic and diluted net loss per share in the accompanying statements of operations for the three months ended March 31, 2021 have been computed to give effect to the automatic conversion of all outstanding shares of preferred stock and certain convertible notes payable into shares of common stock. The unaudited pro forma basic and diluted net loss per share for the three months ended March 31, 2021 was computed using the weighted average number of shares of common stock outstanding, including the pro forma effect of the conversion of all outstanding shares of preferred shares of common stock and certain convertible notes payable and the related accrued interest and loan fees, as if the Company's proposed IPO had occurred on January 1, 2021. The unaudited pro forma net loss per share does not include the shares expected to be sold or related proceeds to be received in the proposed IPO.

The following table summarizes the Company's unaudited pro forma net loss per share:

	Three Months Ended March 31, 2021
Numerator:	
Net loss	$ (2,999)
Denominator:	
Weighted average number of common shares outstanding	26,701,223
Pro forma weighted average shares outstanding after giving effect to the conversion of convertible preferred stock and certain convertible notes payable	32,825,730
Pro forma weighted average common shares outstanding	59,526,953
Pro forma net loss per share, basic and diluted	$ (0.05)

Recent Accounting Pronouncements

In August 2020, the FASB issued ASU No. 2020-06 ("ASU 2020-06") "*Debt—Debt with Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging—Contracts in Entity's Own Equity (Subtopic 815-40)*." ASU 2020-06 reduces the number of accounting models for convertible debt instruments by eliminating the cash conversion and beneficial conversion accounting models. As a result, the Company's convertible debt instruments will be accounted for as a single liability measured at its amortized cost as long as no other features require bifurcation and recognition as derivatives. For contracts in an entity's own equity, the type of contracts primarily affected by this update are freestanding and embedded features that are accounted for as derivatives under the current guidance due to a failure to meet the settlement conditions of the derivative scope exception. The Company early adopted ASU No. 2020-06 effective January 1, 2021 using the modified retrospective approach. Upon adoption, the following changes resulted: (i) the intrinsic value of the beneficial conversion feature recorded in 2020 was reversed as of the effective date of adoption, thereby resulting in an increase in the convertible notes payable with an offsetting adjustment to additional paid in capital and (ii) debt discount amortization recorded in 2020 that related to the beneficial conversion feature was reversed against opening accumulated deficit. Accordingly, the adoption of ASU 2020-06 resulted in a decrease to accumulated deficit of $29 and a decrease in additional paid in capital of $594.

The Company accounted for convertible notes payable (when it has determined that the embedded conversion options should not be bifurcated from their host instruments) in accordance with ASC 470-20, *Debt with Conversion and Other Options* up through December 31, 2020. Accordingly, the Company recorded, when necessary, discounts to convertible notes payable for the intrinsic value of conversion options embedded in debt instruments based upon the differences between the fair value of the underlying common stock at the commitment date of the note transaction and the effective conversion price embedded in the note. Debt discounts under these arrangements were amortized over the term of the related debt to their earliest date of redemption. The Company determined that the embedded conversion options in its issued convertible notes payable do not meet the definition of a derivative liability.

Other recent accounting pronouncements issued by the FASB, including its Emerging Issues Task Force, the American Institute of Certified Public Accountants, and the Securities and Exchange Commission did not or are not believed by management to have a material impact on the Company's present or future financial statements.

NOTE 3 - PROPERTY AND EQUIPMENT

Property and equipment consisted of the following at December 31, 2020 and March 31, 2021:

	December 31, 2020	March 31, 2021
Furniture and office equipment	$ 148	$ 148
Laboratory equipment	2,713	2,713
Computer equipment	127	127
Leasehold improvements	557	557
	3,545	3,545
Less: accumulated depreciation and amortization	(1,844)	(1,983)
Property and equipment, net	$ 1,701	$ 1,562

Depreciation expense for the three months ended March 31, 2020 and 2021 was $138 and $139, respectively.

NOTE 4 – ACCRUED COMPENSATION

As of December 31, 2020, the Company had accrued $2,396 primarily for compensation owed to the Company's Chief Executive Officer, another employee and two former employees that had accrued over a several year period. During the three months ended March 31, 2021, the Company accrued an additional $8 of compensation due to these employees and no amounts were paid against these past due balances. As of December 31, 2020 and March 31, 2021, a total of $2,840 and $2,874, respectively, was owed to employees for these past due balances, but also for current accrued payroll and other compensation related benefits.

NOTE 5 – LEASE LIABILITIES

Operating Lease

The Company adopted ASU 2016-02, Leases, effective January 1, 2019, which requires a lessee to record a right-of-use asset and a corresponding lease liability at the inception of the lease initially measured at the present value of the lease payments. In July 2018, the Company entered into a long-term non-cancellable lease agreement for its manufacturing facility that requires aggregate average monthly payments of $10 beginning October 2018. The lease terminates in September 2023. The Company classified the lease as an operating lease and determined that the value of the right of use asset and lease liability at the adoption date was $518 and $519, respectively, using a discount rate of 4.00%.

In December 2020, the Company entered into a long-term non-cancellable lease agreement for its corporate headquarters and laboratory facility that requires aggregate average monthly payments of $18 beginning January 2021. The lease terminates in February 2023. The Company classified the lease as an operating lease and determined that the value of the right of use asset and lease liability at the adoption date was $439, respectively, using a discount rate of 4.00%.

During the three months ended March 31, 2020 and 2021, the Company made combined aggregate payments of $26 and $51, respectively, towards the lease liabilities. As of December 31, 2020 and March 31, 2021, the combined lease liability amounted to $761 and $710, respectively.

ASC 842 requires recognition in the statement of operations of a single lease cost, calculated so that the cost of the lease is allocated over the lease term, generally on a straight-line basis. Rent expense for the leases during the three months ended March 31, 2020 and 2021 was $4 and $8, respectively. During the three months ended March 31, 2020 and 2021, the Company reflected combined amortization of the right of use assets of $26 and $74, respectively, relating to the leases, resulting in a combined net asset balance of $750 and $676 as of December 31, 2020 and March 31, 2021, respectively.

NOTE 6 – ACCRUED INTEREST PAYABLE – DIRECTOR AND SHAREHOLDER

In March 2016, the Company entered into a loan agreement with one of its Directors and shareholders in the amount of $2,117, as part of a settlement agreement. The loan bears interest at 10% per annum and is unsecured. As of December 31, 2020, there was no principal balance due on the loan, but the Company owed accrued and unpaid interest of $694, which is included in Accrued interest payable – directors and shareholders on the accompanying Balance Sheet as of December 31, 2020. During the three months ended March 31, 2021, the Company paid the accrued interest balance of $694, and as of March 31, 2021, no amounts were owed under the loan payable.

NOTE 7 – CONVERTIBLE NOTES PAYABLE – SHAREHOLDERS

Convertible notes payable to shareholders consisted of the following as of December 31, 2020 and March 31, 2021:

	December 31, 2020	March 31, 2021
Convertible notes payable - shareholders (a)	$ 7 988	$ 7,988
Convertible note payable - shareholder (b)	2,661	2,661
Convertible note payable – shareholder (c)	1,500	—
Convertible notes payable – shareholders (d)	700	700
Convertible notes payable - shareholders (e)	5,351	5,369
	18,200	16,718
Less: current portion	(3,605)	(2,105)
Convertible notes payable - shareholders - long-term portion	$ 14,595	$ 14,613

(a) During the years ended December 31, 2011 through 2016, the Company entered into convertible note payable agreements with several individuals aggregating to a total amount of $7,988. The notes accrue interest at 8% per annum, are unsecured, had an initial maturity of November 2016 and are convertible into the Company's Series K preferred stock at $12.00 per share. In December 2016, the Company entered into amended agreements with certain of the individuals holding notes with an aggregate balance of $7,733. As of December 31, 2020, the principal amount due on the amended notes aggregated to $7,733 and the amount due on the notes that were not amended and extended aggregated to $255, respectively. The notes totaling $255 that were not amended kept their initial terms and were past due as of December 31, 2020 and March 31, 2021. The notes that were amended had an interest rate of 1.68% and are due in November 2022. As of December 31, 2020, the Company owed $7,988 of principal on the notes and $2,708 of accrued and unpaid interest. During the three months ended March 31, 2021, no principal payments were made on the notes and the notes accrued interest of $36. As of March 31, 2021, the Company owed $7,988 of principal on the notes and $2,744 of accrued and unpaid interest. In the event the Company closes an underwritten public offering of its common stock pursuant to an effective registration statement, then the principal amount of $7,733, plus accrued and unpaid interest relating to that amount, will automatically convert into shares of the Company's common stock.

(b) In April 2016, the Company entered into a convertible note payable agreement with a shareholder in the amount of $2,661. As of December 31, 2020, the note accrues interest at 10.5% per annum, accrues loan fees of $10 per month, is unsecured, has a maturity date of May 2022 and is convertible into the Company's common stock at the price of $2.26 per share. Interest payments are due monthly. The loan fees can be converted into shares of the Company's common stock at $3.00 per share. As of December 31, 2020, the principal balance of $2,661 and total accrued and unpaid loan fees of $320 was owed on the note. During the three months ended March 31, 2021, no principal payments were made on the notes and the notes accrued loan fees of $30. As of March 31, 2021, the Company owed $2,661 of principal on the note and

$350 of accrued and unpaid loan fees. The accrued loan fee amounts are included in Accounts payable and accrued expenses on the accompanying Balance Sheets, and loan fee expense is included in General and administrative expenses on the accompanying Statements of Operations. Subsequent to March 31, 2021, the Company entered into an agreement under which the shareholder agreed to modify his agreement (see Note 11).

(c) In November 2017, the Company entered into a convertible note payable agreement in the amount of $1,500 as part of a settlement agreement with a former collaborative partner. The note bears interest at 5% per annum, is unsecured, matured in November 2020 and is convertible into the Company's common stock based on the initial conversion price of $5.00 per share. As of December 31, 2020, the principal balance of $1,500 and total accrued and unpaid interest of $237 was owed on the note and the note was past due and was due on demand. During the three months ended March 31, 2021, the Company entered into an omnibus amendment and conversion election agreement with the note holder. Under the agreement, the Company paid the note holder $1,445 and issued the loan holder 56,063 shares of its common stock with a conversion price of $5.00 per share to settle debt of $1,500 and accrued interest of $255, resulting in a gain on settlement of $30. As of March 31, 2021, no amounts are due under the agreement.

(d) In April 2018, the Company entered into two convertible note payable agreements with a shareholder under which the Company borrowed an aggregate total of $700. The notes accrue interest at 5.0% per annum, are unsecured, are convertible into the Company's common stock at the price of $4.00 per share and have maturity dates of December 31, 2021. As of December 31, 2020, the Company owed $700 of principal on the notes and $94 of accrued and unpaid interest. During the three months ended March 31, 2021, no principal payments were made on the notes and the notes accrued interest of $9. As of March 31, 2021, the Company owed $700 of principal on the notes and $103 of accrued and unpaid interest. In the event the Company closes an underwritten public offering of its common stock pursuant to an effective registration statement, then all of the principal plus accrued and unpaid interest will automatically convert into shares of the Company's common stock.

(e) During the years ended December 31, 2019 and 2020, the Company entered into convertible note payable agreements with several shareholders under which the Company borrowed an aggregate amount of $5,351. The notes accrue interest at 5.0% per annum, are unsecured, are convertible into the Company's common stock at the price of $4.00 per share and have maturity dates ranging from December 31, 2021 to December 31, 2023. The agreements contain a provision under which each investing "family" (as defined by the agreements) must invest at least $500 in the aggregate in order to participate in these agreements. As of December 31, 2020, the Company owed $5,351 of principal on the notes and $221 of accrued and unpaid interest. During the three months ended March 31, 2021, the Company borrowed an additional $18 under the agreements, no payments were made on the notes and the notes accrued interest of $67. As of March 31, 2021, the Company owed $5,369 of principal on the notes and $288 of accrued and unpaid interest. In the event the Company closes an underwritten public offering of its common stock pursuant to an effective registration statement, then all of the principal plus accrued and unpaid interest will automatically convert into shares of the Company's common stock.

NOTE 8 – CONVERTIBLE NOTES PAYABLE

Convertible notes payable consisted of the following as of December 31, 2020 and March 31, 2021:

	December 31, 2020	March 31, 2021
Convertible note payable (a)	$ 50	$ 50
Convertible notes payable (b)	8,146	9,065
Convertible notes payable	8,196	9,115
Less: debt discount	(1,411)	(889)
Convertible notes payable, net	$ 6,785	$ 8,226

(a) In October 2018, the Company entered into a convertible note payable agreement with a venture capital firm in the amount of $50. The note bears interest at 6% per annum, is unsecured, matures in October 2023 and is

convertible into the Company's common stock at the price of $3.50 per share. As of December 31, 2020, the principal balance due on the loan was $50 and the accrued and unpaid interest was $4. During the three months ended March 31, 2021, no principal payments were made on the note and the note accrued interest of $1. As of March 31, 2021, the Company owed $50 of principal on the note and $5 of accrued and unpaid interest.

(b) During the year ended December 31, 2020, the Company entered into convertible note payable agreements with an investing group under which the Company borrowed $8,146. The notes accrue interest at 6.0% per annum, are unsecured, have a maturity date of September 2025 and are convertible into the Company's common stock at the price of $3.50 per share. In consideration for the note, the Company issued the note holder stock warrants to purchase up to 401,542 shares of its common stock with an exercise price of $3.50 per share. The warrants expire five years from the date of grant. As of December 31, 2020, a total of $8,146 of principal and $97 of accrued and unpaid interest was due on the notes.

The Company calculated the fair value of the warrants issued to the noteholder to be $864 using a Black Scholes option pricing model and performed a relative fair value allocation. The Company then made a calculation to determine if a beneficial conversion feature (BCF) existed. The beneficial conversion was based upon the effective conversion price based on the proceeds received that were allocated to the convertible instrument. Based upon the Company's calculation, it was determined that a beneficial conversion feature existed amounting to $594 and was recorded as a debt discount. As such, the Company recognized a debt discount at the date of issuance in the aggregate amount of $1,485 consisting of the $27 fees paid relating to the loan, the relative value of the warrants and the BCF. The note discount is being amortized over the term of the notes and the unamortized portion is recognized as a reduction to the carrying amount of the notes (a valuation debt discount). As of December 31, 2020, the Company had amortized $74 of debt discount, leaving an unamortized balance of $1,411 at December 31, 2020.

The notes above include a note in the amount of $1,100, of which $146 was funded through December 31, 2020. During the three months ended March 31, 2021, the Company was advanced an additional $919 under the agreement, no payments were made on the notes and the notes accrued interest of $128. As of March 31, 2021, the Company owed $9,065 of principal on the notes and $225 of accrued and unpaid interest. In consideration for the note, the Company issued the note holder a stock warrant to purchase up to 39,385 shares of its common stock with an exercise price of $3.50 per share. The warrant expires five years from the date of grant.

The Company calculated the relative fair value of the warrant issued to the noteholder to be $88 using a Black Scholes option pricing model. As such, the Company recognized a debt discount at the date of issuance in the amount of $88. The note discount is being amortized over the term of the note and the unamortized portion is recognized as a reduction to the carrying amount of the note (a valuation debt discount).

During the three months ended March 31, 2021, the Company adopted ASU 2020-06 (see Note 2), which had the effect of reversing out $565 of the debt discount existing at December 31, 2020. The Company amortized $45 of debt discount, leaving an unamortized balance of $889 at March 31, 2021.

In the event the Company closes an underwritten public offering of its common stock pursuant to an effective registration statement, then all of the principal plus accrued and unpaid interest will automatically convert into shares of the Company's common stock.

NOTE 9 – U.S. SMALL BUSINESS ADMINISTRATION LOAN PAYABLE

During the year ended December 31, 2020, the Company entered into a loan agreement with the United States Small Business Administration (SBA) under which the Company borrowed $314. The loan is unsecured, accrues interest at 1.0% and is due on April 23, 2022. The loan term may be extended to April 2025 if mutually agreed to by the Company and lender. The Company intends to use the entire loan amount for qualifying expenses. Under the terms of the PPP, certain amounts of the loan may be forgiven if they are used for qualifying expenses. The

Company intends to apply for forgiveness of the PPP loan with respect to qualifying expenses, however, it cannot assure that such forgiveness of any portion of the PPP loan will occur. As for the potential loan forgiveness, once the PPP loan is, in part or wholly, forgiven and a legal release is received, the liability would be reduced by the amount forgiven and a gain on extinguishment would be recorded. The terms of the PPP loan provide for customary events of default including, among other things, payment defaults, breach of representations and warranties, and insolvency events. The Company was in compliance with the terms of the PPP loan as of March 31, 2021.

NOTE 10 – SHAREHOLDERS' EQUITY

Preferred Stock

Authorized shares and shares issued and outstanding of the Company's preferred stock by series as of December 31, 2020 and March 31, 2021 are as follows:

	Authorized Shares	Issued and Outstanding	Par Value
Series A Preferred Stock	4,500,000	4,500,000	4,500
Series B Preferred Stock	608,000	608,000	608
Series C Preferred Stock	5,000,000	5,000,000	5,000
Series D Preferred Stock	3,000,000	3,000,000	3,000
Series E Preferred Stock	1,591,994	1,591,994	1,592
Series F Preferred Stock	953,000	953,000	953
Series H Preferred Stock	5,000,000	536,000	536
Series I Preferred Stock	2,775,000	2,757,442	2,757
Series J Preferred Stock	2,500,000	1,281,600	1,282
Series K Preferred Stock	4,000,000	1,866,853	1,867
Total	29,927,994	22,094,889	22,095

Convertible Series A Preferred Stock

In August 2002, the Company entered into an asset purchase agreement to purchase specific assets and issued 1,500,000 shares of Series A to the founder of the Company. In August 2002, the Company also entered into a credit agreement with a single investor, whereas the investor provided an unsecured line of credit to the Company of $50,000 and the Company issued 1,500,000 shares of the Company's Series A as consideration. In December 2009, the Board of Directors approved the issuance of 1,500,000 shares of Series A stock to the founder of the Company in exchange for 1,500,000 of common stock.

Convertible Series B Preferred Stock

In December 2002, the Company issued 608,000 shares of convertible Series B preferred stock ("Series B") at $1.00 per share for gross proceeds of $608.

Convertible Series C Preferred Stock

From September 2004 to June 2005, the Company issued 5,000,000 shares of convertible Series C preferred stock ("Series C") at $1.00 per share for gross proceeds of $5,000.

Convertible Series D Preferred Stock

From December 2005 to July 2006, the Company issued 3,000,000 shares of convertible Series D preferred stock ("Series D") at $3.00 per share for gross proceeds of $9,000.

Convertible Series E Preferred Stock

In November 2006, the Company offered up to $5,000 principal amount of 8% convertible notes. Each note was sold with an attached warrant to purchase 110,000 shares of common stock at an exercise price of $4.55 per share. Each warrant was exercisable immediately upon its issuance date and had a seven year term. The amount allocated to the fair value of the warrants was insignificant. In the period from November 2006 to October 2007, a total amount of $4,985,000 was issued to various investors with a convertible Series E preferred stock ("Series E") conversion price of $3.50 per share. On June 9, 2008, outstanding principal and interest in the amount of $4,985 and $475 were converted to 1,591,994 shares of Series E, respectively.

Convertible Series F Preferred Stock

In June 2008, the Company issued 953,000 shares of convertible Series F preferred stock ("Series F") at $5.00 per share for gross proceeds of $4,765.

Convertible Series H Preferred Stock

In February 2009, the Company issued 536,000 units at $5.00 per unit for gross proceeds of $2,680. Each unit consisted of one share of Series H and one warrant which entitled the holder to acquire a half share of the Company's common stock at an exercise price of $5.00 per share. In May 2010, 236,000 warrants were exercised by investors and 118,000 shares of common stock were purchased at a price of $5.00 per share. The remaining warrants expired as of December 31, 2010.

Convertible Series I Preferred Stock

From May 2009 to February 2010, the Company issued 2,757,442 shares of convertible Series I preferred stock at $6.00 per share for gross proceeds of approximately $16,545.

Convertible Series J Preferred Stock

From 2010 through 2012, the Company issued 1,281,600 shares of convertible Series J preferred stock ("Series J") at $10.00 per share for gross proceeds of $12,816.

Convertible Series K Preferred Stock

From April 1, 2012 to December 31, 2017, the Company sold 1,866,853 shares of Series K convertible preferred stock resulting in gross proceeds of approximately $22,402.

The significant terms of the Convertible Preferred Stock are as follows:

Dividends

Each share is entitled to dividends on a pari passu basis with Series A, Series B, Series C, Series D, Series E, Series F, Series I, Series J and Series K as and when declared by the Board. Series H dividends are payable in cash or in kind at the election of the Company at such time as dividends may lawfully be declared and paid thereon by the Company, in an amount equal to 9% per annum. Series H dividends accrue at the rate of 2.25% per quarter until such time as they are declared and paid. There have been no dividends declared or paid to date.

Voting

Holders of the Series A, Series B, Series C, Series D, Series E, Series F, Series H, Series I, Series J and Series K generally have one vote for each full share of common stock into which such holder's shares would be convertible on the record date for any vote of the stockholders. Holders of the Series A are entitled to elect two members to the Board of Directors; holders of the Series B are entitled to elect one member to the Board of Directors; holders of the

Series C are entitled to elect one member to the Board of Directors; holders of common stock voting together with the holders of the Series D, Series E, Series F, Series I, Series J and Series K are entitled to elect one director to the Board of Directors; and holders of all issued shares of common stock and preferred stock voting together as a class are entitled to elect two members to the Board of Directors.

Conversion

Holders of the Series A, Series B, Series C, Series D, Series E, Series F, Series H, Series I, Series J and Series K may convert their shares at any time into shares of our Common Stock at the effective conversion rate for each such series on date of conversion. The conversion rate is initially $1.00 per share for the Series A and Series C, $0.50 per share for the Series B, $3.00 per share for the Series D, $3.50 per share for the Series E, $5.00 per share for the Series F, $5.00 per share for the Series H, $6.00 per share for the Series I, $10.00 per share for the Series J and $12.00 per share for Series K. Pursuant to these conversion prices, the Series A, Series C, Series D, Series E, Series F, Series H, Series I, Series J and Series K are convertible into common stock on a one-for-one basis and the Series B is convertible into common stock on a two-for-one basis. The conversion prices are subject to adjustment according to a weighted-average anti-dilution formula. In addition, if the Company closes a firmly underwritten public offering of common stock, the outstanding shares of preferred stock will be converted automatically into common stock at the conversion rate then in effect.

Liquidation

In the event of any liquidation, dissolution or winding up of the Company, whether voluntary or involuntary, the holders of Series B, Series C, Series D, Series E, Series F, Series H, Series I, Series J and Series K shall be entitled to receive, prior and in preference to any distribution of any of the assets or funds of the Company to the holders of Series A or common stock, on a pari passu basis, an amount equal to the Original Issue Price for each such series as set forth in the Company's Certificate of Incorporation, as amended. Prior to any distribution of the remaining assets and funds to the holders of the Company's common stock, if the distribution to the holders of the Series B through Series K has been paid in full, then the holders of record of Series A shall be entitled to a distribution equal to its Original Issue Price per share. If any assets are remaining following the distributions, prior to any distribution being made on the common stock, the holders of Series A through K shall also be entitled to receive upon liquidation, on a pari passu basis, an additional liquidation amount equal to such holder's Original Issue Price per share of preferred stock owned of record by such holder as of the date of liquidation. Following such distributions on the Series A through Series K, all remaining amounts of assets and funds shall be distributed to the holders of common stock and Series A through Series K, pari passu, as if only shares of common stock were then outstanding as of the date of such distribution. To the extent that there are not sufficient assets or funds remaining in the Company at the date of liquidation after payment of all other debts and obligations of the Company through such date, then the holders of the capital stock of the Company shall receive whatever amounts are then available for distribution in the same proportion as if there were sufficient assets and funds upon liquidation to satisfy the entire distribution contemplated above, with the Series A and common stock ranking junior in right of payment to the shares of Series B through Series K outstanding as of such date of liquidation. The Original Issue Price for each series of preferred stock is subject to equitable adjustment for any combinations, consolidations, stock distributions, stock splits or stock dividends with respect to such series.

Common Stock

Authorized shares

The Company's Certificate of Incorporation authorizes the Company to issue up to 75,000,000 of its common shares. Holders of shares of common stock have full voting rights, one vote for each share held of record. Shareholders are entitled to receive dividends as may be declared by the Board out of funds legally available therefore and share pro rata in any distributions to shareholders upon liquidation. Shareholders have no conversion, pre-emptive or subscription rights. All outstanding shares of common stock are fully paid and non-assessable. As of March 31, 2021, there were 26,761,022 shares of common stock issued and outstanding, respectively.

Common Shares Issued for Cash

During the three months ended March 31, 2021, the Company received $125 from the sale of 35,714 shares of its common stock at $3.50 per share under agreements dated prior to December 31, 2020.

Stock Options

In August 2009, the Company's Board of Directors approved the adoption of the 2009 Equity Incentive Plan ("the 2009 Plan"). The 2009 Plan was initiated to encourage and enable employees, directors and consultants of the Company to acquire and retain a proprietary interest in the Company by ownership of its common stock. A total of 18,500,000 of the authorized shares of the Company's common stock may be subject to, or issued pursuant to, the terms of the plan. As of December 31, 2020, a total of 6,739,672 shares were available for grant under the 2009 plan.

In September 2018, the Company's Board of Directors approved the adoption of the 2019 Equity Incentive Plan ("the 2019 Plan"). The 2019 Plan was initiated to encourage and enable employees, directors and consultants of the Company to acquire and retain a proprietary interest in the Company by ownership of its common stock. The 2019 Plan allows for the following types of awards: (i) Incentive Stock Options; (ii) Nonstatutory Stock Options; (iii) Stock Appreciation Rights; (iv) Restricted Stock Awards; (v) Restricted Stock Unit Awards; (vi) Other Stock Awards. A total of 6,177,220 of the authorized shares of the Company's common stock may be subject to, or issued pursuant to, the terms of the plan. As of December 31, 2020, a total of 1,362,904 shares were available for grant under the 2019 plan.

Option exercise prices are set forth in the Grant Notice, without commission or other charge, provided however, that the price per share of the shares subject to the option shall not be less than the greater of (i) 100% of the fair market value of a share of stock on the grant date, or (ii) 110% of the fair market value of a share of stock on the grant date in the case of a Participant then owning more than 10% of the total combined voting power of all classes of stock of the Company or any "subsidiary corporation" of the Company or any "parent corporation" of the Company. Options to employees, directors and consultants generally vest and become exercisable over a period not exceeding four years. Options typically expire ten years after date of grant.

The Company's policy is to recognize compensation cost for awards with only service conditions on a straight-line basis over the requisite service period for the entire award. Additionally, the Company's policy is to issue new shares of common stock to satisfy stock option exercises. The Company applied fair value accounting for all share based payments awards. The fair value of each option granted is estimated on the date of grant using the Black-Scholes option-pricing model.

The table below summarizes the Company's stock option activities for the three months ended March 31, 2021:

	Number of Option Shares	Exercise Price Range Per Share	Weighted Average Exercise Price
Balance, December 31, 2020	11,766,573	3.00 – 3.50	3.37
Granted	—	—	—
Cancelled	—	—	—
Exercised	—	—	—
Expired	—	—	—
Balance, March 31, 2021	11,766,573	$3.00 – 3.50	$ 3.37
Vested and exercisable, March 31, 2021	10,348,548	$3.00 – 3.50	$ 3.35
Unvested, March 31, 2021	1,418,025	$ 3.50	$ 3.50

The following table summarizes information concerning outstanding and exercisable options as of March 31, 2021:

	Options Outstanding			Options Exercisable		
Range of Exercise Prices	Number Outstanding	Average Remaining Contractual Life (in years)	Weighted Average Exercise Price	Number Exercisable	Average Remaining Contractual Life (in years)	Weighted Average Exercise Price
$ 3.00	3,144,500	4.28	$ 3.00	3,144,500	4.28	$ 3.00
3.50	8,622,073	7.72	3.50	7,204,048	7.48	3.50
$ 3.00 – 3.50	11,766,573	6.80	$ 3.37	10,348,548	6.50	$ 3.35

During the three months ended March 31, 2021, the Company recorded $487 of stock compensation for the value of the options vesting during the period, and as of March 31, 2021, unvested compensation of $2,872 remained that will be amortized over the remaining vesting period, through September 2024. The aggregate intrinsic value for option shares outstanding at March 31, 2021 was $1,492.

Stock Warrants

The table below summarizes the Company's warrants activities for the three months ended March 31, 2021:

	Number of Warrant Shares	Exercise Price Range Per Share	Weighted Average Exercise Price
Balance, December 31, 2020	2,352,691	$0.01 – 3.50	$ 2.48
Granted	39,385	3.50	3.50
Cancelled	—	—	—
Exercised	—	—	—
Expired	—	—	—
Balance, March 31, 2021	2,392,076	$0.01 – 3.50	$ 2.50
Vested and exercisable, March 31, 2021	2,392,076	$0.01 – 3.50	$ 2.50

The following table summarizes information concerning outstanding and exercisable warrants as of March 31, 2021:

	Warrants Outstanding			Warrants Exercisable		
Range of Exercise Prices	Number Outstanding	Average Remaining Contractual Life (in years)	Weighted Average Exercise Price	Number Exercisable	Average Remaining Contractual Life (in years)	Weighted Average Exercise Price
$0.01 – 1.00	624,140	3.80	$ 0.64	624,140	3.80	$ 0.64
3.00	1,216,185	3.95	3.00	1,216,185	3.95	3.00
3.50	551,751	3.85	3.50	551,751	3.85	3.50
$0.01– 3.50	2,392,076	3.89	$ 2.50	2,392,076	3.89	$ 2.50

During the three months ended March 31, 2021, in connection with the issuance of a convertible note payable, the Company issued a warrant to purchase 39,385 shares of the Company's common stock with an exercise price of $3.50 per share. The warrant expires five years from the date of grant.

The Company has entered into convertible debt agreements with various lenders under which the agreements contain a provision that in the case the lender converts the notes into shares of the Company's common stock, the

lender will receive a warrant to purchase up to 25% of the shares converted, with exercise prices ranging from $3.00 to $4.00 per share. The warrants, if issued, will expire over various periods from the date of grant, but none exceeding ten years. As of March 31, 2021, the maximum total number of warrant shares that could be granted upon conversion of all convertible debt agreements containing this provision is 679,996.

The aggregate intrinsic value for warrant shares outstanding at March 31, 2021 was $2,390.

NOTE 11 – SUBSEQUENT EVENTS

Subsequent to March 31, 2021, the Company entered into an amendment to a convertible note payable agreement with one of its shareholders in the amount of $2,661 (see Note 6b). Under the agreement, the shareholder agreed to modify his agreement that in the event the Company closes an underwritten public offering of its common stock pursuant to an effective registration statement, then all of the principal of $2,661 plus accrued and unpaid loan fees will automatically convert into shares of the Company's common stock at the conversion prices of $2.26 per share and $3.00 per share, respectively. Under the modified agreement, the shareholder also agreed to convert $1,161 of the principal amount into 513,684 shares of the Company's common stock effective June 30, 2021. Upon conversion on June 30, 2021, pursuant to the agreement, the shareholder will be granted a warrant to purchase 128,421 shares of the Company's common stock at an exercise price of $3.00 per share. The warrant will expire ten years from the date of grant.

Subsequent to March 31, 2021, three stock warrant holders exercised their warrants totaling 41,109 shares at an exercise price of $3.50 per share for proceeds of $144.

In June 2021, the Company entered into an Amended and Restated Limited Liability Company Agreement with TVAX Biomedical, Inc. ("TVAX"), which was an amendment to the January 2019 agreement under which we formed V2ACT as a joint venture with TVAX for the purpose of developing and testing V2ACT Immunotherapy. The amended agreement provides the Company and TVAX with 50% ownership interests, identical voting and management rights and responsibilities, equal representation on the governing four-member management committee, and equal sharing of profits and losses of V2ACT. To date, V2ACT's expenses have been de minimis and have been funded through equal capital contributions made to V2ACT by the Company and TVAX, and the Company expects this to continue for the foreseeable future. TVAX maintains control over day-to-day operations and for accounting purposes, the Company has treated the joint venture as a non-consolidated subsidiary.

Shares

Common Stock

PROSPECTUS

EF Hutton
division of Benchmark Investments, LLC

Brookline Capital Markets
a division of Arcadia Securities, LLC

, 2021

Until , 2021, all dealers that effect transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This requirement is in addition to the dealers' obligation to deliver a prospectus when acting as underwriters and with respect to their unsold allotments or subscriptions.

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Unless otherwise indicated, all references to "Genelux," the "company," "we," "our," "us" or similar terms refer to Genelux Corporation.

Item 13. Other Expenses of Issuance and Distribution.

The following table sets forth all expenses to be paid by us, other than underwriting discounts and commissions, in connection with this offering. All amounts shown are estimates except for the Securities and Exchange Commission, or SEC, registration fee, the Financial Industry Regulatory Authority, Inc., or FINRA, filing fee and the exchange listing fee.

SEC registration fee	*
FINRA filing fee	*
Exchange 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 Directors and Officers.

Section 145 of the Delaware General Corporation Law authorizes a court to award, or a corporation's board of directors to grant, indemnity to directors and officers in terms sufficiently broad to permit such indemnification under certain circumstances for liabilities, including reimbursement for expenses incurred, arising under the Securities Act of 1933, as amended, or the Securities Act. Our amended and restated certificate of incorporation that will be in effect on the closing of this offering permits indemnification of our directors, officers, employees and other agents to the maximum extent permitted by the Delaware General Corporation Law, and our amended and restated bylaws that will be in effect on the closing of this offering provide that we will indemnify our directors and officers and permit us to indemnify our employees and other agents, in each case to the maximum extent permitted by the Delaware General Corporation Law.

We have entered into indemnification agreements with our directors and officers, whereby we have agreed to indemnify our directors and officers to the fullest extent permitted by law, including indemnification against expenses and liabilities incurred in legal proceedings to which the director or officer was, or is threatened to be made, a party by reason of the fact that such director or officer is or was a director, officer, employee, or agent of Genelux Corporation, provided that such director or officer acted in good faith and in a manner that the director or officer reasonably believed to be in, or not opposed to, the best interest of Genelux Corporation.

At present, there is no pending litigation or proceeding involving a director or officer of Genelux Corporation regarding which indemnification is sought, nor is the registrant aware of any threatened litigation that may result in claims for indemnification.

We maintain insurance policies that indemnify our directors and officers against various liabilities arising under the Securities Act and the Securities Exchange Act of 1934, as amended, that might be incurred by any director or officer in his capacity as such.

The underwriters are obligated, under certain circumstances, under the underwriting agreement to be filed as Exhibit 1.1 to this Registration Statement, to indemnify us and our officers and directors against liabilities under the Securities Act.

Item 15. Recent Sales of Unregistered Securities.

Set forth below is information regarding unregistered securities issued by us since March 31, 2018. Also included is the consideration received by us for such securities and information relating to the section of the Securities Act, or rule of the SEC, under which exemption from registration was claimed.

(1) In May 2018, we entered into Common Stock Subscription Agreements with various investors, pursuant to which we issued and sold to such investors an aggregate of 325,027 shares of our common stock at a purchase price of $3.50 per share, and received aggregate gross proceeds of $1,137,586.00.

(2) In June 2018, we entered into Common Stock Subscription Agreements with various investors, pursuant to which we issued and sold to such investors an aggregate of 321,027 shares of our common stock at a purchase price of $3.50 per share, and received aggregate gross proceeds of $1,123,586.00.

(3) In July 2018, we entered into Common Stock Subscription Agreements with various investors, pursuant to which we issued and sold to such investors an aggregate of 336,890 shares of our common stock at a purchase price of $3.50 per share, and received aggregate gross proceeds of $1,179,100.39.

(4) In August 2018, we entered into Common Stock Subscription Agreements with various investors, pursuant to which we issued and sold to such investors an aggregate of 134,802 shares of our common stock at a purchase price of $3.50 per share, and received aggregate gross proceeds of $471,803.50.

(5) In September 2018, we entered into Common Stock Subscription Agreements with various investors, pursuant to which we issued and sold to such investors an aggregate of 578,441 shares of our common stock at a purchase price of $3.50 per share, and received aggregate gross proceeds of $717,775.15.

(6) In October 2018, we entered into Common Stock Subscription Agreements with various investors, pursuant to which we issued and sold to such investors an aggregate of 210,795 shares of our common stock at purchase prices of $2.25 per share and $3.50 per share, and received aggregate gross proceeds of $341,500.00.

(7) In November 2018, we entered into Common Stock Subscription Agreements with various investors, pursuant to which we issued and sold to such investors an aggregate of 234,215 shares of our common stock at a purchase price of $3.50 per share, and received aggregate gross proceeds of $819,747.00.

(8) In December 2018, we entered into Common Stock Subscription Agreements with various investors, pursuant to which we issued and sold to such investors an aggregate of 195,670 shares of our common stock at a purchase price of $3.50 per share, and received aggregate gross proceeds of $684,843.00.

(9) In January 2019, we entered into Common Stock Subscription Agreements with various investors, pursuant to which we issued and sold to such investors an aggregate of 234,287 shares of our common stock at a purchase price of $3.50 per share, and received aggregate gross proceeds of $819,980.50.

(10) In February 2019, we entered into Common Stock Subscription Agreements with various investors, pursuant to which we issued and sold to such investors an aggregate of 49,586 shares of our common stock at a purchase price of $3.50 per share, and received aggregate gross proceeds of $173,550.00.

(11) In April 2019, we entered into Common Stock Subscription Agreements with various investors, pursuant to which we issued and sold to such investors an aggregate of 466,998 shares of our common stock at a purchase price of $3.50 per share, and received aggregate gross proceeds of $1,634,490.00.

Additionally, we issued a warrant to purchase up to 40,000 shares of common stock at an exercise price of $3.00 per share and warrants to purchase up to an aggregate of 16,109 shares of common stock at an exercise price of $3.50 per share pursuant to certain settlement agreements.

(12) In April 2019, we entered into Common Stock Subscription Agreements with various investors, pursuant to which we issued and sold to such investors an aggregate of 466,998 shares of our common stock at a purchase price of $3.50 per share, and received aggregate gross proceeds of $1,634,490.00.

Additionally, we issued a warrant to purchase up to 40,000 shares of common stock at an exercise price of $3.00 per share and warrants to purchase up to an aggregate of 16,109 shares of common stock at an exercise price of $3.50 per share pursuant to certain settlement agreements.

(13) In May 2019, we issued a warrant to purchase up to 25,000 shares of common stock at an exercise price of $3.50 per share pursuant to a settlement agreement.

(14) In September 2019, we issued a warrant to purchase up to 7,143 shares of common stock to an investor at an exercise price of $3.50 per share.

(15) In October 2019, we entered into Common Stock Subscription Agreements with various investors, pursuant to which we issued and sold to such investors an aggregate of 257,794 shares of our common stock at a purchase price of $3.50 per share, and received aggregate gross proceeds of $902,277.50.

Additionally, we issued a warrant to purchase up to 3,571 shares of common stock to an investor at an exercise price of $3.50 per share.

(16) In November 2019, we entered into Common Stock Subscription Agreements with various investors, pursuant to which we issued and sold to such investors an aggregate of 45,400 shares of our common stock at a purchase price of $3.50 per share, and received aggregate gross proceeds of $158,900.00.

(17) In December 2019, we entered into Common Stock Subscription Agreements with various investors, pursuant to which we issued and sold to such investors an aggregate of 445,969 shares of our common stock at a purchase price of $3.50 per share, and received aggregate gross proceeds of $1,560,888.50.

(18) In January 2020, we issued a warrant to purchase up to 14,286 shares of common stock to an investor at an exercise price of $3.50 per share.

(19) In March 2020, we entered into Common Stock Subscription Agreements with various investors, pursuant to which we issued and sold to such investors an aggregate of 202,976 shares of our common stock at a purchase price of $3.50 per share, and received aggregate gross proceeds of $710,415.00.

(20) In June 2020, we entered into Common Stock Subscription Agreements with various investors, pursuant to which we issued and sold to such investors an aggregate of 343,491 shares of our common stock at a purchase price of $3.50 per share, and received aggregate gross proceeds of $1,202,221.00.

(21) In July 2020, we entered into Common Stock Subscription Agreements an investor, pursuant to which we issued and sold to such investors an aggregate of 57,143 shares of our common stock at a purchase price of $3.50 per share, and received aggregate gross proceeds of $200,000.00.

(22) In August 2020, we issued a warrant to purchase up to 7,143 shares of common stock to an investor at an exercise price of $3.50 per share.

(23) In September 2020, we entered into Common Stock Subscription Agreements with various investors, pursuant to which we issued and sold to such investors an aggregate of 269,766 shares of our common stock at a purchase price of $3.50 per share, and received aggregate gross proceeds of $944,179.00.

Additionally, from September 2020 through February 2021, we entered into Note and Warrant Purchase Agreements with WDC Fund 1, pursuant to which we borrowed an aggregate amount of $9,065,000. In connection with the loans, we issued to such investor warrants to purchase up to an aggregate of 440,927 shares of our common stock at an exercise price of $3.50 per share.

(24) In November 2020, we entered into Common Stock Subscription Agreements with various investors, pursuant to which we issued and sold to such investors an aggregate of 490,255 shares of our common stock at a purchase price of $3.50 per share, and received aggregate gross proceeds of $1,715,887.50.

(25) In December 2020, we issued a warrant to purchase up to 7,143 shares of common stock to an investor at an exercise price of $3.50 per share.

(26) In January 2021, we entered into Common Stock Subscription Agreements with various investors, pursuant to which we issued and sold to such investors an aggregate of 308,599 shares of our common stock at a purchase price of $3.50 per share, and received aggregate gross proceeds of $1,080,094.50.

(27) In February 2021, we entered into Common Stock Subscription Agreements with various investors, pursuant to which we issued and sold to such investors an aggregate of 480,983 shares of our common stock at a purchase price of $3.50 per share, and received aggregate gross proceeds of $1,683,433.50.

(28) In March 2021, we entered into Common Stock Subscription Agreements with various investors, pursuant to which we issued and sold to such investors an aggregate of 532,846 shares of our common stock at a purchase price of $3.50 per share, and received aggregate gross proceeds of $1,864,956.

(29) In April 2021, three common stock warrant holders exercised their warrants totaling 41,109 shares at an exercise price of $3.50 per share for proceeds of $143,752.

(30) In June 2021, we entered into Common Stock Subscription Agreements with various investors, pursuant to which we issued and sold to such investors an aggregate of 22,286 shares of our common stock at a purchase price of $3.50 per share, and received aggregate gross proceeds of $78,000.

(31) From March 31, 2018 to the effective date of this registration statement, we granted stock options under our 2009 Equity Incentive Plan (the Prior Plan), to purchase up to an aggregate of 5,632,107 shares of our common stock to our employees, directors and consultants, at a weighted-average exercise price of $3.45 per share. Through the effective date of this registration statement, 50 shares of common stock were issued upon the exercise of options granted to employees, directors and consultants and the payment of $150.00 to us was made.

The offers, sales and issuances of the securities described in paragraphs (1) through (28) were deemed to be exempt from registration under the Securities Act in reliance on Section 4(a)(2) (or Regulation D promulgated thereunder) in that the issuance of securities to the accredited investors did not involve a public offering. The recipients of securities in each of these transactions acquired 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 securities issued in these transactions. Each of the recipients of securities in these transactions was an accredited investor under Rule 501 of Regulation D. No underwriters were involved in these transactions.

The offers, sales and issuances of the securities described in paragraph (29) were deemed to be exempt from registration under the Securities Act in reliance on either Rule 701 in that the transactions were under compensatory benefit plans and contracts relating to compensation as provided under Rule 701 or Section 4(a)(2) in that the issuance of securities to the accredited investors did not involve a public offering. The recipients of such securities were our employees, directors or bona fide consultants and received the securities under the Prior Plan.

Appropriate legends were affixed to the securities issued in these transactions. Each of the recipients of securities in these transactions had adequate access, through employment, business or other relationships, to information about us.

Item 16. Exhibits and Financial Statement Schedules.

(a) Exhibits.

Exhibit Number	Description
1.1+	Form of Underwriting Agreement.
3.1	Amended and Restated Certificate of Incorporation, as currently in effect.
3.2+	Form of Amended and Restated Certificate of Incorporation, to be in effect in connection with the closing of this offering.
3.3	Amended and Restated Bylaws, as currently in effect.
3.4+	Form of Amended and Restated Bylaws, to be in effect in connection with the closing of this offering.
4.1+	Form of Common Stock Certificate.
4.2	Investors' Rights Agreement, by and among the registrant and AbbVie, Inc. and Aladar Szalay, Ph.D., dated January 2010.
4.3¥	Form of Warrant to Purchase Common Stock issued to WDC Fund I, dated September 2020.
4.4	Agreement/Promissory Note, by and among the registrant and Jillian and Curtis Helmer, dated April 2016, as amended.
4.5	Form of Umbrella Agreement Regarding Family Investments.
4.6	Form of Convertible Note Purchase Agreement under the Umbrella Agreement.
5.1+	Opinion of Cooley LLP.
10.1†	Genelux Corporation 2009 Equity Incentive Plan.
10.2†	Forms of Grant Notice, Stock Option Agreement and Notice of Exercise under the Genelux Corporation 2009 Equity Incentive Plan.
10.3†	Genelux Corporation 2019 Equity Incentive Plan.
10.4†	Forms of Grant Notice, Stock Option Agreement and Notice of Exercise under the Genelux Corporation 2019 Equity Incentive Plan.
10.5†+	Genelux Corporation 2021 Equity Incentive Plan.
10.6†+	Forms of Grant Notice, Stock Option Agreement and Notice of Exercise under the Genelux Corporation 2021 Equity Incentive Plan.
10.7†+	Genelux Corporation 2021 Employee Stock Purchase Plan.
10.8†+	Genelux Corporation Non-Employee Director Compensation Policy.
10.9†	Form of Indemnification Agreement by and between the registrant and its directors and executive officers.
10.10†	Consulting Agreement, by and between the registrant and Paul Scigalla, M.D., Ph.D. dated April 2012, as amended.
10.11†	Offer Letter, by and between the registrant and Tony Yu, Ph.D., dated January 2010, as amended.
10.12	Lease Agreement, by and between the registrant and 1175-1177 Idaho Street, LLC, dated January 2012, as amended.

Exhibit Number	Description
10.13	Lease Agreement, by and between the registrant and BMR-Bunker Hill LP, dated August 2002, as amended.
10.14	Industrial/Commercial Multi-Tenant Lease, by and between the registrant and Marindustry Partners, LP, dated July 2018.
10.15+	Amended and Restated Limited Liability Company Agreement, by and between the registrant, TVAX Biomedical, Inc. and V2ACT Therapeutics, LLC, dated June 23, 2021.
10.16+	License Agreement, by and between TVAX Biomedical, Inc. and V2ACT Therapeutics, LLC, dated June 23, 2021.
10.17+	License Agreement, by and between Genelux Corporation and V2ACT Therapeutics, LLC, dated June 23, 2021.
16.1+	Letter from BDO USA, LLP, dated , 2021.
23.1+	Consent of Weinberg & Company, P.A., independent registered public accounting firm.
23.2+	Consent of Cooley LLP (included in Exhibit 5.1).
24.1+	Power of Attorney (see signature pages).

+ To be filed by amendment.
† Indicates management contract or compensatory plan.
¥ Schedules have been omitted pursuant to Item 601(a)(5) of Regulation S-K. The registrant undertakes to furnish supplemental copies of any of the omitted schedules upon request by the SEC.

(b) Financial Statement Schedules.

All financial statement schedules are omitted because the information required to be set forth therein is not applicable or is shown in the financial statements or the notes thereto.

Item 17. Undertakings.

(a) 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.

(b) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant under 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 Securities 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.

(c) The undersigned registrant hereby undertakes that:

(1) For purposes of determining any liability under the Securities Act, the information omitted from the form of prospectus filed as part of this registration statement in reliance on Rule 430A and contained in a form of prospectus filed by the registrant under Rule 424(b)(1) or (4) or 497(h) under the Securities Act will 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, as amended, each post-effective amendment that contains a form of prospectus will be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time will be deemed to be the initial bona fide offering thereof.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in San Diego, California on , 2021.

GENELUX CORPORATION

By: _____
Name: Thomas Zindrick, J.D.
Title: President and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Thomas Zindrick, J.D. as his true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this registration statement, and to sign any registration statement for the same offering covered by this registration statement that is to be effective on filing pursuant to Rule 462(b) under the Securities Act of 1933, as amended, and all post-effective amendments thereto, 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 and necessary to be done in connection therewith, as fully 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 his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
Thomas Zindrick, J.D.	President and Chief Executive Officer (Principal Executive and Financial Officer)	, 2021
Mary Mirabelli	Director	, 2021
James L. Tyree	Director	, 2021
John Thomas, Ph.D.	Director	, 2021
Gabe Woodward	Director	, 2021

Delaware *PAGE 1*
The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE RESTATED CERTIFICATE OF "GENELUX CORPORATION", FILED IN THIS OFFICE ON THE SIXTH DAY OF JULY, A.D. 2012, AT 7:07 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.

Jeffrey W. Bullock, Secretary of State

3431925 8100
120813827
You may verify this certificate online at corp.delaware.gov/authver.shtml

AUTHENTICATION: 9695098
DATE: 07-09-12

State of Delaware
Secretary of State
Division of Corporations
Delivered 07:29 PM 07/06/2012
FILED 07: 07 PM 07/06/2012
SRV 120813827 - 3431925 FILE

SEVENTH AMENDED AND RESTATED CERTIFICATE OF INCORPORATION

OF

GENELUX CORPORATION

Genelux Corporation, a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certifies as follows:

A The original Certificate of Incorporation of the Corporation was filed with the Secretary of State of the State of Delaware on September 4, 2001 (the "Original Certificate").

B. The First Amended and Restated Certificate of Incorporation (the "First Restated Certificate") was filed with the Secretary of State of the State of Delaware on September 17, 2002.

C. The Second Amended and Restated Certificate of Incorporation (the "Second Restated Certificate") was filed with the Secretary of State of the State of Delaware on July 20, 2004.

D. The Third Amended and Restated Certificate of Incorporation (the "Third Restated Certificate") was filed with the Secretary of State of the State of Delaware on October 7, 2005.

E. The Fourth Amended and Restated Certificate of Incorporation (the "Fourth Restated Certificate") was filed with the Secretary of State of the State of Delaware on May 29, 2008.

F. The Fifth Amended and Restated Certificate of Incorporation (the "Fifth Restated Certificate") was filed with the Secretary of State of the State of Delaware on January 7, 2010.

G. The Sixth Amended and Restated Certificate of Incorporation (the "Sixth Restated Certificate") was filed with the Secretary of State of the State of Delaware on December 16, 2010 (the Sixth Restated Certificate, together with the Original Certificate, the First Restated Certificate, the Second Restated Certificate, the Third Restated Certificate, and the Fourth Amended and the Fifth Restated Certificate, the "Prior Certificate of Incorporation."

H. Pursuant to Sections 242 and 245 of the General Corporation Law of the State of Delaware (the "General Corporation Law"), this Seventh Amended and Restated Certificate of Incorporation amends and restates the provisions of the Prior Certificate of Incorporation of the Corporation.

I. This Seventh Amended and Restated Certificate of Incorporation (the "Certificate of Incorporation") was duly approved and adopted by the Board of Directors and the stockholders of the Corporation pursuant to Section 242 of the General Corporation Law.

J. The Prior Certificate of Incorporation is hereby amended and restated to read in its entirety as follows:

FIRST: The name of this Corporation is Gene lux Corporation.

SECOND: The purpose of the Corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law.

THIRD: The address of the registered office of the Corporation in the State of Delaware is 2711 Centerville Road, Suite 400, in the City of Wilmington, County of New Castle, Delaware 19808. The name of its registered agent at that address is LEXIS Document Services Inc.

FOURTH: The total number of shares of all classes of stock that the Corporation shall have authority to issue is 104,927,994, consisting of 75,000,000 shares of Common Stock, par value $0.001 per share, and 29,927,994 shares of Preferred Stock, par value $0.001 per share.

The Preferred Stock authorized by this Certificate of Incorporation may be issued from time to time in one or more series as may be determined from time to time by the Board of Directors of the Corporation (the "Board"). The Preferred Stock of each such series shall have such voting powers, full or limited, or no voting powers, and such designations, preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof, as shall be stated and expressed by the Board in the resolution or resolutions providing for the issue of such series of Preferred Stock pursuant to the authority to do so which is hereby expressly vested in the Board.

Except as otherwise provided in this Certificate of Incorporation or in any resolution or resolutions of the Board providing for the issue of any particular series of Preferred Stock, the number of shares of stock of any such series so set forth in such resolution or resolutions may be increased or decreased (but not below the number of shares of such series then outstanding) by a resolution or resolutions likewise adopted by the Board. Unless otherwise required by this Certificate of Incorporation, no approval by class or series vote or otherwise of the holders of the Preferred Stock or any series thereof will be required for the issue by the Board of any other series of Preferred Stock, whether or not in any respect senior to or on a parity with any such outstanding series, *provided, however,* that the Board may condition the issue of such additional series of Preferred Stock on the approval, by such proportion as the Board may specify, of any such outstanding series.

Except as otherwise provided in any resolution or resolutions of the Board providing for the issue of any particular series of Preferred Stock, Preferred Stock redeemed or otherwise acquired by the Corporation shall assume the status of authorized but unissued Preferred Stock and shall be unclassified as to series and may thereafter, subject to the provisions of this Article FOURTH and to any restrictions contained in any resolution or resolutions of the Board providing for the issue of any such series of Preferred Stock, be reissued in the same manner as other authorized but unissued Preferred Stock.

Shares of Common Stock and, subject to the provisions of this Article FOURTH, shares of any series of Preferred Stock, may be issued from time to time as the Board determines and on such terms and for such consideration as may be fixed by the Board.

Pursuant to the authority conferred on the Board in this Article FOURTH, there are hereby created and authorized for issuance the following series of Preferred Stock of the Corporation:

Name of Series	Number of Shares Authorized
Series A Preferred Stock	4,500,000
Series B Preferred Stock	608,000
Series C Preferred Stock	5,000,000
Series D Preferred Stock	3,000,000
Series E Preferred Stock	1,591,994
Series F Preferred Stock	953,000
Series G Preferred Stock	0
Series H Preferred Stock	5,000,000
Series I Preferred Stock	2,775,000
Series J Preferred Stock	2,500,000
Series K Preferred Stock	4,000,000

A statement of the powers, preferences and rights, and the qualifications, limitations or restrictions, of the Series A Preferred Stock, the Series B Preferred Stock, the Series C Preferred Stock, the Series D Preferred Stock, the Series E Preferred Stock, the Series F Preferred Stock, the Series G Preferred Stock, the Series H Preferred Stock, the Series I Preferred Stock, the Series J Preferred Stock and the Series K Preferred Stock (the "A-K Preferred Stock") and the shares of Common Stock of the Corporation is as follows:

4.1 **Dividends.**

4.1.1 The holders of the Series A Preferred Stock, the Series B Preferred Stock, the Series C Preferred Stock, the Series D Preferred Stock, the Series E Preferred Stock, the Series F Preferred Stock, the Series G Preferred Stock, the Series I Preferred Stock, the Series J Preferred Stock and the Series K Preferred Stock shall be entitled to receive, in any fiscal year, out of the funds legally available therefor, cash dividends on a pari passu basis when, as and if declared by the Board. No dividends (other than those payable solely in Common Stock) shall be paid on any shares of Common Stock of the Corporation during any fiscal year of the Corporation until dividends representing an equal amount (on a per share equivalence basis) shall have been paid during that fiscal year on all the outstanding shares of the Preferred Stock.

4.1.2 The holders of the Series H Preferred Stock shall be entitled to receive dividends, payable in cash or in kind at the election of the Corporation at such time as cash

dividends may lawfully be paid thereon by the Corporation, in an amount equal to nine percent (9%) per annum (the "Series H Dividends"). Series H Dividends shall accrue quarterly, on the last day of each fiscal quarter year-end of the Corporation, at the rate of two and a quarter percent (2.25%) per quarter, pro-rated for any partial quarter, and shall cumulate without compounding until the earlier to occur of:

(a) such time as they are paid by the Corporation;

(b) the conversion of the shares of the Series H Preferred Stock to which such dividends relate into shares of Common Stock pursuant to Section 4.5, in which case all accrued but unpaid dividends as of such conversion date shall simultaneously be converted into shares of Common Stock of the Corporation in accordance with the provisions of Section 4.5.1; or

(c) a Liquidation (as defined in Section 4.2) in which case all accrued but unpaid dividends as of the date of the Liquidation shall automatically be converted into additional shares of Series H Preferred Stock immediately prior to the Liquidation, and distributions thereon for the Liquidation shall be made as set forth in Section 4.2 below in the same manner and at the same time as the underlying shares of Series H Preferred Stock.

4.2 **Liquidation Preference.**

4.2.1 In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, (a "Liquidation") the holders of the Series B Preferred Stock, the Series C Preferred Stock, the Series D Preferred Stock, the Series E Preferred Stock, the Series F Preferred Stock, the Series G Preferred Stock, the Series H Preferred Stock, the Series I Preferred Stock, the Series J Preferred Stock and the Series K Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the assets or funds of the Corporation to the holders of the Series A Preferred Stock or the Common Stock by reason of their ownership thereof, on a pari passu basis, the amount of the respective Original Issue Price for each such series as listed below, as such Original Issue Price is equitably adjusted for any combinations, consolidations, stock distributions, stock splits or stock dividends with respect to such series (the "Adjusted Issue Price"), plus all declared and unpaid dividends on each such series:

Name of Series	Original Issue Price
Series B Preferred Stock	$ 1.00
Series C Preferred Stock	$ 1.00
Series D Preferred Stock	$ 3.00
Series E Preferred Stock	$ 3.50
Series F Preferred Stock	$ 5.00
Series G Preferred Stock	$ 5.00
Series H Preferred Stock	$ 5.00
Series I Preferred Stock	$ 6.00
Series J Preferred Stock	$ 10.00
Series K Preferred Stock	$ 12.00

If, upon the occurrence of such event, the assets and funds thus distributed among the holders of the Series B Preferred Stock, the Series C Preferred Stock, the Series D Preferred Stock, the Series E Preferred Stock, the Series F Preferred Stock, the Series G Preferred Stock, the Series H Preferred Stock, the Series I Preferred Stock, the Series J Preferred Stock and the Series K Preferred Stock shall be insufficient to permit the payment to such holders of the full aforesaid preferential amounts, then the entire assets and funds of the Corporation legally available for distribution shall be distributed ratably among the holders of the Series B Preferred Stock, the Series C Preferred Stock, the Series D Preferred Stock, the Series E Preferred Stock, the Series F Preferred Stock, the Series G Preferred Stock, the Series H Preferred Stock, the Series I Preferred Stock, the Series J Preferred Stock and the Series K Preferred Stock in proportion to the preferential amount each such holder would otherwise be entitled to receive if assets and funds had been sufficient to permit payment of the full aforesaid preferential amounts to all holders of the Series B Preferred Stock, the Series C Preferred Stock, the Series D Preferred Stock, the Series E Preferred Stock, the Series F Preferred Stock, the Series G Preferred Stock, the Series H Preferred Stock, the Series I Preferred Stock, the Series J Preferred Stock and the Series K Preferred Stock. For purposes hereof, the Series A Preferred Stock and the Common Stock shall rank on Liquidation junior to the Series B Preferred Stock, the Series C Preferred Stock, the Series D Preferred Stock, the Series E Preferred Stock, the Series F Preferred Stock, the Series G Preferred Stock, the Series H Preferred Stock, the Series I Preferred Stock, the Series J Preferred Stock and the Series K Preferred Stock.

4.2.2 After and only after the distribution described in Section 4.2.1 above has been paid, the holders of the Series A Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the assets or surplus funds of the Corporation to the holders of the Common Stock by reason of their ownership thereof, the amount of $1.00 per share of Series A Preferred Stock held by them, as equitably adjusted for any combinations, consolidations, stock distributions, stock splits or stock dividends with respect to such series (the applicable "Adjusted Issue Price" for the Series A Preferred Stock), plus all declared and unpaid dividends on the Series A Preferred Stock. If, upon the occurrence of such event, the assets and funds thus distributed among the holders of the Series A Preferred Stock shall be insufficient to permit the payment to such holders of the full aforesaid preferential amounts, then the entire assets and fends of the Corporation legally available for distribution shall be distributed ratably among the holders of the Series A Preferred Stock in proportion to the preferential amount each such holder would otherwise be entitled to receive if assets and funds had been sufficient to permit payment of the full aforesaid preferential amounts to all holders of the Series A Preferred Stock.

4.2.3 After and only after the distributions described in Sections 4.2.1 and 4.2.2 above have been paid, the holders of the A-K Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the assets or surplus funds of the Corporation to the holders of the Common Stock by reason of their ownership thereof, on a *pari passu* basis the amount of the respective "Additional Liquidation Amount" for each such series listed below, as equitably adjusted for any combinations, consolidations, stock distributions, stock splits or stock dividends with respect to such series:

Name of Series	Additional Liquidation Amount
Series A Preferred Stock	$ 1.00
Series B Preferred Stock	$ 1.00
Series C Preferred Stock	$ 1.00
Series D Preferred Stock	$ 3.00
Series E Preferred Stock	$ 3.50
Series F Preferred Stock	$ 5.00
Series G Preferred Stock	$ 5.00
Series H Preferred Stock	$ 5.00
Series I Preferred Stock	$ 6.00
Series J Preferred Stock	$ 10.00
Series K Preferred Stock	$ 12.00

If, upon the occurrence of such event, the assets and funds thus distributed among the holders of the A-K Preferred Stock shall be insufficient to permit the payment to such holders of the full aforesaid preferential amounts, then the entire assets and funds of the Corporation legally available for distribution shall be distributed ratably among the holders of the A-K Preferred Stock in proportion to the preferential amount each such holder would otherwise be entitled to receive if assets and funds had been sufficient to permit payment of the full aforesaid preferential amounts to all holders of the A-K Preferred Stock.

4.2.4 After the distributions described in Sections 4.2.1, 4.2.2 and 4.2.3 above have been paid, the remaining assets and funds of the Corporation then legally available for distribution, if any, shall be distributed, on a *pari passu* basis, among the holders of the Common Stock and the A-K Preferred Stock in proportion to the number of shares of Common Stock then held by them and shares of Common Stock into which they then have the right to acquire upon conversion of the shares of the A-K Preferred Stock then held by them.

4.2.5 For purposes of this Section 4.2: (a) any acquisition of the Corporation in which a majority of the outstanding shares of the Corporation are purchased or exchanged for cash or securities or other consideration issued or caused to be issued by the acquiring corporation or its parent or subsidiary (other than a mere reincorporation transaction); (b) a sale of all or substantially all of the assets of the Corporation; or (c) any consolidation, merger or other business combination involving the Corporation or any of its subsidiaries with or into any other corporation or entity, other than a wholly owned subsidiary, in which the stockholders of the Corporation immediately before the consolidation, merger or combination own less than a majority of the combined voting power of the surviving corporation or other entity immediately following the consummation of such transaction shall be deemed to be a Liquidation and shall entitle the holders of the A-K Preferred Stock and the Common Stock to receive, at the closing, in cash, securities or other property (valued as provided in Section 4.2.6 below), those amounts that are specified in Sections 4.2.1, 4.2.2, 4.2.3 and 4.2.4 hereof

4.2.6 Whenever the distributions provided in this Section 4.2 shall be payable in securities or property other than cash, the value of such distribution shall be the fair market value of such securities or other property, as determined in good faith by the Board.

4.3 **Redemption.** None of the series of A-K Preferred Stock are redeemable.

4.4 **Voting Rights.** The holders of the A-K Preferred Stock shall vote together as a single class except as otherwise required herein or by law.

4.4.1 General. In addition to the special voting rights set forth herein or provided under applicable law and except as otherwise provided in this Certificate of Incorporation, the holders of the A-K Preferred Stock shall be: (a) entitled to notice of any meeting of stockholders in accordance with the Bylaws of the Corporation; (b) 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; and (c) entitled to cast a number of votes equal to the number of shares of Common Stock into which such Preferred Stock could then be converted. 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).

4.4.2 Election of Directors.

(a) The authorized number of directors of the Corporation shall be determined by the Board, *provided however,* such number shall be not less than three (3) and not more than eleven (11).

(b) Members of the Board shall be nominated and elected as follows:

(i) the holders of a majority of the outstanding shares of Common Stock, the Series D Preferred Stock, the Series E Preferred Stock, the Series F Preferred Stock, the Series G Preferred Stock, the Series I Preferred Stock, the Series J Preferred Stock and the Series K Preferred Stock, voting together as a separate class, shall have the right to nominate and elect one (1) director to the Board;

(ii) the holders of a majority of the outstanding shares of Series A Preferred Stock, voting as a separate class, shall have the right to nominate and elect two (2) directors to the Board;

(iii) the holders of a majority of the outstanding shares of Series B Preferred Stock, voting separately as a class, shall have the right to nominate and elect one (1) director to the Board;

(iv) the holders of a majority of the outstanding shares of Series C Preferred Stock, voting as a separate class, shall have the right to nominate and elect one (I) director to the Board; and

(v) the holders of a majority of the outstanding shares of Common Stock and the A-K Preferred Stock, and any other series of Preferred Stock that may be designated by the Board to receive such voting rights, voting together as a single class shall elect any additional directors authorized by the Board which are not elected pursuant to sub-clauses (i) through (iv) of this Section 4.4.2(a) (the "Directors at Large").

(c) The election of directors as provided above shall occur at the annual meeting or by written consent of the stockholders entitled to vote. In the event of a vacancy of a directorship, such vacancy shall be filled only by the affirmative vote of the holders of a majority of the outstanding shares of the class or series of stock entitled to elect such director, *provided however* that any vacancies for Directors at Large may be filled by the Board. Any director elected by the holders of a particular class or series of stock may be removed during such director's term of office, either with or without cause, only by the affirmative vote of the holders of a majority of the outstanding shares of the class or series entitled to elect such director.

4.5 **Conversion**. The holders of the A-K Preferred Stock shall have conversion rights as follows (the "Conversion Rights"):

4.5.1 Right to Convert.

(a) Each share of A-K 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 the 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 Adjusted Issue Price by the then applicable Initial Conversion Price with respect to such series, as adjusted pursuant to Sections 4.5.3, 4.5.4 and 4.5.6, determined as of the date the certificate is surrendered for conversion (the "Conversion Price"). The "Initial Conversion Price" for each series of Preferred Stock is as follows:

Name of Series	Initial Conversion Price
Series A Preferred Stock	$ 1.00
Series B Preferred Stock	$ 0.50
Series C Preferred Stock	$ 1.00
Series D Preferred Stock	$ 3.00
Series E Preferred Stock	$ 3.50
Series F Preferred Stock	$ 5.00
Series G Preferred Stock	$ 5.00
Series H Preferred Stock	$ 5.00
Series I Preferred Stock	$ 6.00
Series J Preferred Stock	$ 10.00
Series K Preferred Stock	$ 12.00

(b) Conversion of Series H Dividends. On any conversion of Series H Preferred Stock pursuant to Section 4.5.1, all accrued unpaid Series H Dividends shall be converted

into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the cash amount of such accrued, unpaid Series H Dividends owed on such Series H Preferred Stock by the then applicable Initial Conversion Price with respect to the Series H Preferred Stock, as adjusted pursuant to Sections 4.5.3, 4.5.4 and 4.5.6, determined as of the date the certificate of the Series H Preferred Stock is surrendered for conversion (the "Conversion Price" with respect to the Series H Dividends).

(c) Automatic Conversion. Each share of A-K Preferred Stock shall automatically convert into such number of fully paid and nonassessable shares of Common Stock at the applicable Conversion Price for such series upon the earlier of: (a) the consummation of the Corporation's sale of its Common Stock in a firm commitment underwritten public offering pursuant to a registration statement under the Securities Act of 1933, as amended (the "Securities Act") (other than a registration relating solely to a transaction under Rule 145 of the Securities Act or to an employee benefit plan of the Corporation), that results in aggregate cash proceeds to the Corporation and/or any selling stockholders of an amount equal to or greater than $15,000,000 (before deducting underwriting discounts and commissions and appropriately adjusted for subdivisions and combinations of shares of Common Stock and dividends on Common Stock payable in shares of Common Stock); or (b) with the vote or written consent of holders of at least a majority of such A-K Preferred Stock voting separately as a class. In the event of the automatic conversion of the A-K Preferred Stock upon a public offering as aforesaid, the conversions of such shares of the A-K Preferred Stock shall be deemed to have occurred automatically immediately prior to the closing of such public offering. In the event of the conversion of any series of A-K Preferred Stock upon the vote or written consent of holders of at least a majority of holders of shares of such series, voting separately as a class, the conversion of such shares of such series of Preferred Stock shall be deemed to have occurred upon the date of receipt of such vote or consent or such later date as may be specified by such holders.

4.5.2 Mechanics of Conversion. Before any holder of any shares of A-K Preferred Stock shall be entitled to convert the same into full shares of Common Stock, such holder shall surrender the certificate or certificates representing such shares, duly endorsed, at the office of the Corporation or of any transfer agent for the Corporation, together with written notice to the Corporation at such office that such holder elects to convert such shares (except that no such written notice of election to convert shall be necessary in the event of an automatic conversion pursuant to Section 4.5.l(c)). The Corporation shall, as soon as practicable thereafter, issue and deliver at such office to such holder a certificate or certificates, registered in such names as specified by such holder, for the number of shares of Common Stock to which such holder shall be entitled to receive as a result of such conversion, together with a check or checks payable to the holder in the amount of any cash amounts payable as the result of a conversion into fractional shares of Common Stock, and any accrued and unpaid dividends on such converted shares. 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 the A-K 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 on such date (except that in the event of an automatic conversion pursuant to a public offering under Section 4.5.l(c), such conversion

shall be deemed to have been made immediately, prior to the closing of the offering referred to in such Section). If the conversion is in connection with an underwritten offering of securities registered pursuant to the Securities Act, the conversion may, at the option of the holder tendering such shares of A-K Preferred Stock for conversion, be conditioned upon the closing with the underwriter of the sale of securities pursuant to such offering, in which event the person(s) entitled to receive shares of Common Stock issuable upon such conversion shall not be deemed to have converted such shares until immediately prior to the closing of such sale of securities.

4.5.3 Adjustments to Conversion Price for Diluting Issues.

(a) *Special Definitions.* For purposes of this Section 4.5.3 the following definitions apply:

(i) "Options" means rights, options or warrants to subscribe for, purchase or otherwise acquire either Common Stock or Convertible Securities;

(ii) "Series K Original Issue Date" means the date on which a share of Series K Preferred Stock was first issued;

(iii) "Convertible Securities" means any evidence of indebtedness, shares (other than the A-K Preferred Stock) or other securities convertible into or exchangeable for Common Stock; and

(iv) "Additional Securities" means all shares of Common Stock issued (or, pursuant to subsection 4.5.3(c), deemed to be issued) by the Corporation after the Series K Original Issue Date, other than shares of capital stock issued or issuable:

(A) upon conversion of A-K Preferred Stock into Common Stock;

(B) to officers, directors or employees of, or consultants to, the Corporation, pursuant to a stock grant, option plan, purchase plan or other stock incentive program approved by the Board;

(C) in connection with the equipment financing, lines of credit or other lending arrangements on terms approved by the Board;

(D) in connection with the acquisition of a business, the acquisition of assets, joint ventures, strategic alliances or similar transactions or partnering arrangements on terms approved by the Board;

(E) as a dividend or distribution on A-K Preferred Stock;

(F) as a dividend or other distribution on shares of Common Stock excluded from the definition of Additional Securities by clauses (A), (B), (C), (D) or (E) of this Section 4.5.3(a)(iv) or on shares of Common Stock so excluded; or

(G) upon issuance of Series A Preferred Stock to Aladar Szalay in exchange for the cancellation of shares of Common Stock of the Corporation held by Aladar Szalay.

(b) *No Adjustment of Conversion Price.* No adjustment in the Conversion Price of a particular share of A-K Preferred Stock shall be made in respect of the issuance of Additional Securities unless the consideration per share for any Additional Security issued or deemed to be issued by the Corporation is less than the applicable Conversion Price, in effect on the date of, and immediately prior to such issue, for such share of Preferred Stock.

(c) *Deemed Issue of Additional Securities.* If the Corporation at any time or from time to time after the Series K Original Issue Date shall issue any Options or Convertible Securities or shall fix a record date for the determination of holders of any class of securities then entitled to receive any such Options or Convertible Securities, then the maximum number of shares (as set forth in the instrument relating thereto without regard to any provisions contained therein designed to protect against dilution) of Common Stock issuable upon the exercise of such Options or, in the case of Convertible Securities and Options therefore, the conversion or exchange of such Convertible Securities, shall be deemed to be Additional Securities issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date, *provided that,* Additional Securities shall not be deemed to have been issued unless the consideration per share (determined pursuant to Section 4.5.3(e) hereof) of such Additional Securities would be less than the applicable Conversion Price in effect on the date of and immediately prior to such issue, or such record date, as the case may be, and *provided further that,* in any such case in which Additional Securities are deemed to be issued:

(i) no further adjustments in the applicable Conversion Price shall be made upon the subsequent issue of Convertible Securities or shares of Common Stock upon the exercise of such Options or conversion or exchange of such Convertible Securities;

(ii) if such Options or Convertible Securities by their terms provide, with the passage of time or otherwise, for any increase in the consideration payable to the Corporation, or decrease in the number of shares of Common Stock issuable upon the exercise, conversion or exchange thereof, the applicable Conversion Price computed upon the original issue thereof (or upon the occurrence of a record date with respect thereto), and any subsequent adjustments based thereon, shall, upon any such increase or decrease becoming effective, be recomputed to reflect such increase or decrease insofar as it affects such Options or the rights of conversion or exchange under such Convertible Securities, *provided, however,* that no such adjustment of the applicable Conversion Price shall affect Common Stock previously issued upon conversion of A-K Preferred Stock;

(iii) upon the expiration of any such Options or any rights of conversion or exchange under such Convertible Securities which shall not have been exercised, the applicable Conversion Price computed upon the original issue thereof (or upon the occurrence of a record date with respect thereto), and any subsequent adjustments based thereon, shall, upon such expiration, be recomputed as if:

(A) in the case of Convertible Securities or Options for Common Stock, the only Additional Securities issued were the shares of Common Stock if any, actually issued upon the exercise of such Options or the conversion or exchange of such Convertible Securities and the consideration received therefore was the consideration actually received by the Corporation for the issue of all such Options, whether or not exercised, plus the consideration actually received by the Corporation upon such exercise, or for the issue of all such Convertible Securities which were actually converted or exchanged, plus the additional consideration, if any, actually received by the Corporation upon such conversion or exchange; and

(B) in the case of Options for Convertible Securities, only the Convertible Securities, if any, actually issued upon the exercise thereof were issued at the time of issue of such Options and the consideration received by the Corporation for the Additional Securities deemed to have been then issued was the consideration actually received by the Corporation for the issue of all such Options, whether or not exercised, plus the consideration deemed to have been received by the Corporation (determined pursuant to Section 4.5.3(e)) upon the issue of the Convertible Securities with respect to which such Options were actually exercised;

(iv) no readjustment pursuant to Sections 4.5.3(c)(iii)(A) or 4.5.3(c)(iii)(B) above shall have the effect of increasing the applicable Conversion Price to an amount which exceeds the lower of: (A) such Conversion Price on the original adjustment date; and (B) such Conversion Price that would have resulted from any issuance of Additional Securities between the original adjustment date and such readjustment date;

(v) in the case of any Options that expire by their terms not more than 30 days after the date of issue thereof, no adjustment of the applicable Conversion Price shall be made, except as to shares of Preferred Stock converted in such period, until the expiration or exercise of all such Options, whereupon such adjustment shall be made in the same manner provided in Section 4.5.3(c)(iii) above; and

(vi) if any such record date shall have been fixed and such Options or Convertible Securities are not issued on the date fixed therefore, the adjustment previously made in the applicable Conversion Price that became effective on such record date shall be canceled as of the close of business on such record date, and shall instead be made on the actual date of issuance, if any, of such Options or Convertible Securities.

(d) *Adjustment of Conversion Price Upon Issuance of Additional Securities.* If the Corporation shall issue Additional Securities (including Additional Securities deemed to be issued pursuant to Section 4.5.3(c)) without consideration

or for a consideration per share less than the applicable Conversion Price in effect on the date of and immediately prior to such issue, then and in such event, such Conversion Price shall be reduced, concurrently with such issue, to a price (calculated to the nearest tenth of a cent) determined by multiplying such Conversion Price then in effect by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of shares of Common Stock which the aggregate consideration received by the Corporation for the total number of Additional Securities so issued would purchase if purchased at the applicable Conversion Price then in effect, and the denominator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of such Additional Securities so issued. For the purposes of the above calculation, the number of shares of Common Stock outstanding immediately prior to such issuance shall be calculated on a fully diluted basis, as if all shares of A-K Preferred Stock and all Convertible Securities had been fully converted into shares of Common Stock immediately prior to such issuance and any outstanding vested Options having an exercise price per share less than the applicable Conversion Price in effect on such date had been fully exercised immediately prior to such issuance (and the resulting securities fully converted into shares of Common Stock, if so convertible) as of such date but not including in such calculation any Additional Securities issuable with respect to shares of Preferred Stock, Convertible Securities or outstanding Options solely as a result of the adjustment of the respective Conversion prices (or other conversion ratios) resulting from the issuance of Additional Securities causing such adjustment.

(e) *Determination of Consideration.* For purposes of this Section 4.5.3, the consideration received by the Corporation for the issue of any Additional Securities shall be computed as follows:

(i) Cash and Property: Such consideration shall:

(A) insofar as it consists of cash, be computed at the aggregate amount of cash received by the Corporation excluding amounts paid or payable for accrued interest or accrued dividends;

(B) insofar as it consists of property other than cash, be computed at the fair value thereof at the time of such issue, as determined in good faith by the Board; and

(C) if Additional Securities are issued together with other shares or securities or other assets of the Corporation for consideration consisting of both cash and property other than cash, be in the proportion of such consideration so received, computed as provided in subclauses (A) and (B) of this Section 4.5.3(e)(i), as determined in good faith by the Board.

(ii) Options and Convertible Securities: The consideration per share received by the Corporation for Additional Securities deemed to have been issued pursuant to Section 4.5.3(c) relating to Options and Convertible Securities shall be determined by dividing:

(A) the total amount, if any, received or receivable by the Corporation as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating thereto, without regard to any provision contained therein designed to protect against dilution) payable to the Corporation upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities; by

(B) the maximum number of shares of Common Stock (as set forth the in the instruments relating thereto, without regard to any provision contained therein designed to protect against dilution) issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities.

4.5.4 *Adjustment of Combinations or Subdivisions of Common Stock.* If the Corporation at any time or from time to time after the Series K Original Issue Date shall declare or pay any dividend on the Common Stock payable in Common Stock or in any right to acquire Common Stock, or shall effect a subdivision or the outstanding share of Common Stock into a greater number of shares of Common Stock (by stock split, reclassification or otherwise), or in the event the outstanding shares of Common Stock shall be combined or consolidated, by reclassification or otherwise, into a lesser number of shares of Common Stock, then the applicable Conversion Price in effect immediately prior to such event shall, concurrently with the effectiveness of such event, be proportionately decreased or increased, as appropriate.

4.5.5 *Adjustment for Reclassification, Exchange and Substitution.* If the Common Stock issuable upon conversion of the A-K Preferred Stock shall be changed into the same or a different number of shares of any other class or classes of stock, whether by capital reorganization, reclassification or otherwise (other than a subdivision or combination of shares provided for above), the applicable Conversion Price then in effect shall, concurrently with the effectiveness of such reorganization or reclassification, or similar transaction, be proportionately adjusted such that the A-K Preferred Stock shall be convertible into, in lieu of the number of shares of Common Stock which the holders would otherwise have been entitled to receive, a number of shares of such other class or classes of stock equivalent to the number of shares of Common Stock that would have been subject to receipt by the holders upon conversion of the A-K Preferred Stock immediately before that change.

4.5.6 *Other Distributions.* If the Corporation shall at any time or from time to time after the Series K Original Issue Date make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a stock dividend or other distribution payable in securities of the Corporation or any of its subsidiaries other than Additional Securities, then in each such event provision shall be made so that the holders of A-K Preferred Stock shall receive, upon the conversion thereof, the securities of the Corporation which they would have received had their stock been converted into Common Stock on the date

of such event and had they thereafter, during the period from the date of such event to and including the conversion date, retained such securities receivable by them as aforesaid during such period, subject to all other adjustments called for during such period under this Section 4.5 with respect to the rights of the holders of the A-K Preferred Stock or with respect to such other securities by their terms.

4.5.7 *No Impairment.* The Corporation will not, by amendment of its Certificate of Incorporation or through any reorganization, transfer of assets, consolidation, merger, 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 to be observed or performed hereunder by the Corporation, but will at all times in good faith assist in the carrying out of all the provisions of this Section 4.5 and in the taking of all such actions as may be necessary or appropriate in order to protect the Conversion Rights of the holders of the A-K Preferred Stock against impairment.

4.5.8 *Certificates as to Adjustments.* Upon the occurrence of each adjustment or readjustment of the Conversion Price pursuant to this Section 4.5, the Corporation at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and cause independent public accounts as selected by the Corporation to verify such computation and prepare and furnish to each holder of A-K Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, upon the written request at any time of any holder of the A-K Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth: (a) such adjustments and readjustments; (b) the Conversion Price for each 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 which at the time would be received upon the conversion of any series of Preferred Stock.

4.5.9 *Notices of Record Date.* If the Corporation shall take 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, any security or right convertible into or entitling the holder thereof to receive Additional Securities, or any right to subscribe for, purchase or otherwise acquire any shares of stock of any class or any other securities or property, or to receive any of the right, the Corporation shall mail to each holder of the A-K Preferred Stock at least 20 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, distribution, security or right, and the amount and character of such dividend, distribution, security or right.

4.5.10 *Issue Taxes.* The Corporation shall pay any and all issue and other taxes (other than income taxes) that may be payable in respect of any issue or delivery of shares of Common Stock on conversion of shares of the A-K Preferred Stock pursuant hereto; provided, however, that the Corporation shall not be obligated to pay any transfer taxes resulting from any transfer requested by any holder in connection with any such conversion.

4.5.11 *Reservation of Stock Issuable Upon Conversion.* The 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 A-K Preferred Stock,

such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all such outstanding shares of 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 such outstanding shares of Preferred Stock, the 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 purpose, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to this Certificate of Incorporation.

4.5.12 *Fractional Shares.* No fractional share shall be issued upon the conversion of any share or shares of the A-K Preferred Stock. All shares of Common Stock (including fractions thereof) issuable upon conversion of more than one share of A-K Preferred Stock by a holder thereof shall be aggregated for purposes of determining whether the conversion would result in the issuance of any fractional share. If, after the aforementioned aggregation, the conversion would result in the issuance of a fraction of a share of Common Stock, the Corporation shall, in lieu of issuing any fractional share, pay the holder otherwise entitled to such fraction a sum in cash equal to the fair market value of such fraction on the date of conversion (as determined in good faith by the Board).

4.5.13 *Notices.* Any notice required by the provisions of this Section 4.5 to be given to the holders of shares of the A-K Preferred Stock shall be deemed given if deposited in the United States mail, postage prepaid, and addressed to each holder of record at its address appearing on the books of the Corporation.

4.5.14 *Adjustments.* Subject to the provisions of Sections 4.5.3 and 4.6 of this Article FOURTH, in case of any reorganization or any reclassification of the capital stock of the Corporation, any consolidation, merger or other business combination of the Corporation with or into another person or entity, or the conveyance of all or substantially all of the assets of the Corporation to another person or entity, each share of the A-K Preferred Stock shall thereafter be convertible into the number of shares of stock or other securities or property (including cash) to which a holder of the number of shares of Common Stock deliverable upon conversion of such share of A-K Preferred Stock would have been entitled upon the record date of (or date of, if no record date is fixed) such reorganization, reclassification, merger, consolidation, business combination or conveyance; and, in any case, appropriate adjustment (as determined by the Board) shall be made in the application of the holders of the A-K Preferred Stock, to the end that the provisions set forth herein shall thereafter be applicable, as nearly as equivalent as is practicable, in relation to any shares of stock or the securities or property (including cash) thereafter deliverable upon the conversion of the shares of the A-K Preferred Stock.

4.6 **Protective Provisions.** So long as any shares of the A-K Preferred Stock remain outstanding and unless otherwise required by law, the Corporation shall not, without the vote or written consent by the holders of at least 60% of the then outstanding shares of the A-K Preferred Stock, voting together as a separate class:

(a) amend, alter or repeal any provision of the Certificate of Incorporation of the Corporation if such action would adversely alter the rights, preferences, privileges or powers of, or restrictions provided for the benefit of, any series of the Preferred Stock;

(b) increase the authorized number of shares of Preferred Stock or any series thereof;

(c) authorize, create or issue, or obligate itself to issue, any other equity security: (i) ranking senior to any series of A-K Preferred Stock as to Liquidation preferences, the payment of dividends, distribution of assets or redemptions; or (ii) that in any manner adversely affects the rights of the holders of any series of A-K Preferred Stock;

(d) effect any sale, lease, transfer or other conveyance of all or substantially all of the assets of the Corporation or any of its subsidiaries (other than in the ordinary course of business), or any consolidation, merger or other business combination involving the Corporation with or into any other person or entity (other than a wholly owned subsidiary) in which the stockholders of the Corporation immediately prior to such consolidation or merger own less than a majority of the combined outstanding voting power of the surviving corporation immediately following such consolidation, merger or other business combination;

(e) effect any reclassification, recapitalization or other change with respect to any outstanding shares of stock of the Corporation or any voluntary liquidation, dissolution or winding-up of the Corporation;

(f) redeem, purchase or otherwise acquire any shares of Common Stock; *provided however,* that, this restriction shall not apply with respect to payments made by the Corporation in connection with the repurchase of shares of Common Stock issued to or held by employees, consultants, officers and directors upon termination of their employment or services pursuant to agreements providing for the right of such repurchase, notwithstanding anything to the contrary set forth herein;

(g) authorize, declare or pay any dividend or other distribution (other than a dividend payable solely in shares of Common Stock which gives rise to an adjustment to the A-K Preferred Stock pursuant to Section 4.5.6) on any shares of its Common Stock or Preferred Stock; or

(h) amend, modify, waive or repeal this Section 4.6.

4.7 **Waiver.** Unless otherwise required by law:

(a) the observance of any term relating to any outstanding series of Preferred Stock may be waived either generally or in a particular instance (and either retroactively or prospectively) with the vote or written consent of the holders of at least 60% of the then outstanding shares of that series of Preferred Stock, voting as a separate class. Any waiver so effected shall be binding upon the Corporation and all holders of shares of Preferred Stock of that series; and

(b) the observance of any term relating to any outstanding Preferred Stock may be waived either generally or in a particular instance (and either retroactively or prospectively) with the vote or written consent of the holders of at least 60% of the then outstanding shares of Preferred stock, voting together as a separate class. Any waiver so effected shall be binding upon the Corporation and all holders of shares of Preferred Stock.

4.8 **Common Stock.**

4.8.1 Dividend Rights. Dividends may be declared and paid on the Common Stock from funds lawfully available therefore as and when determined by the Board in its sole discretion, subject to provisions of law, any provision of this Certificate of Incorporation and the relative rights and preferences of any shares of Preferred Stock authorized and issued hereunder, *provided that,* any dividend declared or paid on the Common Stock shall be declared and paid in an equal amount on each share of the Common Stock.

4.8.2 Liquidation Rights. In the event of any Liquidation, the holders of the Common Stock shall be entitled, subject to the rights and preferences of the holders of shares of Preferred Stock authorized and issued hereunder, to share ratably, in proportion to the number of shares of Common Stock held by them, in the remaining assets of the Corporation available for distribution to its stockholders.

4.8.3 Redemption. The Common Stock is not redeemable.

4.8.4 Voting Rights. Each holder of shares of Common Stock shall be entitled to one vote for each share thereof held, and shall be entitled to notice of any meeting of stockholders in accordance with the Bylaws of the Corporation, and shall be entitled to vote upon such matters and in such manner as provided in this Certificate of Incorporation and as may be provided by law.

FIFTH: In furtherance and not in limitation of the powers conferred by statute, but subject to the other provisions of this Certificate of Incorporation, the Board is expressly authorized to make, alter, amend or repeal the Bylaws of the Corporation.

SIXTH: The election of directors need not be by written ballot unless the Bylaws of the Corporation shall so provide.

SEVENTH: A director of the Corporation shall not be personally liable to the 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 the Corporation or its stockholders; (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (iii) 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 hereafter amended to further reduce or to authorize, with the approval of the Corporation's stockholders, further reductions in the liability of the Corporation's directors for breach of fiduciary duty, then

a director of the Corporation shall not be liable for any such breach to the fullest extent permitted by the General Corporation Law as so amended.

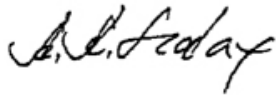
To the maximum extent permitted by applicable law, the Corporation shall provide indemnification of (and advancement of expenses to) any director, officer, employee or other Person to which Delaware law permits the Corporation to provide indemnification through bylaw provisions, agreements with any such director, officer, employee or other Persons, vote of stockholders or disinterested directors or otherwise, subject only to limits created by applicable Delaware law (statutory or non-statutory), with respect to actions for breach of duty to the Corporation, its stockholders and others.

Neither any amendment nor repeal of this Article SEVENTH, nor the adoption of any provision of this Certificate of Incorporation inconsistent with this Article SEVENTH, shall eliminate or reduce the effect of this Article SEVENTH in respect of any matter occurring, or any cause of action, suit or claim accruing or arising or that, but for this Article SEVENTH, would accrue or arise, prior to such amendment, repeal or adoption of an inconsistent provision.

EIGHTH: Except as provided in Article SEVENTH, the Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

SIGNATURE ON NEXT PAGE

IN WITNESS WHEREOF, Genelux Corporation has caused this Seventh Amended and Restated Certificate of Incorporation to be signed by its President on this 14th day of March, 2012.



Dr. Aladar A. Szalay, President

GENELUX CORPORATION

FIRST AMENDED AND RESTATED BYLAWS OF THE CORPORATION

ARTICLE I - OFFICES

Section 1. The registered office of the corporation in the State of Delaware shall be at 30 Old Rudnick Lane, Suite 100, in the City of Dover, County of Kent.

The registered agent in charge thereof shall be LEXIS Document Services, Inc., 30 Old Rudnick Lane, Suite 100, Dover, Delaware 19901.

Section 2. The corporation may also have offices at such other places as the Board of Directors may from time to time appoint or the business of the corporation may require.

ARTICLE II - SEAL

Section 1. The corporate seal shall have inscribed thereon the name of the corporation, the year of its organization and the words “Corporate Seal, Delaware”.

ARTICLE III - STOCKHOLDERS’ MEETINGS

Section 1. Meetings of stockholders shall be held at the registered office of the corporation in this state or at such place, either within or without this state, as may be selected from time to time by the Board of Directors.

Section 2. ANNUAL MEETINGS: The annual meetings of the stockholders shall be held on the second Tuesday of June in each year if not a legal holiday, and if a legal holiday, then on the next secular day following at 10:00 AM, when they shall elect a Board of Directors and transact such other business as may properly be brought before the meeting. If the annual meeting

for election of directors is not held on the date designated therefor, the directors shall cause the meeting to be held as soon thereafter as convenient.

Section 3. ELECTION OF DIRECTORS: Elections of the directors of the corporation shall be by written ballot.

Section 4. SPECIAL MEETINGS: Special meetings of the stockholders may be called at any time by the President, or the Board of Directors, or stockholders entitled to cast at least one-fifth of the votes which all stockholders are entitled to cast at the particular meeting. At any time, upon written request of any person or persons who have duly called a special meeting, it shall be the duty of the Secretary to fix the date of the meeting, to be held not more than sixty days after receipt of the request, and to give due notice thereof. If the Secretary shall neglect or refuse to fix the date of the meeting and give notice thereof, the person or persons calling the meeting may do so.

Business transacted at all special meetings shall be confined to the objects stated in the call and matters germane thereto, unless all stockholders entitled to vote are present and consent.

Written notice of a special meeting of stockholders stating the time and place and object thereof, shall be given to each stockholder entitled to vote thereat at least ten days before such meeting, unless a greater period of notice is required by statute in a particular case.

Section 5. QUORUM: A majority of the outstanding shares of the corporation entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of stockholders. If less than a majority of the outstanding shares entitled to vote is represented at a meeting, a majority of the shares so represented may adjourn the meeting from time to time without further

notice. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally noticed. The stockholders present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum.

Section 6. 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 him by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period.

A duly executed proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. A proxy may be made irrevocable regardless of whether the interest with which it is coupled is an interest in the stock itself or an interest in the corporation generally. All proxies shall be filed with the Secretary of the meeting before being voted upon.

Section 7. NOTICE OF 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, date and hour of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called.

Unless otherwise provided by law, written notice of any meeting shall be given not less than ten nor more than sixty days before the date of the meeting to each stockholder entitled to vote at such meeting.

Section 8. CONSENT IN LIEU OF MEETINGS: Any action required to be taken at any annual or special meeting of stockholders of the 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 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. 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.

Section 9. LIST OF STOCKHOLDERS: The officer who has charge of the stock ledger of the corporation 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, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. No share of stock upon which any installment is due and unpaid shall be voted at any meeting. The list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten days prior to the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not so specified, at the place where the meeting is to be held. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present.

ARTICLE IV - DIRECTORS

Section 1. The business and affairs of this corporation shall be managed by its Board of Directors, which number shall be greater than three (3) but not greater than seven (7) in number. Directors need not be residents of this state or stockholders in the corporation. They shall be elected by the stockholders at the annual meeting of the stockholders of the corporation, and each director shall be elected for the term of one (1) year, and until his successor shall be elected and shall qualify or until his earlier resignation or removal.

Section 2. REGULAR MEETINGS: Regular meetings of the Board shall be held without notice at the registered office of the corporation, or at such other time and place as shall be determined by the Board.

Section 3. SPECIAL MEETINGS: Special meetings of the Board may be called by the Chairman of the Board or the President, acting alone, or by the joint request of at least three (3) Directors, in each case with twenty-four (24) hours notice in advance, if in the good-faith discretion of the Chairman of the Board, an exigency requiring immediate action is required. Notice of a special meeting shall be sent to each director, either personally, by mail, e-mail or facsimile.

Section 4. QUORUM: A majority of the duly elected number of Directors constitutes a quorum of the Board for the transaction of business, except to adjourn a meeting as hereinafter provided or to solely challenge the validity of a Notice of a special meeting of the Board of Directors. Any Director who participates in any manner in a called special meeting of the Board. of Directors, and who engages in any discussion other than specifically and solely to challenge the validity of the Notice sent to Directors in respect of such special meeting, shall thereafter be deemed to have waived any deficiency in such Notice and to have attended the meeting for the

purpose of conducting business, and shall be counted for purposes of establishing a quorum thereat. Every act or decision done or made by a majority of the Directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board, unless a greater number be required by law or by the Certificate of Incorporation. 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 such meeting.

Section 5. CONSENT IN LIEU OF MEETING: Any action required or permitted to be taken at any meeting of the Board of Directors, 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, and the writing or writings are filed with the minutes of proceedings of the Board or committee. The Board of Directors may hold its meetings, and have an office or offices, outside of this state.

Section 6. CONFERENCE TELEPHONE: One or more directors may participate in a meeting of the Board, of a committee of the Board or of the stockholders, by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other; participation in this manner shall constitute presence in person at such meeting.

Section 7. COMPENSATION: Directors as such, shall not receive any stated salary for their services, but by resolution of the Board, a fixed sum and expenses of attendance, if any, may be allowed for attendance at each regular or special meeting of the Board PROVIDED, that nothing herein contained shall be construed to preclude any director from serving the corporation in any other capacity and receiving compensation therefor.

Section 8. REMOVAL: Any director or the entire Board of Directors 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, except that when cumulative voting is permitted, if less than the entire Board is to be removed, no director may be removed without cause if the votes cast against his removal would be sufficient to elect him if then cumulatively voted at an election of the entire Board of Directors, or, if there be classes of directors, at an election of the class of directors of which he is a part.

ARTICLE V - OFFICERS

Section 1. The executive officers of the corporation shall be chosen by the directors and shall be a President, Secretary and Treasurer. The Board of Directors may also choose a Chairman, one or more Vice Presidents and such other officers as it shall deem necessary. Any number of offices may be held by the same person.

Section 2. SALARIES: Salaries of all officers and agents of the corporation shall be fixed by the Board of Directors.

Section 3. TERM OF OFFICE: The officers of the corporation shall hold office for one year and until their successors are chosen and have qualified. Any officer or agent elected or appointed by the Board may be removed by the Board of Directors whenever in its judgment the best interest of the corporation will be sewed thereby.

Section 4. PRESIDENT: The President shall be the chief executive officer of the corporation; he shall preside at all meetings of the stockholders and directors; he shall have general and active management of the business of the corporation, shall see that all orders and resolutions of the Board are carried into effect, subject, however, to the right of the directors to delegate any

specific powers, except such as may be by statute exclusively conferred on the President, to any other officer or officers of the corporation. He shall execute bonds, mortgages and other contracts requiring a seal, under the seal of the corporation. He shall be EX-OFFICIO a member of all committees, and shall have the general power and duties of supervision and management usually vested in the office of President of a corporation.

Section 5. SECRETARY: The Secretary shall attend all sessions of the Board and all meetings of the stockholders and act as clerk thereof, and record all the votes of the corporation and the minutes of all its transactions in a book to be kept for that purpose, and shall perform like duties for all committees of the Board of Directors when required. He shall give, or cause to be given, notice of all meetings of the stockholders and of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors or President, and under whose supervision he shall be. He shall keep in safe custody the corporate seal of the corporation, and when authorized by the Board, affix the same to any instrument requiring it.

Section 6. TREASURER: The Treasurer shall have custody of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the corporation, and shall keep the moneys of the corporation in a separate account to the credit of the corporation. He shall disburse the funds of the corporation as may be ordered by the Board, taking proper vouchers for such disbursements, and shall render to the President and directors, at the regular meetings of the Board, or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the corporation.

ARTICLE VI - VACANCIES

Section 1. Any vacancy occurring in any office of the corporation by death, resignation, removal or otherwise, shall be filled by the Board of Directors, Vacancies and newly created directorships resulting from any increase in the authorized number of directors may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director. If at any time, by reason of death or resignation or other cause, the corporation 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 these By- Laws.

Section 2. RESIGNATIONS EFFECTIVE AT FUTURE DATE: When one or more directors shall 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.

ARTICLE VII - CORPORATE RECORDS

Section 1. Any stockholder of record, in person or by attorney or other agent, shall, upon written demand under oath stating the purpose thereof, have the right during the usual hours for business to inspect for any proper purpose the corporation’s stock ledger, a list of its stockholders, and its other books and records, and to make copies or extracts therefrom. A proper purpose shall mean a purpose reasonably related to such person’s interest as a stockholder. In every instance where an attorney or other agent shall be the person who seeks the right to inspection, the demand under oath shall be accompanied by a power of attorney or such other writing which authorizes the attorney or other agent to so act on behalf of the stockholder. The demand under

oath shall be directed to the corporation at its registered office in this state or at its principal place of business.

ARTICLE VIII - STOCK CERTIFICATES, DIVIDENDS, ETC.

Section 1. The stock certificates of the corporation shall be numbered and registered in the share ledger and transfer books of the corporation as they are issued. They shall bear the corporate seal and shall be signed by the President and Secretary.

Section 2. TRANSFERS: Transfers of shares shall be made on the books of the corporation upon surrender of the certificates therefor, endorsed by the person named in the certificate or by attorney, lawfully constituted in writing. No transfer shall be made which is inconsistent with law.

Section 3. LOST CERTIFICATE: The corporation may issue a new certificate of stock in the place of any certificate theretofore signed by it, alleged to have been lost, stolen or destroyed, and the corporation may require the owner of the lost, stolen or destroyed certificate, or his legal representative to give the corporation 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.

Section 4. RECORD DATE: In order that the corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or to express consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or 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 of Directors may fix, in advance, a record date, which shall not be more

than sixty nor less than ten days before the date of such meeting, nor more than sixty days prior to any other action.

If no record date is fixed:

(a) The record date for determining stockholders entitled to notice of or 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.

(b) The record date for determining stockholders entitled to express consent to corporate action in writing without a meeting, when no prior action by the Board of Directors is necessary, shall be the day on which the first written consent is expressed.

(c) The record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

(d) 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 of Directors may fix a new record date for the adjourned meeting.

Section 5. DIVIDENDS: The Board of Directors may declare and pay dividends upon the outstanding shares of the corporation, from time to time and to such extent as they deem advisable, in the manner and upon the terms and conditions provided by statute and the Certificate of Incorporation.

Section 6. RESERVES: Before payment of any dividend there may be set. aside out of the net profits of the corporation such sum or sums as the directors, from time to time, in their absolute discretion, think proper as a reserve fund to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the corporation, or for such other purpose as the directors shall think conducive to the interests of the corporation, and the directors may abolish any such reserve in the manner in which it was created.

ARTICLE IX - MISCELLANEOUS PROVISIONS

Section 1. CHECKS: All checks or demands for money and notes of the corporation shall be signed by such officer or officers as the Board of Directors may from time to time designate.

Section 2. FISCAL YEAR: The fiscal year shall begin on the first day of January.

Section 3. NOTICE: Whenever written notice is required to be given to any person, it may be given to such person, either personally or by sending a copy thereof through the mail, or by telegram, charges prepaid, to his address appearing on the books of the corporation, or supplied by him to the corporation for the purpose of notice. If the notice is sent by mail or by telegraph, it shall be deemed to have been given to the person entitled thereto when deposited in the United States mail or with a telegraph office for transmission to such person. Such notice shall specify the place, day and hour of the meeting and, in the case of a special meeting of stockholders, the general nature of the business to be transacted.

Section 4. WAIVER OF NOTICE: Whenever any written notice is required by statute, or by the Certificate or the By-Laws of this corporation a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be

deemed equivalent to the giving of such notice. Except in the case of a special meeting of stockholders, neither the business to be transacted at nor the purpose of the meeting need be specified in the waiver of notice of such meeting. Attendance of a person either in person or by proxy, at any meeting shall constitute a waiver of notice of such meeting, except where a person attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called or convened.

Section 5. DISALLOWED COMPENSATION: Any payments made to an officer or employee of the corporation such as a salary, commission, bonus, interest, rent, travel or entertainment expense incurred by him, which shall be disallowed in whole or in part as a deductible expense by the Internal Revenue Service, shall be reimbursed by such officer or employee to the corporation to the full extent of such disallowance. It shall be the duty of the directors, as a Board, to enforce payment of each such amount disallowed. In lieu of payment by the officer or employee, subject to the determination of the directors, proportionate amounts may be withheld from his future compensation payments until the amount owed to the corporation has been recovered.

Section 6. RESIGNATIONS: Any director or other officer may resign at any time, such resignation to be in writing and to take effect from the time of its receipt by the corporation, unless some time be fixed in the resignation and then from that date. The acceptance of a resignation shall not be required to make it effective.

ARTICLE X - ANNUAL STATEMENT

Section 1. The President and the Board of Directors shall present at each annual meeting a full and complete statement of the business and affairs of the corporation for the

preceding year. Such statement shall be prepared and presented in whatever manner the Board of Directors shall deem advisable and need not be verified by a Certified Public Accountant.

ARTICLE XI - INDEMNIFICATION AND INSURANCE

Section 1. (a) RIGHT TO INDEMNIFICATION: Each person who was or is made a party or is threatened to be made a party or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he or she, or a person of whom he or she is the legal representative, is or was a director or officer, of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the basis of suck proceeding is alleged action in an official capacity as a director, officer, employee or agent or in any other capacity while, serving as a director, officer, employee or agent, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the Delaware General Corporation Law, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than said law permitted the Corporation to provide prior to such amendment), against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of his or her heirs, executors and administrators; provided, however, that, except as provided in paragraph (b) hereof, the Corporation shall indemnify any such person seeking indemnification in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or

part thereof) was authorized by the Board of Directors of the Corporation. The right to indemnification conferred in this Section shall be a contract' right and shall include the right to be paid by the Corporation the expenses incurred in defending any such proceeding in advance of its final disposition: provided, however, that, if the Delaware General Corporation Law requires, the payment of such expenses incurred by a director or officer in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such person while a director or officer, including, without limitation, service to an employee benefit plan) in advance of the final disposition of a proceeding, shall be made only upon delivery to the corporation of an undertaking, by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined that such director or officer is not entitled to be indemnified under this Section or otherwise. The Corporation may, by action of its Board of Directors, provide indemnification to employees and agents of the Corporation with the same scope and effect as the foregoing indemnification of directors and officers.

(b) RIGHT OF CLAIMANT TO BRING SUIT: If a claim under paragraph (a) of this Section is not paid in full by the Corporation within thirty days after a written claim has been received by the Corporation, the claimant may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the Corporation) that the claimant has not met the standards of conduct which make it permissible under the Delaware General Corporation law for the Corporation to indemnify

the claimant for the amount claimed, but the burden of proving such defense shall be on the Corporation. Neither the failure of the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the Delaware General or its stockholders) that the claimant has not met such applicable standard or conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard or conduct.

(c) Notwithstanding any limitation to the contrary contained in sub-paragraphs (a) and (b) of this section, the corporation shall, to the fullest extent permitted by Section 145 of the General Corporation Law of the State of Delaware, as the same may be amended and supplemented, indemnify any and all persons whom it shall have power to indemnify under said section from and against any and all of the expenses, liabilities or other matters referred to in or covered by said section, and the indemnification provided for herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any By-law, agreement, vote of stockholders or disinterested Directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

(d) INSURANCE: The Corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any such expense,

liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the Delaware General Corporation Law.

ARTICLE XII - AMENDMENTS

Section 1. These By-Laws may be amended or repealed by the vote of stockholders entitled to cast at least a majority of the votes which all stockholders are entitled to cast thereon, at any regular or special meeting of the stockholders, duly convened after notice to the stockholders of that purpose.

CERTIFICATE OF SECRETARY

I, the undersigned, do hereby certify:

(1) That I am the duly elected Secretary of Genelux Corporation, a Delaware corporation; and

(2) That the foregoing First Amended and Restated Bylaws constitute the bylaws of said corporation as duly adopted at a Special Meeting of the Board of Directors duly called and held on October 22, 2007.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 22 of October, 2007.

/s/ James Chang
James Chang, Esq.
Secretary

GENELUX CORPORATION

INVESTOR RIGHTS AGREEMENT

This INVESTOR RIGHTS AGREEMENT (this "**Agreement**") is made as of January 8, 2010 by and among Genelux Corporation, a Delaware corporation (the "**Company**"), Abbott Laboratories, an Illinois corporation ("**Abbott**"), and Dr. Szalay (the "**Founder**").

RECITALS

To induce Abbott to purchase the Series I Preferred Stock pursuant to the terms of that certain Series I Preferred Stock Purchase Agreement of even date herewith (the "**Purchase Agreement**"), the Company and the Founder, have agreed to enter into this Agreement.

The obligations of the Company and Abbott in the Purchase Agreement are conditioned, among other things, upon the execution and delivery of this Agreement by the Company and the Founder.

NOW THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, the parties agree as follows:

AGREEMENT

1. DEFINITIONS

1.1 Certain Definitions. As used in this Agreement, the following terms shall have the following respective meanings:

"**Capital Stock**" means (a) shares of Common Stock and Preferred Stock (whether now outstanding or hereafter issued in any context), (b) shares of Common Stock issued or issuable upon conversion of Preferred Stock and (c) shares of Common Stock issued or issuable upon exercise or conversion, as applicable, of stock options, warrants or other convertible securities of the Company, in each case now owned or subsequently acquired by any party hereto, or its respective successors or permitted transferees or assigns. For purposes of the number of shares of Capital Stock held by a party to this agreement (or any other calculation based thereon), all shares of Preferred Stock shall be deemed to have been converted into Common Stock at the then-applicable conversion ratio.

"**Commission**" shall mean the Securities and Exchange Commission or any other federal agency at the time administering the Securities Act.

"**Exchange Act**" shall mean the Securities Exchange Act of 1934, as amended, or any similar federal statute and the rules and regulations of the Commission thereunder, all as the same shall be in effect at that time.

"**Holder**" shall mean, for purposes of Section 3, Abbott and each other investor in the Company holding Registrable Securities, and any person holding such securities to whom the rights under Section 3 have been transferred in accordance with Section 3.10 hereof.

"**Other Selling Stockholders**" shall mean persons other than Holders who, by virtue of agreements with the Company, are entitled to include their Other Shares (as defined below) in certain registrations hereunder.

"**Other Shares**" shall mean shares of Common Stock, other than Registrable Securities (as defined below), with respect to which registration rights have been granted.

"**Preferred Stock**" means any series of the Company's Preferred Stock.

"**register,**" "**registered**" and "**registration**" refer to a registration effected by preparing and filing a registration statement in compliance with the Securities Act, and the declaration or ordering of the effectiveness of such registration statement.

"**Registrable Securities**" means (i) shares of the Company's Common Stock issuable or issued upon conversion of the Preferred Stock; (ii) any Common Stock of the Company or other securities issuable or issued in respect of the shares of Preferred Stock; and (iii) shares of the Company's Common Stock or other securities issuable or issued upon any conversion of the Preferred Stock or in respect of such shares upon any stock split, stock dividend, recapitalization, or similar event; provided, however, that shares of Common Stock or other securities shall only be treated as Registrable Securities (A) if and so long as they have not been sold to or through a broker or dealer or underwriter in a public distribution or a public securities transaction, or (B) prior to the date such securities have been sold in a transaction exempt from the prospectus delivery requirements of the Securities Act. A

"**Registration Expenses**" shall mean all expenses, exclusive of underwriting discounts or commissions and except as otherwise stated below, incurred by the Company in complying with Section 3 hereof, including, without limitation, all registration, qualification and filing fees, printing expenses, accounting fees, escrow fees, fees and disbursements of counsel for the Company, blue sky fees and expenses, the expense of any regular or special audits incident to or required by any such registration (but excluding the compensation of regular employees of the Company which shall be paid in any event by the Company), and the reasonable fees and disbursements of one special counsel for Abbott.

"**Restricted Securities**" shall mean the securities of the Company required to bear a legend indicating that transfer is restricted in the absence of registration.

"**Securities Act**" shall mean the Securities Act of 1933, as amended, or any similar successor federal statute and the rules and regulations of the Commission thereunder, all as the same shall be in effect at the time.

"**Selling Expenses**" shall mean all underwriting discounts, selling commissions and stock transfer taxes applicable to the sale of Registrable Securities and fees and disbursements of counsel for any Holder (other than the reasonable fees and disbursements of one special counsel to Abbott included in the Registration Expenses).

"**Transfer**" means any assignment, sale, offer to sell, pledge, mortgage, hypothecation, encumbrance, disposition of or any other like transfer or encumbering of any Capital Stock (or any interest therein).

2. INFORMATION RIGHTS

2.1 Financial Information. The Company will provide Abbott the following information:

(a) as soon as practicable, but in any event within one hundred eighty (180) days after the end of each fiscal year of the Company, a balance sheet, and statements of operations and cash flow for such fiscal year for the Company. Such year-end financial reports shall be in reasonable detail, shall be prepared in accordance with generally accepted accounting principals ("**GAAP**"), and such year-end financial reports shall be audited and certified by independent public accountants of national recognition;

(b) as soon as practicable, but in any event within forty-five (45) days of the end of each respective quarter for the Company, unaudited statements of operations and balance sheets for and as of the end of such quarter for the Company, in reasonable detail and prepared in accordance with GAAP, subject to year end audit adjustments and the absence of footnotes required by GAAP; and

(c) within thirty (30) days of the end of each respective calendar month for the Company, unaudited statements of operations and balance sheets for and as of the end of such month for the Company, in reasonable detail and prepared in accordance with GAAP, subject to year end audit adjustments and the absence of footnotes required by GAAP.

2.2 Assignment of Rights to Financial Information. The rights to receive information pursuant to Section 2.1 may be assigned to an affiliate of Abbott subject to such affiliates advance written agreement with the Company to be bound by the obligations of Section 2.4, but otherwise only upon the Company's written consent.

2.3 Access to Company Information. The Company will provide to Abbott, as requested, reasonable access to all management personnel to discuss the financial information contemplated pursuant to Section 2.1 above.

