UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K

(Mark One)

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended December 31, 2020

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from to

Commission File Number 001-37894

FULGENT GENETICS, INC.

(Exact name of registrant as specified in its charter)

Delaware	**81-2621304**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
4978 Santa Anita Avenue Temple City, CA	**91780**
(Address of principal executive offices)	**(Zip Code)**

Registrant's telephone number, including area code: (626) 350-0537

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	**Name of each exchange on which registered**
Common Stock, par value $0.0001 per share	The Nasdaq Stock Market (Nasdaq Global Market)

Securities registered pursuant to Section 12(g) of the Act: **None**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. YES ☐ NO ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. YES ☐ NO ☒

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. YES ☒ NO ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). YES ☒ NO ☐

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

Large accelerated filer	☐	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 13(a) of the Exchange Act. ☒

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report. ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). YES ☐ NO ☒

The aggregate market value of the registrant's voting and non-voting common equity held by non-affiliates as of June 30, 2020 (computed by reference to the price at which the registrant's common stock was last sold on such date, the last business day of the registrant's most recently completed second fiscal quarter, as reported by the Nasdaq Global Market) was approximately $191.3 million. For purposes of this calculation, it has been assumed that all shares of the registrant's common stock held by directors, executive officers and persons beneficially owning 10% or more of the registrant's common stock are held by affiliates; however, the treatment of these persons as affiliates for purposes of this calculation is not, and shall not be considered, a determination as to whether such persons are affiliates of the registrant for any other purpose.

As of March 1, 2021, there were 28,874,395 outstanding shares of the registrant's common stock.

DOCUMENTS INCORPORATED BY REFERENCE

Certain portions of the registrant's definitive proxy statement for its 2021 annual meeting of stockholders are incorporated by reference in Part III of this report.

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CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This report contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, or Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or Exchange Act. Forward-looking statements are statements other than historical facts and relate to future events or circumstances or our future performance, and they are based on our current assumptions, expectations and beliefs concerning future developments and their potential effect on our business. The words “believe,” “may,” “will,” “potentially,” “estimate,” “continue,” “anticipate,” “intend,” “could,” “would,” “project,” “plan,” “expect,” “possible,” “likely,” “probable,” and similar expressions that convey uncertainty of future events or outcomes identify forward-looking statements.

The forward-looking statements in this report include statements about, among other things:

- developments, projections and trends relating to us, our competitors and our industry;
- our strategic plans for our business;
- our expectations regarding the impact of the COVID-19 pandemic on our business, including the duration of the demand for our COVID-19 testing services;
- our operating performance, including our ability to achieve equal or higher levels of revenue, stabilize the historical fluctuations in our performance and maintain or grow profitability;
- the rate and degree of market acceptance and adoption of our genetics and clinical tests and genetic testing and clinical testing generally and other anticipated trends in our industry;
- our ability to remain competitive, particularly if the testing markets continue to expand and competition becomes more acute;
- our ability to continue to expand the number of genes covered by our tests and introduce other improvements to our tests;
- our continued ability to offer affordable pricing for our tests, in spite of recent price degradation in the genetic testing industry, and our ability to maintain the low internal costs of our business model and record acceptable margins on our sales;
- our ability to strengthen our existing base of customers by maintaining or increasing demand from these customers;
- our ability to grow and diversify our customer base, including our plans to target new institutional and individual customer groups;
- our reliance on a limited number of suppliers and ability to adapt to possible disruptions in their operations;
- our use of our laboratory facilities and our ability to adapt in the event any of our facilities are damaged or rendered inoperable;
- the level of success of our efforts to increase our global presence, including strengthening relationships with existing and new international customers and establishing other types of arrangements, including our joint venture in the People’s Republic of China, or China, or other international joint venture or distributor relationships we may pursue;
- the impact on our business of our investments in building and restructuring our sales and marketing strategies and teams and our plans for future sales and marketing efforts;
- the impact of the investments we have made in increasing our testing capacity to meet the demand for COVID-19 testing;
- advancements in technology by us and our competitors;
- our use of technology and ability to prevent security breaches, loss of data and other disruptions;
- our ability to effectively manage any growth we may experience, including expanding our infrastructure, developing increased efficiencies in our operations and hiring additional skilled personnel in order to support any such growth;
- developments with respect to U.S. and foreign regulations applicable to our business, and our ability to comply with these regulations;
- our ability to prevent errors in interpreting the results of our tests so as to avoid product liability and professional liability claims;
- our ability to obtain and maintain coverage and adequate reimbursement for our tests and to manage the complexity of billing and collecting such reimbursement;
- the state of the U.S. and foreign healthcare markets, including the role of governments in the healthcare industry generally and pressures or incentives to reduce healthcare costs while expanding individual benefits, as well as the impact of general uncertainty in the U.S. healthcare regulatory environment;
- our ability to attract, retain and motivate key scientific and management personnel;
- our expectations regarding our ability to obtain and maintain protection of our trade secrets and other intellectual property rights and not infringe the rights of others;
- our expectations regarding our future expense levels and our ability to appropriately forecast and plan our expenses;
- our expectations regarding our future capital requirements and our ability to obtain additional capital if and when needed; and
- the impact of the above factors and other future events on the market price of our common stock.

These forward-looking statements are subject to a number of risks and uncertainties, including, among others, those described under Item 1A. “Risk Factors” and elsewhere in this report. Moreover, we operate in a competitive and rapidly evolving industry and new risks emerge from time to time. It is not possible for us to predict all of the risks we may face, nor can we assess the impact of all factors on our business or the extent to which any factor or combination of factors could cause actual results to differ from our expectations. In light of these risks and uncertainties, the forward-looking events and circumstances described in this report may not occur, and actual results could differ materially and adversely from those described in or implied by any forward-looking statements we make. Although we have based our forward-looking statements on assumptions and expectations we believe are reasonable, we cannot guarantee future results, levels of activity, performance or achievements or other future events. As a result, forward-looking statements should not be relied on or viewed as predictions of future events, and this report should be read with the understanding that our actual future results, levels of activity, performance and achievements or other future events may be materially different than what we currently expect.

The forward-looking statements in this report speak only as of the date of this document, and except as required by law, we undertake no obligation to update publicly any forward-looking statements for any reason after the date of this report to conform these statements to actual results or to changes in our expectations.

We qualify all of our forward-looking statements by this cautionary note.

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PART I

Item 1. Business.