2.4 Confidentiality Agreement. Abbott and any successor or assignee thereof who receives from the Company or its agents any information which the Company has not made generally available to the public, pursuant to the preparation and execution of this Agreement or disclosure in connection therewith or pursuant to the provisions of this Section 2, acknowledges and agrees that such information is confidential to the Company, and further agrees that it will not use or disseminate such information to any person other than its accountants, affiliates, advisors or attorneys having a need to know the contents of such information for use in evaluating Abbott's investment in the Company's stock and who, in each case, are bound by obligations of confidentiality consistent herewith.

2.5 Termination of Covenants. The rights set forth in Section 2.1, 2.2 and 2.3 shall terminate and be of no further force or effect upon the earlier of (a) such time as Abbott

ceases to hold at least 50% of the shares initially purchased pursuant to the Purchase Agreement, adjusted for stock splits, recapitalizations or the like; (b) the closing of a firm commitment, underwritten, initial public offering of the Company's securities pursuant to an effective registration statement filed by the Company under the Securities Act, or on the date the Company otherwise becomes subject to the reporting requirements under Section 13 or 15(d) of the Exchange Act; or (c) a "deemed liquidation event" as defined in the Certificate of Incorporation of the Company, as may be in effect from time to time.

3. REGISTRATION RIGHTS

3.1 Requested Registration.

(a) Request for Registration. If at any time after the date that is one hundred eighty (180) days after the closing date of the first registration statement filed by the Company covering an underwritten offering of any of its securities to the general public, the Company shall receive from Abbott a written request that the Company effect any registration, qualification or compliance with respect to shares of Registrable Securities, the Company will (i) within thirty (30) days of the receipt by the Company of such notice, give written notice of the proposed registration, qualification or compliance to all other Holders and (ii) as soon as practicable, use its best efforts to effect such registration, qualification or compliance (including, without limitation, appropriate qualification under applicable blue sky or other state securities laws and appropriate compliance with applicable regulations issued under the Securities Act and any other governmental requirements or regulations) as may be so requested and as would permit or facilitate the sale and distribution of all or such portion of such Registrable Securities as are specified in such request, together with all or such portion of the Registrable Securities of any Holder joining in such request as are specified in a written request received by the Company within twenty (20) days after receipt of such written notice from the Company; provided, however, that the Company shall not be obligated to take any action to effect any such registration, qualification or compliance pursuant to this Section 3.1(a):

(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, qualification or compliance unless the Company is already subject to service in such jurisdiction and except as may be required by the Securities Act;

(ii) if Abbott, together with the holders of any other securities of the Company entitled to inclusion in such registration statement, propose to sell Registrable Securities and such other securities (if any) and the aggregate proceeds of which (after deduction for underwriting discounts and commissions related to the issuance) are less than $5,000,000;

(iii) during the period starting with the date sixty (60) days prior to the Company's estimated date of filing of, and ending on the date one hundred eighty (180) days immediately following the effective date of, any registration statement pertaining to securities of the Company (other than with respect to (A) a registration of securities in a Rule 145 transaction, (B) an employee benefit plan or (C) the Company's first registered public offering of its stock); provided that the Company is actively employing in good faith all reasonable efforts to cause such registration statement to become effective;

(iv) after the Company has initiated two (2) registrations pursuant to this Section 3.1(a) which are each registrations requested by Abbott; or

(v) the Company furnishes to Abbott a certificate signed by the President of the Company stating that in the good faith judgment of the Board of Directors it would be detrimental to the Company or its shareholders for a registration statement (A) to be filed on or before the date such filing would otherwise be required hereunder, (B) to become effective, or (C) to remain effective as long as such registration statement would otherwise be required to remain effective because such action (x) would materially interfere with a significant acquisition, corporate reorganization or other similar transaction involving the Company, (y) would require premature disclosure of material information that the Company has a bona fide business purpose for preserving as confidential or (z) would render the Company unable to comply with requirements of the Commission, the Company shall have the right, but not more than once in any 12-month period, to defer such filing or effectiveness or to suspend such effectiveness for such period as may be reasonably necessary (which period shall not, in any event, exceed one hundred twenty (120) days); provided, however, that if the effectiveness of a registration statement is suspended pursuant to this provision, the period of such suspension shall be added to the end of the period that such registration statement would otherwise be required to be effective hereunder so that the aggregate number of days that such registration statement is required to remain effective hereunder shall remain unchanged.

(b) Other Shares. The registration statement filed pursuant to the request of Abbott may, subject to the provisions of Section 3.1(c), include Other Shares, and may include securities of the Company being sold for the account of the Company.

(c) Underwriting. If Abbott intends to distribute its Registrable Securities covered by its request by means of a registered public offering involving an underwriting, Abbott shall so advise the Company and the Company shall so advise the other Holders as part of the notice given pursuant to Section 3.1(a). In such event, the right of any Holder to registration pursuant to this Section 3.1 shall be conditioned upon such Holder's participation in the underwriting arrangements required by this Section 3.1, and the inclusion of such Holder's Registrable Securities in the underwriting to the extent requested shall be limited to the extent provided herein. If the Company shall request inclusion in any registration pursuant to Section 3.1 of securities being sold for its own account, or if other persons shall request inclusion in any registration pursuant to Section 3.1, Abbott shall, on behalf of all Holders, offer to include such securities in the underwriting and such offer shall be conditioned upon the participation of the Company or such other persons in such underwriting and the inclusion of the Company's and such person's other securities of the Company and their acceptance of the further applicable provisions of this Section 3 (including Section 3.11).

The Company shall (together with all Holders proposing to distribute their securities through such underwriting) enter into an underwriting agreement in customary form with the managing underwriter selected for such underwriting by the Company and reasonably acceptable to Abbott. Notwithstanding any other provision of this Section 3.1, if the managing underwriter advises Abbott and the Company in writing that marketing factors require a limitation of the number of shares to be underwritten, then the Company shall so advise all Holders of Registrable Securities and Other Shares and the number of shares of Registrable Securities and Other Shares

that may be included in the registration and underwriting shall be allocated as follows: (i) first, to Abbott; (ii) second, among all other Holders thereof in proportion, as nearly as practicable, to the respective amounts of Registrable Securities held by such Holders at the time of filing the registration statement; (iii) third, to Other Selling Stockholders; and (iv) fourth, to the Company, which the Company may allocate, at its discretion, for its own account, or for the account of other holders or employees of the Company; provided, however, that shares to be registered and held by persons other than the Holders and shares to be registered and offered by the Company shall be excluded entirely before any Registrable Securities shall be limited hereunder. No Registrable Securities excluded from the underwriting by reason of the underwriter's marketing limitation shall be included in such registration. To facilitate the allocation of shares in accordance with the above provisions, the Company or the underwriters may round the number of shares allocated to any Holder to the nearest 100 shares.

If any Holder of Registrable Securities or Other Selling Stockholder disapproves of the terms of the underwriting, such Holder or Other Selling Stockholder may elect to withdraw therefrom by written notice to the Company, the managing underwriter and the other Holders and Other Selling Stockholder. The Registrable Securities, Other Shares and/or other securities so withdrawn shall also be withdrawn from registration

3.2 Company Registration.

(a) Notice of Registration. If at any time or from time to time the Company shall determine to register any of its securities, either for its own account or the account of a security holder or holders, other than (i) a registration relating solely to employee benefit plans, (ii) a registration relating solely to a Rule 145 transaction, (iii) a registration pursuant to Section 3.1 or 3.3 hereof, (iv) the initial public offering of the Company's securities pursuant to an effective registration statement filed by the Company under the Securities Act or (v) a registration statement on Form S-4 (or any successor form to Form S-4), or any similar short-form registration statement, the Company will:

(i) promptly give to each Holder written notice thereof; and

(ii) include in such registration (and any related qualification under blue sky laws or other compliance), and in any underwriting involved therein, all the Registrable Securities specified in a written request or requests made within ten (10) days after receipt of such written notice from the Company, by any Holder.

(b) Underwriting. If the registration of which the Company gives notice is for a registered public offering involving an underwriting, the Company shall so advise the Holders as a part of the written notice given pursuant to Section 3.2(a). In such event the right of any Holder to registration pursuant to Section 3.2 shall be conditioned upon such Holder's participation in such underwriting and the inclusion of Registrable Securities in the underwriting to the extent provided herein. All Holders proposing to distribute their securities through such underwriting shall (together with the Company) enter into an underwriting agreement in customary form with the managing underwriter selected for such underwriting by the Company. Notwithstanding any other provision of this Section 3.2, if the managing underwriter or the Company determines that marketing factors require a limitation of the number of shares to be

underwritten, the managing underwriter may limit the Registrable Securities and other securities to be distributed through such underwriting. If the Company or underwriter limits the number of Registrable Securities from such registration but does not exclude such Registrable Securities entirely, the Company shall so advise all Holders distributing their securities through such underwriting of such limitation and the number of shares of Registrable Securities that may be included in the registration and underwriting shall be allocated among all Holders in proportion, as nearly as practicable, to the respective amounts of Registrable Securities held by such Holders at the time of filing the registration statement. To facilitate the allocation of shares in accordance with the above provisions, the Company may round the number of shares allocated to any Holder to the nearest 100 shares. If any Holder disapproves of the terms of any such underwriting, such Holder may elect to withdraw therefrom by written notice to the Company and the managing underwriter. Any securities excluded or withdrawn from such underwriting shall be withdrawn from such registration. In no event, shall the shares of Registrable Securities to be included in the offering pursuant to this Section 3.2 be reduced below twenty-five percent (25%) of the total amount of securities included in such offering.

(c) Right to Terminate Registration. The Company shall have the right to terminate or withdraw any registration initiated by it under this Section 3.2 prior to the effectiveness of such registration whether or not any Holder has elected to include securities in such registration. The Registration Expenses of such withdrawn registration shall be borne by the Company in accordance with Section 3.4 hereof.

3.3 Registration on Form S-3.

(a) After twelve (12) months following the initial public offering of the Company's securities pursuant to an effective registration statement filed by the Company under the Securities Act, if the Company receives from Abbott a written request that the Company file a registration statement on Form S-3 (or any successor form to Form S-3), or any similar short-form registration statement, for a public offering of Registrable Securities, the reasonably anticipated gross proceeds to the Company would exceed $1,000,000 and the Company is a registrant entitled to use Form S-3 to register the Registrable Securities for such an offering, the Company shall (i) within ten (10) days of the receipt by the Company of such notice, give written notice of such proposed registration to all other Holders and (ii) as soon as practicable, shall use its best efforts to cause such Registrable Securities to be registered on such form for the offering and to cause such Registrable Securities to be qualified in such jurisdictions as the Holders may reasonably request together with all or such portion of Registrable Securities of any Holders joining in such request as are specified in a written request received by the Company within twenty (20) days after receipt of such written notice from the Company; provided, however, that the Company shall not be required to effect more than two such registrations pursuant to this Section 3.3 in any twelve (12) month period. After the Company's first public offering of its securities, the Company will use its best efforts to qualify for and remain eligible to use Form S-3 registration or a similar short-form registration. The provisions of Section 3.1(c) shall be applicable to each registration initiated under this Section 3.3.

(b) Notwithstanding the foregoing, the Company shall not be obligated to take any action pursuant to this Section 3.3:

(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, qualification or compliance unless the Company is already subject to service in such jurisdiction and except as may be required by the Securities Act;

(ii) during the period starting with the date sixty (60) days prior to the Company's estimated date of filing of, and ending on the date one hundred eighty (180) days immediately following, the effective date of any registration statement pertaining to securities of the Company (other than a registration of securities in a Rule 145 transaction or with respect to an employee benefit plan); provided that the Company is actively employing in good faith all reasonable efforts to cause such registration statement to become effective; or

(iii) if the Company shall furnish to such Holder a certificate signed by the President of the Company stating that in the good faith judgment of the Board of Directors it would be seriously detrimental to the Company or its shareholders for registration statements (A) to be filed on or before the date such filing would otherwise be required hereunder, (B) to become effective, or (C) to remain effective as long as such registration statement would otherwise be required to remain effective because such action (x) would materially interfere with a significant acquisition, corporate reorganization or other similar transaction involving the Company, (y) would require premature disclosure of material information that the Company has a bona fide business purpose for preserving as confidential or (z) would render the Company unable to comply with requirements of the Commission, the Company shall have the right, but not more than once in any twelve (12) month period, to defer such filing or effectiveness or to suspend such effectiveness for such period as may be reasonably necessary (which period shall not, in any event, exceed one hundred twenty (120) days); provided, however, that if the effectiveness of a registration statement is suspended pursuant to this provision, the period of such suspension shall be added to the end of the period that such registration statement would otherwise be required to be effective hereunder so that the aggregate number of days that such registration statement is required to remain effective hereunder shall remain unchanged.

3.4 Expenses of Registration. All Registration Expenses incurred in connection with all requested registrations pursuant to Sections 3.1, 3.2 and 3.3 shall be borne by the Company; provided, however, that the Company shall not be required to pay for any expenses of any registration proceeding begun pursuant to Sections 3.1 and 3.3 if the registration request is subsequently withdrawn at the request of the Holders of a majority of the Registrable Securities to be registered or because a sufficient number of Holders shall have withdrawn so that the minimum offering conditions set forth in Sections 3.1 and 3.3 are no longer satisfied (in which case all participating Holders shall bear such expenses pro rata among each other based on the number of Registrable Securities requested to be so registered). Notwithstanding the foregoing, if at the time of such withdrawal, (a) Abbott learned of a material adverse change in the condition, business or prospects of the Company from that known to Abbott at the time of its request for such registration and Abbott has withdrawn its request for registration with reasonable promptness after learning of such material adverse change, or (b) the holders of the Registrable Securities requested to be included in such withdrawn registration have elected to reimburse the Company for all reasonable

expenses associated with such withdrawn registration, then the Holders shall not be required to pay any of such expenses. All Selling Expenses relating to securities registered on behalf of the Holders shall be borne by the holders of securities included in such registration, pro rata on the basis of the number of shares so registered.

3.5 Registration Procedures. In the case of each registration, qualification or compliance effected by the Company pursuant to this Section 3, the Company will keep each Holder advised in writing as to the initiation of each registration, qualification and compliance and as to the completion thereof. At its expense the Company will:

(a) prepare and file with the Commission a registration statement with respect to such securities and use its best efforts to cause such registration statement to become and remain effective for at least one hundred and twenty (120) days or until the distribution described in the registration statement has been completed;

(b) prepare and file with the Commission such amendments and supplements to such registration statement and the prospectus used in connection with such registration statement as may be necessary to comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such registration statement;

(c) furnish to the Holders participating in such registration and to the underwriters of the securities being registered such reasonable number of copies of the registration statement, preliminary prospectus, final prospectus and such other documents as such underwriters may reasonably request in order to facilitate the public offering of such securities;

(d) use its best efforts to register and qualify the securities covered by such registration statement under such other securities or blue sky laws of such jurisdictions as shall be reasonably requested by the Holders; provided that the Company shall not be required in connection therewith or as a condition thereto to qualify to do business or to file a general consent to service of process in any such states or jurisdictions, unless the Company is already subject to service in such jurisdiction and except as may be required by the Securities Act;

(e) notify each Holder of Registrable Securities covered by such registration statement at any time when a prospectus relating thereto is required to be delivered under the Securities Act of the happening of any event as a result of which the prospectus included in such registration statement, as then in effect, includes an untrue statement of material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading in the light of the circumstances then existing;

(f) cause such Registrable Securities registered pursuant hereunder to be listed on each securities exchange on which similar securities issued by the Company are then listed or quoted on each automated quotation system on which similar securities issued by the Company are then quoted;

(g) provide a transfer agent and registrar for all Registrable Securities registered pursuant hereunder and a CUSIP number for all such Registrable Securities, in each case not later than the effective date of such registration;

(h) in the event of any underwritten public offering, cooperate with the underwriters participating in the offering and their counsel in any due diligence investigation reasonably requested by the underwriters in connection therewith, and participate, to the extent reasonably requested by the managing underwriter for the offering, in efforts to sell the Registrable Securities under the offering (including, without limitation, participating in "roadshow" meetings with prospective investors) that would be customary for underwritten primary offerings of a comparable amount of equity securities by the Company; and

(i) in the event of any underwritten public offering, use its reasonable best efforts to (i) cause its accountants to deliver to the underwriters a comfort letter, and (ii) cause its attorneys to deliver to the underwriters a legal opinion with respect to the validity of the shares being sold in such offering, in each case in form and substance similar to those customarily delivered in similar public offerings.

3.6 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 3.

3.7 Indemnification. In the event any Registrable Securities are included in a registration statement under this Section 3:

(a) To the extent permitted by law, the Company will indemnify each selling Holder, each of its officers, directors, partners, legal counsel and accountants, and each person controlling such Holder within the meaning of Section 15 of the Securities Act, with respect to which registration, qualification or compliance has been effected pursuant to this Section 3, and each underwriter, if any, and each person who controls any underwriter within the meaning of Section 15 of the Securities Act, against all expenses, claims, losses, damages or liabilities (or actions in respect thereof), including any of the foregoing incurred in settlement of any litigation, commenced or threatened, arising out of or based on any untrue statement (or alleged untrue statement) of a material fact contained in any registration statement, prospectus, offering circular or other document, or any amendment or supplement thereto, incident to any such registration, qualification or compliance, or based on any omission (or alleged omission) to state therein a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading, or any violation by the Company of the Securities Act, the Exchange Act or other state or federal securities laws or any Rule or regulation promulgated under the Securities Act, the Exchange Act or other state or federal securities laws applicable to the Company in connection with any such registration, qualification or compliance, and the Company will reimburse, as incurred, each such Holder, each of its officers, directors, partners, and legal counsel and each person controlling such Holder, each such underwriter and each person who controls any such underwriter, for any legal and any other expenses reasonably incurred in connection with investigating, preparing or defending any such claim, loss, damage, liability or action; provided that the Company will not be liable in any such case to the extent that any such claim, loss, damage, liability or expense arises out of or is based on any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with written information furnished to the Company by such Holder, any of such Holder's officers, directors, partners, legal counsel or accountants, any person controlling such Holder, such underwriter or any person who controls any such underwriter, and stated to be

specifically for use therein; provided, further, that the indemnity agreement contained in this Section 3.7(a) shall not apply to amounts paid in settlement of any such claim, loss, damage, liability or action if such settlement is effected without the consent of the Company (which consent shall not be unreasonably withheld).

(b) To the extent permitted by law, each Holder will, severally and not jointly, if Registrable Securities held by such Holder are included in the securities as to which such registration, qualification or compliance is being effected, indemnify the Company, each of its directors, officers, and legal counsel, each underwriter, if any, of the Company's securities covered by such a registration statement, each person who controls the Company or such underwriter within the meaning of Section 15 of the Securities Act, and each other Holder, each of its officers, directors, partners and legal counsel and each person controlling such Holder within the meaning of Section 15 of the Securities Act, against all claims, losses, damages and liabilities (or actions in respect thereof) to which any of the foregoing persons may become subject under the Securities Act, Exchange Act or other federal or state securities laws arising out of or based on any untrue statement (or alleged untrue statement) of a material fact contained in any such registration statement, prospectus, offering circular or other document, or any omission (or alleged omission) to state therein a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading, and will reimburse the Company, such Holders, such directors, officers, persons, underwriters or control persons for any legal or any other expenses reasonably incurred in connection with investigating or defending any such claim, loss, damage, liability or action, in each case to the extent, but only to the extent, that such untrue statement (or alleged untrue statement) or omission (or alleged omission) is made in such registration statement, prospectus, offering circular or other document in reliance upon and in conformity with written information furnished to the Company by an instrument duly executed by such Holder and stated to be specifically for use therein; provided, further, that the indemnity agreement contained in this Section 3.7(b) shall not apply to amounts paid in settlement of any such claim, loss, damage, liability or action if such settlement is effected without the consent of such Holder (which consent shall not be unreasonably withheld). Notwithstanding the foregoing, the liability of each Holder under this Section 3.7(b) shall be limited in an amount equal to the net proceeds to each such Holder of Registrable Securities sold as contemplated herein. A Holder will not be required to enter into any agreement or undertaking in connection with any registration under this Section 3 providing for any indemnification or contribution on the part of such Holder greater than the Holder's obligations under this Section 3.7(b).

(c) Each party entitled to indemnification under this Section 3.7 (the "**Indemnified Party**") shall give notice to the party required to provide indemnification (the "**Indemnifying Party**") promptly after such Indemnified Party has actual knowledge of any claim as to which indemnity may be sought, and shall permit the Indemnifying Party to assume the defense of any such claim or any litigation resulting therefrom; provided that counsel for the Indemnifying Party, who shall conduct the defense of such claim or litigation, shall be approved by the Indemnified Party (whose approval shall not unreasonably be withheld), and the Indemnified Party may participate in such defense at such party's expense; provided, further, that the failure of any Indemnified Party to give notice as provided herein shall not relieve the Indemnifying Party of its obligations under this Section 3 unless the failure to give such notice is materially prejudicial to an Indemnifying Party's ability to defend such action; provided, further, that the Indemnifying Party shall not assume the defense for matters as to which there is a conflict

of interest or separate and different defenses but shall bear the expense of such defense nevertheless. No Indemnifying Party, in the defense of any such claim or litigation, shall, except with the consent of each Indemnified Party, consent to entry of any judgment or enter into any settlement which does not include as an unconditional t -tin 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.

(d) If the indemnification provided for in this Section 3.7 is held by a court of competent jurisdiction to be unavailable to an Indemnified Party with respect to any losses, claims, damages or liabilities referred to herein, the Indemnifying Party, in lieu of indemnifying such Indemnified Party thereunder, shall, to the extent permitted by applicable law, contribute to the amount paid or payable by such Indemnified Party as a result of such loss, claim, damage or liability in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party on the one hand and of the Indemnified Party on the other in connection with the violation(s) that resulted in such loss, claim, damage or liability, as well as any other relevant equitable considerations. The relative fault of the Indemnifying Party and of the Indemnified Party shall be determined by a court of law by reference to, among other things, whether the untrue (or alleged untrue) statement of a material fact or the omission (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; provided that in no event shall any contribution by a Holder hereunder exceed the net proceeds from the offering received by such Holder.

(e) Notwithstanding the foregoing, to the extent that the provisions on indemnification 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.

3.8 Furnish Information. It shall be a condition precedent to the obligations of the Company to take any action pursuant to this Section 3 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 required to effect the registration of such Holder's Registrable Securities.

3.9 Rule 144 Reporting. With a view to making available the benefits of certain rules and regulations of the Commission which may at any time permit the sale of the Restricted Securities to the public without registration, after such time as a public market exists for the Common Stock of the Company, the Company agrees to use its best efforts to:

(a) make and keep public information available, as those terms are defined in Rule 144 under the Securities Act, at all times after the effective date that the Company becomes subject to the reporting requirements of the Securities Act or the Exchange Act;

(b) file with the Commission in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act (at any time after it has become subject to such reporting requirements); and

(c) so long as a Holder owns any Restricted Securities, upon request, (i) a written statement by the Company as to its compliance with the reporting requirements of said Rule 144 (at any time after ninety (90) days after the effective date of the first registration statement filed by the Company for an offering of its securities to the general public), and of the Securities Act and the Exchange Act (at any time after it has become subject to such reporting requirements), (ii) a copy of the most recent annual or quarterly report of the Company and (iii) such other reports and documents of the Company and other information in the possession of or reasonably obtainable by the Company as a Holder may reasonably request in availing itself of any rule or regulation of the Commission allowing a Holder to sell any such securities without registration.

3.10 Transfer of Registration Rights. The rights of Abbott to cause the Company to register its securities and keep information available, granted to them by the Company under Section 3, may be assigned to (a) any affiliate, control person, controlled person, partner or retired partner of any holder; or (b) any family member of trust for the benefit of any individual holder.

3.11 Standoff Agreement. Abbott agrees in connection with the Company's initial public offering and any subsequent public offerings (initiated pursuant to Sections 3.1 and 3.3 hereof) of the Company's securities, upon request of the Company or the underwriters managing any underwritten offering of the Company's securities, not to sell, make any short sale of, loan, grant any option for the purchase of, or otherwise dispose of any Registrable Securities or any other shares of Common Stock or other securities of the Company now owned or hereafter acquired (other than those included in the registration or acquired after the Company's initial public offering) without the prior written consent of the Company or such underwriters, as the case may be, for such period of time (not to exceed one hundred eighty (180) days for an initial public offering or ninety (90) days for public offerings initiated pursuant to Sections 3.1 or 3.3) from the effective date of such registration. Abbott further agrees to enter into a separate agreement providing for the foregoing, as may be requested by the underwriters and on terms not less favorable than other shareholders signing similar agreements. The foregoing provisions of this Section 3.11 shall only be applicable to Abbott if all then officers and directors and each holder of securities representing 2% or more of the outstanding securities of the Company, enter into similar agreements.

3.12 Termination of Registration Rights. All registration rights granted under this Section 3 will terminate upon the earlier of (i) the fifth anniversary of the closing of the initial underwritten public offering of the Company's Common Stock pursuant to a effective registration statement filed under the Securities Act, or (ii) such date, on or after the closing of the initial public offering of the Company's Common Stock pursuant to a effective registration statement filed under the Securities Act, on which all shares of Registrable Securities held or entitled to be held upon conversion by Abbott (together with its affiliates) may immediately be sold under Rule 144 during any ninety (90)-day period (other than transfers made in accordance with Section 3.10); provided that the registration rights granted under Section 3.2 shall not terminate pursuant to clause (ii) above until such time as Abbott ceases to hold securities representing 1% or more of the outstanding securities of the Company.

4. RIGHT OF FIRST REFUSAL.

4.1 General. The Company hereby grants to Abbott a right of first refusal to purchase its pro rata share of "New Securities" (as defined in Section 4.2(a)) that the Company may, from time to time propose to sell and issue. Abbott's pro rata share, for purposes of this right of first refusal, is the ratio of (X) the number of shares of Common Stock issued or issuable upon conversion of the Preferred Stock then held by Abbott, to (Y) the total number of shares of Common Stock outstanding immediately prior to the issuances of New Securities, after giving effect to the conversion of all outstanding convertible securities (including all outstanding Preferred Stock, options and warrants, but excluding any shares reserved for issuance under the Company's incentive option plans but not subject to outstanding options) and the exercise of all outstanding warrants.

4.2 Restrictions. These rights of first refusal shall be subject to the following provisions:

(a) "**New Securities**" shall mean any Common Stock and Preferred Stock of the Company whether or not authorized on the date hereof, and rights, options, or warrants to purchase Common Stock or Preferred Stock and securities of any type whatsoever that are, or may become, convertible into Common Stock or Preferred Stock; provided, however, that the term "**New Securities**" does not include the following:

(i) shares of Common Stock, or options to purchase shares of Common Stock (including all options granted by the Company prior to the date of this Agreement), issued or granted to officers, directors, placement agents, service providers, and employees of, or consultants to, the Company (or any subsidiary) pursuant to a stock grant, employee restricted stock purchase agreement, option plan or purchase plan or other stock incentive program, arrangement or agreement approved by the Company's Board of Directors (collectively, the "**Plans**");

(ii) shares of Common Stock issuable upon conversion of the Preferred Stock;

(iii) securities of the Company offered to the public pursuant to a firm commitment underwritten public offering pursuant to a registration statement filed under the Securities Act;

(iv) securities of the Company issued pursuant to the acquisition of another corporation by the Company by merger, purchase of substantially all of the assets, or other reorganization whereby the Company will own more than fifty percent (50%) of the voting power of such other corporation or the resulting combined entity, as the case may be, after the acquisition;

(v) securities of the Company issued in connection with equipment lease financing transactions, real estate leases or bank financing transactions approved by the Board of Directors;

(vi) securities issued to corporate partners or in connection with other strategic alliances approved by the Board of Directors;

(vii) shares of Common Stock or Preferred Stock issued in connection with any stock split, stock dividend, or recapitalization by the Company;

(viii) securities issued or issuable as a dividend or distribution on Series H Preferred Stock of the Company or pursuant to any event for which a conversion or adjustment is made pursuant to Section 4.1.2 of the Fifth Amended and Restated Certificate of Incorporation of the Company, as may be amended from time to time;

(ix) any right, option or warrant to acquire any security convertible into the securities excluded from the definition of New Securities pursuant to subsections (i) through (viii) above; and

(x) securities of the Company issued pursuant to any Additional Investment, Superior Investment Offer, Inferior Investment Offer, Equivalent Investment Offer or Unsolicited Investment Offer (as such terms are defined in Section 6.1 of the Purchase Agreement).

(b) If the Company proposes to issue any New Securities, it shall give Abbott written notice of its intention, describing the New Securities, the price and the terms and conditions upon which the Company proposes to issue the same. Abbott shall have twenty (20) calendar days from the date of such notice to agree to purchase its pro rata share of the New Securities for the price and upon the terms and conditions specified in the notice by giving written notice to the Company and stating therein the quantity of New Securities to be purchased; provided, however, that Abbott shall be allowed to pay cash in an amount equal to the fair market value, as determined in good faith by the Company's Board of Directors, of any non-cash consideration to be paid to the Company as described in such notice. Notwithstanding the foregoing, the Company shall not be required to offer or sell such New Securities to Abbott if it would cause the Company to be in violation of applicable federal securities laws by virtue of such offer or sale.

(c) If Abbott fails to exercise in full the rights of first refusal, the Company shall have ninety (90) days thereafter to sell the New Securities in respect of which Abbott's rights were not exercised, at a price and upon general terms and conditions materially no more favorable to the purchasers thereof than specified in the Company's notice to Abbott pursuant this Section 4. If the Company has not sold such New Securities within ninety (90) days following the date of the notice provided pursuant to this Section 4, the Company shall not thereafter issue or sell any New Securities, without first offering such securities to the Holders in the manner provided above. The closing of such issuance or sale of New Securities shall take place at the time and in the manner provided in the notice delivered by the Company; provided, however, that such time period may be extended for purposes of obtaining necessary governmental approvals, if applicable.

(d) This right of first refusal is nonassignable except to any transferee to whom registration rights may be transferred pursuant to Section 3.10 of this Agreement.

(e) The exercise or non-exercise of the rights under this Section 4 to purchase New Securities from the Company shall not adversely affect Abbott's rights to participate in subsequent issuances of New Securities to which it may be entitled under this Section 4.

(f) The right of first refusal granted under this Agreement shall expire upon the closing of a firm commitment, underwritten, initial public offering of the Company's securities pursuant to an effective registration statement filed by the Company under the Securities Act.

5. TRANSFER RESTRICTIONS

5.1 Right of Co-Sale.

(a) Notice. Subject to the terms of Section 5.3 below, if the Founder, proposes to Transfer, in a single transaction or a series of related transactions, 50% or more of the shares of Capital Stock held by him, the Founder shall deliver a written notice (a "**Transfer Notice**") to the Company and Abbott not later than forty-five (45) days prior to the consummation of such Transfer. Such Transfer Notice shall contain the material terms and conditions (including price and form of consideration) of the proposed Transfer and the identity of the prospective transferee.

(b) Exercise of Right. Abbott may elect to exercise its right of co-sale with respect to all shares of Capital Stock held by Abbott and participate in the proposed Transfer as set forth in Section 5.1(c) below and otherwise on the same terms and conditions specified in the Transfer Notice (provided that the price set forth in the Transfer Notice shall be appropriately adjusted based on the conversion ratio of the Preferred Stock into Common Stock). If Abbott desires to exercise its right of co-sale it shall give the Company written notice to that effect within fifteen (15) days after delivery of the Transfer Notice, and upon giving such notice Abbott shall be deemed to have effectively exercised the right of co-sale.

(c) Delivery of Certificates. Abbott shall effect its participation in the proposed Transfer by delivering, no later than fifteen (15) days after its exercise of the right of co-sale, one or more stock certificates, properly endorsed for transfer to the prospective transferee, representing:

(i) the number of shares of Common Stock that Abbott elects to include in the proposed Transfer; or

(ii) the number of shares of Preferred Stock that is at such time convertible into the number of shares of Common Stock that Abbott elects to include in the proposed Transfer; provided, however, that if the prospective transferee objects to the delivery of convertible Preferred Stock in lieu of Common Stock, Abbott shall first convert the Preferred Stock into Common Stock and deliver Common Stock as provided above. The Company agrees to make any such conversion concurrent with and contingent upon the actual transfer of such shares to the prospective transferee.

(d) Purchase Agreement. The parties hereby agree that the terms and conditions of any sale pursuant to this Section 5.1 will be memorialized in, and governed by, a

written purchase and sale agreement with customary terms and provisions for such a transaction and the parties further covenant and agree to enter into such an agreement as a condition precedent to any sale or other transfer pursuant to this Section 5.1.

(e) Deliveries. Each stock certificate Abbott delivers pursuant to Section 5.1(c) above will be transferred to the prospective transferee against payment therefor in consummation of the sale of the Capital Stock pursuant to the terms and conditions specified in the Transfer Notice and the purchase and sale agreement. If any prospective transferee or transferees refuse(s) to purchase securities subject to the right of co-sale from Abbott upon exercising its right of co-sale hereunder, the Founder may not sell any Capital Stock to such prospective transferee or transferees unless and until, simultaneously with such sale, the Founder purchases all securities subject to the right of co-sale from Abbott on the same terms and conditions (including the proposed purchase price) as set forth in the Transfer Notice.

(f) Additional Compliance. If any proposed Transfer is not consummated within forty-five (45) business days after delivery of the Transfer Notice by the Founder, the Founder may not sell any Capital Stock unless it first complies in full with each provision of this Section 5. Abbott's exercise or election not to exercise any right hereunder shall not adversely affect its right to participate in any other sales of Capital Stock subject to this Section 5.1.

5.2 Effect of Failure to Comply.

(a) Transfer Void; Equitable Relief. Any proposed Transfer not made in compliance with the requirements of this Agreement shall be null and void ab initio, shall not be recorded on the books of the Company or its transfer agent and shall not be recognized by the Company. Each party hereto acknowledges and agrees that any breach of this Agreement would result in substantial harm to the other parties hereto for which monetary damages alone could not adequately compensate. Therefore, the parties hereto unconditionally and irrevocably agree that any non-breaching party hereto shall be entitled to seek protective orders, injunctive relief and other remedies available at law or in equity (including, without limitation, seeking specific performance or the rescission of purchases, sales and other transfers of Capital Stock not made in strict compliance with this Agreement).

(b) Violation of Co-Sale Right. If the Founder purports to sell any Capital Stock in contravention of the right of co-sale set forth in Section 5.1 (a "**Prohibited Transfer**"), Abbott may, in addition to such remedies as may be available by law, in equity or hereunder, require the Founder to purchase from it the type and number of shares of Capital Stock that Abbott would have been entitled to sell to the prospective transferee under Section 5.1 had the Prohibited Transfer been effected pursuant to and in compliance with the terms of Section 5.1. The sale will be made on the same terms and subject to the same conditions as would have applied had the Founder not made the Prohibited Transfer, except that the sale (including, without limitation, the delivery of the purchase price) must be made within ninety (90) days after Abbott learns of the Prohibited Transfer, as opposed to the timeframe proscribed in Section 5.1. In such circumstance, the Founder shall also reimburse Abbott for any and all reasonable and documented out-of-pocket fees and expenses, including reasonable legal fees and expenses, incurred pursuant to the exercise or the attempted exercise of Abbott's rights under Section 5.1.

5.3 Exempt Transfers.

(a) Exempted Transfers. Notwithstanding the foregoing or anything to the contrary herein, the provisions of Section 5.1 shall not apply: (a) to a repurchase of Capital Stock from the Founder by the Company at a price no greater than that originally paid by the Founder for such Capital Stock and pursuant to an agreement containing vesting and/or repurchase provisions approved by a majority of the Board of Directors, (b) to a pledge of Capital Stock that creates a mere security interest in the pledged Capital Stock, provided that the pledgee thereof agrees in writing in advance to be bound by and comply with all applicable provisions of this Agreement to the same extent as if it were the Founder making such pledge, or (c) upon a transfer of Capital Stock by the Founder for bona fide estate planning purposes, either during his or her lifetime or on death by will or intestacy to his or her spouse, child (natural or adopted), or any other direct lineal descendant of the Founder (or his or her spouse) (all of the foregoing collectively referred to as "family members"), or any other relative/person approved by the Board of Directors of the Company, or any custodian or trustee of any trust, partnership or limited liability company for the benefit of, or the ownership interests of which are owned wholly by, the Founder or any such family members; provided that in the case of clause(s) (b) and (c), the Founder shall deliver prior written notice to Abbott of such pledge, gift or transfer and such shares of Capital Stock shall at all times remain subject to the terms and restrictions set forth in this Agreement and such transferee shall, as a condition to such issuance, deliver a counterpart signature page to this Agreement as confirmation that such transferee shall be bound by all the terms and conditions of this Agreement as the Founder (but only with respect to the securities so transferred to the transferee), including the obligations of the Founder with respect to proposed Transfers of such Capital Stock pursuant to Section 5.

(b) Exempted Offerings. Notwithstanding the foregoing or anything to the contrary herein, the provisions of Section 5 shall not apply to the sale of any Capital Stock (a) to the public in an offering pursuant to an effective registration statement under the Securities Act or (b) pursuant to a "deemed liquidation event" as defined in the Company's Certificate of Incorporation, as may be in effect from time to time.

5.4 Restrictive Legend and Stop-Transfer Orders

(a) Legend. Each certificate representing shares of Capital Stock held by the Founder or Abbott or issued to any permitted transferee in connection with a transfer permitted by Section 5.3(a) hereof shall be endorsed with the following legend:

> THE SALE, PLEDGE, HYPOTHECATION OR TRANSFER OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE IS SUBJECT TO, AND IN CERTAIN CASES PROHIBITED BY, THE TERMS AND CONDITIONS OF A CERTAIN INVESTOR RIGHTS AGREEMENT BY AND AMONG THE STOCKHOLDER, THE CORPORATION AND CERTAIN OTHER HOLDERS OF STOCK OF THE CORPORATION. COPIES OF SUCH AGREEMENT MAY BE OBTAINED UPON WRITTEN REQUEST TO THE SECRETARY OF THE CORPORATION.

Each of the parties hereto agree that the Company may instruct its transfer agent to impose transfer restrictions on the shares represented by certificates bearing the legend referred to in this Section 5.4(a) above to enforce the provisions of this Agreement, and the Company agrees to promptly do so. The legend shall be removed upon termination of this Agreement.

(b) Stop Transfer Instructions. In order to ensure compliance with the restrictions contained herein, Abbott agrees that the Company may impose stop-transfer instructions in the event of a Transfer in violation of any provision of this Agreement and that it may make appropriate notations to the same effect in its records.

6. MISCELLANEOUS

6.1 Amendment or Modification. 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 parties hereto; provided that any provision hereof may be waived by any waiving party on such party's own behalf, without the consent of any other party.

6.2 Notices. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt or: (i) personal delivery to the party to be notified; (ii) when sent, if sent by electronic mail or facsimile during the recipient's normal business hours, and if not sent during normal business hours, then on the recipient's next business day; (iii) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (iv) one (1) business day after the business day of deposit with a nationally recognized overnight courier, freight prepaid, specifying next-day delivery, with written verification of receipt. All communications shall be sent to the respective parties at their addresses as set forth on the signature pages hereto, or to the principal office of the Company and to the attention of the Chief Executive Officer, in the case of the Company and the Founder, or to such email address, facsimile number, or address as subsequently modified by written notice given in accordance with this Section 6.2.

6.3 Descriptive Headings. The descriptive headings herein have been inserted for convenience only and shall not be deemed to limit or otherwise affect the construction of any provisions hereof.

6.4 Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California as applied to agreements among California residents, made and to be performed entirely within the State of California, without regard to principles of conflicts of law.

6.5 Counterparts; Delivery. This Agreement may be signed and delivered in two or more counterparts, each of which shall be deemed an original and all of which together will constitute one and the same instrument. Delivery of counterpart signature pages to this Agreement may be effected by facsimile or other electronic transmittal of a counterpart to this Agreement.

6.6 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 attorney's

fees, costs and necessary disbursements in addition to any other relief to which such party may be entitled.

6.7 Successors and Assigns. Except as otherwise expressly provided in this Agreement, this Agreement shall benefit and bind the successors, assigns, heirs, executors and administrators of the parties to this Agreement.

6.8 Entire Agreement. This Agreement constitutes the full and entire understanding and agreement between and among the parties with regard to the subject matter of this Agreement.

6.9 Separability; Severability. Unless expressly provided in this Agreement, the rights of each part under this Agreement are several rights, not rights jointly held. If any provision of this Agreement is judicially determined to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired.

6.10 Stock Splits. All references to numbers of shares in this Agreement shall be appropriately adjusted to reflect any stock dividend, split, combination or other recapitalization of shares by the Company occurring after the date of this Agreement.

6.11 No Prior Agreements. The parties hereto hereby represent that there are no other agreements or understandings among themselves or with any other investors with respect to the rights granted to each of them and others in this Agreement, including without limitation, any other information rights, registration rights, or rights of first refusal with respect to sales and issuances of securities by the Company.

6.12 Remedies. Each of the parties hereto and the Company, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Agreement. All parties hereto agree that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Agreement and hereby agrees to waive the defense in any action for specific performance that a remedy at law would be adequate.

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IN WITNESS WHEREOF, the parties have executed this Investor Rights Agreement as of the first date set forth above.

COMPANY: */s/ A.S.* Szalay

FOUNDER: : */s/ A.S.* Szalay

Address for notices:
Genelux Corporation
1615 Orange Tree Lane, Suite 203
Redlands, CA 92374

ABBOTT LABORATORIES

THIS WARRANT AND THE SECURITIES ISSUABLE UPON THE EXERCISE HEREOF HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "***ACT***"), OR UNDER THE SECURITIES LAWS OF ANY STATES IN THE UNITED STATES. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AS PROVIDED HEREIN AND IN A NOTE AND WARRANT PURCHASE AGREEMENT WITH THE COMPANY AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED HEREIN AND THEREIN, UNDER THE ACT AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. THE ISSUER OF THESE SECURITIES MAY REQUIRE AN OPINION OF COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER TO THE EFFECT THAT ANY PROPOSED TRANSFER OR RESALE IS IN COMPLIANCE WITH THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS.

GENELUX CORPORATION

WARRANT TO PURCHASE COMMON STOCK

No. CWA-__ **_____, 202_**

Void After SEPTEMBER 25, 2025

THIS CERTIFIES THAT, for value received, **WDC FUND I** or assigns (the "***Holder***"), is entitled to subscribe for and purchase at the Exercise Price (defined below) from **GENELUX CORPORATION**, a Delaware corporation (the "***Company***") up to the Exercise Shares of the Company's common stock ("***Common Stock***") (as adjusted for stock splits, stock dividends, recapitalizations and the like).

This warrant (the "***Warrant***") is being issued pursuant to that certain Note and Warrant Purchase Agreement dated September 25, 2020 by and among the Company and the Purchasers (as defined therein) (as may be amended from time to time, the "***Purchase Agreement***"). Terms used herein and capitalized but not defined shall have the meanings given to them in the Purchase Agreement.

1. DEFINITIONS. As used herein, the following terms shall have the following respective meanings:

(a) "***Exercise Period***" shall mean the period commencing on the Initial Closing Date and ending five (5) years later, unless sooner terminated as provided below.

(b) "***Exercise Price***" shall mean US$3.50 per Exercise Share, subject to adjustment pursuant to Section 5 below.

(c) "***Exercise Shares***" shall mean _____ shares of Common Stock, subject to adjustment pursuant to the terms herein, including but not limited to adjustment pursuant to Section 5 below.

2. EXERCISE OF WARRANT. The rights represented by this Warrant may be exercised in whole or in part with respect to the Exercise Shares at any time during the Exercise Period, by delivery of the following to the Company at its address set forth in the Purchase Agreement (or at such other address as it may designate by notice in writing to the Holder):

(a) An executed Notice of Exercise in the form attached hereto;

(b) Payment of the Exercise Price in cash, by check or by a wire transfer of immediately available funds to an account or accounts designated by the Company; and

(c) This Warrant.

Upon the exercise of the rights represented by this Warrant, a certificate or certificates for the Exercise Shares so purchased, registered in the name of the Holder or persons affiliated with the Holder, if the Holder so designates, shall be issued and delivered to the Holder within a reasonable time after the rights represented by this Warrant shall have been so exercised.

The person in whose name any certificate or certificates for Exercise Shares are to be issued upon exercise of this Warrant shall be deemed to have become the holder of record of such shares on the date on which this Warrant was surrendered and payment of the Exercise Price was made, irrespective of the date of delivery of such certificate or certificates, except that, if the date of such surrender and payment is a date when the stock transfer books of the Company are closed, such person shall be deemed to have become the holder of such shares at the close of business on the next succeeding date on which the stock transfer books are open.

3. NET EXERCISE. Upon the earlier of (i) the closing of a Change of Control (as defined in the Notes) and (ii) the effective date of a registration statement filed under the Act for an IPO (as defined in the Notes), if the fair market value of one Exercise Share is greater than the Exercise Price (at the date of calculation as set forth below), in lieu of exercising this Warrant by payment of cash, the Holder may elect to receive shares equal to the value (as determined below) of this Warrant (or the portion thereof being canceled) by surrender of this Warrant at the principal office of the Company together with the properly endorsed Notice of Exercise in which event the Company shall issue to the Holder a number of Exercise Shares computed using the following formula:

$$X = \frac{Y\,(A-B)}{A}$$

Where X = the number of Exercise Shares to be issued to the Holder
Y = the number of Exercise Shares purchasable under this Warrant or, if only a portion of this Warrant is being exercised, the portion of this Warrant being cancelled (at the date of such calculation)
A = the fair market value of one Exercise Share (at the date of such calculation)
B = Exercise Price (as adjusted to the date of such calculation)

For purposes of the above calculation, in the event that this Warrant is exercised in connection with a Change of Control, the fair market value per share shall be the value of the consideration payable for each share of Common Stock in such Change of Control, and in the event that this Warrant is exercised in connection with an IPO, the fair market value per share shall be the per share offering price to the public in such IPO.

4. COVENANTS OF THE COMPANY.

4.1 Covenants as to Exercise Shares. The Company covenants and agrees that all Exercise Shares that may be issued upon the exercise of the rights represented by this Warrant will, upon issuance, be validly issued and outstanding, fully paid and nonassessable. The Company further covenants

and agrees that the Company will at all times during the Exercise Period, have authorized and reserved (or will obtain and reserve as set forth below), free from preemptive rights, a sufficient number of shares of its Common Stock to provide for the exercise of the rights represented by this Warrant. If at any time during the Exercise Period the number of authorized but unissued shares of Common Stock shall not be sufficient to permit exercise of this Warrant, the Company 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.

4.2 Notices of Record Date. In the event of 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 dividend (other than a cash dividend which is the same as cash dividends paid in previous quarters) or other distribution, the Company shall mail to the Holder, at least ten (10) days prior to the date specified herein, a notice specifying the date on which any such record is to be taken for the purpose of such dividend or distribution.

5. ADJUSTMENT OF EXERCISE PRICE AND EXERCISE SHARES. In the event of changes in the outstanding Common Stock of the Company by reason of stock dividends, split-ups, recapitalizations, reclassifications, combinations or exchanges of shares, separations, reorganizations, liquidations, or the like, the number and class of shares available under this Warrant in the aggregate and the Exercise Price shall be correspondingly adjusted to give the Holder of this Warrant, on exercise for the same aggregate Exercise Price, the total number, class, and kind of shares as the Holder would have owned had this Warrant been exercised prior to the event and had the Holder continued to hold such shares until after the event requiring adjustment; *provided*, *however*, that such adjustment shall not be made with respect to, and this Warrant shall terminate if not exercised prior to, the events set forth in Section 7 below. The form of this Warrant need not be changed because of any adjustment in the number of Exercise Shares subject to this Warrant.

6. FRACTIONAL SHARES. No fractional shares shall be issued upon the exercise of this Warrant as a consequence of any adjustment pursuant hereto. All Exercise Shares (including fractions) issuable upon exercise of this Warrant may be aggregated for purposes of determining whether the exercise would result in the issuance of any fractional share. If, after aggregation, the exercise would result in the issuance of a fractional share, the Company shall, in lieu of issuance of any fractional share, pay the Holder otherwise entitled to such fraction a sum in cash equal to the product resulting from multiplying the then current fair market value of an Exercise Share by such fraction.

7. TERMINATION. Upon the earliest of (i) the closing of a Change of Control and (ii) the effective date of a registration statement filed under the Act for an IPO, this Warrant shall terminate immediately; *provided*, *however* that such termination shall be subject to the net-exercise provisions of Section 3 hereof.

8. MARKET STAND-OFF AGREEMENT. Holder agrees that any securities issued upon exercise of this Warrant shall be subject to the market standoff provisions of Section 5.7 of the Purchase Agreement, and agrees that any transferee of this Warrant or any securities issued upon exercise of this Warrant shall be bound by such market standoff provisions.

9. NO STOCKHOLDER RIGHTS. This Warrant in and of itself shall not entitle the Holder to any voting rights or other rights as a stockholder of the Company.

10. TRANSFER OF WARRANT. This Warrant may be transferred only with the prior written consent of the Company and upon delivery of this Warrant and the form of assignment attached hereto to any such permitted transferee designated by Holder. Any such permitted transferee shall sign an investment letter in form and substance satisfactory to the Company.

11. LOST, STOLEN, MUTILATED OR DESTROYED WARRANT. If this Warrant is lost, stolen, mutilated or destroyed, the Company may, on such terms as to indemnity or otherwise as it may reasonably impose (which shall, in the case of a mutilated Warrant, include the surrender thereof), issue a new Warrant of like denomination and tenor as this Warrant so lost, stolen, mutilated or destroyed.

12. NOTICES, ETC. All notices required or permitted hereunder shall be in writing and shall be deemed effectively given: (a) upon personal delivery to the party to be notified, (b) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient, if not, then on the next business day, (five days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one business day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications shall be sent to the Company at the address listed on the signature page and to Holder at the address provided on the Schedule of Purchasers to the Purchase Agreement or at such other address as the Company or Holder may designate by ten (10) days advance written notice to the other parties hereto.

13. GOVERNING LAW. This Warrant and all rights, obligations and liabilities hereunder shall be governed by the laws of the State of Delaware.

14. AMENDMENT AND WAIVER. Any term of this Warrant may be amended or waived with the written consent of the Company and the Majority Holders (as defined in the Notes). Upon the effectuation of such waiver or amendment in conformance with this Section 14, the Company shall promptly give written notice thereof to the record holders of the Warrants who have not previously consented thereto in writing.

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its duly authorized officer as of _____, 202__.

GENELUX CORPORATION

By: _____

Name: Thomas Zindrick

Title: President and Chief Executive Officer

Address: 3030 Bunker Hill Street, Suite 310, San Diego, CA 92109

Signature Page to Common Warrant

IN WITNESS WHEREOF, the Investor has caused this Warrant to be executed by its duly authorized person as of _____, 202__.

HOLDER

By: _____
Name:
Title:

Signature Page to Common Warrant

NOTICE OF EXERCISE

TO: GENELUX CORPORATION

(1) The undersigned hereby elects to purchase _____ shares of the Common Stock of Genelux Corporation (the "***Company***") pursuant to the terms of the attached Warrant, and tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.

(2) Please issue a certificate or certificates representing said shares of Common Stock in the name of the undersigned or in such other name as is specified below:

_____

(Name)

_____

_____

(Address)

(3) The undersigned represents that (i) the aforesaid shares of Common Stock are being acquired for the account of the undersigned for investment and not with a view to, or for resale in connection with, the distribution thereof and that the undersigned has no present intention of distributing or reselling such shares; (ii) the undersigned is aware of the Company's business affairs and financial condition and has acquired sufficient information about the Company to reach an informed and knowledgeable decision regarding its investment in the Company; (iii) the undersigned is experienced in making investments of this type and has such knowledge and background in financial and business matters that the undersigned is capable of evaluating the merits and risks of this investment and protecting the undersigned's own interests; (iv) the undersigned understands that the shares of Common Stock issuable upon exercise of this Warrant have not been registered under the Securities Act of 1933, as amended (the "***Securities Act***"), by reason of a specific exemption from the registration provisions of the Securities Act, which exemption depends upon, among other things, the bona fide nature of the investment intent as expressed herein, and, because such securities have not been registered under the Securities Act, they must be held indefinitely unless subsequently registered under the Securities Act or an exemption from such registration is available; (v) the undersigned is aware that the aforesaid shares of Common Stock may not be sold pursuant to Rule 144 adopted under the Securities Act unless certain conditions are met and until the undersigned has held the shares for the number of years prescribed by Rule 144, that among the conditions for use of the Rule is the availability of current information to the public about the Company and the Company has not made such information available and has no present plans to do so; and (vi) the undersigned agrees not to make any disposition of all or any part of the aforesaid shares of Common Stock unless and until there is then in effect a registration statement under the Securities Act covering such proposed disposition and such disposition is made in accordance with said registration statement, or the undersigned has provided the Company with an opinion of counsel satisfactory to the Company, stating that such registration is not required.

_____ _____

(Date) (Signature)

_____

(Print name)

ASSIGNMENT FORM

(To assign the foregoing Warrant, execute this form and supply required information. Do not use this form to purchase shares.)

FOR VALUE RECEIVED, the foregoing Warrant and all rights evidenced thereby are hereby assigned to

Name: _____
(Please Print)

Address: _____
(Please Print)

Dated: _____, 20__

Holder's Signature: _____

Holder's Address: _____

NOTE: The signature to this Assignment Form must correspond with the name as it appears on the face of the Warrant, without alteration or enlargement or any change whatever. Officers of corporations and those acting in a fiduciary or other representative capacity should file proper evidence of authority to assign the foregoing Warrant.

Exhibit 4.4

Agreement/Promissory Note

This Agreement/Promissory Note is entered into as of April 28, 2016. The parties to this Agreement are Jillian and Curtis Helmer (Lender) and Genelux Corporation (Borrower).

Lender hereby agrees to loan Borrower two million six hundred sixty thousand nine hundred twenty six dollars ($2,660,926). The funds for this loan have been made available by Lender's refinancing of personal property, and are therefore subject to costs, fees, prepaid interest, and hold backs, totaling four hundred sixty-five thousand twenty-eight dollars ($465,028), making the actual net payment that will be wired to Genelux no later than May 1, 2016, two million one hundred ninety-five thousand eight hundred ninety-eight dollars ($2,195,898).

This loan is subject to the following terms and conditions:

1. The loan will constitute senior debt of the borrower;
2. Lender shall receive a warrant certificate for the purchase of 532,185 shares of Genelux common stock at three dollars ($3) per share, with an expiration date of May 1, 2026, in the form attached hereto as Exhibit "A";
3. This Note will bear interest at the rate of 11.513% per year on any unpaid principal balance. The first six months of interest is prepaid and nonrefundable;
4. The entire Note, including accrued unpaid interest will be due and payable on May 1, 2018;
5. On May 1, 2017, interest only shall be paid to Lender in the amount of twenty-five thousand five hundred thirty dollars ($25,530), with the same amount due on the first of each month thereafter until the Note is paid;
6. Late payment (more than seven days past due) of any amounts due under this Agreement shall be 10% of the past due amount or fifty dollars ($50), whichever is greater. In the event of default on the loan, the interest rate shall increase by 6%;
7. Except for prepaid interest referenced in paragraph 3, Borrower may prepay this Note in whole or in part, prior to maturity, without penalty;
8. It is understood that the purpose of this loan is to pay off pressing, high priority obligations owed by Borrower – particularly, approximately one million five hundred thousand dollars ($1,500,000) ordered by the Delaware Chancery Court to be paid to Aladar Szalay for attorney fees and costs pursuant to Borrower's indemnification policy. Beyond that obligation, funds from the loan may be applied to operating costs or other business related expenses and goals of Borrower, in the sole discretion of Genelux management;

9. A further material consideration for this Agreement is that key management of Borrower (Genelux Corporation) remain in place throughout the life of the loan. Key management means the present CEO/President of Genelux (Tom Zindrick), the Director of Investor Relations (Melodee Newbold), the Chairman of the Board (James Tyree), and Vice-Chairman of the Board (George Vandeman). Lender reserves the right to call the loan and demand immediate repayment of the entire balance should key management change during the life of the loan, except in the event that the change in key management is due to a merger or acquisition approved by Genelux shareholders;

10. Lender may, in its sole discretion, at any time during the life of the loan, convert part or all of the principle balance plus accrued unpaid interest into common stock at $2.26 per share. Should lender elect to convert under this paragraph, Lender will be entitled, in addition to the shares purchased, to a warrant for twenty-five percent (25%) of the purchased shares, exercisable at $3.00 per share for up to ten years from the date of purchase, so long as the amount converted is one million dollars or greater (in other words, if Lender converts $2.26 million of the loan into one million shares of common stock, Lender will receive a warrant for an addition 250,000 shares of common stock);

11. This Agreement/Note shall be governed by the laws of the State of California;

12. In the event of any dispute or legal action required to enforce the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney fees;

13. This Agreement/Note represents the entire agreement and understanding of the parties. No other oral or written representations have been made to induce the parties to enter into this Agreement. Any modifications or amendments to this Agreement/Promissory Note must be in writing, subscribed to by the parties.

Dated: April 30, 2016

/s/ Jillian Helmer
Jillian Helmer

Dated: April 30, 2016

/s/ Curtis Helmer
Curtis Helmer

Dated: April 30, 2016

/s/ Thomas D. Zindrick
Thomas Zindrick
CEO/President
Genelux Corporation

Amendment and Extension of Agreement/Promissory Note

It is hereby agreed by and between the parties to the Agreement/Promissory Note ("Agreement" hereinafter) entered into on or about April 28, 2016, that said Agreement be modified as follows:

1. Term 4. of the Agreement is hereby amended to extend the due/payable date on the entire Note to May 1, 2021.
2. In addition to other payment terms set forth in the Agreement, $10,000 per month shall accrue, payable to Lender by Borrower on the due date set forth in provision 1. above, or on the date that the Note is paid in full pursuant to term 7. of the Agreement.
3. The monthly $10,000 accrual set forth in provision 2. above shall not be considered part of the principle and will not bear interest.
4. Lender may, at any time during the life of the Loan, convert the accrued payable balance set forth in provision 2. herein into common stock at $3.00 per share.
2. In all other respects the terms of the Note remain unchanged, and will be in full force and effect through May 1, 2021.

Dated: 5/17/18

/s/ Jillian Helmer
Jillian Helmer

Dated: 5/17/18

/s/ Curtis Helmer
Curtis Helmer

Dated: 5/17/18

/s/ Thomas D. Zindrick
Thomas Zindrick
CEO/President
Genelux Corporation

Genelux Corporation

Research and Development
San Diego Science Center
3030 Bunker Hill Street, #310, San Diego, California 92109
858 483 0024 (tel) || 858 483 0026 (fax)

Office of Business and Investor Relations
1177 Idaho Street, #202, Redlands, California 92374
909 307 9300 (tel) || 909 307 2251 (fax)

Second Amendment and Extension of Agreement/Promissory Note

It is hereby agreed by and between the parties to the Agreement/Promissory Note entered into as of April 28, 2016 ("Original Note"), and as further amended on May 17, 2018 (collectively, the "Agreement" hereinafter), that said Agreement is modified, effective as of July 29, 2020, as follows:

1. The due date on the entire note is hereby extended to May 1, 2022
2. Effective as of July 29, 2020, Section 3 of the Original Note is hereby deleted in its entirety and replaced with the following: "This Note will bear interest at the rate of 10.50% per year on any unpaid principal balance (equating to $23,283/mo as of the date of this Second Amendment and Extension of Agreement/Promissory Note)".
3. In all other respects the terms of the Note will remain unchanged, and will be in full force and effect through May 1, 2022.

Dated: 12/8/2020

/s/ Jillian Helmer
Jillian Helmer

Dated: 12/8/2020

/s/ Curtis Helmer
Curtis Helmer

Dated: 12/8/2020

/s/ Thomas D. Zindrick
Thomas D. Zindrick
President and CEO
Genelux Corporation

Genelux Corporation

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909 307 9300 (tel) || 909 307 2251 (fax)

UMBRELLA AGREEMENT REGARDING _____ FAMILY INVESTMENTS IN GENEUX CORPORATION

This umbrella agreement ("Agreement") is entered into this ___ day of ____ between Genelux Corporation, 3030 Bunker Hill Street, #310, San Diego, CA 92109 (hereafter "Company") and the following individuals and entities (collectively, the "_____"):

_____
_____
_____

A. RECITALS

1. Due to an urgent need for significant funding to maintain operations pending receipt of a large investment which was unexpectedly delayed, the _____ have agreed to total investments totaling $_____ in exchange for Company extending 25% warrant coverage on common stock purchases or conversions to common stock made pursuant to the Stock Purchase Agreement and Convertible Note Purchase Agreements referenced in Paragraph A.2 hereinbelow and attached as exhibits to this Agreement.

2. Individual Agreements
   a. _____ wishes to purchase a $_____ Convertible Promissory Note with a maturity date which is thirty-six (36) months from the Effective Date of said Convertible Note (Exhibit A); and

   b. _____ wishes to purchase a $_____ Convertible Promissory Note with a maturity date which is thirty-six (36) months from the Effective Date of said Convertible Note (Exhibit B); and

   c. _____ wishes to purchase a $_____ Convertible Promissory Note with a maturity date which is thirty-six (36) months from the Effective Date of said Convertible Note (Exhibit C); and

The total of the _____' proposed investments set forth above amounts to $_____.

B. PURPOSE OF AGREEMENT

The purpose of this agreement is not to supplant the terms or representations in individual Convertible Note Purchase Agreements or Common Stock Purchase Agreements between Company and the Parties to this Agreement. Rather, it is to insure that all Parties understand that the cumulative amount of their investments is consideration for the 25% Warrant coverage. Without a minimum total investment of $500,000 being received under the combined individual agreements of this Umbrella Agreement, any Warrant coverage provided for in the individual agreements with individuals and entities referenced in Paragraph A hereinabove is null and void.

C. AGREEMENT

1. It is hereby agreed among the Parties to this Umbrella Agreement that the Warrant coverage referenced in Paragraph A.1. hereinabove, and further described in each investment agreement referenced in Paragraph A.2 hereinabove, is conditioned upon total funding, pursuant to agreements referenced in Paragraph A.2, being received by Company by _____, 2019.

2. It is further agreed that the total invested funds under the combined individual agreements of this Umbrella Agreement must be no less than $500,000 in order for the Company to provide 25% Warrant coverage to each investing party.

3. As long as the initial investment pursuant to this Umbrella Agreement exceeds $500,000, subject to approval by Genelux, individual notes may be amended to increase the amount of any individual loan. Such additional amount will also be eligible for the 25% warrant coverage specified in Paragraph A.1. herein.

This Umbrella Agreement represents the entire and final agreement and understanding among the Parties with respect to the subject matter thereof and the transactions contemplated, and supersedes any and all prior oral or written agreements pertaining to the subject matter. It may not be modified without the written consent of all Parties hereto.

LENDERS' NAMES

_____
[name]

_____
[name]

_____
[name]

GENELUX CORPORATION

By: _____
Thomas D. Zindrick
President and CEO

WITNESS

_____
Melodee Newbold
Vice President, Investor Relations

ATTEST

_____
E. Nathan Schilt, J.D.
Corporate Secretary

CONVERTIBLE NOTE PURCHASE AGREEMENT

This Convertible Note Purchase Agreement (the "*Agreement*") is made and entered on this ___th day of _____, 2019, (the "*Effective Date*") by and between [**name]** ("*Lender*"), and **GENELUX CORPORATION**, a corporation duly organized and validly existing under the laws of the State of Delaware ("*Borrower*").

WHEREAS, Borrower has an urgent need for significant funding to maintain operations pending receipt of a large investment that was unexpectedly delayed.

WHEREAS, Borrower desires to sell to Lender and Lender desires to purchase from Borrower, a convertible promissory note on the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the promises and respective mutual agreements herein contained, it is agreed by and between the Parties hereto as follows:

In consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

ARTICLE I

CONVERTIBLE PROMISSORY NOTE

1.1 **The Loan.** Lender agrees, on the terms and conditions set forth in this Agreement, to lend to Borrower ____ Hundred Thousand Dollars ($_____) in one or more investments (the "*Principal*") as the "*Loan*", said amount to be fully funded by _____, with interest accruing on each investment from the date of receipt of said investment. Funds from the loan may be applied to operating costs or other business-related expenses and goals of Borrower, in the sole discretion of Genelux management.

1.2 **Evidence of Indebtedness**. Indebtedness of Borrower to Lender in respect of the Loan will be evidenced by a promissory note (the "*Note*") substantially in the form of Exhibit A attached hereto, which will be provided by the Borrower to the Lender forthwith. The Note shall be dated as of the date that the principal was received by Borrower (the "*Issue Date*").

1.3 **Maturity Date**. All Principal, plus all accrued but unpaid interest (5% per annum, simple interest) on Note, shall be due and payable on the date which is thirty-six (36) months from the Effective Date of this agreement, unless earlier converted pursuant to section 2.1 or 2.2, below.

1.4 **Repayment of the Loan.** In the event the Loan is not earlier converted pursuant to Sections 2.1 or 2.2, Borrower will repay the Principal and any accrued but unpaid interest to the Lender on or before the Maturity Date. All payments shall be made to Lender at such place as Lender may, from time to time, designate. All payments received hereunder shall be applied, first to accrued interest; and second, to principal. **Borrower may, in its sole discretion, prepay the Principle of the note, together with accrued interest, without penalty, bonus, or charges, upon thirty days advanced notice to the Lender.**

ARTICLE II

CONVERSION RIGHTS, RESTRICTION ON TRANSFER

2.1 Conversion to Common Stock

Prior to the expiration of the Term of Note, Investor will have the option to convert any or all of the outstanding unpaid aggregate of principal and accrued interest of the Notes into the Common Stock of the Company at a conversion price of $4.00/share.

Should the loan be fully funded by the date set forth in Section 1.1 hereinabove, AND should lender elect to convert under this paragraph, Lender will be entitled, in addition to the shares purchased, to a warrant for twenty-five percent (25%) of the purchased shares, exercisable at $3.50/share for up to three years from the date of purchase (in other words, if Lender converts the entire amount of the Loan ($___) into ____ shares of common stock, Lender will receive a warrant, exercisable at $3.50/share, for an additional ____ shares of common stock).

The conversion price and the warrant exercise price are collectively referred to as the Conversion Price.

Provided, however, that in the event of a merger, consolidation or combination of Borrower with or into another entity, and following such event such surviving entity consummates an institutional financing in an amount equal to or greater than $15,000,000, the pre-money valuation of the surviving entity in such financing shall be calculated on a per share basis of Borrower, and if such per share amount is lesser than the Conversion Price above, such lesser amount shall be and become the Conversion Price for the Notes.

In the event of an automatic conversion pursuant to section 2.2, the conversion price will be 90% of the IPO price or the stated Conversion Price, above, whichever is lower Please note that standard underwriters' lock-up provisions of up to six months may apply during the initiation of the IPO.

The Lender may elect (in Lender's sole discretion), by providing to Borrower a written notice in the form of Exhibit B attached hereto (the "*Common Stock Conversion Notice*"), to convert, pursuant to the terms of this Article II, all or any portion of the then outstanding Principal, together with all accrued but unpaid interest on such amount (collectively the "*Conversion Amount*" in such event).

(a) **Issuance of Conversion Shares**. Following the receipt of the properly completed Common Stock Conversion Notice, Subscription Agreement and any other required documentation, the Borrower will issue Common Stock to the Lender in an amount equal to the Conversion Amount divided by the Conversion Price. The Borrower shall not be required to issue fractional shares upon any conversion made pursuant to this Article II. If any fractional interest in securities would be issuable upon any conversion hereunder, the Borrower shall make cash payment for the portion of the Common Stock Conversion Price that would otherwise require the delivery of certificates representing such fractional interest.

2.2 **Automatic Conversion**. All Principal, plus all accrued but unpaid interest on the Note, shall automatically convert into such number of fully paid and non-assessable shares of Common Stock at the applicable Conversion Price for such Note upon the consummation of the Borrower's sale of its Common Stock in a firm commitment underwritten public offering pursuant to a registration statement under the Securities Act of 1933, as amended (the "Securities Act") (other than a registration relating solely to a transaction under Rule 145 of the Securities Act or to an employee benefit plan of the Corporation), that results in aggregate cash proceeds to the Corporation and/or any selling stockholders of an amount equal to or greater than $15,000,000 (before deducting underwriting discounts and commissions and appropriately adjusted for subdivisions and combinations of shares of Common Stock and dividends on Common Stock payable in shares of Common Stock). In the event of the automatic conversion of the Note upon a public offering as aforesaid, the conversions of such Note shall be deemed to have occurred automatically immediately prior to the closing of such public offering.

2.3 **Conversion Discharges Borrower**. Conversion of Principal and interest in accordance herewith shall operate to discharge the Borrower's obligations with respect to repayment of the Principal and interest as converted and effective as of the date of the Common Stock Conversion Notice. The Borrower shall not be bound to inquire into the title of the Lender, save as ordered by a court of competent jurisdiction or as required by statute. The Borrower shall not be bound to see to the execution of any trust affecting the ownership of the Note(s) surrendered in connection with any conversion of Principal nor be charged with notice of any equity that may be subsisting in respect thereof, unless the Borrower has actual notice thereof.

2.4 **Transfer of Securities.** Restrictions on transfer of shares are set forth on page 25 of the Series K Private Placement Memorandum dated March 7, 2012, which has been provided to Lender.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

3.1 **Representations and Warranties of Borrower**. In order to induce Lender to enter into this Agreement and to make the advance provided for herein, Borrower represents and warrants to Lender as follows:

(a) Borrower is a duly organized, validly existing, and in good standing under the laws of the State of Delaware with the power to own its assets and to transact business in California, and in such other states where its business is conducted.

(b) Borrower has the authority and power to execute and deliver any document required hereunder and to perform any condition or obligation imposed under the terms of such documents.

(c) Borrower is not bound by or subject to any contract, agreement, court order or judgment, administrative ruling, law, regulation or any other item which prohibits or restricts it from entering into and performing this Agreement in accordance with its terms, or requiring the consent of any third party prior to the entry into or performance of this Agreement in accordance with its terms by such party.

(d) Upon conversion pursuant to Sections 2.1 or 2.2 of this agreement, Borrower shall deliver to Lender certificates representing the converted Common Stock, subject to no liens and no restriction on transfer other than as set forth in the legends on the certificate, which legends shall provide substantially as follows:

> THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933. THE SECURITIES MAY NOT BE SOLD OR TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN OPINION OF COUNSEL THAT AN EXEMPTION FROM REGISTRATION UNDER SUCH ACT IS AVAILABLE.
>
> THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO AN AGREEMENT BETWEEN THE HOLDER AND BORROWER, A COPY OF WHICH HAS BEEN FILED WITH THE SECRETARY OF BORROWER AND IS AVAILABLE UPON REQUEST. BY ACCEPTING ANY INTEREST IN THE SECURITIES EVIDENCED BY THIS CERTIFICATE, THE PERSON ACCEPTING SUCH INTEREST SHALL RECEIVE SUCH INTEREST SUBJECT TO SUCH AGREEMENT, AND SHALL BE DEEMED TO AGREE TO AND SHALL BECOME BOUND BY ALL THE PROVISIONS OF SUCH AGREEMENT.

(e) Borrower represents that the Note and the Common Stock to which the Note is convertible (collectively, the "*Securities*") will initially be "restricted securities" (as such term is defined in Rule 144 promulgated under the Act ("*Rule 144*"), that the certificates evidencing the Securities will include the restrictive legends substantially as set forth in Section 3.2(d) and that the certificates evidencing the converted Common Stock may be subject to such restrictions and, except as otherwise set forth in this Agreement, that the Securities cannot be sold unless registered with the United States Securities and Exchange Commission ("*SEC*") and qualified by appropriate state securities regulators, unless the Lender complies with an exemption from such registration and qualification (including, without limitation, compliance with Rule 144).

(f) Borrower makes no other representations or warranties with respect to the Securities or Borrower, except as provided in this Agreement.

3.2 **Representations and Warranties of Lender.** Lender hereby represents and warrants to Borrower, as of the date hereof, the following:

(a) Lender has full power and capacity to enter into, execute and perform this Agreement, which Agreement, once executed by Lender, shall be the valid and binding obligation of Lender, enforceable against such party by any court of competent jurisdiction in accordance with its terms;

(b) Lender is not bound by or subject to any contract, agreement, court order or judgment, administrative ruling, law, regulation or any other item which prohibits or restricts such party from entering into and performing this Agreement in accordance with its terms, or requiring the consent of any third party prior to the entry into or performance of this Agreement in accordance with its terms by Lender.

(c) with respect to the Securities being acquired by Lender:

(i) Lender is and will be acquiring the Securities for its own account, and not with a view toward the subdivision, resale, distribution, or fractionalization thereof; Lender has no contract, undertaking, or arrangement with any person to sell, transfer, or otherwise dispose of the Securities (or any portion thereof hereby subscribed for), and has no present intention to enter into any such contract, undertaking, agreement or arrangement;

(ii) this subscription for Securities by Lender is not the result of any form of general solicitation or general advertising;

(iii) Lender hereby acknowledges that: (A) the offering of the Securities was made only through direct, personal communication between Lender (or a registered FINRA member firm retained by the Borrower to assist with the placement of the Securities) and Borrower; (B) Lender has had full access to material concerning Borrower's planned business and operations, which material was furnished or made available to Lender by officers or representatives of Borrower; (C) Borrower has given Lender the opportunity to ask any questions and obtain all additional information desired in order to verify or supplement the material so furnished; and (D) Lender understands and acknowledges that a purchaser of the Securities must be prepared to bear the economic risk of such investment for an indefinite period.

(d) Lender is an "*accredited investor*" as such term is defined in Rule 501 of Regulation D promulgated by the SEC under the Act and has accurately completed the Certificate of Accredited Investor Status attached hereto as Exhibit C;

(e) Lender has been advised to consult with an attorney regarding all legal matters concerning the purchase and ownership of the Securities, and with a tax advisor regarding the tax consequences of purchasing such Securities; and

(f) Lender understands that its investment in Borrower involves a high degree of risk and that Lender has the financial resources to bear the loss of the entire investment amount.

(g) Lender has received and read the Series K PPM and the Supplement thereto together with all of its exhibits and attachments, all of which are incorporated herein by reference, and acknowledges the disclosures and terms contained therein.

ARTICLE IV

EVENTS OF DEFAULT AND REMEDIES

4.1 **Events of Default**. Borrower shall be in default under this Agreement on the occurrence of any of the following events or conditions and the failure of Borrower to cure such events or conditions within ten (10) business days following the receipt of a written notice from Lender describing with particularity the event or condition giving rise to an event of default:

(a) Failure to pay any principal or interest hereunder when the same becomes due.

(b) Filing by Borrower of a voluntary petition in bankruptcy seeking reorganization, arrangement or readjustment of debts, or any other relief under the Bankruptcy Code as amended or under any other insolvency act or law, state or federal, now or hereafter existing.

(c) Filing of an involuntary petition against Borrower in bankruptcy seeking reorganization, arrangement or readjustment of debts, or any other relief under the Bankruptcy Code as amended, or under any other insolvency act or law, state or federal, now or hereafter existing, and the continuance thereof for sixty (60) days undismissed, unbonded, or undischarged.

4.2 **Key Persons**. A further material consideration for this Agreement is that key management of Borrower (Genelux Corporation) remain in place throughout the life of the loan. Key management means the present CEO/President of Genelux (Tom Zindrick) and the Associate Vice President of Investor Relations (Melodee Newbold). Lender reserves the right to call the loan and demand immediate repayment of the entire balance should key management change during the life of the loan, except in the event that the change in key management is due to a merger or acquisition approved by Genelux shareholders.

4.3 **Remedies**. Upon the occurrence of an event of default as defined above, the Lender may declare the entire unpaid principal balance, together with accrued interest thereon, to be immediately due and payable by providing a written notice to Borrower specifying the nature of the default and its intention to accelerate the repayment of the Loan. No failure or delay on the part of the Lender in exercising any right, power, or privilege hereunder will preclude any other or further exercise thereof or the exercise of any other right, power, or privilege. The rights and remedies provided herein are cumulative and not exclusive of any other rights or remedies provided at law or in equity.

ARTICLE V

GENERAL PROVISIONS

5.1 **Notices.** All notices, requests, demands and other communications to be given hereunder shall be in writing and shall be deemed to have been duly given on the date of personal service or transmission by fax if such transmission is received during the normal business hours of the addressee, or on the first business day after sending the same by overnight courier service or by telegram, or on the third business day after mailing the same by first class mail, or on the day of receipt if sent by certified or registered mail, addressed as set forth below, or at such other address as any party may hereafter indicate by notice delivered as set forth in this Section 5.1:

If to Borrower: Genelux Corporation
Attn: Thomas D. Zindrick, CEO
1177 Idaho St., #202
Redlands, CA 92374

If to Lender: _____
Attn: _____
_____
_____

5.2 **Entire Agreement.** This Agreement, together with the Series K PPM and the Supplement thereto, constitute the entire and final agreement and understanding between the parties with respect to the subject matter hereof and the transactions contemplated hereby, and supersedes any and all prior oral or written agreements, statements, representations, warranties or understandings between the parties, all of which are merged herein and superseded hereby.

5.3 **Binding Agreement; Assignment.** This Agreement shall constitute the binding agreement of the parties hereto, enforceable against each of them in accordance with its terms. This Agreement and the Note (the "*Loan Documents*") shall inure to the benefit of each of the parties hereto, and their respective successors and permitted assigns; provided, however, that the Loan Documents may not be assigned (whether by contract or by operation of law) by Lender without the prior written consent of Borrower, which consent may be given or withheld in the sole discretion of Borrower, provided however, that any such permitted assignee of any of the Loan Documents, executes an assignment agreement or such other document as Borrower may reasonably request containing all the representations, warranties and covenants contained in this Agreement and certifying to Borrower that such permitted assignee is an "Accredited Investor" as such term is defined in Rule 501 of Regulation D promulgated by the SEC under the Act.

5.4 **Waiver.** No waiver of any provision of this Agreement shall be deemed to be or shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

5.5 **Headings.** The headings provided herein are for convenience only and shall have no force or effect upon the construction or interpretation of any provision hereof.

5.6 **Counterparts; Facsimiles**. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Facsimiles containing original signatures shall be deemed for all purposes to be originally-signed copies of the documents which are the subject of such facsimiles.

5.7 **Further Documents and Acts.** Each party agrees to execute such other and further documents and to perform such other and further acts as may be reasonably necessary to carry out the purposes and provisions of this Agreement.

5.8 **Governing Law; Venue.** This Agreement shall be governed by and construed in accordance with the internal laws of the State of California applicable to the performance and enforcement of contracts made within such state, without giving effect to the law of conflicts of laws applied thereby. In the event that any dispute shall occur between the parties arising out of or resulting from the construction, interpretation, enforcement or any other aspect of this Agreement, the parties hereby agree to accept the exclusive jurisdiction of the Courts of the State of California sitting in and for the County of San Diego. In the event either party shall be forced to bring any legal action to protect or defend its rights hereunder, then the prevailing party in such proceeding shall be entitled to reimbursement from the non-prevailing party of all fees, costs and other expenses (including, without limitation, the reasonable expenses of its attorneys) in bringing or defending against such action.

IN WITNESS WHEREOF, the parties hereto have executed this Convertible Note Purchase Agreement as of the date and year first above written.

LENDER

[name]

GENELUX CORPORATION

By:
Thomas D. Zindrick
President and CEO

WITNESS:

Melodee Newbold

ATTEST:

By:
Nate Schilt, J.D.
Secretary

EXHIBIT A

to Convertible Note Purchase Agreement

THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "*ACT*"), NOR UNDER THE LAWS OF ANY STATE, AND MAY NOT BE RESOLD, ASSIGNED, PLEDGED, OR HYPOTHECATED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT REGISTRATION UNDER THE ACT IS NOT REQUIRED.

CONVERTIBLE PROMISSORY NOTE

$[_____] **_____ __, 2019**

This Convertible Promissory Note (the "*Note*") is being issued pursuant to a Convertible Note Purchase Agreement dated for reference as of [DATE] between Genelux Corporation and [LENDER] (the "*Agreement*"). Capitalized terms used in this Promissory Note that are defined in the Agreement shall have the same meanings as defined therein, unless otherwise defined herein. To the extent of any conflict between the terms of this Note and the Agreement, the terms of the Agreement shall take precedence.

FOR VALUE RECEIVED, Genelux Corporation (the "*Borrower*"), of 1177 Idaho St., #202, Redlands, CA 92374, PROMISES TO PAY on the proposed "Maturity Date" which is thirty-six (36) months from the Effective Date of this agreement or, unless earlier converted, on the date of an IPO whichever is earlier or on demand in accordance with the terms of the Agreement, to the order of [LENDER] (the "*Lender*"), at [ADDRESS], the sum of [_____] Dollars ($[_____]) (the "*Principal*") simple interest at the rate of 5% per annum (the "*Interest*"), calculated and accrued monthly in arrears, shall accrue until the earlier of (i) the Maturity Date, (ii) the date the Loan is repaid in full, or (iii) the date that the Lender elects to convert the Principal and all accrued Interest to Borrower's common stock pursuant to the terms of the Agreement.

The obligations of the Borrower to pay the Loan to the Lender will terminate if and to the extent that the Loan is converted in accordance with Article II of the Agreement.

The Borrower may prepay all or any portion of the Indebtedness at any time or from time to time without penalty, bonus or charges.

Genelux Corporation,
a Delaware corporation

_____

By Thomas D. Zindrick
President and CEO

EXHIBIT B

to Convertible Note Purchase Agreement

NOTICE OF CONVERSION
(Common Stock)

TO: Genelux Corporation (the "*Company*")

1. The undersigned hereby elects to convert to shares of Company Common Stock the amount of outstanding Principal and accrued interest under the attached Convertible Note Purchase Agreement and the attached Convertible Promissory Note(s), all pursuant to the terms of the Convertible Note Purchase Agreement, in the amounts designated below:

Principal:	$_____
Interest accrued on such amount of Principal:	$_____
Total (the "Conversion Amount"):	$_____

2. The undersigned hereby certifies that (a) he/she/it is an "accredited investor" as defined by Rule 501 of Regulation D; and (b) all representations and warranties contained in the Convertible Note Agreement and its attachments and exhibits as to the undersigned's status as an investor in the Company remain true and correct as of the date of this Notice of Conversion.

3. Attached, please find the completed Subscription Agreement for the purchase of Common Stock of the Company.

_____
(Name)

_____
(Address)

_____
(Date)

_____
(Name of Lender)

By: _____

Title: _____
(Name of Lender, and title and signature of authorized person)

EXHIBIT C

to Convertible Note Purchase Agreement

CERTIFICATION OF ACCREDITED INVESTOR STATUS

I hereby represent and warrant to Seller that I am an "accredited investor" as that term is defined in Rule 501 of Regulation D of the Securities Act of 1933 because I meet the following criteria:

PLEASE INITIAL ONE:

I. If purchaser is an individual, I certify that I am an "accredited investor" because:

_____ I had an individual income of more than $200,000 in each of the two most recent calendar years, and I reasonably expect to have an individual income in excess of $200,000 in the current calendar year; or my spouse and I had joint income in excess of $300,000 in each of the two most recent calendar years, and we reasonably expect to have a joint income in excess of $300,000 in the current calendar year.

OR

_____ I have an individual net worth, or my spouse and I have a joint net worth that exceeds $1,000,000, excluding the value of my/our primary residence but including personal property over total liabilities, but excluding from such liabilities the amount of mortgage debt secured by any such principal residence, except to the extent that the amount of the mortgage debt exceeds the fair value of the residence.

II. If Purchaser is a corporation, partnership, employee benefit plan or IRA, it certifies as follows:

A. Has the subscribing entity been formed for the specific purpose of investing in the Securities?

☐ YES **☐ NO**

If your answer to question A is "No" INITIAL whichever of the following statements (1-5) is applicable to you. If your answer to question A is "Yes" the subscribing entity must be able to certify to statement **(B)** below in order to qualify as an "accredited investor".

The undersigned entity certifies that it is an "accredited investor" because it is:

1. _____ an employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974, provided that the investment decision is made by a plan fiduciary, as defined in section 3(21) of such Act, and the plan fiduciary is a bank, savings and loan association, insurance company or registered investment adviser; **or**

2. _____ an employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974 that has total assets in excess of $5,000,000; **or**

3. _____ each of its shareholders, partners, or beneficiaries meets at least one of the following conditions described above under INDIVIDUAL ACCREDITED INVESTOR STATUS. Please also INITIAL the appropriate space in that section; **or**

4. _____ the plan is a self directed employee benefit plan and the investment decision is made solely by a person that meets at least one of the conditions described above under INDIVIDUAL ACCREDITED INVESTOR STATUS; **or**

5. _____ a corporation, a partnership or a Massachusetts or similar business trust with total assets in excess of $5,000,000.

B. If the answer to Question A above is "Yes," please certify the statement below is true and correct:

_____ The undersigned entity certifies that it is an accredited investor because each of its shareholder or beneficiaries meets at least one of the following conditions described above under INDIVIDUAL ACCREDITED INVESTOR STATUS. Please also INITIAL the appropriate space in that section.

III. If Purchaser is a Trust, it certifies as follows:

A. Has the subscribing entity been formed for the specific purpose of investing in the Securities?

☐ YES **☐ NO**

If your answer to question A is "No", INITIAL whichever of the following statements (1-3) is applicable to the subscribing entity. If your answer to question A is "Yes" the subscribing entity must be able to certify to the statement **(3)** below in order to qualify as an "accredited investor".

The undersigned trustee certifies that the trust is an "accredited investor" because:

_____**1.** the trust has total assets in excess of $5,000,000 and the investment decision has been made by a "sophisticated person"; **or**

_____**2.** the trustee making the investment decision on its behalf is a bank (as defined in Section 3(a)(2) of the Act), a saving and loan association or other institution as defined in Section 3(a)(5)(A) of the Securities Act, acting in its fiduciary capacity; **or**

_____**3.** the undersigned trustee certifies that the trust is an accredited investor because the grantor(s) of the trust may revoke the trust at any time and regain title to the trust assets and has (have) retained sole investment control over the assets of the trust and the (each) grantor(s) meets at least one of the following conditions described above under INDIVIDUAL ACCREDITED INVESTOR STATUS. Please also INITIAL the appropriate space in that section.

I further certify that I am a "qualified investor" with such knowledge and experience in financial and business matters that I am capable of evaluating the merits and risks of prospective investments.

I understand that Genelux Corporation will rely on the representations that I am making in this Certificate in order to ensure compliance with Federal and state securities laws. I agree to indemnify and hold harmless Genelux Corporation and any agents from any damages arising from their detrimental reliance on any false statement that I make in this Certificate.

Print Name: _____

_____
[Signature]

_____
Address

_____
Address

_____
Telephone Number

_____
Facsimile Number

_____
Social Security/Tax I.D. Number

GENELUX CORPORATION
2009 EQUITY INCENTIVE PLAN

ARTICLE 1
PURPOSE

1.1 General. The purpose of the Genelux Corporation 2009 Equity Incentive Plan (the "***Plan***") is to promote the success and enhance the value of Genelux Corporation, a Delaware corporation (the "***Company***"), by linking the personal interests of the members of the Board, Employees and Consultants of the Company and any Parent or Subsidiary, to those of Company stockholders and by providing such individuals with an incentive for performance to generate returns to Company stockholders. The Plan is further intended to provide flexibility to the Company in its ability to motivate, attract, and retain the services of members of the Board, Employees and Consultants of the Company and any Parent or Subsidiary upon whose judgment, interest, and special effort the successful conduct of the Company's operation is largely dependent.

ARTICLE 2
DEFINITIONS AND CONSTRUCTION

2.1 Definitions. The following words and phrases shall have the following meanings:

(a) "***Administrator***" means the entity that conducts the general administration of the Plan as provided in Article 11. With reference to the duties of the Committee under the Plan which have been delegated to one or more persons pursuant to Section 11.5, or as to which the Board has assumed, the term "***Administrator***" shall refer to such person(s) unless the Committee or the Board has revoked such delegation or the Board has terminated the assumption of such duties.

(b) "***Award***" means an Option, a Restricted Stock award, a Stock Appreciation Right award, a Dividend Equivalents award, a Stock Payment award, or a Restricted Stock Unit award granted to a Participant pursuant to the Plan.

(c) "***Award Agreement***" means any written or electronic agreement, contract, or other instrument or document evidencing an Award.

(d) "***Board***" means the Board of Directors of the Company.

(e) "***Change in Control***" means and includes each of the following:

(i) the acquisition, directly or indirectly, by any "person" or "group" (as those terms are defined in Sections 3(a)(9), 13(d), and 14(d) of the Exchange Act and the rules thereunder) of "beneficial ownership" (as determined pursuant to Rule 13d-3 under the Exchange Act) of securities entitled to vote generally in the election of directors ("***voting securities***") of the Company that represent 50% or more of the combined voting power of the Company's then outstanding voting securities, other than:

(A) an acquisition by a trustee or other fiduciary holding securities under any employee benefit plan (or related trust) sponsored or maintained by the Company or any person controlled by the Company or by any employee benefit plan (or related trust) sponsored or maintained by the Company or any person controlled by the Company, or

(B) an acquisition of voting securities by the Company or a corporation owned, directly or indirectly, by the stockholders of the Company in substantially the same proportions as their ownership of the stock of the Company, or

(C) an acquisition of voting securities pursuant to a transaction described in subsection (iii) below that would not be a Change in Control under subsection (iii);

Notwithstanding the foregoing, the following event shall not constitute an "acquisition" by any person or group for purposes of this Section 2.1(e): an acquisition of the Company's securities by the Company which causes the Company's voting securities beneficially owned by a person or group to represent 50% or more of the combined voting power of the Company's then outstanding voting securities; *provided, however,* that if a person or group shall become the beneficial owner of 50% or more of the combined voting power of the Company's then outstanding voting securities by reason of share acquisitions by the Company as described above and shall, after such share acquisitions by the Company, become the beneficial owner of any additional voting securities of the Company, then such acquisition shall constitute a Change in Control; or

(ii) following the Public Trading Date, during any period of two consecutive years, individuals who, at the beginning of such period, constitute the Board together with any new director(s) (other than a director designated by a person who shall have entered into an agreement with the Company to effect a transaction described in subsections (a) or (c) of this Section 2.1(e)) whose election by the Board or nomination for election by the Company's stockholders was approved by a vote of at least two-thirds of the directors then still in office who either were directors at the beginning of the two year period or whose election or nomination for election was previously so approved, cease for any reason to constitute a majority thereof; or

(iii) the consummation by the Company (whether directly involving the Company or indirectly involving the Company through one or more intermediaries) of a merger, consolidation, reorganization, or business combination, a sale or other disposition of all or substantially all of the Company's assets, or the acquisition of assets or stock of another entity, in each case, other than a transaction

(A) which results in the Company's voting securities outstanding immediately before the transaction continuing to represent (either by remaining outstanding or by being converted into voting securities of the Company or the person that, as a result of the transaction, controls, directly or indirectly, the Company or owns, directly or indirectly, all or substantially all of the Company's assets or otherwise succeeds to the business of the Company (the Company or such person, the "***Successor Entity***")) directly or indirectly, at least 50% of the combined voting power of the Successor Entity's outstanding voting securities immediately after the transaction, and

(B) after which no person or group beneficially owns voting securities representing 50% or more of the combined voting power of the Successor Entity; *provided, however,* that no person or group shall be treated for purposes of this paragraph (iii) as beneficially owning 50% or more of combined voting power of the Successor Entity solely as a result of the voting power held in the Company prior to the consummation of the transaction; or

(iv) the Company's stockholders approve a liquidation or dissolution of the Company.

For purposes of subsection (i) above, the calculation of voting power shall be made as if the date of the acquisition were a record date for a vote of the Company's stockholders, and for purposes of subsection (iii) above, the calculation of voting power shall be made as if the date of the consummation of the transaction were a record date for a vote of the Company's stockholders.

Notwithstanding the foregoing, a transaction shall not constitute a "***Change in Control***" if: (i) its sole purpose is to change the state of the Company's incorporation; (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; (iii) it constitutes the Company's initial public offering of its securities; or (iv) it is a transaction effected primarily for the purpose of financing the Company with cash (as determined by the Administrator in its discretion and without regard to whether such transaction is effectuated by a merger, equity financing or otherwise).

The Administrator shall have full and final authority, which shall be exercised in its sole discretion, to determine conclusively whether a Change in Control of the Company has occurred pursuant to the above definition, and the date of the occurrence of such Change in Control and any incidental matters relating thereto.

(f) "***Code***" means the Internal Revenue Code of 1986, as amended from time to time, and the regulations issued thereunder.

(g) "***Committee***" means a committee of the Board described in Article 11.

(h) "***Consultant***" means any consultant or adviser if:

(i)The consultant or adviser renders bona fide services to the Company or any Parent or Subsidiary;

(ii)The services rendered by the consultant or adviser are not in connection with the offer or sale of securities in a capital-raising transaction and do not directly or indirectly promote or maintain a market for the Company's securities; and

(iii)The consultant or adviser is a natural person who has contracted directly with the Company or any Parent or Subsidiary to render such services.

(i) "***Disability***" means a permanent and total disability within the meaning of Section 22(e)(3) of the Code, as it may be amended from time to time.

(j) "***Dividend Equivalents***" means a right granted to a Participant pursuant to Article 8 to receive the equivalent value (in cash or Stock) of dividends paid on Stock.

(k) "***Eligible Individual***" means any person who is a member of the Board, a Consultant or an Employee, as determined by the Administrator.

(l) "***Employee***" means any officer or other employee (as defined in accordance with Section 3401(c) of the Code) of the Company or any Parent or Subsidiary.

(m) "***Equity Restructuring***" shall mean a nonreciprocal transaction between the Company and its stockholders, such as a stock dividend, stock split, spin-off, rights offering or recapitalization through a large, nonrecurring cash dividend, that affects the shares of Stock (or other securities of the Company) or the share price of Stock (or other securities) and causes a change in the per share value of the Stock underlying outstanding Awards.

(n) "***Exchange Act***" means the Securities Exchange Act of 1934, as amended from time to time.

(o) "***Fair Market Value***" means, as of any date, the value of Stock determined as follows:

(i) If the Stock is listed on any established stock exchange, including without limitation The Nasdaq Global Market or The Nasdaq SmallCap Market of The Nasdaq Stock Market, its Fair Market Value shall be the closing sales price for such Stock as quoted on such exchange for such date, or if no sale occurred on such date, the first market trading day immediately prior to such date during which a sale occurred, as reported in *The Wall Street Journal* or such other source as the Administrator deems reliable;

(ii) If the Stock is not traded on a stock exchange but is quoted on a national market or other quotation system, the last sales price on such date, or if no sales occurred on such date, then on the date immediately prior to such date on which sales prices are 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 Stock, the Fair Market Value thereof shall be determined in good faith by the Administrator.

(p) "***Incentive Stock Option***" means an Option that is intended to be an incentive stock option and meets the requirements of Section 422 of the Code or any successor provision thereto.

(q) "***Misconduct***" means the occurrence of any of, but not limited to, the following: (i) conviction of the Participant of any felony or any crime involving fraud or dishonesty; (ii) the Participant's participation (whether by affirmative act or omission) in a fraud, act or dishonesty or other act of misconduct against the Company and/or any Parent or Subsidiary; (iii) conduct by the Participant which, based upon a good faith and reasonable factual investigation by the Company (or, if the Participant is an executive officer, by the Board), demonstrates the Participant's unfitness to serve; (iv) the Participant's violation of any statutory or fiduciary duty, or duty of loyalty owed to the Company and/or any Parent or Subsidiary; (v) the Participant's violation of state or federal law in connection with the Participant's performance of his or her job which has an adverse effect on the Company and/or any Parent or Subsidiary; and (vi) the Participant's violation of Company policy which has a material adverse effect on the Company and/or any Parent or Subsidiary. Notwithstanding the foregoing, the Participant's Disability shall not constitute Misconduct as set forth herein. The determination that a termination is for Misconduct shall be by the Administrator it its sole and exclusive judgment and discretion. Notwithstanding the foregoing, if the term or concept of "***Misconduct***" has been defined in an agreement between a Participant and the Company or any successor or Parent or Subsidiary thereof, then "***Misconduct***" shall have the definition set forth in such agreement. The foregoing definition shall not in any way preclude or restrict the right of the Company (or any Parent or Subsidiary) to discharge or dismiss any Participant or other person in the service of the Company (or any Parent or Subsidiary) for any other acts or omissions, but such other acts or omissions shall not be deemed, for purposes of the Plan, to constitute grounds for termination for Misconduct.

(r) "***Non-Employee Director***" means a member of the Board who is not an Employee.

(s) "***Non-Qualified Stock Option***" means an Option that is not intended to be or otherwise does not qualify as an Incentive Stock Option.

(t) "***Option***" means a right granted to a Participant pursuant to Article 5 of the Plan to purchase a specified number of shares of Stock at a specified price during specified time periods. An Option may be either an Incentive Stock Option or a Non-Qualified Stock Option.

(u) "***Parent***" means any corporation in an unbroken chain of corporations ending with the Company if each of the corporations other than the Company then owns stock possessing 50% or more of the total combined voting power of all classes of stock in one of the other corporations in such chain at the relevant time, including after the Effective Date (as defined in Section 12.1).

(v) "***Participant***" means any Eligible Individual who, as a member of the Board, an Employee or a Consultant, has been granted an Award pursuant to the Plan.

(w) "***Plan***" means this Genelux Corporation 2009 Equity Incentive Plan, as it may be amended from time to time.

(x) "***Public Trading Date***" means the first date upon which the issuer is subject to the reporting requirements of Section 13 or 15(d)(2) of the Exchange Act.

(y) "***Restricted Stock***" means Stock awarded to a Participant pursuant to Article 6 that is subject to certain restrictions and may be subject to risk of forfeiture or repurchase.

(z) "***Restricted Stock Unit***" means a right to receive a share of Stock during specified time periods granted pursuant to Section 8.3.

(aa) "***Securities Act***" means the Securities Act of 1933, as amended from time to time.

(bb) "***Section 409A Award***" has the meaning set forth in Section 9.1.

(cc) "***Stock***" means the common stock of the Company and such other securities of the Company that may be substituted for Stock pursuant to Article 9.

(dd) "***Stock Appreciation Right***" or "***SAR***" means a right granted pursuant to Article 7 to receive a payment equal to the excess of the Fair Market Value of a specified number of shares of Stock on the date the SAR is exercised over the Fair Market Value of such number of shares of Stock on the date the SAR was granted as set forth in the applicable Award Agreement.

(ee) "***Stock Payment***" means (a) a payment in the form of shares of Stock, or (b) an option or other right to purchase shares of Stock, as part of any bonus, deferred compensation or other arrangement, made in lieu of all or any portion of the compensation, granted pursuant to Section 8.2.

(ff) "***Subsidiary***" means any corporation or other entity of which a majority of the outstanding voting stock or voting power is beneficially owned directly or indirectly by the Company at the relevant time, including after the Effective Date (as defined in Section 12.1).

(gg) "***Termination of Consultancy***" means the time when the engagement of a Participant as a Consultant to the Company or a Parent or Subsidiary is terminated for any reason, with or without cause, including, but not by way of limitation, by resignation, discharge, death or retirement, but excluding terminations where there is a simultaneous commencement of employment with the Company or any Parent or Subsidiary. The Administrator, in its absolute discretion, shall determine the effect of all matters and questions relating to Termination of Consultancy, including, but not by way of limitation, the

question of whether a Termination of Consultancy resulted from a discharge for good cause, and all questions of whether a particular leave of absence constitutes a Termination of Consultancy. Notwithstanding any other provision of the Plan, the Company or any Parent or Subsidiary has an absolute and unrestricted right to terminate a Consultant's service at any time for any reason whatsoever, with or without cause, except to the extent expressly provided otherwise in writing.

(hh) "***Termination of Directorship***" shall mean the time when a Participant who is a Non-Employee Director ceases to be a member of the Board for any reason, including, but not by way of limitation, a termination by resignation, failure to be elected, death or retirement. The Board, in its sole and absolute discretion, shall determine the effect of all matters and questions relating to Termination of Directorship with respect to Non-Employee Directors.

(ii) "***Termination of Employment***" shall mean the time when the employee-employer relationship between a Participant and the Company or any Parent or Subsidiary is terminated for any reason, with or without cause, including, but not by way of limitation, a termination by resignation, discharge, death, disability or retirement; but excluding: (a) terminations where there is a simultaneous reemployment or continuing employment of a Participant by the Company or any Parent or Subsidiary, (b) at the discretion of the Administrator, terminations which result in a temporary severance of the employee-employer relationship, and (c) terminations which are followed by the simultaneous establishment of a consulting relationship by the Company or a Parent or Subsidiary with the former employee. The Administrator, in its absolute discretion, shall determine the effect of all matters and questions relating to Termination of Employment, including, but not by way of limitation, the question of whether a Termination of Employment resulted from a discharge for good cause, and all questions of whether a particular leave of absence constitutes a Termination of Employment.

(ii) "***Termination of Service***" shall mean the last to occur of a Participant's Termination of Employment, Termination of Directorship or Termination of Consultancy. A Participant shall not be deemed to have a Termination of Service merely because of a change in the capacity in which the Participant renders service to the Company or any Parent or Subsidiary (i.e., a Participant who is an Employee becomes a Consultant) or a change in the entity for which the Participant renders such service (i.e., an Employee of the Company becomes an Employee of a Subsidiary), unless such following such change in capacity or service the Participant is no longer serving as an Employee, Non-Employee Director or Consultant of the Company or any Parent or Subsidiary.

ARTICLE 3
SHARES SUBJECT TO THE PLAN

3.1 Number of Shares.

(a) Subject to Article 10, the aggregate number of shares of Stock which may be issued or transferred pursuant to Awards under the Plan shall be 8,500,000 shares of Stock. In addition, subject to Article 10, commencing on the first January 1 occurring following the Effective Date, and on each January 1 thereafter during the term of the Plan, the number of shares of Stock which shall be made available for sale under the Plan shall be increased by that number of shares of Stock equal to the lesser of: (i) 1,000,000 shares; and (ii) a lesser number of shares of Stock as determined by the Board. Accordingly, the number of shares of Stock which shall be available for sale under the Plan shall be subject to increase under the preceding sentence only on January 1, 2010 and on each subsequent January 1 through and including January 1, 2019. Notwithstanding anything in this Section 3.1(a) to the contrary, the number of shares of Stock that may be issued or transferred pursuant to Awards under the Plan shall not exceed an aggregate of 18,500,000 shares of Stock, subject to Article 11. In order that the applicable regulations under the Code relating to Incentive Stock Options be satisfied, the maximum number of

shares of Stock that may be delivered upon exercise of Incentive Stock Options shall be the number specified in the preceding sentence, and, if necessary to satisfy such regulations, such maximum limit shall apply to the number of shares of Stock that may be delivered in connection with each other type of Award under the Plan (applicable separately to each type of Award).

(b) To the extent that an Award terminates, expires, or lapses for any reason, any shares of Stock subject to the Award shall again be available for the grant of an Award pursuant to the Plan. Additionally, any shares of Stock tendered or withheld to satisfy the grant or exercise price or tax withholding obligation pursuant to any Award shall again be available for the grant of an Award pursuant to the Plan. If shares of Stock issued pursuant to Awards are forfeited by a Participant or repurchased by the Company pursuant to Section 6.3 hereof, such shares of Stock shall become available for future grant under the Plan (unless the Plan has terminated). The payment of Dividend Equivalents in cash in conjunction with any outstanding Awards shall not be counted against the shares available for issuance under the Plan.

(c) Notwithstanding the provisions of this Section 3.1, no shares of Stock may again be optioned, granted or awarded if such action would cause an Incentive Stock Option to fail to qualify as an Incentive Stock Option under Section 422 of the Code.

3.2 Stock Distributed. Any Stock distributed pursuant to an Award may consist, in whole or in part, of authorized and unissued Stock, treasury Stock or, on and after the Public Trading Date, Stock purchased on the open market.

ARTICLE 4
ELIGIBILITY AND PARTICIPATION

4.1 Eligibility. Persons eligible to participate in this Plan include all Employees, Consultants and all members of the Board, as determined by the Administrator.

4.2 Actual Participation. Subject to the provisions of the Plan, the Administrator may, from time to time, select from among all Eligible Individuals those to whom Awards shall be granted and shall determine the nature and amount of each Award. No individual shall have any right to be granted an Award pursuant to this Plan.

4.3 Foreign Participants. Notwithstanding any provision of the Plan to the contrary, in order to comply with the laws in other countries in which the Company and its Parents or Subsidiaries operate or have Eligible Individuals, the Administrator, in its sole discretion, shall have the power and authority to: (i) determine which Parents or Subsidiaries shall be covered by the Plan; (ii) determine which Eligible Individuals outside the United States are eligible to participate in the Plan; (iii) modify the terms and conditions of any Award granted to Eligible Individuals outside the United States to comply with applicable foreign laws; (iv) establish subplans and modify exercise procedures and other terms and procedures, to the extent such actions may be necessary or advisable (any such subplans and/or modifications shall be attached to this Plan as appendices); *provided, however*, that no such subplans and/or modifications shall increase the share limitation contained in Section 3.1 of the Plan; and (v) take any action, before or after an Award is made, that it deems advisable to obtain approval or comply with any necessary local governmental regulatory exemptions or approvals. Notwithstanding the foregoing, the Administrator may not take any actions hereunder, and no Awards shall be granted, that would violate the Exchange Act, the Code, any securities law or governing statute or any other applicable law.

ARTICLE 5
STOCK OPTIONS

5.1 General. The Administrator is authorized to grant Options to Eligible Individuals on the following terms and conditions:

(a) Exercise Price. The exercise price per share of Stock subject to an Option shall be determined by the Administrator and set forth in the Award Agreement; *provided* that the exercise price per share for any Option shall not be less than the par value per share of the Stock.

(b) Time and Conditions of Exercise. The Administrator shall determine the time or times at which an Option may be exercised in whole or in part; *provided* that the term of any Option granted under the Plan shall not exceed ten years. The Administrator shall also determine the performance or other conditions, if any, that must be satisfied before all or part of an Option may be exercised. The Administrator may extend the term of any outstanding Option in connection with any Termination of Employment, Termination of Directorship or Termination of Consultancy of the Participant holding such Option, or amend any other term or condition of such Option relating to such a Termination of Employment, Termination of Directorship or Termination of Consultancy.

(c) Payment. The Administrator shall determine the methods, terms and conditions by which the exercise price of an Option may be paid, and the form and manner of payment, including, without limitation, payment in the form of cash, a promissory note bearing interest at no less than such rate as shall then preclude the imputation of interest under the Code, shares of Stock previously owned by the Participant or otherwise issuable upon exercise of the Option, or other property acceptable to the Administrator and payment through the delivery of a notice that the Participant has placed a market sell order with a broker with respect to shares of Stock then issuable upon exercise of the Option, and that the broker has been directed to pay a sufficient portion of the net proceeds of the sale to the Company in satisfaction of the Option exercise price; *provided* that payment of such proceeds is then made to the Company upon settlement of such sale, and the methods by which shares of Stock shall be delivered or deemed to be delivered to Participants. Notwithstanding any other provision of the Plan to the contrary, no Participant who is a member of the Board or an "executive officer" of the Company within the meaning of Section 13(k) of the Exchange Act shall be permitted to pay the exercise price of an Option, or continue any extension of credit with respect to the exercise price of an Option with a loan from the Company or a loan arranged by the Company, in any method which would violate Section 13(k) of the Exchange Act.

(d) Evidence of Grant. All Options shall be evidenced by an Award Agreement between the Company and the Participant. The Award Agreement shall include such additional provisions as may be specified by the Administrator.

5.2 Incentive Stock Options. Incentive Stock Options may be granted only to employees (as defined in accordance with Section 3401(c) of the Code) of the Company or a Subsidiary which constitutes a "subsidiary corporation" of the Company within Section 424(f) of the Code or a Parent which constitutes a "parent corporation" of the Company within the meaning of Section 424(e) of the Code and the terms of any Incentive Stock Options granted pursuant to the Plan must comply with the following additional provisions of this Section 5.2 in addition to the requirements of Section 5.1:

(a) Ten Percent Owners. An Incentive Stock Option shall be granted to any individual who, at the date of grant, owns stock possessing more than ten percent of the total combined voting power of all classes of stock of the Company or any "subsidiary corporation" of the Company or "parent corporation" of the Company (each within the meaning of Section 424 of the Code) only if such Option is granted at an exercise price per share that is not less than 110% of the Fair Market Value per share of the Stock on the date of the grant and the Option is exercisable for no more than five years from the date of grant.

(b) Transfer Restriction. An Incentive Stock Option shall not be transferable by the Participant other than by will or by the laws of descent or distribution.

(c) Right to Exercise. During a Participant's lifetime, an Incentive Stock Option may be exercised only by the Participant.

(d) Failure to Meet Requirements. Any Option (or portion thereof) purported to be an Incentive Stock Option which, for any reason, fails to meet the requirements of Section 422 of the Code shall be considered a Non-Qualified Stock Option.

5.3 Early Exercisability. The Administrator may provide in the terms of a Participant's Award Agreement that the Participant may, at any time before the Participant's status as an Employee, member of the Board or Consultant terminates, exercise the Option(s) granted to such Participant in whole or in part prior to the full vesting of the Option(s); *provided, however*, shares of Stock acquired upon exercise of an Option which has not fully vested may be subject to any forfeiture, transfer or other restrictions as the Administrator may determine in its sole discretion.

5.4 Paperless Exercise. In the event that the Company establishes, for itself or using the services of a third party, an automated system for the exercise of Options, such as a system using an internet website or interactive voice response, then the paperless exercise of Options by a Participant may be permitted through the use of such an automated system.

ARTICLE 6
RESTRICTED STOCK AWARDS

6.1 Grant of Restricted Stock. The Administrator is authorized to make Awards of Restricted Stock to any Eligible Individual selected by the Administrator in such amounts and subject to such terms and conditions as determined by the Administrator. All Awards of Restricted Stock shall be evidenced by an Award Agreement.

6.2 Issuance and Restrictions. Restricted Stock shall be subject to such repurchase restrictions, forfeiture restrictions, restrictions on transferability and other restrictions as the Administrator may impose (including, without limitation, limitations on the right to vote Restricted Stock or the right to receive dividends on the Restricted Stock). These restrictions may lapse separately or in combination at such times, pursuant to such circumstances or in such installments or otherwise as the Administrator determines at the time of the grant of the Award or thereafter.

6.3 Repurchase or Forfeiture. Except as otherwise determined by the Administrator at the time of the grant of the Award or thereafter, upon a Participant's Termination of Service during the applicable restriction period, Restricted Stock that is at that time subject to restrictions shall be forfeited or subject to repurchase by the Company (or its assignee) under such terms as the Administrator shall determine; *provided, however*, that the Administrator may (a) provide in any Restricted Stock Award Agreement that restrictions or forfeiture conditions relating to Restricted Stock will be waived in whole or in part in the event of a Participant's Termination of Service, and (b) in other cases waive in whole or in part restrictions or forfeiture conditions relating to Restricted Stock.

6.4 Certificates for Restricted Stock. Restricted Stock granted pursuant to the Plan may be evidenced in such manner as the Administrator shall determine. If certificates representing shares of Restricted Stock are registered in the name of the Participant, certificates must bear an appropriate legend referring to the terms, conditions, and restrictions applicable to such Restricted Stock, and the Company may, at its discretion, retain physical possession of the certificate until such time as all applicable restrictions lapse or the Award Agreement may provide that the shares shall be held in escrow by an escrow agent designated by the Company.

ARTICLE 7
STOCK APPRECIATION RIGHTS

7.1 Grant of Stock Appreciation Rights. A Stock Appreciation Right may be granted to any Eligible Individual selected by the Administrator. A Stock Appreciation Right shall be subject to such terms and conditions not inconsistent with the Plan as the Administrator shall impose and shall be evidenced by an Award Agreement.

7.2 Terms of Stock Appreciation Rights.

(a) A Stock Appreciation Right shall have a term set by the Administrator. A Stock Appreciation Right shall be exercisable in such installments as the Administrator may determine. A Stock Appreciation Right shall cover such number of shares of Stock as the Administrator may determine. The exercise price per share of Stock subject to each Stock Appreciation Right shall be set by the Administrator.

(b) A Stock Appreciation Right shall entitle the Participant (or other person entitled to exercise the Stock Appreciation Right pursuant to the Plan) to exercise all or a specified portion of the Stock Appreciation Right (to the extent then exercisable pursuant to its terms) and to receive from the Company an amount determined by multiplying (i) the amount (if any) by which the Fair Market Value of a share of Stock on the date of exercise of the Stock Appreciation Right exceeds the exercise price per share of the Stock Appreciation Right, by (ii) the number of shares of Stock with respect to which the Stock Appreciation Right shall have been exercised, subject to any limitations the Administrator may impose.

7.3 Payment and Limitations on Exercise.

(a) Subject to Sections 7.3(b) and (c), payment of the amounts determined under Section 7.2(b) above shall be in cash, in Stock (based on its Fair Market Value as of the date the Stock Appreciation Right is exercised) or a combination of both, as determined by the Administrator.

(B) To the extent any payment under Section 7.2(b) is effected in Stock, it shall be made subject to satisfaction of all provisions of Article 5 above pertaining to Options.

ARTICLE 8
OTHER TYPES OF AWARDS

8.1 Dividend Equivalents. Any Eligible Individual selected by the Administrator may be granted Dividend Equivalents based on the dividends declared on the shares of Stock that are subject to any Award, to be credited as of dividend payment dates, during the period between the date the Award is granted and the date the Award is exercised, vests or expires, as determined by the Administrator. Such Dividend Equivalents shall be converted to cash or additional shares of Stock by such formula and at such time and subject to such limitations as may be determined by the Administrator.

8.2 Stock Payments. Any Eligible Individual selected by the Administrator may receive Stock Payments in the manner determined from time to time by the Administrator; *provided* that, unless otherwise determined by the Administrator, such Stock Payments shall be made in lieu of base salary, bonus or other cash compensation otherwise payable to such Eligible Individual. The number of shares shall be determined by the Administrator and may be based upon the Performance Goals or other specific performance goals determined appropriate by the Administrator.

8.3 Restricted Stock Units. The Administrator is authorized to make Awards of Restricted Stock Units to any Eligible Individual selected by the Administrator in such amounts and subject to such terms and conditions as determined by the Administrator. At the time of grant, the Administrator shall specify the date or dates on which the Restricted Stock Units shall become fully vested and nonforfeitable, and may specify such conditions to vesting as it deems appropriate. Alternatively, Restricted Stock Units may become fully vested and nonforfeitable pursuant to the satisfaction of one or more Performance Goals or other specific performance goals as the Administrator determines to be appropriate at the time of the grant of the Restricted Stock Units or thereafter, in each case on a specified date or dates or over any period or periods determined by the Administrator. At the time of grant, the Administrator shall specify the maturity date applicable to each grant of Restricted Stock Units which shall be no earlier than the vesting date or dates of the Award and, to the extent permitted by the Administrator, may be determined at the election of the Eligible Individual to whom the Award is granted. On the maturity date, the Company shall, subject to Section 9.5(b), transfer to the Participant one unrestricted, fully transferable share of Stock for each Restricted Stock Unit that is vested and scheduled to be distributed on such date and not previously forfeited. The Administrator shall specify the purchase price, if any, to be paid by the Participant to the Company for such shares of Stock.

8.4 Term. Except as otherwise provided herein, the term of any Award of Performance Shares, Dividend Equivalents, Stock Payments or Restricted Stock Units shall be set by the Administrator in its discretion.

8.5 Exercise or Purchase Price. The Administrator may establish the exercise or purchase price, if any, of any Award of Restricted Stock Units or Stock Payments; *provided, however*, that such price shall not be less than the par value of a share of Stock on the date of grant, unless otherwise permitted by applicable state law.

8.7 Form of Payment. Payments with respect to any Awards granted under Sections 8.1, 8.2 or 8.3 shall be made in cash, in Stock or a combination of both, as determined by the Administrator.

8.8 Award Agreement. All Awards under this Article 8 shall be subject to such additional terms and conditions as determined by the Administrator and shall be evidenced by a written Award Agreement.

ARTICLE 9
PROVISIONS APPLICABLE TO AWARDS

9.1 Stand-Alone and Tandem Awards. Awards granted pursuant to the Plan may, in the discretion of the Administrator, be granted either alone, in addition to, or in tandem with, any other Award granted pursuant to the Plan. Awards granted in addition to or in tandem with other Awards may be granted either at the same time as or at a different time from the grant of such other Awards.

9.2 Award Agreement. Awards under the Plan shall be evidenced by Award Agreements that set forth the terms, conditions and limitations for each Award which may include the term of an Award, the provisions applicable in the event of the Participant's Termination of Service, and the Company's authority to unilaterally or bilaterally amend, modify, suspend, cancel or rescind an Award.

9.3 Limits on Transfer.

(a) Except as otherwise provided by the Administrator pursuant to Section 9.3(b), no right or interest of a Participant in any Award may be pledged, encumbered, or hypothecated to or in favor of any party other than the Company or a Parent or Subsidiary, or shall be subject to any lien, obligation, or liability of such Participant to any other party other than the Company or a Parent or Subsidiary. Except as otherwise provided by the Administrator pursuant to Section 9.3(b), no Award shall be assigned, transferred, or otherwise disposed of by a Participant other than by will or the laws of descent and distribution or pursuant to beneficiary designation procedures approved from time to time by the Administrator, unless and until such Award has been exercised, or the shares underlying such Award have been issued, and all restrictions applicable to such shares have lapsed.

(b) Notwithstanding Section 9.3(a), the Administrator, in its sole discretion, may permit an Award (other than an Incentive Stock Option) to be transferred to, exercised by and paid to any one or more Permitted Transferees (as defined below), subject to the following terms and conditions: (i) an Award transferred to a Permitted Transferee shall not be assignable or transferable by the Permitted Transferee other than by will or the laws of descent and distribution; (ii) any Award which is transferred to a Permitted Transferee shall continue to be subject to all the terms and conditions of the Award as applicable to the original Participant (other than the ability to further transfer the Award); and (iii) the Participant and the Permitted Transferee shall execute any and all documents requested by the Administrator, including, without limitation documents to (A) confirm the status of the transferee as a Permitted Transferee, (B) satisfy any requirements for an exemption for the transfer under applicable federal and state securities laws and (C) evidence the transfer. For purposes of this Section 9.3(b), "***Permitted Transferee***" shall mean, with respect to a Participant, any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, former spouse, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, including adoptive relationships, any person sharing the Participant's household (other than a tenant or employee), a trust in which these persons (or the Participant) control the management of assets, and any other entity in which these persons (or the Participant) own more than fifty percent of the voting interests, or any other transferee specifically approved by the Administrator.

9.4 Beneficiaries. Notwithstanding Section 9.3, a Participant may, in the manner determined by the Administrator, designate a beneficiary to exercise the rights of the Participant and to receive any distribution with respect to any Award upon the Participant's death. A beneficiary, legal guardian, legal representative, or other person claiming any rights pursuant to the Plan is subject to all terms and conditions of the Plan and any Award Agreement applicable to the Participant, except to the extent the Plan and Award Agreement otherwise provide, and to any additional restrictions deemed necessary or appropriate by the Administrator. If the Participant is married and resides in a community property state, a designation of a person other than the Participant's spouse as his or her beneficiary with respect to more than 50% of the Participant's interest in the Award shall not be effective without the prior written consent of the Participant's spouse. If no beneficiary has been designated or survives the Participant, payment shall be made to the person entitled thereto pursuant to the Participant's will or the laws of descent and distribution. Subject to the foregoing, a beneficiary designation may be changed or revoked by a Participant at any time provided the change or revocation is filed with the Administrator.

9.5 Stock Certificates; Book Entry Procedures.

(a) Notwithstanding anything herein to the contrary, the Company shall not be required to issue or deliver any certificates evidencing shares of Stock pursuant to the exercise or purchase of any Award, unless and until the Board has determined, with advice of counsel, that the issuance and delivery of such certificates is in compliance with all applicable laws, regulations of governmental authorities and, if applicable, the requirements of any exchange on which the shares of Stock are listed or traded. All Stock certificates delivered pursuant to the Plan are subject to any stop-transfer orders and other restrictions as the Administrator deems necessary or advisable to comply with federal, state, or foreign jurisdiction, securities or other laws, rules and regulations and the rules of any national securities exchange or automated quotation system on which the Stock is listed, quoted, or traded. The Administrator may place legends on any Stock certificate to reference restrictions applicable to the Stock. In addition to the terms and conditions provided herein, the Administrator may require that a Participant make such reasonable covenants, agreements, and representations as the Administrator, in its discretion, deems advisable in order to comply with any such laws, regulations, or requirements. The Administrator shall have the right to require any Participant to comply with any timing or other restrictions with respect to the settlement or exercise of any Award, including a window-period limitation, as may be imposed in the discretion of the Administrator.

(b) Notwithstanding any other provision of the Plan, unless otherwise determined by the Administrator or required by applicable law, rule or regulation, the Company shall not deliver to any Participant certificates evidencing shares of Stock issued in connection with any Award or exercise of any Award and instead such shares of Stock will be recorded in the books of the Company (or as applicable, its transfer agent or stock plan administrator).

ARTICLE 10
CHANGES IN CAPITAL STRUCTURE

10.1 Adjustments.

(a) In the event of any stock dividend, stock split, combination or exchange of shares, merger, consolidation, spin-off, recapitalization, distribution of Company assets to stockholders (other than normal cash dividends), or any other corporate event affecting the Stock or the share price of the Stock (other than an Equity Restructuring), the Administrator shall make such equitable adjustments to reflect such change with respect to (i) the aggregate number and kind of shares that may be issued under the Plan (including, but not limited to, adjustments of the limitation in Section 3.1 on the maximum number and kind of shares which may be issued under the Plan); (ii) the terms and conditions of any outstanding Awards (including, without limitation, any applicable performance targets or criteria with respect thereto); and (iii) the grant or exercise price per share for any outstanding Awards under the Plan.

(b) In the event of any transaction or event described in Section 10.1(a) or any unusual or nonrecurring transactions or events affecting the Company, any affiliate of the Company, or the financial statements of the Company or any affiliate (including without limitation any Change in Control), or of changes in applicable laws, regulations or accounting principles, and whenever the Administrator determines that such action is appropriate in order to prevent the dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan or with respect to any Award under the Plan, to facilitate such transactions or events or to give effect to such changes in laws, regulations or principles, the Administrator, in its sole discretion and on such terms and conditions as it deems appropriate, either by amendment of the terms of any outstanding Awards or by action taken prior to the occurrence of such transaction or event and either automatically or upon the Participant's request, is hereby authorized to take any one or more of the following actions:

(i) To provide for either (A) termination of any such Award in exchange for an amount of cash and/or other property, if any, equal to the amount that would have been received upon the exercise of such Award or realization of the Participant's rights (and, for the avoidance of doubt, if as of the date of the occurrence of the transaction or event described in this Section 10.1(b) 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;

(ii) To provide that such Award be assumed by the successor or survivor entity, or a parent or subsidiary thereof, or shall be substituted for by similar options, rights or awards covering the stock of the successor or survivor entity, or a parent or subsidiary thereof, with appropriate adjustments as to the number and kind of shares and prices;

(iii) To make adjustments in the number and type of shares of Stock (or other securities or property) subject to outstanding Awards, and in the number and kind of outstanding Restricted Stock or Restricted Stock Units and/or in the terms and conditions of (including the grant or exercise price), and the criteria included in, outstanding options, rights and awards, and options, rights and awards which may be granted in the future;

(iv) To provide that such Award shall be exercisable or payable or fully vested with respect to all shares covered thereby, notwithstanding anything to the contrary in the Plan or the applicable Award Agreement; and

(v) To provide that the Award cannot vest, be exercised or become payable after such event.

10.2 Effect of a Change in Control When Awards Are Not Assumed. If a Change in Control occurs and a Participant's Awards are not continued, converted, assumed, or replaced by (i) the Company or a Parent or Subsidiary of the Company, or (ii) a Successor Entity or its parent or subsidiary (an "***Assumption***"), then immediately prior to the Change in Control such Awards shall become fully exercisable and/or payable, as applicable, and all forfeiture, repurchase and other restrictions on such Awards shall lapse. Upon, or in anticipation of, a Change in Control, the Administrator may cause any and all Awards outstanding hereunder to terminate at a specific time in the future, including but not limited to the date of such Change in Control, and shall give each Participant the right to exercise such Awards during a period of time as the Administrator, in its sole and absolute discretion, shall determine. The Administrator shall have sole discretion to determine whether an Assumption of an Award has occurred in connection with a Change in Control.

10.3 Equity Restructuring. In connection with the occurrence of any Equity Restructuring, and notwithstanding anything to the contrary in Sections 10.1(a) and 10.1(b):

(a) The number and type of securities subject to each outstanding Award and the exercise price or grant price thereof, if applicable, shall be equitably adjusted. The adjustments provided under this Section 10.3 shall be nondiscretionary and shall be final and binding on the affected Participant and the Company.

(b) The Administrator shall make such equitable adjustments, if any, as the Administrator in its discretion may deem appropriate to reflect such Equity Restructuring with respect to the aggregate number and kind of shares that may be issued under the Plan (including, but not limited to, adjustments of the limitation in Section 3.1 on the maximum number and kind of shares which may be issued under the Plan).

10.4 Restrictions on Exercise. In the event of any pending stock dividend, stock split, combination or exchange of shares, merger, consolidation or other distribution (other than normal cash dividends) of Company assets to stockholders, or any other change affecting the shares of Stock or the share price of the Stock, including any Equity Restructuring, for reasons of administrative convenience the Company in its sole discretion may refuse to permit the exercise of any Award during a period of 30 days prior to the consummation of any such transaction.

10.5 No Other Rights. Except as expressly provided in the Plan or pursuant to action of the Administrator under the Plan, no Participant shall have any rights by reason of any subdivision or consolidation of shares of stock of any class, the payment of any dividend, any increase or decrease in the number of shares of stock of any class or any dissolution, liquidation, merger, or consolidation of the Company or any other corporation. Except as expressly provided in the Plan or pursuant to action of the Administrator under the Plan, no issuance by the Company of shares of stock of any class, or securities convertible into shares of stock of any class, shall affect, and no adjustment by reason thereof shall be made with respect to, the number of shares of Stock subject to an Award or the grant or exercise price of any Award.

ARTICLE 11
ADMINISTRATION

11.1 Administrator. The Plan shall be administered by the Board. The Board may delegate administration of the Plan to a Committee or Committees of one or more members of the Board, and the term "***Administrator***" shall apply to any person or persons who at the time have the authority to administer the Plan. If administration is delegated to a Committee, the Committee shall have, in connection with the administration of the Plan, the powers theretofore possessed by the Board, including the power to delegate to a subcommittee any of the administrative powers the Committee is authorized to exercise (and references in this Plan to the Board shall thereafter be to the Committee or subcommittee), subject, however, to such resolutions, not inconsistent with the provisions of the Plan, as may be adopted from time to time by the Board. Notwithstanding the foregoing, however, from and after the Public Trading Date, a Committee of the Board shall administer the Plan and such Committee shall consist solely of two or more members of the Board each of whom is an "outside director," within the meaning of Section 162(m) of the Code and a Non-Employee Director**;** provided that any action taken by the Committee shall be valid and effective, whether or not members of the Committee at the time of such action are later determined not to have satisfied the requirements for membership set forth in this Section 11.1 or otherwise provided in any charter of the Committee. Notwithstanding the foregoing: (a) the full Board, acting by a majority of its members in office, shall conduct the general administration of the Plan with respect to all Awards granted to Non-Employee Directors and for purposes of such Awards the term "***Administrator***" as used in this Plan shall be deemed to refer to the Board, and (b) the Board or the Committee may delegate its authority hereunder to the extent permitted by Section 11.5. In its sole discretion, the Board may at any time and from time to time exercise any and all rights and duties of the Administrator under the Plan except with respect to matters which, following the Public Trading Date, are required to be determined in the sole discretion of the Committee under Rule 16b-3 under the Exchange Act or Section 162(m) of the Code, or any regulations or rules issued thereunder. Committee members may resign at any time by delivering written notice to the Board. Vacancies in the Committee may only be filled by the Board.

11.2 Action by the Administrator. A majority of the members of the Administrator shall constitute a quorum. The acts of a majority of the members of the Administrator present at any meeting at which a quorum is present, and, subject to applicable law, acts approved in writing by a majority of the members of the Administrator in lieu of a meeting, shall be deemed the acts of the Administrator. Each member of the Administrator is entitled to, in good faith, rely or act upon any report or other information furnished to that member by any officer or other employee of the Company or any Parent or Subsidiary, the Company's independent certified public accountants, or any executive compensation consultant or other professional retained by the Company to assist in the administration of the Plan.

11.3 Authority of Administrator. Subject to any specific designation in the Plan, the Administrator has the exclusive power, authority and discretion to:

(a) Designate Eligible Individuals to receive Awards;

(b) Determine the type or types of Awards to be granted to each Eligible Individual;

(c) Determine the number of Awards to be granted and the number of shares of Stock to which an Award will relate;

(d) Determine the terms and conditions of any Award granted pursuant to the Plan, including, but not limited to, the exercise price, grant price, or purchase price, any reload provision, any restrictions or limitations on the Award, any schedule for lapse of forfeiture restrictions or restrictions on the exercisability of an Award, and accelerations or waivers thereof, any provisions related to non-competition and recapture of gain on an Award, based in each case on such considerations as the Administrator in its sole discretion determines;

(e) Determine whether, to what extent, and pursuant to what circumstances an Award may be settled in, or the exercise price of an Award may be paid in, cash, Stock, other Awards, or other property, or an Award may be canceled, forfeited, or surrendered;

(f) Prescribe the form of each Award Agreement, which need not be identical for each Participant;

(g) Decide all other matters that must be determined in connection with an Award;

(h) Establish, adopt, or revise any rules and regulations as it may deem necessary or advisable to administer the Plan;

(i) Interpret the terms of, and any matter arising pursuant to, the Plan or any Award Agreement; and

(j) Make all other decisions and determinations that may be required pursuant to the Plan or as the Administrator deems necessary or advisable to administer the Plan.

11.4 Decisions Binding. The Administrator's interpretation of the Plan, any Awards granted pursuant to the Plan, any Award Agreement and all decisions and determinations by the Administrator with respect to the Plan are final, binding, and conclusive on all parties.

11.5 Delegation of Authority. Within the scope of such authority, the Board or the Committee may delegate to a committee of one or more members of the Board or one or more officers of the Company the authority to grant or amend Awards to Participants other than Eligible Individuals who are either (a) "covered employees" at the time of recognition of income resulting from such Awards, and/or (b) persons with respect to whom the Company wishes to comply with Section 162(m) of the Code and/or

(c) subject to Section 16 of the Exchange Act and/or (d) officers of the Company or members of the Board to whom authority to grant or amend Awards has been delegated pursuant to this Section 12.5. At all times, the delegate(s) appointed under this Section 11.5 shall serve in such capacity at the pleasure of the Board or the Committee.

ARTICLE 12
EFFECTIVE AND EXPIRATION DATE

12.1 Effective Date. The Plan will be effective on the date of the Board's initial adoption of the Plan (the "***Effective Date***"). If the Plan has not been approved by the Company's stockholders within twelve months prior to the Effective Date, the Plan will be submitted for the approval of the Company's stockholders within twelve months after the Effective Date. Awards may be granted or awarded prior to such stockholder approval, provided that such Awards shall not be exercisable, shall not vest and the restrictions thereon shall not lapse prior to the time when the Plan is approved by the stockholders, and provided further that if such approval has not been obtained at the end of said twelve-month period, all Awards previously granted or awarded under the Plan shall thereupon be canceled and become null and void.

12.2 Expiration Date. The Plan will expire on, and no Award may be granted pursuant to the Plan after, the tenth anniversary of the earlier of (i) the Effective Date or (ii) the date this Plan is approved by the Company's stockholders. Any Awards that are outstanding on the tenth anniversary of the Effective Date shall remain in force according to the terms of the Plan and the applicable Award Agreement.

ARTICLE 13
AMENDMENT, MODIFICATION, AND TERMINATION

13.1 Amendment, Modification, and Termination. The Board may terminate, amend or modify the Plan at any time and from time to time; *provided, however*, that to the extent necessary to comply with any applicable law, regulation, or stock exchange rule, the Company shall obtain stockholder approval of any Plan amendment in such a manner and to such a degree as required. The Administrator shall have the authority to effect, at any time and from time to time, with the consent of the affected Option holders, the cancellation of any or all outstanding Awards under the Plan and to grant in substitution therefor new Awards covering the same or different number of shares of Stock and with a different or no exercise price per share.

13.2 Awards Previously Granted. No termination, amendment, or modification of the Plan shall adversely affect in any material way any Award previously granted pursuant to the Plan without the prior written consent of the Participant.

ARTICLE 14
GENERAL PROVISIONS

14.1 No Rights to Awards. No Participant, Employee, or other person shall have any claim to be granted any Award pursuant to the Plan, and neither the Company nor the Administrator is obligated to treat Participants, Employees, and other persons uniformly.

14.2 No Stockholder Rights. Except as otherwise provided herein, a Participant shall have none of the rights of a stockholder with respect to shares of Stock covered by any Award until the Participant becomes the record owner of such shares of Stock.

14.3 Withholding. The Company or any Parent or Subsidiary shall have the authority and the right to deduct or withhold, or require a Participant to remit to the Company an amount sufficient to satisfy federal, state, local and foreign taxes (including the Participant's employment tax obligations) required by law to be withheld with respect to any taxable event concerning a Participant arising as a result of this Plan. The Administrator may in its discretion and in satisfaction of the foregoing requirement allow a Participant to elect to have the Company or a Parent or Subsidiary, as applicable, withhold shares of Stock otherwise issuable under an Award (or allow the return of shares of Stock) having a Fair Market Value equal to the sums required to be withheld. Notwithstanding any other provision of the Plan, the number of shares of Stock which may be withheld with respect to the issuance, vesting, exercise or payment of any Award (or which may be repurchased from the Participant of such Award within six months (or such other period as may be determined by the Administrator) after such shares of Stock were acquired by the Participant from the Company) in order to satisfy the Participant's federal, state, local and foreign tax liabilities with respect to the issuance, vesting, exercise or payment of the Award shall be limited to the number of shares which have a Fair Market Value on the date of withholding or repurchase equal to the aggregate amount of such liabilities based on the minimum statutory withholding rates for federal, state, local and foreign income tax and employment tax purposes that are applicable to such supplemental taxable income.

14.4 No Right to Employment or Services. Nothing in the Plan or any Award Agreement shall interfere with or limit in any way the right of the Company or any Parent or Subsidiary to terminate any Participant's employment or services at any time, nor confer upon any Participant any right to continue in the employ or service of the Company or any Parent or Subsidiary.

14.5 Unfunded Status of Awards. The Plan is intended to be an "unfunded" plan for incentive compensation. With respect to any payments not yet made to a Participant pursuant to an Award, nothing contained in the Plan or any Award Agreement shall give the Participant any rights that are greater than those of a general creditor of the Company or any Parent or Subsidiary.

14.6 Indemnification. To the extent allowable pursuant to applicable law, the Administrator (and each member thereof) shall be indemnified and held harmless by the Company from any loss, cost, liability, or expense that may be imposed upon or reasonably incurred by such member 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 or failure to act pursuant to the Plan and against and from any and all amounts paid by him or her in satisfaction of judgment in such action, suit, or proceeding against him or her; *provided* he or she gives 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 shall not be exclusive of any other rights of indemnification to which such persons may be entitled pursuant to the Company's Certificate of Incorporation or Bylaws, as a matter of law, or otherwise, or any power that the Company may have to indemnify them or hold them harmless.

14.7 Relationship to Other Benefits. No payment pursuant to the Plan shall be taken into account in determining any benefits pursuant to any pension, retirement, savings, profit sharing, group insurance, welfare or other benefit plan of the Company or any Parent or Subsidiary except to the extent otherwise expressly provided in writing in such other plan or an agreement thereunder.

14.8 Expenses. The expenses of administering the Plan shall be borne by the Company and its Parents and Subsidiaries.

14.9 Titles and Headings. The titles and headings of the Sections in the Plan are for convenience of reference only and, in the event of any conflict, the text of the Plan, rather than such titles or headings, shall control.

14.10 Fractional Shares. No fractional shares of Stock shall be issued and the Administrator shall determine, in its discretion, whether cash shall be given in lieu of fractional shares or whether such fractional shares shall be eliminated by rounding up or down as appropriate.

14.11 Limitations Applicable to Section 16 Persons. Notwithstanding any other provision of the Plan, the Plan, and any Award granted or awarded to any Participant who is then subject to Section 16 of the Exchange Act, shall be subject to any additional limitations set forth in any applicable exemptive rule under Section 16 of the Exchange Act (including any amendment to Rule 16b-3 under the Exchange Act) that are requirements for the application of such exemptive rule. To the extent permitted by applicable law, the Plan and Awards granted or awarded hereunder shall be deemed amended to the extent necessary to conform to such applicable exemptive rule.

14.12 Government and Other Regulations. The obligation of the Company to make payment of awards in Stock or otherwise shall be subject to all applicable laws, rules, and regulations, and to such approvals by government agencies as may be required. The Company shall be under no obligation to register pursuant to the Securities Act any of the shares of Stock paid pursuant to the Plan. If the shares paid pursuant to the Plan may in certain circumstances be exempt from registration pursuant to the Securities Act, the Company may restrict the transfer of such shares in such manner as it deems advisable to ensure the availability of any such exemption.

14.13 Governing Law. The Plan and all Award Agreements shall be construed in accordance with and governed by the laws of the State of Delaware, without regard to the conflicts of law principles thereof.

14.14 Compliance with California Securities Laws. Unless determined otherwise by the Administrator, prior to the Public Trading Date, this Plan is intended to comply with Section 25102(o) of the California Corporations Code and the regulations issued thereunder. Appendix I to the Plan sets forth the requirements under Section 25102(o) of the California Corporations Code and the regulations issued thereunder and is incorporated herein by reference. If any of the provisions contained in this Plan are inconsistent with such requirements or Appendix I, such provisions shall be deemed null and void. The invalidity of any provision of this Plan shall not affect the validity or enforceability of any other provision of this Plan, which shall remain in full force and effect.

14.15 Appendices. The Board may approve such supplements to, or amendments, or appendices to, the Plan as it may consider necessary or appropriate for purposes of compliance with applicable laws or otherwise and such supplements, amendments or appendices shall be considered a part of the Plan; *provided, however*, that no such supplements, amendments or appendices shall increase the share limitation contained in Section 3.1 of the Plan.

14.16 Section 409A. To the extent that the Administrator determines that any Award granted under the Plan is subject to Section 409A of the Code, the Award Agreement evidencing such Award shall incorporate the terms and conditions required by Section 409A of the Code. To the extent applicable, the Plan and Award Agreements shall be interpreted in accordance with Section 409A of the Code and Department of Treasury regulations and other interpretive guidance issued thereunder, including without limitation any such regulations or other guidance that may be issued after the Effective Date. Notwithstanding any provision of the Plan to the contrary, in the event that following the Effective Date, the Administrator determines that any Award may be subject to Section 409A of the Code and related Department of Treasury guidance (including such Department of Treasury guidance as may be issued after the Effective Date), the Administrator may adopt such amendments to the Plan and the

applicable Award Agreement or adopt other policies and procedures (including amendments, policies and procedures with retroactive effect), or take any other actions, that the Administrator determines are necessary or appropriate to (i) exempt the Award from Section 409A of the Code and/or preserve the intended tax treatment of the benefits provided with respect to the Award, or (ii) comply with the requirements of Section 409A of the Code and related Department of Treasury guidance and thereby avoid the application of any penalty taxes under such Section.

* * * * *

I hereby certify that the foregoing Plan was duly adopted by the Board of Directors of Genelux Corporation on August 17, 2009.

* * * * *

I hereby certify that the foregoing Plan was approved by the stockholders of Genelux Corporation on September 10, 2009.

Executed on this 10th day of September, 2009.

/s/ Kevin Murphy
Secretary, Genelux Corporation

APPENDIX I

TO

GENELUX CORPORATION

2009 EQUITY INCENTIVE PLAN

California State Securities Law Compliance

Notwithstanding anything to the contrary contained in the Plan and except as otherwise determined by the Administrator, the provisions set forth in this Appendix shall apply to all Awards granted under the Genelux Corporation 2009 Equity Incentive Plan (the "***Plan***") prior to the Public Trading Date. This Appendix shall be of no further force and effect on or after the Public Trading Date. Definitions as set out in Article 2 of the Plan are applicable to this Appendix.

The purpose of this Appendix is to set forth those provisions of the Plan necessary to comply with Section 25102(o) of the California Corporations Code and the regulations issued thereunder. If any of the provisions contained in this Appendix are inconsistent with such requirements, such provisions shall be deemed amended to the extent necessary to be consistent with such requirements. The invalidity of any provision of this Appendix shall not affect the validity or enforceability of any other provision of this Appendix, which shall remain in full force and effect.

References to Articles and Sections set forth in this Appendix are to those Articles and Sections of the Plan.

1.1 Term of Awards. The term of each Award shall be no more than ten years from the date of grant thereof.

2.1 Exercisability Following Termination.

(a) Termination Other Than Death or Disability. If a Participant has a Termination of Service for any reason other than by reason of the Participant's Disability or death, such Participant may exercise his or her Award within such period of time as is specified in the Award Agreement to the extent that the Award is vested on the date of termination; *provided*, *however*, that prior to the Public Trading Date, such period of time shall not be less than thirty days (but in no event later than the expiration of the term of the Award as set forth in the Award Agreement). In the absence of a specified time in the Award Agreement, the Option shall remain exercisable for three months following the Participant's Termination of Service for any reason other than death or Disability.

(b) Death. If a Participant has a Termination of Service as a result of the Participant's death, the Award may be exercised within such period of time as is specified in the Award Agreement; *provided*, *however*, that prior to the Public Trading Date, such period of time shall not be less than six months (but in no event later than the expiration of the term of such Award as set forth in the Notice of Grant), by the Participant's estate or by a person who acquires the right to exercise the Award by bequest or inheritance, but only to the extent that the Award is vested on the date of death. In the absence of a specified time in the Award Agreement, the Award shall remain exercisable for twelve months following the Participant's Termination of Service for death.

(c) Disability of Participant. If a Participant has a Termination of Service as a result of the Participant's Disability, the Participant may exercise his or her Award within such period of time as is specified in the Award Agreement to the extent the Award is vested on the date of termination; *provided*, *however*, that prior to the Public Trading Date, such period of time shall not be less than six months (but in no event later than the expiration of the term of such Award as set forth in the Award Agreement). In the absence of a specified time in the Award Agreement, the Award shall remain exercisable for twelve months following the Participant's Termination of Service for Disability.

(d) Misconduct of Participant. If a Participant has a Termination of Service as a result of the Participant's Misconduct, the Award shall terminate immediately and cease to remain outstanding.

3.1 Repurchase Provisions. In the event the Administrator provides that the Company may repurchase Stock acquired upon exercise of an Award upon the occurrence of certain specified events, including, without limitation, a Participant's Termination of Service, divorce, bankruptcy or insolvency, then any such repurchase right shall be set forth in the applicable Award Agreement or in another agreement referred to in such agreement and, to the extent required by Section 260.140.41 and Section 260.140.42 of Title 10 of the California Code of Regulations (or any successor regulation, including, without limitation, Section 260.140.8 of Title 10 of the California Code of Regulations), any such repurchase right set forth in an Award granted prior to the Public Trading Date to a person who is not an officer, member of the Board, manager or consultant shall be upon the following terms: (i) if the repurchase option gives the Company the right to repurchase the shares upon the Participant's Termination of Service at not less than the Fair Market Value of the shares to be purchased on the date of termination of employment or service, then (A) the right to repurchase shall be exercised for cash or cancellation of purchase money indebtedness for the shares within six months of termination (or in the case of shares issued upon exercise of Awards after such date of termination, within six months after the date of the exercise) or such longer period as may be agreed to by the Administrator and the Participant and (B) the right terminates on the Public Trading Date; and (ii) if the repurchase option gives the Company the right to repurchase the Stock upon the Participant's Termination of Service at the original purchase price for such Stock, then (A) the right to repurchase at the original purchase price shall lapse at the rate of at least 20% of the shares per year over five (5) years from the date the Award is granted (without respect to the date the Award was exercised or became exercisable) and (B) the right to repurchase shall be exercised for cash or cancellation of purchase money indebtedness for the shares within six months of termination (or, in the case of shares issued upon exercise of Awards, after such date of termination, within six months after the date of the exercise) or such longer period as may be agreed to by the Company and the Participant.

4.1 Information Rights. Prior to the Public Trading Date and to the extent required by Section 260.140.46 of Title 10 of the California Code of Regulations, the Company shall provide to each Participant and to each individual who acquires Stock pursuant to the Plan, not less frequently than annually during the period such Participant has one or more Awards outstanding, and, in the case of an individual who acquires Stock pursuant to the Plan, during the period such individual owns such Stock, copies of annual financial statements. Notwithstanding the preceding sentence, the Company shall not be required to provide such statements to key employees whose duties in connection with the Company assure their access to equivalent information.

5.1 Transferability. Prior to the Public Trading Date, no Award shall be assigned, transferred, or otherwise disposed of by a Participant other than by will or the laws of descent and distribution or, with respect to Awards other than Incentive Stock Options, as permitted by Rule 701 of the Securities Act.

6.1 Limitation on Number of Shares. Prior to the Public Trading Date and to the extent required by Section 260.140.45 of Title 10 of the California Code of Regulations, at no time shall the total number of shares of Stock issuable upon exercise of all outstanding Options under the Plan and any shares of Stock provided for under any bonus or similar plan or agreement of the Company exceed 30% of the then-outstanding shares of Stock of the Company, as calculated pursuant to Section 260.140.45 of Title 10 of the California Code of Regulations (or any successor regulation), unless a percentage higher than 30% is approved by at least two-thirds of the outstanding securities of the Company entitled to vote. The number of shares of Stock which may be issued or transferred pursuant to Awards under the Plan shall be reduced to the extent necessary to comply with this provision.

7.1 Amendment of Plan to Conform to California Code of Regulations. Subject to Article 13 of the Plan, the Administrator may delegate to a committee of one or more members of the Board or one or more officers of the Company the authority to amend the Plan to the extent required to conform the Plan to any amendment to the California Code of Regulations adopted following the Effective Date resulting in the elimination of any requirements under such regulations that are applicable to the Plan or the application of less restrictive requirements under such regulations to the Plan.

GENELUX CORPORATION

2009 EQUITY INCENTIVE PLAN

STOCK OPTION GRANT NOTICE AND
STOCK OPTION AGREEMENT

Genelux Corporation (the "***Company***"), pursuant to its 2009 Equity Incentive Plan (the "***Plan***"), hereby grants to the holder listed below ("***Participant***"), an option to purchase the number of shares of the Company's Stock set forth below (the "***Option***"). This Option is subject to all of the terms and conditions as set forth herein and in the Stock Option Agreement attached hereto as Exhibit A (the "***Stock Option Agreement***") and the Plan, each of which are incorporated herein by reference. Unless otherwise defined herein, the terms defined in the Plan shall have the same defined meanings in this Grant Notice and the Stock Option Agreement.

Participant: _____

Grant Date: _____

Vesting Commencement Date: _____

Exercise Price per Share: $_____

Total Exercise Price: $_____

Total Number of Shares Subject to Option: _____

Expiration Date: _____

Type of Option: ☐ Incentive Stock Option ☐ Non-Qualified Stock Option

Vesting Schedule:

By his or her signature and the Company's signature below, Participant agrees to be bound by the terms and conditions of the Plan, the Stock Option Agreement and this Grant Notice. Participant has reviewed the Stock Option Agreement, the Plan and this Grant Notice in their entirety, has had an opportunity to obtain the advice of counsel prior to executing this Grant Notice and fully understands all provisions of this Grant Notice, the Stock Option Agreement and the Plan. Participant hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Administrator of the Plan upon any questions arising under the Plan or the Option.

GENELUX CORPORATION:

By: _____
Print Name: _____
Title: _____
Address: _____
_____

PARTICIPANT:

By: _____
Print Name: _____

Address: _____
_____

EXHIBIT A

TO STOCK OPTION GRANT NOTICE

STOCK OPTION AGREEMENT

Pursuant to the Stock Option Grant Notice ("***Grant Notice***") to which this Stock Option Agreement (this "***Agreement***") is attached, Genelux Corporation (the "***Company***") has granted to Participant an option under the Company's 2009 Equity Incentive Plan (the "***Plan***") to purchase the number of shares of Stock indicated in the Grant Notice.

ARTICLE I

GENERAL

1.1 Defined Terms. Capitalized terms not specifically defined herein shall have the meanings specified in the Plan and the Grant Notice.

1.2 Incorporation of Terms of Plan. The Option is subject to the terms and conditions of the Plan which are incorporated herein by reference.

ARTICLE II

GRANT OF OPTION

2.1 Grant of Option. In consideration of Participant's past and/or continued employment with or service to the Company or a Parent or Subsidiary and for other good and valuable consideration, effective as of the Grant Date set forth in the Grant Notice (the "***Grant Date***"), the Company irrevocably grants to Participant the Option to purchase any part or all of an aggregate of the number of shares of Stock set forth in the Grant Notice, upon the terms and conditions set forth in the Plan and this Agreement. Unless designated as a Non-Qualified Stock Option in the Grant Notice, the Option shall be an Incentive Stock Option to the maximum extent permitted by law.

2.2 Exercise Price. The exercise price of the shares of Stock subject to the Option shall be as set forth in the Grant Notice, without commission or other charge; *provided*, *however*, that if this Option is designated as an Incentive Stock Option, the price per share of the shares subject to the Option shall not be less than the greater of (i) 100% of the Fair Market Value of a share of Stock on the Grant Date, or (ii) 110% of the Fair Market Value of a share of Stock on the Grant Date in the case of a Participant then owning (within the meaning of Section 424(d) of the Code) more than 10% of the total combined voting power of all classes of stock of the Company or any "subsidiary corporation" of the Company or any "parent corporation" of the Company (each within the meaning of Section 424 of the Code).

ARTICLE III

PERIOD OF EXERCISABILITY

3.1 Commencement of Exercisability.

(a) Subject to Sections 3.3 and 5.8, the Option shall become vested and exercisable in such amounts and at such times as are set forth in the Grant Notice.

(b) No portion of the Option which has not become vested and exercisable at the date of Participant's Termination of Service shall thereafter become vested and exercisable, except as may be otherwise provided by the Administrator or as set forth in a written agreement between the Company and Participant.

3.2 Duration of Exercisability. The installments provided for in the vesting schedule set forth in the Grant Notice are cumulative. Each such installment which becomes vested and exercisable pursuant to the vesting schedule set forth in the Grant Notice shall remain vested and exercisable until it becomes unexercisable under Section 3.3.

3.3 Expiration of Option. The Option may not be exercised to any extent by anyone after the first to occur of the following events:

(a) The expiration of ten years from the Grant Date;

(b) If this Option is designated as an Incentive Stock Option and Participant owned (within the meaning of Section 424(d) of the Code), at the time the Option was granted, more than 10% of the total combined voting power of all classes of stock of the Company or any "subsidiary corporation" of the Company or "parent corporation" of the Company (each within the meaning of Section 424 of the Code), the expiration of five years from the date the Option was granted; or

(c) The expiration of three months following the date of Participant's Termination of Service, unless such termination occurs by reason of Participant's death, Disability or Misconduct;

(d) The expiration of one year following the date of Participant's Termination of Service by reason of Participant's death or Disability; or

(e) The date of Participant's Termination of Service as a result of Participant's Misconduct.

Participant acknowledges that an Incentive Stock Option exercised more than three months after Participant's termination of status as an Employee, other than by reason of death or Disability, will be taxed as a Non-Qualified Stock Option.

3.4 Special Tax Consequences. Participant acknowledges that, to the extent that the aggregate Fair Market Value (determined as of the time the Option is granted) of all shares of Stock with respect to which Incentive Stock Options, including the Option, are first exercisable for the first time by Participant in any calendar year exceeds $100,000 (or such other limitation as imposed by Section 422(d) of the Code), the Option and such other options shall be treated as not qualifying under Section 422 of the Code but rather shall be considered Non-Qualified Stock Options. Participant further acknowledges that the rule set forth in the preceding sentence shall be applied by taking Options and other "incentive stock options" into account in the order in which they were granted.

ARTICLE IV

EXERCISE OF OPTION

4.1 Person Eligible to Exercise. Except as provided in Sections 5.2(b) and 5.2(c), during the lifetime of Participant, only Participant may exercise the Option or any portion thereof. After the death of Participant, any exercisable portion of the Option may, prior to the time when the Option becomes unexercisable under Section 3.3, be exercised by Participant's personal representative or by any person empowered to do so under the deceased Participant's will or under the then applicable laws of descent and distribution.

4.2 Partial Exercise. Any exercisable portion of the Option or the entire Option, if then wholly exercisable, may be exercised in whole or in part at any time prior to the time when the Option or portion thereof becomes unexercisable under Section 3.3.

4.3 Manner of Exercise. The Option, or any exercisable portion thereof, may be exercised solely by delivery to the Secretary of the Company or the Secretary's office of all of the following prior to the time when the Option or such portion thereof becomes unexercisable under Section 3.3:

(a) An Exercise Notice in writing signed by Participant or any other person then entitled to exercise the Option or portion thereof, stating that the Option or portion thereof is thereby exercised, such notice complying with all applicable rules established by the Administrator. Such notice shall be substantially in the form attached as Exhibit B to the Grant Notice (or such other form as is prescribed by the Administrator); and

(b) Subject to Section 5.1(c) of the Plan:

(i) Full payment (in cash or by check) for the shares with respect to which the Option or portion thereof is exercised; or

(ii) With the consent of the Administrator, by delivery of a full recourse promissory note on such terms and conditions as may be approved by the Administrator; or

(iii) With the consent of the Administrator, by delivery of shares of Stock then issuable upon exercise of the Option having a Fair Market Value on the date of delivery equal to the aggregate exercise price of the Option or exercised portion thereof; or

(iv) On and after the Public Trading Date, such payment may be made, in whole or in part, through the delivery of shares of Stock which have been owned by Participant for at least six months (or such other period of time as may be determined by the Administrator, in its sole discretion), duly endorsed for transfer to the Company with a Fair Market Value on the date of delivery equal to the aggregate exercise price of the Option or exercised portion thereof; or

(v) On and after the Public Trading Date, through the delivery of a notice that Participant has placed a market sell order with a broker with respect to shares of Stock then issuable upon exercise of the Option, and that the broker has been directed to pay a sufficient portion of the net proceeds of the sale to the Company in satisfaction of the Option exercise price; *provided,* that payment of such proceeds is made to the Company upon settlement of such sale; or

(vi) Subject to any applicable laws, any combination of the consideration provided in the foregoing paragraphs (i), (ii) and (iii); and

(c) A bona fide written representation and agreement, in such form as is prescribed by the Administrator, signed by Participant or the other person then entitled to exercise such Option or portion thereof, stating that the shares of Stock are being acquired for Participant's own account, for investment and without any present intention of distributing or reselling said shares or any of them except as may be permitted under the Securities Act and then applicable rules and regulations thereunder, and that Participant or other person then entitled to exercise such Option or portion thereof will indemnify the Company against and hold it free and harmless from any loss, damage, expense or liability resulting to the

Company if any sale or distribution of the shares by such person is contrary to the representation and agreement referred to above. The Administrator may, in its absolute discretion, take whatever additional actions it deems appropriate to ensure the observance and performance of such representation and agreement and to effect compliance with the Securities Act and any other federal or state securities laws or regulations. Without limiting the generality of the foregoing, the Administrator may require an opinion of counsel acceptable to it to the effect that any subsequent transfer of shares acquired on an Option exercise does not violate the Securities Act, and may issue stop-transfer orders covering such shares. Share certificates evidencing Stock issued on exercise of the Option shall bear an appropriate legend referring to the provisions of this subsection (c) and the agreements herein. The written representation and agreement referred to in the first sentence of this subsection (c) shall, however, not be required if the shares to be issued pursuant to such exercise have been registered under the Securities Act, and such registration is then effective in respect of such shares; and

(d) The receipt by the Company of full payment for such shares, including payment of any applicable withholding tax, which may be in the form of consideration used by Participant to pay for such shares under Section 4.3(b), subject to Section 14.3 of the Plan; and

(e) In the event the Option or portion thereof shall be exercised pursuant to Section 4.1 by any person or persons other than Participant, appropriate proof of the right of such person or persons to exercise the Option.

4.4 Conditions to Issuance of Stock Certificates. The shares of Stock deliverable upon the exercise of the Option, or any portion thereof, may be either previously authorized but unissued shares or issued shares which have then been reacquired by the Company. Such shares shall be fully paid and nonassessable. The Company shall not be required to issue or deliver any shares of Stock purchased upon the exercise of the Option or portion thereof prior to fulfillment of all of the following conditions:

(a) The admission of such shares to listing on all stock exchanges on which such Stock is then listed; and

(b) The completion of any registration or other qualification of such shares under any state or federal law or under rulings or regulations of the Securities and Exchange Commission or of any other governmental regulatory body, which the Administrator shall, in its absolute discretion, deem necessary or advisable; and

(c) The obtaining of any approval or other clearance from any state or federal governmental agency which the Administrator shall, in its absolute discretion, determine to be necessary or advisable; and

(d) The lapse of such reasonable period of time following the exercise of the Option as the Administrator may from time to time establish for reasons of administrative convenience; and

(e) The receipt by the Company of full payment for such shares, including payment of any applicable withholding tax, which may be in the form of consideration used by Participant to pay for such shares under Section 4.3(b), subject to Section 14.3 of the Plan.

4.5 Rights as Stockholder. The holder of the Option shall not be, nor have any of the rights or privileges of, a stockholder of the Company in respect of any shares purchasable upon the exercise of any part of the Option unless and until such shares shall have been issued by the Company to such holder.

ARTICLE V

OTHER PROVISIONS

5.1 Administration. The Administrator shall have the power to interpret the Plan and this Agreement and to adopt such rules for the administration, interpretation and application of the Plan as are consistent therewith and to interpret, amend or revoke any such rules. All actions taken and all interpretations and determinations made by the Administrator in good faith shall be final and binding upon Participant, the Company and all other interested persons. No member of the Administrator shall be personally liable for any action, determination or interpretation made in good faith with respect to the Plan, this Agreement or the Option. In its absolute discretion, the Board may at any time and from time to time exercise any and all rights and duties of the Administrator under the Plan and this Agreement.

5.2 Option Not Transferable.

(a) Subject to Section 5.2(b), the Option may not be sold, pledged, assigned or transferred in any manner other than by will or the laws of descent and distribution, unless and until the shares underlying the Option have been issued, and all restrictions applicable to such shares have lapsed. Neither the Option nor any interest or right therein shall be liable for the debts, contracts or engagements of Participant or his or her successors in interest or shall be subject to disposition by transfer, alienation, anticipation, pledge, encumbrance, assignment or any other means whether such disposition be voluntary or involuntary or by operation of law by judgment, levy, attachment, garnishment or any other legal or equitable proceedings (including bankruptcy), and any attempted disposition thereof shall be null and void and of no effect, except to the extent that such disposition is permitted by the preceding sentence.

(b) Notwithstanding any other provision in this Agreement, with the consent of the Administrator and to the extent the Option is designated as a Non-Qualified Stock Option, the Option may be transferred to, exercised by and paid to one or more Permitted Transferees, subject to the terms and conditions set forth in Section 9.3 of the Plan.

(c) Unless transferred to a Permitted Transferee in accordance with Section 5.2(b), during the lifetime of Participant, only Participant may exercise the Option or any portion thereof. Subject to such conditions and procedures as the Administrator may require, a Permitted Transferee may exercise the Option or any portion thereof during Participant's lifetime. After the death of Participant, any exercisable portion of the Option may, prior to the time when the Option becomes unexercisable under Section 3.3, be exercised by Participant's personal representative or by any person empowered to do so under the deceased Participant's will or under the then applicable laws of descent and distribution.

5.3 Lock-Up Period. Participant hereby agrees that, if so requested by the Company or any representative of the underwriters (the "***Managing Underwriter***") in connection with any registration of the offering of any securities of the Company under the Securities Act, Participant shall not sell or otherwise transfer any shares of Stock or other securities of the Company during such period as may be requested in writing by the Managing Underwriter and agreed to in writing by the Company (which period shall not be longer than one hundred eighty days) (the "***Market Standoff Period***") following the effective date of a registration statement of the Company filed under the Securities Act; *provided*, *however*, that such restriction shall apply only to the first registration statement of the Company to become effective under the Securities Act that includes securities to be sold on behalf of the Company to the public in an underwritten public offering under the Securities Act.

5.4 Restrictive Legends and Stop-Transfer Orders.

(a) The share certificate or certificates evidencing the shares of Stock purchased hereunder shall be endorsed with any legends that may be required by state or federal securities laws.

(b) 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) The Company shall not be required: (i) to transfer on its books any shares of Stock that have been sold or otherwise transferred in violation of any of the provisions of this Agreement, or (ii) to treat as owner of such shares of Stock 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.

5.5 Shares to Be Reserved. The Company shall at all times during the term of the Option reserve and keep available such number of shares of Stock as will be sufficient to satisfy the requirements of this Agreement.

5.6 Notices. Any notice to be given under the terms of this Agreement to the Company shall be addressed to the Company in care of the Secretary of the Company at the address given beneath the signature of the Company's authorized officer on the Grant Notice, and any notice to be given to Participant shall be addressed to Participant at the address given beneath Participant's signature on the Grant Notice. By a notice given pursuant to this Section 5.6, either party may hereafter designate a different address for notices to be given to that party. Any notice which is required to be given to Participant shall, if Participant is then deceased, be given to the person entitled to exercise his or her Option pursuant to Section 4.1 by written notice under this Section 5.6. Any notice shall be deemed duly given when sent via email or when sent by certified mail (return receipt requested) and deposited (with postage prepaid) in a post office or branch post office regularly maintained by the United States Postal Service.

5.7 Titles. Titles are provided herein for convenience only and are not to serve as a basis for interpretation or construction of this Agreement.

5.8 Stockholder Approval. The Plan will be submitted for approval by the Company's stockholders within twelve months before or after the date the Plan was initially adopted by the Board. The Option may not be exercised to any extent by anyone prior to the time when the Plan is approved by the stockholders, and if such approval has not been obtained within twelve months after the date the Plan was initially adopted by the Board, the Option shall thereupon be canceled and become null and void.

5.9 Governing Law; Severability. This Agreement shall be administered, interpreted and enforced under the laws of the State of California, without regard to the conflicts of law principles thereof. Should any provision of this Agreement be determined by a court of law to be illegal or unenforceable, the other provisions shall nevertheless remain effective and shall remain enforceable.

5.10 Conformity to Securities Laws. Participant acknowledges that the Plan is intended to conform to the extent necessary with all provisions of the Securities Act and the Exchange Act and any and all regulations and rules promulgated by the Securities and Exchange Commission thereunder, and state securities laws and regulations. Notwithstanding anything herein to the contrary, the Plan shall be administered, and the Option is granted and may be exercised, only in such a manner as to conform to such laws, rules and regulations. To the extent permitted by applicable law, the Plan and this Agreement shall be deemed amended to the extent necessary to conform to such laws, rules and regulations.

5.11 Amendments. This Agreement may not be modified, amended or terminated except by an instrument in writing, signed by Participant or such other person as may be permitted to exercise the Option pursuant to Section 4.1 and by a duly authorized representative of the Company.

5.12 No Employment Rights. If Participant is an Employee, nothing in the Plan or this Agreement shall confer upon Participant any right to continue in the employ of the Company or any Subsidiary or shall interfere with or restrict in any way the rights of the Company and its Subsidiaries, which are expressly reserved, to discharge Participant at any time for any reason whatsoever, with or without cause, except to the extent expressly provided otherwise in a written agreement between the Company and Participant.

5.13 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.

5.13 Notification of Disposition. If this Option is designated as an Incentive Stock Option, Participant shall give prompt notice to the Company of any disposition or other transfer of any shares of Stock acquired under this Agreement if such disposition or transfer is made (a) within two years from the Grant Date with respect to such shares or (b) within one year after the transfer of such shares to him. Such notice shall specify the date of such disposition or other transfer and the amount realized, in cash, other property, assumption of indebtedness or other consideration, by Participant in such disposition or other transfer.

5.14 Limitations Applicable to Section 16 Persons. Notwithstanding any other provision of the Plan or this Agreement, if Participant is subject to Section 16 of the Exchange Act, the Plan, the Option and this Agreement shall be subject to any additional limitations set forth in any applicable exemptive rule under Section 16 of the Exchange Act (including any amendment to Rule 16b-3 of the Exchange Act) that are requirements for the application of such exemptive rule. To the extent permitted by applicable law, this Agreement shall be deemed amended to the extent necessary to conform to such applicable exemptive rule.

5.15 Entire Agreement. The Plan and this Agreement (including all Exhibits hereto) constitute the entire agreement of the parties and supersede in their entirety all prior undertakings and agreements of the Company and Participant with respect to the subject matter hereof.

EXHIBIT B

TO STOCK OPTION GRANT NOTICE

FORM OF EXERCISE NOTICE

Effective as of today, _____, _____, the undersigned ("***Participant***") hereby elects to exercise Participant's option to purchase _____ shares of the Stock (the "***Shares***") of Genelux Corporation (the "***Company***") under and pursuant to the Genelux Corporation 2009 Equity Incentive Plan (the "***Plan***") and the Stock Option Grant Notice and Stock Option Agreement dated _____, _____ (the "***Option Agreement***"). Capitalized terms used herein without definition shall have the meanings given in the Option Agreement.

Grant Date:	_____
Number of Shares as to which Option is Exercised:	_____
Exercise Price per Share:	$_____
Total Exercise Price:	$_____
Certificate to be issued in name of:	_____
Cash Payment delivered herewith:	$_____ (Representing the full Exercise Price for the Shares, as well as any applicable withholdi

Type of Option: ☐ Incentive Stock Option ☐ Non-Qualified Stock Option

1. Representations of Participant. Participant acknowledges that Participant has received, read and understood the Plan and the Option Agreement. Participant agrees to abide by and be bound by their terms and conditions.

2. Rights as Stockholder. 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 shall exist with respect to Shares subject to the Option, notwithstanding the exercise of the Option. 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 Article 10 of the Plan.

Participant shall enjoy rights as a stockholder until such time as Participant disposes of the Shares or the Company and/or its assignee(s) exercises the Right of First Refusal hereunder. Upon such exercise, Participant shall have no further rights as a holder of the Shares so purchased except the right to receive payment for the Shares so purchased in accordance with the provisions of this Agreement, and Participant shall forthwith cause the certificate(s), if any issued, evidencing the Shares so purchased to be surrendered to the Company for transfer or cancellation.

3. Participant's Rights to Transfer Shares.

(a) Before any Shares held by Participant or any permitted transferee (each, a "***Holder***") may be sold, pledged, assigned, hypothecated, transferred, or otherwise disposed of (each, a "***Transfer***"), the Company or its assignee(s) shall have a right of first refusal to purchase the Shares proposed to be Transferred on the terms and conditions set forth in this Section (the "***Right of First***

Refusal"). In the event that the Company's Bylaws contain a right of first refusal with respect to the Shares, such right of first refusal shall apply to the Shares to the extent such provisions are more restrictive than the Right of First Refusal set forth in this Section and the Right of First Refusal set forth in this Section shall not in any way restrict the operation of the Company's Bylaws.

(b) In the event any Holder desires to Transfer any Shares, the Holder 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 price for which the Holder proposes to Transfer the Shares (the "***Offered Price***"), and the Holder shall offer such Shares at the Offered Price to the Company or its assignee(s).

(c) Within twenty-five days after receipt of the Notice, the Company and/or its assignee(s) may elect in writing to purchase all, but not less than all, of the Shares proposed to be Transferred to any one or more of the Proposed Transferees by delivery of a written exercise notice to the Holder (a "***Company Notice***"). The purchase price will be determined in accordance with subsection (d) below.

(d) The purchase price ("***Purchase Price***") for the Shares repurchased under this Section shall be the Offered Price.

(e) Payment of the Purchase 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 five days after delivery of the Company Notice or in the manner and at the times mutually agreed to by the Company and the Holder. Should the Offered Price specified in the Notice be payable in property other than cash, the Company shall have the right to pay the purchase price in the form of cash equal in amount to the value of such property. If the Holder and the Company cannot agree on such cash value within ten days after the Company's receipt of the Notice, the valuation shall be made by the Board. The payment of the purchase price shall then be held on the later of (i) five days following delivery of the Company Notice or (ii) five days after such valuation shall have been made.

(f) If all or a portion of the Shares proposed in the Notice to be Transferred are not purchased by the Company and/or its assignee(s) as provided in this Section, 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 sixty days after the date of the Notice and provided further that any such sale or other Transfer is effected in accordance with any applicable securities laws and the Proposed Transferee agrees in writing that the provisions of this Section 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 sixty-day 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 as provided herein before any Shares held by the Holder may be sold or otherwise Transferred.

(g) Anything to the contrary contained in this Section notwithstanding, the Transfer of any or all of the Shares during Participant's lifetime or upon Participant's death by will or intestacy to Participant's Immediate Family or a trust for the benefit of Participant's Immediate Family shall be exempt from the Right of First Refusal. As used herein, "***Immediate Family***" shall mean spouse, lineal descendant or antecedent, father, mother, brother or sister or stepchild (whether or not adopted). In such case, the transferee or other recipient shall receive and hold the Shares so Transferred subject to the provisions of this Section (including the Right of First Refusal) and the Restricted Stock Purchase Agreement, if applicable, and there shall be no further Transfer of such Shares except in accordance with the terms of this Section.

(h) The Right of First Refusal shall terminate as to all Shares upon the Public Trading Date.

(i) Any transfer or sale of the Shares is subject to restrictions on transfer imposed by any applicable state and federal securities laws. Any Transfer or attempted Transfer of any of the Shares not in accordance with the terms of this Agreement shall be void and the Company may enforce the terms of this Agreement by stop transfer instructions or similar actions by the Company and its agents or designees.

4. Tax Consultation. Participant understands that Participant may suffer adverse tax consequences as a result of Participant's purchase or disposition of the Shares. Participant represents that Participant has consulted with any tax consultants Participant deems advisable in connection with the purchase or disposition of the Shares and that Participant is not relying on the Company for any tax advice. Participant is relying solely on such advisors and not on any statements or representations of the Company or any of its agents. Participant understands that Participant (and not the Company) shall be responsible for Participant's tax liability that may arise as a result of this investment or the transactions contemplated by this Agreement.

5. Restrictive Legends and Stop-Transfer Orders.

(a) Legends. Participant understands and agrees that the Company shall cause any certificates issued evidencing the Shares shall have the legends set forth below or legends substantially equivalent thereto, together with any other legends that may be required by state or federal securities laws:

THE SHARES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED ("ACT"), NOR HAVE THEY BEEN REGISTERED OR QUALIFIED UNDER THE SECURITIES LAWS OF ANY STATE. NO TRANSFER OF SUCH SECURITIES WILL BE PERMITTED UNLESS A REGISTRATION STATEMENT UNDER THE ACT IS IN EFFECT AS TO SUCH TRANSFER, THE TRANSFER IS MADE IN ACCORDANCE WITH RULE 144 UNDER THE ACT, OR IN THE OPINION OF COUNSEL (WHICH MAY BE COUNSEL FOR THE COMPANY) REGISTRATION UNDER THE ACT IS UNNECESSARY IN ORDER FOR SUCH TRANSFER TO COMPLY WITH THE ACT AND WITH APPLICABLE STATE SECURITIES LAWS.

THE SHARES REPRESENTED BY THIS CERTIFICATE MAY BE TRANSFERRED ONLY IN ACCORDANCE WITH THE TERMS OF AN AGREEMENT BETWEEN THE COMPANY AND THE STOCKHOLDER, A COPY OF WHICH IS ON FILE WITH THE SECRETARY OF THE COMPANY. SUCH TRANSFER RESTRICTIONS ARE BINDING ON TRANSFEREES OF THESE SHARES.

(b) 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) 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 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.

6. Participant Representations. Participant hereby makes the following certifications and representations with respect to the Shares listed above:

(a) Participant is aware of the Company's business affairs and financial condition and has acquired sufficient information about the Company to reach an informed and knowledgeable decision to acquire the Shares. Participant is acquiring these Shares for investment for Participant's own account only and not with a view to, or for resale in connection with, any "distribution" thereof within the meaning of the Securities Act.

(b) Participant acknowledges and understands that the Shares constitute "restricted securities" under the Securities Act and have not been registered under the Securities Act in reliance upon a specific exemption therefrom, which exemption depends upon, among other things, the bona fide nature of Participant's investment intent as expressed herein. Participant understands that the Shares must be held indefinitely unless they are subsequently registered under the Securities Act or an exemption from such registration is available. Participant further acknowledges and understands that the Company is under no obligation to register the Shares. Participant understands that the certificate evidencing the Shares will be imprinted with a legend which prohibits the transfer of the Shares unless they are registered or such registration is not required in the opinion of counsel satisfactory to the Company and any other legend required under applicable state securities laws.

(c) Participant is familiar with the provisions of Rule 701 and Rule 144, each promulgated under the Securities Act, which, in substance, permit limited public resale of "restricted securities" acquired, directly or indirectly from the issuer thereof, in a non-public offering subject to the satisfaction of certain conditions. Rule 701 provides that if the issuer qualifies under Rule 701 at the time of the grant of the Option to Participant, the exercise will be exempt from registration under the Securities Act. In the event the Company becomes subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, ninety days thereafter (or such longer period as any market stand-off agreement may require) the securities exempt under Rule 701 may be resold, subject to the satisfaction of certain of the conditions specified by Rule 144.

(d) In the event that the Company does not qualify under Rule 701 at the time of grant of the Option, then the securities may be resold in certain limited circumstances subject to the provisions of Rule 144.

(e) Participant further understands that in the event all of the applicable requirements of Rule 701 or 144 are not satisfied, registration under the Securities Act, compliance with Regulation A, or some other registration exemption will be required; and that, notwithstanding the fact that Rules 144 and 701 are not exclusive, the Staff of the Securities and Exchange Commission has expressed its opinion that persons proposing to sell private placement securities other than in a registered offering and otherwise than pursuant to Rules 144 or 701 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 their respective brokers who participate in such transactions do so at their own risk. Participant understands that no assurances can be given that any such other registration exemption will be available in such event.

7. 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.

8. Interpretation. Any dispute regarding the interpretation of this Agreement shall be submitted by Participant or by the Company forthwith to the Administrator, which shall review such dispute at its next regular meeting. The resolution of such a dispute by the Administrator shall be final and binding on the Company and on Participant.

9. Governing Law; Severability. This Agreement shall be governed by and construed in accordance with the laws of the State of California, excluding that body of law pertaining to conflicts of law. Should any provision of this Agreement be determined by a court of law to be illegal or unenforceable, the other provisions shall nevertheless remain effective and shall remain enforceable.

10. Notices. Any notice required or permitted hereunder shall be given in accordance with the provisions set forth in Section 5.6 of the Option Agreement.

11. Further Instruments. The parties agree to execute such further instruments and to take such further action as may be reasonably necessary to carry out the purposes and intent of this Agreement.

12. Entire Agreement. The Plan and Option Agreement are incorporated herein by reference. This Agreement, the Plan and the Option Agreement constitute the entire agreement of the parties and supersede in their entirety all prior undertakings and agreements of the Company and Participant with respect to the subject matter hereof.

ACCEPTED BY:
GENELUX CORPORATION

By: _____
Print Name: _____
Title: _____

SUBMITTED BY
PARTICIPANT:

By: _____
Print Name: _____
Address: _____
_____

CONSENT OF SPOUSE

I, _____, spouse of _____, have read and approve the Option Agreement and this Exercise Notice between my spouse and Genelux Corporation. In consideration of granting of the right to my spouse to purchase shares of Genelux Corporation. set forth in the Option Agreement and this Exercise Notice, I hereby appoint my spouse as my attorney-in-fact in respect to the exercise of any rights under the Option Agreement and this Exercise Notice and agree to be bound by the provisions of the Plan, the Option Agreement and this Exercise Notice insofar as I may have any rights in said agreements or any shares issued pursuant thereto under the community property laws or similar laws relating to marital property in effect in the state of our residence as of the date of the signing of the foregoing Exercise Notice.

Dated: _____, _____

_____

Signature of Spouse

GENELUX CORPORATION

2019 EQUITY INCENTIVE PLAN

ADOPTED BY THE BOARD OF DIRECTORS: SEPTEMBER 21, 2018
APPROVED BY THE STOCKHOLDERS: OCTOBER 27, 2018
TERMINATION DATE: SEPTEMBER 20, 2028

1. GENERAL.

(a) Successor to and Continuation of Prior Plan. The Plan is intended as the successor to and continuation of the Genelux Corporation 2009 Equity Incentive Plan (the "***Prior Plan***"). Following the Effective Date, no additional stock awards will be granted under the Prior Plan. All Awards granted on or after 12:01 a.m. Pacific Time on the Effective Date will be granted under this Plan. All stock awards granted under the Prior Plan will remain subject to the terms of the Prior Plan.

(i) Any shares that would otherwise remain available for future grants under the Prior Plan as of 12:01 a.m. Pacific Time on the Effective Date (the "***Prior Plan's Available Reserve***") will cease to be available under the Prior Plan at such time. Instead, that number of shares of Common Stock equal to the Prior Plan's Available Reserve will be added to the Share Reserve (as further described in Section 3(a) below) and will be immediately available for grants and issuance pursuant to Stock Awards hereunder, up to the maximum number set forth in Section 3(a) below.

(ii) In addition, from and after 12:01 a.m. Pacific Time on the Effective Date, any shares subject, at such time, to outstanding stock awards granted under the Prior Plan that (i) expire or terminate for any reason prior to exercise or settlement; (ii) are forfeited because of the failure to meet a contingency or condition required to vest such shares or otherwise return to the Company; or (iii) are reacquired or withheld (or not issued) to satisfy a tax withholding obligation in connection with an award or to satisfy the purchase price or exercise price of a stock award (such shares the "***Returning Shares***") will immediately be added to the Share Reserve (as further described in Section 3(a) below) as and when such shares become Returning Shares, up to the maximum number set forth in Section 3(a) below.

(b) Eligible Stock Award Recipients. Employees, Directors and Consultants are eligible to receive Stock Awards.

(c) Available Stock Awards. The Plan provides for the grant of the following types of Stock Awards: (i) Incentive Stock Options, (ii) Nonstatutory Stock Options, (iii) Stock Appreciation Rights, (iv) Restricted Stock Awards, (v) Restricted Stock Unit Awards and (vi) Other Stock Awards.

(d) Purpose. The Plan, through the granting of Stock Awards, is intended to help the Company secure and retain the services of eligible award recipients, provide incentives for such persons to exert maximum efforts for the success of the Company and any Affiliate and provide a means by which the eligible recipients may benefit from increases in value of the Common Stock.

2. ADMINISTRATION.

(a) Administration by Board. The Board will administer the Plan. The Board may delegate administration of the Plan to a Committee or Committees, as provided in Section 2(c).

(b) Powers of Board. The Board will have the power, subject to, and within the limitations of, the express provisions of the Plan:

(i) To determine (A) who will be granted Stock Awards; (B) when and how each Stock Award will be granted; (C) what type of Stock Award will be granted; (D) the provisions of each Stock Award (which need not be identical), including when a person will be permitted to exercise or otherwise receive cash or Common Stock under the Stock Award; (E) the number of shares of Common Stock subject to a Stock Award; and (F) the Fair Market Value applicable to a Stock Award.

(ii) To construe and interpret the Plan and Stock Awards granted under it, and to establish, amend and revoke rules and regulations for administration of the Plan and Stock Awards. The Board, in the exercise of these powers, may correct any defect, omission or inconsistency in the Plan or in any Stock Award Agreement, in a manner and to the extent it will deem necessary or expedient to make the Plan or Stock Award fully effective.

(iii) To settle all controversies regarding the Plan and Stock Awards granted under it.

(iv) To accelerate, in whole or in part, the time at which a Stock Award may be exercised or vest (or at which cash or shares of Common Stock may be issued).

(v) To suspend or terminate the Plan at any time. Except as otherwise provided in the Plan or a Stock Award Agreement, suspension or termination of the Plan will not impair a Participant's rights under his or her then-outstanding Stock Award without his or her written consent except as provided in subsection (viii) below.

(vi) To amend the Plan in any respect the Board deems necessary or advisable, including, without limitation, by adopting amendments relating to Incentive Stock Options and certain nonqualified deferred compensation under Section 409A of the Code and/or to make the Plan or Stock Awards granted under the Plan compliant with the requirements for Incentive Stock Options or exempt from or compliant with the requirements for nonqualified deferred compensation under Section 409A of the Code, subject to the limitations, if any, of applicable law. However, if required by applicable law, and except as provided in Section 9(a) relating to Capitalization Adjustments, the Company will seek stockholder approval of any amendment of the Plan that (A) materially increases the number of shares of Common Stock available for issuance under the Plan, (B) materially expands the class of individuals eligible to receive Stock Awards under the Plan, (C) materially increases the benefits accruing to Participants under the Plan, (D) materially reduces the price at which shares of Common Stock may be issued or purchased under the Plan, (E) materially extends the term of the Plan, or (F) materially expands

the types of Stock Awards available for issuance under the Plan. Except as provided in the Plan (including subsection (viii) below) or a Stock Award Agreement, no amendment of the Plan will impair a Participant's rights under an outstanding Stock Award unless (1) the Company requests the consent of the affected Participant, and (2) such Participant consents in writing.

(vii) To submit any amendment to the Plan for stockholder approval, including, but not limited to, amendments to the Plan intended to satisfy the requirements of Section 422 of the Code regarding Incentive Stock Options.

(viii) To approve forms of Stock Award Agreements for use under the Plan and to amend the terms of any one or more Stock Awards, including, but not limited to, amendments to provide terms more favorable to the Participant than previously provided in the Stock Award Agreement, subject to any specified limits in the Plan that are not subject to Board discretion; *provided however,* that a Participant's rights under any Stock Award will not be impaired by any such amendment unless (A) the Company requests the consent of the affected Participant, and (B) such Participant consents in writing. Notwithstanding the foregoing, (1) a Participant's rights will not be deemed to have been impaired by any such amendment if the Board, in its sole discretion, determines that the amendment, taken as a whole, does not materially impair the Participant's rights, and (2) subject to the limitations of applicable law, if any, the Board may amend the terms of any one or more Stock Awards without the affected Participant's consent (A) to maintain the qualified status of the Stock Award as an Incentive Stock Option under Section 422 of the Code; (B) to change the terms of an Incentive Stock Option, if such change results in impairment of the Stock Award solely because it impairs the qualified status of the Stock Award as an Incentive Stock Option under Section 422 of the Code; (C) to clarify the manner of exemption from, or to bring the Stock Award into compliance with, Section 409A of the Code; or (D) to comply with other applicable laws.

(ix) Generally, to exercise such powers and to perform such acts as the Board deems necessary or expedient to promote the best interests of the Company and that are not in conflict with the provisions of the Plan or Stock Awards.

(x) To adopt such procedures and sub-plans as are necessary or appropriate to permit participation in the Plan by Employees, Directors or Consultants who are foreign nationals or employed outside the United States (provided that Board approval will not be necessary for immaterial modifications to the Plan or any Stock Award Agreement that are necessary or advisable for compliance with the laws of the relevant foreign jurisdiction).

(xi) To effect, with the consent of any adversely affected Participant, (A) the reduction of the exercise, purchase or strike price of any outstanding Stock Award; (B) the cancellation of any outstanding Stock Award and the grant in substitution therefor of a new (1) Option or SAR, (2) Restricted Stock Award, (3) Restricted Stock Unit Award, (4) Other Stock Award, (5) cash and/or (6) other valuable consideration determined by the Board, in its sole discretion, with any such substituted award (x) covering the same or a different number of shares of Common Stock as the cancelled Stock Award and (y) granted under the Plan or another equity or compensatory plan of the Company; or (C) any other action that is treated as a repricing under generally accepted accounting principles.

(c) Delegation to Committee. The Board may delegate some or all of the administration of the Plan to a Committee or Committees. If administration of the Plan is delegated to a Committee, the Committee will have, in connection with the administration of the Plan, the powers theretofore possessed by the Board that have been delegated to the Committee, including the power to delegate to a subcommittee of the Committee any of the administrative powers the Committee is authorized to exercise (and references in this Plan to the Board will thereafter be to the Committee or subcommittee). Any delegation of administrative powers will be reflected in resolutions, not inconsistent with the provisions of the Plan, adopted from time to time by the Board or Committee (as applicable). The Committee may, at any time, abolish the subcommittee and/or revest in the Committee any powers delegated to the subcommittee. The Board may retain the authority to concurrently administer the Plan with the Committee and may, at any time, revest in the Board some or all of the powers previously delegated.

(d) Delegation to an Officer. The Board may delegate to one (1) or more Officers the authority to do one or both of the following: (i) designate Employees who are not Officers to be recipients of Options and SARs (and, to the extent permitted by applicable law, other Stock Awards) and, to the extent permitted by applicable law, the terms of such Stock Awards, and (ii) determine the number of shares of Common Stock to be subject to such Stock Awards granted to such Employees; provided, however, that the Board resolutions regarding such delegation will specify the total number of shares of Common Stock that may be subject to the Stock Awards granted by such Officer and that such Officer may not grant a Stock Award to himself or herself. Any such Stock Awards will be granted on the form of Stock Award Agreement most recently approved for use by the Committee or the Board, unless otherwise provided in the resolutions approving the delegation authority. The Board may not delegate authority to an Officer who is acting solely in the capacity of an Officer (and not also as a Director) to determine the Fair Market Value pursuant to Section 13(u) below.

(e) Effect of Board's Decision. All determinations, interpretations and constructions made by the Board in good faith will not be subject to review by any person and will be final, binding and conclusive on all persons.

3. SHARES SUBJECT TO THE PLAN.

(a) Share Reserve.

(i) Subject to Section 9(a) relating to Capitalization Adjustments, the aggregate number of shares of Common Stock that may be issued pursuant to Stock Awards from and after the Effective Date will not exceed a maximum of 6,177,220 shares, which is the number of shares subject to the Prior Plan's Available Reserve (the "***Share Reserve***"). In addition, the Share Reserve may be increased by the Returning Shares (not to exceed 11,322,780 shares), if any, which become available for grant under this Plan from time to time.

(ii) For clarity, the Share Reserve in this Section 3(a) is a limitation on the number of shares of Common Stock that may be issued pursuant to the Plan. Accordingly, this Section 3(a) does not limit the granting of Stock Awards except as provided in Section 7(a).

(b) Reversion of Shares to the Share Reserve. If a Stock Award or any portion thereof (i) expires or otherwise terminates without all of the shares covered by such Stock Award having been issued or (ii) is settled in cash (*i.e.*, the Participant receives cash rather than stock), such expiration, termination or settlement will not reduce (or otherwise offset) the number of shares of Common Stock that may be available for issuance under the Plan. If any shares of Common Stock issued pursuant to a Stock Award are forfeited back to or repurchased or reacquired by the Company for any reason, including because of the failure to meet a contingency or condition required to vest such shares in the Participant, then the shares that are forfeited, reacquired or repurchased will revert to and again become available for issuance under the Plan. For the avoidance of doubt, any shares reacquired by the Company in satisfaction of tax withholding obligations on a Stock Award or as consideration for the exercise or purchase price of a Stock Award will again become available for issuance under the Plan.

(c) Incentive Stock Option Limit. Subject to the Share Reserve and Section 9(a) relating to Capitalization Adjustments, the aggregate maximum number of shares of Common Stock that may be issued pursuant to the exercise of Incentive Stock Options will be 37,000,000 shares of Common Stock.

(d) Source of Shares. The stock issuable under the Plan will be shares of authorized but unissued or reacquired Common Stock, including shares repurchased by the Company on the open market or otherwise.

4. ELIGIBILITY.

(a) Eligibility for Specific Stock Awards. Incentive Stock Options may be granted only to employees of the Company or a "parent corporation" or "subsidiary corporation" thereof (as such terms are defined in Sections 424(e) and 424(f) of the Code). Stock Awards other than Incentive Stock Options may be granted to Employees, Directors and Consultants; *provided, however*, that Stock Awards may not be granted to Employees, Directors and Consultants who are providing Continuous Service only to any "parent" of the Company, as such term is defined in Rule 405, unless (i) the stock underlying such Stock Awards is treated as "service recipient stock" under Section 409A of the Code (for example, because the Stock Awards are granted pursuant to a corporate transaction such as a spin off transaction), or (ii) the Company, in consultation with its legal counsel, has determined that such Stock Awards are otherwise exempt from or alternatively comply with the distribution requirements of Section 409A of the Code.

(b) Ten Percent Stockholders. A Ten Percent Stockholder will not be granted an Incentive Stock Option unless the exercise price of such Option is at least one hundred ten percent (110%) of the Fair Market Value on the date of grant and the Option is not exercisable after the expiration of five (5) years from the date of grant. If a purported grant of an Incentive Stock Option to a Ten Percent Stockholder does not meet these requirements, the grant will be a Nonstatutory Stock Option.

(c) Consultants. A Consultant will not be eligible for the grant of a Stock Award if, at the time of grant, either the offer or sale of the Company's securities to such Consultant is not exempt under Rule 701 because of the nature of the services that the Consultant is providing to the Company, because the Consultant is not a natural person, or because of any other provision of Rule 701, unless the Company determines that such grant need not comply with the requirements of Rule 701 and will satisfy another exemption under the Securities Act as well as comply with the securities laws of all other relevant jurisdictions.

5. PROVISIONS RELATING TO OPTIONS AND STOCK APPRECIATION RIGHTS.

Each Option or SAR will be in such form and will contain such terms and conditions as the Board deems appropriate. All Options will be separately designated Incentive Stock Options or Nonstatutory Stock Options at the time of grant, and, if certificates are issued, a separate certificate or certificates will be issued for shares of Common Stock purchased on exercise of each type of Option. If an Option is not specifically designated as an Incentive Stock Option, or if an Option is designated as an Incentive Stock Option but some portion or all of the Option fails to qualify as an Incentive Stock Option under the applicable rules, then the Option (or portion thereof) will be a Nonstatutory Stock Option. The provisions of separate Options or SARs need not be identical; *provided, however*, that each Stock Award Agreement will conform to (through incorporation of provisions hereof by reference in the applicable Stock Award Agreement or otherwise) the substance of each of the following provisions:

(a) Term. Subject to the provisions of Section 4(b) regarding Ten Percent Stockholders, no Option or SAR will be exercisable after the expiration of ten (10) years from the date of its grant or such shorter period specified in the Stock Award Agreement.

(b) Exercise Price. Subject to the provisions of Section 4(b) regarding Ten Percent Stockholders, the exercise or strike price of each Option or SAR will be not less than one hundred percent (100%) of the Fair Market Value of the Common Stock subject to the Option or SAR on the date the Stock Award is granted. Notwithstanding the foregoing, an Option or SAR may be granted with an exercise or strike price lower than one hundred percent (100%) of the Fair Market Value of the Common Stock subject to the Stock Award if such Stock Award is granted pursuant to an assumption of or substitution for another option or stock appreciation right pursuant to a Corporate Transaction and in a manner consistent with the provisions of Section 409A of the Code and, if applicable, Section 424(a) of the Code. Each SAR will be denominated in shares of Common Stock equivalents.

(c) Purchase Price for Options. The purchase price of Common Stock acquired pursuant to the exercise of an Option may be paid, to the extent permitted by applicable law and as determined by the Board in its sole discretion, by any combination of the methods of payment set forth below. The Board will have the authority to grant Options that do not permit all of the following methods of payment (or otherwise restrict the ability to use certain methods) and to grant Options that require the consent of the Company to use a particular method of payment. The permitted methods of payment are as follows:

(i) by cash, check, bank draft or money order payable to the Company;

(ii) pursuant to a program developed under Regulation T as promulgated by the Federal Reserve Board that, prior to the issuance of the stock subject to the Option, results in either the receipt of cash (or check) by the Company or the receipt of irrevocable instructions to pay the aggregate exercise price to the Company from the sales proceeds;

(iii) by delivery to the Company (either by actual delivery or attestation) of shares of Common Stock;

(iv) if an Option is a Nonstatutory Stock Option, by a "net exercise" arrangement pursuant to which the Company will reduce the number of shares of Common Stock issuable upon exercise by the largest whole number of shares with a Fair Market Value that does not exceed the aggregate exercise price; provided, however, that the Company will accept a cash or other payment from the Participant to the extent of any remaining balance of the aggregate exercise price not satisfied by such reduction in the number of whole shares to be issued. Shares of Common Stock will no longer be subject to an Option and will not be exercisable thereafter to the extent that (A) shares issuable upon exercise are used to pay the exercise price pursuant to the "net exercise," (B) shares are delivered to the Participant as a result of such exercise, and (C) shares are withheld to satisfy tax withholding obligations;

(v) according to a deferred payment or similar arrangement with the Optionholder; *provided, however*, that interest will compound at least annually and will be charged at the minimum rate of interest necessary to avoid (A) the imputation of interest income to the Company and compensation income to the Optionholder under any applicable provisions of the Code, and (B) the classification of the Option as a liability for financial accounting purposes; or

(vi) in any other form of legal consideration that may be acceptable to the Board and specified in the applicable Stock Award Agreement.

(d) Exercise and Payment of a SAR. To exercise any outstanding SAR, the Participant must provide written notice of exercise to the Company in compliance with the provisions of the Stock Award Agreement evidencing such SAR. The appreciation distribution payable on the exercise of a SAR will be not greater than an amount equal to the excess of (A) the aggregate Fair Market Value (on the date of the exercise of the SAR) of a number of shares of Common Stock equal to the number of Common Stock equivalents in which the Participant is vested under such SAR, and with respect to which the Participant is exercising the SAR on such date, over (B) the aggregate strike price of the number of Common Stock equivalents with respect to which the Participant is exercising the SAR on such date. The appreciation distribution may be paid in Common Stock, in cash, in any combination of the two or in any other form of consideration, as determined by the Board and contained in the Stock Award Agreement evidencing such SAR.

(e) Transferability of Options and SARs. The Board may, in its sole discretion, impose such limitations on the transferability of Options and SARs as the Board will determine. In the absence of such a determination by the Board to the contrary, the following restrictions on the transferability of Options and SARs will apply:

(i) Restrictions on Transfer. An Option or SAR will not be transferable except by will or by the laws of descent and distribution (and pursuant to subsections (ii) and (iii) below), and will be exercisable during the lifetime of the Participant only by the Participant. The Board may permit transfer of the Option or SAR in a manner that is not prohibited by applicable tax and securities laws. Except as explicitly provided herein, neither an Option nor a SAR may be transferred for consideration.

(ii) Domestic Relations Orders. Subject to the approval of the Board or a duly authorized Officer, an Option or SAR may be transferred pursuant to the terms of a domestic relations order, official marital settlement agreement or other divorce or separation instrument as permitted by Treasury Regulation 1.421-1(b)(2). If an Option is an Incentive Stock Option, such Option may be deemed to be a Nonstatutory Stock Option as a result of such transfer.

(iii) Beneficiary Designation. Subject to the approval of the Board or a duly authorized Officer, a Participant may, by delivering written notice to the Company, in a form approved by the Company (or the designated broker), designate a third party who, upon the death of the Participant, will thereafter be entitled to exercise the Option or SAR and receive the Common Stock or other consideration resulting from such exercise. In the absence of such a designation, upon the death of the Participant, the executor or administrator of the Participant's estate will be entitled to exercise the Option or SAR and receive the Common Stock or other consideration resulting from such exercise. However, the Company may prohibit designation of a beneficiary at any time, including due to any conclusion by the Company that such designation would be inconsistent with the provisions of applicable laws.

(f) Vesting Generally. The total number of shares of Common Stock subject to an Option or SAR may vest and become exercisable in periodic installments that may or may not be equal. The Option or SAR may be subject to such other terms and conditions on the time or times when it may or may not be exercised (which may be based on the satisfaction of performance goals or other criteria) as the Board may deem appropriate. The vesting provisions of individual Options or SARs may vary. The provisions of this Section 5(f) are subject to any Option or SAR provisions governing the minimum number of shares of Common Stock as to which an Option or SAR may be exercised.

(g) Termination of Continuous Service. Except as otherwise provided in the applicable Stock Award Agreement or other agreement between the Participant and the Company, if a Participant's Continuous Service terminates (other than for Cause and other than upon the Participant's death or Disability), the Participant may exercise his or her Option or SAR (to the extent that the Participant was entitled to exercise such Stock Award as of the date of termination of Continuous Service) within the period of time ending on the earlier of (i) the date three (3) months following the termination of the Participant's Continuous Service (or such longer or shorter period specified in the applicable Stock Award Agreement, which period will not be less than thirty (30) days if necessary to comply with applicable laws unless such termination is for Cause) and (ii) the expiration of the term of the Option or SAR as set forth in the Stock Award Agreement. If, after termination of Continuous Service, the Participant does not exercise his or her Option or SAR within the applicable time frame, the Option or SAR (as applicable) will terminate.

(h) Extension of Termination Date. Except as otherwise provided in the applicable Stock Award Agreement or other agreement between the Participant and the Company, if the exercise of an Option or SAR following the termination of the Participant's Continuous Service (other than for Cause and other than upon the Participant's death or Disability) would be prohibited at any time solely because the issuance of shares of Common Stock would violate the registration requirements under the Securities Act, then the Option or SAR will terminate on the earlier of (i) the expiration of a total period of time (that need not be consecutive) equal to the applicable post termination exercise period after the termination of the Participant's Continuous Service during which the exercise of the Option or SAR would not be in violation of such registration requirements, or (ii) the expiration of the term of the Option or SAR as set forth in the applicable Stock Award Agreement. In addition, unless otherwise provided in a Participant's Stock Award Agreement, if the sale of any Common Stock received upon exercise of an Option or SAR following the termination of the Participant's Continuous Service (other than for Cause) would violate the Company's insider trading policy, then the Option or SAR will terminate on the earlier of (i) the expiration of a period of time (that need not be consecutive) equal to the applicable post-termination exercise period after the termination of the Participant's Continuous Service during which the sale of the Common Stock received upon exercise of the Option or SAR would not be in violation of the Company's insider trading policy, or (ii) the expiration of the term of the Option or SAR as set forth in the applicable Stock Award Agreement.

(i) Disability of Participant. Except as otherwise provided in the applicable Stock Award Agreement or other agreement between the Participant and the Company, if a Participant's Continuous Service terminates as a result of the Participant's Disability, the Participant may exercise his or her Option or SAR (to the extent that the Participant was entitled to exercise such Option or SAR as of the date of termination of Continuous Service), but only within such period of time ending on the earlier of (i) the date twelve (12) months following such termination of Continuous Service (or such longer or shorter period specified in the Stock Award Agreement, which period will not be less than six (6) months if necessary to comply with applicable laws), and (ii) the expiration of the term of the Option or SAR as set forth in the Stock Award Agreement. If, after termination of Continuous Service, the Participant does not exercise his or her Option or SAR within the applicable time frame, the Option or SAR (as applicable) will terminate.

(j) Death of Participant. Except as otherwise provided in the applicable Stock Award Agreement or other agreement between the Participant and the Company, if (i) a Participant's Continuous Service terminates as a result of the Participant's death, or (ii) the Participant dies within the period (if any) specified in the Stock Award Agreement for exercisability after the termination of the Participant's Continuous Service (for a reason other than death), then the Option or SAR may be exercised (to the extent the Participant was entitled to exercise such Option or SAR as of the date of death) by the Participant's estate, by a person who acquired the right to exercise the Option or SAR by bequest or inheritance or by a person designated to exercise the Option or SAR upon the Participant's death, but only within the period ending on the earlier of (i) the date eighteen (18) months following the date of death (or such longer or shorter period specified in the Stock Award Agreement, which period will not be less than six (6) months if necessary to comply with applicable laws), and (ii) the expiration of the term of such Option or SAR as set forth in the Stock Award Agreement. If, after the Participant's death, the Option or SAR is not exercised within the applicable time frame, the Option or SAR (as applicable) will terminate.

(k) Termination for Cause. Except as explicitly provided otherwise in a Participant's Stock Award Agreement or other individual written agreement between the Company or any Affiliate and the Participant, if a Participant's Continuous Service is terminated for Cause, the Option or SAR will terminate immediately upon such Participant's termination of Continuous Service, and the Participant will be prohibited from exercising his or her Option or SAR from and after the time of such termination of Continuous Service.

(l) Non-Exempt Employees. If an Option or SAR is granted to an Employee who is a non-exempt employee for purposes of the Fair Labor Standards Act of 1938, as amended, the Option or SAR will not be first exercisable for any shares of Common Stock until at least six (6) months following the date of grant of the Option or SAR (although the Stock Award may vest prior to such date). Consistent with the provisions of the Worker Economic Opportunity Act, (i) if such non-exempt Employee dies or suffers a Disability, (ii) upon a Corporate Transaction in which such Option or SAR is not assumed, continued, or substituted, (iii) upon a Change in Control, or (iv) upon the Participant's retirement (as such term may be defined in the Participant's Stock Award Agreement, in another agreement between the Participant and the Company, or, if no such definition, in accordance with the Company's then current employment policies and guidelines), the vested portion of any Options and SARs may be exercised earlier than six (6) months following the date of grant. The foregoing provision is intended to operate so that any income derived by a non-exempt employee in connection with the exercise or vesting of an Option or SAR will be exempt from his or her regular rate of pay. To the extent permitted and/or required for compliance with the Worker Economic Opportunity Act to ensure that any income derived by a non-exempt employee in connection with the exercise, vesting or issuance of any shares under any other Stock Award will be exempt from the employee's regular rate of pay, the provisions of this Section 5(l) will apply to all Stock Awards and are hereby incorporated by reference into such Stock Award Agreements.

(m) Early Exercise of Options. An Option may, but need not, include a provision whereby the Optionholder may elect at any time before the Optionholder's Continuous Service terminates to exercise the Option as to any part or all of the shares of Common Stock subject to the Option prior to the full vesting of the Option. Subject to the "Repurchase Limitation" in Section 8(l), any unvested shares of Common Stock so purchased may be subject to a repurchase right in favor of the Company or to any other restriction the Board determines to be appropriate. Provided that the "Repurchase Limitation" in Section 8(l) is not violated, the Company will not be required to exercise its repurchase right until at least six (6) months (or such longer or shorter period of time required to avoid classification of the Option as a liability for financial accounting purposes) have elapsed following exercise of the Option unless the Board otherwise specifically provides in the Option Agreement.

(n) Right of Repurchase. Subject to the "Repurchase Limitation" in Section 8(l), the Option or SAR may include a provision whereby the Company may elect to repurchase all or any part of the vested shares of Common Stock acquired by the Participant pursuant to the exercise of the Option or SAR.

(o) Right of First Refusal. The Option or SAR may include a provision whereby the Company may elect to exercise a right of first refusal following receipt of notice from the Participant of the intent to transfer all or any part of the shares of Common Stock received upon the exercise of the Option or SAR. Such right of first refusal will be subject to the "Repurchase Limitation" in Section 8(l). Except as expressly provided in this Section 5(o) or in the Stock Award Agreement, such right of first refusal will otherwise comply with any applicable provisions of the bylaws of the Company.

6. PROVISIONS OF STOCK AWARDS OTHER THAN OPTIONS AND SARS.

(a) Restricted Stock Awards. Each Restricted Stock Award Agreement will be in such form and will contain such terms and conditions as the Board deems appropriate. To the extent consistent with the Company's bylaws, at the Board's election, shares of Common Stock underlying a Restricted Stock Award may be (i) held in book entry form subject to the Company's instructions until any restrictions relating to the Restricted Stock Award lapse; or (ii) evidenced by a certificate, which certificate will be held in such form and manner as determined by the Board. The terms and conditions of Restricted Stock Award Agreements may change from time to time, and the terms and conditions of separate Restricted Stock Award Agreements need not be identical. Each Restricted Stock Award Agreement will conform to (through incorporation of the provisions hereof by reference in the agreement or otherwise) the substance of each of the following provisions:

(i) Consideration. A Restricted Stock Award may be awarded in consideration for (A) cash, check, bank draft or money order payable to the Company, (B) past services to the Company or an Affiliate, or (C) any other form of legal consideration (including future services) that may be acceptable to the Board, in its sole discretion, and permissible under applicable law.

(ii) Vesting. Subject to the "Repurchase Limitation" in Section 8(l), shares of Common Stock awarded under the Restricted Stock Award Agreement may be subject to forfeiture to the Company in accordance with a vesting schedule to be determined by the Board.

(iii) Termination of Participant's Continuous Service. If a Participant's Continuous Service terminates, the Company may receive through a forfeiture condition or a repurchase right, any or all of the shares of Common Stock held by the Participant as of the date of termination of Continuous Service under the terms of the Restricted Stock Award Agreement.

(iv) Transferability. Rights to acquire shares of Common Stock under the Restricted Stock Award Agreement will be transferable by the Participant only upon such terms and conditions as are set forth in the Restricted Stock Award Agreement, as the Board will determine in its sole discretion, so long as Common Stock awarded under the Restricted Stock Award Agreement remains subject to the terms of the Restricted Stock Award Agreement.

(v) Dividends. A Restricted Stock Award Agreement may provide that any dividends paid on Restricted Stock will be subject to the same vesting and forfeiture restrictions as apply to the shares subject to the Restricted Stock Award to which they relate.

(b) Restricted Stock Unit Awards. Each Restricted Stock Unit Award Agreement will be in such form and will contain such terms and conditions as the Board deems appropriate. The terms and conditions of Restricted Stock Unit Award Agreements may change from time to time, and the terms and conditions of separate Restricted Stock Unit Award Agreements need not be identical. Each Restricted Stock Unit Award Agreement will conform to (through incorporation of the provisions hereof by reference in the Agreement or otherwise) the substance of each of the following provisions:

(i) Consideration. At the time of grant of a Restricted Stock Unit Award, the Board will determine the consideration, if any, to be paid by the Participant upon delivery of each share of Common Stock subject to the Restricted Stock Unit Award. The consideration to be paid (if any) by the Participant for each share of Common Stock subject to a Restricted Stock Unit Award may be paid in any form of legal consideration that may be acceptable to the Board, in its sole discretion, and permissible under applicable law.

(ii) Vesting. At the time of the grant of a Restricted Stock Unit Award, the Board may impose such restrictions on or conditions to the vesting of the Restricted Stock Unit Award as it, in its sole discretion, deems appropriate.

(iii) Payment. A Restricted Stock Unit Award may be settled by the delivery of shares of Common Stock, their cash equivalent, any combination thereof or in any other form of consideration, as determined by the Board and contained in the Restricted Stock Unit Award Agreement.

(iv) Additional Restrictions. At the time of the grant of a Restricted Stock Unit Award, the Board, as it deems appropriate, may impose such restrictions or conditions that delay the delivery of the shares of Common Stock (or their cash equivalent) subject to a Restricted Stock Unit Award to a time after the vesting of such Restricted Stock Unit Award.

(v) Dividend Equivalents. Dividend equivalents may be credited in respect of shares of Common Stock covered by a Restricted Stock Unit Award, as determined by the Board and contained in the Restricted Stock Unit Award Agreement. At the sole discretion of the Board, such dividend equivalents may be converted into additional shares of Common Stock covered by the Restricted Stock Unit Award in such manner as determined by the Board. Any additional shares covered by the Restricted Stock Unit Award credited by reason of such dividend equivalents will be subject to all of the same terms and conditions of the underlying Restricted Stock Unit Award Agreement to which they relate.

(vi) Termination of Participant's Continuous Service. Except as otherwise provided in the applicable Restricted Stock Unit Award Agreement, such portion of the Restricted Stock Unit Award that has not vested will be forfeited upon the Participant's termination of Continuous Service.

(vii) Compliance with Section 409A of the Code. Notwithstanding anything to the contrary set forth herein, any Restricted Stock Unit Award granted under the Plan that is not exempt from the requirements of Section 409A of the Code shall contain such provisions so that such Restricted Stock Unit Award will comply with the requirements of Section 409A of the Code. Such restrictions, if any, shall be determined by the Board and contained in the Restricted Stock Unit Award Agreement evidencing such Restricted Stock Unit Award. For example, such restrictions may include, without limitation, a requirement that any Common Stock that is to be issued in a year following the year in which the Restricted Stock Unit Award vests must be issued in accordance with a fixed pre-determined schedule.

(c) Other Stock Awards. Other forms of Stock Awards valued in whole or in part by reference to, or otherwise based on, Common Stock, including the appreciation in value thereof (e.g., options or stock rights with an exercise price or strike price less than one hundred percent (100%) of the Fair Market Value of the Common Stock at the time of grant) may be granted either alone or in addition to Stock Awards provided for under Section 5 and the preceding provisions of this Section 6. Subject to the provisions of the Plan, the Board will have sole and complete authority to determine the persons to whom and the time or times at which such Other Stock Awards will be granted, the number of shares of Common Stock (or the cash equivalent thereof) to be granted pursuant to such Other Stock Awards and all other terms and conditions of such Other Stock Awards.

7. COVENANTS OF THE COMPANY.

(a) Availability of Shares. The Company will keep available at all times the number of shares of Common Stock reasonably required to satisfy then-outstanding Stock Awards.

(b) Securities Law Compliance. The Company will seek to obtain from each regulatory commission or agency having jurisdiction over the Plan such authority as may be required to grant Stock Awards and to issue and sell shares of Common Stock upon exercise of the Stock Awards; *provided, however,* that this undertaking will not require the Company to register under the Securities Act the Plan, any Stock Award or any Common Stock issued or issuable pursuant to any such Stock Award. If, after reasonable efforts and at a reasonable cost, the Company is unable to obtain from any such regulatory commission or agency the authority that counsel for the Company deems necessary for the lawful issuance and sale of Common Stock under the Plan, the Company will be relieved from any liability for failure to issue and sell Common Stock upon exercise of such Stock Awards unless and until such authority is obtained. A Participant will not be eligible for the grant of a Stock Award or the subsequent issuance of cash or Common Stock pursuant to the Stock Award if such grant or issuance would be in violation of any applicable securities law.

(c) No Obligation to Notify or Minimize Taxes; No Liability for Taxes. The Company will have no duty or obligation to any Participant to advise such holder as to the time or manner of exercising such Stock Award. Furthermore, the Company will have no duty or obligation to warn or otherwise advise such holder of a pending termination or expiration of a Stock Award or a possible period in which the Stock Award may not be exercised. The Company has no duty or obligation to minimize the tax consequences of a Stock Award to the holder of such Stock Award and will no be liable to any holder of a Stock Award for any adverse tax consequences to such holder in connection with a Stock Award. As a condition to accepting a Stock Award under the Plan, each Participant (i) agrees not to make any claim against the Company or any of its Officers, Directors, Employees or Affiliates related to tax liabilities arising from such Stock Award or other Company compensation and (ii) acknowledges that such Participant was advised to consult with his or her own personal tax, financial an dother legal advisors regarding the tax consequences of the Stock Award and has either done so or knowingly and voluntarily declined to do so.

8. MISCELLANEOUS.

(a) Use of Proceeds from Sales of Common Stock. Proceeds from the sale of shares of Common Stock pursuant to Stock Awards will constitute general funds of the Company.

(b) Corporate Action Constituting Grant of Stock Awards. Corporate action constituting a grant by the Company of a Stock Award to any Participant will be deemed completed as of the date of such corporate action, unless otherwise determined by the Board, regardless of when the instrument, certificate, or letter evidencing the Stock Award is communicated to, or actually received or accepted by, the Participant. In the event that the corporate records (e.g., Board consents, resolutions or minutes) documenting the corporate action constituting the grant contain terms (e.g., exercise price, vesting schedule or number of shares) that are inconsistent with those in the Stock Award Agreement or related grant documents as a result of a clerical error in the papering of the Stock Award Agreement or related grant documents, the corporate records will control and the Participant will have no legally binding right to the incorrect term in the Stock Award Agreement or related grant documents.

(c) Stockholder Rights. No Participant will be deemed to be the holder of, or to have any of the rights of a holder with respect to, any shares of Common Stock subject to a Stock Award unless and until (i) such Participant has satisfied all requirements for exercise of, or the issuance of shares of Common Stock under, the Stock Award pursuant to its terms, and (ii) the issuance of the Common Stock subject to the Stock Award has been entered into the books and records of the Company.

(d) No Employment or Other Service Rights. Nothing in the Plan, any Stock Award Agreement or any other instrument executed thereunder or in connection with any Stock Award granted pursuant thereto will confer upon any Participant any right to continue to serve the Company or an Affiliate in the capacity in effect at the time the Stock Award was granted or will affect the right of the Company or an Affiliate to terminate (i) the employment of an Employee with or without notice and with or without cause, (ii) the service of a Consultant pursuant to the terms of such Consultant's agreement with the Company or an Affiliate, or (iii) the service of a Director pursuant to the bylaws of the Company or an Affiliate, and any applicable provisions of the corporate law of the state in which the Company or the Affiliate is incorporated, as the case may be.

(e) Change in Time Commitment. In the event a Participant's regular level of time commitment in the performance of his or her services for the Company and any Affiliates is reduced (for example, and without limitation, if the Participant is an Employee of the Company and the Employee has a change in status from a full-time Employee to a part-time Employee) after the date of grant of any Stock Award to the Participant, the Board has the right in its sole discretion to (x) make a corresponding reduction in the number of shares subject to any portion of such Stock Award that is scheduled to vest or become payable after the date of such change in time commitment, and (y) in lieu of or in combination with such a reduction, extend the vesting or payment schedule applicable to such Stock Award. In the event of any such reduction, the Participant will have no right with respect to any portion of the Stock Award that is so reduced or extended.

(f) Incentive Stock Option Limitations. To the extent that the aggregate Fair Market Value (determined at the time of grant) of Common Stock with respect to which Incentive Stock Options are exercisable for the first time by any Optionholder during any calendar year (under all plans of the Company and any Affiliates) exceeds one hundred thousand dollars ($100,000) (or such other limit established in the Code) or otherwise does not comply with the rules governing Incentive Stock Options, the Options or portions thereof that exceed such limit (according to the order in which they were granted) or otherwise do not comply with such rules will be treated as Nonstatutory Stock Options, notwithstanding any contrary provision of the applicable Option Agreement(s).

(g) Investment Assurances. The Company may require a Participant, as a condition of exercising or acquiring Common Stock under any Stock Award, (i) to give written assurances satisfactory to the Company as to the Participant's knowledge and experience in financial and business matters and/or to employ a purchaser representative reasonably satisfactory to the Company who is knowledgeable and experienced in financial and business matters and that he or she is capable of evaluating, alone or together with the purchaser representative, the merits and risks of exercising the Stock Award; and (ii) to give written assurances satisfactory to the Company stating that the Participant is acquiring Common Stock subject to the Stock Award for the Participant's own account and not with any present intention of selling or otherwise distributing the Common Stock. The foregoing requirements, and any assurances given pursuant to such requirements, will be inoperative if (A) the issuance of the shares upon the exercise or acquisition of Common Stock under the Stock Award has been registered under a then currently effective registration statement under the Securities Act, or (B) as to any particular requirement, a determination is made by counsel for the Company that such requirement need not be met in the circumstances under the then applicable securities laws. The Company may, upon advice of counsel to the Company, place legends on stock certificates issued under the Plan as such counsel deems necessary or appropriate in order to comply with applicable securities laws, including, but not limited to, legends restricting the transfer of the Common Stock.

(h) Withholding Authorization and Obligations. As a condition to acceptance of any Stock Award under the Plan, Participant authorizes withholding from payroll and any other amounts payable to such Participant, and otherwise agrees to make adequate provision for (including), any sums required to satisfy the federal, state, local and foreign tax withholding obligations of the Company or an Affiliate, if any, which arise in connection with the grant, exercise, vesting or settlement of such Stock Award, as applicable. Unless prohibited by the terms of a Stock Award Agreement, the Company may, in its sole discretion, satisfy any federal, state or local tax withholding obligation relating to a Stock Award by any of the following means or by a combination of such means: (i) causing the Participant to tender a cash payment; (ii) withholding shares of Common Stock from the shares of Common Stock issued or otherwise issuable to the Participant in connection with the Stock Award; *provided, however*, that no shares of Common Stock are withheld with a value exceeding the maximum amount of tax required to be withheld by law (or such other amount as may be necessary to avoid classification of the Stock Award as a liability for financial accounting purposes); (iii) withholding cash from a Stock Award settled in cash; (iv) withholding payment from any amounts otherwise payable to the Participant; or (v) by such other method as may be set forth in the Stock Award Agreement. As a condition to accepting a Stock Award under the Plan, in the event that the amount of the Company's withholding obligation in connection with such Stock Award was greater than the amount actually withheld by the Company, each Participant agrees to indemnify and hold the Company harmless form any failure by the Company to withhold the proper amount.

(i) Electronic Delivery. Any reference herein or in a Stock Award Agreement to a "written" agreement or document will include any agreement or document delivered electronically or posted on the Company's intranet (or other shared electronic medium controlled by the Company to which the Participant has access).

(j) Deferrals. To the extent permitted by applicable law, the Board, in its sole discretion, may determine that the delivery of Common Stock or the payment of cash, upon the exercise, vesting or settlement of all or a portion of any Stock Award may be deferred and may establish programs and procedures for deferral elections to be made by Participants. Deferrals by Participants will be made in accordance with Section 409A of the Code. Consistent with Section 409A of the Code, the Board may provide for distributions while a Participant is still an employee or otherwise providing services to the Company. The Board is authorized to make deferrals of Stock Awards and determine when, and in what annual percentages, Participants may receive payments, including lump sum payments, following the Participant's termination of Continuous Service, and implement such other terms and conditions consistent with the provisions of the Plan and in accordance with applicable law.

(k) Compliance with Section 409A of the Code. To the extent that the Board determines that any Stock Award granted hereunder is subject to Section 409A of the Code, the Stock Award Agreement evidencing such Stock Award shall incorporate the terms and conditions necessary to avoid the consequences specified in Section 409A(a)(1) of the Code. To the extent applicable, the Plan and Stock Award Agreements shall be interpreted in accordance with Section 409A of the Code.

(l) Repurchase Limitation. The terms of any repurchase right will be specified in the Stock Award Agreement. The repurchase price for vested shares of Common Stock will be the Fair Market Value of the shares of Common Stock on the date of repurchase. The repurchase price for unvested shares of Common Stock will be the lower of (i) the Fair Market Value of the shares of Common Stock on the date of repurchase or (ii) their original purchase price. However, the Company will not exercise its repurchase right until at least six (6) months (or such longer or shorter period of time necessary to avoid classification of the Stock Award as a liability for financial accounting purposes) have elapsed following delivery of shares of Common Stock subject to the Stock Award, unless otherwise specifically provided by the Board.

9. ADJUSTMENTS UPON CHANGES IN COMMON STOCK; OTHER CORPORATE EVENTS.

(a) Capitalization Adjustments. In the event of a Capitalization Adjustment, the Board will appropriately and proportionately adjust: (i) the class(es) and maximum number of securities subject to the Plan pursuant to Section 3(a), (ii) the class(es) and maximum number of securities that may be issued pursuant to the exercise of Incentive Stock Options pursuant to Section 3(c), and (iii) the class(es) and number of securities and price per share of stock subject to outstanding Stock Awards. The Board will make such adjustments, and its determination will be final, binding and conclusive.

(b) Dissolution. Except as otherwise provided in the Stock Award Agreement, in the event of a Dissolution of the Company, all outstanding Stock Awards (other than Stock Awards consisting of vested and outstanding shares of Common Stock not subject to a forfeiture condition or the Company's right of repurchase) will terminate immediately prior to the completion of such Dissolution, and the shares of Common Stock subject to the Company's repurchase rights or subject to a forfeiture condition may be repurchased or reacquired by the Company notwithstanding the fact that the holder of such Stock Award is providing Continuous Service, *provided, however,* that the Board may, in its sole discretion, cause some or all Stock Awards to become fully vested, exercisable and/or no longer subject to repurchase or forfeiture (to the extent such Stock Awards have not previously expired or terminated) before the Dissolution is completed but contingent on its completion.

(c) Transactions. The following provisions will apply to Stock Awards in the event of a Transaction unless otherwise provided in the Stock Award Agreement or any other written agreement between the Company or any Affiliate and the Participant or unless otherwise expressly provided by the Board at the time of grant of a Stock Award. In the event of a Transaction, then, notwithstanding any other provision of the Plan, the Board may take one or more of the following actions with respect to Stock Awards, contingent upon the closing or completion of the Transaction:

(i) arrange for the surviving corporation or acquiring corporation (or the surviving or acquiring corporation's parent company) to assume or continue the Stock Award or to substitute a similar stock award for the Stock Award (including, but not limited to, an award to acquire the same consideration paid to the stockholders of the Company pursuant to the Transaction);

(ii) arrange for the assignment of any reacquisition or repurchase rights held by the Company in respect of Common Stock issued pursuant to the Stock Award to the surviving corporation or acquiring corporation (or the surviving or acquiring corporation's parent company);

(iii) accelerate the vesting, in whole or in part, of the Stock Award (and, if applicable, the time at which the Stock Award may be exercised) to a date prior to the effective time of such Transaction as the Board determines (or, if the Board does not determine such a date, to the date that is five (5) days prior to the effective date of the Transaction), with such Stock Award terminating if not exercised (if applicable) at or prior to the effective time of the Transaction; provided, however, that the Board may require Participants to complete and deliver to the Company a notice of exercise before the effective date of a Transaction, which exercise is contingent upon the effectiveness of such Transaction;

(iv) arrange for the lapse, in whole or in part, of any reacquisition or repurchase rights held by the Company with respect to the Stock Award;

(v) cancel or arrange for the cancellation of the Stock Award, to the extent not vested or not exercised prior to the effective time of the Transaction, in exchange for such cash consideration, if any, as the Board, in its sole discretion, may consider appropriate; and

(vi) make a payment, in such form as may be determined by the Board equal to the excess, if any, of (A) the value of the property the Participant would have received upon the exercise of the Stock Award immediately prior to the effective time of the Transaction, over (B) any exercise price payable by such holder in connection with such exercise. For clarity, this payment may be zero ($0) if the value of the property is equal to or less than the exercise price. Payments under this provision may be delayed to the same extent that payment of consideration to the holders of the Company's Common Stock in connection with the Transaction is delayed as a result of escrows, earn outs, holdbacks or any other contingencies.

The Board need not take the same action or actions with respect to all Stock Awards or portions thereof or with respect to all Participants. The Board may take different actions with respect to the vested and unvested portions of a Stock Award.

(d) Change in Control. A Stock Award may be subject to additional acceleration of vesting and exercisability upon or after a Change in Control as may be provided in the Stock Award Agreement for such Stock Award or as may be provided in any other written agreement between the Company or any Affiliate and the Participant, but in the absence of such provision, no such acceleration will automatically occur.

(e) No Restriction on Right to Undertake Transactions. The grant of any Stock Award under the Plan and the issuance of shares pursuant to any Stock Award does not affect or restrict in any way the right or power of the Company or the stockholders of the Company to make or authorize any adjustment, recapitalization, reorganization or other change in the Company's capital structure or its business, any merger or consolidation of the Company, any issue of stock, options or other rights to purchase stock, bonds, debentures, preferred or prior preference stocks, whose rights are superior to or affect the Common Stock or the rights thereof or which are convertible into or exchangeable for Common Stock, or the dissolution or liquidation of the Company, or any sale or transfer of all or any part of its assets or business, or any other corporate act or proceeding, whether of a similar character or otherwise.

(f) Appointment of Representative. As a condition to the receipt of a Stock Awards under this Plan, a Participant will be deemed to have agreed that the Stock Award will be subject to the terms of any agreement governing a Transaction involving the Company, including, without limitation, a provision for the appointment of a representative that is authorized to act on the Participant's behalf with respect to any escrow or other contingent consideration.

10. PLAN TERM; EARLIER TERMINATION OR SUSPENSION OF THE PLAN.

(a) Plan Term. The Board may suspend or terminate the Plan at any time. Unless terminated sooner by the Board, the Plan will automatically terminate on the day before the tenth (10th) anniversary of the earlier of (i) the date the Plan is adopted by the Board, or (ii) the date the Plan is approved by the stockholders of the Company. No Stock Awards may be granted under the Plan while the Plan is suspended or after it is terminated.

(b) No Impairment of Rights. Suspension or termination of the Plan will not materially impair rights and obligations under any Stock Award granted while the Plan is in effect except with the written consent of the affected Participant or as otherwise permitted in the Plan.

11. EFFECTIVE DATE OF PLAN.

This Plan will become effective on the Effective Date.

12. CHOICE OF LAW.

The laws of the State of Delaware will govern all questions concerning the construction, validity and interpretation of this Plan, without regard to that state's conflict of laws rules.