Overview

Fulgent Genetics, Inc., together with its subsidiaries, collectively referred to as the Company, is a technology company offering large-scale COVID-19 testing services and comprehensive genetic testing to provide physicians with clinically actionable diagnostic information they can use to improve the quality of patient care. We have developed a proprietary technology platform that allows us to offer a broad and flexible test menu and continually expand and improve our proprietary genetic reference library, while maintaining accessible pricing, high accuracy and competitive turnaround times. Combining next generation sequencing, or NGS, with our technology platform, we perform full-gene sequencing with deletion/duplication analysis in single-gene tests; pre-established, multi-gene, disease-specific panels; and customized panels that can be tailored to meet specific customer needs. We believe our test menu offers more genes for testing than our competitors in today's market, which enables us to provide expansive options for test customization and clinically actionable results. After launching our first commercial genetic tests in 2013, we have expanded our genetic test menu to include more than 18,000 single-gene tests and more than 900 panels that collectively test for more than 5,700 genetic conditions, including various cancers, cardiovascular diseases, neurological disorders and pediatric conditions. A cornerstone of our business is our ability to provide expansive options and flexibility for all clients' unique genetic testing needs.

Our technology platform, which integrates sophisticated data comparison and suppression algorithms, adaptive learning software, advanced genetic diagnostics tools and integrated laboratory processes, allows us to offer a test menu with expansive genetic coverage. We believe the comprehensive data output and high detection rates of our tests, both made possible by this expansive genetic coverage, provide physicians with information they can readily incorporate into treatment decisions for their patients, which we refer to as clinical actionability. In addition, our technology platform facilitates our ability to perform customized genetic tests using our expansive library of genes, and we believe this flexibility increases the utility of the genetic data we produce. Further, our technology platform provides us with operating efficiencies that help lower our internal costs, which allows us to offer our tests at accessible price points. As a result, our efforts to build and continually enhance our technology platform allow us to deliver comprehensive, adaptable, clinically actionable and affordable genetic analysis while maintaining a low cost per billable test, enabling us to efficiently meet the needs of our growing base of customers.

Since March 2020, we have offered several tests for the detection of SARS-CoV-2, the virus that causes the novel coronavirus disease, or COVID-19, including NGS and reverse transcription polymerase chain reaction – based tests, or RT-PCR-based tests. To date, we have processed orders for our COVID-19 tests from a variety of customers, including governmental bodies, municipalities, and large corporations. In 2020, we established and operated COVID-19 testing sites for certain customers including the County of Los Angeles and New York City public school system. We also offer at-home COVID-19 testing services through our Picture Genetics platform that is used by the New York City Test and Trace program.

We have experienced rapid volume growth since our commercial launch, with 4.4 million billable tests delivered in 2020, compared to 59,000 billable tests delivered in 2019, and an aggregate of over 4.5 million billable tests delivered to over 1,300 customers from inception through December 31, 2020.

Genetic Testing Industry

Genetic testing offers the possibility of early identification of a disease or a genetic predisposition to a disease and enhanced disease treatment and prognosis. Recent improvements in testing technologies, including NGS technology, have dramatically lowered the cost and improved the quality and availability of genetic testing. We believe widespread genetic testing could enable significant health improvements and healthcare cost reductions by providing patients and clinicians with more advanced knowledge and options for personal health management plans. This expansion of testing availability and accessibility, as well as a growing and aging population; increasing overall incidence of disease; innovations in genomic medicine that enable the selection and implementation of drug treatment programs based on genetic information, or pharmacogenomics; and other factors contributed to the growth in the global market for genetic testing in recent years. If this growth trend continues, we believe genetic testing will become part of standard medical care and the knowledge of a person's unique genetic makeup could play a more important role in the practice of medicine. While adoption of genetic testing has increased in recent years, we believe widespread utilization has been tempered because of certain challenges and barriers to adoption that exist in today's market. Among these industry challenges are that genetic testing can be prohibitively expensive, only a limited number of genetic tests are currently reimbursable, certain genetic conditions cannot be diagnosed due to the limited scope of some genetic analysis, genetic testing can be an inefficient process and the interpretation of genetic results can be cumbersome and time-consuming. Through our technology platform, we have developed an offering that we believe addresses these industry challenges and provides a sustainable competitive advantage, both in today's genetic testing market and as we seek to implement new diagnostic tools in the future.

COVID-19 Diagnostic Testing

Events surrounding the emergence of SARS-CoV-2 in Wuhan, China in late 2019 and the ensuing COVID-19 pandemic in 2020 and continuing today have dramatically affected populations and global industry. Demand for accurate COVID-19 testing with rapid turn-around times correspondingly emerged as private businesses, municipalities and healthcare providers began to increasingly rely on diagnostic testing to continue operations and as a tool to aide containment efforts. While the duration of the ongoing COVID-19 pandemic and continuing market for COVID-19 diagnostic tests remains subject to a number of uncertainties, including uncertainties regarding the effectiveness of disease containment efforts, speed and effectiveness of global COVID-19 vaccine distributions, newly emerging viral variants, continuing government actions in response to the pandemic and regulatory requirements or preferences that may emerge following the pandemic, a robust market for COVID-19 diagnostic testing persists to present day.

Currently available diagnostic tests for the detection of SARS-CoV-2 are based on a variety of technologies and formats, including conventional antigen-based tests for detecting viral proteins and nucleic acid amplification tests which include RT-PCR-based tests. While antigen-based diagnostic tests are relatively inexpensive and can be used at the point of care, antigen-based diagnostic tests for the detection of SARS-CoV-2 have been observed to be less sensitive than genetic and RT-PCR-based tests. U.S. Centers for Disease Control guidelines indicate that the “gold standard” for clinical diagnostic detection of SARS-CoV-2 is nucleic acid amplification which includes RT-PCR-based tests. We believe our ability to provide COVID-19 NGS and RT-PCR-based diagnostic testing services with expedited turn-around times makes us competitive in this new market.

Our Technology Platform

Our technology-driven approach to the challenges facing our industry has resulted in our development of an integrated technology platform featuring the following proprietary tools and processes:

Proprietary Gene Probes

Many genetic testing providers use gene probes in the sequencing process to extract and target specific genomic regions. A gene probe is a single strand of DNA or RNA that has a base sequence complementary to the base sequence of a targeted gene and that binds to this complementary base sequence when introduced during the sequencing process, thereby identifying the presence and location of the targeted gene. Many companies obtain these gene probes from third-party suppliers. We have developed technologies to design and formulate our own proprietary gene probes, which, when combined with our proprietary genetic reference library and publicly available genetic databases, support our ability to sequence DNA regions we believe laboratories using commercial probes cannot sequence and improve the detection rate of our test data. In turn, we believe this enables us to produce clinically actionable results physicians can use to improve care for their patients. In addition, our proprietary gene probes are specifically engineered to generate genetic data optimized for our software, which enables us to rapidly incorporate new genes into our test menu, develop new panels of disease-specific tests and customize tests for our customers. Moreover, once we develop a probe for a new gene, we can efficiently reproduce, validate and assure the quality of that probe under applicable guidelines and standards, which allows us to continuously and rapidly expand our library of genetic content while increasing the breadth of our test menu. Additionally, we believe our probes more effectively enrich the targeted genes to improve the quality of the sequenced data we produce.