13. DEFINITIONS. As used in the Plan, the following definitions will apply to the capitalized terms indicated below:

(a) "***Affiliate***" means, at the time of determination, any "parent" or "majority-owned subsidiary" of the Company, as such terms are defined in Rule 405. The Board will have the authority to determine the time or times at which "parent" or "majority-owned subsidiary" status is determined within the foregoing definition.

(b) "***Board***" means the Board of Directors of the Company.

(c) "***Capitalization Adjustment***" means any change that is made in, or other events that occur with respect to, the Common Stock subject to the Plan or subject to any Stock Award after the Effective Date without the receipt of consideration by the Company through merger, consolidation, reorganization, recapitalization, reincorporation, stock dividend, dividend in property other than cash, large nonrecurring cash dividend, stock split, reverse stock split, liquidating dividend, combination of shares, exchange of shares, change in corporate structure, or any similar equity restructuring transaction, as that term is used in Statement of Financial Accounting Standards Board Accounting Standards Codification Topic 718 (or any successor thereto). Notwithstanding the foregoing, the conversion of any convertible securities of the Company will not be treated as a Capitalization Adjustment.

(d) "***Cause***" will have the meaning ascribed to such term or to "Misconduct" in any written agreement between the Participant and the Company defining such term and, in the absence of such agreement, such term means, with respect to a Participant, the occurrence of any of the following events: (i) such Participant's commission of any felony or any crime involving fraud, dishonesty or moral turpitude under the laws of the United States or any state thereof; (ii) such Participant's attempted commission of, or participation in, a fraud or act of dishonesty against the Company; (iii) such Participant's intentional, material violation of any contract or agreement between the Participant and the Company or of any statutory duty owed to the Company; (iv) such Participant's unauthorized use or disclosure of the Company's confidential information or trade secrets; or (v) such Participant's gross misconduct. The determination that a termination of the Participant's Continuous Service is either for Cause or without Cause will be made by the Company, in its sole discretion. Any determination by the Company that the Continuous Service of a Participant was terminated with or without Cause for the purposes of outstanding Stock Awards held by such Participant will have no effect upon any determination of the rights or obligations of the Company or such Participant for any other purpose.

(e) "***Change in Control***" means the occurrence, in a single transaction or in a series of related transactions, of any one or more of the following events:

(i) any Exchange Act Person becomes the Owner, directly or indirectly, of securities of the Company representing more than fifty percent (50%) of the combined voting power of the Company's then outstanding securities other than by virtue of a merger, consolidation or similar transaction. Notwithstanding the foregoing, a Change in Control will not be deemed to occur (A) on account of the acquisition of securities of the Company directly from the Company, (B) on account of the acquisition of securities of the Company by an investor, any affiliate thereof or any other Exchange Act Person that acquires the Company's securities in a transaction or series of related transactions the primary purpose of which is to obtain financing for the Company through the issuance of equity securities or (C) solely because the level of Ownership held by any Exchange Act Person (the "***Subject Person***") exceeds the designated percentage threshold of the outstanding voting securities as a result of a repurchase or other acquisition of voting securities by the Company reducing the number of shares outstanding, provided that if a Change in Control would occur (but for the operation of this sentence) as a result of the acquisition of voting securities by the Company, and after such share acquisition, the Subject Person becomes the Owner of any additional voting securities that, assuming the repurchase or other acquisition had not occurred, increases the percentage of the then outstanding voting securities Owned by the Subject Person over the designated percentage threshold, then a Change in Control will be deemed to occur;

(ii) there is consummated a merger, consolidation or similar transaction involving (directly or indirectly) the Company and, immediately after the consummation of such merger, consolidation or similar transaction, the stockholders of the Company immediately prior thereto do not Own, directly or indirectly, either (A) outstanding voting securities representing more than fifty percent (50%) of the combined outstanding voting power of the surviving Entity in such merger, consolidation or similar transaction or (B) more than fifty percent (50%) of the combined outstanding voting power of the parent of the surviving Entity in such merger, consolidation or similar transaction, in each case in substantially the same proportions as their Ownership of the outstanding voting securities of the Company immediately prior to such transaction;

(iii) the stockholders of the Company approve or the Board approves a plan of complete dissolution or liquidation of the Company, or a complete dissolution or liquidation of the Company will otherwise occur, except for a liquidation into a parent corporation; or

(iv) there is consummated a sale, lease, exclusive license or other disposition of all or substantially all of the consolidated assets of the Company and its Subsidiaries, other than a sale, lease, license or other disposition of all or substantially all of the consolidated assets of the Company and its Subsidiaries to an Entity, more than fifty percent (50%) of the combined voting power of the voting securities of which are Owned by stockholders of the Company in substantially the same proportions as their Ownership of the outstanding voting securities of the Company immediately prior to such sale, lease, license or other disposition.

Notwithstanding the foregoing definition or any other provision of this Plan, (A) the term Change in Control will not include a sale of assets, merger or other transaction effected exclusively for the purpose of changing the domicile of the Company, and (B) the definition of Change in Control (or any analogous term) in an individual written agreement between the Company or any Affiliate and the Participant will supersede the foregoing definition with respect to Stock Awards subject to such agreement; *provided, however,* that if no definition of Change in Control or any analogous term is set forth in such an individual written agreement, the foregoing definition will apply.

(f) "***Code***" means the Internal Revenue Code of 1986, as amended, including any applicable regulations and guidance thereunder.

(g) "***Committee***" means a committee of one (1) or more Directors to whom authority has been delegated by the Board in accordance with Section 2(c).

(h) "***Common Stock***" means the common stock of the Company.

(i) "***Company***" means Genelux Corporation, a Delaware corporation.

(j) "***Consultant***" means any person, including an advisor, who is (i) engaged by the Company or an Affiliate to render consulting or advisory services and is compensated for such services, or (ii) serving as a member of the board of directors of an Affiliate and is compensated for such services. However, service solely as a Director, or payment of a fee for such service, will not cause a Director to be considered a "Consultant" for purposes of the Plan.

(k) "***Continuous Service***" means that the Participant's service with the Company or an Affiliate, whether as an Employee, Director or Consultant, is not interrupted or terminated. A change in the capacity in which the Participant renders service to the Company or an Affiliate as an Employee, Director or Consultant or a change in the Entity for which the Participant renders such service, provided that there is no interruption or termination of the Participant's service with the Company or an Affiliate, will not terminate a Participant's Continuous Service; *provided, however*, that if the Entity for which a Participant is rendering services ceases to qualify as an Affiliate, as determined by the Board in its sole discretion, such Participant's Continuous Service will be considered to have terminated on the date such Entity ceases to qualify as an Affiliate. For example, a change in status from an Employee of the Company to a Consultant of an Affiliate or to a Director will not constitute an interruption of Continuous Service. To the extent permitted by law, the Board or the chief executive officer of the Company, in that party's sole discretion, may determine whether Continuous Service will be considered interrupted in the case of (i) any leave of absence approved by the Board or chief executive officer, including sick leave, military leave or any other personal leave, or (ii) transfers between the Company, an Affiliate, or their successors. Notwithstanding the foregoing, a leave of absence will be treated as Continuous Service for purposes of vesting in a Stock Award only to such extent as may be provided in the Company's leave of absence policy, in the written terms of any leave of absence agreement or policy applicable to the Participant, or as otherwise required by law.

(l) "***Corporate Transaction***" means the consummation, in a single transaction or in a series of related transactions, of any one or more of the following events:

(i) a sale or other disposition of all or substantially all, as determined by the Board in its sole discretion, of the consolidated assets of the Company and its Subsidiaries;

(ii) a sale or other disposition of more than fifty percent (50%) of the outstanding securities of the Company;

(iii) a merger, consolidation or similar transaction following which the Company is not the surviving corporation; or

(iv) a merger, consolidation or similar transaction following which the Company is the surviving corporation but the shares of Common Stock outstanding immediately preceding the merger, consolidation or similar transaction are converted or exchanged by virtue of the merger, consolidation or similar transaction into other property, whether in the form of securities, cash or otherwise.

(m) "***Director***" means a member of the Board.

(n) "***Disability***" means, with respect to a Participant, the inability of such Participant to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than twelve (12) months as provided in Sections 22(e)(3) and 409A(a)(2)(c)(i) of the Code, and will be determined by the Board on the basis of such medical evidence as the Board deems warranted under the circumstances.

(o) "***Dissolution***" means when the Company, after having executed a certificate of dissolution with the State of Delaware, has completely wound up its affairs. Conversion of the Company into a Limited Liability Company will not be considered a "Dissolution" for purposes of the Plan.

(p) "***Effective Date***" means the effective date of this Plan, which is January 2, 2019.

(q) "***Employee***" means any person employed by the Company or an Affiliate. However, service solely as a Director, or payment of a fee for such services, will not cause a Director to be considered an "Employee" for purposes of the Plan.

(r) "***Entity***" means a corporation, partnership, limited liability company or other entity.

(s) "***Exchange Act***" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

(t) "***Exchange Act Person***" means any natural person, Entity or "group" (within the meaning of Section 13(d) or 14(d) of the Exchange Act), except that "Exchange Act Person" will not include (i) the Company or any Subsidiary of the Company, (ii) any employee benefit plan of the Company or any Subsidiary of the Company or any trustee or other fiduciary holding securities under an employee benefit plan of the Company or any Subsidiary of the Company, (iii) an underwriter temporarily holding securities pursuant to an offering of such securities, (iv) an Entity Owned, directly or indirectly, by the stockholders of the Company in substantially

the same proportions as their Ownership of stock of the Company; or (v) any natural person, Entity or "group" (within the meaning of Section 13(d) or 14(d) of the Exchange Act) that, as of the Effective Date, is the Owner, directly or indirectly, of securities of the Company representing more than fifty percent (50%) of the combined voting power of the Company's then outstanding securities.

(u) "***Fair Market Value***" means, as of any date, the value of the Common Stock determined by the Board in compliance with Section 409A of the Code or, in the case of an Incentive Stock Option, in compliance with Section 422 of the Code.

(v) "***Incentive Stock Option***" means an option granted pursuant to Section 5 of the Plan that is intended to be, and that qualifies as, an "incentive stock option" within the meaning of Section 422 of the Code.

(w) "***Nonstatutory Stock Option***" means any option granted pursuant to Section 5 of the Plan that does not qualify as an Incentive Stock Option.

(x) "***Officer***" means any person designated by the Company as an officer.

(y) "***Option***" means an Incentive Stock Option or a Nonstatutory Stock Option to purchase shares of Common Stock granted pursuant to the Plan.

(z) "***Option Agreement***" means a written agreement between the Company and an Optionholder evidencing the terms and conditions of an Option grant. Each Option Agreement will be subject to the terms and conditions of the Plan.

(aa) "***Optionholder***" means a person to whom an Option is granted pursuant to the Plan or, if applicable, such other person who holds an outstanding Option.

(bb) "***Other Stock Award***" means an award based in whole or in part by reference to the Common Stock which is granted pursuant to the terms and conditions of Section 6(c).

(cc) "***Other Stock Award Agreement***" means a written agreement between the Company and a holder of an Other Stock Award evidencing the terms and conditions of an Other Stock Award grant. Each Other Stock Award Agreement will be subject to the terms and conditions of the Plan.

(dd) "***Own***," "***Owned***," "***Owner***," "***Ownership***" A person or Entity will be deemed to "Own," to have "Owned," to be the "Owner" of, or to have acquired "Ownership" of securities if such person or Entity, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has or shares voting power, which includes the power to vote or to direct the voting, with respect to such securities.

(ee) "***Participant***" means a person to whom a Stock Award is granted pursuant to the Plan or, if applicable, such other person who holds an outstanding Stock Award.

(ff) "***Plan***" means this Genelux Corporation 2018 Equity Incentive Plan, as it may be amended from time to time.

(gg) "***Restricted Stock Award***" means an award of shares of Common Stock which is granted pursuant to the terms and conditions of Section 6(a).

(hh) "***Restricted Stock Award Agreement***" means a written agreement between the Company and a holder of a Restricted Stock Award evidencing the terms and conditions of a Restricted Stock Award grant. Each Restricted Stock Award Agreement will be subject to the terms and conditions of the Plan.

(ii) "***Restricted Stock Unit Award***" means a right to receive shares of Common Stock which is granted pursuant to the terms and conditions of Section 6(b).

(jj) "***Restricted Stock Unit Award Agreement***" means a written agreement between the Company and a holder of a Restricted Stock Unit Award evidencing the terms and conditions of a Restricted Stock Unit Award grant. Each Restricted Stock Unit Award Agreement will be subject to the terms and conditions of the Plan.

(kk) "***Rule 405***" means Rule 405 promulgated under the Securities Act.

(ll) "***Rule 701***" means Rule 701 promulgated under the Securities Act.

(mm) "***Securities Act***" means the Securities Act of 1933, as amended.

(nn) "***Stock Appreciation Right***" or "***SAR***" means a right to receive the appreciation on Common Stock that is granted pursuant to the terms and conditions of Section 5.

(oo) "***Stock Appreciation Right Agreement***" means a written agreement between the Company and a holder of a Stock Appreciation Right evidencing the terms and conditions of a Stock Appreciation Right grant. Each Stock Appreciation Right Agreement will be subject to the terms and conditions of the Plan.

(pp) "***Stock Award***" means any right to receive Common Stock granted under the Plan, including an Incentive Stock Option, a Nonstatutory Stock Option, a Restricted Stock Award, a Restricted Stock Unit Award, a Stock Appreciation Right or any Other Stock Award.

(qq) "***Stock Award Agreement***" means a written agreement between the Company and a Participant evidencing the terms and conditions of a Stock Award grant. Each Stock Award Agreement will be subject to the terms and conditions of the Plan.

(rr) "***Subsidiary***" means, with respect to the Company, (i) any corporation of which more than fifty percent (50%) of the outstanding capital stock having ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether, at the time, stock of any other class or classes of such corporation will have or might have voting power by reason of the happening of any contingency) is at the time, directly or indirectly, Owned by the Company, and (ii) any partnership, limited liability company or other entity in which the Company has a direct or indirect interest (whether in the form of voting or participation in profits or capital contribution) of more than fifty percent (50%) .

(ss) "***Ten Percent Stockholder***" means a person who Owns (or is deemed to Own pursuant to Section 424(d) of the Code) stock possessing more than ten percent (10%) of the total combined voting power of all classes of stock of the Company or any Affiliate.

(tt) "***Transaction***" means a Corporate Transaction or a Change in Control.

* * * * *

I hereby certify that the foregoing Plan was duly adopted by the Board of Directors of Genelux Corporation on September 21, 2018.

* * * * *

I hereby certify that the foregoing Plan was approved by the stockholders of Genelux Corporation on October 27, 2018.

Executed on this 11th day of December 2018.

/s/ E. Nathan Schilt
Secretary, Genelux Corporation

GENELUX CORPORATION
STOCK OPTION GRANT NOTICE
(2019 EQUITY INCENTIVE PLAN)

Genelux Corporation (the "***Company***"), pursuant to its 2019 Equity Incentive Plan (the "***Plan***"), hereby grants to Optionholder an option to purchase the number of shares of the Company's Common Stock set forth below. This option is subject to all of the terms and conditions as set forth in this grant notice, in the Option Agreement, the Plan and the Notice of Exercise, all of which are attached hereto and incorporated herein in their entirety. Capitalized terms not explicitly defined herein but defined in the Plan or the Option Agreement will have the meanings set forth in the Plan or the Option Agreement. If there is any conflict between the terms herein and the Plan, the terms of the Plan will control.

Optionholder:	_____
Date of Grant:	_____
Vesting Commencement Date:	_____
Number of Shares Subject to Option:	_____
Exercise Price (Per Share):	_____
Total Exercise Price:	_____
Expiration Date:	_____

Type of Grant: ☐ Incentive Stock Option[1] ☐ Nonstatutory Stock Option
Exercise Schedule: ☐ Same as Vesting Schedule ☐ Early Exercise Permitted

Vesting Schedule:

Payment: By one or a combination of the following items (described in the Option Agreement):

☒ By cash, check, bank draft or money order payable to the Company
☒ Pursuant to a Regulation T Program if the shares are publicly traded
☒ By delivery of already-owned shares if the shares are publicly traded
☒ If and only to the extent this option is a Nonstatutory Stock Option, and subject to the Company's consent at the time of exercise, by a "net exercise" arrangement

Additional Terms/Acknowledgements: Optionholder acknowledges receipt of, and understands and agrees to, this Stock Option Grant Notice, the Option Agreement and the Plan. Optionholder acknowledges and agrees that this Stock Option Grant Notice and the Option Agreement may not be modified, amended or revised except as provided in the Plan. Optionholder further acknowledges that as of the Date of Grant, this Stock Option Grant Notice, the Option Agreement, and the Plan set forth the entire understanding between Optionholder and the Company regarding the acquisition of Common Stock pursuant to the option specified above and supersede all prior oral and written agreements, promises and/or representations on that subject with the exception, if applicable, of (i) the written employment agreement, offer letter or other written agreement entered into between the Company and Optionholder specifying the terms that govern this option, and (ii) any compensation recovery policy that is adopted by the Company or is otherwise required by applicable law.

[1] If this is an Incentive Stock Option, it (plus other outstanding Incentive Stock Options) cannot be first *exercisable* for more than $100,000 in value (measured by exercise price) in any calendar year. Any excess over $100,000 is a Nonstatutory Stock Option.

By accepting this option, Optionholder acknowledges having received and read this Stock Option Grant Notice, the Option Agreement and the Plan and agrees to all of the terms and conditions set forth in these documents. Participant consents to receive Plan documents by electronic delivery and to participate in the Plan through an on-line or electronic system established and maintained by the Company or another third party designated by the Company.

GENELUX CORPORATION

By: _____
Signature

Title: _____

Date: _____

OPTIONHOLDER

_____
Signature

Date: _____

ATTACHMENTS: Option Agreement, 2019 Equity Incentive Plan and Notice of Exercise

ATTACHMENT I

OPTION AGREEMENT

GENELUX CORPORATION
2019 EQUITY INCENTIVE PLAN

OPTION AGREEMENT
(INCENTIVE STOCK OPTION OR NONSTATUTORY STOCK OPTION)

Pursuant to your Stock Option Grant Notice ("***Grant Notice***") and this Option Agreement, Genelux Corporation (the "***Company***") has granted you an option under its 2019 Equity Incentive Plan (the "***Plan***") to purchase the number of shares of the Company's Common Stock indicated in your Grant Notice at the exercise price indicated in your Grant Notice. The option is granted to you effective as of the date of grant set forth in the Grant Notice (the "***Date of Grant***"). If there is any conflict between the terms in this Option Agreement and the Plan, the terms of the Plan will control. Capitalized terms not explicitly defined in this Option Agreement or in the Grant Notice but defined in the Plan will have the meanings given to them in the Plan.

The details of your option, in addition to those set forth in the Grant Notice, are as follows:

1. VESTING. Your option will vest as provided in your Grant Notice. Vesting will cease upon the termination of your Continuous Service. ***"Double-Trigger" Vesting Acceleration Provision:*** Notwithstanding the foregoing, if a Change in Control occurs and within one (1) month prior to, or within twelve (12) months after, the effective time of such Change in Control, your Continuous Service terminates due to a termination by the Company (not including death or Disability) without Cause or due to your voluntary termination with Good Reason, then, as of the date of termination of Continuous Service, the vesting and exercisability of your option will be accelerated in full.

(a) "***Good Reason***" means the occurrence of any of the following events, conditions or actions taken by the Company without Cause and without your written consent: (i) a material reduction of your annual base salary; *provided, however*, that Good Reason shall not be deemed to have occurred in the event of a reduction in your annual base salary that is pursuant to a salary reduction program affecting substantially all of the similarly situated employees of the Company and that does not adversely affect you to a greater extent than other similarly situated employees; (ii) a material reduction in your authority, duties or responsibilities; (iii) a relocation of your principal place of employment with the Company to a place that increases your one-way commute by more than fifty (50) miles as compared to your then-current principal place of employment immediately prior to such relocation (excluding regular travel in the ordinary course of business); or (iv) a material breach by the Company of any provision of this Option Agreement or your employment agreement with the Company; *provided, however*, that in each case above, in order for your resignation to be deemed to have been for Good Reason, you must first give the Board written notice of the action or omission giving rise to "Good Reason" within thirty (30) days after the first occurrence thereof; the Company must fail to reasonably cure such action or omission within thirty (30) days after receipt of such notice (the "***Cure Period***"), and your resignation from all positions you hold with the Company must be effective not later than thirty (30) days after the expiration of such Cure Period.

(b) If any payment or benefit you would receive from the Company or otherwise in connection with a Change in Control or other similar transaction (a "***280G Payment***") would (i) constitute a "parachute payment" within the meaning of Section 280G of the Code, and (ii) but for this sentence, be subject to the excise tax imposed by Section 4999 of the Code (the "***Excise Tax***"), then any such 280G Payment (a "***Payment***") shall be equal to the Reduced Amount. The "***Reduced Amount***" shall be either (x) the largest portion of the Payment that would result in no portion of the Payment (after reduction) being subject to the Excise Tax or (y) the largest portion, up to and including the total, of the Payment,

whichever amount (i.e., the amount determined by clause (x) or by clause (y)), after taking into account all applicable federal, state and local employment taxes, income taxes, and the Excise Tax (all computed at the highest applicable marginal rate), results in your receipt, on an after-tax basis, of the greater economic benefit notwithstanding that all or some portion of the Payment may be subject to the Excise Tax. If a reduction in a Payment is required pursuant to the preceding sentence and the Reduced Amount is determined pursuant to clause (x) of the preceding sentence, the reduction shall occur in the manner (the "***Reduction Method***") that results in the greatest economic benefit for you. If more than one method of reduction will result in the same economic benefit, the items so reduced will be reduced pro rata (the "***Pro Rata Reduction Method***").

Notwithstanding the foregoing, if the Reduction Method or the Pro Rata Reduction Method would result in any portion of the Payment being subject to taxes pursuant to Section 409A of the Code that would not otherwise be subject to taxes pursuant to Section 409A of the Code, then the Reduction Method and/or the Pro Rata Reduction Method, as the case may be, shall be modified so as to avoid the imposition of taxes pursuant to Section 409A of the Code as follows: (A) as a first priority, the modification shall preserve to the greatest extent possible, the greatest economic benefit for you as determined on an after-tax basis; (B) as a second priority, Payments that are contingent on future events (e.g., being terminated without cause), shall be reduced (or eliminated) before Payments that are not contingent on future events; and (C) as a third priority, Payments that are "deferred compensation" within the meaning of Section 409A of the Code shall be reduced (or eliminated) before Payments that are not deferred compensation within the meaning of Section 409A of the Code.

Unless you and the Company agree on an alternative accounting firm, the accounting firm engaged by the Company for general tax compliance purposes as of the day prior to the effective date of the change of control transaction triggering the Payment shall perform the foregoing calculations. If the accounting firm so engaged by the Company is serving as accountant or auditor for the individual, entity or group effecting the change of control transaction, the Company shall appoint a nationally recognized accounting firm to make the determinations required hereunder. The Company shall bear all expenses with respect to the determinations by such accounting firm required to be made hereunder. The Company shall use commercially reasonable efforts to cause the accounting firm engaged to make the determinations hereunder to provide its calculations, together with detailed supporting documentation, to you and the Company within fifteen (15) calendar days after the date on which your right to a 280G Payment becomes reasonably likely to occur (if requested at that time by you or the Company) or such other time as requested by you or the Company.

If you receive a Payment for which the Reduced Amount was determined pursuant to clause (x) of the first paragraph of this Section 1(b) and the Internal Revenue Service determines thereafter that some portion of the Payment is subject to the Excise Tax, you shall promptly return to the Company a sufficient amount of the Payment (after reduction pursuant to clause (x) of the first paragraph of this Section 1(b) so that no portion of the remaining Payment is subject to the Excise Tax. For the avoidance of doubt, if the Reduced Amount was determined pursuant to clause (y) in the first paragraph of this Section 1(b), you shall have no obligation to return any portion of the Payment pursuant to the preceding sentence.

2. NUMBER OF SHARES AND EXERCISE PRICE. The number of shares of Common Stock subject to your option and your exercise price per share in your Grant Notice will be adjusted for Capitalization Adjustments.

3. EXERCISE RESTRICTION FOR NON-EXEMPT EMPLOYEES. If you are an Employee eligible for overtime compensation under the Fair Labor Standards Act of 1938, as amended (that is, a "***Non-Exempt Employee***"), and except as otherwise provided in the Plan, you may not exercise your option until you have completed at least six (6) months of Continuous Service measured from the Date of Grant, even if you have already been an employee for more than six (6) months. Consistent with the provisions of the Worker Economic Opportunity Act, you may exercise your option as to any vested portion prior to such six (6) month anniversary in the case of (i) your death or Disability, (ii) a Corporate Transaction in which your option is not assumed, continued or substituted, (iii) a Change in Control or (iv) your termination of Continuous Service on your "retirement" (as defined in the Company's benefit plans).

4. EXERCISE PRIOR TO VESTING ("EARLY EXERCISE"). If permitted in your Grant Notice (*i.e.*, the "Exercise Schedule" indicates "Early Exercise Permitted") and subject to the provisions of your option, you may elect at any time that is both (i) during the period of your Continuous Service and (ii) during the term of your option, to exercise all or part of your option, including the unvested portion of your option; *provided, however,* that:

(a) a partial exercise of your option will be deemed to cover first vested shares of Common Stock and then the earliest vesting installment of unvested shares of Common Stock;

(b) any shares of Common Stock so purchased from installments that have not vested as of the date of exercise will be subject to the purchase option in favor of the Company as described in the Company's form of Early Exercise Stock Purchase Agreement;

(c) you will enter into the Company's form of Early Exercise Stock Purchase Agreement with a vesting schedule that will result in the same vesting as if no early exercise had occurred; and

(d) if your option is an Incentive Stock Option, then, to the extent that the aggregate Fair Market Value (determined at the Date of Grant) of the shares of Common Stock with respect to which your option plus all other Incentive Stock Options you hold are exercisable for the first time by you during any calendar year (under all plans of the Company and its Affiliates) exceeds one hundred thousand dollars ($100,000), your option(s) or portions thereof that exceed such limit (according to the order in which they were granted) will be treated as Nonstatutory Stock Options.

5. METHOD OF PAYMENT. You must pay the full amount of the exercise price for the shares you wish to exercise. You may pay the exercise price in cash or by check, bank draft or money order payable to the Company or in any other manner ***permitted by your Grant Notice,*** which may include one or more of the following:

(a) Provided that at the time of exercise the Common Stock is publicly traded, pursuant to a program developed under Regulation T as promulgated by the Federal Reserve Board that, prior to the issuance of Common Stock, results in either the receipt of cash (or check) by the Company or the receipt of irrevocable instructions to pay the aggregate exercise price to the Company from the sales proceeds. This manner of payment is also known as a "broker-assisted exercise", "same day sale", or "sell to cover".

(b) Provided that at the time of exercise the Common Stock is publicly traded, by delivery to the Company (either by actual delivery or attestation) of already-owned shares of Common Stock that are owned free and clear of any liens, claims, encumbrances or security interests, and that are valued at Fair Market Value on the date of exercise. "Delivery" for these purposes, in the sole discretion of the Company at the time you exercise your option, will include delivery to the Company of your attestation of ownership of such shares of Common Stock in a form approved by the Company. You may not exercise your option by delivery to the Company of Common Stock if doing so would violate the provisions of any law, regulation or agreement restricting the redemption of the Company's stock.

(c) If this option is a Nonstatutory Stock Option, subject to the consent of the Company at the time of exercise, by a "net exercise" arrangement pursuant to which the Company will reduce the number of shares of Common Stock issued upon exercise of your option by the largest whole number of shares with a Fair Market Value that does not exceed the aggregate exercise price. You must pay any remaining balance of the aggregate exercise price not satisfied by the "net exercise" in cash or other permitted form of payment. Shares of Common Stock will no longer be outstanding under your option and will not be exercisable thereafter if those shares (i) are used to pay the exercise price pursuant to the "net exercise," (ii) are delivered to you as a result of such exercise, and (iii) are withheld to satisfy your tax withholding obligations.

6. WHOLE SHARES. You may exercise your option only for whole shares of Common Stock.

7. SECURITIES LAW COMPLIANCE. In no event may you exercise your option unless the shares of Common Stock issuable upon such exercise are then registered under the Securities Act or, if not registered, the Company has determined that such exercise and the issuance of the shares would be exempt from the registration requirements of the Securities Act. The exercise of your option also must comply with all other applicable laws and regulations governing your option, and you may not exercise your option if the Company determines that such exercise would not be in material compliance with such laws and regulations (including any restrictions on exercise required for compliance with Treas. Reg. 1.401(k)-1(d)(3), if applicable).

8. TERM. You may not exercise your option before the Date of Grant or after the expiration of the option's term. The term of your option expires, subject to the provisions of Section 5(h) of the Plan, upon the earliest of the following:

(a) immediately upon the termination of your Continuous Service for Cause;

(b) three (3) months after the termination of your Continuous Service for any reason other than Cause, your Disability or your death (except as otherwise provided in Section 8(d) below); *provided, however,* that if during any part of such three (3) month period your option is not exercisable solely because of the condition set forth in the section above relating to "Securities Law Compliance," your option will not expire until the earlier of the Expiration Date or until it has been exercisable for an aggregate period of three (3) months after the termination of your Continuous Service; *provided further,* if (i) you are a Non-Exempt Employee, (ii) your Continuous Service terminates within six (6) months after the Date of Grant, and (iii) you have vested in a portion of your option at the time of your termination of Continuous Service, your option will not expire until the earlier of (x) the later of (A) the date that is seven (7) months after the Date of Grant, and (B) the date that is three (3) months after the termination of your Continuous Service, and (y) the Expiration Date;

(c) twelve (12) months after the termination of your Continuous Service due to your Disability (except as otherwise provided in Section 8(d)) below;

(d) eighteen (18) months after your death if you die either during your Continuous Service or within three (3) months after your Continuous Service terminates for any reason other than Cause;

(e) the Expiration Date indicated in your Grant Notice; or

(f) the day before the tenth (10th) anniversary of the Date of Grant.

If your option is an Incentive Stock Option, note that to obtain the federal income tax advantages associated with an Incentive Stock Option, the Code requires that at all times beginning on the Date of Grant and ending on the day three (3) months before the date of your option's exercise, you must be an employee of the Company or an Affiliate, except in the event of your death or Disability. The Company has provided for extended exercisability of your option under certain circumstances for your benefit but cannot guarantee that your option will necessarily be treated as an Incentive Stock Option if you continue to provide services to the Company or an Affiliate as a Consultant or Director after your employment terminates or if you otherwise exercise your option more than three (3) months after the date your employment with the Company or an Affiliate terminates.

9. EXERCISE.

(a) You may exercise the vested portion of your option (and the unvested portion of your option if your Grant Notice so permits) during its term by (i) delivering a Notice of Exercise (in a form designated by the Company) or completing such other documents and/or procedures designated by the Company for exercise and (ii) paying the exercise price and any applicable withholding taxes to the Company's Secretary, stock plan administrator, or such other person as the Company may designate, together with such additional documents as the Company may then require.

(b) By exercising your option you agree that, as a condition to any exercise of your option, the Company may require you to enter into an arrangement providing for the payment by you to the Company of any tax withholding obligation of the Company arising by reason of (i) the exercise of your option, (ii) the lapse of any substantial risk of forfeiture to which the shares of Common Stock are subject at the time of exercise, or (iii) the disposition of shares of Common Stock acquired upon such exercise.

(c) If your option is an Incentive Stock Option, by exercising your option you agree that you will notify the Company in writing within fifteen (15) days after the date of any disposition of any of the shares of the Common Stock issued upon exercise of your option that occurs within two (2) years after the Date of Grant or within one (1) year after such shares of Common Stock are transferred upon exercise of your option.

(d) By accepting your option you agree that you will not sell, dispose of, transfer, make any short sale of, grant any option for the purchase of, or enter into any hedging or similar transaction with the same economic effect as a sale with respect to any shares of Common Stock or other securities of the Company held by you, for a period of one hundred eighty (180) days following the effective date of a registration statement of the Company filed under the Securities Act or such longer period as the underwriters or the Company will request to facilitate compliance with FINRA Rule 2241 or any successor or similar rules or regulation (the "***Lock-Up Period***"); *provided, however*, that nothing contained in this section will prevent the exercise of a repurchase option, if any, in favor of the Company during the Lock-Up Period. You further agree to execute and deliver such other agreements as may be reasonably requested by the Company or the underwriters that are consistent with the foregoing or that are necessary to give further effect thereto. In order to enforce the foregoing covenant, the Company may impose stop-transfer instructions with respect to your shares of Common Stock until the end of such period. You also agree that any transferee of any shares of Common Stock (or other securities) of the Company held by you will be bound by this Section 9(d). The underwriters of the Company's stock are intended third party beneficiaries of this Section 9(d) and will have the right, power and authority to enforce the provisions hereof as though they were a party hereto.

10. TRANSFERABILITY. Except as otherwise provided in this Section 10, your option is not transferable, except by will or by the laws of descent and distribution, and is exercisable during your life only by you.

(a) Certain Trusts. Upon receiving written permission from the Board or its duly authorized designee, you may transfer your option to a trust if you are considered to be the sole beneficial owner (determined under Section 671 of the Code and applicable state law) while the option is held in the trust. You and the trustee must enter into transfer and other agreements required by the Company.

(b) Domestic Relations Orders. Upon receiving written permission from the Board or its duly authorized designee, and provided that you and the designated transferee enter into transfer and other agreements required by the Company, you may transfer your option pursuant to the terms of a domestic relations order, official marital settlement agreement or other divorce or separation instrument as permitted by Treasury Regulation 1.421-1(b)(2) that contains the information required by the Company to effectuate the transfer. You are encouraged to discuss the proposed terms of any division of this option with the Company prior to finalizing the domestic relations order or marital settlement agreement to help ensure the required information is contained within the domestic relations order or marital settlement agreement. If this option is an Incentive Stock Option, this option may be deemed to be a Nonstatutory Stock Option as a result of such transfer.

(c) Beneficiary Designation. Upon receiving written permission from the Board or its duly authorized designee, you may, by delivering written notice to the Company, in a form approved by the Company and any broker designated by the Company to handle option exercises, designate a third party who, on your death, will thereafter be entitled to exercise this option and receive the Common Stock or other consideration resulting from such exercise. In the absence of such a designation, your executor or administrator of your estate will be entitled to exercise this option and receive, on behalf of your estate, the Common Stock or other consideration resulting from such exercise.

11. RIGHT OF FIRST REFUSAL. Shares of Common Stock that you acquire upon exercise of your option are subject to any right of first refusal that may be described in the Company's bylaws in effect at such time the Company elects to exercise its right; *provided, however,* that if there is no right of first refusal described in the Company's bylaws at such time, the right of first refusal described below will apply. The Company's right of first refusal will expire on the first date upon which any security of the Company is listed (or approved for listing) upon notice of issuance on a national securities exchange or quotation system (the "***Listing Date***").

(a) Prior to the Listing Date, you may not validly Transfer (as defined below) any shares of Common Stock acquired upon exercise of your option, or any interest in such shares, unless such Transfer is made in compliance with the following provisions:

(i) Before there can be a valid Transfer of any shares of Common Stock or any interest therein, the record holder of the shares of Common Stock to be transferred (the "***Offered Shares***") will give written notice (by registered or certified mail) to the Company. Such notice will specify the identity of the proposed transferee, the cash price offered for the Offered Shares by the proposed transferee (or, if the proposed Transfer is one in which the holder will not receive cash, such as an involuntary transfer, gift, donation or pledge, the holder will state that no purchase price is being proposed), and the other terms and conditions of the proposed Transfer. The date such notice is mailed

will be hereinafter referred to as the "***Notice Date***" and the record holder of the Offered Shares will be hereinafter referred to as the "***Offeror***." If, from time to time, there is any stock dividend, stock split or other change in the character or amount of any of the outstanding Common Stock which is subject to the provisions of your option, then in such event any and all new, substituted or additional securities to which you are entitled by reason of your ownership of the shares of Common Stock acquired upon exercise of your option will be immediately subject to the Company's Right of First Refusal (as defined below) with the same force and effect as the shares subject to the Right of First Refusal immediately before such event.

(ii) For a period of thirty (30) calendar days after the Notice Date, or such longer period as may be required to avoid the classification of your option as a liability for financial accounting purposes, the Company will have the option to purchase all (but not less than all) of the Offered Shares at the purchase price and on the terms set forth in Section 11(a)(iii) (the Company's "***Right of First Refusal***"). In the event that the proposed Transfer is one involving no payment of a purchase price, the purchase price will be deemed to be the Fair Market Value of the Offered Shares as determined in good faith by the Board in its discretion. The Company may exercise its Right of First Refusal by mailing (by registered or certified mail) written notice of exercise of its Right of First Refusal to the Offeror prior to the end of said thirty (30) days (including any extension required to avoid classification of the option as a liability for financial accounting purposes).

(iii) The price at which the Company may purchase the Offered Shares pursuant to the exercise of its Right of First Refusal will be the cash price offered for the Offered Shares by the proposed transferee (as set forth in the notice required under Section 11(a)(i)), or the Fair Market Value as determined by the Board in the event no purchase price is involved. To the extent consideration other than cash is offered by the proposed transferee, the Company will not be required to pay any additional amounts to the Offeror other than the cash price offered (or the Fair Market Value, if applicable). The Company's notice of exercise of its Right of First Refusal will be accompanied by full payment for the Offered Shares and, upon such payment by the Company, the Company will acquire full right, title and interest to all of the Offered Shares.

(iv) If, and only if, the option given pursuant to Section 11(a)(ii) is not exercised, the Transfer proposed in the notice given pursuant to Section 11(a)(i) may take place; *provided, however*, that such Transfer must, in all respects, be exactly as proposed in said notice except that such Transfer may not take place either before the tenth (10th) calendar day after the expiration of the thirty (30) day option exercise period or after the ninetieth (90th) calendar day after the expiration of the thirty (30) day option exercise period, and if such Transfer has not taken place prior to said ninetieth (90th) day, such Transfer may not take place without once again complying with this Section 11(a). The option exercise periods in this Section 11(a)(iv) will be adjusted to include any extension required to avoid the classification of your option as a liability for financial accounting purposes.

(b) As used in this Section 11, the term "***Transfer***" means any sale, encumbrance, pledge, gift or other form of disposition or transfer of shares of Common Stock or any legal or equitable interest therein; *provided, however*, that the term Transfer does not include a transfer of such shares or interests by will or intestacy to your Immediate Family (as defined below). In such case, the transferee or other recipient will receive and hold the shares of Common Stock so transferred subject to the provisions of this Section, and there will be no further transfer of such shares except in accordance with the terms of this Section. As used herein, the term "***Immediate Family***" will mean your spouse, the lineal descendant or antecedent, father, mother, brother or sister, child, adopted child, grandchild or adopted grandchild of you or your spouse, or the spouse of any child, adopted child, grandchild or adopted grandchild of you or your spouse.

(c) None of the shares of Common Stock purchased on exercise of your option will be transferred on the Company's books nor will the Company recognize any such Transfer of any such shares or any interest therein unless and until all applicable provisions of this Section 11 have been complied with in all respects. The certificates of stock evidencing shares of Common Stock purchased on exercise of your option will bear an appropriate legend referring to the transfer restrictions imposed by this Section 11.

(d) To ensure that the shares subject to the Company's Right of First Refusal will be available for repurchase by the Company, the Company may require you to deposit the certificates evidencing the shares that you purchase upon exercise of your option with an escrow agent designated by the Company under the terms and conditions of an escrow agreement approved by the Company. If the Company does not require such deposit as a condition of exercise of your option, the Company reserves the right at any time to require you to so deposit the certificates in escrow. As soon as practicable after the expiration of the Company's Right of First Refusal, the agent will deliver to you the shares and any other property no longer subject to such restriction. In the event the shares and any other property held in escrow are subject to the Company's exercise of its Right of First Refusal, the notices required to be given to you will be given to the escrow agent, and any payment required to be given to you will be given to the escrow agent. Within thirty (30) days after payment by the Company for the Offered Shares, the escrow agent will deliver the Offered Shares that the Company has repurchased to the Company and will deliver the payment received from the Company to you.

12. RIGHT OF REPURCHASE. To the extent provided in the Company's bylaws in effect at such time the Company elects to exercise its right, the Company will have the right to repurchase all or any part of the shares of Common Stock you acquire pursuant to the exercise of your option.

13. OPTION NOT A SERVICE CONTRACT. Your option is not an employment or service contract, and nothing in your option will be deemed to create in any way whatsoever any obligation on your part to continue in the employ of the Company or an Affiliate, or of the Company or an Affiliate to continue your employment. In addition, nothing in your option will obligate the Company or an Affiliate, their respective stockholders, boards of directors, officers or employees to continue any relationship that you might have as a Director or Consultant for the Company or an Affiliate.

14. WITHHOLDING OBLIGATIONS.

(a) At the time you exercise your option, in whole or in part, and at any time thereafter as requested by the Company, you hereby authorize withholding from payroll and any other amounts payable to you, and otherwise agree to make adequate provision for (including by means of a "same day sale" pursuant to a program developed under Regulation T as promulgated by the Federal Reserve Board to the extent permitted by the Company), any sums required to satisfy the federal, state, local and foreign tax withholding obligations of the Company or an Affiliate, if any, which arise in connection with the exercise of your option.

(b) If this option is a Nonstatutory Stock Option, then upon your request and subject to approval by the Company, and compliance with any applicable legal conditions or restrictions, the Company may withhold from fully vested shares of Common Stock otherwise issuable to you upon the exercise of your option a number of whole shares of Common Stock having a Fair Market Value, determined by the Company as of the date of exercise, not in excess of the minimum amount of tax required to be withheld by law (or such lower amount as may be necessary to avoid classification of your option as a liability for financial accounting purposes). If the date of determination of any tax withholding obligation is deferred to a date later than the date of exercise of your option, share

withholding pursuant to the preceding sentence shall not be permitted unless you make a proper and timely election under Section 83(b) of the Code, covering the aggregate number of shares of Common Stock acquired upon such exercise with respect to which such determination is otherwise deferred, to accelerate the determination of such tax withholding obligation to the date of exercise of your option. Notwithstanding the filing of such election, shares of Common Stock shall be withheld solely from fully vested shares of Common Stock determined as of the date of exercise of your option that are otherwise issuable to you upon such exercise. Any adverse consequences to you arising in connection with such share withholding procedure shall be your sole responsibility.

(c) You may not exercise your option unless the tax withholding obligations of the Company and/or any Affiliate are satisfied. Accordingly, you may not be able to exercise your option when desired even though your option is vested, and the Company will have no obligation to issue a certificate for such shares of Common Stock or release such shares of Common Stock from any escrow provided for herein, if applicable, unless such obligations are satisfied.

15. TAX CONSEQUENCES. You hereby agree that the Company does not have a duty to design or administer the Plan or its other compensation programs in a manner that minimizes your tax liabilities. You will not make any claim against the Company, or any of its Officers, Directors, Employees or Affiliates related to tax liabilities arising from your option or your other compensation. In particular, you acknowledge that this option is exempt from Section 409A of the Code only if the exercise price per share specified in the Grant Notice is at least equal to the "fair market value" per share of the Common Stock on the Date of Grant and there is no other impermissible deferral of compensation associated with the option. Because the Common Stock is not traded on an established securities market, the Fair Market Value is determined by the Board, perhaps in consultation with an independent valuation firm retained by the Company. You acknowledge that there is no guarantee that the Internal Revenue Service will agree with the valuation as determined by the Board, and you will not make any claim against the Company, or any of its Officers, Directors, Employees or Affiliates in the event that the Internal Revenue Service asserts that the valuation determined by the Board is less than the "fair market value" as subsequently determined by the Internal Revenue Service.

16. NOTICES. Any notices provided for in your option or the Plan will be given in writing (including electronically) and will be deemed effectively given upon receipt or, in the case of notices delivered by mail by the Company to you, five (5) days after deposit in the United States mail, postage prepaid, addressed to you at the last address you provided to the Company. The Company may, in its sole discretion, decide to deliver any documents related to participation in the Plan and this option by electronic means or to request your consent to participate in the Plan by electronic means. By accepting this option, you consent to receive such documents by electronic delivery and to participate in the Plan through an on-line or electronic system established and maintained by the Company or another third party designated by the Company.

17. GOVERNING PLAN DOCUMENT. Your option is subject to all the provisions of the Plan, the provisions of which are hereby made a part of your option, and is further subject to all interpretations, amendments, rules and regulations, which may from time to time be promulgated and adopted pursuant to the Plan. If there is any conflict between the provisions of your option and those of the Plan, the provisions of the Plan will control. Your option (and any compensation paid or shares issued under your option) is subject to recoupment in accordance with The Dodd–Frank Wall Street Reform and Consumer Protection Act and any implementing regulations thereunder, any clawback policy adopted by the Company and any compensation recovery policy otherwise required by applicable law. No recovery of compensation under such a clawback policy will be an event giving rise to a right to voluntarily terminate employment upon a resignation for "good reason," or for a "constructive termination" or any similar term under any plan of or agreement with the Company.

18. EFFECT ON OTHER EMPLOYEE BENEFIT PLANS. The value of this option will not be included as compensation, earnings, salaries, or other similar terms used when calculating your benefits under any employee benefit plan sponsored by the Company or any Affiliate, except as such plan otherwise expressly provides. The Company expressly reserves its rights to amend, modify, or terminate any of the Company's or any Affiliate's employee benefit plans.

19. STOCKHOLDER RIGHTS. You will not have any rights as a stockholder of the Company with respect to the shares to be issued pursuant to this option until such shares are issued to you. Upon such issuance, you will obtain full rights as a stockholder of the Common Stock of the Company. Nothing contained in this option, and no action taken pursuant to its provisions, will create or be construed to create a trust of any kind or a fiduciary relationship between you and the Company or any other person.

20. CHOICE OF LAW. The interpretation, performance and enforcement of this Option Agreement shall be governed by the laws of the State of Delaware without regard to that state's conflicts of laws rules.

21. SEVERABILITY. If all or any part of this Option Agreement or the Plan is declared by any court or governmental authority to be unlawful or invalid, such unlawfulness or invalidity will not invalidate any portion of this Option Agreement or the Plan not declared to be unlawful or invalid. Any Section of this Option Agreement (or part of such a Section) so declared to be unlawful or invalid shall, if possible, be construed in a manner which will give effect to the terms of such Section or part of a Section to the fullest extent possible while remaining lawful and valid.

22. MISCELLANEOUS.

(a) The rights and obligations of the Company under your option will be transferable to any one or more persons or entities, and all covenants and agreements hereunder will inure to the benefit of, and be enforceable by the Company's successors and assigns.

(b) You agree upon request to execute any further documents or instruments necessary or desirable in the sole determination of the Company to carry out the purposes or intent of your option.

(c) You acknowledge and agree that you have reviewed your option in its entirety, have had an opportunity to obtain the advice of counsel prior to executing and accepting your option, and fully understand all provisions of your option.

(d) This Option Agreement 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.

(e) All obligations of the Company under the Plan and this Option Agreement 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 and/or assets of the Company.

* * * * *

This Option Agreement shall be deemed to be signed by the Company and the Optionholder upon the signing by the Optionholder of the Stock Option Grant Notice to which it is attached.

ATTACHMENT II

2019 EQUITY INCENTIVE PLAN

ATTACHMENT III

NOTICE OF EXERCISE

NOTICE OF EXERCISE

Genelux Corporation
3030 Bunker Hill Street, #310
San Diego, CA 92109

Date of Exercise: _____

This constitutes notice to **Genelux Corporation** (the "***Company***") under my stock option that I elect to purchase the below number of shares of Common Stock of the Company (the "***Shares***") for the price set forth below.

Type of option (check one):	Incentive ☐	Nonstatutory ☐
Stock option dated:	_____	_____
Number of Shares as to which option is exercised:	_____	_____
Certificates to be issued in name of:	_____	_____
Total exercise price:	$_____	$_____
Cash, check, bank draft or money order payment delivered herewith:	$_____	$_____
[Valueof _____ Shares delivered herewith[1]:	$_____	$_____]
[Value of _____ Shares pursuant to net exercise[2]:	$_____	$_____]
[Regulation T Program (cashless exercise[3]):	$_____	$_____]

By this exercise, I agree (i) to provide such additional documents as you may require pursuant to the terms of the 2019 EQUITY INCENTIVE PLAN, (ii) to provide for the payment by me to you (in the

1 Shares must meet the public trading requirements set forth in the option. Shares must be valued in accordance with the terms of the option being exercised, and must be owned free and clear of any liens, claims, encumbrances or security interests. Certificates must be endorsed or accompanied by an executed assignment separate from certificate.

2 The option must be a Nonstatutory Stock Option, and **Genelux Corporation** must have established net exercise procedures at the time of exercise, in order to utilize this payment method.

3 Shares must meet the public trading requirements set forth in the option.

manner designated by you) of your withholding obligation, if any, relating to the exercise of this option, and (iii) if this exercise relates to an incentive stock option, to notify you in writing within fifteen (15) days after the date of any disposition of any of the Shares issued upon exercise of this option that occurs within two (2) years after the date of grant of this option or within one (1) year after such Shares are issued upon exercise of this option.

I hereby make the following certifications and representations with respect to the number of Shares listed above, which are being acquired by me for my own account upon exercise of the option as set forth above:

I acknowledge that the Shares have not been registered under the Securities Act of 1933, as amended (the "***Securities Act***"), and are deemed to constitute "restricted securities" under Rule 701 and Rule 144 promulgated under the Securities Act. I warrant and represent to the Company that I have no present intention of distributing or selling said Shares, except as permitted under the Securities Act and any applicable state securities laws.

I further acknowledge that I will not be able to resell the Shares for at least ninety (90) days after the stock of the Company becomes publicly traded (*i.e.,* subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934) under Rule 701 and that more restrictive conditions apply to affiliates of the Company under Rule 144.

I further acknowledge that all certificates representing any of the Shares subject to the provisions of the option shall have endorsed thereon appropriate legends reflecting the foregoing limitations, as well as any legends reflecting restrictions pursuant to the Company's articles of incorporation, bylaws and/or applicable securities laws.

I further agree that, if required by the Company (or a representative of the underwriters) in connection with the first underwritten registration of the offering of any securities of the Company under the Securities Act, I will not sell, dispose of, transfer, make any short sale of, grant any option for the purchase of, or enter into any hedging or similar transaction with the same economic effect as a sale with respect to any shares of Common Stock or other securities of the Company for a period of one hundred eighty (180) days following the effective date of a registration statement of the Company filed under the Securities Act (or such longer period as the underwriters or the Company shall request to facilitate compliance with FINRA Rule 2241 or any successor or similar rule or regulation) (the "***Lock-Up Period***"). I further agree to execute and deliver such other agreements as may be reasonably requested by the Company or the underwriters that are consistent with the foregoing or that are necessary to give further effect thereto. In order to enforce the foregoing covenant, the Company may impose stop-transfer instructions with respect to securities subject to the foregoing restrictions until the end of such period.

Very truly yours,

_____

Exhibit 10.9

INDEMNIFICATION AGREEMENT

This Indemnification Agreement ("Agreement") is made as of , by and between GENELUX CORPORATION, a Delaware corporation (the "Company"), and ("Indemnitee").

RECITALS

WHEREAS, highly competent persons have become more reluctant to serve publicly-held corporations as directors or in other capacities unless they are provided with adequate protection through insurance or adequate indemnification against inordinate risks of claims and actions against them arising out of their service to and activities on behalf of the corporation;

WHEREAS, the Board of Directors of the Company (the "Board") has determined that, in order to attract and retain qualified individuals, the Company will attempt to maintain on an ongoing basis, at its sole expense, liability insurance to protect persons serving the Company and its subsidiaries from certain liabilities. Although the furnishing of such insurance has been a customary and widespread practice among United States-based corporations and other business enterprises, the Company believes that, given current market conditions and trends, such insurance may be available to it in the future only at higher premiums and with more exclusions. At the same time, directors, officers, and other persons in service to corporations or business enterprises are being increasingly subjected to expensive and time-consuming litigation relating to, among other things, matters that traditionally would have been brought only against the Company or business enterprise itself. The Bylaws of the Company (the "Bylaws") require indemnification of the officers and directors of the Company. Indemnitee may also be entitled to indemnification pursuant to the General Corporation Law of the State of Delaware ("DGCL"). The Bylaws and the DGCL expressly provide that the indemnification provisions set forth therein are not exclusive, and thereby contemplate that contracts may be entered into between the Company and members of the board of directors, officers and other persons with respect to indemnification;

WHEREAS, the uncertainties relating to such insurance and to indemnification have increased the difficulty of attracting and retaining such persons;

WHEREAS, the Board has determined that the increased difficulty in attracting and retaining such persons is detrimental to the best interests of the Company's stockholders and that the Company should act to assure such persons that there will be increased certainty of such protection in the future;

WHEREAS, it is reasonable, prudent and necessary for the Company contractually to obligate itself to indemnify, and to advance expenses on behalf of, such persons to the fullest extent permitted by applicable law so that they will serve or continue to serve the Company free from undue concern that they will not be so indemnified;

WHEREAS, this Agreement is a supplement to and in furtherance of the Bylaws and any resolutions adopted pursuant thereto, and shall not be deemed a substitute therefor, nor to diminish or abrogate any rights of Indemnitee thereunder;

WHEREAS, Indemnitee does not regard the protection available under the Bylaws and insurance as adequate in the present circumstances, and may not be willing to serve as an officer or director without adequate protection, and the Company desires Indemnitee to serve in such capacity. Indemnitee is willing to serve, continue to serve and to take on additional service for or on behalf of the Company on the condition that he be so indemnified; and

NOW, THEREFORE, in consideration of the premises and the covenants contained herein, the Company and Indemnitee do hereby covenant and agree as follows:

1. Services to the Company. Indemnitee agrees to serve as a director of the Company. Indemnitee may at any time and for any reason resign from such position (subject to any other contractual obligation or any obligation imposed by operation of law), in which event the Company shall have no obligation under this Agreement to continue Indemnitee in such position. This Agreement shall not be deemed an employment contract between the Company (or any of its subsidiaries or any Enterprise) and Indemnitee. Indemnitee specifically acknowledges that Indemnitee's employment with the Company (or any of its subsidiaries or any Enterprise), if any, is at will, and the Indemnitee may be discharged at any time for any reason, with or without cause, except as may be otherwise provided in any written employment contract between Indemnitee and the Company (or any of its subsidiaries or any Enterprise), other applicable formal severance policies duly adopted by the Board, or, with respect to service as a director or officer of the Company, by the Company's Certificate of Incorporation, the Bylaws, and the General Corporation Law of the State of Delaware. The foregoing notwithstanding, this Agreement shall continue in force after Indemnitee has ceased to serve as a director of the Company.

2. Definitions. As used in this Agreement:

(a) A "Change in Control" shall be deemed to occur upon the earliest to occur after the date of this Agreement of any of the following events:

1. Acquisition of Stock by Third Party. Any Person (as defined below) is or becomes the Beneficial Owner (as defined below), directly or indirectly, of securities of the Company representing [fifteen percent (15%)] or more of the combined voting power of the Company's then outstanding securities;

2. Change in Board of Directors. During any period of two (2) consecutive years (not including any period prior to the execution of this Agreement), individuals who at the beginning of such period constitute the Board, and any new director (other than a director designated by a person who has entered into an agreement with the Company to effect a transaction described in Sections 2(a)(i), 2(a)(iii) or 2(a)(iv)) whose election by the Board or nomination for election by the Company's stockholders was approved by a vote of at least two-thirds of the directors then still in office who either were directors at the beginning of the period or whose election or nomination for election was previously so approved, cease for any reason to constitute a least a majority of the members of the Board;

3. Corporate Transactions. The effective date of a merger or consolidation of the Company with any other entity, other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior to such merger or consolidation continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) more than 51% of the combined voting power of the voting securities of the surviving entity outstanding immediately after such merger or consolidation and with the power to elect at least a majority of the board of directors or other governing body of such surviving entity;

4. Liquidation. The approval by the stockholders of the Company of a complete liquidation of the Company or an agreement for the sale or disposition by the Company of all or substantially all of the Company's assets; and

5. Other Events. There occurs any other event of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A (or a response to any similar item on any similar schedule or form) promulgated under the Exchange Act (as defined below), whether or not the Company is then subject to such reporting requirement.

For purposes of this Section 2(a), the following terms shall have the following meanings:

a. "Exchange Act" shall mean the Securities Exchange Act of 1934, as amended.

b. "Person" shall have the meaning as set forth in Sections 13(d) and 14(d) of the Exchange Act; provided, however, that Person shall exclude (i) the Company, (ii) any trustee or other fiduciary holding securities under an employee benefit plan of the Company, and (iii) any corporation owned, directly or indirectly, by the stockholders of the Company in substantially the same proportions as their ownership of stock of the Company.

c. “Beneficial Owner” shall have the meaning given to such term in Rule 13d-3 under the Exchange Act; provided, however, that Beneficial Owner shall exclude any Person otherwise becoming a Beneficial Owner by reason of the stockholders of the Company approving a merger of the Company with another entity.

(b) “Corporate Status” describes the status of a person who is or was a director, officer, employee or agent of the Company or of any other corporation, partnership or joint venture, trust, employee benefit plan or other enterprise which such person is or was serving at the request of the Company.

(c) “Disinterested Director” means a director of the Company who is not and was not a party to the Proceeding in respect of which indemnification is sought by Indemnitee.

(d) “Enterprise” shall mean the Company and any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise of which Indemnitee is or was serving at the request of the Company as a director, officer, employee, agent or fiduciary.

(e) “Expenses” shall include all reasonable attorneys’ fees, retainers, court costs, transcript costs, fees of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, and all other disbursements or expenses of the types customarily incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, being or preparing to be a witness in, or otherwise participating in, a Proceeding. Expenses also shall include Expenses incurred in connection with any appeal resulting from any Proceeding, including without limitation the premium, security for, and other costs relating to any cost bond, supersedes bond, or other appeal bond or its equivalent. Expenses, however, shall not include amounts paid in settlement by Indemnitee or the amount of judgments or fines against Indemnitee.

(f) “Independent Counsel” means a law firm, or a member of a law firm, that is experienced in matters of corporation law and neither presently is, nor in the past five years has been, retained to represent: (i) the Company or Indemnitee in any matter material to either such party (other than with respect to matters concerning the Indemnitee under this Agreement, or of other indemnitees under similar indemnification agreements), or (ii) any other party to the Proceeding giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term “Independent Counsel” shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee’s rights under this Agreement. The Company agrees to pay the reasonable fees and expenses of the Independent Counsel referred to above and to fully indemnify such counsel against any and all Expenses, claims, Liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto.

(g) "Liabilities" means all claims, liabilities, damages, losses, judgments (including pre- and post-judgment interest), orders, fines, penalties and other amounts payable in connection with, arising out of, or in respect of or relating to any Proceeding, including, without limitation, amounts paid in settlement in any Proceeding and all costs and Expenses in complying with any judgment, order or decree issued or entered in connection with any Proceeding or any settlement agreement, stipulation or consent decree entered into or issued in settlement of any Proceeding.

(h) The term "Proceeding" shall include any threatened, pending or completed action, suit, arbitration, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or any other actual, threatened or completed proceeding, whether brought in the right of the Company or otherwise and whether of a civil, criminal, administrative or investigative nature, in which Indemnitee was, is or will be involved as a party or otherwise by reason of the fact that Indemnitee is or was a director or officer of the Company, by reason of any action taken by him or of any action on his part while acting as director or officer of the Company, or by reason of the fact that he 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, in each case whether or not serving in such capacity at the time any liability or expense is incurred for which indemnification, reimbursement, or advancement of expenses can be provided under this Agreement; except one initiated by a Indemnitee to enforce his rights under this Agreement.

(i) Reference to "other enterprise" shall include employee benefit plans; references to "fines" shall include any excise tax assessed with respect to any employee benefit plan; 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 he reasonably believed to be in the best interests of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in manner "not opposed to the best interests of the Company" as referred to in this Agreement.

3. Indemnity in Third-Party Proceedings. The Company shall indemnify Indemnitee in accordance with the provisions of this Section 3 if Indemnitee is, or is threatened to be made, a party to or a participant in any Proceeding, other than a Proceeding by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 3, Indemnitee shall be indemnified against all Expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by Indemnitee or on his behalf in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Company and, in the case of a criminal proceeding had no reasonable cause to believe that his conduct was unlawful.

4. Indemnity in Proceedings by or in the Right of the Company. The Company shall indemnify Indemnitee in accordance with the provisions of this Section 4 if Indemnitee is, or is threatened to be made, a party to or a participant in any Proceeding by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 4, Indemnitee shall be indemnified against all Expenses actually and reasonably incurred by him or on his behalf in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Company. No indemnification for Expenses shall be made under this Section 4 in respect of any claim, issue or matter as to which Indemnitee shall have been finally adjudged by a court to be liable to the Company, unless and only to the extent that the Delaware Court of Chancery or any court in which the Proceeding was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to indemnification.

5. Indemnification for Expenses of a Party Who is Wholly or Partly Successful. Notwithstanding any other provisions of this Agreement, to the extent that Indemnitee is a party to (or a participant in) and is successful, on the merits or otherwise, in any Proceeding or in defense of any claim, issue or matter therein, in whole or in part, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by him in connection therewith. If Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, as to one or more but less than all claims, issues or matters in such Proceeding, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by him or on his behalf in connection with each successfully resolved claim, issue or matter. If the Indemnitee is not wholly successful in such Proceeding, the Company also shall indemnify Indemnitee against all Expenses reasonably incurred in connection with a claim, issue or matter related to any claim, issue, or matter on which the Indemnitee was successful. For purposes of this Section and without limitation, the termination of any claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, shall be deemed to be a successful result as to such claim, issue or matter.

6. Indemnification For Expenses of a Witness. Notwithstanding any other provision of this Agreement, to the extent that Indemnitee is, by reason of his Corporate Status, a witness in any Proceeding to which Indemnitee is not a party, he shall be indemnified against all Expenses actually and reasonably incurred by him or on his behalf in connection therewith.

7. Additional Indemnification.

(a) Notwithstanding any limitation in Sections 3, 4, or 5, the Company shall indemnify Indemnitee to the fullest extent permitted by law if Indemnitee is a party to or threatened to be made a party to any Proceeding (including a Proceeding by or in the right of the Company to procure a judgment in its favor) against all Expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by Indemnitee in connection with the Proceeding.

(b) For purposes of Section 7(a), the meaning of the phrase "to the fullest extent permitted by law" shall include, but not be limited to:

(1) to the fullest extent permitted by the provision of the DGCL that authorizes or contemplates additional indemnification by agreement, or the corresponding provision of any amendment to or replacement of the DGCL, and

2. to the fullest extent authorized or permitted by any amendments to or replacements of the DGCL adopted after the date of this Agreement that increase the extent to which a corporation may indemnify its officers and directors.

8. Exclusions. Notwithstanding any provision in this Agreement, the Company shall not be obligated under this Agreement to make any indemnity in connection with any claim made against Indemnitee:

(a) for which payment has actually been made to or on behalf of Indemnitee under any insurance policy or other indemnity provision, except with respect to any excess beyond the amount paid under any insurance policy or other indemnity provision; or

(b) for an accounting of profits made from the purchase and sale (or sale and purchase) by Indemnitee of securities of the Company within the meaning of Section 16(b) of the Securities Exchange Act of 1934, as amended, or similar provisions of state statutory law or common law; or

(c) in connection with any Proceeding (or any part of any Proceeding) initiated by Indemnitee, including any Proceeding (or any part of any Proceeding) initiated by Indemnitee against the Company or its directors, officers, employees or other indemnitees, unless (i) the Board of Directors of the Company authorized the Proceeding (or any part of any Proceeding) prior to its initiation or (ii) the Company provides the indemnification, in its sole discretion, pursuant to the powers vested in the Company under applicable law.

9. Advances of Expenses. Notwithstanding any provision of this Agreement to the contrary, the Company shall advance the expenses incurred by Indemnitee in connection with any Proceeding within 30 days after the receipt by the Company of a statement or statements requesting such advances from time to time, whether prior to or after final disposition of any Proceeding. Advances shall be unsecured and interest free. Advances shall be made without regard to Indemnitee's ability to repay the expenses and without regard to Indemnitee's ultimate entitlement to indemnification under the other provisions of this Agreement. Advances shall include any and all reasonable Expenses incurred pursuing an action to enforce this right of advancement, including Expenses incurred preparing and forwarding statements to the Company to support the advances claimed. The Indemnitee shall qualify for advances upon the execution and delivery to the Company of this Agreement which shall constitute an undertaking providing that the Indemnitee undertakes to repay the advance to the extent that it is ultimately determined that Indemnitee is not entitled to be indemnified by the Company. This Section 9 shall not apply to any claim made by Indemnitee for which indemnity is excluded pursuant to Section 8.

10. Procedure for Notification and Defense of Claim.

(a) To obtain indemnification under this Agreement, Indemnitee shall submit to the Company a written request, including therein or therewith such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification, not later than thirty (30) days after receipt by Indemnitee of notice of the commencement of any Proceeding. The omission to notify the Company will not relieve the Company from any liability which it may have to Indemnitee otherwise than under this Agreement. The Secretary of the Company shall, promptly upon receipt of such a request for indemnification, advise the Board in writing that Indemnitee has requested indemnification.

(b) The Company will be entitled to participate in the Proceeding at its own expense.

11. Procedure Upon Application for Indemnification.

(a) Upon written request by Indemnitee for indemnification pursuant to the first sentence of Section 10(a), a determination, if required by applicable law, with respect to Indemnitee's entitlement thereto shall be made in the specific case: (i) if a Change in Control shall have occurred, by Independent Counsel in a written opinion to the Board of Directors, a copy of which shall be delivered to Indemnitee; or (ii) if a Change in Control shall not have occurred, (A) by a majority vote of the Disinterested Directors, even though less than a quorum of the Board, (B) by a committee of Disinterested Directors designated by a majority vote of the Disinterested Directors, even though less than a quorum of the Board, (C) if there are no such Disinterested Directors or, if such Disinterested Directors so direct, by Independent Counsel in a written opinion to the Board, a copy of which shall be delivered to Indemnitee or (D) if so directed by the Board, by the stockholders of the Company; and, if it is so determined that Indemnitee is entitled to indemnification, payment to Indemnitee shall be made within ten (10) days after such determination. Indemnitee shall cooperate with the person, persons or entity making such determination with respect to Indemnitee's entitlement to indemnification, including providing to such person, persons or entity upon reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to Indemnitee and reasonably necessary to such determination. Any costs or expenses (including attorneys' fees and disbursements) incurred by Indemnitee in so cooperating with the person, persons or entity making such determination shall be borne by the Company (irrespective of the determination as to Indemnitee's entitlement to indemnification) and the Company hereby indemnifies and agrees to hold Indemnitee harmless therefrom.

(b) In the event the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 11(a) hereof, the Independent Counsel shall be selected as provided in this Section 11(b). If a Change in Control shall not have occurred, the Independent Counsel shall be selected by the Board of Directors, and the Company shall give written notice to Indemnitee advising him of the identity of the Independent Counsel so selected. If a Change in Control shall have occurred, the Independent Counsel shall be selected by Indemnitee (unless Indemnitee shall request that such selection be made by the Board of Directors, in which event the preceding sentence shall apply), and Indemnitee shall give written notice to the Company advising it of the identity of the Independent Counsel so selected. In either event, Indemnitee or the Company, as the case may be, may, within 10 days after such written notice of selection shall have been given, deliver to the Company or to Indemnitee, as the case may be, a written objection to such selection; provided, however, that such objection may

be asserted only on the ground that the Independent Counsel so selected does not meet the requirements of "Independent Counsel" as defined in Section 2 of this Agreement, and the objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the person so selected shall act as Independent Counsel. If such written objection is so made and substantiated, the Independent Counsel so selected may not serve as Independent Counsel unless and until such objection is withdrawn or a court has determined that such objection is without merit. If, within 20 days after submission by Indemnitee of a written request for indemnification pursuant to Section 10(a) hereof, no Independent Counsel shall have been selected and not objected to, either the Company or Indemnitee may petition a court of competent jurisdiction for resolution of any objection which shall have been made by the Company or Indemnitee to the other's selection of Independent Counsel and/or for the appointment as Independent Counsel of a person selected by the Court or by such other person as the Court shall designate, and the person with respect to whom all objections are so resolved or the person so appointed shall act as Independent Counsel under Section 11(a) hereof. Upon the due commencement of any judicial proceeding or arbitration pursuant to Section 13(a) of this Agreement, Independent Counsel shall be discharged and relieved of any further responsibility in such capacity (subject to the applicable standards of professional conduct then prevailing).

(c) Notwithstanding anything in this Agreement to the contrary, no determination as to entitlement to indemnification under this Agreement shall be required to be made prior to the final disposition of the Proceeding; provided that, in absence of any such determination with respect to such Proceeding, the Company shall pay all Liabilities and advance Expenses with respect to such Proceeding as if the Company had determined the Indemnitee to be entitled to indemnification and advancement of Expenses with respect to such Proceeding.

12. Presumptions and Effect of Certain Proceedings.

(a) In making a determination with respect to entitlement to indemnification hereunder, the person or persons or entity making such determination shall presume that Indemnitee is entitled to indemnification under this Agreement if Indemnitee has submitted a request for indemnification in accordance with Section 10(a) of this Agreement, and the Company shall have the burden of proof to overcome that presumption in connection with the making by any person, persons or entity of any determination contrary to that presumption. Neither the failure of the Company (including by its directors or independent legal counsel) to have made a determination prior to the commencement of any action pursuant to this Agreement that indemnification is proper in the circumstances because Indemnitee has met the applicable standard of conduct, nor an actual determination by the Company (including by its directors or independent legal counsel) that Indemnitee has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that Indemnitee has not met the applicable standard of conduct.

(b) If the person, persons or entity empowered or selected under Section 11 of this Agreement to determine whether Indemnitee is entitled to indemnification shall not have made a determination within sixty (60) days after receipt by the Company of the request therefor, the requisite determination of entitlement to indemnification shall be deemed to have been made and Indemnitee shall be entitled to such indemnification, absent (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not

materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such indemnification under applicable law; provided, however, that such 60-day period may be extended for a reasonable time, not to exceed an additional thirty (30) days, if the person, persons or entity making the determination with respect to entitlement to indemnification in good faith requires such additional time for the obtaining or evaluating of documentation and/or information relating thereto; and provided, further, that the foregoing provisions of this Section 12(b) shall not apply (i) if the determination of entitlement to indemnification is to be made by the stockholders pursuant to Section 11(a) of this Agreement and if (A) within fifteen (15) days after receipt by the Company of the request for such determination the Board of Directors has resolved to submit such determination to the stockholders for their consideration at an annual meeting thereof to be held within seventy five (75) days after such receipt and such determination is made thereat, or (B) a special meeting of stockholders is called within fifteen (15) days after such receipt for the purpose of making such determination, such meeting is held for such purpose within sixty (60) days after having been so called and such determination is made thereat, or (ii) if the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 11(a) of this Agreement.

(c) The termination of any Proceeding or of any claim, issue or matter therein, by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not (except as otherwise expressly provided in this Agreement) of itself adversely affect the right of Indemnitee to indemnification or create a presumption that Indemnitee did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Company or, with respect to any criminal Proceeding, that Indemnitee had reasonable cause to believe that his conduct was unlawful.

(d) Reliance as Safe Harbor. For purposes of any determination of good faith, Indemnitee shall be deemed to have acted in good faith if Indemnitee's action is based on the records or books of account of the Enterprise, including financial statements, or on information supplied to Indemnitee by the officers of the Enterprise in the course of their duties, or on the advice of legal counsel for the Enterprise or on information or records given or reports made to the Enterprise by an independent certified public accountant or by an appraiser or other expert selected with the reasonable care by the Enterprise. The provisions of this Section 12(d) shall not be deemed to be exclusive or to limit in any way the other circumstances in which the Indemnitee may be deemed to have met the applicable standard of conduct set forth in this Agreement.

(e) Actions of Others. The knowledge and/or actions, or failure to act, of any director, officer, agent or employee of the Enterprise shall not be imputed to Indemnitee for purposes of determining the right to indemnification under this Agreement.

13. Remedies of Indemnitee.

(a) In the event that (i) a determination is made pursuant to Section 11 of this Agreement that Indemnitee is not entitled to indemnification under this Agreement, (ii) advancement of Expenses is not timely made pursuant to Section 9 of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 11(a) of this Agreement within 45 days after receipt by the Company of the request for

indemnification, (iv) payment of indemnification is not made pursuant to Section 5 or 6 or the last sentence of Section 11(a) of this Agreement within ten (10) days after receipt by the Company of a written request therefor, or (v) payment of indemnification pursuant to Section 3, 4 or 7 of this Agreement is not made within ten (10) days after a determination has been made that Indemnitee is entitled to indemnification, Indemnitee shall be entitled to an adjudication by a court of his entitlement to such indemnification or advancement of Expenses. Alternatively, Indemnitee, at his option, may seek an award in arbitration to be conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. Indemnitee shall commence such proceeding seeking an adjudication or an award in arbitration within 180 days following the date on which Indemnitee first has the right to commence such proceeding pursuant to this Section 13(a); provided, however, that the foregoing clause shall not apply in respect of a proceeding brought by Indemnitee to enforce his rights under Section 5 of this Agreement. The Company shall not oppose Indemnitee's right to seek any such adjudication or award in arbitration.

(b) In the event that a determination shall have been made pursuant to Section 11(a) of this Agreement that Indemnitee is not entitled to indemnification, any judicial proceeding or arbitration commenced pursuant to this Section 13 shall be conducted in all respects as a de novo trial, or arbitration, on the merits and Indemnitee shall not be prejudiced by reason of that adverse determination. In any judicial proceeding or arbitration commenced pursuant to this Section 13 the Company shall have the burden of proving Indemnitee is not entitled to indemnification or advancement of Expenses, as the case may be.

(c) If a determination shall have been made pursuant to Section 11(a) of this Agreement that Indemnitee is entitled to indemnification, the Company shall be bound by such determination in any judicial proceeding or arbitration commenced pursuant to this Section 13, absent (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such indemnification under applicable law.

(d) The Company shall be precluded from asserting in any judicial proceeding or arbitration commenced pursuant to this Section 13 that the procedures and presumptions of this Agreement are not valid, binding and enforceable and shall stipulate in any such court or before any such arbitrator that the Company is bound by all the provisions of this Agreement. The Company shall indemnify Indemnitee against any and all Expenses and, if requested by Indemnitee, shall (within ten (10) days after receipt by the Company of a written request therefore) advance such expenses to Indemnitee, which are incurred by Indemnitee in connection with any action brought by Indemnitee for indemnification or advance of Expenses from the Company under this Agreement or under any directors' and officers' liability insurance policies maintained by the Company, regardless of whether Indemnitee ultimately is determined to be entitled to such indemnification, advancement of Expenses or insurance recovery, as the case may be.

14. Non-exclusivity; Survival of Rights; Insurance; Subrogation.

(a) The rights of indemnification and to receive advancement of Expenses as provided by this Agreement shall not be deemed exclusive of any other rights to which Indemnitee may at any time be entitled under applicable law, the Company's Certificate of Incorporation, the Bylaws, any agreement, a vote of stockholders or a resolution of directors, or otherwise. No amendment, alteration or repeal of this Agreement or of any provision hereof shall limit or restrict any right of Indemnitee under this Agreement in respect of any action taken or omitted by such Indemnitee in his Corporate Status prior to such amendment, alteration or repeal. To the extent that a change in Delaware law, whether by statute or judicial decision, permits greater indemnification or advancement of Expenses than would be afforded currently under the Bylaws and this Agreement, it is the intent of the parties hereto that Indemnitee shall enjoy by this Agreement the greater benefits so afforded by such change. No right or remedy herein conferred is intended to be exclusive of any other right or remedy, and every other right and remedy shall be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other right or remedy.

(b) To the extent that the Company maintains an insurance policy or policies providing liability insurance for directors, officers, employees, or agents of the Company or of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise which such person serves at the request of the Company, Indemnitee shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage available for any such director, officer, employee or agent under such policy or policies. If, at the time of the receipt of a notice of a claim pursuant to the terms hereof, the Company has director and officer liability insurance in effect, the Company shall give prompt notice of the commencement of such proceeding to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of the Indemnitee, all amounts payable as a result of such proceeding in accordance with the terms of such policies.

(c) In the event of any payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights.

(d) The Company shall not be liable under this Agreement to make any payment of amounts otherwise indemnifiable (or for which advancement is provided hereunder) hereunder if and to the extent that Indemnitee has otherwise actually received such payment under any insurance policy, contract, agreement or otherwise.

(e) The Company's obligation to indemnify or advance Expenses hereunder to Indemnitee who is or was serving at the request of the Company as a director, officer, employee or agent of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise shall be reduced by any amount Indemnitee has actually received as indemnification or advancement of expenses from such other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise.

15. Duration of Agreement. This Agreement shall continue until and terminate upon the later of: (a) 10 years after the date that Indemnitee shall have ceased to serve as [a director] [an officer] [an employee] [an agent] of the Company] or (b) 1 year after the final termination of any Proceeding then pending in respect of which Indemnitee is granted rights of indemnification or advancement of Expenses hereunder and of any proceeding commenced by Indemnitee pursuant to Section 13 of this Agreement relating thereto. This Agreement shall be binding upon the Company and its successors and assigns and shall inure to the benefit of Indemnitee and his heirs, executors and administrators.

16. Severability. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Agreement (including without limitation, each portion of any Section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby and shall remain enforceable to the fullest extent permitted by law; (b) such provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of the parties hereto; and (c) to the fullest extent possible, the provisions of this Agreement (including, without limitation, each portion of any Section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested thereby.

17. Enforcement.

(a) The Company expressly confirms and agrees that it has entered into this Agreement and assumed the obligations imposed on it hereby in order to induce Indemnitee to serve as a director or officer of the Company, and the Company acknowledges that Indemnitee is relying upon this Agreement in serving as a director or officer of the Company.

(b) This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof.

18. Entirety, Modification and Waiver. This Indemnification Agreement constitutes the entire agreement between the parties regarding the subject matter of indemnification. No other promises, commitments, or agreements have been made. To the extent that prior indemnification agreements have been entered into between the Company and Indemnitee, they are hereby terminated, replaced and superseded by this agreement. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by the parties thereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions of this Agreement nor shall any waiver constitute a continuing waiver.

19. Notice by Indemnitee. Indemnitee agrees promptly to notify the Company in writing upon being served with any summons, citation, subpoena, complaint, indictment, information or other document relating to any Proceeding or matter which may be subject to indemnification or advancement of Expenses covered hereunder. The failure of Indemnitee to so notify the Company shall not relieve the Company of any obligation which it may have to the Indemnitee under this Agreement or otherwise.

20. Notices. All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given (a) if delivered by hand and receipted for by the party to whom said notice or other communication shall have been directed, or (b) mailed by certified or registered mail with postage prepaid, on the third business day after the date on which it is so mailed:

(a) If to Indemnitee, at the address indicated on the signature page of this Agreement, or such other address as Indemnitee shall provide to the Company.

(b) If to the Company to:

or to any other address as may have been furnished to Indemnitee by the Company.

21. Contribution. To the fullest extent permissible under applicable law, if the indemnification provided for in this Agreement is unavailable to Indemnitee for any reason whatsoever, the Company, in lieu of indemnifying Indemnitee, shall contribute to the amount incurred by Indemnitee, whether for judgments, fines, penalties, excise taxes, amounts paid or to be paid in settlement and/or for Expenses, in connection with any claim relating to an indemnifiable event under this Agreement, in such proportion as is deemed fair and reasonable in light of all of the circumstances of such Proceeding in order to reflect (i) the relative benefits received by the Company and Indemnitee as a result of the event(s) and/or transaction(s) giving cause to such Proceeding; and/or (ii) the relative fault of the Company (and its directors, officers, employees and agents) and Indemnitee in connection with such event(s) and/or transaction(s).

22. Applicable Law and Consent to Jurisdiction. This Agreement and the legal relations among the parties shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without regard to its conflict of laws rules. Except with respect to any arbitration commenced by Indemnitee pursuant to Section 10(a) of this Agreement, the Company and Indemnitee hereby irrevocably and unconditionally (i) agree that any action or proceeding arising out of or in connection with this Agreement shall be brought only in the Chancery Court of the State of Delaware (the "Delaware Court"), and not in any other state or federal court in the United States of America or any court in any other country, (ii) consent to submit to the exclusive jurisdiction of the Delaware Court for purposes of any action or proceeding arising out of or in connection with this Agreement, (iii) appoint, to the extent such party is not otherwise subject to service of process in the State of Delaware, irrevocably RL&F Service Corp., One Rodney Square, 10th Floor, 10th and King Streets, Wilmington, Delaware 19801 as its agent in the State of Delaware as such party's agent for acceptance of legal process in connection with any such action or proceeding against such party with the same legal force

and validity as if served upon such party personally within the State of Delaware, (iv) waive any objection to the laying of venue of any such action or proceeding in the Delaware Court, and (v) waive, and agree not to plead or to make, any claim that any such action or proceeding brought in the Delaware Court has been brought in an improper or inconvenient forum.

23. Identical Counterparts. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original but all of which together shall constitute one and the same Agreement. Only one such counterpart signed by the party against whom enforceability is sought needs to be produced to evidence the existence of this Agreement.

24. Miscellaneous. Use of the masculine pronoun shall be deemed to include usage of the feminine pronoun where appropriate. The headings of the paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed as of the day and year first above written.

GENELUX CORPORATION

By: _____
Name: Thomas Zindrick
Title: President

INDEMNITEE

_____
Name:
Address:

[SIGNATURE PAGE TO INDEMNIFICATION AGREEMENT]

GENELUX CORPORATION CONSULTING AGREEMENT

THIS AGREEMENT is made and entered into effective as of the 1st day of September, 2011 (the "Effective Date"), by and between Genelux Corporation, a Delaware corporation (the "Company"), and Pharmaceutical Research Consulting (PRC) ("Consultant").

W I T N E S S ET H:

WHEREAS, the Company wishes to retain Consultant as an independent contractor to perform certain consulting services; and

WHEREAS, Consultant is willing to perform such services for the consideration and on the terms set forth in this Agreement;

NOW, THEREFORE, in consideration of the premises and the mutual promises set forth below, the parties agree as follows:

1. Engagement.

(a) Scope of Work. Consultant shall perform the work described in Exhibit A attached hereto and such other work as may be mutually agreed upon by the Company and Consultant (the "Work"). Consultant shall perform the Work under the direction of the President of the Company or such other person(s) as the Company may designate. During the term of this Agreement, Consultant shall use Consultant's best efforts in performing the Work. Except as otherwise agreed upon by the Company in writing, all of the Work under this Agreement shall be performed by Paul Scigalla, M.D., Ph.D.

(b) Professional Standards. The manner and means used by Consultant to achieve the result desired by the Company are in the sole discretion and control of Consultant. Consultant's results will be the product of the highest degree of professional skill and expertise.

(c) Location. Consultant shall provide services at places which in his judgment are best suited to accomplish the projects in a timely and professional manner consistent with industry standards. Consultant agrees to attend meetings and presentations at the Company's facility as may be requested by the Company from time to time. Consultant agrees not to remove from the Company's premises any Company-owned hardware, software, or other equipment or property, without the prior written consent of the Company.

2. Compensation. In consideration for the services and the terms of this Agreement, Consultant shall be paid the following compensation:

(a) The Company agrees to pay Consultant three hundred forty U.S. dollars ($340) per hour for services performed in accordance with this Agreement, up to a maximum of two thousand seven hundred twenty U.S. dollars ($2720) per day. During any day when Consultant works from home at the request of the Company, he will perform a minimum of two (2) hours of Work per day and be entitled for compensation for a minimum of two (2) hours of Work per day. Consultant agrees, at the Company's request, to work at the Company's San Diego office as the Company shall from time to time designate, for which Consultant will be paid a flat daily fee of $2,720, and which shall reflect nine (9) hours of work. From time to time, the Company may also request that Consultant participate in investigator meetings or scientific meetings such as ASN, ASCO or EDTA, the time for which shall be billed as set forth hereinabove.

(b) In addition to payment for services provided, the Company shall also reimburse Consultant for pre-approved out-of-pocket expenses incurred directly in the performance of services under this Agreement, including overnight mailing, facsimile transmissions, authorized telephone charges, including those associated with e-mail use, and authorized hotel expenses. Further, the Company agrees to reimburse Contractor for pre-approved travel expenses incurred directly in the performance of services under this Agreement, including business-class travel on both domestic and international flights in accordance with Company policy, after the Company's receipt and approval of monthly expense reports documenting all such expenses in reasonable detail.

3. Consultant's Warranties.

(a) Consultant acknowledges and agrees that Consultant's performance of the Work hereunder does not conflict with any obligation of Consultant to a third party or any obligation of Consultant under a contract or other agreement or policy by which Consultant is bound.

(b) Consultant represents and warrants that (i) Consultant is authorized to enter int o and perform this Agreement, and (ii) Consultant is subject to, and shall in the future enter into, no contract or agreement with any person, corporation, government agency or other entity that could, in any manner, impede or prevent Consultant from giving, and the Company from receiving, the benefit of the Work to be performed under this Agreement.

(c) Consultant represents and warrants that no information to be disclosed to the Company in performance of this Agreement was or shall be acquired by Consultant (i) pursuant to any relationship in which Consultant was obligated to hold such information in confidence for the benefit of any third party or (ii) by any unlawful or otherwise improper means.

(d) Consultant represents and warrants that no information, materials or other products or results of the Work delivered to the Company under this Agreement shall infringe upon, conflict with or violate any patent rights, copyrights, trade secrets or other proprietary rights, however denominated, of any person or entity.

4. Rights in Intellectual Property.

(a) Consultant agrees that all discoveries, developments, inventions, ideas, concepts, research and other information arising out of any of the Work or use of any Confidential Information or any Materials by or on behalf of Consultant (hereinafter collectively referred to as the "Developments") shall be the sole property of the Company. Consultant further agrees that the originals and all copies of all notebooks, disks, tapes, computer programs, reports, proposals and other documents and materials furnished to Consultant by the Company, however and whenever produced (whether by Consultant or others), shall be the sole property of the Company.

(b) Consultant agrees that all of the Developments, including, without limitation, all parts thereof, and any memorialization thereof by electronic or manual storage, transcription, or recording, and any display, performance or modification thereof or derivative work based thereon, is work made for hire under the copyright laws of the United States especially ordered and commissioned by the Company.

(c) Consultant agrees to and hereby does, assign, to the Company all of Consultant's right, title and interest throughout the world in all Developments and to anything tangible which evidences, incorporates, constitutes, represents, memorializes, embodies, performs, displays or records any such Development. Consultant hereby assigns and, to the extent any such assignment cannot be made at present,

Consultant hereby agrees to assign to the Company all copyrights, patents, trademarks and other proprietary rights, however denominated, Consultant may have in any such Developments.

(d) Consultant specifically agrees and acknowledges that the foregoing assignment covers all results, outputs and products of Consultant's Work for the Company prior to the date hereof, in any capacity and all related copyrights, patents, trademarks or other proprietary rights, however denominated, and that all such results, outputs and products shall be Developments hereunder and the sole property of the Company.

(e) Consultant hereby undertakes, without payment of any consideration to Consultant in addition to the compensation described in Section 2(a), (i) promptly to disclose all Developments to the Company; (ii) to assist the Company in every reasonable manner to obtain thereon patents, copyrights, and other forms of proprietary protections, however denominated, in any and all countries for the Company's benefit; (iii) to execute all such patent applications, patent or copyright assignments, registrations and applications that may be required for other forms of proprietary protection, however denominated, and other lawful documents, and to take all such other actions, as the Company may request to obtain for the Company all right, title and interest in and to any of the Developments or otherwise to carry out the purposes of this Agreement. Without limiting the foregoing, if Consultant is called upon by the Company in writing after termination or expiration of this Agreement or performance of the Work to assist the Company as provided herein, Consultant shall be entitled to reasonable fees for services rendered in providing such assistance. The out-of-pocket cost of prosecuting patent applications and obtaining copyright registration shall be borne by the Company.

(f) If Consultant incorporates into any Developments any information, software, materials or other technology owned by Consultant or in which Consultant has any interest, Consultant hereby grants, and to the extent any such grant cannot be made at the present, Consultant agrees to grant to the Company a non-exclusive, royalty-free, irrevocable, perpetual, transferable worldwide license, with the right to sublicense, to make, use, refrain from using, sell, offer for sale, import, modify, delete, add to, reproduce, create derivative works based upon, distribute, perform, display or exploit in any way, such information, software, materials or other technology, in whole or in part, by any means, now known or later developed, in all languages.

(g) It is understood that Sections 4 and 5 of this Agreement apply, without limitation, to any and all oral communications and writings, including, without limitation, notes, drawings, specifications, software, source code, object code, schematics, flow charts, algorithms and engineering, sales, marketing and financial plans, and studies and reports that are prepared, compiled or acquired by Consultant during the term of this Agreement.

5. Non-Disclosure and Confidentiality.

(a) The Company shall provide Consultant with materials and such information about the Company, its business and its products and services as the Company, in its sole discretion, shall deem necessary or appropriate to enable Consultant to carry out Consultant's obligations under this Agreement.

(b) Consultant acknowledges that in the course of consulting for the Company, Consultant shall receive materials and information about, and access to, trade secrets and other confidential and proprietary information (including, without limitation, the information and materials described in Section 4 of this Agreement) which are vital to the competitive position and success of the Company. During the term of this Agreement and thereafter, Consultant shall hold strictly confidential and shall not disclose to others any of the Confidential Information. Consultant shall not use any of the Confidential Information or Materials other than as part of the Work and for the sole benefit of the Company. Without

the prior written consent of the Company, (i) Consultant shall not distribute or otherwise allow the release of the Materials to any third party, (ii) Consultant shall not, nor allow or encourage any third party to, manufacture or analyze or otherwise "reverse engineer" any Materials, and (iii) Consultant shall comply with all laws and regulations regarding the transportation, use and disposal of Materials.

(c) The term "Confidential Information" as used throughout this Agreement shall mean all Developments and all trade secrets, confidential or proprietary information, all information concerning any of the Materials, and other data or information (and any tangible evidence, record or representation thereof), whether prepared, conceived or developed by an employee or consultant of the Company (including, without limitation, Consultant) or received by the Company from an outside source, which is in the possession of the Company (whether or not the property of the Company) and which is maintained in secrecy or confidence by the Company or which might permit the Company or any of its customers to obtain a competitive advantage over competitors who do not have access to such Developments, Materials, trade secrets, confidential or proprietary information or other data or information. The term "Materials" as used throughout this Agreement shall mean all materials provided to Consultant by or on behalf of the Company, all materials derived therefrom, and all Developments to the extent such Developments constitute tangible materials.

(d) Consultant understands that the Company from time to time may have in its possession materials and information (including product and development plans and specifications)which is claimed by others to be proprietary and which the Company has agreed to keep confidential. Consultant agrees that all such materials and information shall be Materials and Confidential Information, respectively, for purposes of this Agreement.

6. Non-Competition, Non-Solicitation.

(a) During the term of this Agreement, Consultant shall not, directly or indirectly, participate, whether as owner, stockholder, director, officer, manager, employee , agent or consultant or otherwise in any business, firm or corporation which is in competition with the Company, or which otherwise provides any products or services similar to any products or services provided by the Company at the time of such termination or expiration (collectively, a "Competing Company"). However, the foregoing sentence shall not be construed to prohibit purchase on a national securities exchange or in the "over-the-counter" market of any securities of a Competing Company listed on such exchange or publicly traded in such market, provided however. that such purchase does not result in Consultant becoming owner of record of five percent (5%) or more of the outstanding of any class of such company's securities.

(b) During the term of this Agreement and for a period of one year after the termination or expiration hereof, Consultant shall not solicit or attempt to solicit any employee of the Company (or any other person who may have been employed by the Company during the term of this Agreement) with whom the Consultant had contact during the term of this Agreement to perform work or services for any person or entity other than the Company.

7. Relationship of the Parties. In performing the Work under this Agreement, Consultant shall at all times act as an independent contractor. This Agreement shall not create any relationship whereby Consultant shall be an agent or legal representative of the Company for any purpose whatsoever and creates no relationship of employment, principal and agent, partnership or joint venturers. Consultant shall have no authority to bind the Company or to create any express or implied obligation for the Company, and shall not hold himself out as having such authority. Consultant shall have full responsibility for payment of, and shall pay, all compensation, social security, unemployment, withholding and other taxes and charges for all persons engaged by him in the performance of services hereunder, as and when the same become due and

payable, and the Company shall have no obligation to pay or make available any employee benefit to Consultant or any person employed by or associated with Consultant.

8. Term and Termination; Effects of Termination.

(a) The initial term of this Agreement is twelve (12) months from the Effective Date (the "Initial Term"), unless earlier terminated as provided below or extended upon mutual agreement of the Company and Consultant. All services performed by Consultant during the Initial Term in excess of four hundred eighty (480) hours must be pre-approved by the President of the Company, and Consultant will be compensated for the excess time and related expenses as set out in Section 2.

(b) The Company may terminate this Agreement by sending written notice of termination to Consultant at any time after Consultant fails or neglects to perform any of Consultant's obligations hereunder, including, without limitation, the timely performance of the Work, or otherwise after Consultant's breach of any provision hereof, such notice to be effective immediately upon sending.

(c) The Company or Consultant may terminate this Agreement at any time prior to expiration of the Initial Term for its own convenience at any time upon sixty (60) days prior written notice to the other party. Upon any such termination, Consultant will be entitled solely to compensation in accordance with Section 2 hereof for the amount of time worked and expenses incurred in accordance with the terms and conditions of this Agreement through the date of termination. In the event of an early termination by the Company under this Section, such amounts shall be paid by the Company within ten (10) days after receipt of Consultant's final invoice.

(d) Upon termination or expiration of this Agreement, or at any time upon the written request of the Company, Consultant shall return promptly to the Company all Confidential Information and Materials and all other documents, materials and property belonging to the Company or its clients. If requested to do so by the Company, Consultant shall sign a Termination Certificate in which Consultant confirms that Consultant has complied with the requirements of this Section 8(d) and that Consultant is aware that certain restrictions imposed upon Consultant by this Agreement shall continue after termination or expiration of this Agreement, provided that Consultant's obligations under this Agreement shall continue even if Consultant does not sign such a Termination Certificate. The Company may withhold final payment under this Agreement until its receipt of such a Termination Certificate.

(e) Upon the earlier to occur of the termination or expiration of this Agreement or completion of the Work, or at any other time upon request of the Company, Consultant shall deliver promptly to the Company all Materials, notebooks, disks, tapes, computer programs, reports, proposals, other documents, materials, tools, equipment and other property belonging to the Company or its customers.

(f) Consultant understands and agrees that Consultant's obligations under Sections 3, 4, 5, 6, 7 and 9 hereof and this Section 8 shall survive and shall not be affected by any expiration or earlier termination of this Agreement.

9. Miscellaneous.

(a) Any notice required or permitted to be given under this Agreement shall be given in writing and sent by certified mail to the party at the address set forth below or to such other address as such party shall have designated in writing:

If to the Company: Genelux Corporation
3030 Bunker Hill Street, Suite 310

San Diego, CA 92109
Attention: President and Chief Executive Officer
Facsimile: 1.858.483.0026

If to Consultant: Pharmaceutical Research Consulting (PRC)
Kladower Damm 37J
D-14089 Berlin, Germany
Attention: President and Chief Executive Officer

(b) This Agreement sets forth the entire agreement and understanding between the parties with respect to the subject matter hereof, and supersedes all prior oral and written agreements and understandings between them relating thereto. In the event of any inconsistency between this Agreement and any other contract between the Company and Consultant, the provisions of this Agreement shall prevail.

(c) No waiver or amendment of any of the provisions of this Agreement shall be binding unless made in writing and signed by the parties. No failure on the part of either party to exercise, or delay in exercising, any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy by such party preclude any other or further exercise thereof or the exercise of any other right or remedy. A waiver on one occasion shall not constitute a waiver on any further occasion.

(d) This Agreement is personal to Consultant, and Consultant shall not delegate or assign any of Consultant's rights, duties or obligations hereunder. Any purported assignment or delegation thereof by Consultant shall be void and ineffective. Consultant shall perform Consultant's duties and obligations hereunder alone or in cooperation with employees of the Company only, and shall not retain, or use other persons to assist Consultant, or work with other persons. in performing such duties and obligations.

(e) This Agreement shall be binding upon, and inure to the benefit of the parties and their respective heirs, legal representatives, successors and assigns.

(f) In the event that any provision of this Agreement shall be determined to be unenforceable by reason of its extension for too great a period of time or over too large a geographic area or over too great a range of activities, it shall be interpreted to extend only over the maximum period of time, geographic area or range of activities as to which it may be enforceable. If, after application of the immediately preceding sentence, any provision of this Agreement shall be determined to be invalid, illegal or otherwise unenforceable by any court of competent jurisdiction, the validity, legality and enforceability of the other provisions of this Agreement shall not be affected thereby. Except as otherwise provided in this Section 9(f), any invalid, illegal or unenforceable provision of this Agreement shall be severable, and after any such severance all other provisions hereof shall remain in full force and effect.

(g) This Agreement shall be governed by, and construed and enforced in accordance with, the substantive laws of the State of California, without regard to its principles of conflicts of laws. All litigation arising from or relating to this Agreement shall be filed and prosecuted before any court of competent subject matter jurisdiction in San Diego, California. Consultant hereby consents to the jurisdiction of such courts over him, stipulates to the convenience, efficiency and fairness of proceeding in such courts, and covenants not to allege or assert the inconvenience, inefficiency or unfairness of proceeding in such courts.

[remainder of this page intentionally left blank]

ATTACHMENT A-1

Dr. Aladar A. Szalay, President and CEO, Genelux Corporation, San Diego, USA.

Dr. Tony Yu, Vice President of Clinical Trial Operations, Genelux Corporation, San Diego, USA.

Medical and Clinical Trial Strategy Committee:

Dr. Yuman Fong, Chief, Gastric & Mixed Tumor Service, Murray F. Brennan, Chair in Surgery, Memorial Sloan Kettering Cancer Center, New York, USA; Chairperson of Medical and Clinical Trial Strategy Committee, Member of the Scientific Advisory Board and Member of Clinical Advisory and Implementation Board of Genelux Corporation, San Diego, USA.

Dr. Ulrich Lauer, Senior Physician and Associate Professor at the Medical University Clinic Tübingen, Tübingen, Germany; Member of Medical and Clinical Trial Strategy Committee of Genelux Corporation, San Diego, USA.

Dr. Reinhard von Roemeling, Vice President of Clinical Development Oncology, Daiichi Sankyo, Inc, New Jersey, USA; Member of Medical and Clinical Trial Strategy Committee and Member of Clinical Advisory and Implementation Board of Genelux Corporation, San Diego, USA

Clinical Trials:

1. **Royal Marsden Phase I Clinical Trial (Intravenous)**:

   Dr. Kevin Harrington, Senior Lecturer at the Institute of Cancer Research and an Honorary Consultant in Clinical Oncology, Head and Neck Unit, Principal Investigator of completed Phase I Trial at Royal Marsden Hospital, London, UK.

   Dr. Johann de Bono, Honorary Consultant in Medical Oncology, Professor in Experimental Cancer Medicine and Principal Investigator of completed Phase I Trial at Royal Marsen Hospital, London, UK.

   COMPLETED

2. **Tübingen Phase I Clinical Trial (Intraperitoneal)**:

   Prof. Dr. med. Ulrich Lauer, Senior Physician and **Associate** Professor at the Medical University Clinic Tübingen, Tübingen, Germany; Member of Medical and Clinical Trial Strategy Committee of Genelux Corporation, San Diego, USA.

   Prof. Dr. med. Michael Bitzer, Senior Physician for Gastroenterology and Intensive Care Medicine, Coordinating Physician of the Department Gastroenterology and Hepatology within the Center of Gastrointestinal Oncology (ZGO) of the Comprehensive Cancer Center (CCC) Tubingen, Tübingen Germany.

3. **UCSD Phase 1 Clinical Trial (Chemotherapy/Radiation Combination Therapy)**:

   Dr. Loren Mell, Medical Research Director, Radiation Oncology; Co-Director of the Center for Advanced Radiotherapy Technologies; and Principal Investigator of Phase I Clinical Trial, UC San Diego, San Diego, USA.

Dr. Sunil Advani, Assistant Professor, Radiology Oncology; and Principal Investigator of Phase I Clinical Trial, UC San Diego. San Diego, USA.

4. **Memorial Sloan Kettering Phase I Clinical Trial (Intrapleural)**:

Dr. Valerie Rusch, Chief, Thoracic Service; Miner Family Chair in Intrathoracic Cancers and Principal Investigator of Phase I Clinical Trial, Memorial Sloan Kettering, New York, USA.

Dr. Lee Krug, Associate Attending Physician, Thoracic Oncology Service and Principal Investigator of Phase I Clinical Trial, Memorial Sloan Kettering, New York, USA.

EXHIBIT A

Description of Work:

The Consultant will devote at least one week per month to the performance of services to the Company under this Agreement. The Consultant's duties and responsibilities shall include the following:

1. The Consultant will serve as the Company's acting Chief Medical Officer. The roles and responsibilities of this position are comparable to a Chief Medical Officer of an entity comparable to the Company, differentiated by the fact that Consultant is not an employee.
2. The Consultant will serve as a primary advisor on medical issues relating to the Company's preclinical and clinical development programs.
3. The Consultant will serve as a global medical expert relating to the Company's development programs and will assist the Company in the development of partnerships with institutions, experts, opinion leaders, health ministries and other regulatory authorities for ensuring the development of high quality strategies, clinical plans and protocols.
4. The Consultant will assist in the oversight of the Company's clinical programs on a global basis, including assuring that clinical activities are consistent with the Company's objectives and proposed timelines.
5. The Consultant will participate in a variety of other activities relating to the Company's development programs.
6. The Consultant will at all times work in a professional and cooperative manner and interact harmoniously with the individuals listed in Attachment A-1 hereto.

Consulting Fees:

$340 per hour, up to a maximum of $2,720 per day, to be invoiced to the Company on a monthly basis. Payment of undisputed amounts are due within thirty (30) days after the Company's receipt of invoice.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

COMPANY:	CONSULTANT
GENELUX CORPORATION	PHARMACEUTICAL RESEARCH CONSULTING
By: /s/ A.A. Szalay	By: /s/ Dr. Paul Scigalla
Name: A.A. Szalay	Name: Prof. Dr. med Paul Scigalla
Title: President and CEO	Title: President and CEO

CONFIDENTIAL

April 9, 2012

Paul Scigalla, MD, PhD

Professor of Medicine
Chief Medical Officer
Genelux Corporation
Kladower Damm 37J
D - 14089 Berlin

Dear Professor Scigalla,

I am writing to you concerning the change in the form of payment of your advisory position. In contrast to a payment based on a hourly service reimbursement, you and I discussed the format of a retainer based payment. We also agreed, that your payment will be part cash $16,000 per month (U.S. $), as well as additional stock options currently 50,000 per year (present strike price $3). The options will vest at the end of each employment year and in the case of early termination, the monthly equivalent until the end of service will be recognized. This agreement is a one year agreement renewable at the end of each service year.

The monthly service payments starting March 1, 2012 will be transferred to you at the end of each month. The cost of travel and accommodation will be reimbursed to you at the same time each month based on your submitted original receipts.

In closing, I would like to thank you for all your professional contributions to Genelux Corporation in the past and in the future.

Sincerely yours,

/s/ Aladar A. Szalay
Aladar A. Szalay,
President and CEO, Genelux Corporation
University Professor, University of Würzburg, Germany
Professor, Department of Radiation Oncology, Rebecca and John Moores Comprehensive Cancer Center,
University of California, San Diego, USA

Accepted by:

/s/ Dr. Paul Scigalla

Genelux Corporation
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San Diego, California 92109 USA

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March 1, 2018

MEMORANDUM OF UNDERSTANDING

This MEMORANDUM is intended to acknowledge, clarify and further amend the terms of the CONSULTING AGREEMENT (Agreement) entered into between GENELUX CORPORATION (Company) and PHARMACEUTICAL RESEARCH CONSULTING (Consultant) on September l, 2011 (Exhibit 1), as amended by mutual agreement pursuant to letter dated April 9, 2012 from Aladar Szalay to Consultant (Exhibit 2).

1. Notwithstanding the language in Exhibit 2, referencing an "employment" year, the relationship between Company and Consultant has always been, and remains , one of independent contractor, as set forth in section 7 of the Agreement.
2. The Agreement, as amended by Exhibit 2, is hereby extended to December 31, 2019, and will terminate on that date unless renewed or extended by written agreement. At any time prior to termination, the Company or Consultant may terminate the Agreement without cause upon 30 days' notice to the other party.
3. Except as set forth herein, other terms of the Agreement as amended remain in full force and effect including, but not limited to, Consultant 's obligations under sections 3 through 8 of that agreement.

/s/ Thomas Zindrick June 2, 2018
Thomas Zindrick date
President and CEO

I understand an agree to the above terms,

/s/ Paul Scigalla June 2, 2018
Paul Scigalla date
Pharmaceutical Research Consulting

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EXTENSION OF MEMORANDUM OF UNDERSTANDING (MOU)

The MOU executed by the parties hereto on June 2, 2018, is hereby extended one year, through December 31, 2020, on the same terms and conditions contained in the MOU executed on June 2, 2018.

/s/ Thomas Zindrick 12-17-2019
Thomas Zindrick date
President and CEO

Paul Scigalla date
Pharmaceutical Research Consulting

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Exhibit 10.11

July 1, 2002

Yong “Tony” Yu, PhD
Loma Linda, CA

Dear Tony:

I am writing to provide you with a formal offer of employment with Genelux Corporation. Your appointment with the Company will be as a Research Scientist, Director of the Imaging Group and will be effective July 1, 2002. Your starting salary will be $75,000 per annum. Of that amount, $40,000 per annum will be in the form of deferred compensation. The amount of deferred compensation that you accrue will be calculated based on the number of days that you have worked between July 1, 2002 and the date that the Company closes an initial stock offering that raises at least $1.5 million. The number of days of deferred compensation will then be divided by 365 and multiplied by $40,000. Deferred compensation will be paid to you as a lump sum following the closing of the stock offering described above.

The Company intends to develop an Employee Stock Option Plan. When the Board has approved the Employee Stock Option Plan, you will be awarded an appropriate number of Employee Stock Options. You will also be provided with group health coverage starting 90 days after the start date of your employment. As a condition of employment, you will be required to sign a Confidentiality Agreement and Intellectual Property Agreement. The Company will develop an Employee Handbook and you will be required to comply with the policies in the Employee Handbook. Your employment will be on an “at will” basis” and the term of your agreement will be for 1 year with automatic renewal based on satisfactory job performance.

It is a pleasure to have you join the Company and we look forward to the important contribution you will make to the success of our Company.

Sincerely,

/s/ A. Douglas Will, MD, MPH

A. Douglas Will, MD, MPH
President/CEO

PO BOX 1855 • MAMMOTH LAKES • 93546
PHONE: 760-924-5667 • FAX: 760-924-0422

Confidential

December 20, 2005

Yong A. Yu, PhD
3030 Bunker Hill Street, Suite 310
San Diego, CA 92109

Dear Dr. Yu:

I am pleased to inform you that the management of Genelux Corporation has recommended that your annual salary be raised from $75,000.00 to $95,000.00 as of January 1, 2006. I am in full support of this recommendation. Further, in the name of the Board Members of Genelux Corporation, I would like to thank you for your leadership and extreme commitment to the goals of our company, for exemplary scientific and intellectual achievements, and for your unparalleled hard work which contributed significantly to the overall success of Genelux Corporation. We all appreciate and thank you for your contribution.

Your participation in the Genelux 2006 Restricted Stock and Stock Option Plan will be finalized in the spring of 2006. Your scientific contribution, resulting in filed patents for Genelux Corporation will be recognized with a bonus in the form of stock options or a restricted stock grant, based on a formula that will be provided to you by February 15, 2006. Of course, the Plan has to be approved by our board of directors and stockholders and the participation of all grantees under the Plan will be subject to approval by our board of directors.

We are extremely thankful to you for the long-term loan you provided to the Corporation. This loan will be repaid to you by December 31, 2005, based on calculations completed by our accounting firm.

On a personal note, I am very pleased and extremely proud that one of my closest associates from the university times has become one of the most solid pillars and a creative scientific leader at Genelux Corporation.

In closing, I wish you a happy holiday season, and much success, happiness and health in the New Year.

Sincerely yours,

/s/ Aladar A. Szalay

Aladar A. Szalay, PhD
President and CEO

June 22, 2008

Dear Dr. Yu,

I am pleased to inform you that, based on your past leadership and solid contributions to the success of Genelux Corporation, I have decided to promote you to Associate Vice President of Preclinical Operations and Preclinical Business Development, starting Sept. 1, 2008. Like always, your leadership, independent decision-making abilities and sense of responsibility will be even more required for your new position.

I would like to ask you to prepare your budget requirements and submit them to the Office of the Chief Operating Officer, Dr. A. Roeder, to coordinate with Dr. K. Murphy, Chief Strategy Officer. Your salary compensation will be set at appropriately $150,000 per year, as soon as additional funds are available. Your stock option plan will also be adjusted appropriately.

Since you do not have prior formal business education, the company is recommending that you take an appropriate business management course at the expense of Genelux Corporation to aid your optimal function in championing the preclinical business program of Genelux Corporation. The reporting structure for you will be established at a later time. However, you will be expected to work harmoniously with Dr. A. Roeder, Dr. J. F. Kapp, Dr. K. Murphy and Dr. N. Chen.

Your responsibilities as Director of Tumor Diagnosis/Therapy will continue until the appropriate replacement is found, no later than Sept. 1, 2009. Similarly, your expert handling of the medical and scientific management of the patent portfolio is highly appreciated and will stay under your control until further notice. Similarly, all preclinical experimentation and preclinical services remain under your direction, as in the past. All other details of your employment remain unchanged at this time.

I would like to be the first to congratulate you on this step up in corporate responsibility and wish you continued success in building an excellent preclinical business inside of Genelux Corporation.

Please indicate your acceptance by signing this letter and returning it to my office.

Sincerely yours,

/s/ A. A. Szalay, PhD

A. A. Szalay, PhD
Chairman of the Board of Directors
President and CEO
Genelux Corporation

/s/ Tony Yu 6/27/08

Tony Yu

Genelux Corporation

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CONFIDENTIAL

January 21, 2010

Dear Dr. Yu,

I am pleased to inform you that the management of Genelux Corporation with major input from Members of the Board of Directors selected you for the position of Vice President of Clinical Trial Operations. This position will commence on January 21, 2010.

The Vice President of Clinical Trial Operations reports to the CEO and to the CSO. The VP of Clinical Trial Operations is also expected to interact closely with the VP of Medical and Clinical Strategies, Dr. Kevin Murphy, who is under the chairmanship of Professor Y. Fong, Medical and Clinical Strategy Advisory Group, responsible for all medical and clinical strategies. I am requesting the Clinical Trial Operations group never to make any decision in human medical or in clinical matters effecting humans without the written approval of Dr. Fong, Dr. Murphy and the principal investigators.

The VP of Clinical Trial Operations oversees all clinical trial associated matters, which include preparation of clinical protocols with principal investigators and with the respective regulatory agencies. Further the VP of Clinical Operations is also responsible for all aspects of the activities of the Director of Clinical Trial Operations, Ms. Terry Chamberlin. Ms. Chamberlin reports directly to the VP of Clinical Trial Operations. In addition, the VP of Clinical Trial Operations is also responsible for preparation of budgets with both the clinical trial sites, as well as with the CRO's. The facilitation and documentation of all communication between the office of the VP of Clinical Trial Operations and that of all personnel involved in the trial process is one of the most important duties of the VP. Concerning the presently ongoing trial at Marsden Hospital, a direct access to all information has to be established for the sponsor institution, Genelux GmbH, represented by Dr. Caroline Staib and Dr. Albert Roeder at the clinical trial email site, clinicaltrials@genelux.com.

Coordinated and well planned interaction is required between the VP of Clinical Trial Operations and Dr. Caroline Staib, Vice President of Product Development, Scientific & Clinical Liaison regarding the assurance of timely product availability for all protocols and trials. Further a harmonious, constructive and synergistic interaction is required between the activities of the VP of Clinical Trial Operations and that of the Chairman of the Clinical Strategy Advisory Group, as well as, the VP of Medical and Clinical Strategies on all future planning of clinical trials. All such proposed plans will be approved by the management of Genelux Corporation with the signatures of the CEO and that of the CFO before initiation of trials spearheaded by the VP of Clinical Trial Operations.

Genelux Corporation

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The activity of the VP of Clinical Trial Operations will be rewarded with a salary of $175,000/per annum after a six (6) month probationary period ending June 21, 2010, until that time you will remain on your current salary base. Further, as I informed you, the management of Genelux Corporation suggested that you complete one or more leadership or people skills management training courses including interpersonal skills course, if possible before December 31, 2010 offered at UCSD or an equivalent quality institution. The cost for such training will be borne by Genelux Corporation. Upon completion of such training courses, an informal, conversation-based evaluation of your performance will be conducted with two (2) members of the Board of Directors of Genelux Corporation and your position as VP of Clinical Trial Operations extended for an additional two (2) years. The approval will be reflected in elevating your salary to $200,000/per annum by January 1, 2011. All additional benefits offered by Genelux Corporation during your present employment will continue without change.

In the name of the Board of Directors and the management of Genelux Corporation, I welcome you cordially as the first VP of Clinical Trial Operations of our company. Further, I would like to express my thanks and pride to you that you were the very first employee of Genelux Corporation and deservingly reached this distinguished position with intellect and hard work on behalf of our shareholders.

Sincerely yours,

/s/ Aladar A. Szalay

Aladar A. Szalay, PhD
President, CEO and CSO of Genelux Corporation
University Professor, University of Würzburg, Germany
Professor, Department of Radiation Oncology, Rebecca and John Moores Comprehensive Cancer Center, University of California, San Diego, USA

Accepted by: _____

date

Genelux Corporation

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CONFIDENTIAL

Memorandum
FOR IMMEDIATE RELEASE

To: Dr. Tony Yu, Vice President of Clinical Trial Operations

From: A. A. Szalay, President and CEO

Subject: Completion of your promotion to Vice President of Clinical Trial Operations with salary adjustment

Date: December 17, 2010

Dear Dr. Yu,

I am pleased to inform you that the senior management of Genelux Corporation supported your appointment to Vice President of Clinical Trial Operations as of January 3, 2011 after the expiration of the probationary period and the completion of the required management skill training courses at UCLA. In addition, your salary will also be adjusted starting January 3, 2011 to the level outlined in my last letter of January 21, 2010.

In addition, the management also strongly suggests that you together with the other Vice Presidents participate in a high level course for business executives focused on business negotiation skill development, including negotiation and hosting skills and practices in the United States, Europe and Asia. Such a course will make your upcoming and increasing duties in two or more party negotiations more successful.

This promotion is the result of your successful development of three (3) different clinical trial protocols, negotiating the trial conditions and harmonious work between you, the Chairman, Members of the Medical Clinical Strategy Committee and the Director of the individual protocols to commence at three (3) very distinguished institutions (MSKCC, University of Tuebingen – Germany, and Moores Cancer Center – UC San Diego). The performance evaluation committee was also highly complimentary about your leadership in both tumor therapy experiments in mice, as well as your leadership in the patenting process in interaction with Dr. Stephanie Seidman and colleagues. It is expected that you will continue to actively participate in both activities as much as your time will allow during the year 2011 or until a successful replacement is identified by the Management.

Please allow me to be the first to congratulate you to your promotion and I wish you continued success in your new and growing responsibilities. For the holidays, I wish you and your family fun, happiness and good health and a very successful New Year.

Sincerely yours,

/s/ *Aladar A. Szalay, PhD*

Aladar A. Szalay, PhD
President and CEO, Gene Corporation
University Professor, University of Würzburg, Germany
Professor, Department of Radiation Oncology, Rebecca and John Moores Comprehensive Cancer Center, University of California, San Diego, USA

P.S. The remainder of your accrued salary will be transferred to you between January 5 and 25th of 2011 by the business office.

Memorandum

To: Tony Yu,
Vice President, Clinical Trials

From: Thomas Zindrick,
President and Chief Executive Officer

Subject: Pay Rate Change

Date: August 15, 2019

Tony,

I am pleased to inform you that in recognition of your continued and dedicated service to Genelux Corporation, effective August 15, 2019, your salary has been increased to $240,000 annually.

On behalf of Genelux, congratulations! We look forward to sharing future successes.

Acknowledged:

/s/ Tony Yu
Tony Yu
Vice President, Clinical Trials

First AMENDMENT TO LEASE

THIS AMENDMENT TO LEASE is made and entered into as of April 15, 2015 , by and between 1175-1177 Idaho, LLC, a California Corporation ("Lessor") ("Lessee").

WHEREAS, on or about January 5, 2012 a Lease was entered into by and between Lessor and Lessee relating to certain real property commonly known as: 1177 Idaho Street, Suite 202, Redlands, CA 92374 (the "Premises"), ~~and~~ which was assigned to 1175-1177 Idaho Street, LLC.

WHEREAS, Lessor and Lessee ☐ have ☑ have not previously amended said Lease, and

WHEREAS, Lessor and Lessee Now desire to amend said lease,

NOW, THEREFORE, for payment of TEN DOLLARS and other good and valuable consideration to Lessor, the receipt and sufficiency of which is hereby acknowledged, the parties mutually agree to make the following additions and modifications to the lease:

☑ TERM:The Expiration Date is hereby ☐ advanced ☑ extended to April 30, 2017

☐ AGREED USE:The Agreed Use is hereby modified to: _____

☑ BASE RENT ADJUSTMENT: Monthly Base Rent shall be as follows: Effective May 1, 2015, Lessee's Base Rent will be $2,449.20 per month for the period May 1, 2015 to April 30, 2016. Effective May 1, 2016, Lessee's Base rent will be $2,522.68 per month for the period May 1, 2016 to April 30, 2017.

OTHER: _____

This Agreement shall not be construed against the party preparing it, but shall be construed as if all parties jointly prepared this Agreement and any uncertainty and ambiguity shall not be interpreted against anyone party.

All other terms and conditions of this Lease shall remain unchanged and shall continue in full force and effect except as specifically amended herein.

EXECUTED as of the day and year first above written.

By Lessor:		**By Lessee:**	
1175-1177 Idaho, LLC a California Corporation		Genelux Corporation	
By:		**By:**	*/s/ Thomas D Zindrick*
Name Printed:	Lyn Chao	Name Printed:	Thomas D Zindrick
Title:		Title:	Vice President
By:		**By:**	
Name Printed:		Name Printed:	
Title:		Title:	

INITIALS INITIALS

STANDARD MULTI-TENANT OFFICE LEASE - GROSS
AIR COMMERCIAL REAL ESTATE ASSOCIATION

1. **Basic Provisions ("Basic Provisions")**.

1.1 **Parties**: This Lease (**"Lease"**), dated for reference purposes only January 5, 2012, is made by and between Plum & Idaho LLC **("Lessor")** and Genelux Corporation **("Lessee")**, (collectively the **"Parties"**, or individually a **"Party"**).

1.2(a) **Premises**: That certain portion of the Project (as defined below), known as Suite Numbers(s) 202, First floor(s), consisting of approximately 1,884 rentable square feet and approximately 1,638 useable square feet ("**Premises**"). The Premises are located at: 1177 Idaho Street, in the City of Redlands, County of San Bernardino, State of California, with zip code 92374. In addition to Lessee's rights to use and occupy the Premises as hereinafter specified, Lessee shall have non-exclusive rights to the Common Areas (as defined in Paragraph 2.7 below) as hereinafter specified, but shall not have any rights to the roof, the exterior walls, the area above the dropped ceilings, or the utility raceways of the building containing the Premises (**"Building"**) or to any other buildings in the Project. The Premises, the Building, the Common Areas, the land upon which they are located, along with all other buildings and improvements thereon, are herein collectively referred to as the **"Project."** The Project consists of approximately 16,101 rentable square feet. (See also Paragraph 2)

1.2(b) **Parking**: Seven unreserved and n/a **covered** reserved vehicle parking spaces at a monthly cost of $n/a per unreserved space and $n/a per reserved space. (See Paragraph 2.6)

1.3 **Term**: 3 years and 17 days ~~months~~ (**"Original Term"**) commencing January 15, 2012 (**"Commencement Date"**) and ending January 15, 2012 (**"Expiration Date"**). (See also Paragraph 3)

1.4 **Early Possession**: January 10, 2012 (**"Early Possession Date"**). (See also Paragraphs 3.2 and 3.3)

1.5 **Base Rent**: $2,731.80 per month (**"Base Rent**)", payable on the First day of each month commencing January 15, 2012. (See also Paragraph 4)

☑ If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted.

1.6 **Lessee's Share of Operating Expense Increase**: twelve and 00/100 percent (12.0%) (**"Lessee's Share"**). Lessee's Share has been calculated by dividing the approximate rentable square footage of the Premises by the total approximate square footage of the rentable space contained in the Project and shall not be subject to revision except in connection with an actual change in the size of the Premises or a change in the space available for lease in the Project.

1.7 Base Rent and Other Monies Paid Upon Execution:

(a) **Base Rent**: $4229.88 for the period 1/15/2012– 2/29/2012.

(b) **Security Deposit**: $2,731.80 ("**Security Deposit**") (See also Paragraph 5)

(c) **Parking**: $_____ for the period _____.

(d) **Other**: $_____ for _____.

(e) **Total Due Upon Execution of this Lease**: $6,961.68.

1.8 **Agreed Use**: Medically related general administrative office use. (See also Paragraph 6)

1.9 **Base Year; Insuring Party**. The Base Year is 2012. Lessor is the **"Insuring Party"** (See also Paragraphs 4.2 and 8)

1.10 **Real Estate Brokers**: (See also Paragraph 15)

(a) **Representation**: The following real estate brokers (the **"Brokers"**) and brokerage relationships exist in this transaction (check applicable boxes):

☐ _____ represents Lessor exclusively (**"Lessor's Broker"**);

☐ _____ represents Lessee exclusively (**"Lessee's Broker"**): or

☑ Coldwell Banker Commercial Lazar & Associates represents both Lessor and Lessee (**"Dual Agency"**).

(b) **Payment to Brokers:** Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Brokers ~~the brokerage fee agreed to in a separate written agreement (or if there is no such agreement, the sum of _____ or~~ SIX% of the total Base Rent for the brokerage services rendered by the Brokers).

1.11 **Guarantor**. The obligations of the Lessee under this Lease shall be guaranteed by n/a **("Guarantor")** (See also Paragraph 37)

1.12 **Business Hours for the Building**: 8:00 a.m. to 6:00 p.m., Mondays through Fridays (except Building Holidays) and 8:00 a.m. to 1:00 p.m. on Saturdays (except Building Holidays). **"Building Holidays"** shall mean the dates of observation of New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and _____.

1.13 **Lessor Supplied Services**. Notwithstanding the provisions of Paragraph 11.1, Lessor is NOT obligated to provide the following within the Premises:

☑ Janitorial services

☑ Electricity

INITIALS INITIALS

☐ Other (specify): _____

1.14 **Attachments**. Attached hereto are the following, all of which constitute a part of this Lease:

☑ ~~an~~ Addendum ~~consisting of Paragraphs~~ "A" & "B" ~~through~~ _____;

☐ a plot plan depicting the Premises; **- Exhibit A**

☑ a current set of the Rules and Regulations;

☐ a Work Letter;

☑ a janitorial schedule;

☑ other (specify): Rent Adjustment. Exhibit "A" Floor Plan of Premises

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2. **Premises**.

2.1 **Letting**. Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. Unless otherwise provided herein, any statement of size set forth in this Lease, or that may have been used in calculating Rent, is an approximation which the Parties agree is reasonable and any payments based thereon are not subject to revision whether or not the actual size is more or less. **Note: Lessee is advised to verify the actual size prior to executing this Lease.**

2.2 **Condition**. Lessor shall deliver the Premises to Lessee in a clean condition on the Commencement Date or the Early Possession Date, whichever first occurs (**"Start Date"**), and warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning systems (**"HVAC"**), and all other items which the Lessor is obligated to construct pursuant to the Work Letter attached hereto, if any, other than those constructed by Lessee, shall be in good operating condition on said date, that the structural elements of the roof, bearing walls and foundation of the Unit shall be free of material defects, and that the Premises do not contain hazardous levels of any mold or fungi defined as toxic under applicable state or federal law.

2.3 **Compliance**. Lessor warrants to the best of its knowledge that the improvements comprising the Premises and the Common Areas comply with the building codes that were in effect at the time that each such improvement, or portion thereof, was constructed, and also with all applicable laws, covenants or restrictions of record, regulations, and ordinances (**"Applicable Requirements"**) in effect on the Start Date. Said warranty does not apply to the use to which Lessee will put the Premises, modifications which may be required by the Americans with Disabilities Act or any similar laws as a result of Lessee's use (see Paragraph 49), or to any Alterations or Utility Installations (as defined in Paragraph 7.3(a)) made or to be made by Lessee. **NOTE: Lessee is responsible for determining whether or not the zoning and other Applicable Requirements are appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed.** If the Premises do not comply with said warranty, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same. If the Applicable Requirements are hereafter changed so as to require during the term of this Lease the construction of an addition to or an alteration of the Premises, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Premises (**"Capital Expenditure"**), Lessor and Lessee shall allocate the cost of such work as follows:

(a) Subject to Paragraph 2.3(c) below, if such Capital Expenditures are required as a result of the specific and unique use of the Premises by Lessee as compared with uses by tenants in general, Lessee shall be fully responsible for the cost thereof, provided, however that if such Capital Expenditure is required during the last 2 years of this Lease and the cost thereof exceeds 6 months' Base Rent, Lessee may instead terminate this Lease unless Lessor notifies Lessee, in writing, within 10 days after receipt of Lessee's termination notice that Lessor has elected to pay the difference between the actual cost thereof and the amount equal to 6 months' Base Rent. If Lessee elects termination, Lessee shall immediately cease the use of the Premises which requires such Capital Expenditure and deliver to Lessor written notice specifying a termination date at least 90 days thereafter. Such termination date shall, however, in no event be earlier than the last day that Lessee could legally utilize the Premises without commencing such Capital Expenditure.

(b) If such Capital Expenditure is not the result of the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), then Lessor shall pay for such Capital Expenditure and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease, on the date that on which the Base Rent is due, an amount equal to 1/144th of the portion of such costs reasonably attributable to the Premises. Lessee shall pay Interest on the balance but may prepay its obligation at any time. If, however, such Capital Expenditure is required during the last 2 years of this Lease or if Lessor reasonably determines that it is not economically feasible to pay its share thereof, Lessor shall have the option to terminate this Lease upon 90 days prior written notice to Lessee unless Lessee notifies Lessor, in writing, within 10 days after receipt of Lessor's termination notice that Lessee will pay for such Capital Expenditure. If Lessor does not elect to terminate, and fails to tender its share of any such Capital Expenditure, Lessee may advance such funds and deduct same, with Interest, from Rent until Lessor's share of such costs have been fully paid. If Lessee is unable to finance Lessor's share, or if the balance of the Rent due and payable for the remainder of this Lease is not sufficient to fully reimburse Lessee on an offset basis, Lessee shall have the right to terminate this Lease upon 30 days written notice to Lessor.

(c) Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to nonvoluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, and in that event, Lessee shall either: (i) immediately cease such changed use or intensity of use and/or take such other steps as may be necessary to eliminate the requirement for such Capital Expenditure, or (ii) complete such Capital Expenditure at its own expense. Lessee shall not have any right to terminate this Lease.

2.4 **Acknowledgements**. Lessee acknowledges that: (a) Lessee has been advised by Lessor and/or Brokers to satisfy itself with respect to the condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements), and their suitability for Lessee's intended use, (b) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises, and (c) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease. In addition, Lessor acknowledges that: (i) Brokers have made no representations, promises or warranties concerning Lessee's ability to honor the Lease or suitability to occupy the Premises, and (ii) it is Lessor's sole responsibility to investigate the financial capability and/or suitability of all proposed tenants.

2.5 **Lessee as Prior Owner/Occupant**. The warranties made by Lessor in Paragraph 2 shall be of no force or effect if immediately prior to the Start Date, Lessee was the owner or occupant of the Premises. In such event, Lessee shall be responsible for any necessary corrective work.

2.6 **Vehicle Parking**. So long as Lessee is not in default, and subject to the Rules and Regulations attached hereto, and as established by Lessor from time to time, Lessee shall be entitled to rent and use the number of parking spaces specified in Paragraph 1.2(b) at the rental rate applicable from time to time for monthly parking as set by Lessor and/or its licensee.

(a) If Lessee commits, permits or allows any of the prohibited activities described in the Lease or the rules then in effect, then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove or tow away the vehicle involved and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

(b) ~~The monthly rent per parking space specified in Paragraph 1.2(b) is subject to change upon 30 days prior written notice to Lessee. The rent for the parking is payable one month in advance prior to the first day of each calendar month.~~

2.7 **Common Areas - Definition**. The term **"Common Areas"** is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Project and interior utility raceways and installations within the Premises that are provided and designated by the Lessor from time to time for the general nonexclusive use of Lessor, Lessee and other tenants of the Project and their respective employees, suppliers, shippers, customers, contractors and invitees, including, but not limited to, common entrances, lobbies, corridors, stairwells, public restrooms, elevators, parking areas, loading and unloading areas, trash areas, roadways, walkways, driveways and landscaped areas.

2.8 **Common Areas - Lessee's Rights**. Lessor grants to Lessee, for the benefit of Lessee and its employees, suppliers, shippers, contractors, customers and invitees, during the term of this Lease, the nonexclusive right to use, in common with others entitled to such use, the Common Areas as they exist from time to time, subject to any rights, powers, and privileges reserved by Lessor under the terms hereof or under the terms of any rules and regulations or restrictions governing the use of the Project. Under no circumstances shall the right herein granted to use the Common Areas be deemed to include the right to store any property, temporarily or permanently, in the Common Areas. Any such storage shall be permitted only by the prior written consent of Lessor or Lessor's designated agent, which consent may be revoked at any time. In the event that any unauthorized storage shall occur then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove the property and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

2.9 **Common Areas - Rules and Regulations**. Lessor or such other person(s) as Lessor may appoint shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to adopt, modify, amend and enforce reasonable rules and regulations (**"Rules and Regulations"**) for the management, safety, care, and cleanliness of the grounds, the parking and unloading of vehicles and the preservation of good order, as well as for the convenience of other occupants or tenants of the Building and the Project and their invitees. The Lessee agrees to abide by and conform to all such Rules and Regulations, and shall use its best efforts to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Lessor shall not be responsible to Lessee for the noncompliance with said Rules and Regulations by other tenants of the Project.

2.10 **Common Areas - Changes**. Lessor shall have the right, in Lessor's sole discretion, from time to time:

(a) To make changes to the Common Areas, including, without limitation, changes in the location, size, shape and number of the lobbies, windows, stairways, air shafts, elevators, escalators, restrooms, driveways, entrances, parking spaces, parking areas, loading and unloading areas, ingress, egress, direction of traffic, landscaped areas, walkways and utility raceways;

(b) To close temporarily any of the Common Areas for maintenance purposes so long as reasonable access to the Premises remains available;

(c) To designate other land outside the boundaries of the Project to be a part of the Common Areas;

(d) To add additional buildings and improvements to the Common Areas;

(e) To use the Common Areas while engaged in making additional improvements, repairs or alterations to the Project, or any portion thereof; and

(f) To do and perform such other acts and make such other changes in, to or with respect to the Common Areas and Project as Lessor may, in the exercise of sound business judgment, deem to be appropriate.

3. **Term**.

3.1 **Term**. The Commencement Date, Expiration Date and Original Term of this Lease are as specified in paragraph 1.3.

3.2 **Early Possession**. If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such early possession. All other terms of this Lease (including but not limited to the obligations to pay Lessee's Share of the Operating Expense Increase) shall be in effect during such period. Any such Early Possession shall not affect the Expiration Date.

3.3 **Delay In Possession**. Lessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession by such date, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until Lessor delivers possession of the Premises and any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession is not delivered within 60 days after the Commencement Date, as the same may be extended under the terms of any Work Letter executed by Parties, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. If possession of the Premises is not delivered within 120 days after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

3.4 **Lessee Compliance**. Lessor shall not be required to deliver possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance (Paragraph 8.5). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied.

4. **Rent.**

4.1 **Rent Defined**. All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be rent (**"Rent"**).

4.2 **Operating Expense Increase**. Lessee shall pay to Lessor during the term hereof, in addition to the Base Rent, Lessee's Share of the amount by which all Operating Expenses for each Comparison Year exceeds the amount of all Operating Expenses for the Base Year, such excess being hereinafter referred to as the "Operating Expenses Increase", in accordance with the following provisions:

(a) "**Base Year**" is as specified in Paragraph 1.9.

(b) "**Comparison Year**" is defined as each calendar year during the term of this Lease subsequent to the Base Year; provided, however, Lessee shall have no obligation to pay a share of the Operating Expense increase applicable to the first 12 months of the Lease Term (other than such as are mandated by a governmental authority, as to which government mandated expenses Lessee shall pay Lessee's Share, notwithstanding they occur during the first twelve (12) months). Lessee's Share of the Operating Expense increase for the first and last Comparison Years of the Lease Term shall be prorated according to that portion of such Comparison Year as to which Lessee is responsible for a share of such increase.

(c) The following costs relating to the ownership and operation of the Project, calculated as if the Project was at least 95% occupied, are defined as "**Operating Expenses**":

(i) Costs relating to the operation, repair and maintenance in neat, clean, safe, good order and condition, but not the replacement (see subparagraph (g)), of the following:

(aa) The Common Areas, including their surfaces, coverings, decorative items, carpets, drapes and window coverings, and including parking areas, loading and unloading areas, trash areas, roadways, sidewalks, walkways, stairways, parkways, driveways, landscaped areas, striping, bumpers, irrigation systems, Common Area lighting facilities, building exteriors and roofs, fences and gates;

(bb) All heating, air conditioning, plumbing, electrical systems, life safety equipment, communication systems and other equipment used in common by, or for the benefit of, tenants or occupants of the Project, including elevators and escalators, tenants directories, fire detection systems including sprinkler system maintenance and repair.

(ii) The cost of trash disposal, janitorial and security services, pest control services, and the costs of any environmental inspections;

(iii) The cost of any other service to be provided by Lessor that is elsewhere in this Lease stated to be an "Operating Expense";

(iv) The cost of the premiums for the insurance policies maintained by Lessor pursuant to paragraph 8 and any deductible portion of an insured loss concerning the Building or the Common Areas;

(v) The amount of the Real Property Taxes payable by Lessor pursuant to paragraph 10;

(vi) The cost of water, sewer, gas, electricity, and other publicly mandated services not separately metered;

(vii) Labor, salaries, and applicable fringe benefits and costs, materials, supplies and tools, used in maintaining and/or cleaning the Project and accounting and management fees attributable to the operation of the Project;

(viii) The cost of any capital improvement to the Building or the Project not covered under the provisions of Paragraph 2.3 provided; however, that Lessor shall allocate the cost of any such capital improvement over a 12 year period and Lessee shall not be required to pay more than Lessee's Share of 1/144th of the cost of such Capital Expenditure in any given month;

(ix) The cost to replace equipment or Improvements that have a useful life for accounting purposes of 5 years or less.

(d) Any item of Operating Expense that is specifically attributable to the Premises, the Building or to any other building in the Project or to the operation, repair and maintenance thereof, shall be allocated entirely to such Premises, Building, or other building, However, any such item that is not specifically attributable to the Building or to any other building or to the operation, repair and maintenance thereof, shall be equitably allocated by Lessor to all buildings in the Project.

(e) The inclusion of the improvements, facilities and services set forth in Subparagraph 4.2(c) shall not be deemed to impose an obligation upon Lessor to either have said improvements or facilities or to provide those services unless the Project already has the same, Lessor already provides the services, or Lessor has agreed elsewhere In this Lease to provide the same or some of them.

(f) Lessee's Share of Operating Expense Increase is payable monthly on the same day as the Base Rent is due hereunder. The amount of such payments shall be based on Lessor's estimate of the Operating Expense Expenses. Within 60 days after written request (but not more than once each year) Lessor shall deliver to Lessee a reasonably detailed statement showing Lessee's Share of the actual Common Area Operating Expenses incurred during the preceding year .a reasonable detailed statement showing Lessee's Share of the actual Operating Expenses increase incurred during such year. If Lessee's payments during such Year exceed Lessee's Share, Lessee shall credit the amount of such over-payment against Lessee's future payments. If Lessee's payments during such Year were less than Lessee's Share, Lessee shall pay to Lessor the amount of the deficiency within 10 days after delivery by Lessor to Lessee of said statement. Lessor and Lessee shall forthwith adjust between them by cash payment any balance determined to exist with respect to that portion of the last Comparison Year for which Lessee is responsible as to Operating Expense increases, notwithstanding that the Lease term may have terminated before the end of such Comparison Year.

(g) Operating Expenses shall not include the costs of replacement for equipment or capital components such as the roof, foundations, exterior walls or a Common Area capital improvement, such as the parking lot paving, elevators, fences that have a useful life for accounting purposes of 5 years or more.

(h) Operating Expenses shall not include any expenses paid by any tenant directly to third parties, or as to which Lessor is otherwise reimbursed by any third party, other tenant, or by insurance proceeds.

4.3 **Payment**. Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States on or before the day on which it is due, without offset or deduction (except as specifically permitted in this Lease). All monetary amounts shall be rounded to the nearest whole dollar. In the event that any invoice prepared by Lessor is inaccurate such inaccuracy shall not constitute a waiver and Lessee shall be obligated to pay the amount set forth in this Lease. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of $25 in addition to any Late Charge and Lessor, at its option, may require all future Rent be paid by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent and Common Area Operating Expenses, and any remaining amount to any other outstanding charges or costs.

5. **Security Deposit**. Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount due already due Lessor, for Rents which will be due in the future, and/or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional monies with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial conditions of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 90 days after the expiration or termination of this Lease, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease.

6. **Use**.

6.1 **Use**. Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. Other than guide, signal and seeing eye dogs, Lessee shall not keep or allow in the Premises any pets, animals, birds, fish, or reptiles. Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same will not impair the structural integrity of the improvements of the Building, will not adversely affect the mechanical, electrical, HVAC, and other systems of the Building, and/or will not affect the exterior appearance of the Building. If Lessor elects to withhold consent, Lessor shall within 7 days after such request give written notification of same, which notice shall include an explanation of Lessor's objections to the change in the Agreed Use.

6.2 **Hazardous Substances**.

(a) **Reportable Uses Require Consent**. The term **"Hazardous Substance"** as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or

common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, byproducts or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. **"Reportable Use"** shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use such as ordinary office supplies (copier toner, liquid paper, glue, etc.) and common household cleaning materials, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.

(b) **Duty to Inform Lessor**. If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

(c) **Lessee Remediation**. Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, comply with all Applicable Requirements and take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party.

(d) **Lessee Indemnification**. Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises from areas outside of the Project not caused or contributed to by Lessee). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.

(e) **Lessor Indemnification**. Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which result from Hazardous Substances which existed on the Premises prior to Lessee's occupancy or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease.

(f) **Investigations and Remediations**. Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to Lessee's occupancy, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in paragraph 7.3(a) below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities.

(g) **Lessor Termination Option**. If a Hazardous Substance Condition (see Paragraph 9.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 12 times the then monthly Base Rent or $100,000, whichever is greater, give written notice to Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 12 times the then monthly Base Rent or $100,000, whichever is greater. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified in Lessor's notice of termination.

6.3 **Lessee's Compliance with Applicable Requirements**. Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to the Premises, without regard to whether said requirements are now in effect or become effective after the Start Date. Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements. Likewise, Lessee shall immediately give written notice to Lessor of: (i) any water damage to the Premises and any suspected seepage, pooling, dampness or other condition conducive to the production of mold; or (ii) any mustiness or other odors that might indicate the presence of mold in the Premises.

6.4 **Inspection; Compliance**. Lessor and Lessor's **"Lender"** (as defined in Paragraph 30) and consultants shall have the right to enter into Premises at any time, in the case of an emergency, and otherwise at reasonable times, after reasonable notice, for the purpose of inspecting the condition of the Premises and for verifying compliance by Lessee with this Lease. The cost of any such inspections shall be paid by Lessor, unless a violation of Applicable Requirements, or a Hazardous Substance Condition (see paragraph 9.1e) is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination. In addition, Lessee shall provide copies of all relevant material safety data sheets **(MSDS)** to Lessor within 10 days of the receipt of written request therefor.

7. **Maintenance; Repairs; Utility Installations; Trade Fixtures and Alterations**.

7.1 **Lessee's Obligations**. Notwithstanding Lessor's obligation to keep the Premises in good condition and repair, Lessee shall be responsible for payment of the cost thereof to Lessor as additional rent for that portion of the cost of any maintenance and repair of the Premises, or any equipment (wherever located) that serves only Lessee or the Premises, to the extent such cost is attributable to causes beyond normal wear and tear. Lessee shall be responsible for the cost of painting, repairing or replacing wall coverings, and to repair or replace any improvements with the Premises. Lessor may, at its option, upon reasonable notice, elect to have Lessee perform any particular such maintenance or repairs the cost of which is otherwise Lessee's responsibility hereunder.

7.2 **Lessor's Obligations**. Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 4.2 (Operating Expenses), 6 (Use), 7.1 (Lessee's Obligations), 9 (Damage or Destruction) and 14 (Condemnation), Lessor, subject to reimbursement pursuant to Paragraph 4.2, shall keep in good order, condition and repair the foundations, exterior walls, structural condition of interior bearing walls, exterior roof, fire sprinkler system, fire alarm and/or smoke detection systems, fire hydrants, and the Common Areas. Lessee expressly waives the benefit of any statute now or hereafter in effect to the extent it is inconsistent with the terms of this Lease.

7.3 **Utility Installations; Trade Fixtures; Alterations**.

(a) **Definitions**. The term "**Utility Installations**" refers to all floor and window coverings, air lines, vacuum lines, power panels, electrical distribution, security and fire protection systems, communication cabling, lighting fixtures, HVAC equipment, and plumbing in or on the Premises. The term **"Trade Fixtures"** shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term "**Alterations**" shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. "**Lessee Owned Alterations and/or Utility Installations**" are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor pursuant to Paragraph 7.4(a).

(b) **Consent**. Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Utility installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof, ceilings, floors or any existing walls, will not affect the electrical, plumbing, HVAC, and/or life safety systems, and the cumulative cost thereof during this Lease as extended does not exceed $2000. Notwithstanding the foregoing, Lessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Lessor. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor chosen and/or approved by Lessor. Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with as built plans and specifications. For work which costs an amount. In excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor.

(c) **Liens; Bonds**. Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or materialmen's lien against the Premises or any interest therein. Lessee shall give Lessor not less than 10 days notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility. If Lessee shall contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. If Lessor shall require, Lessee shall furnish a surety bond in an amount equal to 150% of the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same. If Lessor elects to participate in any such action, Lessee shall pay Lessor's attorneys' fees and costs.

7.4 **Ownership; Removal; Surrender; and Restoration**.

(a) **Ownership**. Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed per paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

(b) **Removal**. By delivery to Lessee of written notice from Lessor not earlier than 90 and not later than 30 days prior to the end of the term of this Lease, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations made without the required consent.

(c) **Surrender; Restoration**. Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing, if this Lease is for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Start Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee. Lessee shall also completely remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Lessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Premises)even if such removal would require Lessee to perform or pay for work that exceeds statutory requirements Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. Any personal property of Lessee not removed on or before the Expiration Date or any earlier termination date shall be deemed to have been abandoned by Lessee and may be disposed of or retained by Lessor as Lessor may desire. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

8. **Insurance; Indemnity**.

8.1 **Insurance Premiums**. The cost of the premiums for the insurance policies maintained by Lessor pursuant to paragraph 8 are included as Operating Expenses (see paragraph 4.2 (c)(iv)). Said costs shall include increases in the premiums resulting from additional coverage related to requirements of the holder of a mortgage or deed of trust covering the Premises, Building and/or Project, increased valuation of the Premises, Building and/or Project, and/or a general premium rate increase. Said costs shall not, however, include any premium increases resulting from the nature of the occupancy of any other tenant of the Building. If the Project was not insured for the entirety of the Base Year, then the base premium shall be the lowest annual premium reasonably obtainable for the required insurance as of the Start Date, assuming the most nominal use possible of the Building and/or Project. In no event, however, shall Lessee be responsible for any portion of the premium cost attributable to liability insurance coverage in excess of $2,000,000 procured under Paragraph 8.2(b).

8.2 **Liability Insurance**.

(a) **Carried by Lessee**. Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Lessee and Lessor as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than $1,000,000 per occurrence with an annual aggregate of not less than $2,000,000. Lessee shall add Lessor as an additional insured by means of an endorsement at least as broad as the Insurance Service Organization's "Additional Insured-Managers or Lessors of Premises" Endorsement and coverage shall also be extended to include damage caused by heat, smoke or fumes from a hostile fire. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an **"insured contract"** for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. Lessee shall provide an endorsement on its liability policy(ies) which provides that its insurance shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

(b) **Carried by Lessor**. Lessor shall maintain liability insurance as described in Paragraph 8.2(a), in addition to, and not in lieu of, the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.

8.3 **Property Insurance—Building, Improvements and Rental Value**.

(a) **Building and Improvements**. Lessor shall obtain and keep in force a policy or policies of insurance in the name of Lessor, with loss payable to Lessor, any ground-lessor, and to any Lender insuring loss or damage to the Building and/or Project. The amount of suchinsurance shall be equal to the full insurable replacement cost of the Building and/or Project, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee not by Lessor. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. If such insurance coverage has a deductible clause, the deductible amount shall not exceed $1,000 per occurrence.

(b) **Rental Value**. Lessor shall also obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the loss of the full Rent for one year with an extended period of indemnity for an additional 180 days **("Rental Value insurance")**. Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee, for the next 12 month period.

(c) **Adjacent Premises**. Lessee shall pay for any increase in the premiums for the property insurance of the Building and for the Common Areas or other buildings in the Project if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.

(d) **Lessee's Improvements**. Since Lessor is the Insuring Party, Lessor shall not be required to insure Lessee Owned Alterations and Utility Installations unless the item in question has become the property of Lessor under the terms of this Lease.

8.4 **Lessee's Property; Business Interruption Insurance; Worker's Compensation Insurance.**

(a) **Property Damage**. Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed $1,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations. Lessee shall provide Lessor with written evidence that such insurance is in force.

(b) **Business Interruption**. Lessee shall obtain and maintain loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.

(c) **No Representation of Adequate Coverage**. Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.

8.5 **Insurance Policies**. Insurance required herein shall be by companies duly licensed or admitted to transact business in the state where the Premises are located, and maintaining during the policy term a "General Policyholders Rating" of at least A-, VI, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 10 days prior written notice to Lessor. Lessee shall, at least 30 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may order such insurance and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other Party may, but shall not berequired to, procure and maintain the same.

8.6 **Waiver of Subrogation**. Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation that such companies may have against Lessor or Lessee, as the case may be so long as the insurance is not invalidated thereby.

8.7 **Indemnity**. Except for Lessor's gross negligence or willful misconduct, Lessee shall indemnify, protect, defend and hold harmless the Premises Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, the use and/or occupancy of the Premises by Lessee. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

8.8 **Exemption of Lessor and its Agents from Liability**. Notwithstanding the negligence or breach of this Lease by Lessor or its agents, neither Lessor nor its agents shall be liable under any circumstances for: (i) injury or damage to the person or goods, wares, merchandiseor other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, indoor air quality, the presence of mold or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the Building, or from other sources or places, (ii) any damages arising from any act or neglect of any other tenant of Lessor or from the failure of Lessor or its agents to enforce the provisions of any other lease in the Project, or (iii) injury to Lessee's business or for any loss of income or profit therefrom. Instead, it is intended that Lessee's sole recourse in the event of such damages or injury be to file a claim on the insurance policy(ies) that Lessee is required to maintain pursuant to the provisions of paragraph 8.

8.9 **Failure to Provide Insurance**. Lessee acknowledges that any failure on its part to obtain or maintain the insurance requiredherein will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremelydifficult to ascertain. Accordingly, for any month or portion thereof that Lessee does not maintain the required insurance and/or does not provide Lessor with the required binders or certificates evidencing the existence of the required insurance, the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or $100, whichever is greater. The parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to maintain the required insurance. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to thefailure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted hereunder, nor relieve Lessee of its obligation to maintain the insurance specified in this Lease.

9. **Damage or Destruction**.

9.1 **Definitions**.

(a) **"Premises Partial Damage"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in 3 months or less from the date of the damage or destruction, and the cost thereof does not exceed a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(b) **"Premises Total Destruction"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in 3 months or less from the date of the damage or destruction and/or the cost thereof exceeds a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(c) **"Insured Loss"** shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in Paragraph 8.3(a), irrespective of any deductible amounts or coverage limits involved.

(d) **"Replacement Cost"** shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of Applicable Requirements, and without deduction for depreciation.

(e) **"Hazardous Substance Condition"** shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance as defined in Paragraph 6.2(a), in, on, or under the Premises which requires repair, remediation, orrestoration.

9.2 **Partial Damage—Insured Loss**. If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor'sexpense, repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possibleand this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or destruction the total cost to repair of which is $5,000 or less, and, in such event, Lessor shall make any applicable insurance proceeds availableto Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to effect such repair, the Insuring Party shall promptly contribute the shortage in proceeds as and when required to complete said repairs.In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to pay for the shortage in insurance proceeds or to fullyrestore the unique aspects of the Premises unless Lessee provides Lessor with the funds to cover same, or adequate assurance thereof, within 10 days following receipt of written notice of such shortage and request therefor. If Lessor receives said funds or adequate assurance thereof within said 10 day period, the party responsible for making the repairs shall complete them as soon as reasonably possible and this Lease shall remain in full force andeffect. If such funds or assurance are not received, Lessor may nevertheless elect by written notice to Lessee within 10 days thereafter to: (i) make such restoration and repair as is commercially reasonable with Lessor paying any shortage in proceeds, in which case this Lease shall remain in full force and effect, or (ii) have this Lease terminate 30 days thereafter. Lessee shall not be entitled to reimbursement of any funds contributed by Lesseeto repair any such damage or destruction, Premises Partial Damage due to flood or earthquake shall be subject to Paragraph 9.3, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by either Party.

9.3 **Partial Damage—Uninsured Loss**. If a Premises Partial Damage that is not an Insured Loss occurs, unless caused by anegligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor shall may either: (i) repair such damage as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect., or (ii) terminate this Lease by giving written notice to Lessee within 30 days after receipt by Lessor of knowledge of the occurrence of such damage. Such termination shall be effective 60 days following the date of such notice. In the event Lessor elects to terminate this Lease, Lessee shall have the right within 10 days after receipt of the termination notice to give written notice to Lessor of Lessee's commitment to pay for the repair of such damage without reimbursement from Lessor. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days after making such commitment. In such event this Leaseshall continue in full force and effect, and Lessor shall proceed to make such repairs as soon as reasonably possible after the required funds areavailable. If Lessee does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

9.4 **Total Destruction**. Notwithstanding any other provision hereof, if a Premises Total Destruction occurs, this Lease shall terminate 60 days following such Destruction. If the damage or destruction was caused by the gross negligence or willful misconduct of Lessee, Lessor shallhave the right to recover Lessor's damages from Lessee, except as provided in Paragraph 8.6.

9.5 **Damage Near End of Term**. If at any time during the last 6 months of this Lease there is damage for which the cost to repair exceeds one month's Base Rent, whether or not an Insured Loss, Lessor may terminate this Lease effective 60 days following the date of occurrence of such damage by giving a written termination notice to Lessee within 30 days after the date of occurrence of such damage. Notwithstanding the foregoing, if Lessee at that time has an exercisable option to extend this Lease or to purchase the Premises, then Lessee may preserve this Lease by, (a) exercising such option and (b) providing Lessor with any shortage in insurance proceeds (or adequate assurance thereof) needed to make the repairs on or before the earlier of (i) the date which is 10 days after Lessee's receipt of Lessor's written notice purporting to terminate this Lease, or (ii) the day prior to the date upon which such option expires. If Lessee duly exercises such option during such period and provides Lessor with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor shall, at Lessor's commercially reasonable expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option and provide such funds or assurance during such period, then this Lease shall terminate on the date specified in the termination notice and Lessee's option shall be extinguished.

9.6 **Abatement of Rent; Lessee's Remedies**.

(a) **Abatement**. In the event of Premises Partial Damage or Premises Total Destruction or a Hazardous Substance Condition for which Lessee is not responsible under this Lease, the Rent payable by Lessee for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired, but not to exceed the proceeds received fromthe Rental Value insurance. All other obligations of Lessee hereunder shall be performed by Lessee, and Lessor shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

(b) **Remedies**. If Lessor is obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within 90 days after such obligation shall accrue, Lessee may, at any time prior to the commencement of such repair or

restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than 60 days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within 30 days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within such 30 days, this Lease shallcontinue in full force and effect, "Commence" shall mean either the unconditional authorization of the preparation of the required plans, or thebeginning of the actual work on the Premises, whichever first occurs.

9.7 **Termination; Advance Payments**. Upon termination of this Lease pursuant to Paragraph 6.2(g) or Paragraph 9, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's Security Deposit as has not been, or is not then required to be, used by Lessor.

10. **Real Property Taxes**.

10.1 **Definitions**. As used herein, the term **"Real Property Taxes"** shall include any form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Project. Lessor's right to other income therefrom, and/or Lessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Project address and where the proceeds so generated are to be applied by the city, county or other local taxing authority of a jurisdiction within which the Project is located. **"Real Property Taxes"** shall also include any tax, fee, levy, assessment or charge, or any increase therein: (i) imposed by reason of events occurring during the term of this Lease, including but not limited to, a change in the ownership of the Project, (ii) a change in the improvements thereon, and/or (iii) levied or assessed on machinery or equipment provided by Lessor to Lessee pursuant to this Lease.

10.2 **Payment of Taxes**. Except as otherwise provided in Paragraph 10.3, Lessor shall pay the Rent Property Taxes applicable to the Project, and said payments shall be included in the calculation of Operating Expenses in accordance with the provisions of Paragraph 4.2.

10.3 **Additional Improvements**. Operating Expenses shall not include Real Property Taxes specified in the tax assessor's records and work sheets as being caused by additional improvements placed upon the Project by other lessees or by Lessor for the exclusive enjoyment of suchother lessees. Notwithstanding Paragraph 10.2 hereof, Lessee shall, however, pay to Lessor at the time Operating Expenses are payable under Paragraph 4.2, the entirety of any increase in Real Property Taxes if assessed solely by reason of Alterations, Trade Fixtures or Utility Installations placed upon the Premises by Lessee or at Lessee's request or by reason of any alterations or improvements to the Premises made by Lessorsubsequent to the execution of this Lease by the Parties.

10.4 **Joint Assessment**. If the Building is not separately assessed, Real Property Taxes allocated to the Building shall be an equitable proportion of the Real Property Taxes for all of the land and improvements included within the tax parcel assessed, such proportion to be determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available. Lessor's reasonable determination thereof, in good faith, shall be conclusive.

10.5 **Personal Property Taxes**. Lessee shall pay prior to delinquency all taxes assessed against and levied upon Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee contained in the Premises. Whenpossible, Lessee shall cause its Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all other personalproperty to be assessed and billed separately from the real property of Lessor. If any of Lessee's said property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee's property within 10 days after receipt of a written statement setting forth the taxes applicable to Lessee's property.

11. **Utilities and Services**.

11.1 **Services Provided by Lessor**. Lessor shall provide heating, ventilation, air conditioning, reasonable amounts of electricity for normal lighting and office machines, water for reasonable and normal drinking and lavatory use in connection with an office, and replacement light bulbs and/or fluorescent tubes and ballasts for standard overhead fixtures. Lessor shall also provide janitorial services to the Premises and Common Areas 5 times per week, excluding Building Holidays, or pursuant to the attached janitorial schedule, if any. Lessor shall not, however, be required to provide janitorial services to kitchens or storage areas included within the Premises.

11.2 **Services Exclusive to Lessee**. Lessee shall pay for all water, gas, light, power, telephone and other utilities and services specially or exclusively supplied and/or metered exclusively to the Premises or to Lessee, together with any taxes thereon. If a service is deleted by Paragraph 1.13 and such service is not separately metered to the Premises, Lessee shall pay at Lessor's option, either Lessee's Share or a reasonable proportion to be determined by Lessor of all charges for such jointly metered service.

11.3 **Hours of Service**. Said services and utilities shall be provided during limes set forth in Paragraph 1.12 Utilities and services required at other times shall be subject to advance request and reimbursement by Lessee to Lessor of the cost thereof.

11.4 **Excess Usage by Lessee**. Lessee shall not make connection to the utilities except by or through existing outlets and shall not install or use machinery or equipment in or about the Premises that uses excess water, lighting or power, or suffer or permit any act that causes extra burden upon the utilities or services, including but not limited to security and trash services, over standard office usage for the Project. Lessor shall require Lessee to reimburse Lessor for any excess expenses or costs that may arise out of a breach of this subparagraph by Lessee. Lessor may, in its sole discretion, install at Lessee's expense supplemental equipment and/or separate metering applicable to Lessee's excess usage or loading.

11.5 **Interruptions**. There shall be no abatement of rent and Lessor shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond Lessor's reasonable control or in cooperation with governmental request or directions.

12. **Assignment and Subletting**.

12.1 **Lessor's Consent Required**.

(a) Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, **"assign or assignment"**) or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent.

(b) Unless Lessee is a corporation and its stock is publicly traded on a national stock exchange, a change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 25% or more of the voting control of Lessee shall constitute a change in control for this purpose.

(c) The involvement of Lessee or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buyout or otherwise), whether or not a formal assignment or hypothecation of this Lease or Lessee's assets occurs, which results or will result in a reduction of the Net Worth of Lessee by an amount greater than 25% of such Net Worth as it was represented at the time of the execution of this Lease or at the time of the most recent assignment to which Lessor has consented, or as it exists immediately prior to said transaction or transactions constituting such reduction, whichever was or is greater, shall be considered an assignment of this Lease to which Lessor may withhold its consent. **"Net Worth of Lessee"** shall mean the net worth of Lessee (excluding any guarantors) established under generally accepted accounting principles.

(d) An assignment or subletting without consent shall, at Lessor's option, be a Default curable after notice per Paragraph 13.1(c), or a noncurable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a noncurable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 110% of the Base Rent then in effect. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any option to purchase the Premises held

by Lessee shall be subject to similar adjustment to 110% of the price previously in effect, and (ii) all fixed and non-fixed rental adjustments scheduled during the remainder of the Lease term shall be increased to 110% of the scheduled adjusted rent.

(e) Lessee's remedy for any breach of Paragraph 12.1 by Lessor shall be limited to compensatory damages and/or injunctive relief.

(f) Lessor may reasonably withhold consent to a proposed assignment or subletting if Lessee is in Default at the time consent is requested.

(g) Notwithstanding the foregoing, allowing a de minimis portion of the Premises, i e. 20 square feet or less, to be used by a third party vendor in connection with the installation of a vending machine or payphone shall not constitute a subletting.

12.2 **Terms and Conditions Applicable to Assignment and Subletting**.

(a) Regardless of Lessor's consent, no assignment or subletting shall: (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

(b) Lessor may accept Rent or performance of Lessee's obligations from any person other than Lessee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of Rent or performance shall constitute a waiver or estoppel of Lessor's right to exercise its remedies for Lessee's Default or Breach.

(c) Lessor's consent to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting.

(d) In the event of any Default or Breach by Lessee, Lessor may proceed directly against Lessee, any Guarantors or anyone else responsible for the performance of Lessee's obligations under this Lease, including any assignee or sublessee, without first exhausting Lessor's remedies against any other person or entity responsible therefore to Lessor, or any security held by Lessor.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of $500 as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested. (See also Paragraph 36)

(f) Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment, entering into such sublease, or entering into possession of the Premises or any portion thereof, be deemed to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by Lessee during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Lessor has specifically consented to in writing.

(g) Lessor's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the original Lessee by this Lease unless such transfer is specifically consented to by Lessor in writing, (See Paragraph 39.2)

12.3 **Additional Terms and Conditions Applicable to Subletting**. The following terms and conditions shall apply to any subletting by Lessee of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

(a) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance of Lessee's obligations, Lessee may collect said Rent. In the event that the amount collected by Lessor exceeds Lessee's then outstanding obligations any such excess shall be refunded to Lessee Lessor shall not. by reason of the foregoing or any assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Lessee to the contrary.

(b) In the event of a Breach by Lessee, Lessor may, at its option, require sublessee to attorn to Lessor, in which event Lessor shall undertake the obligations of the sublessor under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any prior Defaults or Breaches of such sublessor.

(c) Any matter requiring the consent of the sublessor under a sublease shall also require the consent of Lessor.

(d) No sublessee shall further assign or sublet all or any part of the Premises without Lessor's prior written consent.

(e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.

13. **Default; Breach; Remedies**.

13.1 **Default; Breach**. A **"Default"** is defined as a failure by the Lessee to comply with or perform any of the terms, covenants,conditions or Rules and Regulations under this Lease. A **"Breach"** is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable grace period:

(a) The abandonment of the Premises; or the vacating of the Premises without providing a commercially reasonable level of security, or where the coverage of the properly insurance described in Paragraph 8.3 is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism.

(b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surely bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of 3 business days following written notice to Lessee.

(c) The commission of waste, act or acts constituting public or private, and/or an illegal activity on the Premises by Lessee, where such actions continue for a period of 3 business days following written notice to Lessee.

(d) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document requested under Paragraph 41, (viii) material data safely sheets (MSDS), or (ix) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 10 days following written notice to Lessee.

(e) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 2.9 hereof, other than those described in subparagraphs 13.1(a), (b) or (c), above, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

(f) The occurrence of any of the following events: (i) the making of any general arrangement or assignment for the benefit of creditors; (ii) becoming a **"debtor"** as defined in 11 U.S.C. § 101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial

seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within 30 days; provided, however, in the event that any provision of this subparagraph is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(g) The discovery that any financial statement of Lessee or of any Guarantor given to Lessor was materially false.

(h) If the performance of Lessee's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory basis, and Lessee's failure, within 60 days following written notice of any such event, to provide written alternative assurance or security, which, when coupled with the then existing resources of Lessee, equals or exceeds the combined financial resources of Lessee and the Guarantors that existed at the time of execution of this Lease.

13.2 **Remedies**. If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. Lessee shall pay to Lessor an amount equal to 115% of the costs and expenses incurred by Lessor in such performance upon receipt of an invoice therefor. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) 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 rental loss that the Lessee proves could have been reasonably avoided; (iii) 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 rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any teasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of awardplus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover damages under Paragraph 12. If termination of this Lease is obtained through the provisional remedy of unlawful detainer. Lessor shall have the right to recoverin such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quitgiven to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable graceperiod required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

(b) Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, In which event Lessee may sublet or assign, subject only to reasonable limitations. Acts of maintenance, efforts to relet and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession.

(c) Pursue any other remedy now or hereafter available under the taws or judicial decisions of the state wherein the Premises are located. The expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

13.3 **Inducement Recapture**. Any agreement for free or abated rent or other charges, or for the giving or paying by Lessor to or forLessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as **"Inducement Provisions"**, shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Lessor under such an Inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.

13.4 **Late Charges**. Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within 5 days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall immediately pay to Lessor a one-time late charge equal to 10% of each such overdue amount or $100, whichever is greater. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for 3 consecutive installments of Base Rent, then notwithstanding any provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

13.5 **Interest**. Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due as to scheduled payments (such as Base Rent) or within 30 days following the date on which it was due for nonscheduled payment, shall bear interest from the date when due, as to scheduled payments, or the 31st day after it was due as to nonscheduled payments. The interest (**"Interest"**) charged shall be computed at the rate of 10% per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 **Breach by Lessor**.

(a) **Notice of Breach**. Lessor shall not be deemed in breach of this Lease unless Lessor fails within a reasonable time to perform an obligation required to be performed by Lessor. For purposes of this Paragraph, a reasonable time shall in no event be less than 30 days after receipt by Lessor, and any Lender whose name and address shall have been furnished Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that if the nature of Lessor's obligation is such that more than 30 days are reasonably required for its performance, then Lessor shall not be in breach if performance is commenced within such 30 day period and thereafter diligently pursued to completion.

(b) **Performance by Lessee on Behalf of Lessor**. In the event that neither Lessor nor Lender cures said breach within 30 days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Lessee may elect to cure said breach at Lessee's expense and offset from Rent the actual and reasonable cost to perform such cure, provided however, that such offset shall not exceed an amount equal to the greater of one month's Base Rent or the Security Deposit, reserving Lessee's right to seek reimbursement from Lessor for any such expense in excess of such offset. Lessee shall document the cost of said cure and supply said documentation to Lessor.

14. **Condemnation**. If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exerciseof said power (collectively **"Condemnation"**), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than 10% of the rentable floor area of the Premises, or more than 25% of Lessee's Reserved ParkingSpaces, if any, are taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within 10 days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severancedamages; provided, however, that Lessee shall be entitled to any compensation paid by the condemnor for Lessee's relocation expenses, loss ofbusiness goodwill and/or Trade Fixtures, without regard to whether or not this Lease is terminated pursuant to the provisions of this Paragraph. All Alterations and Utility Installations made to the Premises by Lessee, for purposes of Condemnation only, shall be considered the property of the Lessee and Lessee shall be entitled to any and all compensation which is payable therefor. In the event that this Lease is not terminated by reason of the Condemnation, Lessor shall repair any damage to the Premises caused by such Condemnation.

15. **Brokerage Fees**.

15.1 **Additional Commission**. In addition to the payments owed pursuant to Paragraph 1.10 above, and unless Lessor and the Brokers otherwise agree in writing, Lessor agrees that: (a) If Lessee exercise any Option, (b) if Lessee or anyone affiliated with Lessee acquires from Lessorany rights to the Premises or other premises owned by Lessor and located within the Project, (c) if Lessee remains in possession of the Premises, with the consent of Lessor, after the expiration of this Lease, or (d) if Base Rent is increased, whether by agreement or operation of an escalation clauseherein, then, Lessor shall pay Brokers a fee in accordance with the schedule attached to such brokerage fee agreement.

15.2 **Assumption of Obligations**. Any buyer or transferee of Lessor's interest in this Lease shall be deemed to have assumed Lessor's obligation hereunder. Brokers shall be third party beneficiaries of the provisions of Paragraphs 1.10, 15, 22 and 31. If Lessor fails to pay to Brokersany amounts due as and for brokerage fees pertaining to this Lease when due, then such amounts shall accrue interest. In addition, if Lessor fails topay any amounts to Lessee's Broker when due, Lessee's Broker may send written notice to Lessor and Lessee of such failure and if Lessor fails to pay such amounts within 10 days after said notice. Lessee shall pay said monies to its Broker and offset such amounts against Rent. In addition, Lessee's Broker shall be deemed to be a third party beneficiary of any commission agreement entered into by and/or between Lessor and Lesser's Broker for the limited purpose of collecting any brokerage fee owed.

15.3 **Representations and Indemnities of Broker Relationships**. Lessee and Lessor each represent and warrant to the other that ithas had no dealings with any person, firm, broker or finder (other than the Brokers, if any) in connection with this Lease, and that no one other than said named Brokers is entitled to any commission or finder's fee in connection herewith. Lessee and Lessor do each hereby agree to indemnify, protect,defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying Party, including any costs, expenses, attorneys' fees reasonably incurredwith respect thereto.

16. **Estoppel Certificates**.

(a) Each Party (as **"Responding Party"**) shall within 10 days after written notice from the other Party (the **"Requesting Party"**) execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current **"Estoppel Certificate"** form published by the AIRCommercial Real Estate Association, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrancers may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate.

(c) If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee and all Guarantors shall deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past 3 years. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

17. **Definition of Lessor**. The term **"Lessor"** as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined.

18. **Severability**. The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

19. **Days**. Unless otherwise specifically indicated to the contrary, the word **"days"** as used in this Lease shall mean and refer to calendar days.

20. **Limitation on Liability**. The obligations of Lessor under this Lease shall not constitute personal obligations of Lessor or its partners,members, directors, officers or shareholders, and Lessee shall look to the Project, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against Lessor's partners, members, directors, officers or shareholders, or any of their personal assets for such satisfaction.

21. **Time of Essence**. Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

22. **No Prior or Other Agreements; Broker Disclaimer**. This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the use, nature, quality and character of the Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party.

23. **Notices**.

23.1 **Notice Requirements**. All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23. The addresses noted adjacent to a Party's signature on this Lease shall be that Party's address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice. A

copy of all notices to Lessor shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate in writing.

23.2 **Date of Notice**. Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the dale of delivery shown on the receipt card, or if no delivery dale is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 72 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United Slates Express Mail or overnight courier that guarantees next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices transmitted by facsimile transmission or similar means shall be deemed delivered upon telephone confirmation of receipt (confirmation report from fax machine is sufficient), provided a copy is also delivered via delivery or mail. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

24. **Waivers**.

(a) No waiver by Lessor of the Default or Breach of any term, covenant or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent.

(b) The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lesseemay be accepted by Lessor on account of moneys or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing byLessor at or before the time of deposit of such payment.

(c) THE PARTIES AGREE THAT THE TERMS OF THIS LEASE SHALL GOVERN WITH REGARD TO ALL MATTERS RELATED THERETO AND HEREBY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE TO THE EXTENT THAT SUCH STATUTE IS INCONSISTENT WITH THIS LEASE.

25. **Disclosure Regarding The Nature of a Real Estate Agency Relationship**.

(a) When entering into a discussion with a real estate agent regarding a real estate transaction, a Lessor or Lessee should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Lessor and Lessee acknowledge being advised by the Brokers in this transaction, as follows:

(i) Lessor's Agent. A Lessor's agents under a listing agreement with the Lessor acts as the agent for the Lessor only. A Lessor's agent or subagent has the following affirmative obligations; To the Lessor: A fiduciary duty of utmost care, integrity, honesty, andloyalty in dealings with the Lessor. To the Lessee and the Lessor: a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty of disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(ii) Lessee's Agent. An agent can agree to set as agent for the Lessee only. In these situation, the agent is not the Lessor's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Lessor. An agent acting only for a Lessee has the following affirmative obligations. To the Lessee: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee. To the Lessee and Lessor: a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(iii) Agent Representing Both Lessor and Lessee. A real estate agent, either acting directly or through one or more associate licenses, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: a. A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Lessor or the Lessee. b. Other duties to the Lessor and the Lessee as stated above in subparagraphs (i) or (ii). In representing both Lessor and Lessee, the agent may not without the express permission of the respective Party, disclose to the other Party that the Lessor will accept rent in an amount less than that indicated in the listing or that the Lessee is willing to pay a higher rent than that offered. The above duties of the agent in a real estate transaction do not relieve a Lessor or Lessee from the responsibility to protect their own interests. Lessor and Lessee should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advise is desired, consult a competent professional.

(b) Brokers have no responsibility with respect to any default or breach hereof by either Party. The Parties agree that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to this Lease may be brought against Broker more than one year after the Start Date and that the liability (including court costs and attorneys' fees) of any Broker with respect to any such lawsuit and/or legal proceeding shall not exceed the fee received by such Broker pursuant to this Lease provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

(c) Buyer and Seller agree to identify to Brokers "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.

26. **No Right To Holdover**. Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. In the event that Lessee holds over, then the Base Rent shall be increased to 150% of the Base Rent applicable immediately preceding the expiration or termination. Nothing contained herein shall be construed as consent by Lessor to any holding over by Lessee.

27. **Cumulative Remedies**. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

28. **Covenants and Conditions; Construction of Agreement**. All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

29. **Binding Effect; Choice of Law**. This Lease shall be binding upon the Parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located.

30. **Subordination; Attornment; Non-Disturbance**.

30.1 **Subordination**. This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, **"Security Device"**), now or hereafter placed upon the Premises, to any and all advances made on the security thereof, and to all renewals, modifications, and extensions thereof. Lessee agrees that the holders of any such Security Devices (in

this Lease together referred to as **"Lender"**) shall have no liability or obligation to perform any of the obligations of Lessor under this Lease. Any Lender may elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to Lessee, whereupon this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

30.2 **Attornment**. In the event that Lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Devise to which this Lease is subordinated (i) Lessee shall, subject to the non-disturbance provisions of Paragraph 30.3, attorn to such new owner, and upon request, enter into a new lease, containing all of the terms and provisions of this Lease, with such new owner for the remainder of the term hereof, or, at the election of the new owner, this Lease will automatically become a new lease between Lessee and such new owner, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations, except that such new owner shall not: (a) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (b) be subject to any offsets or defenses which Lessee might have against any prior lessor, (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior lessor which was not paid or credited to such new owner.

30.3 **Non-Disturbance**. With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a **"Non-Disturbance Agreement"**) from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises. Further, within 60 days after the execution of this Lease, Lessor shall, if requested by Lessee, use its commercially reasonable efforts to obtain a Non-Disturbance Agreement from the holder of any pre-existing Security Device which is secured by the Premises. In the event that Lessor is unable to provide the Non-Disturbance Agreement within said 60 days, then Lessee may, at Lessee's option, directly contact Lender and attempt to negotiate for the execution and delivery of a Non-Disturbance Agreement.

30.4 S**elf-Executing**. The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any subordination, attornment and/or Non-Disturbance Agreement provided for herein.

31. **Attorneys' Fees**. If any Party or Broker brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, **"Prevailing Party"** shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach ($200 is a reasonable minimum per occurrence for such services and consultation).

32. **Lessor's Access; Showing Premises; Repairs**. Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through the Premises and/or other premises as long as there is no material adverse effect on Lessee's use of the Premises, All such activities shall be without abatement of rent or liability to Lessee.

33. **Auctions**. Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent, Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

34. **Signs**. Lessor may place on the Premises ordinary "For Sale" signs at any time and ordinary "For Lease" signs during the last 6 months of the term hereof. Lessor may not place any sign on the exterior of the Building that covers any of the windows of the Premises. Except for ordinary "For Sublease" signs which may be placed only on the Premises, Lessee shall not place any sign upon the Project without Lessor's prior written consent. All signs must comply with all Applicable Requirements.

35. **Termination; Merger**. Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, that Lessor may elect to continue any one or all existing subtenancies. Lessor's failure within 10 days following any such event to elect to the contrary by written notice to the holder of any such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.

36. **Consents**. Except as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Lessor's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Lessee for any Lessor consent,including but not limited to consents to an assignment, a subletting or the presence or use of a Hazardous Substance, shall be paid by Lessee uponreceipt of an invoice and supporting documentation therefor. Lessor's consent to any act, assignment or subletting shall not constitute anacknowledgment that no Default or Breach by Lessee of this Lease exists, nor shall such consent be deemed a waiver of any then existing Default or Breach, except as may be otherwise specifically stated in writing by Lessor at the time of such consent. The failure to specify herein any particularcondition to Lessor's consent shall not preclude the imposition by Lessor at the time of consent of such further or other conditions as are thenreasonable with reference to the particular matter for which consent is being given. In the event that either Party disagrees with any determinationmade by the other hereunder and reasonably requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within 10 business days following such request.

37. **Guarantor**.

37.1 **Execution**. The Guarantors, if any, shall each execute a guaranty in the form most recently published by the AIR Commercial Real Estate Association.

37.2 **Default**. It shall constitute a Default of the Lessee if any Guarantor fails or refuses, upon request to provide: (a) evidence of the execution of the guaranty, including the authority of the party signing on Guarantor's behalf to obligate Guarantor, and in the case of a corporateGuarantor, a certified copy of a resolution of its board of directors authorizing the making of such guaranty, (b) current financial statements, (c) anEstoppel Certificate, or (d) written confirmation that the guaranty is still in effect.

38. **Quiet Possession**. Subject to payment by Lessee of the Rent and performance of all of the covenants, conditions and provisions on Lessee's part to be observed and performed under this Lease, Lessee shall have quiet possession and quiet enjoyment of the Premises during the term hereof.

39. **Options**. If Lessee is granted an Option, as defined below, then the following provisions shall apply.

39.1 **Definition. "Option"** shall mean: (a) the right to extend or reduce the term of or renew this Lease or to extend or reduce the term of or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal or first offer to lease either the Premises or other property of Lessor; (c) the right to purchase, the right of first offer to purchase or the right of first refusal to purchase the Premises or other property of Lessor.

39.2 **Options Personal To Original Lessee**. Any Option granted to Lessee in this Lease is personal to the original Lessee, and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and, if requested by Lessor, with Lessee certifying that Lessee has no intention of thereafter assigning or subletting.

39.3 **Multiple Options**. In the event that Lessee has any multiple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options have been validly exercised.

39.4 **Effect of Default on Options**.

(a) Lessee shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default and continuing until said Default is cured, (ii) during the period of time any Rent is unpaid (without regard to whether notice thereof is given Lessee), (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessee has been given 3 or more notices of separate Default, whether or not the Defaults are cured, during the 12 month period immediately preceding the exercise of the Option.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Paragraph 39.4(a).

(c) An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term or completion of the purchase, (i) Lessee fails to pay Rent for a period of 30 days after such Rent becomes due (without any necessity of Lessor to give notice thereof), or (ii) if Lessee commits a Breach of this Lease.

40. **Security Measures**. Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises. Lessee, its agents and invitees and their property from the acts of third parties. In the event, however, that Lessor should elect to provide security services, then the cost thereof shall be an Operating Expense.

41. **Reservations**.

(a) Lessor reserves the right: (i) to grant, without the consent or Joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, (ii) to cause the recordation of parcel maps and restrictions, (iii) to create and/or install new utility raceways, so long as such easements, rights, dedications, maps, restrictions, and utility raceways do not unreasonably interfere with the use of the Premises by Lessee. Lessormay also; change the name, address or title of the Building or Project upon at least 90 days prior written notice; provide and install, at Lessee'sexpense. Building standard graphics on the door of the Premises and such portions of the Common Areas as Lessor shall reasonably deemappropriate; grant to any lessee the exclusive right to conduct any business as long as such exclusive right does not conflict with any rights expressly given herein; and to place such signs, notices or displays as Lessor reasonably deems necessary or advisable upon the roof, exterior of the Building or the Project or on signs in the Common Areas. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate such rights. The obstruction of Lessee's view, air, or light by any structure erected in the vicinity of the Building, whether by Lessor or third parties, shall in no way affect this Lease or impose any liability upon Lessor.

(b) Lessor also reserves the right to move Lessee to other space of comparable size in the Building or Project. Lessor must provide at least 45 days prior written notice of such move, and the new space must contain improvements of comparable quality to those containedwithin the Premises. Lessor shall pay the reasonable out of pocket costs that Lessee incurs with regard to such relocation, including the expenses of moving and necessary stationary revision costs. In no event, however, shall Lessor be required to pay an amount in excess of two months Base Rent. Lessee may not be relocated more than once during the term of this Lease.

(c) Lessee shall not: (i) use a representation (photographic or otherwise) of the Building or Project or their name(s) in connection with Lessee's business; or (ii) suffer or permit anyone, except in emergency, to go upon the roof of the Building.

42. **Performance Under Protest**. If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to the otherunder the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest"and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall beentitled to recover such sum or so much thereof as it was not legally required to pay. A Party who does not initiate suit for the recovery of sums paid"under protest" within 6 months shall be deemed to have waived its right to protest such payment.

43. Authority; Multiple Parties; Execution.

(a) If either Party hereto is a corporation, trust, limited liability company, partnership, or similar entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. Each Party shall, within 30 days after request, deliver to the other Party satisfactory evidence of such authority.

(b) If this Lease is executed by more than one person or entity as "Lessee", each such person or entity shall be jointly and severally liable hereunder. It is agreed that any one of the named Lessees shall be empowered to execute any amendment to this Lease, or otherdocument ancillary thereto and bind all of the named Lessees, and Lessor may rely on the same as if all of the named Lessees had executed such document.

(c) This Lease may be executed by the Parties in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

44. **Conflict**. Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

45. **Offer**. Preparation of this Lease by either party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

46. **Amendments**. This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable nonmonetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.

47. **Waiver of Jury Trial. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS AGREEMENT.**

48. Mediation and Arbitration of Disputes; An Addendum requiring the Mediation and/or the Arbitration of all disputes between the Parties and/or Brokers arising out of this Lease ☐ is ☑ is not attached to this Lease.

49. **Americans with Disabilities Act**. Since compliance with the Americans with Disabilities Act (ADA) is dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation. In the event that Lessee's use of the Premises requires modifications or additions to the Premises in order to be in ADA compliance, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREETHAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALLY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

INITIALS INITIALS

ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY THE AIR COMMERCIAL REAL ESTATE ASSOCIATION OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:

1. SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.

2. RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PREMISES. SAIDINVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONINGAND SIZE OF THE PREMISES, THE STRUCTURAL INTEGRITY, THE CONDITION OF THE ROOF AND OPERATING SYSTEMS, COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND THE SUITABILITY OF THE PREMISES FOR LESSEE'S INTENDED USE.

WARNING: IF THE PREMISES ARE LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THE LEASE MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PREMISES ARE LOCATED.

The parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.

Executed at:	Redlands, CA	Executed at:	Redlands, CA
On:		On:	

By LESSOR:		**By LESSEE:**	
Plum & Idaho		Genelux Corporation	
By:	*/s/ Howard Berkson*	By:	*/s/ Ronald Simus*
Name Printed:	Howard Berkson	Name Printed:	Ronald Simus
Title:	Managing Member	Title:	Vice President
By:		By:	
Name Printed:		Name Printed:	
Title:		Title:	
Address:	1495 Pacific Highway Ste. 350 San Diego, CA 92101	Address:	1177 Idaho Street, Ste. 202 Redlands, CA 92374
Telephone:	(619) 595-1900	Telephone:	(903) 307-9300
Facsimile:	(619) 595-1907	Facsimile:	( )
Federal ID No.		Federal ID No.	

LESSOR'S BROKER:		**LESSEE'S BROKER:**	
Coldwell Banker Commercial Lazar & Assoc.			
Attn:	Spencer Hull, Vice President	Attn:	
Address:	1901 Orange Tree Lane Ste. 250 Redlands, CA 92374	Address:	
Telephone:	(909) 793-3600	Telephone:	( )
Facsimile:	(909) 266-1907	Facsimile:	( )

NOTICE: These forms are often modified to meet changing requirements of law and industry needs. Always write or call to make sure you are utilizing the most current form: AIR Commercial Real Estate Association, 800 W 6th Street, Suite 800, Los Angeles, CA 90017. Telephone No. (213) 687-8777. Fax No.: (213) 687-8616.

RENT ADJUSTMENT(S)
STANDARD LEASE ADDENDUM

Dated	January 5, 2012
By and Between (Lessor)	Plum & Idaho LLC
(Lessee)	Genelux Corporation
Address of Premises:	1177 Idaho Street Ste. 202 Redlands, CA 92374

Paragraph 50

A. RENT ADJUSTMENTS:

The monthly rent for each month of the adjustment period(s) specified below shall be increased using the method(s) indicated below:(Check Method(s) to be Used and Fill in Appropriately)

☐ **I. Cost of Living Adjustment(s) (COLA)**

a. On (Fill in COLA Dates):_____ _____ the Base Rent shall be adjusted by the change, if any, from the Base Month specified below, in the Consumer Price Index of the Bureau of LaborStatistics of the U.S. Department of Labor for (select one): ☐ CPI W (Urban Wage Earners and Clerical Workers) or ☐ CPI U (All Urban Consumers),for (Fill in Urban Area): _____ _____ All Items(1982-1984 = 100), herein referred to as "CPI".

b. The monthly rent payable in accordance with paragraph A.I.a. of this Addendum shall be calculated as follows: the Base Rent set forth in paragraph 1.5 of the attached Lease, shall be multiplied by a fraction the numerator of which shall be the CPI of the calendar month 2 months prior to the month(s) specified in paragraph A.I.a. above during which the adjustment is to take effect, and the denominator of which shall be the CPI of the calendar month which is 2 months prior to (select one): the ☐ first month of the term of this Lease as set forth in paragraph 1.3 ("Base Month") or ☐(Fill in Other "Base Month"): _____. The sum so calculated shallconstitute the new monthly rent hereunder, but in no event, shall any such new monthly rent be less than the rent payable for the month immediately preceding the rent adjustment.

c. In the event the compilation and/or publication of the CPI shall be transferred to any other governmental department or bureau or agency or shall be discontinued, then the index most nearly the same as the CPI shall be used to make such calculation. In the event that the Parties cannot agree on such alternative index, then the matter shall be submitted for decision to the American Arbitration Association in accordance with the then rules of said Association and the decision of the arbitrators shall be binding upon the parties. The cost of said Arbitration shall be paid equally by the Parties.

☐ **II. Market Rental Value Adjustment(s) (MRV)**

a. On (Fill in MRV Adjustment Date(s):_____ the Base Rent shall be adjusted to the "Market Rental Value" of the property as follows:

1) Four months prior to each Market Rental Value Adjustment Date described above, the Parties shall attempt to agree upon what thenew MRV will be on the adjustment date. If agreement cannot be reached within thirty days, then:

(a) Lessor and Lessee shall immediately appoint a mutually acceptable appraiser or broker to establish the new MRV withinthe next 30 days. Any associated costs will be split equally between the Parties, or

(b) Both Lessor and Lessee shall each immediately make a reasonable determination of the MRV and submit suchdetermination, in writing, to arbitration in accordance with the following provisions:

(i) Within 15 days thereafter, Lessor and Lessee shall each select an ☐ appraiser or ☐ broker (**"Consultant"**—check one) of their choice to act as an arbitrator. The two arbitrators so appointed shall immediately select a third mutually acceptable Consultant to act as a third arbitrator.

(ii) The 3 arbitrators shall within 30 days of the appointment of the third arbitrator reach a decision as to what theactual MRV for the Premises is, and whether Lessor's or Lessee's submitted MRV is the closest thereto The decision of a majority of the arbitratorsshall be binding on the Parties. The submitted MRV which is determined to be the closest to the actual MRV shall thereafter be used by the Parties.

(iii) If either of the Parties fails to appoint an arbitrator within the specified 15 days, the arbitrator timely appointed by one of them shall reach a decision on his or her own, and said decision shall be binding on the Parties.

(iv) The entire cost of such arbitration shall be paid by the party whose submitted MRV is not selected, i.e., the one that is NOT the closest to the actual MRV.

2) Notwithstanding the foregoing, the new MRV shall not be less than the rent payable for the month immediately preceding the rent adjustment

b. Upon the establishment of each New Market Rental Value:

1) the new MRV will become the new "Base Rent" for the purpose of calculating any further Adjustments, and

2) the first month of each Market Rental Value term shall become the new 'Base Month' for the purpose of calculating any further Adjustments.

☑ **III. Fixed Rental Adjustment(s) (FRA)**

The Base Rent shall be increased to the following amounts on the dates set forth below:

On (Fill in FRA Adjustment Date(s)):	The New Base Rent shall be:
February 1, 2013	$2,813.76
February 1, 2014	$2,898.18

B. NOTICE:

Unless specified otherwise herein, notice of any such adjustments, other than Fixed Rental Adjustments, shall be made as specified inparagraph 23 of the Lease.

C. BROKER'S FEE:

The Brokers shall be paid a Brokerage Fee for each adjustment specified above in accordance with paragraph 15 of the Lease.

RULES AND REGULATIONS FOR
STANDARD OFFICE LEASE

Dated: January 5, 2012

By and Between Genelux Corporation, Lessee and Plum & Idaho LLC, Lessor

GENERAL RULES

1. Lessee shall not suffer or permit the obstruction of any Common Areas, including driveways, walkways and stairways.

2. Lessor reserves the right to refuse access to any persons Lessor in good faith judges to be a threat to the safety and reputation of theProject and its occupants.

3. Lessee shall not make or permit any noise or odors that annoy or interfere with other lessees or persons having business within the Project.

4. Lessee shall not keep animals or birds within the Project, and shall not bring bicycles, motorcycles or other vehicles into areas not designated as authorized for same.

5. Lessee shall not make, suffer or permit litter except in appropriate receptacles for that purpose.

6. Lessee shall not alter any lock or install new or additional locks or bolts.

7. Lessee shall be responsible for the inappropriate use of any toilet rooms, plumbing or other utilities. No foreign substances of any kind areto be inserted therein.

8. Lessee shall not deface the walls, partitions or other surfaces of the Premises or Project.

9. Lessee shall not suffer or permit anything in or around the Premises or Building that causes excessive vibration or floor loading in any part of the Project.

10. Furniture, significant freight and equipment shall be moved into or out of the building only with the Lessor's knowledge and consent, and subject to such reasonable limitations, techniques and timing, as may be designated by Lessor. Lessee shall be responsible for any damage to the Office Building Project arising from any such activity.

11. Lessee shall not employ any service or contractor for services or work to be performed in the Building, except as approved by Lessor.

12. Lessor reserves the right to close and lock the Building on Saturdays, Sundays and Building Holidays, and on other days between thehours of 8:00 P.M. and 6:00 A.M. of the following day. If Lessee uses the Premises during such periods, Lessee shall be responsible for securely locking any doors it may have opened for entry.

13. Lessee shall return all keys at the termination of its tenancy and shall be responsible for the cost of replacing any keys that are lost.

14. No window coverings, shades or awnings shall be installed or used by Lessee.

15. No Lessee, employee or invitee shall go upon the roof of the Building.

16. Lessee shall not suffer or permit smoking or carrying of lighted cigars or cigarettes in areas reasonably designated by Lessor or by applicable governmental agencies as non-smoking areas.

17. Lessee shall not use any method of heating or air conditioning other than as provided by Lessor.

18. Lessee shall not install, maintain or operate any vending machines upon the Premises without Lessor's written consent.

19. The Premises shall not be used for lodging or manufacturing, cooking or food preparation.

20. Lessee shall comply with all safety, fire protection and evacuation regulations established by Lessor or any applicable governmental agency.

21. Lessor reserves the right to waive any one of these rules or regulations, and/or as to any particular Lessee, and any such waiver shall not constitute a waiver of any other rule or regulation or any subsequent application thereof to such Lessee.

22. Lessee assumes all risks from theft or vandalism and agrees to keep its Premises locked as may be required.

23. Lessor reserves the right to make such other reasonable rules and regulations as it may from time to time deem necessary for the appropriate operation and safety of the Project and its occupants. Lessee agrees to abide by these and such rules and regulations.

PARKING RULES

1. Parking areas shall be used only for parking by vehicles no longer than full size, passenger automobiles herein called "Permitted Size Vehicles." Vehicles other than Permitted Size Vehicles are herein referred to as "Oversized Vehicles."

2. Lessee shall not permit or allow any vehicles that belong to or are controlled by Lessee or Lessee's employees, suppliers, shippers, customers, or invitees to be loaded, unloaded, or parked in areas other than those designated by Lessor for such activities.

3. Parking stickers or identification devices shall be the property of Lessor and be returned to Lessor by the holder thereof upon termination ofthe holder's parking privileges. Lessee will pay such replacement charge as is reasonably established by Lessor for the loss of such devices.

4. Lessor reserves the right to refuse the sale of monthly identification devices to any person or entity that willfully refuses to comply with the applicable rules, regulations, laws and/or agreements.

5. Lessor reserves the right to relocate all or a part of parking spaces from floor to floor, within one floor, and/or to reasonably adjacent offsite location(s), and to reasonably allocate them between compact and standard size spaces, as long as the same complies with applicable laws,ordinances and regulations.

6. Users of the parking area will obey all posted signs and park only in the areas designated for vehicle parking.

7. Unless otherwise instructed, every person using the parking area is required to park and lock his own vehicle. Lessor will not be responsible for any damage to vehicles, injury to persons or loss of property, all of which risks are assumed by the party using the parking area.

8. Validation, if established, will be permissible only by such method or methods as Lessor and/or its licensee may establish at rates generally applicable to visitor parking.

9. The maintenance, washing, waxing or cleaning of vehicles in the parking structure or Common Areas is prohibited.

10. Lessee shall be responsible for seeing that all of its employees, agents and invitees comply with the applicable parking rules, regulations,laws and agreements.

11. Lessor reserves the right to modify these rules and/or adopt such other reasonable and non-discriminatory rules and regulations as it may deem necessary for the proper operation of the parking area.

12. Such parking use as is herein provided is intended merely as a license only and no bailment is intended or shall be created hereby.

ADDENDUM "A"
TO AIR STANDARD MULTI-TENANT OFFICE LEASE - GROSS
DATED JANUARY 5,2012
ADDITIONAL TERMS AND CONDITIONS

This Addendum to the AIR Standard Multi-Tenant Office Lease-Gross ("Addendum") is made and entered into as of the fifth day of January, by and between Plum & Idaho, LLC ("Lessor") & Genelux Corporation ("Lessee"), with reference to that certain AIR Standard Multi-Tenant Office Lease-Gross dated January 5, 2012, by andbetween Lessor and Lessee ("Lease").

The promises, covenants, agreements and declarations made and set forth herein are intended to andshall have the same force and effect as if set forth at length in the body of the Lease. To the extent thatthe provisions of this Addendum are inconsistent with the terms and conditions of the Lease, the terms ofthis Addendum shall prevail and control for all purposes. Unless otherwise defined herein, all terms usedin this Addendum and defined in the Lease shall have the same meaning as is ascribed to such terms inthe Lease.

Early Access:

Lessee shall have early access to the Premises from January 10, 2012 through January 14, 2012 for the purpose of furniture set up and computer/phone installation.

Tenant Improvements:

Lessor, at Lessor's expense, shall complete the following Tenant Improvements in the Premises:

1) Paint the interior wells (color to be chosen by Lessee and approved by Lessor).

2) Clean the existing carpet

Signage:

Lessor shall provide directory board and suite door Identification signage per building standards.

Janitorial:

Lessor shall provide janitorial services to the Premises commensurate with standard janitorial services offered in a Class "A" building.

Key Card Access:

Lessor shall provide Lessee with five (5) access key cards to the building at no charge to Lessee. IfLessee requires additional cards in the future, the cards will cost Lessee $5.00 per card.

Maintenance of Building Security Alarm System:

Lessor, at Lessor's cost, shall maintain the existing security alarm system in the building.

Existing Tenant in Premises:

If the tenant currently occupying the Premises (Suite 202) has not vacated the Premises on or before January 10, 2012, Lessor agrees to provide Lessee with temporary occupancy in Suite 102 in theBuilding until such time that Suite 202 Is vacated by the current tenant and Lessor completes the agreed upon tenant improvements. Rent for said temporary occupancy in Suite 102 shall be $1,000.00 per month. If Suite 202 is not available for Lessee to occupy on or before March 1, 2012, Lessee shall havethe option of canceling the Lease and Lessee's security deposit money and first month's rent in theamount of $6,961.68 shall be refunded in full to Lessee by Lessor. Lessee agrees to accept temporary occupancy in Suite 102 in its "As Is" and "Where Is" condition.

Disclosure:

"Lessor has previously informed Lessee that the building is currently In Chapter 11 Bankruptcy. The Lender is cooperating with the Lessor and has committed to provide subrogation and non-interference letter assuring Lessee that their lease will be honored. Lessee was advised to seek legal counsel as to their occupancy of the Premises. Lessor and Broker have Informed lessee that the note secured by a first trust deed against the property, has reached maturity and that the current note holder has opted not to extend the due date of the nota. The Lessor is currently reviewing their options to obtain a new loan on the property. The Lender has filed a notice of default on the note and the first trust deed and the Lessor is working towards a resolution of this issue. Lessee is hereby advised that Lessor has also considered filing bankruptcy."

Lessor Initial HB Lessee Initial RS

Lessee Initial RS Date 1-6-12
Lessor Initial HB Date 1-9-12

Indemnification:

The following additional language shall be added to Paragraph 8.7 of the Lease:

'Lessor shall hold Lessee harmless from claims made against Lessee arising out of alleged wrongful acts/omissions by Lessor or its agents/contactors in conjunction with the Premises or Common Area of the Project.'

In Witness whereof, the parties hereto have executed this Addendum as of the date first written above.

LESSOR: */s/ Howard Berkson* DATE 1-9-12
HOWARD BERKSON, MANAGING MEMBER
PLUM & IDAHO, LLC

LESSEE: */s/ Ronald Simus* DATE 1-6-12
RONALD SIMUS, VICE PRESIDENT
GENELUX CORPORATION

Lessee Initial RS Date 1-6-12
Lessor Initial HB Date 1-9-12

ADDENDUM "B"
TO AIR STANDARD MULTI-TENANT OFFICE LEASE—GROSS
DATED JANUARY S, 2012

CALIFORNIA SALE/LEASE AMERICANS WITH DISABILITIES ACT,
HAZARDOUS MATERIALS AND TAX DISCLOSURE

The Americans with Disabilities Act is intended to make many business establishments equally accessible to persons with a variety of disabilities; modifications to real property may be required. State and locallaws also may mandate changes. The real estate brokers in this transaction are not qualified to adviseyou as to what, if any, changes may be required now, or In the future. Owners and tenants shouldconsult their attorneys and qualified design professionals of their choice for information regarding these matters. Real estate brokers cannot determine which attorneys or design professionals have the appropriate expertise in this area.

Various construction materials may contain items that have been, or In the future may be, determined to be hazardous (toxic) or undesirable and may need to be specifically treated/handled or removed. For example., some transformers and other electrical components contain RGBs, and asbestos has been used in components such as fire-proofing, heating and cooling systems, air duct insulation, spray-on and tile acoustical materials, linoleum, floor tiles, roofing, dry wail and plaster. Due to prior or current uses of the Property or in the area, the Property may have hazardous or undesirable metals {including lead-based paint), minerals, chemicals, hydrocarbons, or biological or radioactive items (including electrical and magnetic fields) in soils, water, building components, above or below-ground containers or elsewhereareas that may or may not be accessible or noticeable. Such items may leak or otherwise be released.Real estate agents have no expertise in the detection or correction of hazardous or undesirable items. Expert inspections are necessary. Current or future laws may require clean up by past, present and/or future owners and/or operators. It is the responsibility of the Seller/Lessor and Buyer/Tenant to retain qualified experts to detect and correct such matters and consult with legal counsel of their choice to determine what provisions, if any, they may include in transaction document regarding the Property.

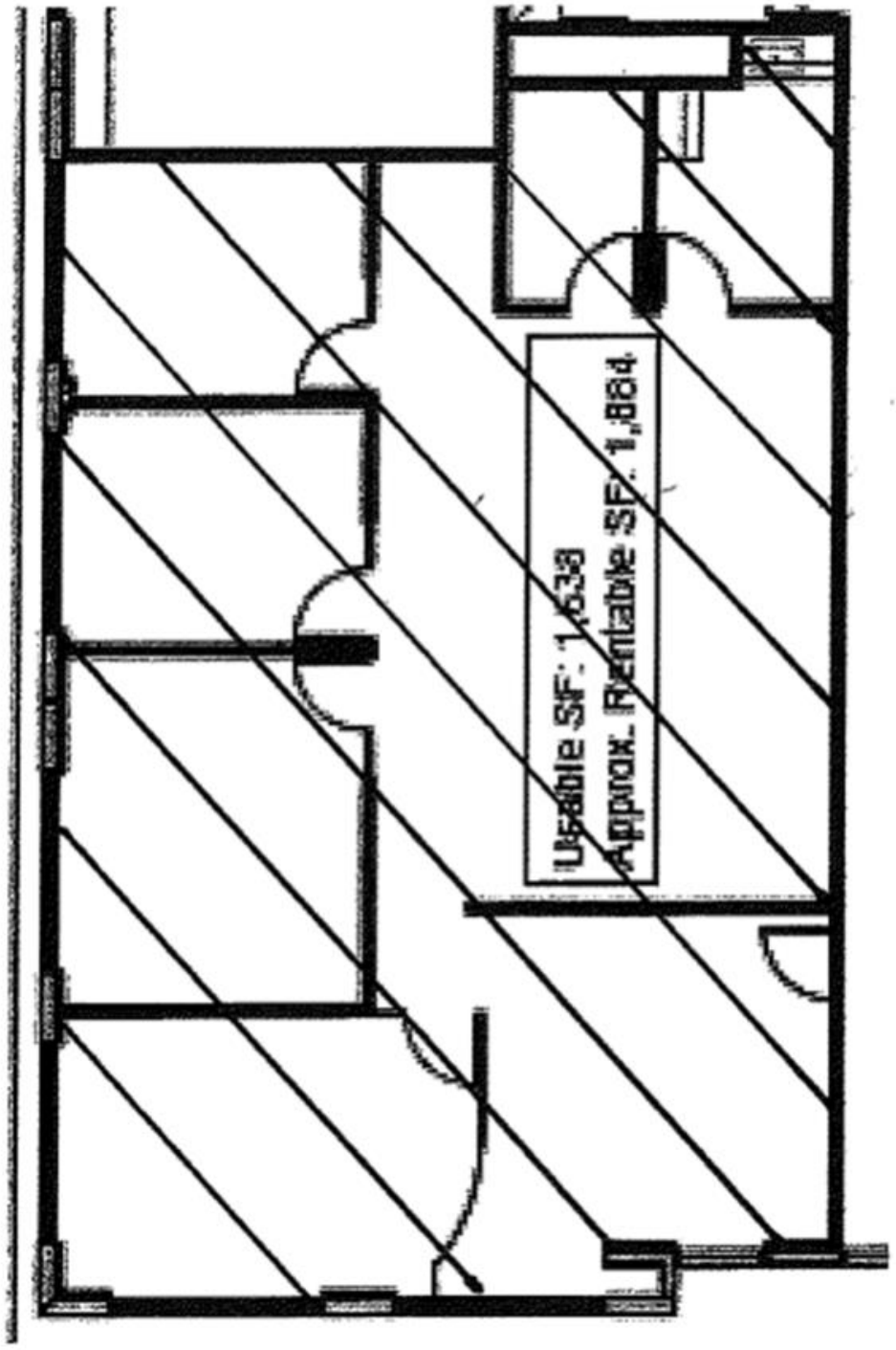
Sellers/Lessors are required under California Health and Safety Code Section 25915 et seq. to disclose reports and surveys regarding asbestos to certain persons, including their employees, contractors co-owners, purchasers and tenants. Buyers/Tenants have similar disclosure obligations. Sellers/Lessors and Buyers/Tenants have additional hazardous materials disclosure responsibilities to each other under California Health and Safety Code Section 25359 and other California laws. Consult your attorneyregarding this matter, and make proper disclosures. Coldwell Banker Commercial Lazar & Associates is not qualified to assist you in this matter or provide you with other legal or tax advice.

Sales, leases and other transactions can have local, state and federal tax consequences for the Seller/Lessor and Buyer/Tenant. In the event of a sale, Internal Revenue Code Section 1445 requiresthat all Buyers of an interest in a real property located in the United States must withhold and pay over to the Internal Revenue Service (IRS) an amount equal to ten percent (10%) of the gross sales price within ten (10) days of the date of the sale unless the Buyer can adequately establish that the Seller was not a foreigner, generally by having the Seller sign a Non-Foreign Seller Certificate. Note that depending upon the structure of the transaction, the tax withholding liability could exceed the cash proceeds to be paid to the Seller at closing. California poses an additional withholding requirement equal to three and one-third percent (3 1/3%) of the gross sales price, not only on foreign sellers but also out-of-state Sellers and Sellers leaving the state, if the sale price exceeds $100,000. Generally, withholding is required if the sales proceeds are disbursed outside of California, if the last known address of the Seller is outside of California or if a financial intermediary is used. Consult your tax and legal advisor. Real estate brokers are not qualified to give legal or tax advice, or to determine whether any other person is properly qualified to provide legal or tax advice.

Lessee Initial RS Date 1-6-12
Lessor Initial HB Date 1-9-12

Exhibit "A"

Floor Plan of Premises



Lessee Initial RS Date 1-6-12
Lessor Initial HB Date 1-9-12

Second **AMENDMENT TO LEASE**

THIS AMENDMENT TO LEASE is made and entered into as of the May 1, 2017 , by and between _____ _____ ("Lessor") and _____ ("Lessee").

WHEREAS, on or about January 5, 2017 a Lease was entered into by and between Lessor and Lessee relating to certain real property commonly known as: 1177 Idaho Street, Suite 202, Redlands, CA 92374 (the "Premises"), which was assigned to 1175-1177 Idaho Street, LLC.

WHEREAS, Lessor and Lessee ☒ have ☐ have not previously amended said Lease, and

WHEREAS, Lessor and Lessee Now desire to amend said lease,

NOW, THEREFORE, for payment of TEN DOLLARS and other good and valuable consideration to Lessor, the receipt and sufficiency of which is hereby acknowledged, the parties mutually agree to make the following additions and modifications to the Lease:

☒ TERM:The Expiration Date is hereby ☐ advanced ☒ extended to April 30, 2018

☐ AGREED USE:The Agreed Use is hereby modified to: _____

☒ BASE RENT ADJUSTMENT: Monthly Base Rent shall be as follows: Effective May 1, 2017, Lessee's Base Rent will be $2,522.68 per month for the period May 1, 2017 to April 20, 2018.

☐ OTHER: _____

This Agreement shall not be construed against the party preparing it, but shall be construed as if all parties jointly prepared this Agreement and any uncertainty and ambiguity shall not be interpreted against anyone party.

All other terms and conditions of this Lease shall remain unchanged and shall continue in full force and effect except as specifically amended herein.

EXECUTED as of the day and year first above written.

By Lessor:		**By Lessee:**	
1175-1177 Idaho LLC A California Corporation		Genelux Corporation	
By:	*/s/ Lyn Chao*	**By:**	*/s/ Thomas Zindrick*
Name Printed:	Lyn Chao	Name Printed:	Thomas Zindrick
Title:	Managing Member	Title:	President and CEO
By:		**By:**	
Name Printed:		Name Printed:	
Title:		Title:	

INITIALS **INITIALS**

_____ _____

_____ _____

INITIALS **INITIALS**

ESSEX | REALTY MANAGEMENT, INC.

July 06, 2018

Thomas Zindrick
Genelux Corporation
3030 Bunker Hill Street #310
San Diego, CA 92109

RE: THIRD AMENDMENT TO LEASE
1177 Idaho Street, Suite 202
Redlands, CA 92374

Dear Mr. Zindrick,

Enclosed please find the fully executed Third Amendment to Lease for the above mentioned premises for your records.

Should you have any questions, please feel free to contact us.

Sincerely,

/s/ Deona M. Berge
Deona M. Berge
Senior Property Manager

Lic. 01777012 | Broker Lic. 00965485

Enclosure

AIRCRE

THIRD **AMENDMENT TO LEASE**

THIS AMENDMENT TO LEASE is made and entered into as of May 1, 2018 by and between 1175-1177 Idaho, LLC, a limited liability company, successor and interest of Plum & Idaho ("Lessor") and Genelux Corporation ("Lessee").

WHEREAS, on or about January 5, 2012 a Lease was entered into by and between Lessor and Lessee relating to certain real property commonly known as: (street address, city, state, zip) 1177 Idaho Street, Suite 202, Redlands, CA 92374_____ (the "Premises"), ~~and~~ which was assigned to 1175-1177 Idaho Street, LLC,

WHEREAS, Lessor and Lessee ☑ have ☐ have not previously amended said Lease, and

WHEREAS, Lessor and Lessee Now desire to amend said Lease,

NOW, THEREFORE, for payment of TEN DOLLARS and other good and valuable consideration to Lessor, the receipt and sufficiency of which is hereby acknowledged, the parties mutually agree to make the following additions and modifications to the lease:

☑ TERM: The Expiration Date is hereby ☐ advanced ☑ extended to December 31, 2019.

☐ AGREED USE: The Agreed Use is hereby modified to: .

☑ BASE RENT ADJUSTMENT: Monthly Base Rent shall be as follows: Effective May 1, 2018, Lessee's Base Rent will be $2,731.80 per month for the period May 1, 2018, to April 30, 2019, and Lessee's Base Rent will be $2,813.75 per month for the period May 1, 2019, to December 31, 2019.

☑ OTHER: Lessee's Base Rent will be abated for the month of June 2018.

This Agreement shall not be construed against the party preparing it, but shall be construed as if all parties jointly prepared this Agreement and any uncertainty and ambiguity shall not be interpreted against anyone party.

All other terms and conditions of this Lease shall remain unchanged and shall continue in full force and effect except as specifically amended herein.

EXECUTED as of the day and year first above written.

By Lessor:		**By Lessee:**	
1175-1177 Idaho, LLC, a limited liability company		Genelux Corporation	
By:	*/s/ Lyn Chao*	By:	*/s/ Thomas Zindrick*
Name Printed:	Lyn Chao	Name Printed:	Thomas Zindrick
Title:	Managing Member	Title:	President and CEO
Phone:		Phone:	
Fax:		Fax:	
Email:		Email:	
By:		By:	
Name Printed:		Name Printed:	
Title:		Title:	
Phone:		Phone:	
Fax:		Fax:	
Email:		Email:	
Address:		Address:	
Federal ID No.:		Federal ID No.:	

INITIALS INITIALS

AIRCRE

Fourth **AMENDMENT TO LEASE**

THIS AMENDMENT TO LEASE is made and entered into as of the November 6, 2019, by and between 1175-1177 Idaho, LLC, a California limited liability company, successor and interest of Plum & Idaho, LLC ("Lessor") and Genelux Corporation ("Lessee").

WHEREAS, on or about January 5, 2012 a Lease was entered into by and between Lessor and Lessee relating to certain real property commonly known as (street address, city, state, zip): 1177 Idaho Street, Suite 202, Redlands, CA 92374 (the "Premises"), and

WHEREAS, Lessor and Lessee ☒ have entered into that certain Lease Agreement dated January 5, 2012, by a subsequently amended First Amendment dated April 15, 2015, by a subsequently amended Second Amendment dated May 1, 2017, and by a subsequently amended Third Amendment dated May 1, 2018 and now wish to further modify the terms and conditions as follow

WHEREAS, Lessor and Lessee now desire to amend said Lease,

NOW, THEREFORE, for payment of TEN DOLLARS and other good and valuable consideration to Lessor, the receipt and sufficiency of which is hereby acknowledged, the parties mutually agree to make the following additions and modifications to the Lease:

☒ TERM: The Expiration Date is hereby ☐ advanced ☒ extended to December 31, 2020 .

☐ AGREED USE:The Agreed Use is hereby modified to:

☒ BASE RENT ADJUSTMENT: Monthly Base Rent shall be as follows: Effective January 1, 2020, Lessee's Base Rent will be $2,901.36 per month for the period January 1, 2020, to December 31, 2020.

☐ OTHER: _____

This Amendment shall not be construed against the party preparing it, but shall be construed as if all parties jointly prepared this Amendment and any uncertainty and ambiguity shall not be interpreted against any one party. Signatures to this Amendment accomplished by means of electronic signature or similar technology shall be legal and binding.

All other terms and conditions of this Lease shall remain unchanged and shall continue in full force and effect except as specifically amended herein.

EXECUTED as of the day and year first above written.

By Lessor:		**By Lessee:**	
1175-1177 Idaho, LLC, a limited liability company, successor and interest of Plum & Idaho, LLC		Genelux Corporation	
By:	*/s/ Lynn Chao*	By:	*/s/ Tom Zindrick*
Name Printed:	Lynn Chao	Name Printed:	Thomas Zindrick
Title:	Managing Member	Title:	President and CEO
Phone:		Phone:	
Fax:		Fax:	
Email:		Email:	
By:		By:	
Name Printed:		Name Printed:	
Title:		Title:	
Phone:		Phone:	
Fax:		Fax:	
Email:		Email:	
Address:		Address:	
Federal ID No.:		Federal ID No.:	
/s/LC		*/s/TZ*	
INITIALS		INITIALS	

/s/ LC INITIALS

/s/ TZ INITIALS

AIRCRE

FIFTH **AMENDMENT TO LEASE**

THIS AMENDMENT TO LEASE is made and entered into as of the October 19, 2020, by and between 1175-1177 Idaho, LLC, a California limited liability company, successor and interest of Plum & Idaho, LLC ("Lessor") and Genelux Corporation ("Lessee").

WHEREAS, on or about January 5, 2012 a Lease was entered into by and between Lessor and Lessee relating to certain real property commonly known as (street address, city, state, zip): 1177 Idaho Street, Suite 202, Redlands, CA 92374 (the "Premises"), and

WHEREAS, Lessor and Lessee ☒ have entered into that certain Lease Agreement dated January 5, 2012, by a subsequently amended First Amendment dated April 15, 2015, by a subsequently amended Second Amendment dated May 1, 2017, and by a subsequently amended Third Amendment dated May 1, 2018, by a subsequently amended Fourth Amendment dated November 6, 2019 and now wish to further modify the terms and conditions as follow

WHEREAS, Lessor and Lessee now desire to amend said Lease,

NOW, THEREFORE, for payment of TEN DOLLARS and other good and valuable consideration to Lessor, the receipt and sufficiency of which is hereby acknowledged, the parties mutually agree to make the following additions and modifications to the Lease:

☒ TERM: The Expiration Date is hereby ☐ advanced ☒ extended to December 31, 2021 .

☐ AGREED USE:The Agreed Use is hereby modified to: _____

☒ BASE RENT ADJUSTMENT: Monthly Base Rent shall be as follows: Effective January 1, 2021, Lessee's Base Rent will be $2,901.36 per month for the period January 1, 2021, to December 31, 2021.

☐ OTHER: _____

This Amendment shall not be construed against the party preparing it, but shall be construed as if all parties jointly prepared this Amendment and any uncertainty and ambiguity shall not be interpreted against any one party. Signatures to this Amendment accomplished by means of electronic signature or similar technology shall be legal and binding.

All other terms and conditions of this Lease shall remain unchanged and shall continue in full force and effect except as specifically amended herein.

EXECUTED as of the day and year first above written.

By Lessor: 1175-1177 Idaho, LLC, a California limited liability company, successor and interest of Plum & Idaho, LLC		**By Lessee:** Genelux Corporation	
By:	*/s/ Lynn Chao*	By:	*/s/ Thomas Zindrick*
Name Printed:	Lynn Chao	Name Printed:	Thomas Zindrick
Title:	Managing Member	Title:	President and CEO
Phone:		Phone:	
Fax:		Fax:	
Email:		Email:	
By:		By:	
Name Printed:		Name Printed:	
Title:		Title:	
Phone:		Phone:	
Fax:		Fax:	
Email:		Email:	
Address:		Address:	
Federal ID No.:		Federal ID No.:	

/s/ LC INITIALS

/s/ TZ INITIALS

/s/ LC INITIALS

/s/ TZ INITIALS

LEASE

[San Diego Science Center / Genelux Corporation]

THIS LEASE ("Lease") is dated for reference purposes only August 20, 2002, by and between SAN DIEGO SCIENCE CENTER LLC, a California limited liability company ("Landlord"), and GENELUX CORPORATION, a Delaware corporation ("Tenant").

1. Lease Premises.

1.1 Landlord hereby leases to Tenant and Tenant hereby leases from Landlord during the term of this Lease, on the terms and conditions set forth herein, those certain premises ("Premises") consisting of approximately 2,973 square feet of Rentable Area in the building (the "Building") at 3030 Bunker Hill Street, San Diego, California, on real property legally described on Exhibit A attached hereto and incorporated herein by this reference. The Premises consist of approximately 2,973 square feet of Rentable Area on the third floor of the Building. The Building consists of approximately 105,500 square feet of Rentable Area. The Building, the real property upon which the Building is located, and all landscaping, parking facilities, and other improvements and appurtenances related thereto are hereinafter collectively referred to as the "Project." The site plan for the Project is attached hereto as Exhibit B, and the Premises are outlined on Exhibit C. All portions of the Project which are for the non-exclusive use of tenants of the Project, including without limitation interior entrance ways, lobbies, corridors, stairwells, elevators, equipment rooms, and rest rooms, and exterior roadways, driveways, sidewalks, parking areas, and landscaped areas, are hereinafter referred to as "Common Areas."

2. Basic Lease Provisions.

2.1 For convenience of the parties, certain basic provisions of this Lease are set forth herein, which provisions are subject to the remaining terms and conditions of this Lease and are to be interpreted in light of such remaining terms and conditions.

2.1.1 Rentable Area of the Premises:
Approximately 2,973 square feet.

2.1.2 Basic Annual Rent:
$87,406.20 ($2.45 per square foot per month for 2,973 square feet of Rentable Area, subject to adjustment pursuant to Sections 6.1 and 8.3)

2.1.3 Monthly Installment of Basic Annual Rent:
$7,283.85 ($2.45 per square foot per month for 2,973 square feet of Rentable Area, subject to adjustment pursuant to Sections 6.1 and 8.3)

2.1.4 Tenant's Pro Rata Share: 2.82% of the Project (subject adjustment pursuant to Section 8.3)

2.1.5 (a) Estimated Term Commencement Date:
September 15, 2002

(b) Term Expiration Date: Two (2) years from actual Term Commencement Date

2.1.6 Security Deposit: Cash in the amount of $14,567.70

2.1.7 Permitted Use: Uses permitted in Section 10.1

2.1.8 Address for Rent Payment and Notices to Landlord:

San Diego Science Center LLC
c/o Phase 3 Properties, Inc.
8910 University Center Lane, Suite 265
San Diego, CA 92122

Address for Notices to Tenant Prior to Occupancy:

A. Douglas Will
Genelux Corporation
P.O. Box ####
Mammoth Lakes, CA 93546

Address for Notices to Tenant After Occupancy:

A. Douglas Will
Genelux Corporation
3030 Bunker Hill Street, Suite 310
San Diego, CA 92109

2.1.9 (a) Landlord's Broker:

Phase 3 Properties, Inc.
8910 University Center Lane, Suite 265
San Diego, CA 92122

(b) Tenant's Broker:

Phase 3 Properties, Inc.
8910 University Center Lane, Suite 265
San Diego, CA 92122

2.2 The following exhibits are attached hereto and incorporated herein by this reference:

Exhibit A	Legal Description of Real Property
Exhibit B	Site Plan of the Project
Exhibit C	Outline of the Premises
Exhibit D	Acknowledgment of Term Commencement Date
Exhibit E	Schematic Showing Tenant Improvements
Exhibit F	Architectural Drawings of Tenant Improvements
Exhibit G	Rules and Regulations
Exhibit H	Services to be Provided by Landlord
Exhibit I	Fitness Center Waiver of Liability
Exhibit J	Approved Contractors
Schedule 1	List of Removable Property (Section 17.7)

3. Term.

3.1 This Lease shall take effect upon the last date of execution hereof by each of the parties hereto, and each of the provisions hereof shall be binding upon and inure to the benefit of Landlord and Tenant from the last date of execution hereof by each of the parties hereto.

3.2 The term of this Lease will be the period from the date Landlord tenders possession of the Premises to Tenant with the Tenant Improvements Substantially Complete ("Term Commencement Date"), through the Term Expiration Date set forth in Section 2.1.5(b), subject to earlier termination of this Lease as provided herein. Landlord and Tenant shall execute a written acknowledgment of the Term Commencement Date and the Term Expiration Date when such are established in substantially the form attached hereto as Exhibit D and attach it to this Lease as Exhibit D-1; however, failure to execute and deliver such acknowledgment shall not affect Tenant's liability hereunder.

3.3 The term "Tenant Improvements" shall mean the improvements within the Premises for Tenant's use and occupancy as shown on the schematic attached hereto as Exhibit E and the architectural drawings listed on Exhibit F. As used herein, the terms "Substantially Complete", "Substantially Completed", and "Substantial Completion" shall mean the later of the date (i) the City of San Diego has issued an interim or final right to occupy the Premises, and (ii) Landlord has substantially completed construction of the Tenant Improvements in accordance with Exhibit E and Exhibit F as certified by Landlord's architect, including (a) the mechanical, electrical, plumbing and other building systems which serve the Premises are in good working order, (b) the lighting, ceiling tiles, and window coverings within the Premises are in good working order, (c) all debris and clutter has been removed from the Premises, (d) exterior windows of the Premises are washed inside and out, (e) lobbies, corridors, stairwells and elevators serving the Premises are substantially complete and in good working order, and (f) the Premises are in compliance with Landlord's warranties set forth in Section 14.2; provided, however, Tenant understands that construction of tenant improvements for other tenants of the Building will be ongoing at the time of Substantial Completion of the Tenant Improvements. "Substantial Completion" is not dependent upon receipt of a formal certificate of occupancy or completion of typical punch-list items which do not materially interfere with Tenant's use or occupancy of the Premises. In no event shall "Substantial Completion" be later than the date Tenant actually commences the conduct of its business on the Premises.

3.4 The Term Commencement Date shall be accelerated from the day it would otherwise have occurred pursuant to Sections 3.2 and 3.3 one day for each one day of delay caused by a Tenant Delay. The term "Tenant Delay" as used in this Lease shall mean any delay in the completion of the Tenant Improvements which is due to any act or omission of Tenant or its agents or contractors, whether willful, negligent or otherwise. The term "Tenant Delay" shall include, but shall not be limited to, (i) any delay in the giving of authorizations or approvals by Tenant, within the time frames specified in this Lease; (2) any delay attributable to the acts or failures to act, whether willful, negligent or otherwise, of Tenant, or of its agents or contractors, where such acts or failures to act delay the completion of the Tenant Improvements; and (3) any delay in the installation or start up of Tenant's equipment which leads to a delay in receipt of a right to occupy from the City of San Diego.

4. Construction and Possession.

4.1 Landlord shall construct the Tenant Improvements in conformity with the schematic attached hereto as Exhibit E and the architectural drawings listed at Exhibit F at its cost and at no cost to Tenant. The cost of the Tenant Improvements shall include design, permitting and out-of-pocket construction costs of the Tenant Improvements, including but not limited to architectural and engineering fees, costs of processing and obtaining permits from the City of San Diego and any other governmental entity with jurisdiction over the Premises, water and sewer connection charges and other expenses related thereto. Notwithstanding the forgoing, Tenant shall pay all costs of Tenant Improvements which are due to change orders to Exhibit E or Exhibit F requested by Tenant and approved by Landlord, or improvements requested by Tenant and approved by Landlord which are not included in Exhibit E or Exhibit F.

4.2 Landlord shall use good faith, diligent efforts to tender possession of the Premises with the Tenant Improvements Substantially Complete to Tenant on the estimated Term Commencement Date as set forth in Section 2.1.5(a). Tenant agrees that in the event Landlord fails to tender possession of the Premises with the Tenant Improvements Substantially Complete to Tenant on or before the estimated Term Commencement Date, this Lease shall not be void or voidable and Landlord shall not be liable to Tenant for any loss or damage resulting therefrom, and Tenant expressly waives any right to terminate this Lease because of delays in completion of Tenant Improvements. In no event, however, shall Tenant's obligation to pay Basic Annual Rent, Operating Expenses, and any other amounts under this Lease commence until the actual Term Commencement Date. Notwithstanding the foregoing, in the event Landlord fails to tender possession of the Premises to Tenant with the Tenant Improvements Substantially Complete on or before six (6) months after the estimated Term Commencement Date as set forth in Section 2.1.5(a), Tenant shall have the right to terminate this Lease by giving written notice to Landlord within ten (10) days thereafter, in which event Landlord shall return to Tenant all amounts previously deposited with Landlord.

4.3 Prior to entry by Tenant onto the Premises before the Term Commencement Date, for installing fixtures, placement of personal property, or any other purpose, Tenant shall furnish to Landlord evidence satisfactory to Landlord that insurance coverages required of Tenant under the provisions of Article 21 are in effect. Entry by Tenant onto the Premises prior to the Term Commencement Date for such purposes shall be subject to all of the terms and conditions of this Lease other than the payment of Basic Annual Rent and Operating Expenses, shall not interfere with the performance by Landlord or Landlord's

contractor with construction of the Tenant Improvements, shall be limited to the last ten (10) days prior to the estimated Substantial Completion of the Premises, and shall be made only with the advance written consent of Landlord, which consent shall not be unreasonably withheld. In the event of entry by Tenant or its agents onto the Premises prior to the Term Commencement Date, Tenant agrees to indemnify, protect, defend and hold harmless Landlord and its contractors and agents from any and all loss or damage to property, completed work, fixtures, equipment, materials or merchandise, or from liability for death of or injury to any person arising from Tenant's entry onto the Premises, except to the extent caused by the gross negligence or willful misconduct of Landlord or its agents or contractors.

5. Rent.

5.1 Tenant agrees to pay Landlord as Basic Annual Rent for the Premises the sum set forth in Section 2.1.2, subject to adjustment as set forth in Section 6.1 and 8.3, in the equal monthly installments set forth in Section 2.1.3, subject to adjustment as set forth in Sections 6.1 and 8.3, each in advance on the Term Commencement Date and on the first day of each and every calendar month thereafter during the term of this Lease.