Advanced Database Algorithms

After DNA is sequenced using all appropriate equipment and tools, the fully sequenced genes are analyzed in a process known as curation, in which every DNA sequence is aligned with a known reference sequence and differences between the DNA sequence and the reference sequence are identified. These differences, which represent potential genomic alterations, are then compared to publicly available genetic databases and proprietary genetic libraries to identify pathogenic alterations associated with disease or disease risk. We have developed proprietary data comparison and data suppression algorithms to improve and simplify this curation process by highlighting identified pathogenic mutations. Our advanced data comparison algorithms measure DNA sequences from patient specimens against genetic data available from the broader scientific community and our own proprietary reference library of genetic information, which enables us to rapidly and effectively detect pathogenic mutations. Our advanced data suppression algorithms reduce irrelevant noise in the genetic data we analyze, which improves the efficiency and speed of our data analysis and reduces the reliance upon manual review and comparison in the curation process.

Adaptive Learning Software

We have developed software that automatically incorporates the data from each completed test into our expansive genetic reference library, enabling it to continuously evolve with each set of genes we analyze. This adaptive learning software supports the continuous improvement of our proprietary gene probes and leverages the capabilities of these gene probes to improve the speed and

effectiveness of curation and reporting. Our adaptive learning software also communicates with our integrated laboratory systems, which leads to increased automation processes and other operating efficiencies.

Proprietary Laboratory Information Management Systems

We have developed proprietary laboratory information management systems that are highly integrated with our laboratory processes and adaptive learning software. These systems provide the backbone by which we efficiently manage workflow, monitor quality and ensure the fidelity of information generation and analytics for reporting to our customers. The result is a highly connected platform that allows us to process tests and information in an efficient manner. Our talented team of software engineers continuously iterates with our laboratory and customer-facing personnel to improve the efficiencies of these systems.

Our Solution

The benefits provided by our technology platform include:

Low Internal Cost per Billable Test

We have developed various proprietary technologies that improve our laboratory efficiency and reduce the costs we incur to perform our tests. This technology platform enables us to perform each test and deliver its results at a lower internal cost than many of our competitors, averaging approximately $20 per billable test delivered in 2020. This low cost per billable test allows us to maintain affordable pricing for our customers, averaging approximately $96 per billable test delivered in 2020, which we believe encourages repeat ordering from existing customers and attracts new customers. We believe our low cost per billable test could also facilitate the process for establishing coverage and reimbursement from third-party payors at a level adequate for us to achieve profitability with this payor group.

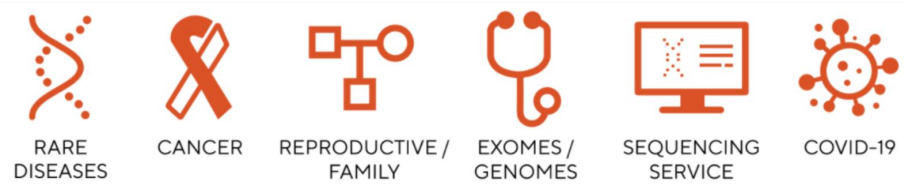
Broad and Flexible Test Menu

We currently offer single-gene tests on more than 18,000 genes, which we believe is thousands more than most of our competitors' portfolios. Based on the results of a retrospective study of individuals with a personal or family history of cancer, described below, we believe the breadth of genes in our portfolio allows us to provide more comprehensive genetic information and improves our variant detection rate, which can increase the clinical actionability of the data we produce. The breadth of genes in our portfolio also allows us to provide a flexible and customizable test menu for our customers, which can reduce the need for sequential retesting. We offer single-gene tests on all of the genes in our portfolio, as well as deletion/duplication analysis and site-specific tests. If customers desire a broader test, we offer more than 900 pre-established, multi-gene panels that focus on specified genetic conditions. These panels can be adjusted up or down to include more or fewer genes, or customers can design their own panels to their exact specifications. We also offer clinical and full gene exome testing options. We offer our tests at different price points and turnaround times depending on the size and complexity of the test, which increases optionality for our customers. We believe the flexibility of our offering improves the efficiency and utility of the data output by our tests and decreases overall customer costs. We also offer our customers access to our highly qualified genetic counselors and laboratory experts to assist in interpreting the data we provide, which further increases the utility of our test results for ordering physicians.

Expansive and Growing Genetic Library

Using our proprietary gene probes and testing processes, we are able to capture large amounts of genetic information from each test we perform—oftentimes more than is ordered for the test—without an incremental increase in our costs. Through this data collection process, we have developed a proprietary reference library of expansive genetic information. This reference library is automatically curated by our adaptive learning software and supplemented with manual curation by our team of highly trained professionals, which adds to and improves upon the information available in public genetic databases. As a result, our integrated technology systems allow us to leverage publicly available information from the broader scientific community with our internally developed reference library to develop what we believe is a more reliable catalog of genetic information and to accelerate, standardize and improve our curation and reporting process.

Our Genetic Tests and COVID-19 Tests



Our offering consists of a wide variety of tests and test types, and our customers have a high degree of choice when selecting a test from our menu. A customer may select a single-gene test of any of the genes in our portfolio or a customer may select one of our pre-established panel tests, which are designed to test particular genes and mutations within these genes that relate to a wide range of specified conditions and diseases. For example, our *Focus* and *Comprehensive* oncology panels test 30 genes and 127 genes, respectively, that relate to various cancers and our *Beacon* carrier screening panels test up to 410 genes covering over 400 inherited conditions. We can perform full-gene sequencing with deletion/duplication analysis in all of these tests. In addition, we continually seek to expand our test menu with new genes and panel tests. Our test offerings also include Solid Tumor Molecular Profiling for somatic cancer testing, Rapid Whole Genome testing developed for children in neonatal intensive care units, or NICU, or pediatric intensive care units, or PICU, our Newborn Genetic Analysis panel, and a single front-line test designed to comprehensively detect ataxia-related variants and repeat expansions via sequencing. In 2019, we launched Picture Genetics, a patient-initiated genetic testing offering aimed at individual consumers and which we advertise directly to consumers through a variety of methods including social media and other digital avenues. New test offerings in 2020 included several COVID-19 tests and Pharmacogenetics testing, the use of genetic data to guide drug therapy decisions, or PGx testing.

We also offer certain research service tests, which we refer to as “sequencing as a service” and which are primarily ordered by research institutions and other similar institutional customers. In addition, we offer whole exome and clinical exome panel tests, which test all genes included in our portfolio and up to 20,095 genes located in the exome, respectively, and produce results that we combine with the individual’s unique clinical presentation and family history to enhance the clinical relevance of the results. Our whole exome and clinical exome tests also include the option for Trio testing, which involves sequencing the genes of a patient’s parents and is thought to enhance the utility of the test results. In addition, we offer whole genome testing, which determines and tests the complete DNA sequence of a genome at a single time. We also provide known mutation testing, which can be used to target familial specific or other desired mutations, as well as repeat expansion testing, which tests for a particular type of mutation known as “copy choice” DNA replication.