5.2 In addition to Basic Annual Rent, Tenant agrees to pay to Landlord as additional rent ("Additional Rent"), at the times hereinafter specified in this Lease (i) Tenant's Pro Rata Share (as defined in Section 7.4(a) and as set forth in Section 2.1.4, subject to adjustment pursuant to Section 8.3) of Operating Expenses as provided in Article 7 and (ii) all other amounts that Tenant assumes or agrees to pay under the provisions of this Lease, including but not limited to any and all other sums that may become due by reason of any default of Tenant under this Lease or failure on Tenant's part to comply with the agreements, terms, covenants and conditions of this Lease to be performed by Tenant.

5.3 Basic Annual Rent and Additional Rent shall together be denominated "Rent." Except as expressly set forth in this Lease, Rent shall be paid to Landlord, without notice, demand, abatement, suspension, deduction, setoff, counterclaim, or defense, in lawful money of the United States of America, at the office of Landlord as set forth in Section 2.1.8 or to such other person or at such other place as Landlord may from time to time designate in writing.

5.4 In the event the term of this Lease commences or ends on a day other than the first day of a calendar month, then the Rent for such fraction of a month shall be prorated for such period on the basis of a thirty (30) day month and shall be paid at the then current rate for such fractional month prior to the commencement of the partial month.

6. Rental Adjustments.

6.1 The Basic Annual Rent then in effect (and as previously increased pursuant to this Section 6.1) shall be increased each year by three percent (3%) on each annual anniversary of the Term Commencement Date for so long as this Lease continues in effect.

7. Operating Expenses.

7.1 As used herein, the term "Operating Expenses" shall include:

(a) Government impositions including, without limitation, real and personal property taxes and assessments (but excluding personal property taxes and assessments of other tenants of the Project) levied upon the Project or any part thereof; amounts due under any improvement bond upon the Project and assessments levied in lieu thereof (except to the extent they represent costs related to the initial construction of the Project); any tax on or measured by gross rentals received from the rental of space in the Project or tax based on the square footage of the Building to the extent such tax is in lieu of or in the nature of a property tax (not an income tax, but a tax based on revenue in the nature of a property tax if imposed in the future); and any utilities surcharges or any other costs levied, assessed or imposed by, or at the direction of, or resulting from statutes or regulations, or interpretations thereof promulgated by, any federal, state, regional, municipal or local government authority in connection with the use or occupancy of the Building or Project, and any expenses, including the cost of attorneys or experts, reasonably incurred by Landlord in seeking reduction by the taxing authority of the applicable taxes not to exceed the amount of any such reduction, less tax refunds obtained as a result of an application for review thereof.

(b) Except as set forth in Section 7.2 below, all other costs paid or incurred by Landlord which, in accordance with accepted principles of sound accounting practice as applied to the operation and maintenance of first class buildings, are properly chargeable to the maintenance and operation of the Project including, by way of examples and not as a limitation upon the generality of the foregoing, costs of (i) maintenance, repairs and replacements to improvements within the Project as appropriate to maintain the Project in first class condition; (ii) utilities furnished to the Project (except those utilities which are separately metered and paid by individual tenants); (iii) sewer fees; (iv) trash collection; (v) cleaning (including windows); (vi) maintenance of landscape and grounds; (vii) maintenance of drives and parking areas, including periodic resurfacing; (viii) reasonable and customary security services; (ix) maintenance, repair, and replacement of reasonable and customary security devices; (x) building supplies; (xi) maintenance, repair, and replacement of equipment utilized for operation and maintenance of the Project; (xii) costs of maintenance, repairs and replacements of mechanical, electrical, plumbing, sprinkler, and other systems of the Project; (xiii) insurance premiums; (xiv) portions of insured losses deductible by reason of insurance policy terms (insurance deductibles); (xv) periodic review of Hazardous Material Inventories (as defined in Section 39.6) to confirm compliance with applicable building and fire code requirements; (xvi) service contracts for work of a nature before referenced; (xvii) costs of services of independent contractors retained to do work of a nature before referenced at reasonable and customary rates; (xviii) costs of compensation (including employment taxes and fringe benefits) of all persons who perform regular and recurring duties connected with the day-to-day operation and maintenance of the Project at reasonable and customary rates; and (xviii) reasonable costs of management services equal to four percent (4%) of the Basic Annual Rent; provided, however, that any costs for repairs or replacements which would be deemed of a "capital" nature under generally accepted accounting principles shall be amortized over the useful life of the repair or replacement as determined under Internal Revenue Service guidelines,

and Tenant shall pay only that portion of the costs which are amortized over the balance of the term, payable at the time the costs are incurred to the extent Tenant's share of the costs are less than $1.75 per square foot of Rentable Area of the Premises, with the balance payable on a monthly basis during the balance of the term.

7.2 Notwithstanding the foregoing, Tenant shall not be responsible for the payment of the following costs and expenses:

(a) costs incurred for the construction of the Project (including the current renovation of the Project into a biotech facility);

(b) costs incurred for the repair, maintenance or replacement of the structural components of the footings, foundation, ground floor slab, and load bearing walls of the Building (but excluding painting and ordinary maintenance and repair of exterior surfaces, which are Operating Expenses under Section 7.1(b));

(c) costs recovered under any construction or materials warranty procured by Landlord, pursuant to Section 14.4 or otherwise, to the extent paid pursuant to the warranty;

(d) costs incurred to correct any defects in design, materials or construction of the Project;

(e) costs, expenses and penalties (including without limitation attorneys' fees) incurred as a result of the use, storage, removal or remediation of any toxic or hazardous substances or other environmental contamination not caused by Tenant or its employees, contractors, agents, representatives, or invitees;

(f) interest, principal, points and other fees on debt or amortization of any debt secured in whole or part by all or any portion of the Project (provided that interest upon a government assessment or improvement bond payable in installments is an Operating Expense under Section 7.1(a));

(g) costs incurred in connection with the financing, sale or acquisition of the Project or any portion thereof;

(h) costs, expenses, and penalties (including without limitation attorneys' fees) incurred due to the violation by landlord of any underlying deed of trust or mortgage affecting the Project or any portion thereof;

(i) depreciation and amortization of any type (provided this exclusion is not intended to delete from Operating Expenses actual costs of maintenance, repairs and replacements which are otherwise included within Operating Expenses);

(j) any costs incurred as a result of Landlord's violation of any statute, ordinance or other source of applicable law, or breach of contract or tort liability to any other

party, including without limitation, any unrelated third party, or Landlord's employees, contractors, agents or representatives;

(k) costs incurred in leasing or procuring tenants (including, without limitation, lease commissions, advertising expenses, attorneys' fees and expenses of renovating space for tenants);

(l) advertising, marketing, media and promotional expenditures regarding the Project and costs of signs identifying the owner, lender or any contractor thereof;

(m) any wages, fees, salaries or other compensation of the executive employees or principals of Landlord;

(n) any rentals and related expenses incurred in leasing equipment which may be classified as capital expenditures under generally accepted accounting principles; provided, however, leasing and other expenses of the deionized water system will be included in Operating Expenses.

(o) any net income, franchise, capital stock, estate or inheritance taxes or taxes which are the personal obligation of Landlord or of another tenant of the Project;

(p) expenses which relate to preparation of rental space for other occupants of the Project, including without limitation building, license and inspection costs, incurred with respect to the installation of improvements made for other occupants of the Project or incurred in renovating or otherwise improving, decorating, painting or redecorating vacant tenant space in the Project for other occupants in the Project.

(q) legal expenses arising out of the initial construction of the Project or any Tenant Improvements or for the enforcement of the provisions of any tenant leases other than this Lease;

(r) the cost of any work or service performed for or facilities furnished to another occupant of the Project at such occupant's cost;

(s) any interest or penalties imposed upon Landlord by any taxing authority for late payment or otherwise;

(t) any other expense otherwise chargeable as part of the cost of operation and maintenance but which is not of general benefit to the Project but is primarily for the benefit of one or more specific tenants;

(u) Landlord's charitable or political contributions;

(v) the amount of any payments to subsidiaries and affiliates of Landlord for services to the Project or for supplies or other materials to the extent that the cost of

such services, supplies or materials exceeds the cost which would have been paid had the services, supplies or materials been provided by unaffiliated parties on a competitive basis (provided, however, any fee for management services paid to an affiliate of Landlord shall be in the amount set forth in Section 7.1[b]); and

(w) electric power or other utility costs for which Tenant directly contracts with a public service company.

7.3 Tenant shall pay to Landlord on the first day of each calendar month of the term of this lease, as Additional Rent, Landlord's good faith estimate of Tenant's Pro Rata Share (as set forth in 2.1.4) of Operating Expenses with respect to the Project for such month.

(a) "Tenant's Pro Rata Share" under this Lease shall mean the percentage set forth in Section 2.1.4 (subject to adjustment pursuant to Section 8.3), determined by dividing the Rentable Area of the Premises by the total Rentable Area of the Project.

(b) Within sixty (60) days after the conclusion of each calendar year, Landlord shall furnish to Tenant in writing a statement (the "Annual Operating Expense Statement") showing in reasonable detail the actual Operating Expenses and Tenant's Pro Rata Share of Operating Expenses for the previous calendar year. Any additional sum due from Tenant to Landlord shall be due and payable within thirty (30) days of Tenant's receipt of such statement. If the amounts paid by Tenant pursuant to this Section 7.3 exceed Tenant's Pro Rata Share of Operating Expenses for the previous calendar year, the difference shall be credited by Landlord against the Rent next due and owing from Tenant; provided that, if the Lease term has expired, Landlord shall accompany said statement with payment for the amount of such difference.

(c) Any amount due under this Section 7.3 for any period which is less than a full month shall be prorated for such fractional month.

(d) Notwithstanding this Section 7.3, Operating Expenses which can fairly and reasonably be allocated to one or more tenants of the Project shall be so allocated, and shall be separately scheduled on the Annual Operating Expense Statement.

7.5 Tenant shall have the right, at Tenant's expense, upon reasonable notice during reasonable business hours, to review that portion of Landlord's books, records, invoices, and other data which are relevant to preparation of the Annual Operating Expense Statement provided any request for such review shall be furnished within one hundred eighty (180) days after Tenant's receipt of such statement as to a prior year's Operating Expenses. If the amount of Operating Expenses relating to the Premises identified on such annual statement is found to exceed the actual Operating Expenses of the Premises, Landlord shall, within twenty (20) days after Tenant's request therefor, refund to Tenant the amount of overpayment by Tenant. In addition, if such review reveals that the Operating Expenses paid by Tenant in any year exceed one hundred five percent (105%) of the actual Operating Expenses which should have been paid by Tenant in such year, Landlord shall reimburse Tenant for the reasonable cost of such review. In all other cases, Tenant shall pay for the reasonable cost of the review.

7.6 Operating Expenses for the calendar year in which Tenant's obligation to pay them commences and in the calendar year in which such obligation ceases shall be prorated. Expenses such as taxes, assessments and insurance premiums which are incurred for an extended time period shall be prorated based upon time periods to which applicable so that the amounts attributed to the Premises relate in a reasonable manner to the time period wherein Tenant has an obligation to pay Operating Expenses.

8. Rentable Area.

8.1 The Rentable Area of the Project is determined by making separate calculations of the Rentable Area of each floor of the Building, and totaling the Rentable Area of each floor within the Building. The Rentable Area of a floor is calculated by measuring to the outside finished surface of each permanent outer building wall where the wall intersects or joins the floor, or where it would have intersected the floor except for recessed entryways, windows and the like (also known as the "drip line", measured from where the outside finished surface of the second floor wall intersects the roof). The full area calculated as set forth above is included as Rentable Area of the Project without deduction for (i) columns and projections, (ii) vertical penetrations such as stairwells, elevator shafts, flues, pipe shafts, vertical ducts, atriums, and the like, or their enclosing walls corridors, (iii) entrance ways, lobbies, corridors, equipment rooms, and rest rooms, and the like, or their enclosing walls, or (iv) any other unusable area of any nature.

8.2 The term "Rentable Area" when applied to Tenant is the area to be occupied exclusively by Tenant plus a pro rata allocation of Rentable Area within the Project which is not then utilized or expected to be utilized exclusively by Tenant or other tenants of the Project, including but not limited to the portions of the Building devoted to columns, projections, vertical penetrations, entrance ways, lobbies, corridors, equipment rooms, rest rooms, lunch rooms, conference rooms, library, and fitness center. If the Premises are separated from space occupied by another tenant, the Rentable Area shall be measured to the center of any interior demising walls.

8.3 The Rentable Area as set forth in Section 2.1.1 is an estimate of the area which constitutes the Rentable Area of the Premises, which, at the request of either Landlord or Tenant made within ninety (90) days after the Term Commencement Date, shall be adjusted in accordance with measurement and certification of the Project architect. If the Rentable Area as determined hereunder is more or less than the Rentable Area set forth in Section 2.1.1, Basic Annual Rent, monthly installments of Basic Annual Rent, and Tenant's Pro Rata Share of Operating Expenses shall be adjusted upward or downward, as the case may be, based on the actual Rentable Area of the Premises.

9. Security Deposit.

9.1 Concurrently with the execution of this Lease, Tenant shall deposit with Landlord a cash in the amount set forth in Section 2.1.6, to be held by Landlord as security for the faithful performance by Tenant of all of the terms, covenants, and conditions of this Lease to be kept and performed by Tenant during the term and any extension term hereof. If Tenant

defaults with respect to any provision of this Lease, including but not limited to any provision relating to the payment of Rent, and subject to any notice requirements and cure periods for Tenant's benefit set forth in Article 24, Landlord may (but shall not be required to) draw from the security deposit the amount required to cure the default, and to use, apply or retain the security deposit for the payment of any Rent or any other sum in default, or to compensate Landlord for any other loss or damage which Landlord may suffer by reason of Tenant's default. The security deposit shall not be deemed to be held by Landlord in trust, need not be segregated from other fluids of Landlord, and shall not bear interest. Landlord is hereby granted a security interest in the security deposit pursuant to the provisions of the California Commercial Code, which security interest shall be perfected by Landlord taking possession of the security deposit.

9.2 In the event Landlord applies any portion of the security deposit in accordance with the terms of this Lease, Tenant shall within ten (10) days after another request therefor replenish the security deposit to the full amount set forth above.

9.3 The security deposit shall be transferable by Landlord to a successor Landlord and to Landlord's mortgage lender which is a beneficiary of a deed of trust encumbering the Premises, provided such lender agrees to hold the security deposit pursuant to the terms of this Lease.

9.4 In the event of bankruptcy or other debtor/creditor proceedings against Tenant, the security deposit shall be deemed to be applied first to the payment of Rent and other charges due Landlord for all periods prior to the filing of such proceedings.

9.5 Landlord shall deliver the security deposit to any purchaser of Landlord's interest in the Premises, and thereupon Landlord shall be discharged from any further liability with respect thereto provided that such purchaser has agreed to assume in writing the obligations of Landlord hereunder. This provision shall also apply to any subsequent transfers.

9.6 The security deposit shall be returned to Tenant within thirty (30) days following the later of the expiration of the Lease or the date Tenant fully vacates the Premises, except for amounts which are needed by Landlord to cure any default by Tenant.

10. Use.

10.1 Tenant may use the Premises only for laboratory research and development and related administrative, office and other ancillary uses as permitted by (i) the applicable zone under the City of San Diego Land Development Code, (ii) any other laws, regulations, ordinances, and permits applicable to the Project, and (iii) all covenants, conditions and restrictions recorded against the property, and shall not use the Premises, or permit or suffer the Premises to be used for any other purpose without the prior written consent of Landlord.

10.2 Tenant shall conduct its business operations and use the Premises in compliance with all federal, state, and local laws, regulations, ordinances, requirements, permits and approvals applicable to the Premises. Tenant shall not use or occupy the Premises in violation of any law or regulation or the certificate of occupancy issued for the Building, and

shall, upon five (5) days written notice from Landlord, discontinue any use of the Premises which is declared by any governmental authority having jurisdiction to be a violation of law or the certificate of occupancy. Tenant shall comply with any direction of any governmental authority having jurisdiction which shall, by reason of the nature of Tenant's use or occupancy of the Premises, impose any duty upon Tenant or Landlord with respect to the Premises or with respect to Tenant's particular use or occupation thereof. Tenant shall not be deemed to be in default of the foregoing obligation if it has the right to appeal such directive and Tenant prosecutes such appeal in a timely fashion and in a manner that does not impose or threaten to impose any lien, charge or other obligation on Landlord or any portion of the Project.

10.3 Tenant shall not do or permit to be done anything which will invalidate or increase the cost (unless Tenant agrees to pay such increased cost) of any fire, extended coverage or any other insurance policy covering the Premises, or which will make such insurance coverage unavailable on commercially reasonable terms and conditions, and shall comply with all rules, orders, regulations and requirements of the insurers of the Premises.

10.4 Subject to the warranty of Landlord in Section 14.3, Tenant shall cause the Premises to comply with the Americans with Disabilities Act of 1990 ("ADA"), and the regulations promulgated thereunder, as amended from time to time. All responsibility for compliance with the ADA relating to the Premises and the activities conducted by Tenant within the Premises after the Term Commencement Date shall be exclusively that of Tenant and not of Landlord, including any duty to make capital improvements, alterations, repairs and replacements to the Premises; provided, however, (i) Landlord shall be responsible for compliance with the ADA to the extent of a violation of Landlord's warranty in Section 14.3; (ii) Landlord shall make all improvements outside of the Premises required for compliance with the ADA (with only the amortized costs of capital improvements payable by Tenant as an Operating Expense under Section 7.1(b)); and (iii) neither Tenant nor Landlord shall be required to make capital improvements, alterations, repairs or replacements to comply with the ADA unless and until required to do so by order of a government entity or court of law exercising proper jurisdiction with regard thereto, subject to any right to appeal or otherwise contest any such order. Any alterations to the Premises made by Tenant for the purpose of complying with the ADA or which otherwise require compliance with the ADA shall be done in accordance with Article 17; provided, that Landlord's consent to such alterations shall not constitute either Landlord's assumption, in whole or in part, of Tenant's responsibility for compliance with the ADA, or representation or confirmation by Landlord that such alterations comply with the provisions of the ADA.

10.5 Tenant may install signage on and about the Premises to the extent permitted by, and in conformity with, applicable provisions of the City of San Diego Sign Ordinance, and to the extent approved by Landlord, which approval shall not be unreasonably withheld or delayed. Tenant acknowledges that it understands that other tenants will occupy space in the Project, and that the maximum allowable signage is to be shared among all of the tenants on a fair and reasonable basis. Tenant further acknowledges it is familiar with the restrictions of the City of San Diego Sign Ordinance, and is not relying on any representations or warranty of Landlord regarding the number, size or location of any signage. Notwithstanding the foregoing, subject to Landlord's reasonable approval and all applicable laws, Tenant shall be

entitled to display at least one exterior sign identifying Tenant near the entrance to the Building. The expense of design, permits, purchase and installation of any signs shall be the responsibility of Tenant and the cost thereof shall be borne by Tenant. At the termination of the Lease, all signs shall be the property of Tenant and may be removed from the Premises by Tenant, subject to the provisions of Article 36.

10.6 No equipment shall be placed at a location within the Building other than a location designed to carry the load of the equipment. Equipment weighing in excess of floor loading capacity shall not be placed in the Building.

10.7 Tenant shall not use or allow the Premises to be used for any unlawful purpose, nor shall Tenant cause, maintain or permit any nuisance or waste in, on, or about the Premises.

10.8 Landlord shall provide services to the Project described on Exhibit H attached hereto, subject to reimbursement by Tenant as Operating Expenses pursuant to Section 7.1(b).

11. Brokers.

11.1 Landlord and Tenant represent and warrant one to the other that there have been no dealings with any real estate broker or agent in connection with the negotiation of this Lease other than the brokers set forth in Section 2.1.9, whose commission(s) shall be paid by Landlord. Each shall indemnify, defend, protect, and hold harmless the other from any claim of any other broker as a result of any act or agreement of the indemnitor.

11.2 To the best of Tenant's knowledge, without investigation or inquiry, Tenant represents and warrants that no broker or agent has made any representation or warranty relied upon by Tenant in Tenant's decision to enter into this Lease other than as contained in this Lease.

12. Holding Over.

12.1 If, with Landlord's express written consent, Tenant holds possession of all or any part of the Premises after the expiration or earlier termination of this Lease, Tenant shall be deemed a tenant from month to month upon the date of such expiration or earlier termination, and in such case Tenant shall continue to pay in accordance with Article 5 the Basic Annual Rent as adjusted in accordance with Article 6, together with Operating Expenses in accordance with Article 7 and other Additional Rent as may be payable by Tenant, and such month-to-month tenancy shall be subject to every other term, covenant and condition contained herein.

12.2 If Tenant remains in possession of all or any portion of the Premises after the expiration or earlier termination of the term hereof without the express written consent of Landlord, Tenant shall become a tenant at sufferance upon the terms of this Lease except that monthly rental shall be equal to one hundred fifty percent (150%) of the Monthly Installment of Basic Annual Rent in effect during the immediately preceding calendar month.

12.3 Acceptance by Landlord of Rent after such expiration or earlier termination shall not result in a renewal or reinstatement of this Lease.

12.4 The foregoing provisions of this Article 12 are in addition to and do not affect Landlord's right to re-entry or any other rights of Landlord under Article 24 or elsewhere in this Lease or as otherwise provided by law.

13. Taxes on Tenant's Property

13.1 Tenant shall pay not less than ten (10) days before delinquency taxes levied against any personal property or trade fixtures placed by Tenant in or about the Premises. Tenant shall not be responsible for taxes levied against any personal property or trade fixtures of other tenants.

13.2 If any such taxes on Tenant's personal property or trade fixtures are levied against Landlord or Landlord's property or, if the assessed valuation of the Project is increased by the inclusion therein of a value attributable to Tenant's personal property or trade fixtures, and if Landlord after written notice to Tenant pays the taxes based upon such increase in the assessed value, then Tenant shall, within thirty (30) days of receipt of satisfactory evidence of such tax increase, repay to Landlord the taxes so levied against Landlord.

13.3 If any improvements in or alterations to the Premises, whether owned by Landlord or Tenant and whether or not affixed to the real property so as to become a part thereof, are assessed for real property tax purposes at a valuation higher than the valuation at which improvements in other spaces in the Project are assessed, then the real property taxes and assessments levied against Landlord or the Project by reason of such excess assessed valuation shall be deemed to be taxes levied against personal property to Tenant and shall be governed by the provisions of Section 13.2 above. Any such excess assessed valuation due to improvements in or alterations to space in the Project leased by other tenants of Landlord shall not be included in the Operating Expenses defined in Section 7, but shall be treated, as to such other tenants, as provided in this Section 13.3, and shall be allocated to such other tenants. If the records of the county assessor are available and sufficiently detailed to serve as a basis for determining whether said tenant improvements or alterations are assessed at a higher valuation than improvements in other spaces in the Project, such records shall be binding on both Landlord and Tenant.

13.4 To the extent Tenant fails to make any payment required by this Article 13 and Landlord does so on Tenant's behalf, after notice to Tenant and opportunity for Tenant to make such payment, Tenant shall reimburse Landlord for the cost thereof pursuant to the provisions of Sections 7.1 and 24.3.

14. Condition of Premises.

14.1 Tenant acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty, express or implied, with respect to the condition of the

Premises or to the Project, except as set forth herein, or with respect to their suitability for the conduct of Tenant's business.

14.2 Landlord warrants to Tenant that the Tenant Improvements will be built in a good and workmanlike manner and in compliance with Exhibit E and Exhibit F, and all applicable building code requirements, laws, rules, orders, ordinances, directions, regulations, permits, approvals, and requirements of all governmental agencies, offices, departments, bureaus and boards having jurisdiction, and with the rules, orders, directions, regulations, and requirements of any applicable fire rating bureau; that the mechanical, electrical, plumbing and other building systems will be in good working order at the commencement of the term; and that the Project and the Tenant Improvements will be free of patent and latent defects in design, materials and construction. Promptly after notice from Tenant, Landlord shall correct any defect in the Project or the Tenant Improvements in violation of the foregoing warranty which interferes with Tenant's use or occupancy of the Premises.

14.3 Landlord warrants to Tenant that the Project and the Tenant Improvements, at the time of initial completion, will be in compliance with ADA and the regulations promulgated thereunder; provided, however, nothing in this Lease shall be construed to require Landlord to make improvements, alterations, repairs or replacements to comply with ADA unless and until required to do so by order of any government entity or court of law exercising proper jurisdiction with regard thereto, subject to any right to appeal or otherwise contest any such order.

15. Common Areas and Parking Facilities.

15.1 Tenant shall have the nonexclusive right, in common with others, to use the Common Areas, subject to the rules and regulations adopted by Landlord and attached hereto as Exhibit G together with such other reasonable and nondiscriminatory rules and regulations as are hereafter promulgated by Landlord (the "Rules and Regulations"); provided, however, that such rules and regulations do not unreasonably interfere with Tenant's use and enjoyment of the Premises and Common Areas. Without limiting the generality of the foregoing, Tenant may allow its employees the nonexclusive right, in common with employees of other tenants in the Building, to use the fitness facilities and equipment, provided that Tenant ensures that each employee before using the fitness facilities and equipment has executed and delivered to Landlord a waiver of liability (the "Fitness Center Waiver of Liability") in the form attached hereto as Exhibit I.

15.2 Tenant shall not place any storage facilities or water systems, mechanical equipment, emergency generators or other facilities or property on the surface parking area or otherwise outside of the Premises without the express written consent of Landlord, and any space used for such facilities shall be deducted from Tenant's Pro Rata Share of parking described below.

15.3 As an appurtenance to the Premises, Tenant, and its employees and invitees, shall be entitled to use without charge three (3) parking spaces (which includes a prorata share of visitor and handicap parking spaces) for each 1,000 square feet of usable area of the

Premises in common with other tenants of the Project. The Project shall have at least three (3) parking spaces for each 1,000 square feet of usable area of the entire Project. The term "usable area" as used herein refers not to the Rentable Area of the Premises, but to the area actually occupied by Tenant.

16. Utilities and Services.

16.1 Tenant shall pay for all water, gas, electricity, telephone, cable, and other utilities which may be furnished to the Premises during the term of this Lease, together with any taxes thereon. If any such utility is not separately metered to Tenant, Tenant shall pay Tenant's Pro Rata Share of the costs thereof as an Operating Expense unless Landlord has installed separate meters or measuring devices for the determination of Tenant's actual use of such utility service. Utilities and services provided to the Premises which are separately metered shall be paid by Tenant directly to the supplier of such utility or service, and Tenant shall pay for such utilities and services prior to delinquency during the term of this Lease. In the event one tenant of the Project is using a disproportionate amount of any utility that is not separately metered, Landlord shall allocate an equitable portion of such utility cost directly to such tenant. The primary measurement for metering usage will be based upon the cubic feet per minute of air supplied to the premises.

16.2 Landlord shall not be liable for, nor shall any eviction of Tenant result from, any failure of any such utility or service, and in the event of such failure Tenant shall not be entitled to any abatement or reduction of Rent, nor be relieved from the operation of any covenant or agreement of this Lease, and Tenant waives any right to terminate this Lease on account thereof. Notwithstanding the foregoing:

(i) in the event that Landlord is unable to supply any of the Building's sanitary, electrical, heating, air conditioning, water, elevator, life safety or other essential systems serving the Premises (collectively, the "Essential Services") from a cause within Landlord's reasonable control, and such inability of Landlord materially impairs Tenant's ability to carry on its business in the Premises for a period of ten (10) consecutive calendar days, Basic Annual Rent and Additional Rent shall be abated commencing with the eleventh (11th) day of such material interference with Tenant's business, based upon the extent to which such inability to supply Essential Services materially impairs Tenant's ability to carry on its business in the Premises. Such abatement shall continue until the Essential Services have been restored to such extent that the lack of any remaining services no longer materially impairs Tenant's ability to carry on its business in the Premises. Tenant shall not be entitled to such an abatement to the extent that Landlord's inability to supply Essential Services to Tenant is caused by Tenant or its employees, contractors, agents, licensees or invitees; and

(ii) in the event that Landlord is unable to supply any Essential Services by reason of acts of God, accidents, breakage, repairs, strikes, lockouts, labor disputes, inability to obtain utilities or materials or by any other reason beyond Landlord's reasonable control, and (i) such inability of Landlord prevents Tenant from carrying on its business in the Premises for a period of thirty (30) consecutive calendar days or (ii) such inability of Landlord materially impairs Tenant's ability to carry on its business in the Premises for a period of sixty

(60) consecutive calendar days, then Basic Annual Rent and Additional Rent shall be abated commencing with the day after such thirty (30) or sixty (60) day period, as the case may be, based upon the extent to which such inability to supply Essential Services materially impairs Tenant's ability to carry on its business in the Premises. Such abatement shall continue until the Essential Services have been restored to the extent that the lack of any remaining services no longer materially impairs Tenant's ability to carry on its business in the Premises. Tenant shall not be entitled to such an abatement to the extent that Landlord's inability to supply Essential Services to Tenant is caused by Tenant or its employees, contractors, agents, licensees or invitees; and

(iii) in the event of any stoppage or interruption of Essential Services to the Premises, Landlord shall use commercially reasonable efforts to restore Essential Services to the Premises as soon as possible; provided, that Tenant shall have the right, at its option, to terminate this Lease by written notice to Landlord if such failure to provide Essential Services by Landlord continues for any reason (other than the actions of Tenant or its employees, contractors, agents, licensees or invitees) for more than one hundred eighty (180) consecutive calendar days and such failure materially impairs Tenant's ability to carry on its business in the Premises.

16.3 Tenant shall provide and pay for janitors, maintenance personnel, and other persons who perform duties connected with the operation and maintenance of the interior of the Premises.

17. Alterations.

17.1 Tenant shall make no alterations, additions or improvements (hereinafter in this article, "Improvements") in or to the Premises without Landlord's prior written consent, which shall not be unreasonably withheld; provided, however, it shall not be unreasonable for Landlord to withhold consent if the proposed Improvements would in the opinion of Landlord adversely affect the use of the Premises for generic laboratory-based research and development space as part of an integrated Building plan after the expiration or earlier termination of this Lease. Tenant shall deliver to Landlord final plans and specifications and working drawings for the Improvements to Landlord, and Landlord shall have ten (10) days thereafter to grant or withhold its consent. If Landlord does not notify Tenant of its decision within the ten (10) days, Landlord shall be deemed to have given its approval.

17.2 If a permit is required to construct the Improvements, Tenant shall deliver a completed, signed-off inspection card to Landlord within ten (10) days of completion of the Improvements, and shall promptly thereafter obtain and record a notice of completion and deliver a copy thereof to Landlord.

17.3 The Improvements shall be constructed only by licensed contractors or mechanics. Tenant shall use only those contractors listed on Exhibit H for the trades listed thereon; all other contractors shall be approved by Landlord, which approval shall not be unreasonably withheld or delayed. Any such contractor must have in force a general liability insurance policy of not less than $2,000,000 or such higher limits as Landlord may reasonably require, which policy of insurance shall name Landlord as an additional insured. Tenant shall

provide Landlord with a copy of the contract with the contractor or mechanic prior to the commencement of any construction requiring Landlord's consent.

17.4 Tenant agrees that any work by Tenant shall be accomplished in such a manner as to permit any fire sprinkler system and fire water supply lines to remain fully operable at all times except when minimally necessary for building reconfiguration work.

17.5 Tenant covenants and agrees that all work done by Tenant shall be performed in full compliance with all laws, rules, orders, ordinances, directions, regulations, permits, approvals, and requirements of all governmental agencies, offices, departments, bureaus and boards having jurisdiction, and in full compliance with the rules, orders, directions, regulations, and requirements of any applicable fire rating bureau. Tenant shall provide Landlord with "as-built" plans showing any material change in the Premises within thirty (30) days after completion.

17.6 Before commencing any work, Tenant shall give Landlord at least five (5) days' prior written notice of the proposed commencement of such work.

17.7 At the time Landlord consents to the Improvements pursuant to Section 17.1, Landlord shall identify those Improvements which Tenant shall be required to remove upon the expiration or earlier termination of the Lease, and Landlord and Tenant shall mutually identify those Improvements which Tenant may remove upon the expiration or earlier termination of this Lease. Landlord and Tenant shall list any such Improvements on Schedule 1 attached hereto, designating those which Tenant shall be required to remove and those which Tenant may remove. With respect to those Improvements not so identified, Landlord and Tenant acknowledge and agree that Landlord's approval of the final plans and specifications and working drawings for the Improvements pursuant to Section 17.1 shall be deemed Landlord's and Tenant's agreement that those Improvements not so identified shall become the property of Landlord upon the expiration or earlier termination of this Lease, and shall remain upon and be surrendered with the Premises as a part thereof. Those Improvements identified as Improvements which Tenant may remove are included within the term "Tenant's Removable Property" defined in Section 30.3. Notwithstanding the provisions of Section 30.3, Tenant shall, at Landlord's election, upon the expiration or earlier termination of this Lease, remove the Improvements which are identified as Improvements which Tenant shall be required to remove, and restore and return the Premises to the condition they were in when first occupied by Tenant.

18. Repairs and Maintenance.

18.1 Landlord shall repair, replace and maintain the structural and exterior portions of the Building and Project, including foundations, exterior walls, load bearing walls, windows, plate glass, and roofing, and the mechanical, electrical, plumbing, fire sprinkler, and elevator systems of the Project, subject to reimbursement by Tenant as its Pro Rata Share of Operating Expenses to the extent provided by Section 7.1. However, if such maintenance or repairs are required because of any act, neglect, fault of or omissions of any duty by Tenant, its agents, servants, employees or invitees, Tenant shall pay to Landlord the entire cost of such

maintenance and repairs attributable to Tenant's act, neglect, fault or omission, unless such maintenance and repairs are covered by insurance carried by Landlord.

18.2 Except as otherwise set forth in Section 18.1, Tenant shall, throughout the term of this Lease, at Tenant's sole cost and expense, keep the Premises and every part thereof in good condition and repair. Tenant shall upon the expiration or earlier termination of the term hereof surrender the Premises to Landlord in the same condition as when received, ordinary wear and tear and damage from casualty and causes beyond the reasonable control of Tenant excepted.

18.3 Tenant hereby waives Civil Code Sections 1941 and 1942 relating to a landlord's duty to maintain the Premises in a tenantable condition, and the under said sections or under any law, statute or ordinance now or hereafter in effect to make repairs at Landlord's expense.

18.4 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 Premises, or in or to improvements, fixtures, equipment and personal property therein, unless such injury or interference is unreasonable or is the result of Landlord's grossly negligent or willful act or omission. If repairs or replacements become necessary which by the terms of this Lease are the responsibility of Tenant and Tenant fails to make the repairs or replacements, after notice from Landlord and opportunity for Tenant to make such repairs or replacements, Landlord may do so pursuant to the provisions of Section 24.3.

18.5 Notwithstanding any of the foregoing, in the event of a fire, earthquake, flood, war or other similar cause of damage or destruction, this Article shall not be applicable and the provisions of Article 22, entitled "Damage or Destruction," shall apply and control.

19. Liens.

19.1 Tenant shall keep the Premises, the Building and the property upon which the Building is situated free from any liens arising out of work performed, materials furnished or obligations incurred by Tenant. Tenant further covenants and agrees that any mechanic's lien filed against the Project or the Premises for work claimed to have been done for, or materials claimed to have been furnished to, Tenant will be discharged by Tenant, by bond or otherwise, within thirty (30) days after the filing thereof (or within ten (10) days after the filing thereof if requested by Landlord as necessary to facilitate a pending sale or refinancing), at the cost and expense of Tenant.

19.2 Should Tenant fail to discharge any lien of the nature described in Section 19.1, Landlord may at Landlord's election pay such claim or post a bond or otherwise provide security to eliminate the lien as a claim against tide and the cost thereof shall be immediately due from Tenant as Additional Rent.

19.3 In the event Tenant shall lease or finance the acquisition of equipment, furnishings, or other personal property utilized by Tenant in the operation of Tenant's business,

Tenant warrants that any Uniform Commercial Code financing statement executed by Tenant will upon its face or by exhibit thereto indicate that such financing statement is applicable only to personal property of Tenant specifically described in the financing statement. In no event shall the address of the Building be furnished on the financing statement without qualifying language as to applicability of the lien only to removable property of Tenant described in the financing statement. Should any holder of a security agreement executed by Tenant record or place of record a financing statement which appears to constitute a lien against any interest of Landlord, Tenant shall within ten (10) days after the filing of such financing statement cause (i) copies of the security agreement or other documents to which the financing statement pertains to be furnished to Landlord to facilitate Landlord's being in a position to show such lien is not applicable to any interest of Landlord, and (ii) the holder of the security interest to amend documents of record so as to clarify that such lien is not applicable to any interest of Landlord in the Premises. Landlord shall execute such documents as are reasonably required by Tenant or Tenant's lenders or equipment lessors provided the same do not in any way alter the rights of Landlord under this Lease.

20. Indemnification and Exculpation.

20.1 Except to the extent of the responsibility of Landlord pursuant to Section 20.2 hereof, Tenant agrees to indemnify Landlord and its members and affiliates, and their respective shareholders, directors, managers, members, partners, lenders, officers, agents, and employees (collectively, "Landlord's Agents"), against, and to protect, defend, and save them harmless from, all demands, claims, causes of action, liabilities, losses and judgments, and all reasonable expenses incurred in investigating or resisting the same (including reasonable attorneys' fees), for death of or injury to person or damage to property arising out of (i) any occurrence in, upon or about the Premises during the term of this Lease, (ii) Tenant's use, occupancy, repairs, maintenance, and improvements of the Premises and all improvements, fixtures, equipment and personal property thereon, and (iii) any act or omission of Tenant, its shareholders, directors, officers, agents, employees, servants, contractors, invitees and subtenants, except to the extent caused by the negligence or willful misconduct of Landlord or Landlord's Agents. Tenant's obligation under this Section 20.1 shall survive the expiration or earlier termination of the term of this Lease.

20.2 Landlord agrees to indemnify Tenant and Tenant's shareholders, directors, managers, members, partners, lenders, affiliates, officers, agents, and employees (collectively "Tenant's Agents") against and save them harmless from all demands, claims, causes of action and judgments, and all reasonable expenses incurred in investigating or resisting the same (including reasonable attorneys' fees), for death of, or injury to, any person or damage to property arising from or out of any occurrence in, upon, or about the Premises during the term of this Lease to the extent caused by the negligence or willful misconduct of Landlord or Landlord's Agents. Landlord's obligations under this Section 20.2 shall survive the expiration or earlier termination of the term of this Lease.

20.3 Notwithstanding any provision of this Article 20 to the contrary, Landlord shall not be liable to Tenant and Tenant assumes all risk of damage to and loss of any fixtures, goods, inventory, merchandise, equipment, records, research, experiments, animals and other

living organisms, computer hardware and software, leasehold improvements, and other personal property of any nature whatsoever, and Landlord shall not be liable for injury to Tenant's business or any loss of income therefrom relative to such damage. Tenant acknowledges that it is Tenant's obligation to procure insurance against any such damages or loss pursuant to Section 21.4, and that it would be impractical for Landlord to procure any such insurance in that the nature of Tenant's business makes the risks uncertain and difficult to underwrite and the potential risks are greater than Landlord is willing to assume. Therefore, regardless of the fault of Landlord, Landlord shall not be liable for any such damage or loss.

20.4 The indemnity obligations of both Landlord and Tenant under this Section 20 shall be satisfied to the extent of proceeds of applicable insurance maintained by the indemnifying party to the extent thereof, and thereafter to proceeds of any applicable insurance maintained by the other party; Landlord and Tenant shall be required to satisfy any such obligation only to the extent it is not satisfied by proceeds of applicable insurance as set forth above.

20.5 Security devices and services, if any, while intended to deter crime may not in given instances prevent theft or other criminal acts of third parties and it is agreed that Landlord shall not be liable for injuries or losses caused by criminal acts of third parties and the risk that any security device or service may malfunction or otherwise be circumvented by a criminal is assumed by Tenant. Tenant shall at Tenant's cost obtain insurance coverage to the extent Tenant desires protection against such criminal acts.

20.6 Neither Landlord nor Tenant shall be liable to the other for any damages arising from any act or neglect of any other tenant or occupant of the Building or Project.

21. Insurance—Waiver of Subrogation.

21.1 Commencing prior to Tenant's first entry onto the Premises for purposes of installing any improvements, fixtures or personal property, but no later than the Term Commencement Date, and continuing at all times during the term of this Lease, Tenant shall maintain, at Tenant's expense, commercial general liability insurance, on an occurrence basis, insuring Tenant and Tenant's agents, employees and independent contractors against all bodily injury, property damage, personal injury and other covered loss arising out of the use, occupancy, improvement and maintenance of the Premises and the business operated by Tenant, or any other occupant, on the Premises. Such insurance shall have a minimum combined single limit of liability per occurrence of not less than $2,000,000 and a general aggregate limit of $4,000,000. Such insurance shall: (i) name Landlord, and Landlord's lenders if required by such lenders, and any management company retained to manage the Project if requested by Landlord, as additional insureds; (ii) include a broad form contractual liability endorsement insuring Tenant's indemnity obligations under Section 20.1; (iii) provide that it is primary coverage and noncontributing with any insurance maintained by Landlord or Landlord's lenders, which shall be excess insurance with respect only to losses arising out of Tenant's negligence; and (iv) provide for severability of interests or include a cross-liability endorsement, such that an act or omission of an insured shall not reduce or avoid coverage of other insureds.

21.2 At all times during the term of this Lease, Landlord shall maintain, subject to reimbursement by Tenant as an Operating Expense under Section 7.1(b), “all risk” insurance, including, but not limited to, coverage against loss or damage by fire, vandalism, and malicious mischief covering the Project (exclusive of excavations, foundations and footings, and including the Tenant Improvements), in an amount equal to one hundred percent (100%) of the full replacement value thereof. If any boilers or other pressure vessels or systems are installed on the Premises, Landlord shall maintain, subject to reimbursement by Tenant as an Operating Expense under Section 7.1(b), boiler and machinery insurance in an amount equal to one hundred percent (100%) of the full replacement value thereof. The insurance described in this Section 21.2 shall: (i) insure Landlord, and Landlord’s lenders if required by such lenders, as their interests may appear; (ii) contain a Lender’s Loss Payable Form (Form 438 BFU or equivalent) in favor of Landlord’s lenders and name Landlord, or Landlord’s lender if required by such lender, as the loss payee; (iii) provide for severability of interests or include a cross-liability endorsement, such that an act or omission of an insured shall not reduce or avoid coverage of other insureds; and (iv) provide that it is primary coverage and non-contributing with any insurance maintained by Landlord or Landlord’s lenders, which shall be excess insurance. The full replacement value of the Project, including the Tenant Improvements and other improvements and fixtures insured thereunder, shall, for the purpose of establishing insurance limits and premiums only, be determined by the company issuing the insurance policy and shall be redetermined by said company within six (6) months after completion of any material alterations or improvements to the Premises and otherwise at intervals of not more than three (3) years. Landlord shall promptly increase the amount of the insurance carried pursuant to this Section 21.2 to the amount so redetermined. The proceeds of the insurance described in this Section shall be used for the repair, replacement and restoration of the Project, including the Tenant Improvements and other improvements and fixtures insured thereunder, as further provided in Article 22; provided, however, if this Lease is terminated after damage or deduction, the insurance policy or policies, all rights thereunder and all insurance proceeds shall be assigned to Landlord.

21.3 At all times during this Lease, Landlord shall maintain, pursuant to requirements of its mortgage lender, subject to reimbursement by Tenant as an Operating Expense under Section 7.1(b), commercial general liability insurance, including coverage for death, bodily injury and broad form property damage, with a combined single limit in an amount of not less than $1,000,000 per occurrence and $2,000,000 in the aggregate; umbrella excess liability coverage with a limit of not less than $20,000,000 over primary insurance, which policy shall include coverage for water damage, assumed and contractual liability coverage, premises medical payment, and automobile liability; and rental and/or business interruption insurance to cover loss of income in an amount not less than eighteen (18) months’ projected receipts from the entire Project.

21.4 At all times during the term of this Lease, Tenant shall maintain, at Tenant’s expense, “all risk” insurance against all damage and loss to Tenant’s Removable Property, including but not limited to fixtures, goods, inventory, merchandise, equipment, records, research, experiments, animals and other living organisms, computer hardware and software, leasehold improvements, and other personal property of any nature whatsoever of Tenant or any subtenant of Tenant that may be occupying the Premises, or any portion thereof, from time to time, in an amount equal to the full replacement value thereof. Notwithstanding

anything to the contrary contained here, Tenant shall be entitled to all proceeds from the insurance carried pursuant to this Section 21.4.

21.5 At all times during the term of this Lease, Tenant shall maintain workers' compensation insurance in accordance with California law, and employers' liability insurance with limits typical for companies similar to Tenant.

21.6 All of the policies of insurance referred to in this Article 21 shall be written by companies authorized to do business in California and having a policyholder rating of not less than AA (or its equivalent), or a lesser rating reasonably acceptable to Landlord, by a generally accepted insurance rating agency. Each insurer referred to in this Article 21 shall agree, by endorsement on the applicable policy or by independent instrument furnished to Landlord, that it will give Landlord, and Landlord's lenders if required by such lenders, at least ten (10) days' prior written notice by registered mail before the applicable policy shall be canceled for non-payment of premium, and thirty (30) days' prior written notice by registered mail before the applicable policy shall be canceled or altered in coverage, scope, amount or other material term for any other reason (although any failure of an insurer to give notice as provided herein shall not be a breach of this Lease by Tenant). No policy shall provide for a deductible amount in excess of $100,000, unless approved in advance in writing by Landlord, which approval shall not be unreasonably withheld or delayed. Tenant shall deliver to Landlord, and to Landlord's lenders if required by such lenders, copies of the insurance policies required to be carried by Tenant, certified by the insurer, or certificates evidencing such insurance policies, issued by the insurer, together with evidence of payment of the required premiums, prior to the required date for commencement of such coverage. At least thirty (30) days prior to expiration of any such policy, Tenant shall deliver to Landlord, and Landlord's lenders if required by such lenders, a certificate evidencing renewal, or a certified copy of a new policy or certificate evidencing the same, together with evidence of payment of the required premiums. If Tenant fails to provide to Landlord any such policy or certificate by the required date for commencement of coverage, or within fifteen (15) days prior to expiration of any policy, or to pay the premiums therefor when required, Landlord shall have the right, but not the obligation, to procure said insurance and pay the premiums therefor. Any premiums so paid by Landlord shall be repaid by Tenant to Landlord with the next due installment of rent, and failure to repay the same shall have the same consequences as failure to pay any installment of Rent.

21.7 Landlord may provide the property insurance required under this Article 21 pursuant to a so-called blanket policy or policies of property insurance maintained by Landlord.

21.8 Landlord and Tenant each hereby waive any and all rights of recovery against the other or against the officers, directors, members, managers, partners, employees, agents, and representatives of the other, on account of loss or damage to such waiving party or such waiving party's property or the property of others under its control, to the extent that such loss or damage is caused by or results from risks insured against under any insurance policy which insures such waiving party's property at the time of such loss or damage, which waiver shall continue in effect as long as the parties' respective insurers so permit. Any termination of such waiver shall be by written notice as hereinafter set forth. Prior to obtaining policies of

insurance required or permitted under this Lease, Landlord and Tenant shall give notice to the insurers that the foregoing mutual waiver is contained in this Lease, and each party shall use its best efforts to cause such insurer to approve such waiver in writing and to cause each insurance policy obtained by it to provide that the insurer waives all right of recovery by way of subrogation against the other party. If such written approval of such waiver of subrogation cannot be obtained from any insurer or is obtainable only upon payment of an additional premium which the party seeking to obtain the policy reasonably determines to be commercially unreasonable, the party seeking to obtain such policy shall notify the other thereof, and the latter shall have twenty (20) days thereafter to either: (i) identify other insurance companies reasonably satisfactory to the other party that will provide the written approval and waiver of subrogation; or (ii) agree to pay such additional premium. If neither (i) nor (ii) are done, the mutual waiver set forth above shall not be operative, and the party seeking to obtain the policy shall be relieved of the obligation to obtain the insurer's written approval and waiver of subrogation with respect to such policy during such time as such policy is not obtainable or is obtainable only upon payment of a commercially unreasonable additional premium as described above. If such policies shall at any subsequent time be obtainable or obtainable upon payment of a commercially reasonable additional premium, neither party shall be subsequently liable for failure to obtain such insurance until a reasonable time after notification thereof by the other party. If the release of either Landlord or Tenant, as set forth in the first sentence of this Section 21.8, shall contravene any law with respect to exculpatory agreements, the liability of the party in question shall be deemed not released but shall be secondary to the other's insurer.

22. Damage or Destruction.

22.1 In the event of damage to or destruction of all or any portion of the Project or the Premises or the improvements and fixtures thereon (collectively, "improvements") arising from a risk covered by the insurance described in Section 21.2, Landlord shall within a reasonable time commence and proceed diligently to repair, reconstruct and restore (collectively, "restore") the improvements to substantially the same condition as they were in immediately prior to the casualty. Tenant shall be responsible for its Pro Rata Share of insurance deductibles and for all costs of restoration in excess of insurance proceeds as Operating Expenses pursuant to the provisions of Article 7, provided, however, that any such costs which would be deemed of a "capital" nature under generally accepted accounting principles shall be amortized over the useful life of the repair or replacement as determined under Internal Revenue Service guidelines, and Tenant shall pay only that portion of the costs which are amortized over the balance of the term, payable at the time the costs are incurred to the extent Tenant's share of the costs are less than $1.75 per square foot of Rentable Area of the Premises, with the balance payable on a monthly basis during the balance of the term. In no event shall Tenant be liable for costs of restoration to the extent the inadequacy of insurance proceeds is due to Landlord's failure to carry the insurance required to be carried by Landlord pursuant to the terms of this Lease.

22.2 In the event of any damage to or destruction of all or any portion of the improvements arising from a risk which is not covered by the insurance required to be carried by Landlord pursuant to Section 21.2, Landlord may elect at its cost to restore the improvements, in which event Landlord shall, within a reasonable time, commence and proceed diligently to restore the improvements to substantially the same condition as they were in immediately prior

to the casualty. In the event Landlord elects not to restore the improvements, this Lease shall terminate as of the date of the damage or destruction unless Tenant elects to pay the full cost of restoration.

22.3 In the event the improvements are restored pursuant to Section 22.1 or Section 22.2, this Lease shall continue in full force and effect, notwithstanding such damage or destruction; provided, however, that if the damage or destruction (i) occurs during the last year of the term and the expense of restoration exceeds $500,000, or (ii) occurs at any other time and the expense of restoration (after application of insurance proceeds) exceeds $1,000,000, Landlord may at its election terminate the Lease unless Tenant elects to pay the full cost of restoration.

22.4 In satisfying its obligations under this Article 22, Landlord shall be not be required to fulfill its restoration responsibilities with improvements identical to those which were damaged or destroyed; rather, with the consent of Tenant, which consent will not be unreasonably withheld or delayed, Landlord may restore the damage or destruction with improvements reasonably equivalent or of reasonably equivalent value to those damaged or destroyed.

22.5 In the event of damage, destruction and/or restoration as herein provided, Tenant shall not be entitled to any compensation or damages occasioned by any such damage, destruction or restoration, but Tenant shall be entitled to an equitable abatement of rent in proportion to the extent the Premises are not usable by Tenant. Notwithstanding the foregoing, in the event restoration cannot reasonably be completed within six (6) months following the damage or destruction as estimated by Landlord's architect, Landlord will give notice thereof to Tenant within fifteen (15) days following such damage or destruction, and Tenant at its election may by written notice to Landlord terminate this Lease. In the event of such termination, Tenant shall have no responsibility for contributing to the expense of restoration.

22.6 Notwithstanding anything to the contrary contained in this Article, should Landlord be delayed or prevented from completing the restoration of the improvements after the occurrence of such damage or destruction by reason of acts of God, war, terrorism, government restrictions, inability to procure the necessary labor or materials, strikes, or other causes beyond the control of Landlord (but excluding economic conditions or financial inability to perform), the time for Landlord to commence or complete restoration shall be extended for the time reasonably required as a result of such event.

22.7 If an insured casualty occurs, Landlord shall make the loss adjustment with the insurance company for the insurance carried by Landlord.

22.8 Tenant waives the provisions of Civil Code Section 1932(2) and 1933(4) or any similar statute now existing or hereafter adopted governing destruction of the Premises, so that the parties' rights and obligations in the event of damage or destruction shall be governed by the provisions of this Lease.

23. Eminent Domain.

23.1 In the event the whole of the Project shall be taken for any public or quasi-public purpose by any lawful power or authority by exercise of the right of appropriation, condemnation or eminent domain, or sold to prevent such taking, Tenant or Landlord may terminate this Lease effective as of the date possession is required to be surrendered to said authority.

23.2 In the event of a partial taking of the Project for any public or quasi-public purpose by any lawful power or authority by exercise of right of appropriation, condemnation, or eminent domain, or sold to prevent such taking, then Landlord may elect to terminate this Lease if such taking is of a material nature such as to make it uneconomical to continue use of the unappropriated portions for the purposes for which they were intended, and Tenant may elect to terminate this Lease if such taking is of material detriment to, and substantially interferes with, Tenant's use and occupancy of the Premises. In no event shall this Lease be terminated when such a partial taking does not have a material adverse effect upon Landlord or Tenant or both. Termination by either party pursuant to this section shall be effective as of the date possession is required to be surrendered to said authority.

23.3 If upon any taking of the nature described in this Article 23 this Lease continues in effect, then Landlord shall promptly proceed to restore the remaining portion of the Project, including all improvements and fixtures located in the Premises, to substantially their same condition prior to such partial taking; provided, however, Landlord's obligation hereunder shall be limited to the amount of the condemnation proceeds. Basic Annual Rent shall be abated proportionately on the basis of the square feet of the Rentable Area of the Project or Premises taken.

24. Defaults and Remedies.

24.1 Late payment by Tenant to Landlord of Rent and other sums due will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult and impracticable to ascertain. Such costs include, but are not limited to, processing and accounting charges and late charges which may be imposed on Landlord by the terms of any mortgage or trust deed covering the Premises. Therefore, if any installment of Rent due from Tenant is not received by Landlord within ten (10) days of the date such payment is due, Tenant shall pay to Landlord an additional sum of five percent (5%) of the overdue rent as a late charge. The parties agree that this late charge represents a fair and reasonable estimate of the costs that Landlord will incur by reason of late payment by Tenant. In addition to the late charge, Rent not paid within thirty (30) days of the date such payment is due shall bear interest from thirty (30) days after the date due until paid at the rate of ten percent (10%) per annum.

24.2 No payment by Tenant or receipt by Landlord of a lesser amount than the rent payment herein stipulated shall be deemed to be other than on account of the rent, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other

remedy provided. If at any time a dispute shall arise as to any amount or sum of money to be paid by Tenant to Landlord, Tenant shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment, and there shall survive the right on the part of Tenant to institute suit for recovery of the payment paid under protest.

24.3 If Tenant fails to pay any sum of money (other than Basic Annual Rent) required to be paid by it hereunder, or shall fail to perform any other act on its part to be performed hereunder, Landlord may, without waiving or releasing Tenant from any obligations of Tenant, but shall not be obligated to, make such payment or perform such act; provided, that such failure by Tenant continued for ten (10) days after written notice from Landlord demanding performance by Tenant was delivered to Tenant, or resulted or could have resulted in a violation of law or the cancellation of an insurance policy maintained by Landlord. All sums so paid or incurred by Landlord, together with interest thereon, from the date such sums were paid or incurred, at the annual rate equal to ten percent (10%) per annum shall be payable to Landlord on demand as Additional Rent.

24.4 The occurrence of any one or more of the following events shall constitute a default hereunder by Tenant:

(a) The failure by Tenant to make any payment of Rent, as and when due, where such failure shall continue for a period of five (5) days, without the necessity of notice thereof from Landlord to Tenant;

(b) The failure by Tenant to observe or perform any obligation other than described in Section 24.4(a) to be performed by Tenant, where such failure shall continue for a period of thirty (30) days after written notice thereof from Landlord to Tenant; provided, however, that if the nature of Tenant's default is such that more than thirty (30) days are reasonably required to cure the default, then Tenant shall not be deemed to be in default if Tenant shall commence such cure within said thirty (30) day period and thereafter diligently prosecute the same to completion. Such notice shall be in lieu of, and not in addition to, any notice required under California Code of Civil Procedure Section 1161;

(c) Tenant makes an assignment for the benefit of creditors;

(d) A receiver, trustee or custodian is appointed to, or does, take title, possession or control of all, or substantially all, of Tenant's assets;

(d) An order for relief is entered against Tenant pursuant to a voluntary or involuntary proceeding commenced under any chapter of the Bankruptcy Code;

(e) Any involuntary petition is filed against the Tenant under any chapter of the Bankruptcy Code and is not dismissed within ninety (90) days; or

(f) Tenant's interest in this Lease is attached, executed upon, or otherwise judicially seized and such action is not released within ninety (90) days of the action.

Notices given under this Section shall specify the alleged default and shall demand that Tenant perform the provisions of this Lease or pay the Rent that is in arrears, as the case may be, within the applicable period of time, or quit the Premises. No such notice shall be deemed a forfeiture or a termination of this Lease unless Landlord elects otherwise in such notice, and in no event shall a forfeiture or termination occur without such written notice.

24.5 In the event of a default by Tenant, and at any time thereafter, and without limiting Landlord in the exercise of any right or remedy which Landlord may have, Landlord shall be entitled to terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In such event Landlord shall have the immediate right to re-enter and remove all persons and property, and such property may be removed and stored in a public warehouse or elsewhere at the cost of, and for the account of Tenant, all without service of notice and without being deemed guilty of trespass, or becoming liable for any loss or damage which may be occasioned thereby. In the event that Landlord shall elect to so terminate this Lease, then Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default, including:

(a) The worth at the time of award of any unpaid Rent which had been earned at the time of such termination; plus

(b) 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 rental loss which Tenant proves could have been reasonably avoided; plus

(c) 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 rental loss which Tenant proves could have been reasonably avoided; plus

(d) Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligation under this Lease or which in the ordinary course of things would be likely to result therefrom, including, but not limited to, the cost of restoring the Premises to the condition required under the terms of this Lease; plus

(e) At Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law.

As used in Subsections (a), (b) and (c), the "time of award" shall mean the date upon which the judgment in any action brought by Landlord against Tenant by reason of such default is entered or such earlier date as the court may determined. As used in Subsections (a) and (b), the "worth at the time of award" shall be computed by allowing interest at the rate specified in Section 24.1. As used in Subsection (c) above, the "worth at the time of award" shall be computed by taking the present value of such amount using the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percentage point.

24.6 In the event of a default by Tenant, and if Landlord does not elect to terminate this Lease as provided in Section 24.5 or otherwise terminate Tenant's right to possession of the Premises, Landlord shall have the remedy described in Section 1951.4 of the Civil Code. Landlord may continue this Lease in effect for so long as Landlord does not terminate Tenant's right to possession of the Premises, and may enforce all of its rights and remedies under the Lease, including the right from time to time to recover Rent as it becomes due under the Lease. At any time thereafter, Landlord may elect to terminate this Lease and to recover damages to which Landlord is entitled.

24.7 Notwithstanding anything herein to the contrary, Landlord's reentry to perform acts of maintenance or preservation of, or in connection with efforts to relet, the Premises, or any portion thereof, or the appointment of a receiver upon Landlord's initiative to protect Landlord's interest under this Lease, shall not terminate Tenant's right to possession of the Premises or any portion thereof and, until Landlord does elect to terminate this Lease, this Lease shall continue in full force and Landlord may pursue all its remedies hereunder, including, without limitation, the right to recover from Tenant as they become due hereunder all Rent and other charges required to be paid by Tenant under the terms of this Lease.

24.8 All rights, options, and remedies of Landlord contained in this Lease shall be construed and held to be nonexclusive and cumulative. Landlord shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law, whether or not stated in this Lease. No waiver of any default of Tenant hereunder shall be implied from any acceptance by Landlord of any rent or other payments due hereunder or by any omission by Landlord to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect defaults other than as specified in said waiver.

24.9 Termination of this Lease or Tenant's right to possession by Landlord shall not relieve Tenant from any liability to Landlord which has theretofore accrued or shall arise based upon events which occurred prior to the last to occur of (i) the date of Lease termination or (ii) the date possession of Premises is surrendered.

24.10 Landlord shall not be in default unless Landlord fails to perform obligations required of Landlord within a reasonable time, but in no event later than thirty (30) days after written notice by Tenant specifying wherein Landlord has failed to perform such obligation; provided, however, that if the nature of Landlord's obligation is such that more than thirty (30) days are required for performance, then Landlord shall not be in default if Landlord commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion.

24.11 In the event of any default on the part of Landlord, Tenant will give notice by registered or certified mail to any beneficiary of a deed of trust or mortgagee of a mortgage covering the Premises whose address shall have been furnished to Tenant, and shall offer such beneficiary and/or mortgagee a reasonable opportunity to cure the default, but in no event less than thirty (30) days after the notice is given or thirty (30) days beyond any applicable cure period given to Landlord in this Article 24, whichever is later.

25. Assignment or Subletting.

25.1 Except as hereinafter provided, Tenant shall not, either voluntarily or by operation of law, sell, assign, hypothecate or transfer this Lease, or sublet the Premises or any part thereof, or permit or suffer the Premises or any part thereof to be used or occupied as work space, storage space, concession or otherwise by anyone other than Tenant or Tenant's employees, without the prior written consent of Landlord in each instance, which consent shall not be unreasonably withheld or delayed.

25.2 If Tenant desires to assign this Lease to an entity into which Tenant is merged, with which Tenant is consolidated, or which acquires all or substantially all of the assets of Tenant, provided that the successor entity's net worth and liquid assets are equal or greater than Tenant's immediately prior to the assignment, and further provided that the assignee first executes, acknowledges and delivers to Landlord an agreement whereby the assignee agrees to be bound by all of the covenants and agreements in this Lease arising after the effective date of the transfer, then Landlord upon receipt of proof of foregoing, will consent to the assignment; provided however, Landlord's consent shall not be required if such transfers occur in a public stock exchange.

25.3 In the event Tenant desires to assign, hypothecate or otherwise transfer this Lease or sublet the Premises or any part thereof to a transferee other than one set forth in Section 25.2, then at least ten (10) days, but not more than forty-five (45) days, prior to the date when Tenant desires the assignment or sublease to be effective (the "Assignment Date"), Tenant shall give Landlord a notice (the "Assignment Notice") which shall set forth the name, address and business of the proposed assignee or sublessee, information (including references and financial statements) concerning the reputation and financial ability of the proposed assignee or sublessee, the Assignment Date, any ownership or commercial relationship between Tenant and the proposed assignee or sublessee, and the consideration and all other material terms and conditions of the proposed assignment or sublease, all in such detail as Landlord shall reasonably require.

25.4 Landlord in making its determination as to whether consent should be given to a proposed assignment or sublease, may give consideration to (i) the financial strength of such successor (but may not withhold consent on this ground if the successor's net worth and liquid assets are equal to or greater than Tenant's immediately prior to the assignment), notwithstanding the assignor remaining liable for Tenant's performance, (ii) any use which such successor proposes to make of the Premises, and (iii) whether the proposed assignee or sublessee represents a potential risk of compromise of trade secrets of another tenant of the Project. If Landlord fails to deliver written notice of its determination to Tenant within fifteen (15) days following receipt of the Assignment Notice and the information required under Section 25.4, Landlord shall be deemed to have approved the request. As a condition to any assignment Or sublease to which Landlord has given consent, any such assignee or sublessee must execute, acknowledge and deliver to Landlord an agreement whereby the assignee or sublessee agrees to be bound by all of the covenants and agreements in this Lease.

25.5 Any sale, assignment, hypothecation or transfer of this Lease or subletting of Premises that is not in compliance with the provisions of this Article 25 shall be void.

25.6 The consent by Landlord to an assignment or subletting shall not relieve Tenant or any assignee of this Lease or sublessee of the Premises from obtaining the consent of Landlord to any further assignment or subletting or as releasing Tenant or any assignee or sublessee of Tenant from full and primary liability.

25.7 If Tenant shall sublet the Premises or any part thereof, Tenant hereby immediately and irrevocably assigns to Landlord, as security for Tenant's obligations under this Lease, all rent from any subletting of all or a part of the Premises, and Landlord as assignee of Tenant, or a receiver for Tenant appointed on Landlord's application, may collect such rent and apply it toward Tenant's obligations under this Lease; except that, until the occurrence of an act of default by Tenant, Tenant shall have the right to collect such rent. Furthermore, Tenant hereby immediately and irrevocably assigns to Landlord, as security for Tenant's obligations under this Lease, any security deposit received from the subtenant, which Landlord shall hold pursuant to the terms of the sublease. The security deposit shall be transferable by Landlord to a successor Landlord and to Landlord's mortgage lender which is the beneficiary of a deed of trust encumbering the Premises, provided such lender agrees to hold the security deposit pursuant to the terms of the sublease and this Lease.

25.8 Notwithstanding any subletting or assignment Tenant shall remain fully and primarily liable for the payment of all Rent and other sums due, or to become due hereunder, and for the full performance of all other terms, conditions, and covenants to be kept and performed by Tenant. The acceptance of rent or any other sum due hereunder, or the acceptance of performance of any other term, covenant, or condition hereof, from any other person or entity shall not be deemed to be a waiver of any of the provisions of this Lease or a consent to any subletting or assignment of the Premises. Landlord shall not withhold consent to an assignment back to the original Tenant hereunder from a subsequent assignee.

25.9 Any sublease of the Premises shall be subject and subordinate to the provisions of this Lease, shall not extend beyond the term of this Lease, and shall provide that the sublessee shall attorn to Landlord, at Landlord's sole option, in the event of the termination of this Lease. Landlord and any lender shall upon Tenant's request provide any sublessee of the entirety of the Premises with a recognition and nondisturbance agreement in the form described in Article 35 on the condition that the sublessee agrees to attorn to Landlord on exactly the same terms and conditions as this Lease. Any assignment of the Lease or sublease of the Premises shall provide that the assignee or sublessee shall provide financial statements to Landlord as reasonably required by present and prospective lenders and purchasers of the Project.

25.10 In the event Tenant assigns, hypothecates or otherwise transfers this Lease or sublets the Premises, Tenant shall pay to Landlord, as Additional Rent, fifty percent (50%) of the rent and other consideration received from the transferee during the term of this Lease in excess of Rent payable to Landlord under this Lease, after Tenant has recouped any reasonable commissions and legal expenses occasioned by such transfer and payable to third parties.

25.11 Notwithstanding any of the foregoing provisions to the contrary, in the event Tenant desires to assign this Sublease or sublet the entire Premises to a transferee other than to a transferee describe in Section 25.2, Landlord may elect to terminate this Lease by written notice given by Landlord to Tenant within fifteen (15) days following receipt of the Assignment Notice and the information required under Section 25.3.

26. Attorneys' Fees.

26.1 If either party commences an action or proceeding against the other party arising out of or in connection with this Lease, including any arbitration proceeding, the prevailing party shall be entitled to have and recover from the other party reasonable attorneys' fees, expert witness fees and costs of suit.

27. Bankruptcy.

27.1 In the event a debtor, trustee, or debtor-in-possession under the Bankruptcy Code, or other person with similar rights, duties and powers under any other law, proposes to cure any default under this Lease or to assume or assign this Lease, and is obliged to provide adequate assurance to Landlord that (i) a default will be cured, (ii) Landlord will be compensated for its damages arising from any breach of this Lease, or (iii) future performance under this Lease will occur, then adequate assurance shall include any or all of the following, as determined by the Bankruptcy Court: (a) those acts specified in the Bankruptcy Code or other law as included within the meaning of adequate assurance; (b) a cash payment to compensate Landlord for any monetary defaults or damages arising from a breach of this Lease; (c) the credit worthiness and desirability, as a tenant, of the person assuming this Lease or receiving an assignment of this Lease, at least equal to Landlord's customary and usual credit worthiness requirements and desirability standards in effect at the time of the assumption or assignment, as determined by the Bankruptcy Court; and (d) the assumption or assignment of all of Tenant's interest and obligations under this Lease.

28. Definition of Landlord.

28.1 The term "Landlord" as used in this Lease, so far as covenants or obligations on the part of Landlord are concerned, shall be limited to mean and include only Landlord or the successor-in-interest of Landlord under this Lease at the time in question. In the event of any transfer, assignment or conveyance of Landlord's title or leasehold, the Landlord herein named (and in case of any subsequent transfers or conveyances, the then grantor and any prior grantors) shall be automatically freed and relieved from and after the date of such transfer, assignment or conveyance of all liability for the performance of any covenants or obligations contained in this Lease thereafter to be performed by Landlord and, without further agreement, the transferee of such title or leasehold shall be deemed to have assumed and agreed to observe and perform any and all obligations of Landlord hereunder, during its ownership of the Premises. Landlord may transfer its interest in the Premises or this Lease without the consent of Tenant and such transfer or subsequent transfer shall not be deemed a violation on the part of Landlord or the then grantor of any of the terms or conditions of this Lease.

29. Estoppel Certificate.

29.1 Each party shall, within fifteen (15) days of written notice from the other party, execute, acknowledge and deliver to the other party a statement in writing on a form reasonably requested by a proposed lender, purchaser, assignee or subtenant (1) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease as so modified is in full force and effect) and the dates to which the rental and other charges are paid in advance, if any, (ii) acknowledging that there are not, to each party's knowledge, any uncured defaults on the part of Landlord or Tenant hereunder (or specifying such defaults if any are claimed) and (iii) setting forth such further information with respect to this Lease or the Premises as may be reasonably requested thereon. Any such statement may be relied upon by any prospective lender, purchaser, assignee or subtenant of all or any portion of the Premises.

30. Removal of Property.

30.1 Except as provided in Section 10.5 and in this Article 30, all fixtures and personal property owned by Tenant ("Tenant's Removable Property") shall be and remain the property of Tenant, and may be removed by Tenant at any time. Landlord waives any and all rights, title and interest Landlord now has, or hereafter may have, whether statutory or otherwise, in Tenant's Removable Property. At the expiration or earlier termination of this Lease, Tenant shall remove all Tenant's Removable Property in accordance with this Lease, unless Landlord shall have otherwise agreed in writing.

30.2 The Project, Building and Tenant Improvements, and all fixtures and personal property owned by Landlord, shall be and remain the property of Landlord, and shall, upon the expiration or earlier termination of this Lease, remain upon and be surrendered with the Premises as a part thereof

30.3 Notwithstanding Section 30.1, Tenant may not remove any property if such removal would cause material damage to the Premises, unless such damage can be and is repaired by Tenant. Furthermore, Tenant shall repair any damage to the Premises caused by Tenant's removal of any such property, and shall, prior to the expiration or earlier termination of this Lease, restore and return the Premises to the condition they were in when first occupied by Tenant, reasonable wear and tear excepted. At a minimum, even if they are determined to be fixtures or personal property owned by Tenant, and notwithstanding the provisions of Section 30.1, Tenant shall leave in place and repair any damage to the interior floors, walls, doors and ceilings of the Premises, all cabling and wiring in the Premises, and the heating, ventilation, air conditioning, plumbing, and electrical systems in the Premises; all such property shall become the property of Landlord upon the expiration or earlier termination of this Lease, and shall remain upon and be surrendered with the Premises as a part thereof. The provisions of Article 17 shall apply to any restoration work under this Article as if the restoration was an alteration, addition or improvement thereunder. Should Tenant require any period beyond the expiration or earlier termination of the Lease to complete such restoration, Tenant shall be a tenant at sufferance subject to the provisions of Section 12.2 hereof, unless tenant obtains Landlord's consent pursuant to Section 12.1 prior to the termination or earlier termination of the Lease.

30.4 If Tenant shall fail to remove any fixtures or personal property which it is entitled to remove under this Article 30 from the Premises prior to termination of this Lease, then Landlord may dispose of the property under the provisions of Section 1980 et seq. of the California Civil Code, as such provisions may be modified from time to time, or under any other applicable provisions of California law.

31. Limitation of Landlord's Liability.

31.1 If Landlord is in default of this Lease, and as a consequence, Tenant recovers a money judgment against Landlord, the judgment shall be satisfied only out of the proceeds of sale received on execution of the judgment and levy against the right, title, and interest of Landlord in the Project of which the Premises are a part, and out of rent or other income from the Project receivable by Landlord or out of the, consideration received by Landlord from the sale or other disposition of all or any part of Landlord's right, title, and interest in the Building and Project of which the Premises are a part.

31.2 Neither Landlord nor Landlord's Agents shall be personally liable for any deficiency except to the extent liability is based upon willful and intentional misconduct. If Landlord is a partnership or joint venture, the partners of such partnership shall not be personally liable and no partner of Landlord shall be sued or named as a party in any suit or action, or service of process be made against any partner of Landlord, except as may be necessary to secure jurisdiction of the partnership or joint venture or to the extent liability is caused by willful and intentional misconduct. If Landlord is a corporation, the shareholders, directors, officers, employees, and/or agents of such corporation shall not be personally liable and no shareholder, director, officer, employee, or agent of Landlord shall be sued or named as a party in any suit or action, or service of process be made against any shareholder, director, officer, employee, or agent of Landlord, except as may be necessary to secure jurisdiction of the corporation. If Landlord is a limited liability company, the members, managers, officers, employees, and/or agents of such limited liability company shall not be personally liable and no member, manager, officer, employee, or agent of Landlord shall be sued or named as a party in any suit or action, or service of process be made against any member, manager, officer, employee, or agent of Landlord, except as may be necessary to secure jurisdiction of the corporation. No partner, shareholder, director, member, manager, employee, or agent of Landlord shall be required to answer or otherwise plead to any service of process and no judgment will be taken or writ of execution levied against any partner, shareholder, director, member, manager, employee, or agent of Landlord.

31.3 Each of the covenants and agreements of this Article 31 shall be applicable to any covenant or agreement either expressly contained in this Lease or imposed by statute or by common law.

32. Control by Landlord.

32.1 Landlord reserves full control over the Project to the extent not inconsistent with Tenant's quiet enjoyment and use of Premises. This reservation includes the

right to establish ownership of the Building separate from fee title to the real property underlying the Building, to divide the Project into more than one lot, and to construct other buildings or improvements on the real property, provided Tenant's quiet enjoyment of the Premises is not affected. Tenant shall, should Landlord so request, promptly join with Landlord in execution of such documents as may be appropriate to assist Landlord to implement any such action provided Tenant need not execute any document which is of a nature wherein liability is created in Tenant or if by reason of the terms of such document Tenant will be deprived of the quiet enjoyment and use of the Premises as granted by this Lease.

32.2 Landlord reserves the right to enter the Premises, and to cause its contractors to enter the Premises, upon reasonable prior notice to Tenant, to maintain, repair or replace mechanical (HVAC), electrical, plumbing, sprinkler and other systems and equipment, and to install improvements, within the Premises or within adjoining premises (including access through the Premises to areas of the Building above and below the Premises). Tenant acknowledges that because of the design and configuration of the Building, and the nature of the Building as a multi-tenant biotech facility, that temporary access through the Premises to other areas of the Building will be reasonably necessary from time to time, and that such access may interfere with Tenant's quiet enjoyment of the Premises; provided, however, that such interference shall not materially interfere with Tenant's use and occupancy of the Premises. 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 to adjoining premises unless such injury or interference is unreasonable and is the result of Landlord's grossly negligent or willful act or omission.

33. Quiet Enjoyment.

33.1 So long as Tenant is not in default, Landlord covenants that Landlord or anyone acting through or under Landlord will not disturb Tenant's occupancy of the Premises except as permitted by the provisions of this Lease and that Landlord shall use reasonable efforts to enforce the lease obligations of tenants of the balance of the Building and Project to the extent they might otherwise disturb Tenant's occupancy.

34. Quitclaim Deed.

34.1 Tenant shall execute and deliver to Landlord on the expiration or termination of this Lease, immediately on Landlord's request, a quitclaim deed to the Premises and Project or other document in recordable form suitable to evidence of record termination of this Lease.

35. Subordination and Attornment.

35.1 This lease shall be subject to and subordinate to the lien of any mortgage or deed of trust now or hereafter in force against the Project and Building of which the Premises are a part, and to all advances made or hereafter to be made upon the security thereof without the necessity of the execution and delivery of any further instruments on the part of Tenant to effectuate such subordination. However, if any such mortgagee or beneficiary so elects at any

time prior to or following a default by Tenant, this Lease shall be deemed prior in lien to any such mortgage or deed of trust regardless of date and Tenant will execute a statement in writing to such effect at Landlord's request in a form reasonably satisfactory to Tenant

35.2 Notwithstanding the foregoing, Tenant shall execute and deliver upon demand such further instrument or instruments evidencing such subordination of this Lease to the lien of any such mortgage or deed of trust as may be required by Landlord, provided that the lienholder, beneficiary, or mortgagee concurrently therewith executes and delivers to Tenant a non-disturbance agreement in recordable form.

35.3 In the event any proceedings are brought for foreclosure, or in the event of the exercise of the power of sale under any mortgage or deed of trust made by the Landlord covering the Premises, the Tenant shall at the election of the purchaser at such foreclosure or sale attorn to the purchaser upon any such foreclosure or sale and recognize such purchaser as the Landlord under this Lease in accordance with the terms of the non-disturbance Agreement.

36. Surrender.

36.1 No surrender of possession of any part of the Premises shall release Tenant from any of its obligations hereunder unless accepted by Landlord.

36.2 The voluntary or other surrender of this Lease by Tenant shall not work a merger, unless Landlord consents, and shall, at the option of Landlord, operate as an assignment to it of any or all subleases or subtenancies.

37. Waiver and Modification.

37.1 No provision of this Lease may be modified, amended or added to except by an agreement in writing executed by Landlord and Tenant. The waiver by Landlord or Tenant of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained.

38. Waiver of Jury Trial.

38.1 The parties hereto shall and they hereby do waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matters whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises, and/or any claim of injury or damage.

39. Hazardous Material.

39.1 During the term, Tenant, at its sole cost, shall comply with all federal, state and local laws, statutes, ordinances, codes, regulations and orders relating to the receiving, handling, use, storage, accumulation, transportation, generation, spillage, migration, discharge,

release and disposal of Hazardous Material (as defined below) in or about the Premises. Tenant shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Premises by Tenant, its agents, employees, contractors, invitees or subtenants, in a manner or for a purpose prohibited by any federal, state or local agency or authority. The accumulation of Hazardous Material shall be in approved containers and removed from the Premises by duly licensed carriers.

39.2 Tenant shall immediately provide Landlord with telephonic notice, which shall promptly be confirmed by written notice, of any and all spillage, discharge, release and disposal of Hazardous Material onto or within the Premises, including the soils and subsurface waters thereof, which by law must be reported to any federal, state or local agency, and any injuries or damages resulting directly or indirectly therefrom. Further, Tenant shall deliver to Landlord each and every notice or order, when said order or notice identifies a violation which may have the potential to adversely impact the Premises, received from any federal, state or local agency concerning Hazardous Material and the possession, use and/or accumulation thereof promptly upon receipt of each such notice or order by Tenant. Landlord shall have the right, upon reasonable notice, to inspect and copy each and every notice or order received from any federal, state or local agency concerning Hazardous Material and the possession, use and/or accumulation thereof.

39.3 Tenant shall be responsible for and shall indemnify, protect, defend and hold harmless Landlord and Landlord's Agents from any and all liability, damages, injuries, causes of action, claims, judgments, costs, penalties, fines, losses, and expenses which arise during or after the term of this Lease and which result from Tenant's (or from Tenant's Agents, assignees, subtenants, employees, agents, contractors, licensees, or invitees) receiving, handling, use, storage, accumulation, transportation, generation, spillage, migration, discharge, release or disposal of Hazardous Material in, upon or about the Premises, including without limitation (i) diminution in value of the Premises or any portion of the Project, (ii) damages for the loss or restriction on use of any portion or amenity of the Premises or Project, (iii) damages arising from any adverse impact on marketing of space in the Premises or the Project, (iv) damages and the costs of remedial work to other property in the vicinity of the Project owned by Landlord or an affiliate of Landlord, and (v) reasonable consultant fees, expert fees, and attorneys' fees. Landlord shall be responsible for and shall indemnify, protect, defend and hold harmless Tenant on the same basis as above for any claims which result from Landlord's or from Landlord's Agents receiving, handling, use, storage, accumulation, transportation, generation, spillage, migration, discharge, release or disposal of Hazardous Material in, upon or about the Premises or any Hazardous Material at the Project existing prior to the Term Commencement Date.

39.4 The indemnification of Landlord and Landlord's Agents by Tenant pursuant to the preceding Section 39.3 includes, without limiting the generality of Section 39.3, reasonable costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in the soil, subsoil, ground water, or elsewhere on, under or about the Premises, or on, under or about any other property in the vicinity of the Project owned by Landlord or an affiliate of Landlord, to the extent caused by Tenant. Without limiting the foregoing, if the presence of any Hazardous Material on the

Premises caused or permitted by Tenant results in any contamination of the Premises, or underlying soil or groundwater, Tenant shall promptly take all actions at its sole expense as are necessary to return the Premises to that condition required by applicable law as applied by any government entity with proper jurisdiction with regard thereto, provided that Landlord's approval of such action shall first be obtained, which approval shall not be unreasonably withheld, except that Tenant shall not be required to obtain Landlord's prior approval of any action of an emergency nature reasonably required or any action mandated by a governmental authority, but Tenant shall give Landlord prompt notice thereof.

39.5 Landlord acknowledges that it is not the intent of this Article 39 to prohibit Tenant from operating its business as described in Article 10 or to unreasonably interfere with the operation of Tenant's business. Tenant may operate its business according to the custom of the industry so long as the use or presence of Hazardous Material is strictly and properly monitored according to all applicable governmental requirements. Any approval or consent required by this Section 39.5 shall not be unreasonably withheld, conditioned or delayed.

39.6 As a material inducement to Landlord to allow Tenant to use Hazardous Material in connection with its business, Tenant agrees to provide to Landlord a list identifying each type of Hazardous Material to be present in or about the Premises and setting forth all governmental approvals or permits required in connection with the presence of Hazardous Material in or about the Premises ("Hazardous Material Inventory"). Tenant shall deliver a Hazardous Material Inventory to Landlord no later than twenty (20) days (i) prior to the occupancy of any portion of the Premises or the placement of equipment anywhere on the. Project, (ii) prior to any increase in the types or amounts of Hazardous Material, (iii) after a request of Landlord reasonably required for purposes of monitoring the Project, and (iv) prior to the initiation by Tenant of any changes in the Premises or elsewhere on the Project which involve any increase in the types or amounts of Hazardous Material, and shall deliver a Hazardous Material Inventory to Landlord in any event annually no later than December 31 of each year. For each type of Hazardous Material listed, the Hazardous Material Inventory shall include the (i) chemical name; (ii) material state (solid, liquid, gas, cryogen); (iii) concentration; (iv) storage amount and storage condition (cabinets or no cabinets); (v) use amount and use condition (open use or closed use); (vi) location (room number/identification); and (vii) chemical abstract service (CAS) number, if known. In the event that Tenant's Hazardous Material Inventory indicates non-compliance with this Lease or applicable building and fire code requirements, Tenant shall at its expense diligently take steps to bring its storage and use of Hazardous Material into compliance.

39.7 Tenant further agrees to make available to Landlord, upon Landlord's reasonable request, true and correct copies of the following documents ("Hazardous Material Documents"): governmental approvals or permits required in connection with the presence of Hazardous Material on the Premises; a copy of the Hazardous Material business plan prepared pursuant to Health and Safety Code Section 25500 et seq.; documents relating to the handling, storage, disposal and emission of Hazardous Material, including: permits; approvals; reports and correspondence; notice of violations of any laws; plans relating to the installation of any storage tanks to be installed in or under the Premises (provided said installation of tanks shall be permitted only after Landlord has given Tenant its written consent to do so, which consent may

not be unreasonably withheld); and all closure plans or any other documents required by any and all federal, state and local governmental agencies and authorities for any storage tanks installed in, on or about the Premises for the closure of any such tanks. Tenant shall not be required, however, to provide Landlord with that portion of any document which contains information of a proprietary nature and which, in and of itself, does not contain a reference to any Hazardous Material which is not otherwise identified to Landlord in such documentation, unless any such Hazardous Material Document names Landlord as an "owner" or "operator" of the facility in which Tenant is conducting its business. It is not the intent of this subsection to provide Landlord with information which could be detrimental to Tenant's business should such information become possessed by Tenant's competitors. Landlord shall treat all information furnished by Tenant to Landlord pursuant to this Article 39 as confidential and shall not disclose such information to any person or entity, except as provided in this Article 39, without Tenant's prior written consent, which consent shall not be unreasonably withheld or delayed, except as required by law.

39.8 Notwithstanding other provisions of this Article 39, it shall be a default under this Lease, and Landlord shall have the right to terminate the Lease and/or pursue its other remedies under Article 24, in the event that (i) Tenant's use of the Premises for the generation, storage, use, treatment or disposal of Hazardous Material is in a manner or for a purpose prohibited by applicable law unless Tenant is diligently pursuing compliance with such law, (ii) Tenant has been required by any governmental authority to take remedial action in connection with Hazardous Material contaminating the Premises if the contamination resulted from Tenant's action or use of the Premises, unless Tenant is diligently pursuing compliance with such requirement, or (iii) Tenant is subject to an enforcement order issued by any governmental authority in connection with Tenant's use, disposal or storage of a Hazardous Material on the Premises, unless Tenant is diligently seeking compliance with such enforcement order.

39.9 Notwithstanding the provisions of Article 25, if any anticipated use of the Premises by a proposed assignee or subtenant involves the generation or storage, use, treatment or disposal of Hazardous Material and (i) the proposed assignee or sublessee has been required by any governmental authority to take remedial action in connection with Hazardous Material contaminating a property if the contamination resulted from such party's action or use of the property in question and has failed to take such action, or (ii) the proposed assignee or sublessee is subject to a final, unappealable enforcement order issued by any governmental authority in connection with such party's use, disposal or storage of Hazardous Material of a type such proposed assignee or sublessee intends to use in the Premises and shall have failed to comply with such order, it shall not be unreasonable for Landlord to withhold its consent to an assignment or subletting to such proposed assignee or sublessee.

39.10 Landlord represents that, to the best of its knowledge, as of the date of this Lease, there is no Hazardous Material on the Premises. Landlord shall provide Tenant with a current Phase I Environmental Site Assessment, and any current Phase II Environmental Site Assessment recommended therein, at the time of the completion of the current renovation of the Project to a biotech facility. Should the environmental site assessment(s) disclose the presence of Hazardous Material beyond legally permissible levels, Landlord shall correct the deficiencies to Tenant's reasonable satisfaction and shall cause updates to the environmental site

assessment(s) to be issued reflecting the remedy. The environmental site assessment(s) and all updates thereto are hereinafter referred to as the "Base Line Report," and shall be deemed conclusive as to the condition of the Premises, unless, within ninety (90) days of receipt, Tenant causes an inspection of its own to be conducted, which inspection discloses the presence of Hazardous Material materially different from that disclosed in the Base Line Report.

39.11 At any time prior to the expiration or earlier termination of the term of the Lease, Landlord shall have the right to enter upon the Premises, upon reasonable prior notice to Tenant, at all reasonable times and at reasonable intervals in order to conduct appropriate tests regarding the presence, use and storage of Hazardous Material, and to inspect Tenant's records with regard thereto. Tenant will pay the reasonable costs of any such test which demonstrates that contamination in excess of permissible levels has occurred and such contamination was caused by Tenant's use of the Premises during the term of the Lease. Tenant shall correct any deficiencies identified in any such tests in accordance with its obligations under this Article 39 to the extent the result of Tenant's use of the Premises during the term of this Lease.

39.12 Tenant shall at its own expense cause an environmental site assessment of the Premises to be conducted and a report thereof delivered to Landlord upon the expiration or earlier termination of the Lease, such report to be as complete and broad in scope as is necessary to identify any impact on the Premises Tenant's operations might have had (hereinafter referred to as the "Exit Report"). Tenant shall correct any deficiencies identified in the Exit Report in accordance with its obligations under this Article 39 prior to the expiration or earlier termination of this Lease. This Article 39 is the exclusive provision in this Lease regarding clean-up, repairs or maintenance arising from receiving, handling, use, storage, accumulation, transportation, generation, spillage, migration, discharge, release or disposal of Hazardous Material in, upon or about the Premises, and the provisions of Articles 7, 10, 18, and 20 shall not apply thereto.

39.13 Tenant's obligations under this Article 39 shall survive the termination of the Lease.

39.14 As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance which is (i) defined as a "hazardous waste," "extremely hazardous waste" or "restricted hazardous waste" under Sections 25515, 25117 or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law), (ii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 2, Chapter 6.8 (Carpenter-Presly-Tanner Hazardous Substance Account Act), (iii) defined as a "hazardous material, "hazardous substance" or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Substances), (v) petroleum, (vi) asbestos, (vii) listed under Article 9 and defined as hazardous or extremely hazardous pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20, (viii) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. Section 1317), (ix) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42

U.S.C. Section 6901, et. seq. (42 U.S.C. Section 6903), or (x) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. Section 9601 et. seq. (42 U.S.C. Section 9601).

40. Miscellaneous.

40.1 **Terms and Headings**. Where applicable in this Lease, the singular includes the plural and the masculine or neuter includes the masculine, feminine and neuter. The section headings of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part hereof.

40.2 **Examination of Lease**. Submission of this instrument for examination or signature by Tenant does not constitute a reservation of or option for lease, and it is not effective as a lease or otherwise until execution by and delivery to both Landlord and Tenant.

40.3 **Time**. Time is of the essence with respect to the performance of every provision of this Lease in which time of performance is a factor.

40.4 **Covenants and Conditions**. Each provision of this Lease performable by Tenant shall be deemed both a covenant and a condition.

40.5 **Consents**. Whenever consent or approval of either party is required, that party shall not unreasonably withhold or delay such consent or approval, except as may be expressly set forth to the contrary.

40.6 **Entire Agreement**. The terms of this Lease are intended by the parties as a final expression of their agreement with respect to the terms as are included herein, and may not be contradicted by evidence of any prior or contemporaneous agreement.

40.7 **Severability**. Any provision of this Lease which shall prove to be invalid, void, or illegal in no way affects, impairs or invalidates any other provision hereof, and such other provisions shall remain in full force and effect; provided, however, if the provisions of this Lease relating to Tenant's stated use of the Premises shall be determined by any government agency having jurisdiction to be invalid or unenforceable, this Lease, effective as of the date of such determination, shall be deemed to be void and of no further force and effect.

40.8 **Recording**. Either Landlord or Tenant may record a short form memorandum hereof, subject to the requirement to execute and deliver a quitclaim deed pursuant to the provisions of Section 34.1 hereof.

40.9 **Impartial Construction**. The language in all parts of this Lease shall be in all cases construed as a whole according to its fair meaning and not strictly for or against either Landlord or Tenant.

40.10 **Inurement**. Each of the covenants, conditions, and agreements herein contained shall inure to the benefit of and shall apply to and be binding upon the parties hereto

and their respective heirs, legatees, devisees, executors, administrators, successors, assigns, sublessees, or any person who may come into possession of said Premises or any part thereof in any manner whatsoever. Nothing in this Section 40.10 contained shall in any way alter the provisions against assignment or subletting in this Lease provided.

40.11 **Force Majeure**. If either party cannot perform any of its obligations (other than Tenant's obligation to pay Rent), or is delayed in such performance (other than Tenant's obligation to pay Rent), due to events beyond such party's control, the time provided for performing such obligations shall be extended by a period of time equal to the delay attributable to such events. Events beyond a party's control include, but are not limited to, acts of terrorism, acts of God (including earthquake), war, civil commotion, labor disputes, strikes, fire, flood or other casualty, shortage of labor or material, government regulation or restriction and weather conditions, but do not include financial inability to perform.

40.12 **Notices**. Any notice, consent, demand, bill, statement, or other communication required or permitted to be given hereunder must be in writing and may be given by personal delivery, by facsimile transmission, or by mail, certified and return receipt requested, and if given by personal delivery or facsimile transmission shall be deemed given on the date of delivery or transmission, and if given by mail shall be deemed sufficiently given three (3) days after time when deposited in United States Mail if sent by registered or certified mail, addressed to Tenant at the Premises, or to Tenant or Landlord at the addresses shown in Section 2.1.10 hereof. Either party may, by notice to the other given pursuant to this Section, specify additional or different addresses for notice purposes.

40.13 **Authority to Execute Lease**. Landlord and Tenant each acknowledge that it has all necessary right, title and authority to enter Unto and perform its obligations under this Lease, that this Lease is a binding obligation of such party and has been authorized by all requisite action under the party's governing instruments, that the individuals executing this Lease on behalf of such party are duly authorized and designated to do so, and that no other signatories are required to bind such party.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date first above written.

LANDLORD:

Dated: August 20, 2002

SAN DIEGO SCIENCE CENTER LLC
A California limited liability company

By: SD Science Center, Inc.
A California corporation
Its Manager

By: */s/ W. Neil Fox, III*
W. Neil Fox, III
Chief Executive Officer

TENANT:

Dated: August 20, 2002

GENELUX CORPORATION
A Delaware corporation

By: */s/ A. Douglas Will*
Name: A. Douglas Will
Title: President/CEO

EXHIBIT A

LEGAL DESCRIPTION OF REAL PROPERTY

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SAN DIEGO, AND IS DESCRIBED AS FOLLOWS:

PARCEL A:

LOT 1 OF HANSEN'S TRACT, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 4515, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, APRIL 20, 1960.

PARCEL B:

LOT 1 OF HARRISON TRACT, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 4786, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JUNE 2, 1961.

TOGETHER WITH THAT PORTION OF THE NORTHWESTERLY HALF OF BUNKER HILL STREET ADJOINING A PORTON OF SAID LOT 1 ON THE SOUTHEAST AS VACATED AND CLOSED TO PUBLIC USE BY RESOLUTION NO. 215408, RECORDED. IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY MARCH 2, 1976 AS FILE NO. 76-061804 OF OFFICIAL RECORDS.

EXCEPTING THEREFROM THAT PORTION OF VACATED BUNKER HILL STREET LYING WITHIN THE FOLLOWING DESCRIBED PARCEL:

THAT PORTION OF LOT 4 OF EUREKA LEMON TRACT, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 753, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, MAY 19, 1893, TOGETHER WITH A PORTION OF THE NORTHWESTERLY 15.00 FEET OF THAT 30.00 FOOT WIDE UNNAMED ROAD (NOW KNOWN AS BUNKER HILL STREET), LYING SOUTHEASTERLY OF AND ADJACENT TO SAID LOT 4 AS VACATED AND CLOSED ON FEBRUARY 25, 1976 BY RESOLUTION NO. 215408 OF THE COUNCIL OF THE CITY OF SAN DIEGO, RECORDED MARCH 2, 1976 AS FILE NO. 76-061804 OF OFFICIAL RECORDS AND BEING MORE PARTICULARLY DESCRIBED AS A WHOLE AS FOLLOWS:

COMMENCING AT THE MOST SOUTHERLY CORNER OF LOT 1 OF HARRISON TRACT, ACCORDING TO MAP THEREOF NO. 4786, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JUNE 2, 1961, BEING ALSO A POINT ON THE NORTHWESTERLY LINE OF THE SOUTHEASTERLY 10.00 FEET OF SAID LOT 4 OF MAP NO. 753; THENCE ALONG THE SOUTHEASTERLY LINE OF SAID MAP NO. 4786, NORTH 63°14'32" EAST (RECORD -NORTH 62°40'35" EAST), 431.46 FEET TO

THE BEGINNING OF A TANGENT 125.00 FOOT RADIUS CURVE, CONCAVE NORTHWESTERLY, BEING AN ANGLE POINT IN THE BOUNDARY OF LAND DESCRIBED IN DIRECTOR'S DEED TO PACIFIC BEACH MEDICAL ASSOCIATES, LTD., RECORDED FEBRUARY 8, 1972 AS FILE NO. 31151 OF OFFICIAL RECORDS AND BEING THE TRUE POINT OF BEGINNING; THENCE ALONG THE BOUNDARY OF SAID DIRECTOR'S DEED AS FOLLOWS: NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 40°31'54" A DISTANCE OF 88.43 FEET; AND NON-TANGENT TO SAID CURVE, NORTH 04°17'58" EAST, 46.82 FEET TO THE MOST NORTHERLY CORNER OF SAID LAND BEING ALSO AN ANGLE POINT IN THE SOUTHWESTERLY BOUNDARY OF CALIFORNIA STATE HIGHWAY II-SD-5, AS CREATED BY SAID DIRECTOR'S DEED; THENCE ALONG SAID SOUTHWESTERLY BOUNDARY, SOUTH 39°36'43" EAST TO THE CENTER LINE OF THE ORIGINAL 30.00 FOOT WIDE UNNAMED LYING SOUTHEASTERLY OF AND ADJACENT TO SAID LOT 4 AS SHOWN ON SAID MAP NO. 753; THENCE ALONG SAID CENTER LINE, SOUTH 63°14'32" WEST TO A POINT ON THE ARC OF THAT 70.00 FOOT RADIUS CURVE, CONCAVE SOUTHWESTERLY IN THE NORTHEASTERLY LINE OF RELINQUISHMENT PARCEL 3 AS SHOWN ON STATE HIGHWAY MAP NO. 100, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, MAY 8, 1969 AS FILE NO. 81182 OF OFFICIAL RECORDS; THENCE ALONG SAID NORTHEASTERLY LINE, NORTHWESTERLY ALONG THE ARC OF SAID CURVE TO A LINE WHICH BEARS AT RIGHT ANGLES, SOUTH 26°45'28" EAST FROM THE TRUE POINT OF BEGINNING, BEING ALSO A POINT ON THE SOUTHWESTERLY LINE OF THAT PORTION OF CALIFORNIA STATE HIGHWAY XI-SD-2 (NOW INTERSTATE 5), AS DESCRIBED IN DEED TO THE STATE OF CALIFORNIA, RECORDED MAY 18, 1953 AS DOCUMENT NO. 67093 IN BOOK 4857, PAGE 559 OF OFFICIAL RECORDS, AND BEING ALSO AN ANGLE POINT IN THE BOUNDARY OF SAID DIRECTOR'S DEED, A RADIAL LINE OF SAID CURVE BEARS NORTH 10°30'29" WEST TO SAID ANGLE POINT; THENCE ALONG THE SOUTHWESTERLY LINE OF SAID LAND DESCRIBED IN SAID DIRECTOR'S DEED, NORTH 26°45'28" WEST TO THE TRUE POINT OF BEGINNING.

EXHIBIT B

SITE PLAN OF THE PROJECT

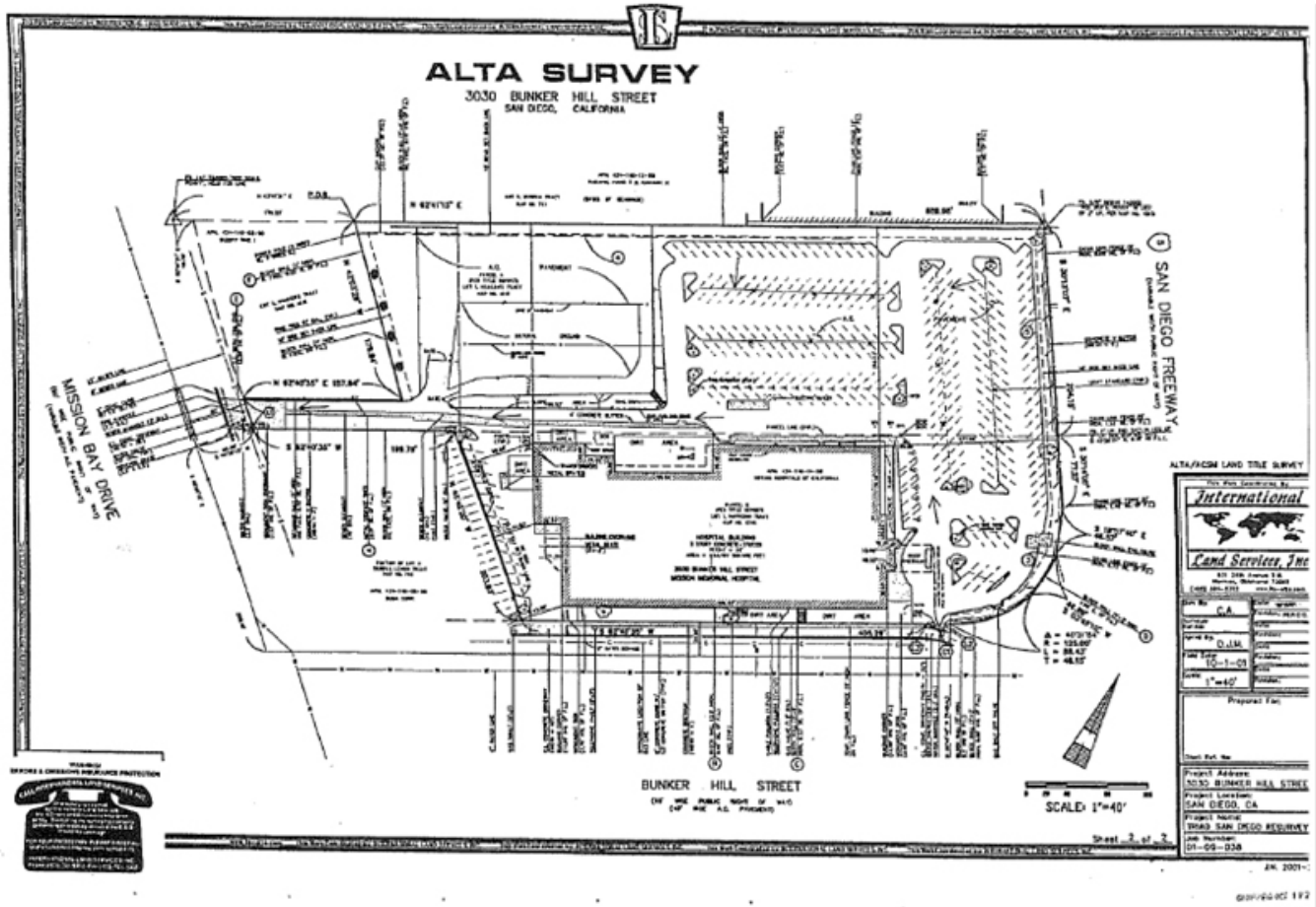
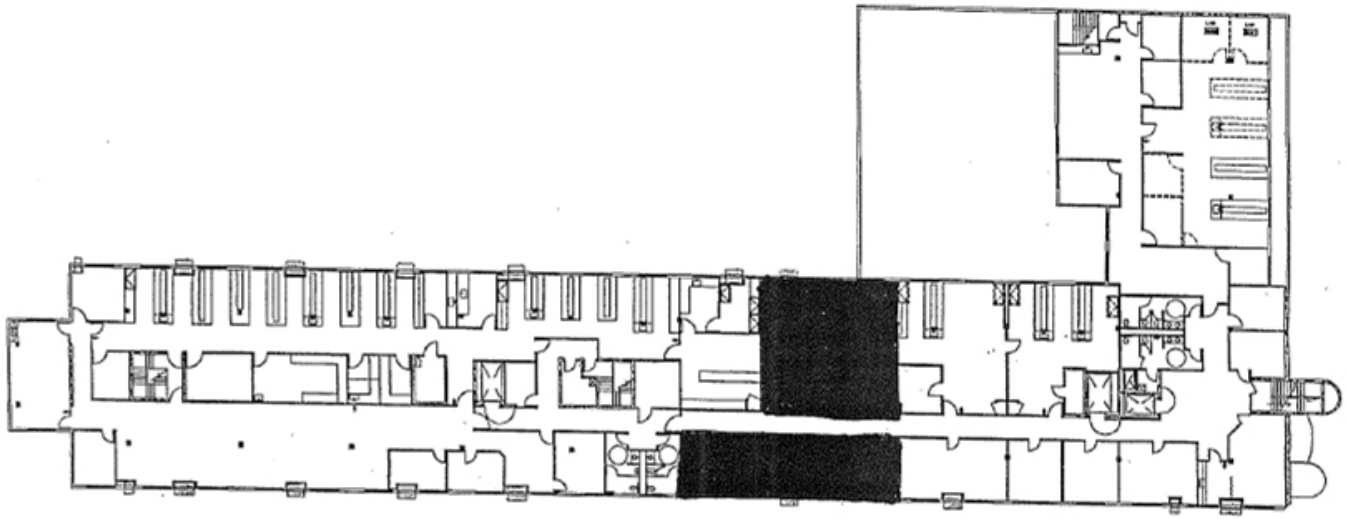

ALTA SURVEY
3030 BUNKER HILL STREET
SAN DIEGO, CALIFORNIA
MISSION BAY DRIVE
SAN DIEGO FREEWAY
BUNKER HILL STREET
SCALE: 1"=40'
ALTA/ACSM LAND TITLE SURVEY
International
Land Services, Inc
Project Address:
3030 BUNKER HILL STREET
Project Location:
SAN DIEGO, CA
Project Name:
TRIAD SAN DIEGO RESURVEY
Job Number:
01-05-038

EXHIBIT C

OUTLINE OF THE PREMISES



THIRD FLOOR
SAN DIEGO SCIENCE CENTER

EXHIBIT D

ACKNOWLEDGMENT OF TERM COMMENCEMENT DATE

Pursuant to Section 3.3 of that certain Lease dated _____, 20___, by and between _____, a _____, Landlord, and_____, a _____, Tenant, for the Premises described in the Lease in the Building at _____, we hereby acknowledge that the Term Commencement Date of the Lease, as defined therein, is _____, 20___, and the Term Expiration Date of the Lease, as defined therein, is _____, 20___.

IN WITNESS WHEREOF, the parties hereto have executed this Acknowledgment of Term Commencement Date as of_____, 20___.

LANDLORD:

SAN DIEGO SCIENCE CENTER LLC
A California limited liability company

By: SD Science Center, Inc.
A California corporation
Its Manager

By: _____
W. Neil Fox, III
Chief Executive Officer

TENANT:

_____
A _____

By: _____
Name: _____
Title: _____

EXHIBIT E

SCHEMATIC SHOWING TENANT IMPROVEMENTS

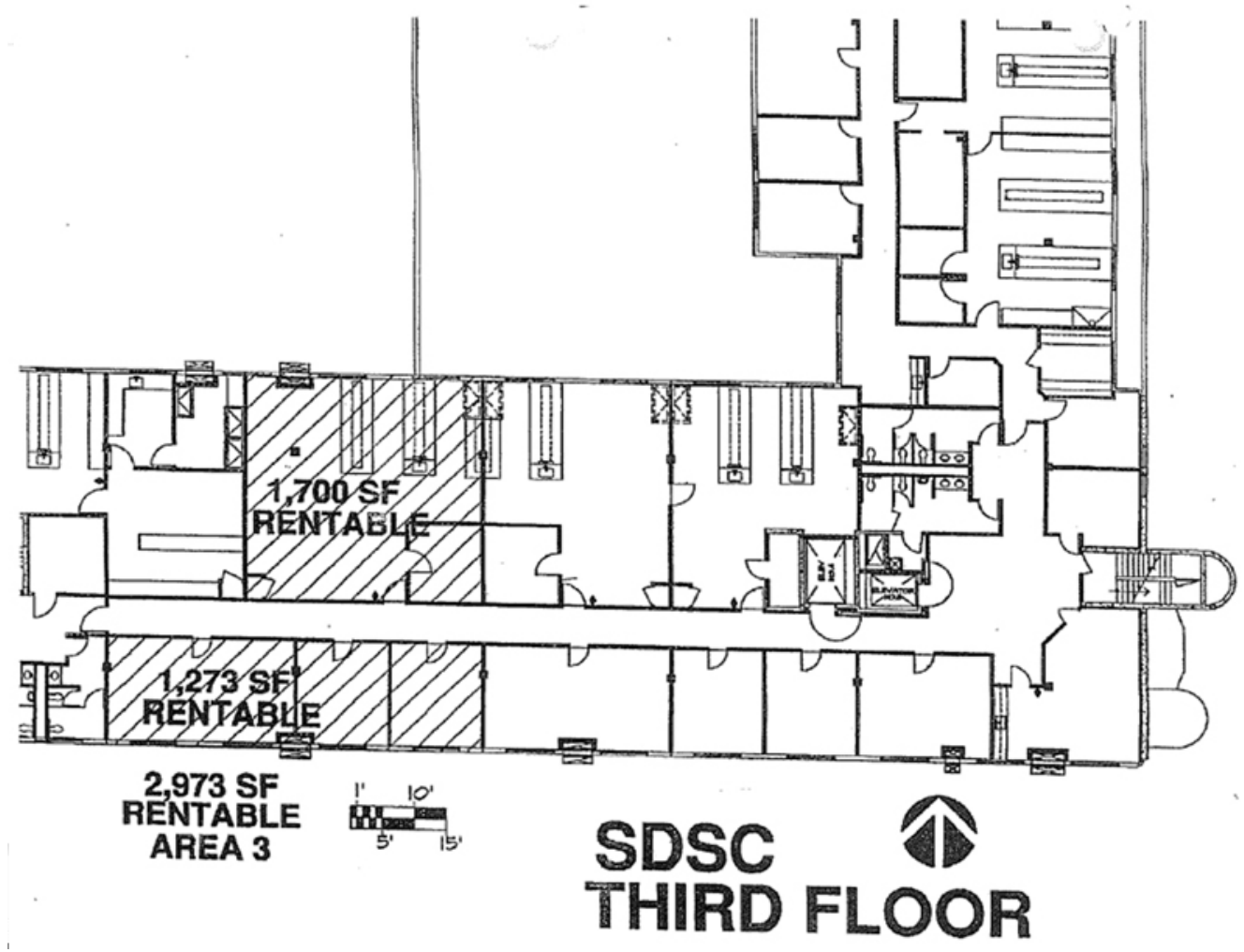

1,700 SF
RENTABLE
1,273 SF
RENTABLE
2,973 SF
RENTABLE
AREA 3
1' 10'
5' 15'
SDSC
THIRD FLOOR

EXHIBIT F

ARCHITECTURAL DRAWINGS OF TENANT IMPROVEMENTS

A1.1 SITE PLAN

A3.3 EXITING PLAN - LEVEL 3

A4.3 DIMENSION FLOOR PLAN - LEVEL 3

A5.3 DOOR / WALL PLAN - LEVEL 3

A6.3 REFLECTED CEILING PLAN - LEVEL 3

A7.1 SCHEDULES - LEVELS 1, 2, 3

A8.1 WALL TYPES / DETAILS

A8.2 DETAILS

A9.1 RESTROOM PLANS / DETAILS / NOTES

SAN DIEGO SCIENCE CENTER – 3030 BUNKER HILL STREET

FIRST LEVEL

First Level – Lobbies

Floor finish: 12” x 12” Slate tile w/ 4” vinyl base

Wall finish: Painted gypsum board-smooth finish

Ceiling: Open Ceiling painted white.

First Level – Corridors/Janitor/Storage

Floor finish: 12”x12” Vinyl Composite tiles (VCT) w/ 4” vinyl base

Wall finish: Painted gypsum board-smooth finish.

Ceiling: Open Ceiling painted white

First Level –Laboratories

Floor finish: 12”x12”. Vinyl Composite tiles (VCT) w/ 4” vinyl base

Wall finish: Painted gypsum board-smooth finish

Casework Chemical resistant plastic laminate countertops w/ two level plastic laminate reagent shelving. Polypropylene sinks.

Ceiling: Open Ceiling painted white

First Level – Shared Conference/Offices/Exercise Room

Floor finish: Glue down carpet w/ 4” vinyl base

Wall finish: Painted gypsum board-smooth finish.

Casework: Plastic laminate countertops/cabinets. Stainless steel sinks.

Ceiling: Suspended Acoustical Tile (except Open Ceiling painted white at Exercise Room)

First Level – Restrooms/Locker Rooms

Floor finish: 12” x 12” Slate tile w/ 4” ceramic tile coved base

Wall finish Ceramic tile to 48” A.F.F. w/ painted gypsum board-smooth finish

Lavatory Countertop: Granite top/backsplash. Vitreous china lavatory.

Ceiling: Gypsum board painted white

First Level – LARC

Floor finish: Epoxy w/ 6” coved epoxy base

Wall finish: Painted gypsum board-smooth finish.

Ceiling: Gypsum board painted white

First Level – Shared Storage

Floor finish: Concrete sealed w/ 4” vinyl base

Wall finish: Painted gypsum board-smooth finish.

Ceiling: Open Ceiling painted white.

Partitions: Chain link fence/gates

First Level – Shared Wash Room

Floor finish: Epoxy w/ 6” coved epoxy base

Wall finish: Painted gypsum board-smooth finish.

Ceiling: Gypsum board painted white.

SAN DIEGO SCIENCE CENTER-3030 BUNKER HILL STREET

SECOND LEVEL

Second Level – Lobby

Floor finish: 12” x 12” Slate tile w/ 4” vinyl base

Wall finish: Painted gypsum board-smooth finish

Ceiling: Open Ceiling painted white.

Second Level – Corridors/Janitor/Storage

Floor finish : 12”x12” Vinyl Composite tiles (VG1) w/ 4” vinyl base

Wall finish : Painted gypsum board-smooth finish.

Ceiling: Open Ceiling painted white

Second Level – Laboratories

Floor finish : 12”x12” Vinyl Composite tiles (VCT) w/ 4” vinyl base

Wall finish : Painted gypsum board-smooth finish

Casework: Chemical resistant plastic laminate countertops w/ two level plastic laminate reagent shelving. Polypropylene sinks.

Ceiling: Open Ceiling painted white

Second Level – Shared Conference/Offices/Shared Break Room

Floor finish: Glue down carpet w/ 4” vinyl base

Wall finish: Painted gypsum board-smooth

Casework: Plastic laminate countertops/cabinets. Stainless steel sinks.

Ceiling: Suspended Acoustical Tile

Second Level – Restrooms

Floor finish: 12” x 12” Slate tile w/ 4” ceramic tile coved base

Wall finish: Ceramic tile to 48” A.F.F. w/painted gypsum board-smooth finish.

Lavatory Countertop: Granite top/backsplash. Vitreous china lavatory.

Ceiling: Gypsum board painted white

SAN DIEGO SCIENCE CENTER - 3030 BUNKER HILL STREET

THIRD LEVEL

Third Level – Lobby

Floor finish: 12” x 12” Slate tile w/ 4” vinyl base

Wall finish: Painted gypsum board-smooth finish

Ceiling: Open Ceiling painted white.

Third Level – Corridors/Janitor/Storage

Floor finish : 12”x12” Vinyl Composite tiles (VCT) w/ 4” vinyl base

Wall finish : Painted gypsum board-smooth finish.

Ceiling: Open Ceiling painted white

Third Level – Laboratories

Floor finish 12”x12” Vinyl Composite tiles (VCT) w/ 4” vinyl base

Wall finish : Painted gypsum board-smooth finish

Casework Chemical resistant plastic laminate countertops w/ two level plastic laminate reagent shelving. Polypropylene sinks.

Ceiling: Open Ceiling painted white

Third Level – Shared Conference/Offices

Floor finish: Glue down carpet w/ 4” vinyl base

Wall finish: Painted gypsum board-smooth finish.

Casework: Plastic laminate countertops/cabinets. Stainless steel sinks.

Ceiling: Suspended Acoustical Tile

Third Level – Restrooms

Floor finish: 12” x 12” Slate tile w14” ceramic tile coved base

Wall finish: Ceramic tile to 48” A.F.F. w/ painted gypsum board-smooth finish.

Lavatory Countertop: Granite top/backsplash. Vitreous china lavatory.

Ceiling: Gypsum board painted white

EXHIBIT G

RULES AND REGULATIONS

NOTHING IN THESE RULES AND REGULATIONS SHALL SUPPLANT ANY PROVISION OF THE LEASE. IN THE EVENT OF A CONFLICT OR INCONSISTENCY BETWEEN THESE RULES AND REGULATIONS AND THE LEASE, THE LEASE SHALL PREVAIL.

1. Except as specifically provided in the Lease to which these Rules and Regulations are attached, no sign, placard, picture, advertisement, name or notice shall be installed or displayed on any part of the outside of the Premises or the Building without the prior written consent of Landlord. Landlord shall have the right to remove, at Tenant's expense and without notice, any sign installed or displayed in violation of this rule.

2. If Landlord objects in writing to any curtains, blinds, shades, screens or hanging plants or other similar objects attached to or used in connection with any window or door of the Premises, or placed on any windowsill, which is visible from the exterior of the Premises, and which is not included in plans approved by Landlord, Tenant shall remove said object.

3. Tenant shall not obstruct any sidewalks or entrances to the Building, or any halls, passages, exits, entrances, or stairways within the Premises, which are required to be kept clear for health and safety reasons.

4. No deliveries shall be made which impede or interfere with other tenants or the operation of the Project.

5. Tenant shall not place a load upon any floor of the Premises which exceeds the load per square foot which such floor was designed to carry and which is allowed by law. Fixtures and equipment which cause noise or vibration that may be transmitted to the structure of the Building to such a degree as to be objectionable to other tenants shall be placed and maintained by Tenant, at Tenant's expense, on vibration eliminators or other devices sufficient to eliminate such noise or vibration or reduce such noise and vibration to acceptable levels.

6. Tenant shall not use any method of heating or air-conditioning other than that shown in Tenant Improvement plans.

7. Tenant shall not install any radio, television or other antenna,, cell or other communications equipment or other devices on the roof or exterior walls of the Premises except to the extent shown on approved Tenant Improvement plans. Tenant shall not interfere with radio, television or other communications from or in the Premises or elsewhere.

8. Canvassing, peddling, soliciting and distribution of handbills or any other written material in the Project outside of the Premises are prohibited, and Tenant shall cooperate to prevent such activities.

9. Tenant shall store all its trash, garbage and Hazardous Material within its Premises or in designated receptacles outside of the Premises. Tenant shall not place in any such receptacle any material which cannot be disposed of in the ordinary and customary manner of trash, garbage and Hazardous Material disposal.

10. The Premises shall not be used for any improper, immoral or objectionable purpose. No cooking shall be done or permitted on the Premises, except that use by Tenant of Underwriter's Laboratory approved equipment for brewing coffee, tea, hot chocolate and similar beverages or use of microwave ovens for employees use shall be permitted, or equipment shown on approved Tenant Improvement plans, provided that such equipment and use is in accordance with all applicable federal, state, county and city laws, codes, ordinances, rules and regulations.

11. Without the written consent of the Landlord, Tenant shall not use the name of the Project, if any, in connection with or in promoting or advertising the business of Tenant except as Tenant's address.

12. Tenant shall comply with all safety, fire protection and evacuation procedures and regulations established by Landlord or any governmental agency.

13. Tenant assumes any and all responsibility for protecting its Premises from theft, robbery and pilferage, which includes keeping doors locked and other means of entry to the Premises closed.

14. Landlord may waive any one or more of these Rules and Regulations for the benefit of Tenant or any other tenant, but no such waiver by Landlord shall be construed as a waiver of such Rules and Regulations in favor of Tenant or any other Tenant, nor prevent Landlord from thereafter enforcing any such Rules and Regulations against any or all of the tenants of the Project.

15. These Rules and Regulations are in addition to, and shall not be construed to in any way modify or amend, in whole or in part, the terms, covenants, agreements and conditions of the Lease.

16. Landlord reserves the right to make such other and reasonable rules and regulations as, in its judgment, may from time to time be needed for safety and security, for care and cleanliness of the Project, and for the preservation of good order therein, subject to prior notice to Tenant and Tenant's consent, which will not be unreasonably withheld, conditioned or delayed. Tenant agrees to abide by all such Rules and Regulations hereinabove stated and any additional rules and regulations which are adopted.

17. Tenant shall be responsible for the observance of all of the foregoing rules by Tenant's employees, agents, clients, customers, invitees and guests.

EXHIBIT H

SERVICES TO BE PROVIDED BY LANDLORD

Landlord shall maintain, repair, and replace the following systems and equipment, and shall provide the following services and utilities, in accordance with the standards referenced below or, if no such standards are referenced, then consistent with the standards of comparable buildings in San Diego, California; provided, however, (i) Landlord reserves the right to adopt nondiscriminatory modifications and additions hereto, (ii) the cost of all such maintenance, repairs, replacements, services and utilities are subject to reimbursement by Tenant as Operating Expenses to the extent set forth in Article 7 of the Lease, and (iii) such maintenance, repairs, replacements, services and utilities are subject to any other applicable provisions of the Lease:

1. Heating, ventilation, and air conditioning systems, including chillers, boilers, air handlers, ventilation and exhaust fans, cooling towers, filtration, controls and control components required to provide climate control to all usable areas of the building, with cooled and heated air appropriate to the seasons in the San Diego metropolitan area. Heating, ventilation and air conditioning services shall be provided twenty-four (24) hours per day each day of the year.
2. Plumbing to include hot and cold water supply pipes, valves, and regulators, sanitary and waste piping, sump pumps and associated holding reservoirs. Drain cleaning shall be limited to normal maintenance and will not include cleaning required by excessive use or abuse of plumbing by Tenant.
3. Emergency eyewashes and showers.
4. Electrical supply circuits to include main switches, transformers and panels in mechanical spaces, local circuit breaker panels and associated wiring, cables, switches, and receptacles.
5. Emergency back-up power generators to include peripherals as described in 4 (above), batteries, relays and other items necessary to supply unit power when utility company fails to do so.
6. Light bulbs, ballasts, wiring and fixtures.
7. Elevators, with service to be provided twenty-four (24) hours per day each day of the year.
8. Steam boilers. Steam lines, valves, regulators and reheating units supplying and located within the building.
9. Fire alarm system. Main panel in first floor lobby area, wiring and local smoke, particle and heat detectors and pull stations.

10. Fire hoses, valves, etc., affixed permanently to building and sprinkler system.

11. Fire extinguishers including annual checks and recharging as necessary.

12. Doors, knobs and hinges.

13. Floor tiles, carpeting and kick plates.

14. Repair of windows and annual exterior window cleaning.

15. Fume hoods, ducts, stacks, motors and fans.

16. Vacuum pumps, lines and valves located within the building.

17. Positive pressure air supply lines, compressors bleed valves, regulators, and air supply condensing units.

18. Rest rooms. Toilets, urinals, showers and stalls, including rest room facilities and necessary lavatory supplies, and including hot and cold running water.

19. Sinks.

20. Gas lines, valves and regulators.

21. Basic security services, including periodic perimeter checks of the Project, but excluding any internal readings or checks.

22. Site landscaping, including maintaining the planting areas, walkways, ramps, gates, fences and parking areas.

23. Trash pick-up, limited to designated trash area(s).

24. Janitorial services in the Common Areas (Tenant is responsible for janitorial services in the Premises).

25. Access to the Building will be provide twenty-four (24) hours per day each day of the year (except in the case of emergencies).

26. Bulk mail and express pickup services at a central receiving area located on the lower level of the Building or such other floor as Landlord designates.

EXHIBIT I

SAN DIEGO SCIENCE CENTER
FITNESS CENTER WAIVER OF LIABILITY

SAN DIEGO SCIENCE CENTER LLC, a California limited liability company (the "Owner"), the owner of the building (the "Building") at 3030 Bunker Hill Street, San Diego, California, grants to employees of tenants of the Building the right to use and enjoy the fitness facilities and equipment located in the Building on the terms and conditions of this waiver (this "Waiver") and otherwise in accordance with such other rules and regulations which Owner may from time to time adopt.

1. Assumption of Risk. The undersigned understands that fitness activities, especially strength and aerobic training, involve a potential risk for physical injury and related damages. The undersigned understands that Owner does not manufacture the fitness and other equipment used in the fitness center, but purchases and/or leases the equipment from third parties. The undersigned acknowledges that Owner will provide no supervision of his/her use of the fitness facilities and equipment and other fitness activities in the fitness center, and that he/she will be solely responsible for his/her safe and appropriate use of the facility and equipment. The undersigned therefore expressly agrees to assume the risk that he/she may suffer injury or damage as a result of his/her use of the fitness facilities and equipment, and agrees for himself/herself and on behalf of his/her personal representatives, successors and assigns, that the Owner (including its members, managers, officers, employees and agents) will not be liable for any damages nor injuries the undersigned may suffer in or about the fitness center.

2. Waiver of Liability. The undersigned further agrees to hold the Owner and its members, managers, officers, employees and agents harmless from any injuries or damages sustained by the undersigned or the property of the undersigned and to indemnify the Owner and its members, managers, officers, employees and agents from any claims, demands, actions, injuries, liabilities or damages whatsoever, including attorneys' fees, which result, directly or indirectly, from the use of the fitness facilities and equipment by the undersigned. The undersigned agrees to release and discharge the Owner and its members, managers, officers, employees, and agents from all such claims, demands, actions, injuries, liabilities, and damages. The failure or refusal of the undersigned to inspect the fitness facilities and equipment constitutes a waiver of any objection, contention or claim that might have been based on such an inspection.

3. Loss, Theft, Damage. The undersigned agrees that neither the Owner nor its members, managers, officers, employees or agents are responsible or liable to the undersigned for articles damaged, lost or stolen in or about the fitness facilities. The undersigned agrees not to store any valuable items in lockers and to use the lockers solely for temporary clothing storage. The Owner and its members, managers, employees and agents are not bailees and are not responsible for protecting the valuables of the undersigned.

4. Physical Condition. The undersigned warrants that he/she is in good physical condition and to the best of his/her knowledge has no physical impairment which would prevent

him/her from engaging in any physical conditioning available in the fitness center and that he/she has no condition which might be aggravated by the use of the fitness facilities or equipment. The undersigned acknowledges that a complete physical examination by a medical doctor prior to beginning any work out program or strenuous new activity is recommended.

5. No Guests. The undersigned acknowledges and agrees that guests, including family members, are not permitted in the fitness center and may not use the fitness facilities or equipment under any circumstances. Use of the fitness facilities and equipment is limited to employees of tenants of the Building.

6. Attire and Equipment. The undersigned agrees to wear proper attire when using the fitness facilities, and to wear a shirt and shoes in the fitness facilities and all common areas of the Building. Attire must conform to reasonable standards of decency and safety. Only equipment provided by Owner may be used in the fitness center.

7. Lockers. Lockers are available for day use only on a first come, first served basis. Locks, though recommended, are not provided by Owner.

8. Damages. The undersigned agrees to pay for any damages to the fitness facilities or equipment caused by the undersigned.

9. Severability. If any provision of this Waiver is ruled invalid or unenforceable as applied to any person or circumstance, all other provisions of this Waiver shall remain valid and enforceable as applied to all other persons and circumstances.

The undersigned acknowledges that he/she has read and understands the terms and conditions of this Waiver and agrees to be bound by such terms and conditions. The undersigned also agrees to read and comply with any other rules and regulations governing use of the fitness facilities and equipment which may be adopted or amended from time to time by the Owner and posted or otherwise made available in the fitness facility or to the undersigned.

Dated: _____

Sign: _____

Print Name: _____

Employer: _____

EXHIBIT J

APPROVED CONTRACTORS

Casework:	Doug Wessinger Wesinco P.O. Box 256 Irmo, SC 29063 803/749-0163 803/749-1703 (Facsimile)
Electrical:	Ron Wood Bergelectric 650 Opper Street Escondido, CA 92029 760/746-1003 760/741-0918 (Facsimile)
Mechanical/Plumbing:	Joe Mucher Encompass Mechanical Services 7655 Convoy Street San Diego, CA 92111 858/974-6500 858/941-6501 (Facsimile)
Phone/Data:	Rob Coulter River Networks 5845 Avenida Encinas, Suite 130 Carlsbad, CA 92008 760/535-4837 619/449-1609 (Facsimile)
Janitorial Service:	Linsey A. Miller Merchants Building Maintenance LLC 8380 Miramar Mall, Suite 125 San Diego, CA 92121 858/455-0163 858/455-0596 (Facsimile)
Environmental, Health & Safety Consulting:	Karl Kasai Karl Kasai Consulting 7204 Wisteria Way Carlsbad, CA 92009 760/402-7896 858/526-0722 (Facsimile)

SCHEDULE 1

LIST OF REMOVABLE PROPERTY PURSUANT TO SECTION 17.7

A. Property Tenant is Required to Remove

B. Property Tenant May Remove

FIFTEENTH AMENDMENT TO LEASE

THIS FIFTEENTH AMENDMENT TO LEASE (this "Amendment") is entered into as of this 16th day of November, 2020 (the "Execution Date"), by and between BMR-BUNKER HILL LP, a Delaware limited partnership ("Landlord," formerly known as BMR-3030 Bunker Hill Street LLC, as successor-in-interest to San Diego Science Center LLC), and GENELUX CORPORATION, a Delaware corporation ("Tenant").

RECITALS

A. WHEREAS, Landlord and Tenant are parties to that certain Lease dated as of August 20, 2002, as amended by that certain Addendum to Lease dated as of August 20, 2002, that certain First Amendment to Lease dated as of August 26, 2002, that certain Second Amendment to Lease dated as of October 24, 2002, that certain Third Amendment to Lease dated as of July 1, 2004, that certain Fourth Amendment to Lease dated as of September 5, 2006, that certain Fifth Amendment to Lease dated as of April 30, 2007, that certain Sixth Amendment to Lease dated as of September 17, 2008, that certain Seventh Amendment to Lease dated as of October 30, 2009, that certain Eighth Amendment to Lease dated as of March 4, 2010, that certain Ninth Amendment to Lease dated as of September 10, 2010, that certain Tenth Amendment to Lease dated as of February 8, 2012, that certain Eleventh Amendment to Lease dated as of June 15, 2015, that certain Twelfth Amendment to Lease dated as of July 20, 2015, that certain Thirteenth Amendment to Lease dated as of August 7, 2017, and that certain Fourteenth Amendment to Lease dated as of April 29, 2019 (collectively, and as the same may have been further amended, amended and restated, supplemented or modified from time to time, the "Existing Lease"), whereby Tenant leases certain premises (the "Premises") from Landlord at 3030 Bunker Hill Street in San Diego, California (the "Building");

B. WHEREAS, Landlord and Tenant desire to extend the term of the Lease; and

C. WHEREAS, Landlord and Tenant desire to modify and amend the Existing Lease only in the respects and on the conditions hereinafter stated.

AGREEMENT

NOW, THEREFORE, Landlord and Tenant, in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, agree as follows:

1. Definitions. For purposes of this Amendment, capitalized terms shall have the meanings ascribed to them in the Existing Lease unless otherwise defined herein. The Existing Lease, as amended by this Amendment, is referred to collectively herein as the "Lease." From and after the date hereof, the term "Lease," as used in the Existing Lease, shall mean the Existing Lease, as amended by this Amendment.

2. Fifteenth Amendment Extension Term. The term of the Lease is hereby extended until, and the Term Expiration Date is hereby amended to mean, February 22, 2023. The period

commencing on December 23, 2020 and ending on the new Term Expiration Date shall be referred to herein as the "Fifteenth Amendment Extension Term."

3. Basic Annual Rent. Notwithstanding anything to the contrary in the Lease, during the Fifteenth Amendment Extension Term, Basic Annual Rent for the Premises shall be as set forth in the charts below and Tenant shall pay such Basic Annual Rent to Landlord in accordance with the terms, conditions and provisions of the Lease. For the avoidance of doubt, Tenant shall continue to pay Basic Annual Rent in accordance with the terms, conditions and provisions of the Existing Lease until the commencement of the Fifteenth Amendment Extension Term.

Thirteenth Amendment Third Floor Remaining Premises

Dates	Square Feet of Rentable Area	Basic Annual Rent per Square Foot of Rentable Area	Monthly Basic Annual Rent
December 23, 2020 – December 22, 2021	6,770	$2.62 monthly	$ 17,737.40
December 23, 2021 – December 22, 2022	6,770	$2.70 monthly	$ 18,279.00
December 23, 2022 – February 22, 2023	6,770	$2.78 monthly	$ 18,820.60

First Floor Remaining Premises

Dates	Square Feet of Rentable Area	Basic Annual Rent per Square Foot of Rentable Area	Monthly Basic Annual Rent
December 23, 2020 – December 22, 2021	110	$1.18 monthly	$ 129.80
December 23, 2021 – December 22, 2022	110	$1.22 monthly	$ 134.20
December 23, 2022 – February 22, 2023	110	$1.26 monthly	$ 138.60

4. Rent Credit. Effective as of the Execution Date, Landlord shall provide Tenant with a Rent credit in an amount equal to Twenty-Eight Thousand Two Hundred Fifty-Three and 10/100 Dollars ($28,253.10) (the "Rent Credit").

5. Security Deposit. Pursuant to that certain letter dated May 8, 2020, Landlord notified Tenant that Landlord would apply Tenant's security deposit to pay a portion of then-outstanding Rent. Landlord did apply the full security deposit in accordance with such letter and Tenant has not replenished such security deposit. Therefore, on or before the Execution Date, Tenant shall deposit with Landlord Nineteen Thousand One Hundred Seventeen and 80/100 Dollars ($19,117.80), which sum shall be deemed the security deposit under the Lease and shall be subject to Article 9 of the Lease.

6. Condition of Premises. Tenant acknowledges that (a) it is in possession of and is fully familiar with the condition of the Premises and, notwithstanding anything contained in the Lease to the contrary, agrees to take the same in its condition "as is" as of the first day of the Fifteenth Amendment Extension Term, and (b) Landlord shall have no obligation to alter, repair or otherwise prepare the Premises for Tenant's continued occupancy for the Fifteenth Amendment Extension Term or to pay for any improvements to the Premises, except as may be expressly provided in the Lease.

7. CASp. The Premises have not undergone inspection by a Certified Access Specialist ("CASp," as defined in California Civil Code Section 55.52). Even if not required by California law, the Premises may be inspected by a CASp to determine whether the Premises comply with the ADA, and Landlord may not prohibit a CASp performing such an inspection. If Tenant requests that such an inspection take place, Landlord and Tenant shall agree on the time and manner of the inspection, as well as which party will pay the cost of the inspection and the cost to remedy any defects identified by the CASp. A Certified Access Specialist can inspect the Premises and determine whether the Premises comply with all of the applicable construction-related accessibility standards under State law. Although State law does not require a Certified Access Specialist inspection of the Premises, Landlord may not prohibit Tenant from obtaining a Certified Access Specialist inspection of the Premises for the occupancy or potential occupancy of Tenant, if requested by Tenant. Landlord and Tenant shall agree on the arrangements for the time and manner of the Certified Access Specialist inspection, the payment of the fee for the Certified Access Specialist inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the Premises.

8. Additional Insureds. Notwithstanding anything to the contrary in the Existing Lease, the insurance policies that Tenant is required to maintain under the Lease (except for workers' compensation insurance and employers' liability insurance) shall name Landlord and BioMed Realty, L.P. and their respective officers, employees, directors, representatives, agents, general partners, members, subsidiaries, affiliates and lenders as additional insureds as respects liability arising from work or operations performed by or on behalf of Tenant, Tenant's use or occupancy of Premises, and ownership, maintenance or use of vehicles by or on behalf of Tenant.

9. Broker. Tenant represents and warrants that it has not dealt with any broker or agent in the negotiation for or the obtaining of this Amendment, other than Hughes Marino, Inc. ("Broker"), and agrees to reimburse, indemnify, save, defend (at Landlord's option and with counsel reasonably acceptable to Landlord, at Tenant's sole cost and expense) and hold harmless Landlord and Landlord's Agents for, from and against any and all cost or liability for compensation claimed by any such broker or agent, other than Broker, employed or engaged by it or claiming to have been employed or engaged by it. Broker is entitled to a leasing commission in connection

with the making of this Amendment, and Landlord shall pay such commission to Broker pursuant to a separate agreement between Landlord and Broker.

10. No Default. Tenant represents, warrants and covenants that, to the best of Tenant's knowledge, Landlord and Tenant are not in default of any of their respective obligations under the Existing Lease and no event has occurred that, with the passage of time or the giving of notice (or both) would constitute a default by either Landlord or Tenant thereunder.

11. Notices.

11.1 Tenant confirms that, notwithstanding anything in the Lease to the contrary, notices delivered to Tenant pursuant to the Lease should be sent to:

Genelux Corporation
3030 Bunker Hill Street, Suite 310
San Diego, California 92109
Attention: Accounting;
accounting@genelux.com

11.2 Landlord confirms that, notwithstanding anything in the Lease to the contrary, notices delivered to Landlord pursuant to the Lease should be sent to:

BMR-Bunker Hill LP
4570 Executive Drive, Suite 400
San Diego, California 92121
Attention: Legal Department.

12. Effect of Amendment. Except as modified by this Amendment, the Existing Lease and all the covenants, agreements, terms, provisions and conditions thereof shall remain in full force and effect and are hereby ratified and affirmed. In the event of any conflict between the terms contained in this Amendment and the Existing Lease, the terms herein contained shall supersede and control the obligations and liabilities of the parties.

13. Successors and Assigns. Each of the covenants, conditions and agreements contained in this Amendment shall inure to the benefit of and shall apply to and be binding upon the parties hereto and their respective heirs, legatees, devisees, executors, administrators and permitted successors and assigns and sublessees. Nothing in this Section shall in any way alter the provisions of the Lease restricting assignment or subletting.

14. Miscellaneous. This Amendment becomes effective only upon execution and delivery hereof by Landlord and Tenant. The captions of the paragraphs and subparagraphs in this Amendment are inserted and included solely for convenience and shall not be considered or given any effect in construing the provisions hereof. All exhibits hereto are incorporated herein by reference. Submission of this instrument for examination or signature by Tenant does not constitute a reservation of or option for a lease, and shall not be effective as a lease, lease amendment or otherwise until execution by and delivery to both Landlord and Tenant.

15. Authority. Tenant guarantees, warrants and represents that the individual or individuals signing this Amendment have the power, authority and legal capacity to sign this Amendment on behalf of and to bind all entities, corporations, partnerships, limited liability companies, joint venturers or other organizations and entities on whose behalf such individual or individuals have signed.

16. Counterparts; Facsimile, Electronic and PDF Signatures. This Amendment may be executed in one or more counterparts, each of which, when taken together, shall constitute one and the same document. A facsimile, electronic or portable document format (PDF) signature on this Amendment shall be equivalent to, and have the same force and effect as, an original signature.

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IN WITNESS WHEREOF, Landlord and Tenant have executed this Amendment as of the date and year first above written.

LANDLORD:

BMR-BUNKER HILL LP,
a Delaware limited partnership

By: */s/ Kevin M. Simonsen*
Name: Kevin M. Simonsen
Title: EVP, General Counsel & Secretary

TENANT:

GENELUX CORPORATION,
a Delaware corporation

By: */s/ Thomas D. Zindrick*
Name: Thomas D. Zindrick
Title: President & CEO

FOURTEENTH AMENDMENT TO LEASE

THIS FOURTEENTH AMENDMENT TO LEASE (this "Amendment") is entered into as of this 29th day of April, 2019, by and between BMR-BUNKER HILL LP, a Delaware limited partnership ("Landlord," formerly known as BMR-3030 Bunker Hill Street LLC, as successor-in-interest to San Diego Science Center LLC), and GENELUX CORPORATION, a Delaware corporation ("Tenant").

RECITALS

A. WHEREAS, Landlord and Tenant are parties to that certain Lease dated as of August 20, 2002, as amended by that certain Addendum to Lease dated as of August 20, 2002, that certain First Amendment to Lease dated as of August 26, 2002, that certain Second Amendment to Lease dated as of October 24, 2002, that certain Third Amendment to Lease dated as of July 1, 2004, that certain Fourth Amendment to Lease dated as of September 5, 2006, that certain Fifth Amendment to Lease dated as of April 30, 2007, that certain Sixth Amendment to Lease dated as of September 17, 2008, that certain Seventh Amendment to Lease dated as of October 30, 2009, that certain Eighth Amendment to Lease dated as of March 4, 2010, that certain Ninth Amendment to Lease dated as of September 10, 2010, that certain Tenth Amendment to Lease dated as of February 8, 2012, that certain Eleventh Amendment to Lease dated as of June 15, 2015, that certain Twelfth Amendment to Lease dated as of July 20, 2015 and that certain Thirteenth Amendment to Lease dated as of August 7, 2017 (the "Thirteenth Amendment") (collectively, and as the same may have been further amended, amended and restated, supplemented or modified from time to time, the "Existing Lease"), whereby Tenant leases certain premises (the "Premises") from Landlord at 3030 Bunker Hill Street in San Diego, California (the "Building");

B. WHEREAS, Landlord and Tenant desire to extend the term of the Lease; and

C. WHEREAS, Landlord and Tenant desire to modify and amend the Existing Lease only in the respects and on the conditions hereinafter stated.

AGREEMENT

NOW, THEREFORE, Landlord and Tenant, in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, agree as follows:

1. Definitions. For purposes of this Amendment, capitalized terms shall have the meanings ascribed to them in the Existing Lease unless otherwise defined herein. The Existing Lease, as amended by this Amendment, is referred to collectively herein as the "Lease." From and after the date hereof, the term "Lease," as used in the Existing Lease, shall mean the Existing Lease, as amended by this Amendment.

2. Fourteenth Amendment Extension Term. The term of the Lease is hereby extended until, and the Term Expiration Date is hereby amended to mean, December 22, 2020.

The period commencing December 23, 2019 and ending on the new Term Expiration Date shall be referred to herein as the "Fourteenth Amendment Extension Term."

3. Basic Annual Rent. Notwithstanding anything to the contrary in the Lease, during the Fourteenth Amendment Extension Term, Basic Annual Rent for the Premises shall be as set forth in the charts below. For avoidance of doubt, Tenant shall continue to pay Basic Annual Rent in accordance with the terms, conditions and provisions of the Existing Lease until the commencement of the Fourteenth Amendment Extension Term.

Thirteenth Amendment Third Floor Remaining Premises

Dates	Square Feet of Rentable Area	Basic Annual Rent per Square Foot of Rentable Area	Monthly Basic Annual Rent
December 23, 2019 – December 22, 2020	6,770	$2.54 monthly	$ 17,195.80

Foot of Annual Rent Rentable Area

Dates	Square Feet of Rentable Area	Basic Annual Rent per Square Foot of Rentable Area	Monthly Basic Annual Rent
December 23, 2019 – December 22, 2020	110	$1.18 monthly	$ 129.80

4. Condition of Premises. Tenant acknowledges that (a) it is in possession of and is fully familiar with the condition of the Premises and, notwithstanding anything contained in the Lease to the contrary, agrees to take the same in its condition "as is" as of the first day of the Fourteenth Amendment Extension Term, and (b) Landlord shall have no obligation to alter, repair or otherwise prepare the Premises for Tenant's continued occupancy for the Fourteenth Amendment Extension Term or to pay for any improvements to the Premises, except as may be expressly provided in the Lease.

5. Broker. Tenant represents and warrants that it has not dealt with any broker or agent in the negotiation for or the obtaining of this Amendment and agrees to reimburse, indemnify, save, defend (at Landlord's option and with counsel reasonably acceptable to Landlord, at Tenant's sole cost and expense) and hold harmless the Landlord and Landlord's Agents for, from and against any and all cost or liability for compensation claimed by any such broker or agent employed or engaged by it or claiming to have been employed or engaged by it.

6. No Default. Tenant represents, warrants and covenants that, to the best ofTenant's knowledge, Landlord and Tenant are not in default of any of their respective

obligations under the Existing Lease and no event has occurred that, with the passage of time or the giving of notice (or both) would constitute a default by either Landlord or Tenant thereunder.

7. Notices. Tenant confirms that, notwithstanding anything in the Lease to the contrary, notices delivered to Tenant pursuant to the Lease should be sent to:

Genelux Corporation
3030 Bunker Hill Street, Suite 310
San Diego, California 92109
Attention: Thomas Zindrick.

8. Effect of Amendment. Except as modified by this Amendment, the Existing Lease and all the covenants, agreements, terms, provisions and conditions thereof shall remain in full force and effect and are hereby ratified and affirmed. In the event of any conflict between the terms contained in this Amendment and the Existing Lease, the terms herein contained shall supersede and control the obligations and liabilities of the parties.

9. Successors and Assigns. Each of the covenants, conditions and agreements contained in this Amendment shall inure to the benefit of and shall apply to and be binding upon the parties hereto and their respective heirs, legatees, devisees, executors, administrators and permitted successors and assigns and sublessees. Nothing in this section shall in any way alter the provisions of the Lease restricting assignment or subletting.

10. Miscellaneous. This Amendment becomes effective only upon execution and delivery hereof by Landlord and Tenant. The captions of the paragraphs and subparagraphs in this Amendment are inserted and included solely for convenience and shall not be considered or given any effect in construing the provisions hereof. All exhibits hereto are incorporated herein by reference. Submission of this instrument for examination or signature by Tenant does not constitute a reservation of or option for a lease, and shall not be effective as a lease, lease amendment or otherwise until execution by and delivery to both Landlord and Tenant.

11. Authority. Tenant guarantees, warrants and represents that the individual or individuals signing this Amendment have the power, authority and legal capacity to sign this Amendment on behalf of and to bind all entities, corporations, partnerships, limited liability companies, joint venturers or other organizations and entities on whose behalf such individual or individuals have signed.

12. Counterparts; Facsimile and PDF Signatures. This Amendment may be executed in one or more counterparts, each of which, when taken together, shall constitute one and the same document. A facsimile or portable document format (PDF) signature on this Amendment shall be equivalent to, and have the same force and effect as, an original signature.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Amendment as of the date and year first above written.

LANDLORD:

BMR-BUNKER HILL LP,
a Delaware limited partnership

By: */s/ Marie Lewis*
Name: Marie Lewis
Title: Vice President, Legal

TENANT:

GENELUX CORPORATION,
a Delaware corporation

By: */s/ Thomas D. Zindrick*
Name: Thomas D. Zindrick
Title: President & CEO

THIRTEENTH AMENDMENT TO LEASE

THIS THIRTEENTH AMENDMENT TO LEASE (this "Amendment") is entered into as of this 7th day of August, 2017 (the "Execution Date"), by and between BMR-BUNKER HILL LP, a Delaware limited partnership ("Landlord," formerly known as BMR-3030 Bunker Hill Street LLC, as successor-in-interest to San Diego Science Center LLC), and GENELUX CORPORATION, a Delaware corporation ("Tenant").

RECITALS

A. WHEREAS, Landlord and Tenant are parties to that certain Lease dated as of August 20, 2002, as amended by that certain Addendum to Lease dated as of August 20, 2002, that certain First Amendment to Lease dated as of August 26, 2002, that certain Second Amendment to Lease dated as of October 24, 2002, that certain Third Amendment to Lease dated as of July 1, 2004, that certain Fourth Amendment to Lease dated as of September 5, 2006, that certain Fifth Amendment to Lease dated as of April 30, 2007, that certain Sixth Amendment to Lease dated as of September 17, 2008, that certain Seventh Amendment to Lease dated as of October 30, 2009, that certain Eighth Amendment to Lease dated as of March 4, 2010, that certain Ninth Amendment to Lease dated as of September 10, 2010, that certain Tenth Amendment to Lease dated as of February 8, 2012, that certain Eleventh Amendment to Lease dated as of June 15, 2015 and that certain Twelfth Amendment to Lease dated as of July 20, 2015 (collectively, and as the same may have been further amended, amended and restated, supplemented or modified from time to time, the "Existing Lease"), whereby Tenant leases certain premises (the "Existing Premises") from Landlord at 3030 Bunker Hill Street in San Diego, California (the "Building");

B. WHEREAS, Landlord and Tenant desire to extend the term of the Lease only with respect to the Thirteenth Amendment Remaining Premises (as defined below);

C. WHEREAS, Landlord and Tenant desire to allow the term of the Lease only with respect to the Expiration Premises (as defined below) to expire in accordance with the terms and provisions of this Amendment and the Existing Lease; and

D. WHEREAS, Landlord and Tenant desire to modify and amend the Existing Lease only in the respects and on the conditions hereinafter stated.

AGREEMENT

NOW, THEREFORE, Landlord and Tenant, in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, agree as follows:

1. Definitions. For purposes of this Amendment, capitalized terms shall have the meanings ascribed to them in the Existing Lease unless otherwise defined herein. The Existing Lease, as amended by this Amendment, is referred to collectively herein as the "Lease." From and after the date hereof, the term "Lease," as used in the Existing Lease, shall mean the Existing Lease, as amended by this Amendment.

2. Expiration Premises. The term of the Lease with respect to approximately one thousand six hundred fifteen (1,615) square feet of Rentable Area located on the third floor of the Building (as more particularly described on Exhibit A attached hereto, the "Expiration Premises") is not extended and shall continue to expire on the Term Expiration Date (as defined prior to this Amendment). For the avoidance of doubt, the Term Expiration Date with respect to the Expiration Premises only is December 22, 2017 and is referred to herein as the "Expiration Premises Term Expiration Date". Effective as of the Expiration Premises Term Expiration Date, the Lease with respect to the Expiration Premises only shall terminate and shall thereafter be of no further force or effect with respect to the Expiration Premises, except for those terms, conditions and provisions that, by their express terms, survive the expiration or earlier termination of the Lease.

2.1 Tenant shall surrender the Expiration Premises to Landlord on or before the Expiration Premises Term Expiration Date in accordance with all of the terms, conditions and provisions of the Lease (including, without limitation, Article 39 of the Lease).

2.2 If Tenant fails to surrender any portion of the Expiration Premises in accordance with all of the terms, conditions and provisions of the Lease on or before the Expiration Premises Term Expiration Date, then the holdover provisions of Section 12.2 of the Lease shall apply to the Expiration Premises until the actual date that Tenant surrenders the entire Expiration Premises to Landlord in accordance with all of the terms, conditions and provisions of the Lease. This Section shall survive the expiration or termination of the Lease with respect to the Expiration Premises.

2.3 From and after December 23, 2017 (the "Extension Term Commencement Date"), the term "Premises" as used in the Lease shall mean only the Thirteenth Amendment Remaining Premises (as defined below).

3. Extension of Term. The term of the Lease with respect to (a) approximately six thousand seven hundred seventy (6,770) square feet of Rentable Area located on the third floor of the Building (as more particularly described on Exhibit B attached hereto, the "Thirteenth Amendment Third Floor Remaining Premises"), plus (b) one hundred ten (110) square feet of Rentable Area known as Cage 4 and located on the first floor of the Building (the "First Floor Remaining Premises") (the Thirteenth Amendment Third Floor Remaining Premises and the First Floor Remaining Premises, collectively, the "Thirteenth Amendment Remaining Premises") is hereby extended until, and the Term Expiration Date with respect to the Thirteenth Amendment Remaining Premises is hereby amended to mean, December 22, 2019. The period commencing on the Extension Term Commencement Date and ending on the new Term Expiration Date (with respect to the Thirteenth Amendment Remaining Premises) shall be referred to herein as the "Thirteenth Amendment Extension Term."

4. Condition of Premises. Tenant acknowledges that (a) it is in possession of and is fully familiar with the condition of the Thirteenth Amendment Remaining Premises and, notwithstanding anything contained in the Lease to the contrary, agrees to take the same in its condition "as is" as of the first day of the Thirteenth Amendment Extension Term, and (b) Landlord shall have no obligation to alter, repair or otherwise prepare the Thirteenth Amendment Remaining Premises for Tenant's continued occupancy for the Thirteenth Amendment Extension Term or to

pay for any improvements to the Premises, except as may be expressly provided in Article 7 of this Amendment.

5. Basic Annual Rent. Notwithstanding anything to the contrary in the Lease, commencing on the Extension Term Commencement Date and continuing throughout the Thirteenth Amendment Extension Term, Basic Annual Rent for the Premises shall be as set forth in the charts below and Tenant shall pay such Basic Annual Rent for the Premises in accordance with the terms and provisions of the Lease.

Thirteenth Amendment Third Floor Remaining Premises

Dates	Square Feet of Rentable Area	Basic Annual Rent per Square Foot of Rentable Area	Monthly Basic Annual Rent
December 23, 2017 – December 22, 2018	6,770	$2.35 monthly	$ 15,909.50
December 23, 2018 – December 22, 2019	6,770	$2.42 monthly	$ 16,383.40

First Floor Remaining Premises

Dates	Square Feet of Rentable Area	Basic Annual Rent per Square Foot of Rentable Area	Monthly Basic Annual Rent
December 23, 2017 – December 22, 2018	110	$1.09 monthly	$ 119.90
December 23, 2018 – December 22, 2019	110	$1.12 monthly	$ 123.20

6. Tenant's Pro Rata Share. In addition to Basic Annual Rent, Tenant shall continue to pay Tenant's Pro Rata Share of Operating Expenses and all other Additional Rent (in accordance with the terms and provisions of the Lease) during the Thirteenth Amendment Extension Term; provided, however, that notwithstanding anything to the contrary in the Lease, commencing on the Extension Term Commencement Date, Tenant's Pro Rata Share shall equal 6.43%.

7. Landlord Work. Upon Landlord's receipt of the Desired Commencement Notice (as defined below), Landlord (a) shall, at Landlord's sole cost and expense, cause the performance of the work that is applicable to the Thirteenth Amendment Third Floor Remaining Premises described on Exhibit C attached hereto (including the relocation of the ice machine described therein) (collectively, the "Thirteenth Amendment Third Floor Remaining Premises Landlord Work") to be commenced, subject to the terms, conditions and provisions of this Article and (b) may (but shall not be obligated to), at Landlord's sole cost and expense, cause the work that is

applicable to the Expiration Premises described on Exhibit C attached hereto (such work, as may be modified in the sole discretion of Landlord, the "Expiration Premises Landlord Work") to be performed, subject to the terms, conditions and provisions of this Article. The Thirteenth Amendment Third Floor Remaining Premises Landlord Work and the Expiration Premises Landlord Work are collectively referred to herein as the "Landlord Work."

7.1 Landlord shall use commercially reasonable efforts to Substantially Complete (as defined below) the Thirteenth Amendment Third Floor Remaining Premises Landlord Work no later than the date (the "Estimated Substantial Completion Date") that is six (6) weeks after the date that Tenant provides written notice to Landlord that Tenant desires Landlord to commence the Thirteenth Amendment Third Floor Remaining Premises Landlord Work (such notice, the "Desired Commencement Notice"). Tenant agrees that in the event the Thirteenth Amendment Third Floor Remaining Premises Landlord Work is not Substantially Complete on or before the Estimated Substantial Completion Date for any reason, then (m) this Amendment shall not be void or voidable, (n) Tenant shall not be entitled to any Rent abatement under the Lease and (o) Landlord shall not be liable to Tenant for any loss or damage resulting therefrom. The term "Substantially Complete" or "Substantial Completion" means that the Thirteenth Amendment Third Floor Remaining Premises Landlord Work is substantially complete in accordance with the applicable portions of Exhibit C, except for minor punch list items. Notwithstanding anything in this Amendment to the contrary, Landlord's obligation to timely achieve Substantial Completion of the Thirteenth Amendment Third Floor Remaining Premises Landlord Work shall be subject to extension on a day-for-day basis as a result of (y) Force Majeure and/or (z) any delay arising out of or in any way connected with (i) Tenant's breach of its obligations under the Lease (including this Amendment) and/or (ii) any action or inaction by Tenant. Notwithstanding anything to the contrary, in the event Tenant does not provide Landlord with the Desired Commencement Notice on or before December 22, 2017 (with time being of the essence), then Landlord shall no longer have any obligation to perform the Thirteenth Amendment Third Floor Remaining Premises Landlord Work and such obligation as set forth under this Amendment shall be null and void and of no further force or effect.

7.2 Tenant acknowledges that Landlord will be constructing and/or performing the Landlord Work (or portions thereof) in the Premises during Tenant's occupancy of the Premises for the Permitted Use. Tenant shall permit Landlord to enter the Premises at all times (including during business hours) to construct and/or perform the Landlord Work, and Tenant shall otherwise reasonably cooperate with Landlord throughout the construction process to enable Landlord to complete the Landlord Work in a timely and efficient manner. In no event shall Landlord's construction or performance of the Landlord Work (including construction or performance in the Premises) (a) cause Rent to abate under the Lease, (b) give rise to any claim by Tenant for damages or (c) constitute a forcible or unlawful entry, a detainer or an eviction of Tenant.

7.3 Tenant shall, from time to time within forty-eight (48) hours of Landlord's request, move Tenant's furniture, equipment and other personal property (collectively, "Tenant's Property") to enable Landlord to complete the Landlord Work. Tenant acknowledges and agrees that Tenant (not Landlord), at Tenant's sole cost and expense, shall be solely responsible for moving (and protecting) Tenant's Property during Landlord's construction of the Landlord Work

(in accordance with the foregoing grammatical sentence) and for moving Tenant's Property back to its desired location following Landlord's completion of the Landlord Work.

7.4 In the event that Tenant fails to comply with any of its obligations under this Article and such failure causes Landlord to incur additional costs with respect to the Landlord Work, Tenant shall pay to Landlord as Additional Rent the amount of any such additional costs within thirty (30) days of receiving an invoice from Landlord.

8. Broker. Tenant represents and warrants that it has not dealt with any broker or agent in the negotiation for or the obtaining of this Amendment, other than Hughes Marino, Inc. ("Broker"), and agrees to reimburse, indemnify, save, defend (at Landlord's option and with counsel reasonably acceptable to Landlord, at Tenant's sole cost and expense) and hold harmless Landlord and Landlord's Agents for, from and against any and all cost or liability for compensation claimed by any such broker or agent, other than Broker, employed or engaged by it or claiming to have been employed or engaged by it. Broker is entitled to a leasing commission in connection with the making of this Amendment, and Landlord shall pay such commission to Broker pursuant to a separate agreement between Landlord and Broker.

9. No Default. Tenant represents, warrants and covenants that, to the best of Tenant's knowledge, Landlord and Tenant are not in default of any of their respective obligations under the Existing Lease and no event has occurred that, with the passage of time or the giving of notice (or both) would constitute a default by either Landlord or Tenant thereunder.

10. Notices. Tenant confirms that, notwithstanding anything in the Lease to the contrary, notices delivered to Tenant pursuant to the Lease should be sent to:

Genelux Corporation
3030 Bunker Hill Street, Suite 310
San Diego, California 92109
Attention: Thomas Zindrick.

11. Effect of Amendment. Except as modified by this Amendment, the Existing Lease and all the covenants, agreements, terms, provisions and conditions thereof shall remain in full force and effect and are hereby ratified and affirmed. In the event of any conflict between the terms contained in this Amendment and the Existing Lease, the terms herein contained shall supersede and control the obligations and liabilities of the parties.

12. Successors and Assigns. Each of the covenants, conditions and agreements contained in this Amendment shall inure to the benefit of and shall apply to and be binding upon the parties hereto and their respective heirs, legatees, devisees, executors, administrators and permitted successors and assigns and sublessees. Nothing in this section shall in any way alter the provisions of the Lease restricting assignment or subletting.

13. Miscellaneous. This Amendment becomes effective only upon execution and delivery hereof by Landlord and Tenant. The captions of the paragraphs and subparagraphs in this Amendment are inserted and included solely for convenience and shall not be considered or given

any effect in construing the provisions hereof. All exhibits hereto are incorporated herein by reference. Submission of this instrument for examination or signature by Tenant does not constitute a reservation of or option for a lease, and shall not be effective as a lease, lease amendment or otherwise until execution by and delivery to both Landlord and Tenant.

14. Authority. Tenant guarantees, warrants and represents that the individual or individuals signing this Amendment have the power, authority and legal capacity to sign this Amendment on behalf of and to bind all entities, corporations, partnerships, limited liability companies, joint venturers or other organizations and entities on whose behalf such individual or individuals have signed.

15. Counterparts; Facsimile and PDF Signatures. This Amendment may be executed in one or more counterparts, each of which, when taken together, shall constitute one and the same document. A facsimile or portable document format (PDF) signature on this Amendment shall be equivalent to, and have the same force and effect as, an original signature.

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IN WITNESS WHEREOF, Landlord and Tenant have executed this Amendment as of the date and year first above written.

LANDLORD:

BMR-BUNKER HILL LP,
a Delaware limited partnership

By: */s/ Kevin M. Simonsen*
Name: Kevin M. Simonsen
Title: Sr. Vice President, Sr. Counsel

TENANT:

GENELUX CORPORATION,
a Delaware corporation

By: */s/ Thomas D. Zindrick*
Name: Thomas D. Zindrick
Title: President/CEO

EXHIBIT A

EXPIRATION PREMISES

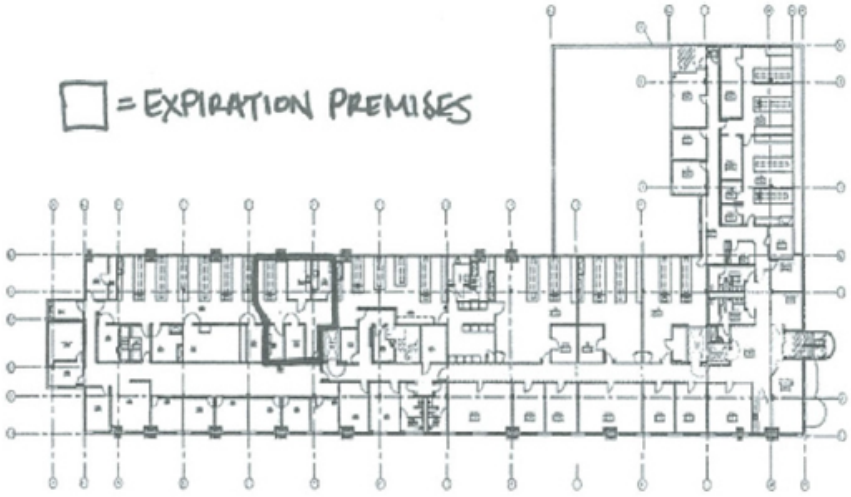


EXHIBIT B

THIRTEENTH AMENDMENT REMAINING PREMISES

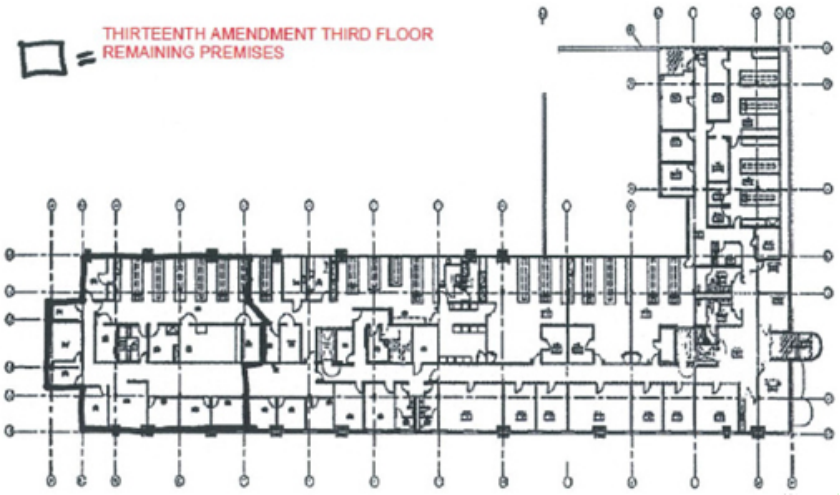
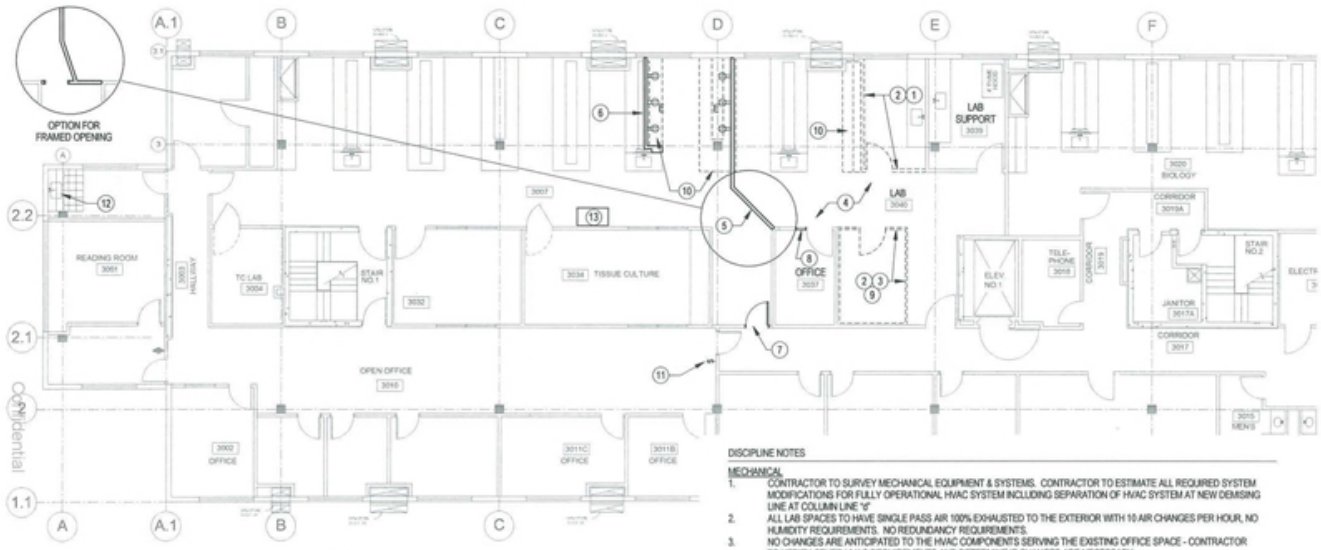


EXHIBIT C

LANDLORD WORK

[See attached]

Confidential



GENERAL NOTES

1. EXISTING CONDITIONS OUTSIDE SCOPE OF WORK TO BE VERIFIED.
2. ALL GREYED OUT ITEMS ARE EXISTING TO REMAIN.
3. ALL BLACK, BOLD ITEMS NEW.
4. ALL DASHED ITEMS TO BE REMOVED.
5. ALL REPLACED FINISHES TO MATCH EXISTING.

(#) SHEET NOTES

1. REMOVE WALL & PATCH WALLS, FLOOR & CEILINGS TO MATCH EXISTING.
2. DEMO ALL ELECTRICAL, BACK TO PANEL, & UPDATE PANEL SCHEDULES.
3. DEMO AND CAP ALL MECHANICAL BACK TO MAINS.
4. MODIFY EXISTING FIRE SPRINKLER AND FIRE ALARM COMPONENTS AS REQUIRED DUE TO ASSOCIATED DEMO AND NEW CONSTRUCTION.
5. 3 5/8" 20 GA METAL STUDS W/ 5/8" GYP. BD., TYPE "X", BOTH SIDES FULL HEIGHT, TO UNDERSIDE OF DECK.
6. 3 5/8" 20 GA METAL STUDS W/ 5/8" GYP. BD., TYPE "X", BOTH SIDES TO 6" ABOVE COUNTERTOP W/ GYP. BD. ON EXPOSED, FINISHED SIDES ONLY.
7. NEW 3'-0" DOOR W/ 1/2 LITE TO MATCH EXISTING.
8. NEW 18" WIDE SIDELIGHT AT EXISTING DOOR.
9. DEMO & REMOVE COLD ROOM. PATCH ALL WALLS & REPLACE ALL CEILINGS & FLOORS TO MATCH EXISTING.
10. DEMO & REMOVE CASEWORK & ASSOCIATED MECHANICAL AND ELECTRICAL SCOPE.
11. REWORK LIGHTING FOR NEW SWITCH LOCATION AT NEW ENTRY DOOR.
12. REPLACE EXISTING INSTANT HOT-WATER HEATER.
13. RELOCATE EXISTING ICE MACHINE TO NEW LOCATION, TBC BY TENANT.

DISCIPLINE NOTES

MECHANICAL
1. CONTRACTOR TO SURVEY MECHANICAL EQUIPMENT & SYSTEMS. CONTRACTOR TO ESTIMATE ALL REQUIRED SYSTEM MODIFICATIONS FOR FULLY OPERATIONAL HVAC SYSTEM INCLUDING SEPARATION OF HVAC SYSTEM AT NEW DEMISING LINE AT COLUMN LINE "6"
2. ALL LAB SPACES TO HAVE SINGLE PASS AIR 100% EXHAUSTED TO THE EXTERIOR WITH 10 AIR CHANGES PER HOUR, NO HUMIDITY REQUIREMENTS. NO REDUNDANCY REQUIREMENTS.
3. NO CHANGES ARE ANTICIPATED TO THE HVAC COMPONENTS SERVING THE EXISTING OFFICE SPACE - CONTRACTOR TO VERIFY OTHER HVAC REQUIREMENTS AND DETERMINE IF CHANGES ARE NECESSARY.
4. ALL WORK SHALL BE CLOSELY COORDINATED WITH THE TENANT AND GENERAL CONTRACTOR TO MINIMIZE DISRUPTION OF OPERATIONS.

PLUMBING & PIPING
1. DEMO ANY LAB SERVICES AT DEMOLISHED WALLS AND CASEWORK BACK TO SERVICE MAINS.
2. DEMO AND REMOVE ALL ASSOCIATED COLD ROOM PIPING, COMPRESSORS, ETC. FOR COMPLETE UNIT REMOVAL.
3. REMOVE ANY PENETRATIONS THROUGH ROOF AND PATCH ROOFING.

POWER
1. PROVIDE & INSTALL 120V OUTLETS (BOTH NORMAL & E-POWER) AS SHOWN AT REMOVED LAB BENCHES FOR NEW LAB EQUIPMENT.

LIGHTING
1. ALL EXISTING LIGHTING TO REMAIN - MODIFY FIXTURE LOCATIONS AS REQUIRED TO ACCOMMODATE NEW CONSTRUCTION.
2. PROVIDE NEW FIXTURES TO MATCH EXISTING BUILDING STANDARD AT REMOVED COLD ROOM.

FINISHES
1. ALL NEW AND/OR REPAIRED FINISHES INCLUDING BUT NOT LIMITED TO: FLOORING & BASE, CEILING SYSTEMS, PAINT & OTHER WALL FINISHES, CASEWORK (LAB AND ARCHITECTURAL), AND DOORS & DOOR FRAMES & DOOR HARDWARE SHALL MATCH EXISTING BUILDING STANDARDS.
2. PATCH AND REPAIR ALL EXPOSED FINISH ITEMS AT AREAS OF PROPOSED IMPROVEMENTS WHERE DEMOLITION OCCURS, AT AREAS DAMAGED DUE TO CONSTRUCTION, AND/OR AT NEW ELEMENTS CONSTRUCTED. CREATE A SEAMLESS INTERFACE BETWEEN NEW AND EXISTING CONSTRUCTION.

TRUE NORTH
NORTH

BUNKER HILL THIRD LEVEL - GENELUX PRICING PLAN

3/32" = 1'-0"

05-22-2017
Rev. 2

BioMed Realty

TWELFTH AMENDMENT TO LEASE

THIS TWELFTH AMENDMENT TO LEASE (this "Amendment") is entered into as of this 20th day of July, 2015, by and between BMR-BUNKER HILL LP, a Delaware limited partnership ("Landlord," formerly known as BMR-3030 Bunker Hill Street LLC, as successor-in-interest to San Diego Science Center LLC), and GENELUX CORPORATION, a Delaware corporation ("Tenant").

RECITALS

A. WHEREAS, Landlord and Tenant are parties to that certain Lease dated as of August 20, 2002, as amended by that certain Addendum to Lease dated as of August 20, 2002, that certain First Amendment to Lease dated as of August 26, 2002, that certain Second Amendment to Lease dated as of October 24, 2002, that certain Third Amendment to Lease dated as of July 1, 2004, that certain Fourth Amendment to Lease dated as of September 5, 2006, that certain Fifth Amendment to Lease dated as of April 30, 2007, that certain Sixth Amendment to Lease dated as of September 17, 2008, that certain Seventh Amendment to Lease dated as of October 30, 2009, that certain Eighth Amendment to Lease dated as of March 4, 2010, that certain Ninth Amendment to Lease dated as of September 10, 2010, that certain Tenth Amendment to Lease dated as of February 8, 2012 and that certain Eleventh Amendment to Lease dated as of June 15, 2015 (the "Eleventh Amendment") (collectively, and as the same may have been further amended, amended and restated, supplemented or modified from time to time, the "Existing Lease"), whereby Tenant leases certain premises from Landlord at 3030 Bunker Hill Street in San Diego, California;

B. WHEREAS, the Eleventh Amendment mistakenly omitted certain space from the Remaining Premises (as defined in the Eleventh Amendment) and Landlord and Tenant desire to modify certain terms and conditions of the Eleventh Amendment to correct such omission; and

C. WHEREAS, Landlord and Tenant desire to modify and amend the Existing Lease only in the respects and on the conditions hereinafter stated.

AGREEMENT

NOW, THEREFORE, Landlord and Tenant, in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, agree as follows:

1. Definitions. For purposes of this Amendment, capitalized terms shall have the meanings ascribed to them in the Existing Lease unless otherwise defined herein. The Existing Lease, as amended by this Amendment, is referred to collectively herein as the "Lease." From and after the date hereof, the term "Lease," as used in the Existing Lease, shall mean the Existing Lease, as amended by this Amendment.

2. Recital B. Effective as of the Execution Date of the Eleventh Amendment, Recital B of the Eleventh Amendment is hereby deleted in its entirety and replaced with the following:

"WHEREAS, Landlord and Tenant desire to modify the Existing Premises by deleting from the Existing Premises approximately three thousand six hundred twenty (3,620) square feet

of Rentable Area located on the third floor of the Building (as more particularly described on attached Exhibit A, the "Surrender Premises"), such that the remaining "Premises" under the Lease shall mean (a) approximately eight thousand three hundred eighty-five (8,385) square feet of Rentable Area located on the third floor of the Building (as more particularly described on attached Exhibit B, the "Third Floor Remaining Premises"), plus (b) one hundred ten (110) square feet of Rentable Area known as Cage 4 and located on the first floor of the Building (the "First Floor Remaining Premises") (the Third Floor Remaining Premises and the First Floor Remaining Premises, collectively, the "Remaining Premises"); and"

3. Exhibits. Effective as of the Execution Date of the Eleventh Amendment, Exhibit B of the Eleventh Amendment is hereby deleted in its entirety and replaced with the Exhibit B attached to this Amendment.

4. Basic Annual Rent. Effective as of the Execution Date of the Eleventh Amendment, Section 4 of the Eleventh Amendment is hereby deleted in its entirety and replaced with the following:

"Notwithstanding anything to the contrary in the Lease, commencing on the Extension Term Commencement Date and continuing throughout the Extension Term, Basic Annual Rent for the Premises shall be as set forth in the chart below.

Third Floor Remaining Premises

Dates	Square Feet of Rentable Area	Basic Annual Rent per Square Foot of Rentable Area	Monthly Basic Rentable Area
Month 1— Month 12	8,385	$2.15 monthly	$ 18,027.75
Month 13 — Month 24	8,385	$2.21 monthly	$ 18,530.85
Month 25 — Month 30	8,385	$2.28 monthly	$ 19,117.80

First Floor Remaining Premises

Dates	Square Feet of Rentable Area	Basic Annual Rent per Square Foot of Rentable Area	Monthly Basic Rentable Area
Month 1— Month 12	110	$1.00 monthly	$ 110.00
Month 13 — Month 24	110	$1.03 monthly	$ 113.30
Month 25 — Month 30	110	$1.06 monthly	$ 116.60

5. Tenant's Pro Rata Share. Effective as of the Execution Date of the Eleventh Amendment, Section 5 of the Eleventh Amendment is hereby deleted in its entirety and replaced with the following:

"Notwithstanding anything to the contrary in the Lease, commencing on the Extension Term Commencement Date, Tenant's Pro Rata Share shall equal 8.06%."

6. Broker. Tenant represents and warrants that it has not dealt with any broker or agent in the negotiation for or the obtaining of this Amendment, other than Hughes Marino, Inc. ("Broker"), and agrees to reimburse, indemnify, save, defend (at Landlord's option and with counsel reasonably acceptable to Landlord, at Tenant's sole cost and expense) and hold harmless Landlord and Landlord's Agents for, from and against any and all cost or liability for compensation claimed by any such broker or agent, other than Broker, employed or engaged by it or claiming to have been employed or engaged by it.

7. No Default. Tenant represents, warrants and covenants that, to the best of Tenant's knowledge, Landlord and Tenant are not in default of any of their respective obligations under the Existing Lease and no event has occurred that, with the passage of time or the giving of notice (or both) would constitute a default by either Landlord or Tenant thereunder.

8. Effect of Amendment. Except as modified by this Amendment, the Existing Lease and all the covenants, agreements, terms, provisions and conditions thereof shall remain in full force and effect and are hereby ratified and affirmed. In the event of any conflict between the terms contained in this Amendment and the Existing Lease, the terms herein contained shall supersede and control the obligations and liabilities of the parties.

9. Successors and Assigns. Each of the covenants, conditions and agreements contained in this Amendment shall inure to the benefit of and shall apply to and be binding upon the parties hereto and their respective heirs, legatees, devisees, executors, administrators and permitted successors and assigns and sublessees. Nothing in this section shall in any way alter the provisions of the Lease restricting assignment or subletting.

10. Miscellaneous. This Amendment becomes effective only upon execution and delivery hereof by Landlord and Tenant. The captions of the paragraphs and subparagraphs in this Amendment are inserted and included solely for convenience and shall not be considered or given any effect in construing the provisions hereof. All exhibits hereto are incorporated herein by reference. Submission of this instrument for examination or signature by Tenant does not constitute a reservation of or option for a lease, and shall not be effective as a lease, lease amendment or otherwise until execution by and delivery to both Landlord and Tenant.

11. Authority. Tenant guarantees, warrants and represents that the individual or individuals signing this Amendment have the power, authority and legal capacity to sign this Amendment on behalf of and to bind all entities, corporations, partnerships, limited liability companies, joint venturers or other organizations and entities on whose behalf such individual or individuals have signed.

12. Counterparts; Facsimile and PDF Signatures. This Amendment may be executed in one or more counterparts, each of which, when taken together, shall constitute one and the same document. A facsimile or portable document format (PDF) signature on this Amendment shall be equivalent to, and have the same force and effect as, an original signature.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Amendment as of the date and year first above written.

LANDLORD:

BMR-BUNKER HILL LP,
a Delaware limited partnership

By: /s/ Kevin M. Simonsen
Name: Kevin M. Simonsen
Title: Sr. VP, Real Estate Legal

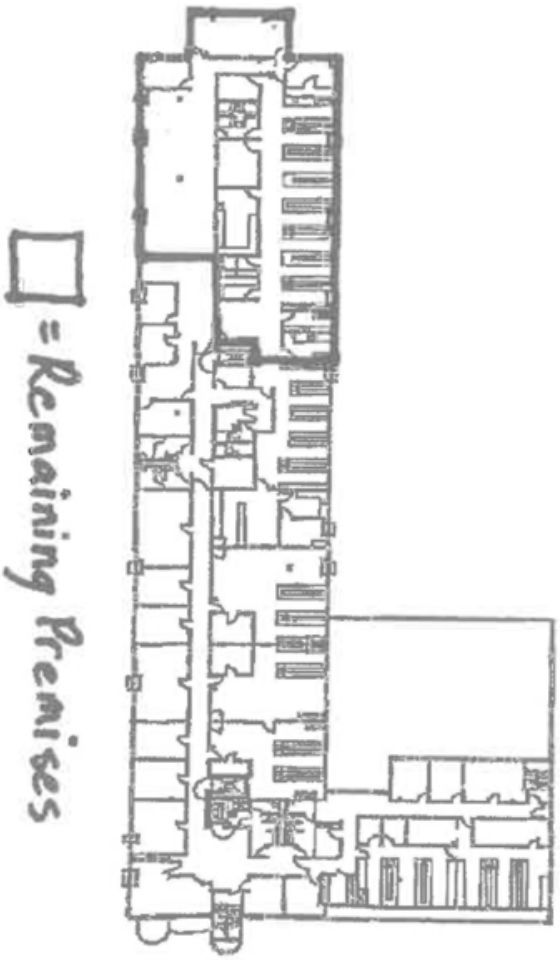
TENANT:

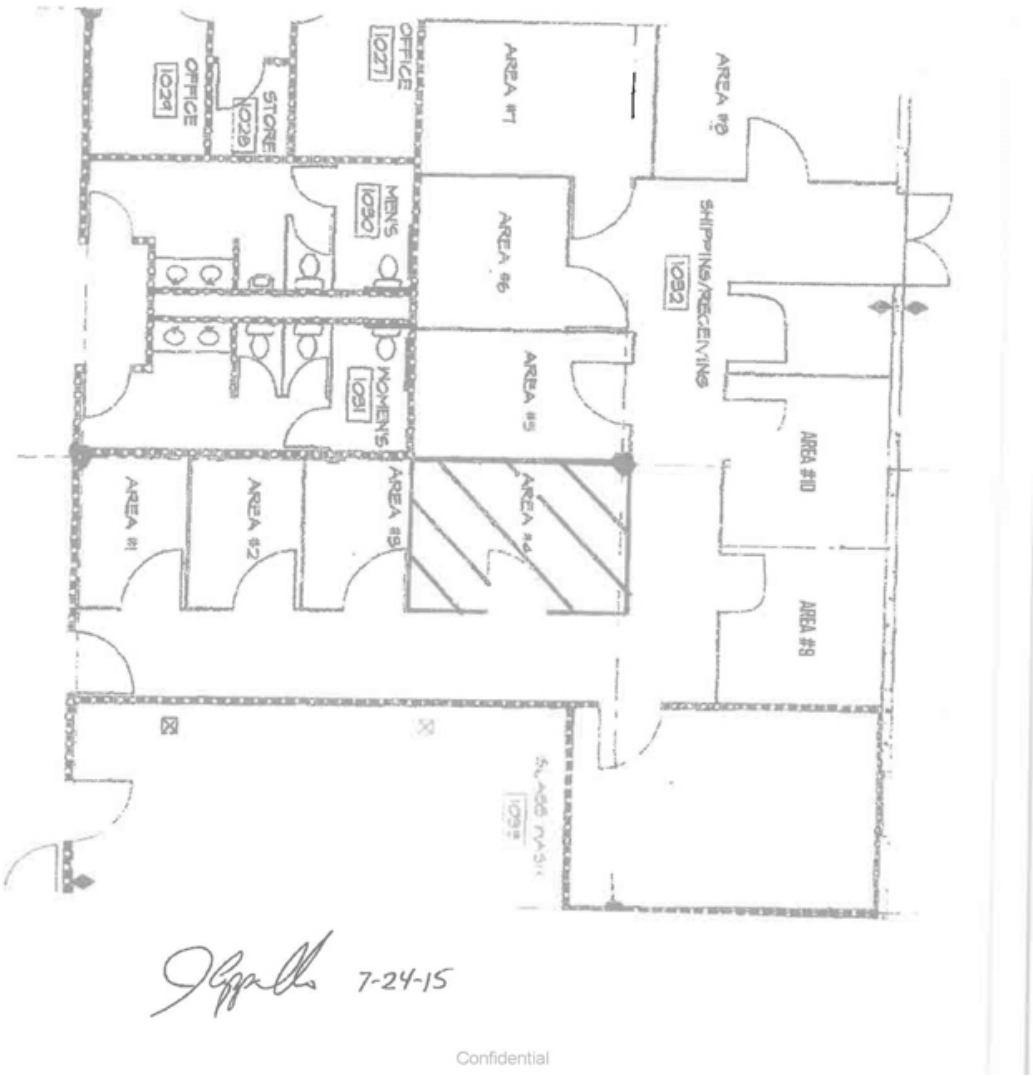
GENELUX CORPORATION,
a Delaware corporation

By: /s/ Thomas D. Zindrick
Name: Thomas D. Zindrick
Title: President/CEO

EXHIBIT B

REMAINING PREMISES





7-24-15

Confidential

ELEVENTH AMENDMENT TO LEASE

THIS ELEVENTH AMENDMENT TO LEASE (this "Amendment") is entered into as of this 15th day of June, 2015 (the "Execution Date"), by and between BMR-BUNKER HILL LP, a Delaware limited partnership ("Landlord," formerly known as BMR-3030 Bunker Hill Street LLC, as successor-in-interest to San Diego Science Center LLC), and GENELUX CORPORATION, a Delaware corporation ("Tenant").

RECITALS

A. WHEREAS, Landlord and Tenant are parties to that certain Lease dated as of August 20, 2002 (the "Original Lease"), as amended by that certain Addendum to Lease dated as of August 20, 2002, that certain First Amendment to Lease dated as of August 26, 2002, that certain Second Amendment to Lease dated as of October 24, 2002, that certain Third Amendment to Lease dated as of July 1, 2004, that certain Fourth Amendment to Lease dated as of September 5, 2006, that certain Fifth Amendment to Lease dated as of April 30, 2007, that certain Sixth Amendment to Lease dated as of September 17, 2008, that certain Seventh Amendment to Lease dated as of October 30, 2009, that certain Eighth Amendment to Lease dated as of March 4, 2010, that certain Ninth Amendment to Lease dated as of September 10, 2010 and that certain Tenth Amendment to Lease dated as of February 8, 2012 (collectively, and as the same may have been further amended, amended and restated, supplemented or modified from time to time, the "Existing Lease"), whereby Tenant leases certain premises (the "Existing Premises") from Landlord at 3030 Bunker Hill Street in San Diego, California (the "Building");

B. WHEREAS, Landlord and Tenant desire to modify the Existing Premises by deleting from the Existing Premises approximately three thousand seven hundred thirty (3,730) square feet of Rentable Area located on the third floor of the Building (as more particularly described on attached Exhibit A, the "Surrender Premises"), such that the remaining "Premises" under the Lease shall mean approximately eight thousand three hundred eighty-five (8,385) square feet of Rentable Area located on the third floor of the Building (as more particularly described on attached Exhibit B, the "Remaining Premises"); and

C. WHEREAS, Landlord and Tenant desire to modify and amend the Existing Lease only in the respects and on the conditions hereinafter stated.

AGREEMENT

NOW, THEREFORE, Landlord and Tenant, in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, agree as follows:

1. Definitions. For purposes of this Amendment, capitalized terms shall have the meanings ascribed to them in the Existing Lease unless otherwise defined herein. The Existing Lease, as amended by this Amendment, is referred to collectively herein as the "Lease." From and after the date hereof, the term "Lease," as used in the Existing Lease, shall mean the Existing Lease, as amended by this Amendment.

2. Surrender Premises. Effective as of the date that is five (5) business days after the Execution Date (such date, the "Surrender Premises Expiration Date"), the Lease with respect to the Surrender Premises shall terminate and shall thereafter be of no further force or effect with respect to the Surrender Premises, except for those terms, conditions and provisions that, by their express terms, survive the expiration or earlier termination of the Lease.

2.1 Tenant shall surrender the Surrender Premises to Landlord on or before the Surrender Premises Expiration Date in accordance with all of the terms, conditions and provisions of the Lease (including, without limitation, Article 39 of the Original Lease).

2.2 If Tenant fails to surrender any portion of the Surrender Premises in accordance with all of the terms, conditions and provisions of the Lease on or before the Surrender Premises Expiration Date, then the holdover provisions of Section 12.2 of the Original Lease shall apply to the Surrender Premises until the actual date that Tenant surrenders the entire Surrender Premises to Landlord in accordance with all of the terms, conditions and provisions of the Lease.

2.3 From and after the day immediately following the Surrender Premises Expiration Date (such date, the "Extension Term Commencement Date"), the term "Premises" as used in the Lease shall mean the Remaining Premises.

3. Extension of Term. The term of the Lease with respect to the Remaining Premises is hereby extended until, and the Term Expiration Date with respect to the Remaining Premises is hereby amended to mean, the date that is thirty (30) months after the Extension Term Commencement Date. The period commending on the Extension Term Commencement Date and ending on the Term Expiration Date shall be referred to herein as the "Extension Term." Tenant acknowledges that (a) it is in possession of and is fully familiar with the condition of the Remaining Premises and, notwithstanding anything to the contrary in the Lease, agrees to take the same in its condition "as is" as of the Extension Term Commencement Date, and (b) Landlord shall have no obligation to alter, repair or otherwise prepare the Remaining Premises for Tenant's continued occupancy or to pay for any improvements to the Remaining Premises, except with respect to the Landlord Work.

4. Basic Annual Rent. Notwithstanding anything to the contrary in the Lease, commencing on the Extension Term Commencement Date and continuing throughout the Extension Term, Basic Annual Rent for the Premises shall be as set forth in the chart below.

Dates	Square Feet of Rentable Area	Basic Annual Rent per Square Foot of Rentable Area	Monthly Basic Rentable Area
Month 1 — Month 12	8,385	$2.15 monthly	$ 18,027.75
Month 13 — Month 24	8,385	$2.21 monthly	$ 18,530.85
Month 25 — Month 30	8,385	$2.28 monthly	$ 19,117.80

5. Tenant's Pro Rata Share. Notwithstanding anything to the contrary in the Lease, commencing on the Extension Term Commencement Date, Tenant's Pro Rata Share shall equal 7.96%.

6. Landlord Work. Promptly following the Surrender Premises Expiration Date, Landlord shall, at Landlord's sole cost and expense, cause the work described on Exhibit C attached hereto (the "Landlord Work") to be completed in the Premises subject to the terms, conditions and provisions of this Article.

6.1 Tenant acknowledges that Landlord will be constructing the Landlord Work in the Premises during Tenant's occupancy of the Premises for the Permitted Use. Tenant shall permit Landlord to enter the Premises at all times (including during business hours) to construct the Landlord Work, and Tenant shall otherwise reasonably cooperate with Landlord throughout the construction process to enable Landlord to complete the Landlord Work in a timely and efficient manner. In no event shall Landlord's construction of the Landlord Work in the Premises (a) cause Rent to abate under the Lease, (b) give rise to any claim by Tenant for damages or (c) constitute a forcible or unlawful entry, a detainer or an eviction of Tenant.

6.2 Tenant shall, from time to time within forty-eight (48) hours of Landlord's request, move Tenant's furniture, equipment and other personal property (collectively, "Tenant's Property") out of the Premises to enable Landlord to complete the Landlord Work. Tenant acknowledges and agrees that Tenant (not Landlord), at Tenant's sole cost and expense, shall be solely responsible for moving Tenant's Property out of the Premises during Landlord's construction of the Landlord Work (in accordance with the foregoing grammatical sentence) and for moving Tenant's Property back into the Premises following Landlord's completion of the Landlord Work.

6.3 In the event that Tenant fails to comply with any of its obligations under this Article and such failure causes Landlord to incur additional costs with respect to the Landlord Work, Tenant shall pay to Landlord as Additional Rent the amount of any such additional costs within thirty (30) days of receiving an invoice from Landlord.

7. Security Deposit. On or before the Execution Date, Tenant shall deposit with Landlord an amount equal to Four Thousand Five Hundred Fifty and 10/100 Dollars ($4,550.10) as an increase to the required security deposit under the Lease (such amount, the "Increased Security Deposit Amount"). From and after the Execution Date, the required security deposit under the Lease shall be increased by the Increased Security Deposit Amount.

8. Broker. Tenant represents and warrants that it has not dealt with any broker or agent in the negotiation for or the obtaining of this Amendment, other than Hughes Marino, Inc. ("Broker"), and agrees to reimburse, indemnify, save, defend (at Landlord's option and with counsel reasonably acceptable to Landlord, at Tenant's sole cost and expense) and hold harmless Landlord and Landlord's Agents for, from and against any and all cost or liability for compensation claimed by any such broker or agent, other than Broker, employed or engaged by it or claiming to have been employed or engaged by it. Broker is entitled to a leasing commission in connection with the making of this Amendment, and Landlord shall pay such commission to Broker pursuant to a separate agreement between Landlord and Broker.

9. No Default. Tenant represents, warrants and covenants that, to the best of Tenant's knowledge, Landlord and Tenant are not in default of any of their respective obligations under the Existing Lease and no event has occurred that, with the passage of time or the giving of notice (or both) would constitute a default by either Landlord or Tenant thereunder.

10. Notices. Notwithstanding anything in the Lease to the contrary, any notice, consent, demand, invoice, statement or other communication required or permitted to be given under the Lease shall be in writing and shall be given by (a) personal delivery, (b) overnight delivery with a reputable international overnight delivery service, such as FedEx, or (c) facsimile or email transmission, so long as such transmission is followed within one (1) business day by delivery utilizing one of the methods described in (a) or (b). Any such notice, consent, demand, invoice, statement or other communication shall be deemed delivered (x) upon receipt, if given in accordance with subsection (a); (y) one business (1) day after deposit with a reputable international overnight delivery service, if given if given in accordance with subsection (b); or (z) upon transmission, if given in accordance with subsection (c). Tenant confirms that, notwithstanding anything in the Lease to the contrary, notices delivered to Tenant pursuant to the Lease should be sent to:

Genelux Corporation
3030 Bunker Hill Street, Suite 310
San Diego, California 92109
Attention: Thomas Zindrick

11. Effect of Amendment. Except as modified by this Amendment, the Existing Lease and all the covenants, agreements, terms, provisions and conditions thereof shall remain in full force and effect and are hereby ratified and affirmed. In the event of any conflict between the terms contained in this Amendment and the Existing Lease, the terms herein contained shall supersede and control the obligations and liabilities of the parties.

12. Successors and Assigns. Each of the covenants, conditions and agreements contained in this Amendment shall inure to the benefit of and shall apply to and be binding upon the parties hereto and their respective heirs, legatees, devisees, executors, administrators and permitted successors and assigns and sublessees. Nothing in this section shall in any way alter the provisions of the Lease restricting assignment or subletting.

13. Miscellaneous. This Amendment becomes effective only upon execution and delivery hereof by Landlord and Tenant. The captions of the paragraphs and subparagraphs in this Amendment are inserted and included solely for convenience and shall not be considered or given any effect in construing the provisions hereof. All exhibits hereto are incorporated herein by reference. Submission of this instrument for examination or signature by Tenant does not constitute a reservation of or option for a lease, and shall not be effective as a lease, lease amendment or otherwise until execution by and delivery to both Landlord and Tenant.

14. Authority. Tenant guarantees, warrants and represents that the individual or individuals signing this Amendment have the power, authority and legal capacity to sign this Amendment on behalf of and to bind all entities, corporations, partnerships, limited liability

companies, joint venturers or other organizations and entities on whose behalf such individual or individuals have signed.

15. Counterparts; Facsimile and PDF Signatures. This Amendment may be executed in one or more counterparts, each of which, when taken together, shall constitute one and the same document. A facsimile or portable document format (PDF) signature on this Amendment shall be equivalent to, and have the same force and effect as, an original signature.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Amendment as of the date and year first above written.

LANDLORD:

BMR-BUNKER HILL LP,
a Delaware limited partnership

By: /s/ Kevin M. Simonsen
Name: Kevin M. Simonsen
Title: Sr. VP, Real Estate Legal

TENANT:

GENELUX CORPORATION,
a Delaware corporation

By: /s/ Thomas D. Zindrick
Name: Thomas D. Zindrick
Title: President/CEO

EXHIBIT A

SURRENDER PREMISES

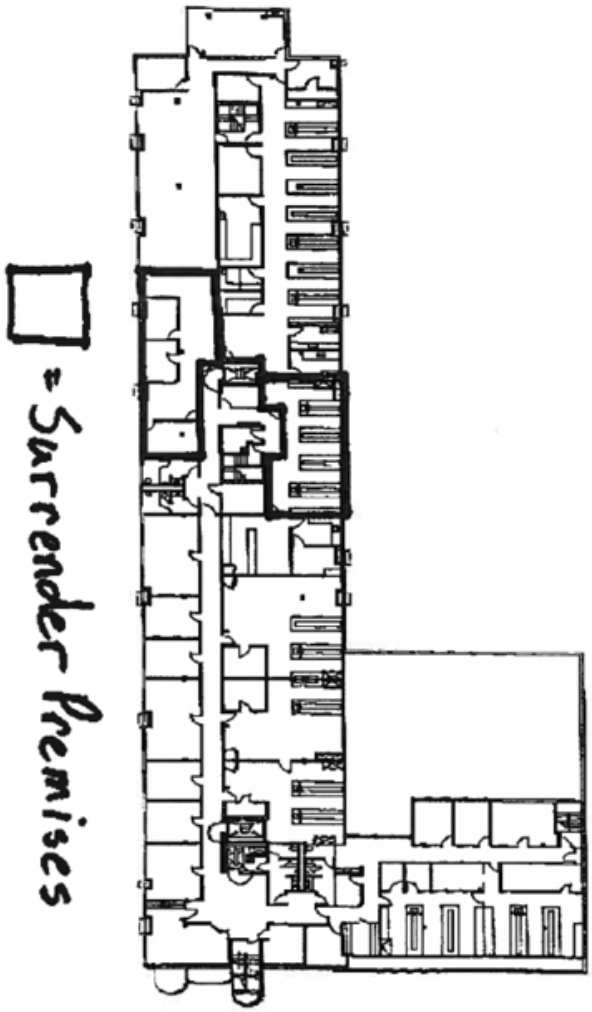


EXHIBIT B

REMAINING PREMISES

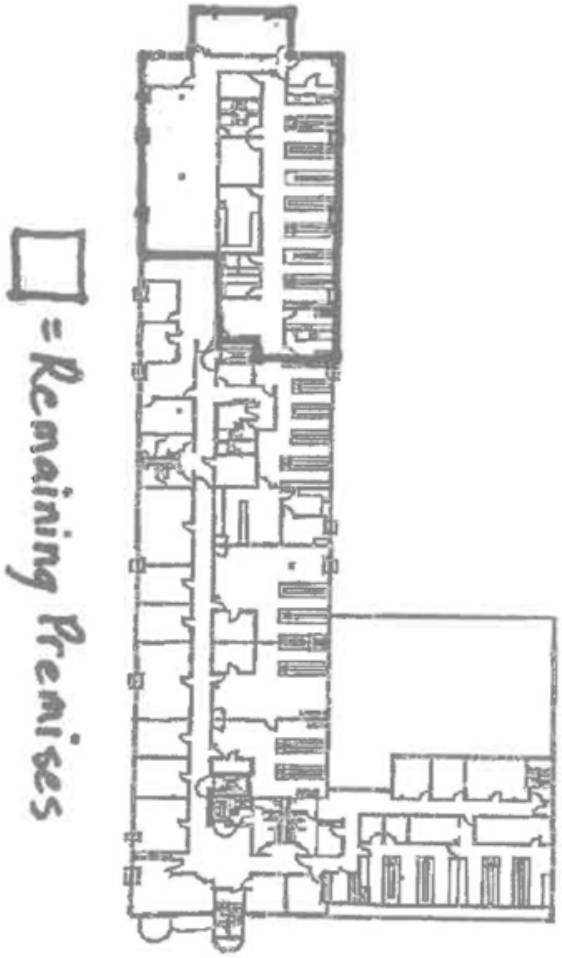


EXHIBIT C

LANDLORD'S WORK

[See attached]

Landlord's Additional Work

In addition to work provided in Exhibit C, Landlord agrees to provide the additional work at the Premises as follows:

1. Replace the carpet in the existing office Replace the carpet in the existing office areas of the Premises with Project standard grade carpet; and

2. Paint the existing office areas of the Premises with Project standard grade paint. Touch up paint shall be performed in the lab areas.

TENTH AMENDMENT TO LEASE

THIS TENTH AMENDMENT TO LEASE (this "Tenth Amendment") is entered into as of this 8th day of February 2012 (the "Execution Date"), by and between BMR-BUNKER HILL LP, a Delaware limited partnership ("Landlord," formerly known as BMR-3030 Bunker Hill Street LLC, as successor-in-interest to San Diego Science Center LLC ("Original Landlord")), and GENELUX CORPORATION, a Delaware corporation ("Tenant").

RECITALS

A. WHEREAS, Original Landlord and Tenant entered into that certain Lease dated as of August 20, 2002, as amended by that certain First Amendment to Lease dated as of August 26, 2002, that certain Second Amendment to Lease dated as of October 24, 2002, that certain Third Amendment to Lease dated as of July 1, 2004, that certain Fourth Amendment to Lease dated as of September 5, 2006, that certain Fifth Amendment to Lease dated as of April 30, 2007, that certain Sixth Amendment to Lease dated as of September 17, 2008, that certain Seventh Amendment to Lease dated as of October 30, 2009, that certain Eighth Amendment to Lease dated as of March 4, 2010, that certain Ninth Amendment to Lease dated as of September 10, 2010 (collectively, and as the same may have been otherwise amended, amended and restated, supplemented or modified from time to time, the "Lease"), whereby Tenant leases certain premises (the "Original Premises") from Landlord at 3030 Bunker Hill Street in San Diego, California (the "Building"); and

B. WHEREAS, Landlord and Tenant desire to amend the Lease to, among other things, extend the term of the Lease; and

C. WHEREAS, Landlord and Tenant desire to modify and amend the Lease only in the respects and on the conditions hereinafter stated.

AGREEMENT

NOW, THEREFORE, Landlord and Tenant, in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, agree as follows:

1. Definitions. For purposes of this Tenth Amendment, capitalized terms shall have the meanings ascribed to them in the Lease unless otherwise defined herein. The Lease, as amended by this Tenth Amendment, is referred to herein as the "Amended Lease."

2. Additional Premises. As of the Execution Date, Landlord hereby leases to Tenant approximately one hundred ten (110) square feet of additional Rentable Area located on the first (1s) floor of the Building and commonly known as Cage 4, as depicted on Exhibit A attached hereto (the "Additional Premises"). From and after the Execution Date, the term "Premises," as used in the Lease, shall mean the Original Premises plus the Additional Premises for a total of twelve thousand one hundred fifteen (12,115) square feet of Rentable Area.

3. Additional Premises Term. The term of the Lease that pertains to the Additional Premises shall commence on the Execution Date and expire on the Term Expiration Date (as defined in Section 5), subject to earlier termination in accordance with the Amended Lease.

4. Use of Additional Premises. Notwithstanding anything to contrary in the Amended Lease, the Permitted Use of the Additional Premises shall be for storage only, in accordance with Sections 10.1(i), 10.1(ii) and 10.1(iii) of the Lease.

5. Term Extension. The term of the Lease that pertains to the Original Premises is hereby extended for thirty-six (36) months (the "Extension Term"). The "Term Expiration Date" is hereby changed to mean March 14, 2015.

6. Additional Premises Rent Abatement. From the Execution Date through March 14, 2012, Tenant shall not be obligated to pay Basic Annual Rent on the Additional Premises; provided, however, that Tenant shall be responsible for all Additional Rent during such time period.

7. Rental Rate/Annual Adjustments. Notwithstanding anything in the Lease to the contrary, commencing on the first day of the Extension Term, the Basic Annual Rent for the Premises shall be as set forth in the chart below:

Dates	Square Feet of Rentable Area	Monthly Basic Annual Rent per Square Foot of Rentable Area	Monthly Basic Annual Area	Basic Annual Area
March 15, 2012 — March 14, 2013	12,115	$2.11	$ 25,562.65	$306,751.80
March 15, 2013 — March 14, 2014	12,115	$2.23	$ 27,016.45	$324,197.40
March 15, 2014 — March 14, 2015	12,115	$2.35	$ 28,470.25	$341,643.00

8. Tenant's Pro Rata Share. From and after the Execution Date, Tenant's Pro Rata Share shall equal eleven and 49/100 percent (11.49%).

9. Landlord Work. Landlord, at Landlord's sole cost, shall remove the corridor entry door into the hall from the lobby of the Original Premises and install a door with a window in its place.

10. Condition of Original Premises. Tenant acknowledges that (a) it is in possession of and is fully familiar with the condition of the Original Premises and, notwithstanding anything contained in the Lease to the contrary, agrees to take the same in its condition "as is" as of the first

day of the Extension Term, and (b) Landlord shall have no obligation to alter, repair or otherwise prepare the Original Premises for Tenant's continued occupancy for the Extension Term or to pay for any improvements to the Original Premises, except as may be expressly provided in the Amended Lease.

11. Condition of Additional Premises. Tenant acknowledges that (a) it is in possession of and is fully familiar with the condition of the Additional Premises and, notwithstanding anything contained in the Lease to the contrary, agrees to take the same in its condition "as is" as of the Execution Date, and (b) Landlord shall have no obligation to alter, repair or otherwise prepare the Additional Premises for Tenant's occupancy or to pay for any improvements to the Additional Premises.

12. Broker. Tenant represents and warrants that it has not dealt with any broker or agent in the negotiation for or the obtaining of this Tenth Amendment and agrees to indemnify, defend and hold Landlord harmless from any and all cost or liability for compensation claimed by any such broker or agent employed or engaged by it or claiming to have been employed or engaged by it.

13. No Default. Tenant represents, warrants and covenants that, to the best of Tenant's knowledge, Landlord and Tenant are not in default of any of their respective obligations under the Lease and no event has occurred that, with the passage of time or the giving of notice (or both) would constitute a default by either Landlord or Tenant thereunder.

14. Effect of Tenth Amendment. Except as modified by this Tenth Amendment, the Lease and all the covenants, agreements, terms, provisions and conditions thereof shall remain in full force and effect and are hereby ratified and affirmed. The covenants, agreements, terms, provisions and conditions contained in this Tenth Amendment shall bind and inure to the benefit of the parties hereto and their respective successors and, except as otherwise provided in the Lease, their respective assigns. In the event of any conflict between the terms contained in this Tenth Amendment and the Lease, the terms herein contained shall supersede and control the obligations and liabilities of the parties. From and after the date hereof, the term "Lease" as used in the Lease shall mean the Lease, as modified by this Tenth Amendment.

15. Miscellaneous. This Tenth Amendment becomes effective only upon execution and delivery hereof by Landlord and Tenant. The captions of the paragraphs and subparagraphs in this Tenth Amendment are inserted and included solely for convenience and shall not be considered or given any effect in construing the provisions hereof All exhibits hereto are incorporated herein by reference. Submission of this instrument for examination or signature by Tenant does not constitute a reservation of or option for a lease, and shall not be effective as a lease, lease amendment or otherwise until execution by and delivery to both Landlord and Tenant.

16. Counterparts. This Tenth Amendment may be executed in one or more counterparts, each of which, when taken together, shall constitute one and the same document.

IN WITNESS WHEREOF, Landlord and Tenant have hereunto set their hands as of the date and year first above written, and acknowledge that they possess the requisite authority to enter into this transaction and to execute this Tenth Amendment.

LANDLORD:

BMR-BUNKER HILL LP,
a Delaware limited partnership

By: /s/ Kevin M. Simonsen
Name: Kevin M. Simonsen
Title: VP, Real Estate Legal

TENANT:

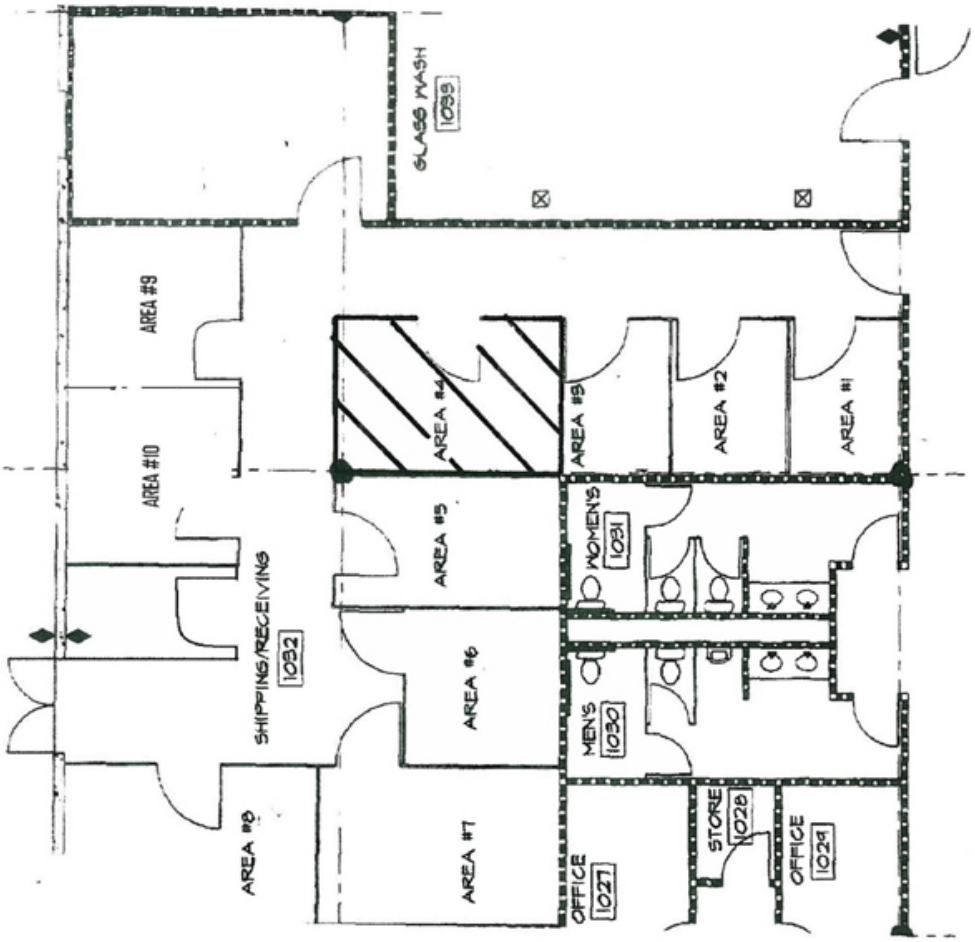
GENELUX CORPORATION,
a Delaware corporation

By: /s/ A.A. Szalay
Name: A.A. Szalay
Title: Pres. and CEO

EXHIBIT A

ADDITIONAL PREMISES

[See attached]



Hashed Area represents
Additional Premises

Confidential

NINTH AMENDMENT TO LEASE

THIS NINTH AMENDMENT TO LEASE (this "Ninth Amendment") is entered into as of this 10th day of September, 2010 (the ""Effective Date"), by and between BMR-3030 BUNKER HILL STREET LLC, a Delaware limited liability company ("Landlord," as successor-in-interest to San Diego Science Center LLC ("Original Landlord")), and GENELUX CORPORATION, a Delaware corporation ("Tenant").

RECITALS

A. WHEREAS, Original Landlord and Tenant entered into that certain Lease dated as of August 20, 2002, as amended by that certain First Amendment to Lease dated as of August 26, 2002, that certain Second Amendment to Lease dated as of October 24, 2002, that certain Third Amendment to Lease dated as of July 1, 2004, that certain Fourth Amendment to Lease dated as of September 5, 2006, that certain Fifth Amendment to Lease dated as of April 30, 2007, that certain Sixth Amendment to Lease dated as of September 17, 2008, that certain Seventh Amendment to Lease dated as of October 30, 2009 (the "Seventh Amendment"), and that certain Eighth Amendment to Lease dated as of March 4, 2010 (collectively, as amended by this Ninth Amendment and as the same may have been otherwise amended, amended and restated, supplemented or modified from time to time, the "Lease"), whereby Tenant leases certain premises (the "Original Premises") from Landlord at 3030 Bunker Hill Street in San Diego, California (the "Building"); and

B. WHEREAS, Tenant desires to exercise its right of first refusal granted in the Seventh Amendment and to lease ROFR Premises from Landlord; and

C. WHEREAS, Landlord and Tenant desire to modify and amend the Lease only in the respects and on the conditions hereinafter stated.

AGREEMENT

NOW, THEREFORE, Landlord and Tenant, in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, agree as follows:

1. Definitions. For purposes of this Ninth Amendment, capitalized terms shall have the meanings ascribed to them in the Lease unless otherwise defined herein.

2. Right of First Refusal. Pursuant to the terms of this Ninth Amendment, Tenant hereby exercises its ROFR (as defined in Section 10 of the Seventh Amendment) for the ROFR Premises (as defined below).

3. ROFR Premises. As of the ROFR Premises Term Commencement Date (as defined in Section 7 below), Landlord hereby leases to Tenant approximately six hundred thirty-four (634) rentable square feet of additional premises known as Suites 315 B and C of the Building, as shown on Exhibit A attached hereto (the "ROFR Premises"). From and after the ROFR Premises Term

Commencement Date, the term "Premises," as used in the Lease, shall mean the Original Premises plus the ROFR Premises for a total of twelve thousand five (12,005) rentable square feet of space.

4. Tenant's Pro Rata Share: From and after the ROFR Premises Term Commencement Date, Tenant's Pro Rata Share shall equal eleven and 39/100 percent (11.39%).

5. Basic Annual Rent: Notwithstanding anything to the contrary, the Basic Annual Rent for the entire Premises shall be (a) Two and 15/100 Dollars ($2.15) per rentable square foot, per month commencing on the ROFR Premises Term Commencement Date and continuing through January 14, 2011 and (b) Two and 35/100 Dollars ($2.35) per rentable square foot, per month commencing January 15, 2011 and continuing through March 14, 2012.

6. ROFR Premises Term: The term of the Lease pertaining to the ROFR Premises (the "ROFR Premises Term") shall commence upon the ROFR Premises Term Commencement Date and shall expire on March 14, 2012.

7. ROFR Premises Term Commencement Date.

7.1 Landlord shall tender possession of the ROFR Premises to Tenant on a "turnkey" basis pursuant to the plans described in Exhibit B attached hereto (the "Landlord's Work") Completed (as defined below). The term "Completed" or "Completion" means that the Landlord's Work is substantially complete and suitable for occupancy by Tenant in accordance with the specifications set forth in Exhibit B, except for minor punch list items.

7.2 The "ROFR Premises Term Commencement Date" shall be the earlier of (i) the day Landlord tenders possession of the ROFR Premises to Tenant with all Landlord's Work Complete and (ii) October 15, 2010. Tenant shall execute and deliver to Landlord written acknowledgment of the actual ROFR Premises Term Commencement Date within ten (10) days after Tenant takes occupancy of the ROFR Premises, in the form attached as Exhibit C hereto. Failure to execute and deliver such acknowledgment, however, shall not affect the ROFR Premises Term Commencement Date or Landlord's or Tenant's liability hereunder. Failure by Tenant to obtain validation by any medical review board or other similar governmental licensing of the ROFR Premises required for the use permitted under the Lease by Tenant shall not serve to extend the ROFR Premises Term Commencement Date.

8. Condition of ROFR Premises: Tenant acknowledges that (a) it is fully familiar with the condition of the ROFR Premises and, notwithstanding anything in the Lease to the contrary, agrees to take the same in its condition "as is" as of the ROFR Premises Term Commencement Date and (b) Landlord shall have no obligation to alter, repair or otherwise prepare the ROFR Premises for Tenant's continued occupancy or to pay for any improvements to the ROFR Premises, except as may be expressly provided in Section 7 above.

9. Broker. Tenant represents and warrants that it has not dealt with any broker or agent in the negotiation for or the obtaining of this Ninth Amendment, other than Irving Hughes Group ("Broker"), and agrees to indemnify, defend and hold Landlord harmless from any and all cost or liability for compensation claimed by any such broker or agent, other than Broker, employed or engaged by it or claiming to have been employed or engaged by it. Broker is entitled to a leasing

commission in connection with the making of this Ninth Amendment, and Landlord shall pay such commission to Broker pursuant to a separate agreement between Landlord and Broker.

10. No Default. Tenant represents, warrants and covenants that, to the best of Tenant's knowledge, Landlord and Tenant are not in default of any of their respective obligations under the Lease and no event has occurred that, with the passage of time or the giving of notice (or both) would constitute a default by either Landlord or Tenant thereunder.

11. Effect of Amendment. Except as modified by this Ninth Amendment, the Lease and all the covenants, agreements, terms, provisions and conditions thereof shall remain in full force and effect and are hereby ratified and affirmed. The covenants, agreements, terms, provisions and conditions contained in this Ninth Amendment shall bind and inure to the benefit of the parties hereto and their respective successors and, except as otherwise provided in the Lease, their respective assigns. In the event of any conflict between the terms contained in this Ninth Amendment and the Lease, the terms herein contained shall supersede and control the obligations and liabilities of the parties. From and after the date hereof, the term "Lease" as used in the Lease shall mean the Lease, as modified by this Ninth Amendment.

12. Miscellaneous. This Ninth Amendment becomes effective only upon execution and delivery hereof by Landlord and Tenant. The captions of the paragraphs and subparagraphs in this Ninth Amendment are inserted and included solely for convenience and shall not be considered or given any effect in construing the provisions hereof. All exhibits hereto are incorporated herein by reference.

13. Counterparts. This Ninth Amendment may be executed in one or more counterparts that, when taken together, shall constitute one original.

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IN WITNESS WHEREOF, Landlord and Tenant have hereunto set their hands as of the date and year first above written, and acknowledge that they possess the requisite authority to enter into this transaction and to execute this Ninth Amendment.

LANDLORD:

BMR-3030 BUNKER HILL STREET LP,
a Delaware limited partnership

By: /s/ Kevin M. Simonsen
Name: Kevin M. Simonsen
Title: VP, Real Estate Counsel

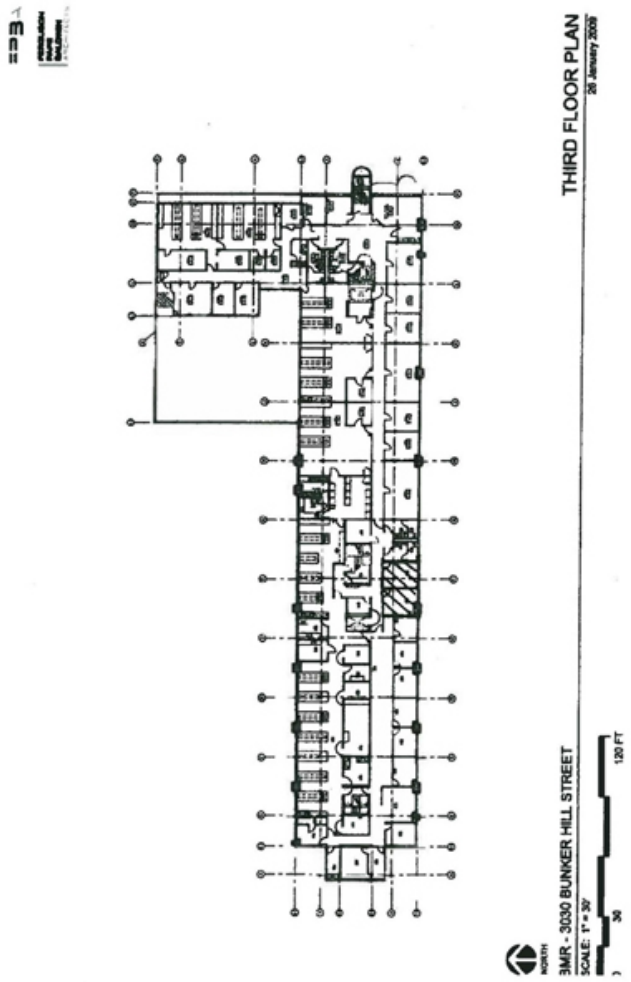
TENANT:

GENELUX CORPORATION,
a Delaware corporation

By: /s/ Loren Tarmo
Name: Loren Tarmo
Title: Controller

EXHIBIT A

ROFR PREMISES



A-1

EXHIBIT B

LANDLORD'S WORK

1. Deactivate door handles and locks (two (2) locksets) on doors leading from the common corridor into the Premises (two (2) doors total).
2. Create two (2) new wrapped wall openings with header below ceiling level.
3. Construct a privacy wall (with glazing and frame, modified if necessary) and install an office door from existing Landlord inventory to create a private office to match the existing adjacent office.
4. Relocate the existing HVAC supply and return air registers as needed.
5. Reconstruct ceiling grid and replace ceiling tiles.
6. Replace carpet and base in the Premises to match existing adjacent carpet and base.
7. Remove and replace existing window tinting on the exterior windows.
8. Relocate light switches, supply new switches and electrical outlets (as needed) (includes new "ring and string" for new phone). The data locations will be identified by Tenant.
9. Paint the interior of the Premises.

EIGHTH AMENDMENT TO LEASE

THIS EIGHTH AMENDMENT TO LEASE (this "Amendment") is entered into as of this _4th day of March, 2010, by and between BMR-3030 BUNKER HILL STREET LLC, a Delaware limited liability company ("Landlord"), and GENELUX CORPORATION, a Delaware corporation ("Tenant").

RECITALS

A. WHEREAS, Landlord and Tenant entered into that certain Lease dated as of August 20, 2002, as amended by that certain First Amendment to Lease dated as of August 26, 2002, that certain Second Amendment to Lease dated as of October 24, 2002, that certain Third Amendment to Lease dated as of July 1, 2004, that certain Fourth Amendment to Lease dated as of September 5, 2006, that certain Fifth Amendment to Lease dated as of April 30, 2007, that certain Sixth Amendment to Lease dated as of September 17, 2008, and that certain Seventh Amendment to Lease dated as of October 30, 2009 (collectively, as amended by this Amendment, and as the same may have been otherwise amended, supplemented or modified from time to time, the "Lease"), whereby Tenant leases certain premises (the "Premises") from Landlord at 3030 Bunker Hill Street, San Diego, California (the "Building"); and

B. WHEREAS, Landlord and Tenant desire to extend the Original Premises Surrender Date as set forth in Article 8 of the Seventh Amendment to Lease; and

C. WHEREAS, Landlord and Tenant desire to modify and amend the Lease only in the respects and on the conditions hereinafter stated.

AGREEMENT

NOW, THEREFORE, Landlord and Tenant, in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, agree as follows:

1. Definitions. For purposes of this Amendment, capitalized terms shall have the meanings ascribed to them in the Lease unless otherwise defined herein.

2. Original Premises Surrender Date. Notwithstanding anything in the Lease, or this Amendment to the contrary, the parties hereto agree that the Original Premises Surrender Date shall be March 1, 2010. The period from February 16, 2009 until March 1, 2009 shall be the "Extended Surrender Term". All of Tenant's obligations to vacate and surrender the Original Premises by such Original Premises Surrender Date, in the condition set forth in Article 8 of the Seventh Amendment to Lease, shall remain in full force and effect.

3. Additional Rent. Notwithstanding anything in the Seventh Amendment to Lease to the contrary, the parties hereto agree that during the Extended Surrender Term, Tenant shall pay to Landlord all Additional Rent owed with respect to the Original Premises as set forth in Section 5.2 of the Lease.

4. Broker. Tenant represents and warrants that it has not dealt with any broker or agent in the negotiation for or the obtaining of this Amendment and agrees to indemnify, defend and hold Landlord harmless from any and all cost or liability for compensation claimed by any such broker or agent employed or engaged by it or claiming to have been employed or engaged by it.

5. No Default. Tenant represents, warrants and covenants that, to the best of Tenant's knowledge, Landlord and Tenant are not in default of any of their respective obligations under the Lease and no event has occurred that, with the passage of time or the giving of notice (or both) would constitute a default by either Landlord or Tenant thereunder.

6. Effect of Amendment. Except as modified by this Amendment, the Lease and all the covenants, agreements, terms, provisions and conditions thereof shall remain in full force and effect and are hereby ratified and affirmed. The covenants, agreements, terms, provisions and conditions contained in this Amendment shall bind and inure to the benefit of the parties hereto and their respective successors and, except as otherwise provided in the Lease, their respective assigns. In the event of any conflict between the terms contained in this Amendment and the Lease, the terms herein contained shall supersede and control the obligations and liabilities of the parties. From and after the date hereof, the term "Lease" as used in the Lease shall mean the Lease, as modified by this Amendment.

7. Miscellaneous. This Amendment becomes effective only upon execution and delivery hereof by Landlord and Tenant. The captions of the paragraphs and subparagraphs in this Amendment are inserted and included solely for convenience and shall not be considered or given any effect in construing the provisions hereof. All exhibits hereto are incorporated herein by reference.

8. Counterparts. This Amendment may be executed in one or more counterparts that, when taken together, shall constitute one original.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Landlord and Tenant have hereunto set their hands as of the date and year first above written, and acknowledge that they possess the requisite authority to enter into this transaction and to execute this Amendment.

LANDLORD:

BMR-3030 BUNKER HILL STREET LP,
a Delaware limited partnership

By: /s/ Kevin M. Simonsen
Name: Kevin M. Simonsen
Title: VP, Real Estate Counsel

TENANT:

GENELUX CORPORATION,
a Delaware corporation

By: /s/ A.A. Szalay
Name: A.A. Szalay
Title:

SEVENTH AMENDMENT TO LEASE

THIS SEVENTH AMENDMENT TO LEASE (this "Seventh Amendment") is entered into as of this 30th day of October, 2009 ("Execution Date"), by and between BMR-3030 BUNKER HILL STREET LLC, a Delaware limited liability company ("Landlord", as successor-in-interest to San Diego Science Center LLC ("Original Landlord")), and GENELUX CORPORATION, a Delaware corporation ("Tenant").

RECITALS

A. WHEREAS, Original Landlord and Tenant entered into that certain Lease dated as of August 20, 2002, as amended by that certain First Amendment to Lease dated as of August 26, 2002, that certain Second Amendment to Lease dated as of October 24, 2002, that certain Third Amendment to Lease dated as of July 1, 2004, that certain Fourth Amendment to Lease dated as of September 5, 2006, that certain Fifth Amendment to Lease dated as of April 30, 2007, and that certain Sixth Amendment to Lease dated as of September 17, 2008 (collectively, as amended by this Seventh Amendment, and as the same may have been further amended, supplemented or otherwise modified from time to time, the "Lease"), whereby Tenant leases certain premises (the "Original Premises") from Landlord at 3030 Bunker Hill Street in San Diego, California (the "Building");

B. WHEREAS, Tenant desires to lease additional premises from Landlord;

C. WHEREAS, Landlord and Tenant desire to amend the Lease to, among other things, extend the term of the Lease; and

D. WHEREAS, Landlord and Tenant desire to modify and amend the Lease only in the respects and on the conditions hereinafter stated.