Importantly, all of our pre-established panels are customizable, offering customers the ability to add or remove genes at their election. To further increase test option flexibility, as well as to reduce the complexity of ordering tests, we consistently strive to innovate our pricing structure and features for our available tests. We have upgraded many of our pre-set panels with additional genes. In addition, if a variant is reported in a proband for whom duo or trio testing was not originally ordered for, the ordering physician is given the option of adding complementary familial known mutation testing, or FKMT, for any variant reported by Fulgent in the proband’s final report, for up to two first-degree relatives. We believe these options represent competitive pricing features that will streamline the test ordering process, give customers more flexibility with added value, and reduce barriers to trio and familial testing, which can both increase the clinical utility of genetic testing for a single proband.

Since March 2020, and as noted above, we have commercially launched several tests for the detection of SARS-CoV-2, the virus that causes COVID-19, including NGS and RT-PCR-based tests. We have received an Emergency Use Authorization, or EUA, from the U.S. Food and Drug Administration, or the FDA, that authorizes the use of our RT-PCR-based tests for the detection of SARS-CoV-2 using upper respiratory specimens (nasal, nasopharyngeal, and oropharyngeal swabs) and in conjunction with at-home specimen collection kits that are offered as a service through Picture Genetics. Our at-home testing service for COVID-19 and RT-PCR-based test are authorized for emergency use by the FDA only for the detection of nucleic acid from SARS-CoV-2, not for any other viruses or pathogens. We are currently accepting patient samples directly to our Biosafety Level 2, or BSL-2, certified laboratories where we have the capacity to accept and process thousands of samples per day with a typical turn-around time of 24-48 hours from the time a sample is received and accepted. To date, we have processed orders for our COVID-19 tests from a variety of customers, including governmental bodies, municipalities, and large corporations.

Our Customers

Historically, we primarily sold our tests to hospitals and medical institutions. We have approached the genetic testing market with a focus on these customers in part because they are frequent and high-volume users of genetic tests. We believe this customer base provides a meaningful opportunity for further growth by acquiring additional hospital and medical institution customers and by deepening our relationships with existing customers to drive increased ordering. Additionally, collection of billings from these institutional customers is generally more attainable than from other types of customers in today's reimbursement environment. In addition, we believe hospitals and medical institutions are early adopters of NGS technology and could influence broader clinical acceptance of genetic testing. Beginning in March 2020, we also began processing orders for our COVID-19 tests from a variety of customers, including governmental bodies, municipalities, and large corporations. Since inception, we have sold our tests to over 1,300 total customers. We consider each single billing and paying unit to be an individual customer, even though a unit may represent multiple physicians and healthcare providers ordering tests. Aggregating customers that are under common control or are affiliates, two of our customers, the County of Los Angeles and San Bernardino County, contributed 28% and 10%, respectively, of our total revenue in 2020, and one of our customers contributed 28% of our total revenue in 2019.

We currently classify our customers into three payor types: (i) Insurance, (ii) Institutional, including hospitals, medical institutions, other laboratories, governmental bodies, municipalities and large corporations or (iii) Patients who pay directly. Typically, we bill our Institutional customers for our tests and they are responsible for paying us directly and billing their patients separately or obtaining reimbursement from third-party payors, in connection with a patient's diagnosis related group, or DRG. A small percentage of our customers are patients, who elect to pay for tests themselves with out-of-pocket payments after their physicians have ordered our tests.

Third-party payors, which consist of private health insurers and government health care programs, including Medicare and Medicaid, require us to identify the test for which we are seeking reimbursement using a Current Procedural Terminology, or CPT, code set maintained by the American Medical Association, or AMA. Where we offer a multi-gene panel and there is no CPT code for the full panel but the panel includes a gene for which the AMA has an established CPT code, we identify the test provided under that CPT code when billing a third-party payor for that test. In cases where there is not a specific CPT code, our test may be billed under a miscellaneous code for an unlisted molecular pathology procedure. Because this miscellaneous code does not describe a specific service, the insurance claim must be examined to determine what service was provided, whether the service was appropriate and medically necessary, and whether payment should be rendered, which may require a letter of medical necessity from the ordering physician. Given the changing CPT coding environment and our development of relationships with third-party payors, we expect that our practices regarding billing these payors will evolve in the future.

We are making efforts to diversify our customer market, including building relationships with research institutions and other similar institutional customers, national clinical laboratories, governmental bodies, municipalities and large corporations in need of regular COVID-19 testing for large populations and various other organizations to facilitate access to physicians, practitioners and other new customer groups, including certain U.S. government agencies. We are also pursuing relationships with payors, including Medicare, some state Medicaid programs and commercial payors, in an effort to obtain coverage and reimbursement for our tests to make them accessible to more individual physicians. Generally, when we establish these new customer relationships, we agree with the applicable payor, laboratory or other customer to provide certain of our tests at negotiated rates but, subject to limited exceptions, most of these relationships do not obligate any party to order our tests at any agreed volume or frequency or at all. Further, any relationships we may develop with any government agencies are subject to unique risks associated with government contracts, including cancellation if adequate appropriations for subsequent performance periods are not made and modification or termination at the government's convenience without prior notice. Our efforts to pursue individual consumers under our Picture Genetics platform, new payor or institutional customers, new COVID-19 testing customers or other new customer markets could fail, and even if we are able to develop relationships with new customers in these or any other new customer groups, these relationships may not lead to meaningful or any increases in our customer base, the number of billable tests we deliver or our revenue, and may not improve our ability to achieve or sustain profitability.

Sales and Marketing

Our sales and marketing force currently consists of two internal teams of sales and marketing experts, respectively, with deep experience in our industry, as well as a network of independent sales representatives who are knowledgeable about our tests. Historically, we have significantly relied on organic growth and word-of-mouth among our customers to generate interest in our tests, which we believe demonstrates the value of our offering. In recent years, we have invested significant time and capital to strengthen our sales and marketing efforts, including increasing the size and restructuring the organization of our internal team, re-focusing our initiatives and strategies, and increasing the overall scope of our marketing activities.

Our sales and marketing strategy is designed to expand our brand awareness, grow our customer base and further penetrate our relationships with existing customers. We aim to achieve these objectives by providing education about the benefits and full scale of our offerings, both to the medical community in general and to our targeted customer and geographic markets. We plan to expand our presence and test volume in international markets through our own direct sales team, which includes sales people dedicated to international markets, a number of independent contractor sales representatives, and, if and as opportunities arise, by engaging distributors or establishing other types of arrangements, such as joint ventures or other relationships, to manage or assist with sales, logistics, education and customer support in certain territories.

Our marketing activities also include targeted initiatives, including working with medical professional societies to promote awareness of the benefits of our tests and genetic testing in general; presenting at medical, scientific or industry exhibitions and conferences, such as an evaluation of the clinical utility of proactive genetic screening for healthy individuals that was presented at the 2018 American Society of Human Genetics Conference; and pursuing or supporting scientific studies of our tests and publication of results in medical or scientific journals. In addition, we conduct email advertising campaigns and social media awareness campaigns to existing and potential future customers when we want to send a specific message about our company and our brand, including, for instance, when we launch new tests or new test options and when we add new genes to our test menu. In addition, in 2019, we launched Picture Genetics, a patient-initiated genetic testing offering aimed at individual consumers and which we advertise directly to consumers through a variety of methods including social media and other digital avenues.

Our sales and marketing strategy is also focused on offering differentiated and highly available customer service resources, which we believe is an important factor in maintaining and deepening our customer relationships. Genetic tests are highly complex by nature and we recognize that our customers may want to discuss with us available testing options, specimen collection requirements, expected turnaround times, the cost of our tests and the clinical reports we produce. As a result, we offer comprehensive customer service designed to enable efficient ordering and increase the accessibility of our clinical reports, including customer access to our licensed and qualified laboratory directors who review and approve each report we produce.

Our sales and marketing teams also explore strategic collaboration opportunities with various research and medical institutions. New partnerships formed in 2020 include partnering with governmental bodies, municipalities, and large corporations for providing COVID-19 services to citizens, employees, and students.

Our Suppliers

We rely on a limited number of suppliers for certain laboratory substances used in the chemical reactions incorporated into our processes, which we refer to as reagents, as well as for the sequencers, collection kits, and various other equipment and materials we use in our laboratory operations. In particular, we rely on Illumina, Inc. as the sole supplier of the next generation sequencers and associated reagents we use to perform our genetic tests and as the sole provider of maintenance and repair services for these sequencers. In addition, we rely on a limited number of suppliers for COVID-19 test collection kits. Our laboratory operations would be interrupted if we encounter delays or difficulties securing these reagents, collection kits, sequencers, other equipment or materials or maintenance and repair services, which could occur for a variety of reasons, including if we need a replacement or temporary substitute for any of our limited or sole suppliers and are not able to locate and make arrangements with an acceptable replacement or temporary substitute.

Competition

Our competitors include dozens of companies focused on molecular genetic testing services, including specialty and reference laboratories that offer traditional single-gene and multi-gene tests and other COVID-19 diagnostic test providers. Principal competitors include companies such as Ambry Genetics, a subsidiary of Konica Minolta Inc.; Baylor Genetics; Centogene AG; Color Genomics, Inc.; Connective Tissue Gene Test LLC; Cooper Surgical, Inc.; Eurofins Scientific; GeneDx, a subsidiary of OPKO Health, Inc.; Laboratory Corporation of America Holdings; MNG Laboratories, LLC; Myriad Genetics, Inc.; Natera, Inc.; Perkin Elmer, Inc.; PreventionGenetics, LLC; Progenity, Inc.; Quest Diagnostics Incorporated; and Sema4 Genomics; as well as other commercial and academic laboratories. In addition, other established and emerging healthcare, information technology and service companies may develop and sell competitive tests, which may include informatics, analysis, integrated genetic tools and services for health and wellness.

Additionally, participants in closely related markets, such as prenatal testing and clinical trial or companion diagnostic testing, could converge on offerings that are competitive with the type of tests we perform. Instances where potential competitors are aligned with key suppliers or are themselves suppliers could provide these potential competitors with significant advantages. Further, hospitals, research institutions and eventually individual physicians and other practitioners may also seek to perform at their own facilities the type of genetic testing we would otherwise perform for them. In this regard, continued development of, and associated decreases in the cost of, equipment, reagents and other materials and databases and genetic data interpretation services may enable broader direct participation in genetic testing and analysis and drive down the use of third-party testing companies such as ours. Additionally, cost decreases and increased direct participation, as well as cost-saving initiatives on the part of government entities and other third-party payors, could intensify the downward pressure on the price for genetic analysis and interpretation generally. Moreover, the biotechnology and genetic testing fields continue to undergo significant consolidation, permitting larger clinical laboratory service providers to increase cost efficiencies and service levels, resulting in more intense competition.

We believe the principal competitive factors in our market are:

- breadth and depth of genetic content;
- flexibility of test customization;
- price of tests;
- quality of results, including their reliability, accuracy and clinical actionability;
- accessibility of results;
- coverage and reimbursement arrangements with third-party payors;
- turnaround time;
- customer service;
- convenience of testing; and
- brand recognition.

We believe we compare favorably with our competitors on the basis of these factors. However, many of our existing and potential future competitors have longer operating histories, larger customer bases, more expansive brand recognition and deeper market penetration, substantially greater financial, technological and research and development resources and selling and marketing capabilities and considerably more experience dealing with third-party payors. As a result, they may be able to respond more quickly to changes in customer requirements or preferences, develop faster and better advancements for their technologies and tests, create and implement more successful strategies for the promotion and sale of their tests, obtain more favorable results from third-party payors regarding coverage and reimbursement for their offerings, adopt more aggressive pricing policies for their tests, secure supplies from vendors on more favorable terms or devote substantially more resources to infrastructure and systems development. In addition, competitors may be acquired by, receive investments from or enter into other commercial relationships with larger, well-established and well-financed companies as use of NGS for clinical diagnosis and preventative care increases. Further, companies or governments that effectively control access to genetic testing through umbrella contracts or regional preferences could promote our competitors or prevent us from performing certain tests in certain territories. We may not be able to compete effectively against these organizations.

Research and Development

We have assembled a highly-qualified team with expertise in a number of fields important to our business, such as bioinformatics, genetics, software engineering, laboratory management and sales and marketing. We rely on this team to conduct all of our research and development activities, including efforts to develop and curate our expansive library of genetic information and further expand our technology platform.

Intellectual Property

We rely on a combination of registered and unregistered intellectual property rights, including trade secrets, trademarks and customary contractual protections, to protect our core technology and intellectual property.

Trade Secrets

We rely on trade secrets, including unpatented know-how, technology and other proprietary information, to maintain and develop the competitive position afforded by many of our laboratory, analytic and business practices. For example, significant elements of our genetic tests and our testing procedures, including aspects of specimen preparation, our bioinformatics algorithms and related processes and our adaptive learning software, are based on unpatented trade secrets and know-how. We try to protect trade secrets and know-how by taking reasonable steps to keep them confidential, including entering into nondisclosure and confidentiality agreements with parties who have access to them, such as our employees and certain third parties, and entering into invention assignment agreements with our employees and consultants that obligate them to assign to us any inventions developed in the course of their work for us.