AGREEMENT

NOW, THEREFORE, Landlord and Tenant, in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, agree as follows:

I. Definitions. For purposes of this Seventh Amendment, capitalized terms shall have the meanings ascribed to them in the Lease unless otherwise defined herein.

2. Additional Premises. As of the Additional Premises Term Commencement Date (as defined in Section 7 below), Landlord hereby leases to Tenant approximately eleven thousand three hundred seventy-one (11,371) rentable square feet of additional premises located on the third floor of the Building, as depicted on Exhibit A attached hereto (the "Additional Premises"). From and after the Additional Premises Term Commencement Date through the Original Premises Surrender Date (as defined in Section 8 below), the term "Premises," as used in the Lease, shall mean the Original Premises plus the Additional Premises, and following the Original Premises Surrender Date shall mean only the Additional Premises, provided that at no time will Tenant owe Basic Annual Rent and/or Additional Rent on the Original Premises from and after the Additional Premises Term Commencement Date.

3. Tenant's Pro Rata Share. From and after the Additional Premises Term Commencement Date, Tenant's Pro Rata Share shall equal ten and 79/100 percent (10.79%).

4. Basic Annual Rent. The rate of Basic Annual Rent for the Additional Premises during the Additional Premises Extension Term (as defined in Section 6 below) shall equal (i) One and 5/100 Dollars ($1.05) per rentable square foot per month for the four (4)-month period commencing on the Additional Premises Term Commencement Date and ending on the day prior to the first day of the fifth month of the Additional Premises Extension Term, (ii) Two and 10/100 Dollars ($2.10) per rentable square foot per month for the eight (8)-month period commencing on the first day of the fifth month in the Additional Premises Extension Term and ending on the day prior to the first annual anniversary of the Additional Premises Term Commencement Date and (iii) Two and 30/100 Dollars ($2.30) per rentable square foot per month for the fourteen (14)-month period commencing on the first annual anniversary of the Additional Premises Term Commencement Date through the Additional Premises Term Expiration Date (as defined in Section 6 below). Such Basic Annual Rent for the Additional Premises shall be paid in equal monthly installments each in advance on the first day of each and every calendar month during the Additional Premises Extension Term.

5. Term Extension for Original Premises. The term of the Lease pertaining to the Original Premises is hereby extended from the Term Expiration Date (September 14, 2009) through the Original Premises Surrender Date. Notwithstanding anything to the contrary in the Lease, the Basic Annual Rent for the Original Premises shall remain Two and 46/100 Dollars ($2.46) per rentable square foot, per month from the Term Expiration Date through the Additional Premises Term Commencement Date and Tenant's Pro Rata Share shall remain four and 7/100 percent (4.7%) from the Term Expiration Date through the Additional Premises Term Commencement Date. From and after the Additional Premises Term Commencement Date through the Original Premises Surrender Date, all the terms and conditions of the Lease shall continue to apply to the Original Premises other than the payment of Basic Annual Rent and/or Additional Rent for the Original Premises.

6. Term Extension for Additional Premises. The term of the Lease pertaining to the Additional Premises is hereby extended for twenty-six (26) months from the Additional Premises Term Commencement Date. The date on which such twenty-six (26) months period ends shall be referred to herein as the "Additional Premises Term Expiration Date." The period from the Additional Premises Term Commencement Date through the Additional Premises Term Expiration Date shall be referred to herein as the "Additional Premises Extension Term."

7. Additional Premises Term Commencement Date.

7.1 Landlord shall tender possession of the Additional Premises to Tenant on a "turnkey" basis pursuant to the plans described in Exhibit B attached hereto (the "Landlord's Work") Completed (as defined below). The term "Completed" or "Completion" means that the Landlord's Work is substantially complete and suitable for occupancy by Tenant in accordance with the specifications set forth in Exhibit B, except for minor punch list items.

7.2 The "Additional Premises Term Commencement Date" shall be the day Landlord tenders possession of the Additional Premises to Tenant with all Landlord's Work

Complete. Tenant shall execute and deliver to Landlord written acknowledgment of the actual Additional Premises Term Commencement Date within ten (10) days after Tenant takes occupancy of the Additional Premises, in the form attached as Exhibit C hereto. Failure to execute and deliver such acknowledgment, however, shall not affect the Additional Premises Term Commencement Date or Landlord's or Tenant's liability hereunder. Failure by Tenant to obtain validation by any medical review board or other similar governmental licensing of the Additional Premises required for the use permitted under the Lease by Tenant shall not serve to extend the Additional Premises Term Commencement Date.

7.3 Landlord agrees to permit Tenant to enter upon the Additional Premises prior to the Additional Premises Term Commencement Date for the purpose of installing improvements or the placement of personal property, provided Tenant shall furnish to Landlord evidence satisfactory to Landlord that insurance coverages required of Tenant under the provisions of Article 21 of the Lease are in effect for such Additional Premises, and such entry shall be subject to all the terms and conditions of the Lease other than the payment of Basic Annual Rent and/or Additional Rent for the Additional Premises; and provided, further, that if the Additional Premises Term Commencement Date is delayed due to such early access, then the Additional Premises Term Commencement Date shall be the date that the Additional Premises Term Commencement Date would have occurred but for such delay.

8. Original Premises Surrender Date. Tenant shall have thirty (30) days following the Additional Premises Term Commencement Date to vacate and surrender the Original Premises to Landlord (a) in the condition and (b) with all documentation required under the Lease. The date on which Tenant has surrendered the Original Premises to Landlord (a) in the condition and (b) with all documentation required under the Lease shall be referred to herein as the "Original Premises Surrender Date." As of the Original Premises Surrender Date, the Lease shall terminate as to the Original Premises and shall no longer be of any force or effect with regard to the Original Premises, except for those provisions, that, by their express terms, survive the expiration or earlier termination of the Lease. Notwithstanding anything herein contained to the contrary, the commencement of Tenant's obligation to pay Basic Annual Rent and/or Additional Rent on the Additional Premises as of the Additional Premises Term Commencement Date shall terminate Tenant's obligation to pay Basic Annual Rent and/or Additional Rent on the Original Premises.

9. Condition of Premises. Tenant agrees to take the Additional Premises in its condition "as is" as of the Additional Premises Term Commencement Date, other than with regard to the Landlord's Work to be performed by Landlord prior to the Additional Premises Term Commencement Date, and Landlord shall have no obligation to alter, repair or otherwise prepare the Additional Premises for Tenant's occupancy of the Additional Premises or to pay for or construct any improvements to the Additional Premises, except as may be expressly provided in Section 7 above.

10. Right of First Refusal. Tenant shall have a right of first refusal ("ROFR") as to six hundred thirty-four (634) rentable square feet located in Suites 315 B and C of the Building for which Landlord shall be seeking a tenant following the Original Premises Surrender Date ("Available ROFR Premises"); provided, however, that in no event shall Landlord be required to lease any Available ROFR Premises to Tenant for any period past the date on which this Lease expires or is terminated pursuant to its terms. Following the Original Premises Surrender Date,

Landlord intends to lease the Available ROFR Premises. Landlord shall provide written notice thereof to Tenant (the "Notice of Offer"), specifying the terms and conditions of a proposed lease to Tenant of the Available ROFR Premises.

10.1. Within ten (10) days following its receipt of a Notice of Offer, Tenant shall advise Landlord in writing whether Tenant elects to lease all (not just a portion) of the Available ROFR Premises on the terms and conditions set forth in the Notice of Offer. If Tenant fails to notify Landlord of Tenant's election within said ten (10) day period, then Tenant shall be deemed to have elected not to lease the Available ROFR Premises.

10.2 If Tenant timely notifies Landlord that Tenant elects to lease the Available ROFR Premises on the terms and conditions set forth in the Notice of Offer, then Landlord shall lease the Available ROFR Premises to Tenant upon the terms and conditions set forth in the Notice of Offer.

10.3 If Tenant notifies Landlord that Tenant elects not to lease the Available ROFR Premises on the terms and conditions set forth in the Notice of Offer, or if Tenant fails to notify Landlord of Tenant's election within the ten (10)-day period described above, then Landlord shall have the right to consummate the lease of the Available ROFR Premises on the same terms as set forth in the Notice of Offer following Tenant's election (or deemed election) not to lease the Available ROFR Premises.

10.4 Notwithstanding anything in this Section 10 to the contrary, Tenant shall not exercise the ROFR during such period of time that Tenant is in default under any provision of this Lease. Any attempted exercise of the ROFR during a period of time in which Tenant is so in default shall be void and of no effect. In addition, Tenant shall not be entitled to exercise the ROFR if Landlord has given Tenant two (2) or more notices of default under this Lease, whether or not the defaults are cured, during the twelve (12) month period prior to the date on which Tenant seeks to exercise the ROFR.

10.5 Notwithstanding anything in this Lease to the contrary, Tenant shall not assign or transfer the ROFR, either separately or in conjunction with an assignment or transfer of Tenant's interest in the Lease, without Landlord's prior written consent, which consent Landlord may withhold in its sole and absolute discretion.

11. Broker. Tenant represents and warrants that it has not dealt with any broker or agent in the negotiation for or the obtaining of this Seventh Amendment, other than Irving Hughes Group ("Broker") and agrees to indemnify, defend and hold Landlord harmless from any and all cost or liability for compensation claimed by any such broker or agent, other than Broker, employed or engaged by it or claiming to have been employed or engaged by it. Broker is entitled to a leasing commission in connection with the making of this Seventh Amendment, and Landlord shall pay such commission to Broker pursuant to a separate agreement between Landlord and Broker

12. No Default. Tenant represents, warrants and covenants that, to the best of Tenant's knowledge, Landlord and Tenant are not in default of any of their respective obligations under the Lease and no event has occurred that, with the passage of time or the giving of notice (or both) would constitute a default by either Landlord or Tenant thereunder.

13. Effect of Amendment. Except as modified by this Seventh Amendment, the Lease and all the covenants, agreements, terms, provisions and conditions thereof shall remain in full force and effect and are hereby ratified and affirmed. The covenants, agreements, terms, provisions and conditions contained in this Seventh Amendment shall bind and inure to the benefit of the parties hereto and their respective successors and, except as otherwise provided in the Lease, their respective assigns. In the event of any conflict between the terms contained in this Seventh Amendment and the Lease, the terms herein contained shall supersede and control the obligations and liabilities of the parties. From and after the date hereof, the term "Lease" as used in the Lease shall mean the Lease, as modified by this Seventh Amendment.

14. Miscellaneous. This Seventh Amendment becomes effective only upon execution and delivery hereof by Landlord and Tenant. The captions of the paragraphs and subparagraphs in this Seventh Amendment are inserted and included solely for convenience and shall not be considered or given any effect in construing the provisions hereof. All exhibits hereto are incorporated herein by reference.

15. Counterparts. This Seventh Amendment may be executed in one or more counterparts that, when taken together, shall constitute one original.

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IN WITNESS WHEREOF, Landlord and Tenant have hereunto set their hands as of the date and year first above written, and acknowledge that they possess the requisite authority to enter into this transaction and to execute this Seventh Amendment.

LANDLORD:

BMR-3030 BUNKER HILL STREET LP,
a Delaware limited partnership

By: /s/ KMS
Name: Kevin Simonsen
Title: VP, Real Estate Counsel

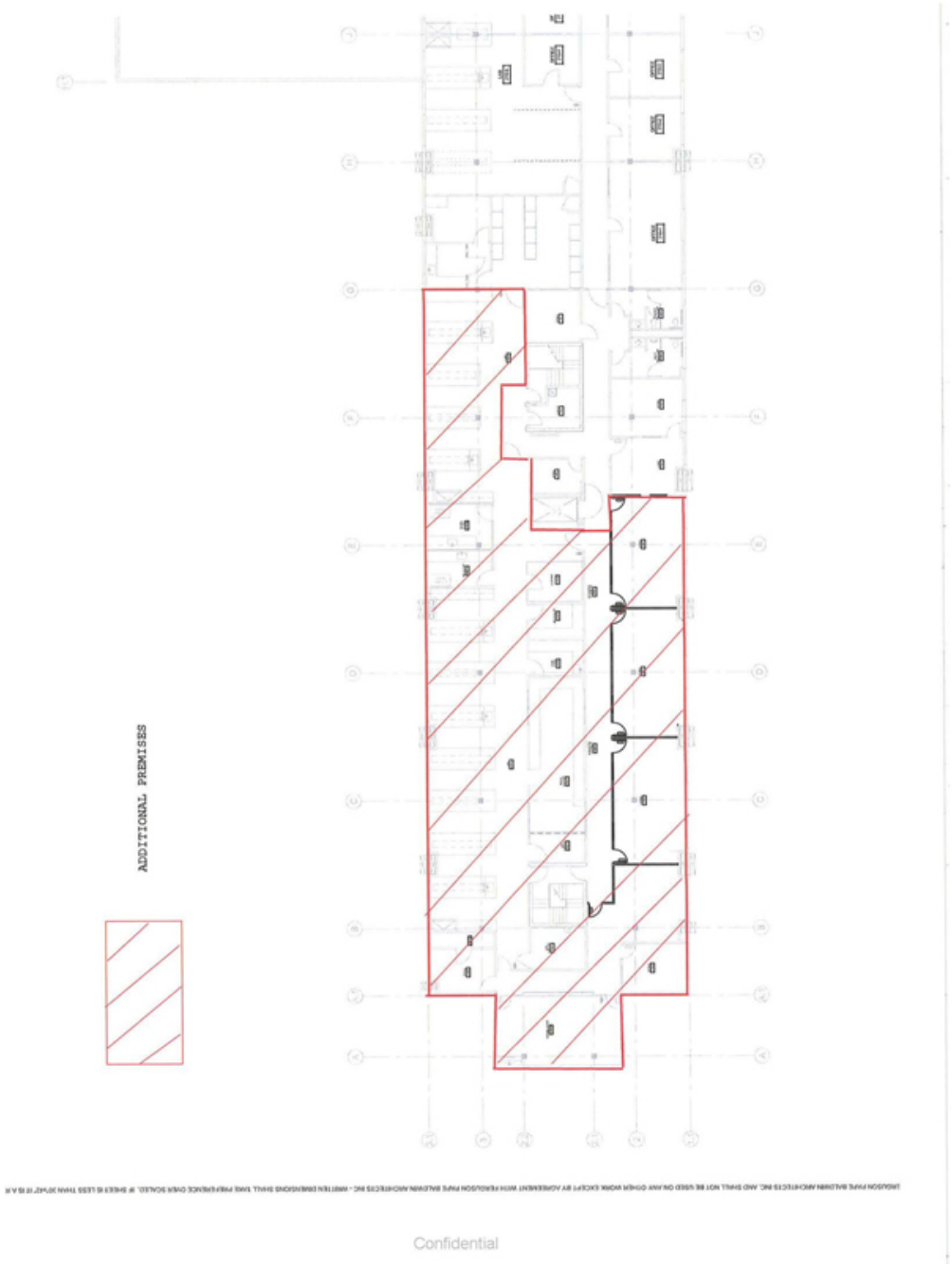
TENANT:

GENELUX CORPORATION,
a Delaware corporation

By: /s/ Mark A. Bertagnolli
Name: Mark A. Bertagnolli
Title: Chief Business Officer

EXHIBIT A

ADDITIONAL PREMISES



Confidential

EXHIBIT B

LANDLORD'S WORK

[See attached]

General Notes

1. Touch-up paint throughout T.I. as necessary.
2. Replace/repair damaged perimeter window film as required.
3. IT cabling and security to be installed by Tenant provided vendor, and coordinated as required with the General Contractor
4. Systems furniture to be provided by Tenant and cont. room table.
5. Power to be relocated from demo's office wall to new room locations.
6. Salvage demo's lights, doors, windows and frames for reuse whenever possible.

New Work Keynotes

1. Provide new -4° C F2R RM, field verify size.
2. Add e-power this wall, verify load in room.
3. Add "in use" light above door (outside), switch on inside.
4. Add door seals to door.
5. Add "blackout" film to window.
6. Provide negative pressure this room.
7. Add (1) e-power outlet in this room, field verify locations.
8. Add (1) 208V E-power outlet to this room, field verify location.
9. Add 1 circuit 120V e-power this room, field verify location.
10. Add new broadloom carpet this room.
11. Add new carpet tile in this room.
12. Carpet to remain this area.
13. Provide new VCT this room with carpet dot adhesive pads.
14. Add new 6' wide window and frame this location.
15. Relocate salvaged doors to new locations.
16. Provide new wood door (clear finish) to match others in the building.
17. N/A
18. Relocate salvaged windows and frames to new locations.
19. Provide new wall.
20. Provide card reader at this door (Tenant provided vendor; coordinate with GC)
21. Provide upgraded or new T-bar and ACT in this room. Reuse salvaged lights.
22. Provide floor data, power and phone in this room. Coordinate location with tenant.
23. Provide data and power on this wall for LCD screen. Coordinate with tenant.
24. Relocate Dark Room light
25. Provide (2) 208v receptacles
26. Provide (1) Quad outlet e-power
27. Provide (2) 120v e-power outlets
28. Install existing lineal fixture

Demo Keynotes

1. Demo wall.
2. Demo wall to 2" below t-bar ceiling, finish at header.
3. Demo doors and frames, salvage for reuse.
4. Demo windows and frames, salvage for reuse.
5. Demo ceiling in this area, coordinate with new work. Salvage lights. (Rooms 11-14 only)
6. N/A
7. Move e-power outlets this room (field verify locations).
8. Remove blinds at window.
9. Demo carpet this area (coordinate with new work).
10. Demo carpet this room.

Confidential

Confidential

EXHIBIT C

ACKNOWLEDGEMENT OF ADDITIONAL PREMISES TERM COMMENCEMENT DATE AND ADDITIONAL PREMISES TERM EXPIRATION DATE

THIS ACKNOWLEDGEMENT OF ADDITIONAL PREMISES TERM COMMENCEMENT DATE AND ADDITIONAL PREMISES TERM EXPIRATION DATE is entered into as of _____, 2009, with reference to that certain that certain Seventh Amendment to Lease dated as of October __, 2009 by and between Landlord and Tenant (the "Seventh Amendment") which amends that certain Lease dated as of August 20, 2002, as amended by that certain First Amendment to Lease dated as of August 26, 2002, that certain Second Amendment to Lease dated as of October 24, 2002, that certain Third Amendment to Lease dated as of July 1, 2004, that certain Fourth Amendment to Lease dated as of September 5, 2006, that certain Fifth Amendment to Lease dated as of April 30, 2007, and that certain Sixth Amendment to Lease dated as of September 17, 2008 (collectively, as amended by the Seventh Amendment, and as the same may have been further amended, supplemented or otherwise modified from time to time, the "Lease"). All capitalized terms used herein without definition shall have the meanings ascribed to them in the Lease.

Tenant hereby confirms the following:

1. Tenant accepted possession of the Additional Premises on [_____], 20[_].

2. The Additional Premises are in good order, condition and repair.

3. The Landlord's Work required to be constructed by Landlord under the Seventh Amendment have been Completed.

4. All conditions of the Seventh Amendment to be performed by Landlord as a condition to the full effectiveness of the Lease with respect to the Additional Premises have been satisfied, and Landlord has fulfilled all of its duties in the nature of inducements offered to Tenant to lease the Additional Premises.

5. In accordance with the provisions of Section 7 of the Seventh Amendment, the Additional Premises Term Commencement Date is [_____], 20[_], and, unless the Lease is terminated prior to the Additional Premises Term Expiration Date pursuant to its terms, the Additional Premises Term Expiration Date shall be [_____], 20[_].

6. Tenant commenced occupancy of the Additional Premises for the uses permitted pursuant to the Lease on [_____], 20[_].

7. The Lease is in full force and effect, and the same represents the entire agreement between Landlord and Tenant concerning the Additional Premises[, except [_____]]

8. Tenant has no existing defenses against the enforcement of the Lease by Landlord, and there exist no offsets or credits against Rent owed or to be owed by Tenant.

9. The obligation to pay Rent is presently in effect and all Rent obligations on the part of Tenant under the Lease pertaining to the Additional Premises commenced to accrue on [_____], 20[_], with Basic Annual Rent for the Additional Premises payable on the dates and amounts set forth in the chart below:

Dates	Base Rent Per RSF	Monthly Base Rent	Total Base Rent
[mm/dd/yy — mm/dd/yy]	$ 1.05	$ 11,939.55	$ 47,758.20
[mm/dd/yy — mm/dd/yy]	$ 2.10	$ 23,879.10	$ 191,032.80
[mm/dd/yy — mm/dd/yy]	$ 2.30	$ 26,153.30	$ 366,146.20

10. The undersigned Tenant has not made any prior assignment, transfer, hypothecation or pledge of the Lease or of the rents thereunder or sublease of the Additional Premises or any portion thereof.

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IN WITNESS WHEREOF, Tenant has executed this Acknowledgment of Additional Premises Term Commencement Date and Additional Premises Term Expiration Date as of the date first written above.

TENANT:

GENELUX CORPORATION,
a Delaware corporation

By: _____
Name: _____
Title: _____

SIXTH AMENDMENT TO LEASE

THIS SIXTH AMENDMENT TO LEASE (this "Amendment") is entered into as of this 17th day of September, 2008, by and between BMR-3030 BUNKER HILL STREET LLC, a Delaware limited liability company ("Landlord"), as successor-in-interest to San Diego Science Center LLC ("Original Landlord"), and GENELUX CORPORATION, a Delaware corporation ("Tenant").

RECITALS

A. WHEREAS, Original Landlord and Tenant entered into that certain Lease dated as of August 20, 2002, as amended by that certain First Amendment to Lease dated as of August 26, 2002, that certain Second Amendment to Lease dated as of October 24, 2002, that certain Third Amendment to Lease dated as of July 1, 2004, that certain Fourth Amendment to Lease dated as of September 5, 2006, and that certain Fifth Amendment to Lease dated as of April 30, 2007 (collectively, and as the same may have been further amended, supplemented or otherwise modified from time to time, the "Lease"), whereby Tenant leases certain premises from Landlord at 3030 Bunker Hill Street in San Diego, California;

B. WHEREAS, Landlord and Tenant desire to amend the Lease to, among other things, extend the term of the Lease; and

C. WHEREAS, Landlord and Tenant desire to modify and amend the Lease only in the respects and on the conditions hereinafter stated.

AGREEMENT

NOW, THEREFORE, Landlord and Tenant, in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, agree as follows:

1. Definitions. For purposes of this Amendment, capitalized terms shall have the meanings ascribed to them in the Addendum unless otherwise defined herein.

2. Term Extension: The term of the Lease is hereby extended for twelve (12) months (the "Extension Term "). The "Term Expiration Date" is hereby changed to mean September 14, 2009.

3. Rental Rate/Annual Adjustments: Notwithstanding anything in the Lease to the contrary, the Basic Annual Rent for the Extension Term shall equal One Hundred Forty-Six Thousand Four Hundred Six and 47/100 Dollars ($146,406.47), and the Monthly Installment of Basic Annual Rent shall equal Twelve Thousand Two Hundred and 54/100 Dollars ($12,200.54).

4. Broker. Tenant represents and warrants that it has not dealt with any broker or agent in the negotiation for or the obtaining of this Amendment and agrees to indemnify, defend and hold Landlord harmless from any and all cost or liability for compensation claimed by any such broker or agent employed or engaged by it or claiming to have been employed or engaged by it.

5. No Default. Tenant represents, warrants and covenants that, to the best of Tenant's knowledge, Landlord and Tenant are not in default of any of their respective obligations under the Lease and no event has occurred that, with the passage of time or the giving of notice (or both) would constitute a default by either Landlord or Tenant thereunder.

6. Effect of Amendment. Except as modified by this Amendment, the Lease and all the covenants, agreements, terms, provisions and conditions thereof shall remain in full force and effect and are hereby ratified and affirmed. The covenants, agreements, terms, provisions and conditions contained in this Amendment shall bind and inure to the benefit of the parties hereto and their respective successors and, except as otherwise provided in the Lease, their respective assigns. In the event of any conflict between the terms contained in this Amendment and the Lease, the terms herein contained shall supersede and control the obligations and liabilities of the parties. From and after the date hereof, the term "Lease" as used in the Lease shall mean the Lease, as modified by this Amendment.

7. Miscellaneous. This Amendment becomes effective only upon execution and delivery hereof by Landlord and Tenant. The captions of the paragraphs and subparagraphs in this Amendment are inserted and included solely for convenience and shall not be considered or given any effect in construing the provisions hereof. All exhibits hereto are incorporated herein by reference.

8. Counterparts. This Amendment may be executed in one or more counterparts that, when taken together, shall constitute one original.

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IN WITNESS WHEREOF, Landlord and Tenant have hereunto set their hands as of the date and year first above written, and acknowledge that they possess the requisite authority to enter into this transaction and to execute this Amendment.

LANDLORD:

BMR-3030 BUNKER HILL STREET LP,
a Delaware limited partnership

By: /s/ Karen A. Sztralcher
Name: Karen A. Sztralcher
Title: Vice President, Finance

TENANT:

GENELUX CORPORATION,
a Delaware corporation

By: /s/ A.A. Szalay
Name: A.A. Szalay, Ph.D.
Title: Pres. and CEO

FIFTH AMENDMENT TO LEASE

THIS FIFTH AMENDMENT TO LEASE (this "Amendment") is entered into as of this 30th day of April, 2007, by and between BMR-3030 BUNKER HILL STREET LLC, a Delaware limited liability company ("Landlord"), as successor-in-interest to San Diego Science Center LLC ("Original Landlord"), and GENELUX CORPORATION, a Delaware corporation ("Tenant").

RECITALS

A. WHEREAS, Original Landlord and Tenant entered into that certain Lease dated as of August 20, 2002 (as the same has been amended, supplemented or otherwise modified from time to time, the "Lease"), and that certain Addendum to Lease — LARC License Agreement dated as of August 20, 2002 (as the same has been amended, supplemented or otherwise modified from time to time, the "Addendum"), whereby Tenant leases certain premises from Landlord at 3030 Bunker Hill Street in San Diego, California;

B. WHEREAS, Landlord desires to terminate the Addendum as of 11:59 p.m. on April 30, 2007 (the "Termination Date"); and

C. WHEREAS, Landlord and Tenant desire to modify and amend the Lease only in the respects and on the conditions hereinafter stated.

AGREEMENT

NOW, THEREFORE, Landlord and Tenant, in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, agree as follows:

1. Definitions. For purposes of this Amendment, capitalized terms shall have the meanings ascribed to them in the Addendum unless otherwise defined herein.

2. Termination of Addendum. The parties hereby terminate the Addendum as of the Termination Date, and on the Termination Date the Addendum shall be fully and finally surrendered and terminated and shall no longer be of any force or effect, except (a) for those provisions that, by their express terms, survive the expiration or earlier termination thereof and (b) Tenant's obligations under the Addendum to pay for utilities for the period prior to the Termination Date, including as part of any annual true-up.

3. Release of Liability. Conditioned on the performance by the parties of the provisions of this Agreement, Landlord and Tenant fully and unconditionally release, cancel, annul, rescind, discharge, disclaim, waive and release any and all rights and benefits it may have under the Lease arising from and after the Termination Date in connection with the provisions of the Addendum, except (a) for those provisions that, by their express terms, survive the expiration or earlier termination thereof and (b) Tenant's obligations under the Addendum to pay for utilities for the period prior to the Termination Date, including as part of any annual true-up.

4. Condition of LARC Rooms. Prior to the Termination Date, Tenant shall surrender the LARC Rooms to Landlord in the condition required by the Lease upon termination.

5. Broker. Tenant represents and warrants that it has not dealt with any broker or agent in the negotiation for or the obtaining of this Amendment and agrees to indemnify, defend and hold Landlord harmless from any and all cost or liability for compensation claimed by any such broker or agent employed or engaged by it or claiming to have been employed or engaged by it.

6. No Default. Tenant represents, warrants and covenants that, to the best of Tenant's knowledge, Landlord and Tenant are not in default of any of their respective obligations under the Lease and no event has occurred that, with the passage of time or the giving of notice (or both) would constitute a default by either Landlord or Tenant thereunder.

7. Effect of Amendment. Except as modified by this Amendment, the Lease and all the covenants, agreements, terms, provisions and conditions thereof shall remain in full force and effect and are hereby ratified and affirmed. The covenants, agreements, terms, provisions and conditions contained in this Amendment shall bind and inure to the benefit of the parties hereto and their respective successors and, except as otherwise provided in the Lease, their respective assigns. In the event of any conflict between the terms contained in this Amendment and the Lease, the terms herein contained shall supersede and control the obligations and liabilities of the parties. From and after the date hereof, the term "Lease" as used in the Lease shall mean the Lease, as modified by this Amendment.

8. Miscellaneous. This Amendment becomes effective only upon execution and delivery hereof by Landlord and Tenant. The captions of the paragraphs and subparagraphs in this Amendment are inserted and included solely for convenience and shall not be considered or given any effect in construing the provisions hereof All exhibits hereto are incorporated herein by reference.

9. Counterparts. This Amendment may be executed in one or more counterparts that, when taken together, shall constitute one original.

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IN WITNESS WHEREOF, Landlord and Tenant have hereunto set their hands as of the date and year first above written, and acknowledge that they possess the requisite authority to enter into this transaction and to execute this Amendment.

LANDLORD:

BMR-3030 BUNKER HILL STREET LP,
a Delaware limited partnership

By: /s/ Gary A. Kreitzer
Name: Gary A. Kreitzer
Title: Executive VP

TENANT:

GENELUX CORPORATION,
a Delaware corporation

By: /s/ James Chang
Name: James Chang
Title: Acting General Counsel

FOURTH AMENDMENT TO LEASE

THIS FOURTH AMENDMENT TO LEASE (this "Amendment") is entered into as of this 5th day of September, 2006 (the "Effective Date"), by and between BMR-3030 BUNKER HILL STREET LLC, a Delaware limited liability company ("Landlord"), as successor-in-interest to San Diego Science Center LLC ("Original Landlord"), and GENELUX CORPORATION, a Delaware corporation ("Tenant").

RECITALS

A. WHEREAS, Original Landlord and Tenant entered into that certain Lease dated as of August 20, 2002, as amended by that certain First Amendment to Lease dated as of August 26, 2002, that certain Second Amendment to Lease dated as of October 24, 2002, and that certain Third Amendment to Lease dated as of July 1, 2004, and that certain Addendum to Lease (the "Addendum" and, collectively, and as the same may have been further amended; supplemented or otherwise modified from time to time, the "Lease"), whereby Tenant leases certain premises (the "Original Premises") from Landlord at 3030 Bunker Hill Street in San Diego, California (the "Building");

B. WHEREAS, Landlord and Tenant desire to amend the Lease to, among other things, increase the size of the Premises and extend the term of the Lease; and

C. WHEREAS, Landlord and Tenant desire to modify and amend the Lease only in the respects and on the conditions hereinafter stated.

AGREEMENT

NOW, THEREFORE, Landlord and Tenant, in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, agree as follows:

1. Definitions. For purposes of this Amendment, capitalized terms shall have the meanings ascribed to them in the Lease unless otherwise defined herein.

2. Term Extension: The term of the Lease is hereby extended for twenty-four (24) months (the "Extension Term"). The "Term Expiration Date" is hereby changed to mean September 14, 2008. September 15, 2006, is hereby referred to as the "Extension Term Commencement Date."

3. Additional Premises: From and after the Extension Term Commencement Date, Landlord shall lease to Tenant, and Tenant shall lease from Landlord, approximately one thousand seven hundred seventeen (1,717) additional rentable square feet of laboratory and office space (the "Additional Premises"), as shown on Exhibit A hereto, for a total of four thousand nine hundred fifty two (4,952) rentable square feet (collectively, the "Premises"). From and after the Extension Term Commencement Date, the term "Premises," when used in reference to the Extension Term, shall mean the Original Premises plus the Additional Premises.

4. Tenant's Pro Rata Share: From and after the Extension Term Commencement Date, "Tenant's Pro Rata Share" shall mean four and seven tenths percent (4.7%).

5. Rental Rate/Annual Adjustments: Notwithstanding anything in the Lease to the contrary, the initial Basic Annual Rent shall equal One Hundred Thirty-Six Thousand Six Hundred Seventy-Five and 20/100 Dollars ($136,675.20), and the initial Monthly Installment of Basic Annual Rent shall equal Eleven Thousand Three Hundred Eighty-Nine and 60/100 Dollars ($11,389.60). Basic Annual Rent shall be increased on each annual anniversary of the commencement date of the Lease by three percent (3%).

6. Definition of LARC Room: Landlord and Tenant agree that, notwithstanding Section 1 of the Addendum, Tenant never occupied LARC Room No. 9; rather, Tenant leased from Landlord LARC Room No. 28. Consequently, the term "LARC Rooms" is hereby corrected to mean LARC Room No. 28.

7. LARC Rental Rate: Section 3 of the Addendum is hereby modified to state that, as of the commencement of the Extension Term, Tenant shall pay Landlord monthly rent of Two Thousand Eight Hundred Dollars ($2,800) for each LARC room leased by Tenant during the Extension Term. The monthly rental rate shall be increased on each annual anniversary of the Extension Term Commencement Date by three percent (3%).

8. Early Termination: If, during the Extension Term, Landlord is not able to provide Tenant with LARC Room 28 (or a similar LARC room) and to make a LARC Manager available to Tenant, then Landlord shall notify Tenant in writing of the same. In such an event, Tenant shall have the right to terminate the Lease as of the date on which Landlord becomes unable to provide Tenant with LARC Room 28 (or a similar LARC room) and to make a LARC Manager available to Tenant.

9. Condition of Premises. Tenant acknowledges that (a) it is in possession of the Original Premises and LARC Room 28 and is fully familiar with the condition of the same and, notwithstanding anything contained in the Lease to the contrary, agrees to take the Additional Premises in its condition "as is" as of the first day of the Extension Term, and (b) Landlord shall have no obligation to alter, repair or otherwise prepare the Original Premises or, LARC Room 28 for Tenant's occupancy or continued occupancy, as the case may be, or to pay for any improvements to the Additional Premises, except as provided in Exhibit B hereto.

10. Renewal Option: Provided Tenant is not then in default of its Lease obligations, Tenant shall have the option to further extend the term of the Lease for twelve (12) months by providing written notice to Landlord of its intent to exercise such option at least six (6) months prior to the expiration of the then-current term. The Basic Annual Rent for the option term shall equal one hundred three percent (103%) of the Basic Annual Rent at the expiration of the Extension Term.

11. Right of First Option: In the event Tenant desires to lease additional laboratory or office space in San Diego, Landlord, or an affiliated entity of Landlord, shall have a right, prior to Tenant receiving offers from other potential landlords, to issue a written offer for space in the Building or other properties owned by Landlord or its affiliates, including space in future

developments. In the event that Tenant receives any offer from a third party to lease space from such party (a "Third Party Offer"), Landlord shall have the right to match the terms of such offer, both in terms of rental rates and the nature and condition of improvements to such premises. If Landlord submits such a matching offer, Tenant shall not be permitted to lease space pursuant to the Third Party Offer. This Section shall expire pursuant to its terms on September 14, 2008.

12. Broker. Tenant represents and warrants that it has not dealt with any broker or agent in the negotiation for or the obtaining of the Amendment, and agrees to indemnify, defend and hold Landlord harmless from any and all cost or liability for compensation claimed by any such broker or agent employed or engaged by it or claiming to have been employed or engaged by it.

13. No Default. Tenant represents, warrants and covenants that, to the best of Tenant's knowledge, Landlord and Tenant are not in default of any of their respective obligations under the Lease and no event has occurred that, with the passage of time or the giving of notice (or both) would constitute a default by either Landlord or Tenant thereunder.

14. Effect of Amendment. Except as modified by this Amendment, the Lease and all the covenants, agreements, terms, provisions and conditions thereof shall remain in full force and effect and are hereby ratified and affirmed. The covenants, agreements, terms, provisions and conditions contained in this Amendment shall bind and inure to the benefit of the parties hereto and their respective successors and, except as otherwise provided in the Lease, their respective assigns. In the event of any conflict between the terms contained in this Amendment and the Lease, the terms herein contained shall supersede and control the obligations and liabilities of the parties. From and after the Effective Date, the term "Lease" as used in the Lease shall mean the Lease, as modified by this Amendment.

15. Miscellaneous. This Amendment becomes effective only upon execution and delivery hereof by Landlord and Tenant. The captions of the paragraphs and subparagraphs in this Amendment are inserted and included solely for convenience and shall not be considered or given any effect in construing the provisions hereof. All exhibits hereto are incorporated herein by reference.

16. Counterparts. This Amendment may be executed in one or more counterparts that, when taken together, shall constitute one original.

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IN WITNESS WHEREOF, Landlord and Tenant have hereunto set their hands as of the date and year first above written, and acknowledge that they possess the requisite authority to enter into this transaction and to execute this Amendment.

LANDLORD:

BMR-3030 BUNKER HILL STREET LP,
a Delaware limited partnership

By: /s/ Kent Griffin
Name: Kent Griffin
Title: CFO

TENANT:

GENELUX CORPORATION,
a Delaware corporation

By: /s/ A.A. Szalay
Name: A.A. Szalay
Title: Pres. And CEO

EXHIBIT A

ADDITIONAL PREMISES

Confidential

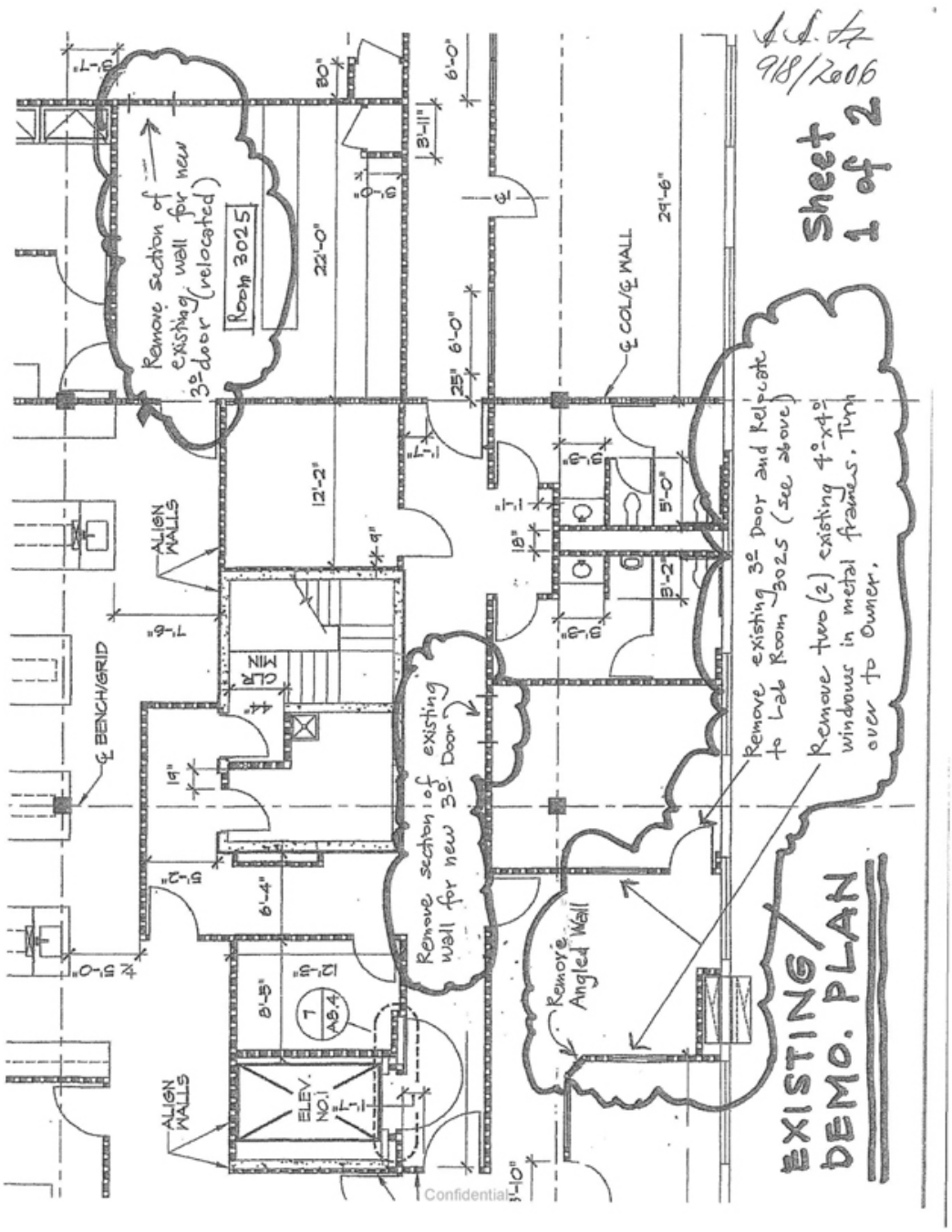
A.A. 47
9/8/2006

Additional Premises (1,717 RSF)
Existing Premises (3,235 RSF)
Total "Premises" 4,952 RSF

EXHIBIT B

TENANT IMPROVEMENTS

Confidential



THIRD AMENDMENT TO LEASE

(San Diego Science Cater! Contains Corporation)

THAT CERTAIN LEASE ("Lease") dated August 20, 2002, by and between SAN DIEGO SCIENCE CENTER. LLC, a California limited liability company ("Landlord"), and GENELUX CORPORATION, a Delaware corporation ("Tenant"), for those certain Premises at 3030 Bunker Hill Street, San Diego, California. is hereby amended by this Third. Amendment to Lease (this "Third Amendment") effective July 1, 2004, to reflect the extension of the lease term, as follows:

1. Bask Lease Provisions.

Section 2.1.5 (h) is amended to read as follows:

Term Expiration Date: September 14, 2006 ./

Terms with an initial capital letter which are not defined in this Third Amendment shall have the meanings given them in the Lease.

In all other respects, the Lease shall remain in full force and effect as originally written.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment effective the date first written, above,

LANDLORD:

Dated: June 30, 2004

SAN DIEGO SCIENCE CENTER LLC
A California limited liability company

By: SD Science Center, Inc.
a California corporation
Its Manager

By: /s/ W. Neil Fox, III
W. Neil Fox, III
Chief Executive Officer

(Signatures continued on next page)

TENANT:

Dated: July 12, 2004

GENELUX CORPORATION,
a Delaware corporation

By: /s/ A.A. Szalay
Name: A.A. Szalay
Title: President and CEO

SECOND AMENDMENT TO LEASE

(San Diego Science Center / Genelux Corporation)

THAT CERTAIN LEASE ("Lease") dated August 20, 2002, by and between SAN DIEGO SCIENCE CENTER LLC, a California limited liability company ("Landlord"), and GENELUX CORPORATION, a Delaware corporation ("Tenant"), for those certain Premises described in the Lease at 3030 Bunker Hill Street, San Diego, California, is hereby amended by this Second Amendment to Lease (this "Second Amendment") effective as of the Term Commencement Date, to reflect the actual measurement of the Building and the Premises following completion of the Project, as follows:

1. Rentable Area.

Sections 1.1 and 2.1.1 are amended to provide that the Rentable Area of the Premises is 3,235 square feet (formerly 2,973 square feet), and that the Rentable Area of the Building is 105,364 square feet (formerly 105,500 square feet).

2. Basic Annual Rent.

Section 2.1.2 is amended to provide that Basic Annual Rent is $95,109.00 ($2.45 per square foot per month for 3,235 square feet of Rentable Area, subject to adjustment pursuant to Section 6.1, but no longer subject to adjustment pursuant to Section 8.3).

Section 2.1.3 is amended to provide that the Monthly Installment of Basic Annual Rent is $7,925.75 ($2,45 per square foot per month for 3,235 square feet of Rentable Area, subject to adjustment pursuant to Section 6.1, but no longer subject to adjustment pursuant to Section 8.3).

3. Pro Rata Share.

Section 2.1.4 is amended to provide that Tenant's Pro Rata Share is 3.07%, no longer subject to adjustment pursuant to Section 8.3.

Terms with an initial capital letter which are not defined in this Second Amendment shall have the meanings given them in the Lease.

In all other respects, the Lease shall remain in full force and effect as originally written.

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment effective the date written above.

LANDLORD:

Dated: 10-17, 2002

SAN DIEGO SCIENCE CENTER LLC
A California limited liability company

By: SD Science Center, Inc.
a California corporation
Its Manager

By: /s/ W. Neil Fox, III
W. Neil Fox, III
Chief Executive Officer

TENANT:

Dated: 10/24, 2002

GENELUX CORPORATION,
a Delaware corporation

By: /s/ D. Will
Name: A. Douglas Will
Title: President and Chief Executive Officer

FIRST AMENDMENT TO LEASE

(San Diego Science Center I Genelux Corporation)

THAT CERTAIN LEASE ("Lease") dated August 20, 2002, by and between SAN DIEGO SCIENCE CENTER LLC, a California limited liability company ("Landlord"), and GENELUX CORPORATION, a Delaware corporation ("Tenant"), for those certain Premises at 3030 Bunker Hill Street, San Diego, California, is hereby amended by this First Amendment to Lease (this "First Amendment") effective August 26, 2002, as follows:

1. Construction and Possession.

The following sentence is added to Section 42 of the Lease:

Landlord shall grant Tenant early occupancy on 991 Rentable Square Feet of the Premises, effective September 1, 2002 through September 14, 2002.

2. Rent.

The following sentence is added to Section 5.1 of the Lease:

Tenant agrees to pay Landlord $1,133.04 as Basic Annual Rent on 991 Rentable Square feet for the term of early occupancy. (991 Rentable Square Feet at $2.45 per square foot, prorated for 14 days.)

3. Operating Expenses.

The following sentence is added to Section 7.3:

Additionally, Tenant agrees to reimburse Landlord's good faith estimate of Tenant's full Pro Rata Share (as set forth in 2.1.4) of Operating Expenses with respect to the Project for the term of early occupancy.

Terms with an initial capital letter which are not defined in this First Amendment shall have the meanings given them in the Lease.

In all other respects, the Lease shall remain in full force and effect as originally written.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment effective the date first written above.

LANDLORD:

Dated: Aug. 26, 2002

SAN DIEGO SCIENCE CENTER LLC
A California limited liability company

By: SD Science Center, Inc.
a California corporation
Its Manager

By: /s/ W. Neil Fox, III
W. Neil Fox, III
Chief Executive Officer

TENANT:

Dated: Aug 26, 2002

GENELUX CORPORATION,
a Delaware corporation

By: /s/ D. Will
Name: A. Douglas Will
Title: President and CEO

INDUSTRIAL/COMMERCIAL MULTI-TENANT LEASE—GROSS MODIFIED
DATED JULY 2, 2018 BY AND BETWEEN GENELUX CORPORATION, A DELAWARE CORPORATION AND MARINDUSTRY PARTNERS, LP, A CALIFORNIA LIMITED PARTNERSHIP

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INDUSTRIAL/COMMERCIAL MULTI-TENANT LEASE — GROSS

1. BASIC PROVISIONS

1.1 Parties

This Lease ("Lease"), dated for reference purposes only July 17, 2018, is made by and between Marindustry Partners, LP, a California limited partnership ("Lessor") and Genelux Corporation, a Delaware corporation ("Lessee"), (collectively the "Parties", or individually a "Party").

1.2 Premises and Parking

1.2.1 That certain portion of the Project (as defined below), including all improvements therein or to be provided by Lessor under the terms of this Lease, commonly known by the street address of 6335 Marindustry Drive, San Diego, California 92121, located in the County of San Diego, State of California, as outlined on Exhibit A attached hereto ("Premises"), and which is comprised of an agreed upon 7,569 rentable square feet.

1.2.2 In addition to Lessee's rights to use and occupy the Premises as hereinafter specified, Lessee shall have non-exclusive rights to the Common Areas (as defined in Section 2.7 below), but shall not have any rights to the roof, or exterior walls of any buildings in the Project, except that Lessee shall have the right to the roof for installation and maintenance of HVAC units necessary for a clean room for biopharmaceutical manufacturing. Roof penetrations shall not be made without prior Lessor approval, which approval shall not be unreasonably withheld. Lessee shall have the right to occupy one parking stall in the rear of the building for the installation and maintenance of an electrical generator necessary for a clean room for biopharmaceutical manufacturing, as shown on Exhibit A, attached hereto. The Premises, the Common Areas, the land upon which they are located, along with all buildings and improvements thereon, are herein collectively referred to as the "Project." (See also Section 2.)

1.2.3 Except as expressly provided herein, surface parking is provided free of charge with unassigned parking spaces, on first come first served basis. No vehicle maintenance shall be performed in the Project. (See also Section 2.6.)

1.3 Term

The term of the lease shall be 60 months ("Original Term") commencing October 1, 2018 ("Commencement Date") and ending September 30, 2023 ("Expiration Date"). (See also Section 3.)

1.4 Early Possession

If the Premises are available, Lessee may have non-exclusive possession of the Premises commencing approximately August 1, 2018 for purposes of making certain improvements thereto and installing Lessee's furniture, fixtures, and equipment therein ("Early Possession Date"). (See also Sections 3.2 and 3.3.)

1.5 Base Rent

Lessee shall pay Lessor $9,461.25 per month ("Base Rent"), payable on the first day of each month commencing October 1, 2018. Base Rent shall be adjusted during the Original Term as follows:

Months 1 — 12 (10/01/18 — 09/30/19)	$ 9,461.25
Months 13 — 24 (10/01/19 — 09/30/20)	$ 9,745.09
Months 25 — 36 (10/01/20 — 09/30/21)	$10,037.44
Months 37 — 48 (10/01/21 — 09/30/22)	$10,338.56
Months 49 — 60 (10/01/22 — 09/30/23)	$10,648.72

Base Rent shall be abated and shall not be payable during months 2 and 13 of the Original Term, provided however that during any month for which rent is abated, the remaining terms of this Lease shall remain in full force and effect.

Base Rent shall be payable as set forth in Section 4.

1.6 Base Rent and Other Monies Payable Upon Execution

a. Base Rent: $9,461.25 for the period of October 1, 2018.

b. Security Deposit: $56,767.50 ("Security Deposit"). (See also Section 5.)

c. Total Due Upon Execution of this Lease: $66,228.75.

1.7 Agreed Use

General office, labs, light manufacturing, cleanroom, biotech, and warehouse space. Lessee will use the premises to manufacture, store and distribute biopharmaceutical products under Good Manufacturing Practices and in compliance with applicable regulations. (See also Section 6)

1.8 Insuring Party

Lessor is the "Insuring Party." (See also Section 9)

1.9 Guarantor

[Not applicable — intentionally omitted.]

1.10 Options

Lessor hereby grants Lessee the Option to extend the term of this Lease for one five (5) year term, provided that Lessee is not in Default under this Lease either at the time it elects to exercise an Option, or at the commencement date of the extension period as applicable. See also Section 19 for additional Option terms.

1.11 Attachments

Attached hereto are the following, all of which constitute a part of this Lease:

Exhibit A — "Site Plan of the Premises"

Exhibit B — "Tenant Improvements"

Exhibit C — "Guaranty"—[Not applicable — intentionally omitted.]

Exhibit D — "Estoppel Certificate"

Exhibit E — "Hazardous Substances"

Exhibit F — "Clean Room Specifications"

2. PREMISES

2.1 Letting

Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. While the approximate square footage of the Premises may have been used in the marketing of the Premises for purposes of comparison, the Base Rent stated herein is NOT tied to square footage and is not subject to adjustment should the actual size be determined to be different. NOTE: Lessee is advised to verify the actual size prior to executing this Lease.

2.2 Condition

Lessor shall deliver the Premises ("Unit") to Lessee broom clean and free of debris on the Commencement Date or the Early Possession Date, whichever first occurs ("Start Date"), and, so long as the required service contracts described in Section 8.1.2 below are obtained by Lessee and in effect within thirty days following the Commencement Date, warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning unit and ducting ("HVAC"), loading doors, sump pumps, if any, and all other such elements in the Unit, other than those constructed by Lessee, shall be in good operating condition on said date, that the structural elements of the roof including the roof covering shall be in water tight condition and in good condition and repair, bearing walls and foundation of the Unit shall be free of material defects, and that the Unit does not contain hazardous levels of any mold or fungi defined as toxic under applicable state or federal law. If a non-compliance with such warranty exists as of the Commencement Date, or if one of such systems or elements should malfunction or fail within the appropriate warranty period, Lessor shall, as Lessor's sole obligation with respect to such matter, except as otherwise provided in this Lease, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, malfunction or failure, rectify same at Lessor's expense. The warranty periods shall be as follows: (i) nine months as to the roof, (ii) three months as to the HVAC systems, and (iii) 30 days as to the remaining systems and other elements of the Unit. If Lessee does not give Lessor the required notice within the appropriate warranty period, correction of any such non-compliance, malfunction or failure shall be the obligation of Lessee at Lessee's sole cost and expense (except for the repairs to the fire sprinkler systems, roof, foundations, and/or bearing walls—see Section 8).

2.3 Compliance

Lessor, at its expense, shall be responsible for any code compliance to the exterior areas of the Premises, if required by the City, unless such additional code compliance is the result of Lessee's use or permits required as a result of Lessee's modifications to the Premises. Lessor warrants that to the best of its knowledge the improvements on the Premises comply with the building codes that were in effect at the time that each such improvement, or portion thereof, was constructed, and also with all applicable laws, covenants or restrictions of record, regulations, and ordinances in effect on the Start Date ("Applicable Requirements"). Said warranty does not apply to the use to which Lessee will put the Premises, modifications which may be required by the Americans with Disabilities Act or any similar zoning or other laws as a result of Lessee's specific biotech use (see Section 20.27), or to any Alterations or Utility Installations (as defined in Section 8.3.1) made or to be made by Lessee. If the Premises do not comply with said warranty or code compliance, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance rectify the same at Lessor's expense. If Lessee does not give Lessor written notice of a non-compliance with this warranty within six months following the Start Date, correction of that non-compliance shall be the obligation of Lessee at Lessee's sole cost and expense. If the Applicable Requirements are hereafter changed so as to require during the term of this Lease the construction of an addition to or an alteration of the Unit and/or the Premises, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Unit or Premises ("Capital Expenditure"), Lessor and Lessee shall allocate the cost of such work as set forth in this section.

NOTE: Lessee is responsible for determining whether or not the Applicable Requirements and especially the zoning are appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed.

2.3.1 Subject to Section 2.3.3 below, if such Capital Expenditures are required as a result of the specific and unique biotech use of the Premises by Lessee as compared with uses by tenants in general, Lessee shall be fully responsible for the cost thereof.

2.3.2 If such Capital Expenditure is not the result of the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), then Lessor shall pay for such Capital Expenditure and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease or any extension thereof, on the date that on which the Base Rent is due, an amount equal to the Lessee's Share of the costs multiplied by a fraction, the numerator of which shall be one (1) and the denominator of which shall be the number of months over which the capital expenditure may be depreciated by the Lessor for income tax purposes.

2.3.3 Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to non-voluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, and in that event, Lessee shall either: (i) immediately cease such changed use or intensity of use and/or take such other steps as may be necessary to eliminate the requirement for such Capital Expenditure, or (ii) complete such Capital Expenditure at its own expense. Lessee shall not have any right to terminate this Lease.

2.4 Acknowledgments

Lessee acknowledges that: (a) it has been given an opportunity to inspect and measure the Premises, (b) it has been advised by Lessor to satisfy itself with respect to the size and condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements and the Americans with Disabilities Act), and their suitability for Lessee's intended use, (c) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises, (d) it is not relying on any representation as to the size of the Premises made by Lessor, (e) the square footage of the Premises was not material to Lessee's decision to lease the Premises and pay the Rent stated herein, and (f) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease.

2.5 Lessee as Prior Owner/Occupant

The warranties made by Lessor in Section 2 shall be of no force or effect if immediately prior to the Start Date Lessee was the owner or occupant of the Premises. In such event, Lessee shall be responsible for any necessary corrective work.

2.6 Vehicle Parking

Lessee shall be entitled to use unreserved Parking Spaces in the Common Areas designated from time to time by Lessor for parking. Said parking spaces shall be used for parking by vehicles no larger than full-size passenger automobiles or pick-up trucks, herein called "Permitted Size Vehicles." Lessor may regulate the loading and unloading of vehicles by adopting Rules and Regulations as provided in Section 2.9. No vehicles other than Permitted Size Vehicles may be parked in the Common Area without the prior written permission of Lessor. In addition:

2.6.1 Lessee shall not permit or allow any vehicles that belong to or are controlled by Lessee or Lessee's employees, suppliers, shippers, customers, contractors or invitees to be loaded, unloaded, or parked in areas other than those designated by Lessor for such activities.

2.6.2 Lessee shall not service or store any vehicles in the Common Areas.

2.6.3 If Lessee permits or allows any of the prohibited activities described in this Section 2.6, then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove or tow away the vehicle involved and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

2.7 Common Areas — Definition

The term "Common Areas" is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Project and interior utility raceways and installations within the Unit that are provided and designated by the Lessor from time to time for the general non-exclusive use of Lessor, Lessee and other tenants of the Project and their respective employees, suppliers, shippers, customers, contractors and invitees, including parking areas, loading and unloading areas, trash areas, roadways, walkways, driveways and landscaped areas.

2.8 Common Areas—Lessee's Rights

Lessor grants to Lessee, for the benefit of Lessee and its employees, suppliers, shippers, contractors, customers and invitees, during the term of this Lease, the non-exclusive right to use, in common with others entitled to such use, the Common Areas as they exist from time to time, subject to any rights, powers, and privileges reserved by Lessor under the terms hereof or under the terms of any rules and regulations or restrictions governing the use of the Project. Subject to and other than as set forth in Section 1.2, under no circumstances shall the right herein granted to use the Common Areas be deemed to include the right to store any property, temporarily or permanently, in the Common Areas. Any such storage shall be permitted only by the prior written consent of Lessor or Lessor's designated agent, which consent may be revoked at any time. In the event that any unauthorized storage shall occur, then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove the property and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor. Lessee acknowledges that all driveways, parking and loading areas (not including loading docks) in the Project are to be used in common with other tenants in the Project, and their guests, customers, and suppliers, and that none of said areas are for the exclusive use of Lessee.

2.9 Common Areas—Rules and Regulations

Lessor or such other person(s) as Lessor may appoint shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to establish, modify, amend and enforce reasonable rules and regulations ("Rules and Regulations") for the management, safety, care, and cleanliness of the grounds, the parking and unloading of vehicles and the preservation of good order, as well as for the convenience of other occupants or tenants of the Project and their invitees. Lessee agrees to abide by and conform to all such Rules and Regulations and shall use its best efforts to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Lessor shall not be responsible to Lessee for the non-compliance with said Rules and Regulations by other tenants of the Project.

2.10 Common Areas — Changes

Lessor shall have the right, in Lessor's sole discretion, from time to time:

2.10.1 To make changes to the Common Areas, including, without limitation, changes in the location, size, shape and number of driveways, entrances, parking spaces, parking areas, loading and unloading areas, ingress, egress, direction of traffic, landscaped areas, walkways and utility raceways;

2.10.2 To close temporarily any of the Common Areas for maintenance purposes so long as reasonable access to the Premises remains available;

2.10.3 To designate other land outside the boundaries of the Project to be a part of the Common Areas;

2.10.4 To add additional buildings and improvements to the Common Areas;

2.10.5 To use the Common Areas while engaged in making additional improvements, repairs or alterations to the Project, or any portion thereof; and

2.10.6 To do and perform such other acts and make such other changes in, to or with respect to the Common Areas and Project as Lessor may, in the exercise of sound business judgment, deem to be appropriate; provided, however, notwithstanding any of the foregoing provisions of this section 2.10, Lessor shall not interfere with Lessee's quiet enjoyment of the premises, e.g., alternative ingress and parking, and shall not reduce the number or size of non-reserved parking spaces available to Lessee at the commencement of the lease.

3. TERM

3.1 Term

The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Section 1.3.

3.2 Early Possession

Any provision herein granting Lessee Early Possession of the Premises is subject to and conditioned upon the Premises being available for such possession prior to the Commencement Date. Any grant of Early Possession only conveys a non-exclusive right to occupy the Premises. If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such Early Possession until the Commencement Date. All other terms of this Lease (including but not limited to the obligations to pay Lessee's Share of Common Area Operating Expenses, Real Property Taxes and insurance premiums and to maintain the Premises) shall be in effect during such period. Any such Early Possession shall not affect the Expiration Date.

3.3 Delay in Possession

Lessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession by such date, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease or change the Expiration Date. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until Lessor delivers possession of the Premises and any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession is not delivered by the Commencement Date, Lessee may, at its option, by notice in writing within 30 days after the Commencement Date, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder and all monies returned. If such written notice is not received by Lessor within said 30-day period, Lessee's right to cancel shall terminate. If possession of the Premises is not delivered within 60 days after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

3.4 Lessee Compliance

Lessor shall not be required to tender possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance (Section 9.4). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required

to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur, but Lessor may elect to withhold possession until such conditions are satisfied.

4. RENT

4.1 Rent Defined

All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be rent ("Rent").

4.2 Payment

Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States, without offset or deduction (except as specifically permitted in this Lease), on or before the day on which it is due. In the event that any statement or invoice prepared by Lessor is inaccurate such inaccuracy shall not constitute a waiver and Lessee shall be obligated to pay the amount set forth in this Lease. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of $25 in addition to any Late Charge and Lessor, at its option, may require all future Rent be paid by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent and Common Area Operating Expenses, and any remaining amount to any other outstanding charges or costs.

5. SECURITY DEPOSIT

Lessee shall deposit with Lessor upon execution hereof the Security Deposit in the amount of $56,767.50 ("**Security Deposit**") as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount already due Lessor, for Rents which will be due in the future, and/ or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 90 days after the expiration or termination of this Lease, Lessor shall return that portion of the Security Deposit to Lessee not used or applied by Lessor. No part of the Security

Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease.

6. USE

6.1 Use

Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. Other than guide, signal and Seeing Eye dogs, Lessee shall not keep or allow in the Premises any pets, animals, birds, fish, or reptiles.

6.2 Hazardous Substances

6.2.1 The term "Hazardous Substance" as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, by-products or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. "Reportable Use" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements mandate that a notice or identification be provided that a Hazardous Substance is located on or in the Premises. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use, ordinary office supplies (copier toner, liquid paper, glue, etc.) and common household cleaning materials, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit if Lessor can show proof that Lessor's insurance premium increase was caused specifically by the Reportable Use. Lessor approves and consents to the list of Hazardous Substances provided by Lessee and contained in Exhibit E.

6.2.2 If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and

provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

6.2.3 Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, comply with all Applicable Requirements and take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party.

6.2.4 Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises from areas outside of the Project not caused or contributed to by Lessee). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.

6.2.5 Except as otherwise provided in Section 9.6, Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which suffered as a direct result of Hazardous Substances on the Premises prior to Lessee taking possession or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease.

6.2.6 Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to Lessee taking possession, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in Section 8.3.1 below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities.

6.2.7 If a Hazardous Substance Condition (see Section 10.1.5) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Section 6.2.4 and Section 14), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) give written notice to Lessee, within

60 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of Lessee's commitment to pay the cost of the remediation of such Hazardous Substance Condition. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified in Lessor's notice of termination.

6.3 Lessee's Compliance with Applicable Requirements

Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to such Requirements, without regard to whether said Requirements are now in effect or become effective after the Start Date. Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements. Likewise, Lessee shall immediately give written notice to Lessor of: (i) any water damage to the Premises and any suspected seepage, pooling, dampness or other condition conducive to the production of mold; or (ii) any mustiness or other odors that might indicate the presence of mold in the Premises.

6.4 Inspection; Compliance

Lessor and Lessor's "Lender" (as defined in Section 18.1) and consultants shall have the right to enter into Premises at any time in the case of an emergency, and otherwise at reasonable times after reasonable notice, for the purpose of inspecting the condition of the Premises and for verifying compliance by Lessee with this Lease. The cost of any such inspections shall be paid by Lessor, unless a violation of Applicable Requirements, or a Hazardous Substance Condition (see Section 10.1), is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination. In addition, Lessee shall provide copies of all relevant material safety data sheets (MSDS) to Lessor within 10 days of the receipt of written request therefor.

7. TENANT IMPROVEMENTS

Lessor shall provide Lessee with the Tenant Improvements as shown on Exhibit B attached hereto. Lessee's obligations with regard to the improvement of the Premises for its use are also set forth on Exhibit B.

8. MAINTENANCE; REPAIRS; UTILITY INSTALLATIONS; TRADE FIXTURES AND ALTERATIONS

8.1 Lessee's Obligations

8.1.1 Subject to the provisions of Section 2.2 (Condition), 2.3 (Compliance), Section 2.5 (Lessee as Prior Owner/Occupant) 6.3 (Lessee's Compliance with Applicable Requirements), 8.2 (Lessor's Obligations), 10 (Damage or Destruction), and 15 (Condemnation), Lessee shall, at Lessee's sole expense, keep the Premises, Utility Installations (intended for Lessee's exclusive use, no matter where located), and Alterations in good order, condition and repair (whether or not the portion of the Premises requiring repairs, or the means of repairing the same, are reasonably or readily accessible to Lessee, and whether or not the need for such repairs occurs as a result of Lessee's use, any prior use, the elements or the age of such portion of the Premises), including, but not limited to, all equipment or facilities, such as plumbing, HVAC equipment, electrical, lighting facilities, boilers, pressure vessels, fixtures, interior walls, interior surfaces of exterior walls, ceilings, floors, windows, doors, plate glass, and skylights but excluding any items which are the responsibility of Lessor pursuant to Section 8.2. Lessee, in keeping the Premises in good order, condition and repair, shall exercise and perform good maintenance practices, specifically including the procurement and maintenance of the service contracts required by Section 8.1.2 below. Lessee's obligations shall include restorations, replacements or renewals when necessary to keep the Premises and all improvements thereon or a part thereof in good order, condition and state of repair.

8.1.2 Lessee shall, at Lessee's sole expense, procure and maintain contracts, with copies to Lessor, in customary form and substance for, and with contractors specializing and experienced in the maintenance of the following equipment and improvements on the one (1) existing HVAC unit on the roof. Lessee will be installing its own HVAC units for the clean room and will maintain it as needed. Lessee shall also be responsible for pest control on the premises, including, but not limited to, the treatment of termite or other pest infestations and/or damage caused by termites or other pests no more than once per quarter. However, if Lessee fails to comply with its maintenance obligations as stated in Section 8.1.1, Lessor reserves the right, upon notice to Lessee, to procure and maintain any or all of such service contracts and Lessee shall reimburse Lessor, upon demand, for the cost thereof.

8.1.3 If Lessee fails to perform Lessee's obligations under this Section 8.1, Lessor may enter upon the Premises after 10 days' prior written notice to Lessee (except in the case of an emergency, in which case no notice shall be required), perform such obligations on Lessee's behalf, and put the Premises in good order, condition and repair, and Lessee shall promptly pay to Lessor a sum equal to 115% of the cost thereof.

8.1.4 Subject to Lessee's indemnification of Lessor as set forth in Section 9.6 below, and without relieving Lessee of liability resulting from Lessee's failure to exercise and perform good maintenance practices, if an item described in Section 8.1.2 cannot be repaired other than at a cost which is in excess of 50% of the cost of replacing such item, then such item shall be replaced by Lessor, and the cost thereof shall be prorated between the Parties.

8.2 Lessor's Obligations

Subject to the provisions of Sections 2.2 (Condition), 2.3 (Compliance), 6 (Use), 8.1 (Lessee's Obligations), 10 (Damage or Destruction) and 15 (Condemnation), Lessor shall keep in good order, condition and repair the foundations, exterior walls, structural condition of interior

bearing walls, exterior roof, fire sprinkler system, Common Area fire alarm and/or smoke detection systems, fire hydrants, parking lots, walkways, parkways, driveways, landscaping, fences, gates, signs and utility systems serving the Common Areas and all parts thereof, as well as providing trash service. Lessor shall not be obligated to paint the exterior or interior surfaces of exterior walls nor shall Lessor be obligated to maintain, repair or replace windows, doors or plate glass of the Premises, except to remove, paint or repair any damage or defacement to exterior windows, doors, walls or glass caused by vandalism or non-natural agents. Lessee expressly waives the benefit of any statute now or hereafter in effect to the extent it is inconsistent with the terms of this Lease.

8.3 Utility Installations; Trade Fixtures; Alterations

8.3.1 The term "Utility Installations" refers to all floor and window coverings, air and/or vacuum lines, power panels, electrical distribution, security and fire protection systems, communication cabling, lighting fixtures, HVAC equipment, plumbing, and fencing in or on the Premises. The term "Trade Fixtures" shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term "Alterations" shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. "Lessee Owned Alterations and/or Utility Installations" are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor pursuant to Section 8.4.1.

8.3.2 Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Alterations or Utility Installations to the interior of the Premises (excluding the roof, with the exception of HVAC units and systems installed by Lessee), without such consent but upon notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof or any existing walls, will not affect the electrical, plumbing, HVAC, and/or life safety systems, and the cumulative cost thereof during this Lease does not exceed a sum equal to three month's Base Rent in the aggregate or a sum equal to one month's Base Rent in any one year. Notwithstanding the foregoing, except for the HVAC units and systems servicing Lessee's clean room, Lessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Lessor which consent shall not be unreasonably withheld. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor chosen and/or approved by Lessor, except for the HVAC units servicing Lessee's clean room. Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with as-built plans and specifications. For work which costs an amount in excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor.

8.3.3 Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or materialmen's lien against the Premises or any interest therein. Lessee shall give Lessor not less than 10 days' notice prior to the commencement of any

work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility. If Lessee shall contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. If Lessor shall require, Lessee shall furnish a surety bond in an amount equal to 150% of the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same. If Lessor elects to participate in any such action, Lessee shall pay Lessor's attorneys' fees and costs.

8.4 Ownership: Removal; Surrender; and Restoration

8.4.1 Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations; provided, however, that the modular clean room and the permanent electrical generator installed adjacent to the Premises (as shown on Exhibit A) shall remain the property of the Lessee and which the Lessee agrees to remove from the premises upon Lease termination. Unless otherwise instructed per Section 8.4.2 hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

8.4.2 Lessor, unless otherwise agreed in writing, may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations made without the required consent.

8.4.3 Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof broom clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee, whether such damage is located inside the Premises, on the exterior of the Building or in the Common Areas. Lessee shall also completely remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Lessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Premises) even if such removal would require Lessee to perform or pay for work that exceeds statutory requirements. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. Any personal property of Lessee not removed on or before the Expiration Date or any earlier termination date shall be deemed to have been abandoned by Lessee and may be disposed of or retained by Lessor as Lessor may desire. The failure by Lessee to timely vacate the Premises pursuant to this Section 8.4.3 without the express written consent of Lessor shall constitute a holdover under the provisions of Section 20.9 below.

9. INSURANCE; INDEMNITY

9.1 Liability Insurance

9.1.1 Carried by Lessee. Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Lessee and Lessor, as an additional insured, against claims for bodily injury, personal injury and property damage based upon or arising out of Lessee's use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than $2,000,000 per occurrence with an annual aggregate of not less than $2,000,000. Lessee shall add Lessor and Cypress View Properties, Inc., as additional insureds by means of an endorsement at least as broad as the Insurance Service Organization's "Additional Insured-Managers or Lessors of Premises" Endorsement. The policy shall not contain any intra-insured exclusions as between insured persons or organizations but shall include coverage for liability assumed under this Lease as an "insured contract" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. Lessee shall provide an endorsement on its liability policy(ies) that provides that its insurance shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

9.1.2 Carried by Lessor. Lessor shall maintain liability insurance as described in Section 9.1.1, in addition to, and not in lieu of, the insurance required to be maintained by Lessee, against claims for bodily injury, personal injury and property damage based on or arising out of Lessor's ownership or maintenance obligations related to the Premises. Lessee shall not be named as an additional insured therein.

9.1.3 Carried by Lessee's Contractors. Unless otherwise agreed to in writing by Lessor, if Lessee, with Lessor's written approval, engages a contractor ("Contractor") to perform work on the Premises, whether such work is a Tenant Improvement, Trade Fixture, Alteration or otherwise, the Contractor shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to the Premises which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees, or subcontractors. Such insurance shall include Builder's Risk (Course of Construction) insurance utilizing an "All Risk" (Special Perils) coverage form, with limits equal to the completed value of the project and no coinsurance penalty provisions. The Lessor shall be named as Loss Payee for the Builder's Risk insurance.

9.2 Property Insurance—Building, Improvements and Rental Value

9.2.1 Lessor shall obtain and keep in force a policy or policies of insurance in the name of Lessor, with loss payable to Lessor, any ground-lessor, and to any Lender insuring loss or damage to the Premises. The amount of such insurance shall be equal to the full insurable replacement cost of the Premises, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. If the coverage is available and commercially appropriate, such policy or policies shall insure against all types of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver

of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee not by Lessor unless the item in question has become the property of Lessor under the terms of this Lease.

9.2.2 Lessor shall also obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the loss of the full Rent for one year ("Rental Value Insurance"). Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee, for the next 12-month period.

9.2.3 Lessee shall pay for any increase in the premiums for the property insurance of the Unit, and for the Common Areas or other buildings in the Project if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.

9.3 Lessee's Property: Business Interruption Insurance: Worker's Compensation Insurance: Pollution Liability Insurance

9.3.1 Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed $2,500 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations.

9.3.2 Lessee shall obtain and maintain loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.

9.3.3 Lessee shall obtain and maintain Worker's Compensation Insurance in such amount as may be required by Applicable Requirements. Such policy shall include a 'Waiver of Subrogation' endorsement. Lessee shall provide Lessor with a copy of such endorsement along with the certificate of insurance or copy of the policy required by Section 9.4.

9.3.4 Lessee shall obtain and maintain Pollution Liability Insurance in an amount not less than $1,000,000 per occurrence with an annual aggregate of not less than $1,000,000 to cover all costs, including (without limitation) legal expenses, associated with the investigation and remediation of, or a claim for bodily injury (including death) or third-party property damage (including claims for natural resources damages and the assessment of such damages) arising from Lessee's direct or indirect use of Hazardous Substances, as such term is defined at Section 6.2.1 above. The Pollution Liability Insurance policy shall have a minimum term coterminous with this Lease and name Lessor as an additional insured. Lessee shall not cancel or cause the Pollution Liability Insurance Policy to be terminated at any time after the Commencement Date.

9.3.5 Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.

9.4 Insurance Policies

Insurance required herein shall be by companies maintaining during the policy term a "General Policyholders Rating" of at least A-, VII, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates with copies of the required endorsements evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 30 days prior written notice to Lessor. Lessee shall, within 30 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may order such insurance and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other Party may, but shall not be required to, procure and maintain the same.

9.5 Waiver of Subrogation

Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation in the relevant insurance policy(ies) that such companies may have against Lessor or Lessee, as the case may be, so long as the insurance is not invalidated thereby.

9.6 Indemnity

Except for Lessor's gross negligence or willful misconduct, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' and consultants' fees, expenses and/or liabilities arising out of, the use and/or occupancy of the Premises by Lessee. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

Except for Lessee's negligence or misconduct, Lessor shall indemnify, protect, defend and hold harmless Lessee and its agents, partners and Lenders, from and against any claims, liabilities or losses arising out of Lessor's ownership or maintenance activities in regard to the premises, parking area, gate or surrounding property not subject to the control or exclusive use of Lessee. If any action or proceeding is brought against Lessee by reason of any of the foregoing matters, Lessor shall upon notice defend that same at Lessor's expense by counsel reasonably satisfactory to Lessee, and Lessee shall cooperate with Lessor in such defense. Lessee need not have first paid any such claim in order to be indemnified or defended.

9.7 Exemption of Lessor and its Agents from Liability

Notwithstanding the negligence or breach of this Lease by Lessor or its agents, neither Lessor nor its agents shall be liable under any circumstances for: (i) injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, indoor air quality, the presence of mold or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the Project, or from other sources or places, (ii) any damages arising from any act or neglect of any other tenant of Lessor or from the failure of Lessor or its agents to enforce the provisions of any other lease in the Project, or (iii) injury to Lessee's business or for any loss of income or profit therefrom. Instead, it is intended that Lessee's sole recourse in the event of such damages or injury be to file a claim on the insurance policy(ies) that Lessee is required to maintain pursuant to the provisions of Section 9.

9.8 Failure to Provide Insurance

Lessee acknowledges that any failure on its part to obtain or maintain the insurance required herein will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, for any month or portion thereof that Lessee does not maintain the required insurance and/or does not provide Lessor with the required binders or certificates evidencing the existence of the required insurance, the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 15% of the then existing Base Rent or $200, whichever is greater. The parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to maintain the required insurance. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted hereunder, nor relieve Lessee of its obligation to maintain the insurance specified in this Lease.

10. DAMAGE OR DESTRUCTION

10.1 Definitions

10.1.1 "Premises Partial Damage" shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in three months or less from the date of the damage or destruction, and the cost thereof does not exceed a sum equal to six month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

10.1.2 "Premises Total Destruction" shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in three months or less from the date of the damage or destruction and/or the cost thereof exceeds a sum equal to six month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

10.1.3 “Insured Loss” shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in Section 9.2.1, irrespective of any deductible amounts or coverage limits involved.

10.1.4 “Replacement Cost” shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of Applicable Requirements, and without deduction for depreciation.

10.1.5 “Hazardous Substance Condition” shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance, in, on, or under the Premises which requires restoration.

10.2 Partial Damage—Insured Loss

If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor’s expense, repair such damage (but not Lessee’s Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor’s election, make the repair of any damage or destruction the total cost to repair of which is $10,000 or less, and, in such event, Lessor shall make any applicable insurance proceeds available to Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to affect such repair, the Insuring Party shall promptly contribute the shortage in proceeds as and when required to complete said repairs. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to pay for the shortage in insurance proceeds or to fully restore the unique aspects of the Premises unless Lessee provides Lessor with the funds to cover same, or adequate assurance thereof, within 10 days following receipt of written notice of such shortage and request therefor. If Lessor receives said funds or adequate assurance thereof within said 10-day period, the party responsible for making the repairs shall complete them as soon as reasonably possible and this Lease shall remain in full force and effect. If such funds or assurance are not received, Lessor may nevertheless elect by written notice to Lessee within 10 days thereafter to: (i) make such restoration and repair as is commercially reasonable with Lessor paying any shortage in proceeds, in which case this Lease shall remain in full force and effect, or (ii) have this Lease terminate 30 days thereafter. Lessee shall not be entitled to reimbursement of any funds contributed by Lessee to repair any such damage or destruction. Premises Partial Damage due to flood or earthquake shall be subject to Section 10.3, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by either Party.

10.3 Partial Damage—Uninsured Loss

If a Premises Partial Damage that is not an Insured Loss occurs, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee’s expense), Lessor will repair such damage as soon as reasonably possible at Lessor’s expense, in which event this Lease shall continue in full force and effect. Such termination shall be effective 60 days following the date of such notice. In the event Lessor elects to terminate this Lease, Lessee shall have the right within 10 days after receipt of the termination notice to give written notice to Lessor of Lessee’s commitment to pay for the repair of such damage without

reimbursement from Lessor. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days after making such commitment. In such event this Lease shall continue in full force and effect, and Lessor shall proceed to make such repairs as soon as reasonably possible after the required funds are available. If Lessee does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

10.4 Total Destruction

Notwithstanding any other provision hereof, if a Premises Total Destruction occurs, this Lease shall terminate 60 days following such Destruction. If the damage or destruction was caused by the gross negligence or willful misconduct of Lessee, Lessor shall have the right to recover Lessor's damages from Lessee, except as limited by Sections 9.6 and 9.7.

10.5 Damage Near End of Term

10.5.1 Except as otherwise indicated below and as set forth in Section 8.2 above, if at any time during the last six months of this Lease there is damage for which the cost to repair exceeds one month's Base Rent, whether or not an Insured Loss, Lessor may terminate this Lease effective 60 days following the date of occurrence of such damage by giving a written termination notice to Lessee within 30 days after the date of occurrence of such damage. Notwithstanding the foregoing, if Lessee at that time has an exercisable option to extend this Lease or to purchase the Premises, then Lessee may preserve this Lease by, (a) exercising such option and (b) providing Lessor with any shortage in insurance proceeds (or adequate assurance thereof) needed to make the repairs on or before the earlier of (i) the date which is 10 days after Lessee's receipt of Lessor's written notice purporting to terminate this Lease, or (ii) the day prior to the date upon which such option expires. If Lessee duly exercises such option during such period and provides Lessor with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor shall, at Lessor's commercially reasonable expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option and provide such funds or assurance during such period, then this Lease shall terminate on the date specified in the termination notice and Lessee's option shall be extinguished.

10.5.2 Provided, however, that the HVAC units that are installed by Lessee to service its clean room, and the clean room itself, shall not be subject to the foregoing provisions. Instead, Lessee shall have discretion as to whether to expend Lessee's own funds to repair or replace such items in the event of damage described in Section 10.5.1 above, and Lessor shall have no responsibility therefor.

10.6 Abatement of Rent; Lessee's Remedies

10.6.1 In the event of Premises Partial Damage or Premises Total Destruction or a Hazardous Substance Condition for which Lessee is not responsible under this Lease, the Rent payable by Lessee for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired, but not to exceed the proceeds received from the Rental Value Insurance. All other obligations of Lessee hereunder shall be performed by Lessee, and Lessor shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

10.6.2 If Lessor is obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within 90 days after

such obligation shall accrue, Lessee may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than 60 days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within 30 days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within such 30 days, this Lease shall continue in full force and effect. "Commence" shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever first occurs.

10.7 Termination; Advance Payments

Upon termination of this Lease pursuant to Section 6.2.7 or Section 10, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's Security Deposit as has not been, or is not then required to be, used by Lessor.

11. REAL PROPERTY TAXES

11.1 Definitions

11.1.1 "Real Property Taxes." As used herein, the term "Real Property Taxes" shall include any form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Project, Lessor's right to other income therefrom, and/or Lessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Project address and where the proceeds so generated are to be applied by the city, county or other local taxing authority of a jurisdiction within which the Project is located. The term "Real Property Taxes" shall also include any tax, fee, levy, assessment or charge, or any increase therein: (i) imposed by reason of events occurring during the term of this Lease, including but not limited to, a change in the ownership of the Project, (ii) a change in the improvements thereon, and/or (iii) levied or assessed on machinery or equipment provided by Lessor to Lessee pursuant to this Lease. In calculating Real Property Taxes for any calendar year, the Real Property Taxes for any real property tax year shall be included in the calculation of Real Property Taxes for such calendar year based upon the number of days which such calendar year and tax year have in common.

11.2 Additional Improvements

Lessee shall, within 10 days after receipt of a written statement setting forth the taxes applicable to Lessee's property, pay to Lessor the entirety of any increase in Real Property Taxes if assessed solely by reason of Alterations, Trade Fixtures or Utility Installations placed upon the Premises by Lessee or at Lessee's request or by reason of any alterations or improvements to the Premises made by Lessor subsequent to the execution of this Lease by the Parties.

11.3 Personal Property Taxes

Lessee shall pay prior to delinquency all taxes assessed against and levied upon Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee contained in the Premises. When possible, Lessee shall cause its Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all

other personal property to be assessed and billed separately from the real property of Lessor. If any of Lessee's said property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee's property within 10 days after receipt of a written statement setting forth the taxes applicable to Lessee's property.

12. UTILITIES AND SERVICES

Lessee shall pay for all water, gas, heat, light, power, telephone and other utilities and services supplied to the Premises, together with any taxes thereon. There shall be no abatement of Rent and Lessor shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond Lessor's reasonable control or in cooperation with governmental request or directions.

13. ASSIGNMENT AND SUBLETTING

13.1 Lessor's Consent Required

13.1.1 Other than with respect to the successor of substantially the entire business to which this Agreement relates, including, but not limited to, a reverse merger, Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, "assign or assignment") or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent, which consent shall not be unreasonably withheld. Reasonable withholding of consent would generally be limited to a change in ownership or structure of Lessee's business that puts future lease payments or compliance with other lease obligations at increased risk.

13.1.2 Unless Lessee is a corporation and its stock is publicly traded on a national stock exchange, a change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 25% or more of the voting control of Lessee shall constitute a change in control for this purpose.

13.1.3 An assignment or subletting without consent shall, at Lessor's option, be a Default curable after notice per Section 14.4, or a noncurable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a noncurable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 110% of the Base Rent then in effect. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any option to purchase the Premises held by Lessee shall be subject to similar adjustment to 110% of the price previously in effect, and (ii) all fixed and non-fixed rental adjustments scheduled during the remainder of the Lease term shall be increased to 110% of the scheduled adjusted rent.

13.1.4 Lessee's remedy for any breach of Section 13.1 by Lessor shall be limited to compensatory damages and/or injunctive relief.

13.1.5 Lessor may reasonably withhold consent to a proposed assignment or subletting if Lessee is in Default at the time consent is requested.

13.1.6 Notwithstanding the foregoing, allowing a de minimis portion of the Premises, i.e., 20 square feet or less, to be used by a third-party vendor in connection with the installation of a vending machine or payphone shall not constitute a subletting.

13.2 Terms and Conditions Applicable to Assignment and Subletting

13.2.1 Regardless of Lessor's consent, no assignment or subletting shall: (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

13.2.2 Lessor may accept Rent or performance of Lessee's obligations from any person other than Lessee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of Rent or performance shall constitute a waiver or estoppel of Lessor's right to exercise its remedies for Lessee's Default or Breach.

13.2.3 Lessor's consent to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting.

13.2.4 In the event of any Default or Breach by Lessee, Lessor may proceed directly against Lessee, any Guarantors or anyone else responsible for the performance of Lessee's obligations under this Lease, including any assignee or sublessee, without first exhausting Lessor's remedies against any other person or entity responsible therefor to Lessor, or any security held by Lessor.

13.2.5 Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of $500 as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested. (See also Section 20.18)

13.2.6 Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment, entering into such sublease, or entering into possession of the Premises or any portion thereof, be deemed to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by Lessee during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Lessor has specifically consented to in writing.

13.2.7 Lessor's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the original Lessee by this Lease unless such transfer is specifically consented to by Lessor in writing. (See Section 19.1.)

13.2.8 If Lessee assigns and/or sublets any portion(s) of its interest in this Lease or in the Premises with Lessor's consent, any consideration received by Lessee for said assignment and/or subletting, after deducting any real estate broker's commissions incurred solely for the purpose of and in connection with the assignment or subletting, shall be divided equally with Lessor to the extent it exceeds the consideration due Lessor from Lessee under this Lease ("Net Rent Premium"). The amount due Lessor shall be paid to Lessor within ten (10) days after its receipt by Lessee. Lessee shall act as Lessor's agent in collecting such amounts from any such assignee or sublessee.

13.3 Additional Terms and Conditions Applicable to Subletting

The following terms and conditions shall apply to any subletting by Lessee of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

13.3.1 Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance of Lessee's obligations, Lessee may collect said Rent. In the event that the amount collected by Lessor exceeds Lessee's then outstanding obligations any such excess shall be refunded to Lessee. Lessor shall not, by reason of the foregoing or any assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Lessee to the contrary.

13.3.2 In the event of a Breach by Lessee, Lessor may, at its option, require sublessee to attorn to Lessor, in which event Lessor shall undertake the obligations of the sublessor under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any prior Defaults or Breaches of such sublessor.

13.3.3 Any matter requiring the consent of the sublessor under a sublease shall also require the consent of Lessor.

13.3.4 No sublessee shall further assign or sublet all or any part of the Premises without Lessor's prior written consent.

13.3.5 Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.

14. DEFAULT; BREACH; REMEDIES

14.1 Default; Breach

A "Default" is defined as a failure by the Lessee to comply with or perform any of the terms, covenants, conditions or Rules and Regulations under this Lease. A "Breach" is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable grace period:

14.1.1 The abandonment of the Premises; or the vacating of the Premises without providing a commercially reasonable level of security, or where the coverage of the property

insurance described in Section 9.2 is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism.

14.1.2 The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due; or the failure of Lessee to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of three business days following written notice to Lessee. THE ACCEPTANCE BY LESSOR OF A PARTIAL PAYMENT OF RENT OR SECURITY DEPOSIT SHALL NOT CONSTITUTE A WAIVER OF ANY OF LESSOR'S RIGHTS, INCLUDING LESSOR'S RIGHT TO RECOVER POSSESSION OF THE PREMISES.

14.1.3 The failure of Lessee to allow Lessor and/or its agents access to the Premises or the commission of waste, an act or acts constituting public or private nuisance, and/or an illegal activity on the Premises by Lessee, where such actions continue for a period of three business days following written notice to Lessee.

14.1.4 The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate or financial statements, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document requested under Section 20.21, (viii) material data safety sheets (MSDS), or (ix) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 10 days following written notice to Lessee.

14.1.5 A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Section 2.9 hereof, other than those described in Sections 14.1.1, 14.1.2, 14.1.3 or 14.1.4, above, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

14.1.6 The occurrence of any of the following events: (i) the making of any general arrangement or assignment for the benefit of creditors; (ii) becoming a "debtor" as defined in 11 U.S.C. § 101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within 30 days; provided, however, in the event that any provision of this subsection is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

14.1.7 The discovery that any financial statement of Lessee given to Lessor was materially false.

14.2 Remedies

If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. Lessee shall pay to Lessor an amount equal to 115% of the costs and expenses incurred by Lessor in such performance upon receipt of an invoice therefor. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

14.2.1 Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate, and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) 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 rental loss that the Lessee proves could have been reasonably avoided; (iii) 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 rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover any damages to which Lessor is otherwise entitled. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Section 14.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Section 14.1. In such case, the applicable grace period required by Section 14.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

14.2.2 Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, in which event Lessee may sublet or assign, subject only to reasonable limitations. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession.

14.2.3 Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located. The expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

14.3 Inducement Recapture

Any agreement for free or abated rent or other charges, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as "Inducement Provisions", shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Lessor under such an Inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this section shall not be deemed a waiver by Lessor of the provisions of this section unless specifically so stated in writing by Lessor at the time of such acceptance.

14.4 Late Charges

Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within five days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall immediately pay to Lessor a one-time late charge equal to 10% of each such overdue amount or $100, whichever is greater. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for three consecutive installments of Base Rent, then notwithstanding any provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

14.5 Interest

Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor when due shall bear interest from the 31st day after it was due. The interest ("Interest") charged shall be computed at the rate of 10% per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Section 14.4.

14.6 Breach by Lessor

14.6.1 Lessor shall not be deemed in breach of this Lease unless Lessor fails within a reasonable time to perform an obligation required to be performed by Lessor. For purposes of this Section, a reasonable time shall in no event be less than 30 days after receipt by Lessor, and any Lender whose name and address shall have been furnished to Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that if the nature of Lessor's obligation is such that more than 30 days are reasonably required for its performance, then Lessor shall not be in breach if performance is commenced within such 30 day period and thereafter diligently pursued to completion.

14.6.2 In the event that neither Lessor nor Lender cures said breach within 30 days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Lessee may elect to cure said breach at Lessee's expense and offset from Rent the actual and reasonable cost to perform such cure, provided however, that such offset shall not exceed an amount equal to the greater of one month's Base Rent or the Security Deposit, reserving Lessee's right to reimbursement from Lessor for any such expense in excess of such offset. Lessee shall document the cost of said cure and supply said documentation to Lessor.

15. CONDEMNATION

15.1 Effect on Lease

If all of the Premises, is taken under the power of eminent domain or sold under the threat of the exercise of said power ("Condemnation"), this Lease shall terminate as of the date the condemning authority takes title or possession, whichever first occurs. If title to a portion of the Premises or the land on which the Premises are located is taken by Condemnation, and the remainder will not, in Lessor's reasonable judgment, be suitable for Lessee's continued use for the purposes permitted by this Lease, this Lease shall terminate as of the date the condemning authority takes title or possession, whichever first occurs, provided that Lessor gives written notice of such termination to Lessee no later than thirty (30) days after the date of such taking. If title to a portion of the Premises or the land on which the Premises are located is taken by Condemnation, and the remainder will, in Lessor's reasonable judgment, be suitable for Lessee's continued use for the purposes permitted by this Lease, then Lessor shall repair the damage caused by the partial taking, if any, and this Lease shall not terminate and shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent payable hereunder shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Lessee acknowledges and agrees that a change in access to the land on which the Premises are located or minor adjustments to parking, shall not constitute a taking and shall not entitle Lessee to any reduction in Base Rent.

15.2 Allocation of Condemnation Award

No award for any partial or total taking shall be apportioned. Lessee hereby assigns to Lessor its interest, if any, in any award which may be made as a result of any Condemnation, without regard to whether this Lease is terminated, except for any separate award made to Lessee for Lessee's moving costs or loss of Lessee's business goodwill. Any condemnation award(s) and/or payment(s) for the taking or damaging of all or any portion of the Premises under the power of eminent domain, or any payment made under threat of the exercise of such power, shall be the sole and exclusive property of Lessor, whether such award shall be made as compensation for the taking of all or any portion of the Premises or any portion of the land on which the Premises are located, diminution in value of the leasehold (including without limitation any "bonus value" of the Lease), the value of the part taken, or for severance damages; provided, however, that Lessee shall be entitled to compensation separately awarded to it, if any, for Lessee's relocation expenses and/or loss of business goodwill. All "improvements pertaining to the realty" as defined in the Eminent Domain Law (Code of Civil Procedure sections 1230.10 et seq.), which Lessee specifically acknowledges and agrees shall include without limitation Alterations and Utility Installations made to the Premises by Lessee, and all fixtures that cannot be removed without doing material damage to the Premises, shall, for purposes of Condemnation, be considered the property of the Lessor and Lessor shall be entitled to any and all compensation which is payable therefor.

16. CONFIDENTIAL INFORMATION, INDEMNITIES OF RELATIONSHIPS

16.1 Confidential Information

Lessor and Lessee acknowledge that this Lease, and all material information exchanged during the negotiations related to this Lease, is confidential information, including, but not limited to: the existence and content of this Lease, the Lessee's financial statements, the identity of the brokers, and all written, printed, graphic, or electronic information furnished by any party (collectively, "Confidential Information"). Except to the extent disclosure is required by law, the parties shall keep all Confidential Information in strict confidence and shall not disclose any Confidential Information to any third party other than Lessee's or Lessor's independent auditors, financial and legal advisors, those selected to review Common Area Operating Expenses and taxes, and legal and space-planning consultants; provided, however, that Lessee may disclose the terms to prospective subtenants or assignees. No Confidential Information or other information regarding this Lease shall be reported or otherwise released. This provision shall survive the termination or expiration of this Lease, for a period of no less than one year.

16.2 Indemnities

Lessee and Lessor do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any broker (other than those representing Lessee and Lessor, if any, in this transaction), finder or other similar party by reason of any dealings or actions of the indemnifying Party, including any costs, expenses, attorneys' fees reasonably incurred with respect thereto.

17. ESTOPPEL CERTIFICATES AND FINANCIAL STATEMENTS

17.1 Obligation to Provide Estoppel Certificate

Each Party (as "Responding Party") shall within 10 days after written notice from the other Party (the "Requesting Party") execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the "Estoppel Certificate" form attached hereto as Exhibit D, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

17.2 Remedies for Failure to Provide Estoppel Certificate.

If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10-day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrancers may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate. In addition, Lessee acknowledges that any failure on its part to provide such an Estoppel Certificate will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to execute and/or deliver a requested Estoppel Certificate in a timely fashion the monthly Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or $100, whichever is greater for remainder of the Lease. The Parties agree that such increase in

Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to provide the Estoppel Certificate. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to provide the Estoppel Certificate nor prevent the exercise of any of the other rights and remedies granted hereunder.

17.3 Additional Provisions Regarding Lessor Finance, Refinance or Sale of Premises

If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee and all Guarantors shall within 10 days after written notice from Lessor deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past three years. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

18. SUBORDINATION; ATTORNMENT; NON-DISTURBANCE

18.1 Subordination

This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, "Security Device"), now or hereafter placed upon the Premises, to any and all advances made on the security thereof, and to all renewals, modifications, and extensions thereof. Lessee agrees that the holders of any such Security Devices (in this Lease together referred to as "Lender") shall have no liability or obligation to perform any of the obligations of Lessor under this Lease. Any Lender may elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to Lessee, whereupon this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

18.2 Attornment

In the event that Lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Device to which this Lease is subordinated (i) Lessee shall, subject to the non-disturbance provisions of Section 18.3, attorn to such new owner, and upon request, enter into a new lease, containing all of the terms and provisions of this Lease, with such new owner for the remainder of the term hereof, or, at the election of the new owner, this Lease will automatically become a new lease between Lessee and such new owner, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations, except that such new owner shall not: (a) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (b) be subject to any offsets or defenses which Lessee might have against any prior lessor, (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior lessor which was not paid or credited to such new owner.

18.3 Non-Disturbance

With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a "Non-Disturbance Agreement") from the Lender which Non-

Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises.

18.4 Self-Executing

The agreements contained in this Section 18 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any subordination, attornment and/or Non-Disturbance Agreement provided for herein.

19. OPTIONS

19.1 General Provisions Applicable to Options

19.1.1 "Option" shall mean: (a) the right to extend or reduce the term of or renew this Lease or to extend or reduce the term of or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal or first offer to lease either the Premises or other property of Lessor; (c) the right to purchase, the right of first offer to purchase or the right of first refusal to purchase the Premises or other property of Lessor.

19.1.2 Any Option granted to Lessee in this Lease is personal to the original Lessee and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and, if requested by Lessor, with Lessee certifying that Lessee has no intention of thereafter assigning or subletting.

19.1.3 In the event that Lessee has any multiple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options have been validly exercised.

19.2 Effect of Default on Options

19.2.1 Lessee shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default and continuing until said Default is cured, (ii) during the period of time any Rent that is then due is unpaid (without regard to whether notice thereof is given Lessee), (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessee has been given three or more notices of separate Default, whether or not the Defaults are cured, during the 12 month period immediately preceding the exercise of the Option.

19.2.2 The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Section 19.2.1.

19.2.3 An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term or completion of the purchase, (i) Lessee fails to pay Rent for a period of 30 days after such Rent becomes due (without any necessity of Lessor to give notice thereof), or (ii) if Lessee commits a Breach of this Lease.

19.3 Option Exercise Procedures

19.3.1 If Lessee elects to exercise an Option, it shall do so by delivery of written notice of such election to Lessor not less than six (6) and no more than the twelve (12) months prior to the expiration date of the Original Term or extension period, as applicable.

19.3.2 The Base Rent and method of annual increases thereto for the extension period shall be the then fair market rental rate and method for annual increases for comparable space in the area.

19.3.3 The fair market rental and method for annual increases shall be mutually agreed upon by Lessor and Lessee within thirty (30) days after Lessor's receipt of Lessee's written notice of the exercise of the Option (the "Agreement Period").

19.3.4 If Lessor and Lessee are unable to so agree within the Agreement Period, each shall select an Appraiser and, within fifteen (15) days after the expiration of the Agreement Period, shall notify the other of the name, business address and telephone number of the appraiser so selected. Said two (2) appraisers shall, within thirty (30) days after the expiration of the Agreement Period, jointly select a third appraiser and shall notify Lessor and Lessee of the name, business address and telephone number of said appraiser. Each of the three (3) appraisers shall, within forty-five (45) days after expiration of the Agreement Period, make a good faith determination of the then fair market rental rate of the Premises and the method for annual increases in said rate and shall notify Lessor, Lessee, and each other appraiser of such determinations. If all appraisers do not agree on the fair market rental rate and method for annual increases, the common decision of two (2) of them shall be determinative. If two (2) of the three (3) appraisers are unable to so agree, the fair market rental rate that is neither the highest nor lowest of the three (3) determinations shall be the Base Rent and the method for annual increases shall be the method specified by the appraiser whose determination of fair market rental is used. Notwithstanding anything to the contrary in this Lease, Base Rent during an extension period shall not be less than Base Rent in effect for the last year of the Original Term or, if applicable, the extension period then ending.

19.3.5 Lessor and Lessee shall each cooperate with all reasonable requests by any of the appraisers in order to assist the appraisers in the timely performance of their duties hereunder. To be eligible to serve as an appraiser, one must be a licensed real estate broker in California with a minimum of five (5) years continuous experience in the leasing of similar space in the area and must be actively engaged in such activity at the time of his or her selection.

19.3.6 Lessor and Lessee shall each pay the fees and expenses of its own appraiser and one-half (1/2) of the fees and expenses of the third appraiser.

20. MISCELLANEOUS PROVISIONS

20.1 Definition of Lessor

The term "Lessor" as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under

this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined.

20.2 Severability

The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

20.3 Days

Unless otherwise specifically indicated to the contrary, the word “days” as used in this Lease shall mean and refer to calendar days.

20.4 Limitation on Liability

The obligations of Lessor under this Lease shall not constitute personal obligations of Lessor, or its partners, members, directors, officers or shareholders, and Lessee shall look to the Premises, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against Lessor’s partners, members, directors, officers or shareholders, or any of their personal assets for such satisfaction.

20.5 Time of Essence

Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

20.6 No Prior or Other Agreements

This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to the other that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the use, nature, quality and character of the Premises.

20.7 Notices

20.7.1 All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, and shall be deemed sufficiently given if served in a manner specified in this Section 20.7. The addresses noted adjacent to a Party’s signature on this Lease shall be that Party’s address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice, except that upon Lessee’s taking possession of the Premises, the Premises shall constitute Lessee’s address for notice. A copy of all notices to Lessor shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate in writing.

20.7.2 Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is

shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 72 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantees next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices transmitted by facsimile transmission or similar means shall be deemed delivered upon telephone confirmation of receipt (confirmation report from fax machine is sufficient), provided a copy is also delivered via delivery or mail. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

20.8 Waivers

20.8.1 No waiver by Lessor of the Default or Breach of any term, covenant or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent.

20.8.2 The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of monies or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, and such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or before the time of deposit of such payment.

20.8.3 THE PARTIES AGREE THAT THE TERMS OF THIS LEASE SHALL GOVERN WITH REGARD TO ALL MATTERS RELATED THERETO AND HEREBY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE TO THE EXTENT THAT SUCH STATUTE IS INCONSISTENT WITH THIS LEASE.

20.9 No Right to Holdover

Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. In the event that Lessee holds over, then the Base Rent shall be increased to 150% of the Base Rent applicable immediately preceding the expiration or termination. Nothing contained herein shall be construed as consent by Lessor to any holding over by Lessee.

20.10 Cumulative Remedies

No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

20.11 Covenants and Conditions: Construction of Agreement

All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if

prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

20.12 Binding Effect; Choice of Law

This Lease shall be binding upon the parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located.

20.13 Attorneys' Fees

If any Party brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "Prevailing Party" shall include, without limitation, a Party who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach ($200 is a reasonable minimum per occurrence for such services and consultation).

20.14 Lessor's Access: Showing Premises; Repairs

Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through the Premises and/or other premises as long as there is no material adverse effect on Lessee's use of the Premises. All such activities shall be without abatement of rent or liability to Lessee.

20.15 Auctions

Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

20.16 Skins

Lessor may place on the Premises ordinary "For Sale" signs at any time and ordinary "For Lease" signs during the last six months of the term hereof. Lessee shall not place any sign upon the Project without Lessor's prior written consent. All signs must comply with all applicable government and zoning requirements.

20.17 Termination; Merger

Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, that Lessor may elect to continue any one or all existing subtenancies. Lessor's failure within 10 days following any such event to elect to the contrary by written notice to the holder of any such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.

20.18 Consents

Except as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Lessor's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Lessee for any Lessor consent, including but not limited to consents to an assignment, a subletting or the presence or use of a Hazardous Substance, shall be paid by Lessee upon receipt of an invoice and supporting documentation therefor. Lessor's consent to any act, assignment or subletting shall not constitute an acknowledgment that no Default or Breach by Lessee of this Lease exists, nor shall such consent be deemed a waiver of any then-existing Default or Breach, except as may be otherwise specifically stated in writing by Lessor at the time of such consent. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given. In the event that either Party disagrees with any determination made by the other hereunder and reasonably requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within 10 business days following such request.

20.19 Quiet Possession

Subject to payment by Lessee of the Rent and performance of all of the covenants, conditions and provisions on Lessee's part to be observed and performed under this Lease, Lessee shall have quiet possession and quiet enjoyment of the Premises during the term hereof.

20.20 Security Measures

Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties.

20.21 Reservations

Lessor reserves the right: (i) to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, (ii) to cause the recordation of parcel maps and restrictions, and (iii) to create and/or install new utility raceways, so long as such easements, rights, dedications, maps, restrictions, and utility raceways do not unreasonably interfere with the use of the Premises by Lessee. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate such rights.

20.22 Performance Under Protest

If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to the other under the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not legally required to pay. A Party who does not initiate suit for the recovery of sums paid "under protest" within 6 months shall be deemed to have waived its right to protest such payment.

20.23 Authority: Multiple Parties; Execution

20.23.1 If either Party hereto is a corporation, trust, limited liability company, partnership, or similar entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. Each Party shall, within 30 days after request, deliver to the other Party satisfactory evidence of such authority.

20.23.2 If this Lease is executed by more than one person or entity as "Lessee", each such person or entity shall be jointly and severally liable hereunder. It is agreed that any one of the named Lessees shall be empowered to execute any amendment to this Lease, or other document ancillary thereto and bind all of the named Lessees, and Lessor may rely on the same as if all of the named Lessees had executed such document.

20.23.3 This Lease may be executed by the Parties in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

20.24 Offer

Preparation of this Lease by either party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

20.25 Amendments

This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.

20.26 Waiver of Trial By Jury

THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS AGREEMENT.

20.27 Accessibility; Americans with Disabilities Act

20.27.1 The Premises have not undergone an inspection by a Certified Access Specialist (CASp).

20.27.2 Since compliance with the Americans with Disabilities Act (ADA) is dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation In the event that Lessee's use of the Premises requires modifications or additions to the Premises in order to be in ADA compliance, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.

20.27.3 LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALLY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

The parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.

(SIGNATURES CONTINUED ON NEXT PAGE)

LESSOR:	Marindustry Partners, LP, a California limited partnership By: Blue Timber Properties, LLC Its: General Partner /s/ Lindsay Davidson By: Lindsay Davidson Its: Manager
Lessor's Address for Notices:	c/o Cypress View Properties, Inc. Attn: Larry Figueroa 401 B Street, Suite 2400 San Diego, CA 92101 ###-###-#### #####@cypressview.com
LESSEE:	Genelux Corporation, a Delaware corporation /s/ Thomas Zindrick By: Thomas Zindrick Its: Chief of Executive Officer
Lessee's Address for Notices:	3030 Bunker Hill Street, Suite 310 San Diego, California 92121

EXHIBIT A — “Site Plan of the Premises”

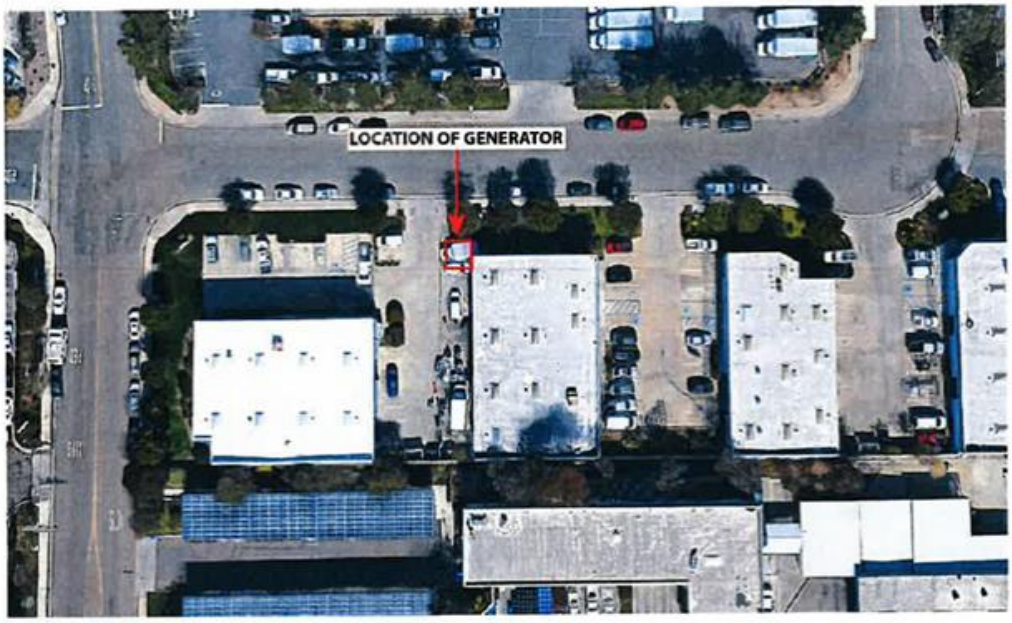

EXHIBIT B — "Tenant Improvements"

Lessee to lease the building "as is" and construct its own improvements within the Premises at Lessee's sole cost and expense; however, Lessor, at Lessor's sole cost and expense, shall deliver the Premises such that:

1. All electrical, HVAC, lighting, roof structure and membrane, plumbing and grade level doors are in good working order at time of occupancy by Lessee.

Lessee and its project management team shall competitively bid/negotiate the Tenant Improvement construction with Lessor's reasonable consent, from a list of mutually-approved contractors. Lessee shall have the right to engage its own architect/space planner (and engineers/consultants), subject to Lessor's reasonable approval. Lessor shall not be entitled to charge profit or a project management fee related to the Tenant Improvements.

EXHIBIT C — “Guaranty”—[Not applicable — intentionally omitted.]

STANDARD ESTOPPEL CERTIFICATE—BY LESSEE

To Whom It May Concern:

Re: Industrial/Commercial Multi-Tenant Lease — Gross dated July 2, 2018 (“Lease”) by and between Genelux Corporation, a Delaware corporation (“Lessee”), and Marindustry Partners, LP, a California limited partnership (“Lessor), concerning the real property commonly known as 6335 Marindustry Drive, San Diego, California 92121 (the “Premises”).

Lessee hereby certifies as follows:

1. A true copy of the Lease is attached as Exhibit A. Other than the document included in Exhibit A, there are no oral or written agreements or understandings between the Lessor and Lessee with respect to the Premises.

2. The Lease term commenced on October 1, 2018, and will continue for 60 months, until September 30, 2023.

3. The current monthly rent and Lessor’s Share of Operating Expenses (as defined in the Lease), if any, are as follows:

	Amount	Day of Month Due	Amount Paid YTD
Rent			
Operating Expenses			

No rents or Operating Expenses have been prepaid except as reflected in the Lease.

4. The current amount of security deposit held by Lessor is $_____.

5. The improvements and space required to be provided by Lessor have been furnished and completed in all respects to the satisfaction of Lessee, and all promises of an inducement by Lessor have been fulfilled.

6. Lessee has no knowledge of any uncured defaults by Lessor or Lessee under the Lease.

7. There are no disputes between Lessor and Lessee concerning the Lease, the Premises or the improvements therein or thereon.

8. Lessee is in full and complete possession of the Premises and has not assigned or sublet any portion of the Premises.

9. Lessee has no knowledge of any prior sale, transfer, assignment or encumbrance of the Lessor’s interest in the Lease.

10. Lessee has made no alterations or additions to the Premises not contemplated in the Lease.

11. If alterations or additions have been made by Lessee, Lessee represents that to the best of its knowledge, all such alterations and additions were done in accordance with the terms of the Lease and in compliance with all applicable laws, rules and regulations.

12. Lessee is not currently the subject of a bankruptcy proceeding and, to the best of its knowledge, Lessor is not involved in such a proceeding.

13. Lessee is aware that buyers, lenders and others will rely upon the statements made in this Estoppel Certificate and has therefore adjusted the language hereof as necessary to make it an accurate statement of the current facts concerning the Lease.

LESSEE: Genelux Corporation, a Delaware corporation

Dated:

By: _____

Name: _____

Title: _____

EXHIBIT E — "Hazardous Substances"

As set forth in Section 6.2.1 of this Lease, "Hazardous Substance" shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, by-products or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. "Reportable Use" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements mandate that a notice or identification be provided that a Hazardous Substance is located on or in the Premises.

Substance	Quantity	"Reportable Use"
Household Bleach	25 Gal or Less than the permitted amount	No
Isopropyl Alcohol	25 Gal or Less than the permitted amount	No
Biopharmaceutical	10 Gal or less under BSL-2 regulations	Yes
Compressed Gas (02)	2 x 200 L	Yes
Compressed Gas (N2)	2 x 200 L	No
Compressed Gas (CO2)	2 x 200 L	No
Compressed Gas (air)	2 x 200 L	No