Trademarks

We own registered and unregistered trademark and service mark rights under applicable U.S. and foreign law to distinguish and/or protect our brand, including our company name and logo.

Regulation

CLIA

As a clinical laboratory, we are required to hold certain federal licenses, certifications and permits to conduct our business. Congress passed the Clinical Laboratory Improvement Amendments of 1988, or CLIA, which establishes quality standards for all laboratory testing designed to ensure the accuracy, reliability and timeliness of patient test results. Our laboratories located in California and Texas are CLIA-certified and accredited by the College of American Pathologists, or CAP, a CMS-approved accrediting organization.

Under CLIA, a laboratory is any facility that performs laboratory testing on specimens derived from humans for the purpose of providing information for the diagnosis, prevention or treatment of disease or the impairment or assessment of health. CLIA requires that we hold a certificate applicable to the type of laboratory examinations we perform and that we comply with various standards with respect to personnel qualifications, facility administration, proficiency testing, quality control and assurance and inspections. Laboratories must register and list their tests with Centers for Medicare & Medicaid Services, or CMS, the agency that oversees CLIA, and CLIA compliance and certification is a prerequisite to be eligible to bill government payors and many private payors for our tests.

We are subject to survey and inspection every two years to assess compliance with CLIA's program standards, and we may be subject to additional unannounced inspections. Our CLIA certification for the laboratory located in California was last renewed October 23, 2019, and our CLIA certification for the laboratory located in Texas was initially received on July 27, 2020, and each of them is valid for two years from the date of issuance. If our clinical reference laboratories are found to be out of compliance with CLIA requirements at any of these inspections, we may be subject to sanctions such as suspension, limitation or revocation of our CLIA certificate, a directed plan of correction, on-site monitoring, civil monetary penalties, civil injunctive suits, criminal penalties, exclusion from the Medicare and Medicaid programs and significant adverse publicity.

In addition, we elect to participate in the accreditation program of CAP. CMS has deemed CAP standards to be equally or more stringent than CLIA regulations and has approved CAP as a recognized accrediting organization. Inspection by CAP is performed in lieu of inspection by CMS for CAP-accredited laboratories. Because we are accredited by the CAP Laboratory Accreditation Program, we are deemed to also comply with CLIA.

State and Foreign Laboratory Licensure

Our laboratories are located in Temple City, California and Houston, Texas. Our Temple City, California laboratory is required to maintain a license to conduct testing in the State of California. California laws establish standards for day-to-day operations of our laboratory, including with respect to the training and skills required of personnel, quality control and proficiency testing requirements. If our clinical reference laboratory is out of compliance with California standards, the State of California Department of Public Health, or CA DPH, may suspend, restrict or revoke our license to operate our clinical reference laboratory, assess substantial civil money

penalties or impose specific corrective action plans. Any such actions could materially affect our business. We maintain a current license in good standing with CA DPH.

Additionally, several states require the licensure of out-of-state laboratories that accept specimens from those states and/or receive specimens from laboratories in those states. Our Temple City, California laboratory holds the required out-of-state laboratory licenses to perform testing on specimens from Maryland, Rhode Island and Pennsylvania. The laboratory director must also maintain a Certificate of Qualification issued by New York's Department of Health, or DOH, in permitted categories. Our Houston, Texas laboratory holds the required out-of-state licenses to perform testing on specimens from California. We obtained a state laboratory permit for our Temple City, California laboratory from the New York DOH in 2019. The New York state laboratory laws, regulations and rules are equal to or more stringent than the CLIA regulations and establish standards for the operation of a clinical laboratory and performance of test services, including education and experience requirements for laboratory directors and personnel; physical requirements of a laboratory facility; equipment validations; and quality management practices. In addition to having a laboratory license in New York, our Temple City, California laboratory is required to obtain approval on a test-specific basis by the New York DOH before specific testing is performed on specimens from New York, and our Houston, Texas laboratory received temporary exemption from New York to perform tests on specimens from New York for COVID-19 tests.

Other states may adopt similar licensure requirements in the future, which could require us to modify, delay or discontinue our operations in such jurisdictions. If we identify any other state with such requirements or if we are contacted by any other state advising us of such requirements, we intend to follow instructions from the state regulators as to how to comply with such requirements.

We are also subject to regulation in foreign jurisdictions, which we expect will increase as we seek to expand international utilization of our tests or if jurisdictions in which we pursue operations adopt new or modified licensure requirements. Foreign licensure requirements could require review and modification of our tests in order to offer them in certain jurisdictions or could impose other limitations, such as restrictions on the transport of human blood or other tissue necessary for us to perform our tests that may limit our ability to make our tests available outside of the United States on a broad scale.

FDA

Pursuant to its authority under the Federal Food, Drug, and Cosmetic Act, or FDC Act, the U.S. Food and Drug Administration, or FDA, has jurisdiction over medical devices, which are defined to include, among other things, in vitro diagnostic products, or IVDs, used for clinical purposes. The tests that we offer may be considered IVDs and as such, medical devices. The laws and regulations governing the marketing of IVDs are evolving, extremely complex, and in many instances, there are no significant regulatory or judicial interpretations of these laws and regulations. The FDA regulates, among other things, the research, testing, manufacturing, safety, labeling, storage, recordkeeping, premarket clearance or approval, marketing and promotion and sales and distribution of medical devices in the United States to ensure that medical products distributed domestically are safe and effective for their intended uses. In addition, the FDA regulates the import and export of medical devices.

The FDC Act classifies medical devices into one of three categories based on the risks associated with the device and the level of control necessary to provide reasonable assurance of safety and effectiveness. Devices deemed by the FDA to pose the greatest risk, such as life-sustaining, life-supporting or implantable devices or devices deemed not substantially equivalent to a previously 510(k) cleared device, are categorized as Class III. These devices typically require submission and approval of a premarket approval application, or PMA. Devices deemed to pose lower risk are categorized as either Class I or II, which requires the manufacturer to submit to the FDA a 510(k) premarket notification submission requesting clearance of the device for commercial distribution in the United States. Some low-risk devices are exempted from this requirement. When a 510(k) premarket notification submission is required, the manufacturer must submit to the FDA a premarket notification submission demonstrating that the device is "substantially equivalent" to: (i) a device that was legally marketed prior to May 28, 1976, for which PMA approval is not required, (ii) a legally marketed device that has been reclassified from Class III to Class II or Class I, or (iii) another legally marketed, similar device that has been cleared through the 510(k) clearance process.

After the FDA permits a device to enter commercial distribution, numerous regulatory requirements apply. These include: the Quality System Regulation, which requires manufacturers to follow elaborate design, testing, control, documentation and other quality assurance procedures during the manufacturing process; labeling regulations; the FDA's general prohibition against promoting products for unapproved or "off-label" uses; and the Medical Device Reporting regulation, which requires that manufacturers report to the FDA if their device may have caused or contributed to a death or serious injury or malfunctioned in a way that would likely cause or contribute to a death or serious injury if it were to recur. The FDA has broad post-market and regulatory and enforcement powers. Failure to comply with the applicable U.S. medical device regulatory requirements could result in, among other things, warning letters, fines, injunctions, consent decrees, civil penalties, repairs, replacements, refunds, recalls or seizures of products, total or partial suspension of production, the FDA's refusal to grant future premarket clearances or approvals, withdrawals or suspensions of current product applications, and criminal prosecution.

Although the FDA has statutory authority to assure that medical devices, including IVDs, are safe and effective for their intended uses, the FDA has historically exercised its enforcement discretion and not enforced applicable provisions of the FDC Act and regulations with respect to laboratory developed tests, or LDTs, which are a subset of IVDs that are intended for clinical use and designed, manufactured and used within a single laboratory. We believe our tests fall within the definition of an LDT. As a result, we believe our diagnostic tests are not currently subject to the FDA's enforcement of its medical device regulations and the applicable FDC Act provisions.

Even though we commercialize our tests as LDTs, our tests may in the future become subject to more onerous regulation by the FDA. For example, in 2017, the FDA published a Discussion Paper on Laboratory Developed Tests to further public discussion about an appropriate LDT oversight approach and to give congressional committees the opportunity to develop a legislative solution to the competing interests of ensuring the public health and promoting innovation in the clinical testing industry. However, on August 19, 2020, the United States Department of Health and Human Services, or HHS, published a policy announcement that FDA must go through the formal notice-and-comment rulemaking process before requiring premarket review of LDTs rather than making such changes through guidance documents, compliance manuals, or other informal policy statements. Laboratories may still voluntarily submit LDTs to FDA for premarket review, although the agency does not appear to be prioritizing such applications for review at the present time, in light of the HHS announcement. Although the ultimate impact of HHS's policy statement on FDA's plans for regulating LDTs and its current thinking relating to such diagnostic testing products is unclear, the August 2020 announcement appears to confirm that laboratories may commercialize LDTs for clinical use without submitting such tests for FDA review and marketing authorization, including emergency use authorization during the ongoing COVID-19 pandemic. HHS's policy statement does not affect proposed legislation for the regulation of LDTs, which is discussed below. It is also unclear whether the Biden Administration, which assumed control of the executive branch on January 20, 2021, would take the same position as the former administration or seek to revoke or revise the HHS policy announcement from August 2020.

In December 2018, members of Congress released a discussion draft of a possible bill to regulate in vitro clinical tests including LDTs, and provided opportunities for additional stakeholders to also provide input on the proposed reform legislation. On March 5, 2020, U.S. Representatives Diana DeGette (D-CO) and Dr. Larry Bucshon (R-IN) formally introduced the long-awaited legislation, called the Verifying Accurate, Leading-edge IVCT Development, or VALID Act. An identical version of the bill was introduced concurrently in the Senate, demonstrating both bicameral and bipartisan support for the effort to overhaul how the FDA reviews and approves diagnostic tests going forward. The VALID Act would codify into law the term "in vitro clinical test", or IVCT, to create a new medical product category separate from medical devices that includes products currently regulated as IVDs as well as LDTs. The VALID Act would also create a new system for labs and hospitals to use to submit their tests electronically to the FDA for approval, which is aimed at reducing the amount of time it takes for the agency to approve such tests, and establish a new program to expedite the development of diagnostic tests that can be used to address a current unmet need for patients.

It is unclear whether the VALID Act would be passed by Congress in its current form or signed into law by the President. Until the FDA finalizes its position on regulation of LDTs through formal notice-and-comment rulemaking, or the VALID Act or other federal legislation is passed reforming the government's regulation of LDTs, or alternatively, if the FDA disagrees with our assessment that our tests fall within the definition of an LDT, we could for the first time be subject to enforcement of regulatory requirements such as registration and listing requirements, medical device reporting requirements and quality control requirements. Any new legislation or formal FDA regulations affecting LDTs may result in increased regulatory burdens on our ability to continue marketing our tests and to develop and introduce new tests in the future. Additionally, if and when the FDA begins to actively enforce its premarket submission regulations with respect to LDTs generally or our tests in particular, whether as a result of new legislative authority or following formal notice-and-comment rulemaking, we may be required to obtain premarket clearance for our tests under Section 510(k) of the FDC Act or approval of a PMA. The process for submitting a 510(k) premarket notification and receiving FDA clearance usually takes from three to 12 months, but it can take significantly longer and clearance is never guaranteed. The process for submitting and obtaining FDA approval of a PMA generally takes from one to three years or even longer and approval is not guaranteed. PMA approval typically requires extensive clinical data and can be significantly longer, more expensive and more uncertain than the 510(k) clearance process. If premarket review is required for some or all of our tests, the FDA could require that we stop selling our products pending clearance or approval and conduct clinical testing prior to making submissions to FDA to obtain premarket clearance or approval. The FDA could also require that we label our tests as investigational or limit the labeling claims we are permitted to make.

Additionally, the FDA previously solicited public input and published two draft guidance documents relating to FDA oversight of NGS-based tests. The two draft guidance documents on NGS-based tests describe the FDA's current thinking and proposed approach regarding the possible use of FDA-recognized standards to support analytical validity, and public human genetic variant databases to support clinical validity, of these tests. The drafts were published in final form in April 2018. While it appears that the FDA is striving to provide a flexible pathway to device clearance or approval for manufacturers seeking to market NGS-based tests, it is unknown how the FDA may regulate such tests in the future and what testing and data may be required to support such clearance or approval. If premarket review is required for some or all of our tests and the FDA requires more extensive testing such as clinical trials, for example, we could experience significantly increased development costs and delay.

The FDA enforces its medical device requirements by various means, including inspection and market surveillance. If the FDA finds a violation, it can institute a wide variety of enforcement actions, ranging from an Untitled Letter or Warning Letter to more severe sanctions, such as: fines, injunctions and civil penalties; recall or seizure of products; operating restrictions, partial suspension or total shutdown of production; and criminal prosecution. Failure to comply with any applicable FDA requirements could trigger a range of enforcement actions by the FDA, including warning letters, civil monetary penalties, injunctions, criminal prosecution, recall or seizure, operating restrictions, partial suspension or total shutdown of operations and denial of or challenges to applications for clearance or approval, as well as significant adverse publicity.

Advertising of Laboratory Services or LDTs

Whether regulated by FDA as a Class I or Class II device or not directly subject to FDA's device requirements as an LDT, our advertising for laboratory services and genetic tests is subject to federal truth-in-advertising laws enforced by the Federal Trade Commission, or FTC, as well as comparable state consumer protection laws. Under the Federal Trade Commission Act, or the FTC Act, the FTC is empowered, among other things, to (a) prevent unfair methods of competition and unfair or deceptive acts or practices in or affecting commerce; (b) seek monetary redress and other relief for conduct injurious to consumers; and (c) gather and compile information and conduct investigations relating to the organization, business, practices, and management of entities engaged in commerce. The FTC has very broad enforcement authority, and failure to abide by the substantive requirements of the FTC Act and other consumer protection laws can result in administrative or judicial penalties, including civil penalties, injunctions affecting the manner in which we would be able to market services or products in the future, or criminal prosecution.

Reimbursement

CPT Codes

We bill third-party payors, both commercial and government, using Current Procedural Terminology, or CPT, codes, which are published by the American Medical Association, or AMA. CPT codes in their current form are not readily applied to many of the genetic tests we conduct. For example, for many of our multi-gene panels, there may not be an appropriate CPT code for any of the genes in a panel, in which case our test would be billed under a miscellaneous code for an unlisted molecular pathology procedure. Many third-party payors do not have set reimbursement fee rates for this miscellaneous code. Prior to starting a test, we negotiate the reimbursement rate with the payor if the benefits investigation has determined the test to be medically necessary and the payor has issued prior authorization. When the test results are delivered, after we file the claim, we may also need to resubmit documentation or appeal a denial, which can cause delay in the reimbursement of the claim.

In September 2014, the AMA published new CPT codes for genomic sequencing procedures that are effective for dates of service on or after January 1, 2015. These include genomic sequencing procedure codes for certain multi-gene panel tests. In a final determination under the Medicare Clinical Laboratory Fee Schedule, or CLFS, published in November 2014, CMS set the 2015 payment rate for these codes using the gap-fill process. Under the gap-fill process, local Medicare Administrative Contractors, or MACs, establish rates for the codes that each MAC believes meet the criteria for Medicare coverage and considering laboratory charges and discounts to charges, resources, amounts paid by other third-party payors for the tests and amounts paid by the MAC for similar tests. In 2015, gap-filled payment rates were established for some, but not all, of the published codes for genomic sequencing procedures. For the codes for which local gap-filled rates were established in 2015, a national limitation amount for Medicare was established for 2016. For the codes for which local gap-filled rates were not established in 2015, associated procedures are priced by the local MACs in 2016 if an individual MAC determines that such codes should be covered. Where available, the national limitation amount serves as a cap on the Medicare and Medicaid payment rates for a test procedure, which may not be adequate for all of the procedures covered by the applicable codes, including our tests to the extent we are required to report them under these codes.

PAMA

In April 2014, Congress passed the Protecting Access to Medicare Act of 2014, or PAMA, which included substantial changes to the way in which clinical laboratory services are priced and paid under Medicare. On June 23, 2016, CMS published the final rule implementing the reporting and rate-setting requirements. Under PAMA, laboratories that receive the majority of their Medicare revenue from payments made under the CLFS or the Physician Fee Schedule are required to report to CMS, beginning in 2017 and every three years thereafter (or annually for an advanced diagnostic laboratory test, or ADLT), private payor payment rates and volumes for clinical diagnostic laboratory tests, or CDLTs. Laboratories that fail to report the required payment information may be subject to substantial civil monetary penalties. We do not believe that any of our tests meet the current definition of ADLTs. We therefore report private payor rates for our tests every three years.

As required under PAMA, CMS uses the data reported by laboratories to develop Medicare payment rates for laboratory tests equal to the volume-weighted median of the private payor payment rates. For tests furnished on or after January 1, 2019, Medicare payments for CDLTs are based upon reported private payor rates. For a CDLT that is assigned a new or substantially revised CPT code, the initial payment rate is assigned using the gap-fill methodology, as under prior law.

On December 20, 2019, President Trump signed the Further Consolidated Appropriations Act, which included the Laboratory Access for Beneficiaries Act, or LAB Act. The LAB Act delayed by one year the reporting of payment data under PAMA for CDLTs that are not ADLTs until the first quarter of 2021. The Coronavirus Aid, Relief, and Economic Security Act, or the CARES Act, which was signed into law on March 27, 2020, delayed the reporting period by an additional year, until the first quarter of 2022. As a result, Medicare payment rates determined by data reported in 2017 will continue through December 31, 2022.

In addition, under PAMA, as amended by the LAB Act, any reduction to a particular payment rate resulting from the new methodology is limited to 10% per test per year in 2020 and to 15% per test per year in each of the years 2021 through 2023. The CARES Act delayed the 15% cut scheduled to take effect on January 1, 2021, for one year.

Privacy and Security Laws

HIPAA and HITECH

Under the Administrative Simplification provisions of the federal Health Insurance Portability and Accountability Act of 1996, or HIPAA, as amended by the federal Health Information Technology for Economic and Clinical Health Act, or HITECH, the U.S. Department of Health and Human Services, or HHS, has issued regulations that establish uniform standards governing the conduct of certain electronic healthcare transactions and requirements for protecting the privacy and security of protected health information, or PHI, used or disclosed by healthcare providers, health plans, and healthcare clearinghouses that conduct certain healthcare transactions electronically, known as covered entities. The following four principal regulations with which we are required to comply have been issued in final form under HIPAA and HITECH: privacy regulations, security regulations, the breach notification rule and standards for electronic transactions, which establish standards for common healthcare transactions.

The privacy regulations of HIPAA and HITECH protect medical records and other PHI by limiting their use and release, giving patients a variety of rights, including the right to access their medical records and limiting most disclosures of health information to the minimum amount necessary to accomplish an intended purpose. HIPAA also requires covered entities to enter into business associate agreements to obtain a written assurance of compliance with HIPAA from individuals or organizations who provide services to covered entities involving the use or disclosure of PHI, or also known as business associates. As a general rule, a covered entity or business associate may not use or disclose PHI except as permitted under the privacy regulations of HIPAA and HITECH.

Covered entities must also comply with the security regulations of HIPAA and HITECH, which establish requirements for safeguarding the confidentiality, integrity and availability of electronic PHI. The HIPAA security regulations require the implementation of administrative, physical and technical safeguards and the adoption of written security policies and procedures.

In addition, HITECH established, among other things, certain breach notification requirements with which covered entities must comply. In particular, a covered entity must report breaches of PHI that has not been encrypted or otherwise secured in accordance with guidance from the Secretary of HHS, or the Secretary. Required breach notices must be made as soon as is reasonably practicable, but no later than sixty days following discovery of the breach. Reports must be made to affected individuals, the Secretary, and depending on the size of the breach, the local and national media. Covered entities are also subject to audit under HHS's HITECH-mandated audit program and may be investigated in connection with a privacy or data security complaint.

There are significant civil and criminal fines and other penalties that may be imposed for violating HIPAA. A covered entity or business associate is liable for civil monetary penalties for a violation that is based on an act or omission of any of its agents, including a downstream business associate, as determined according to the federal common law of agency. Penalties for failure to comply with a requirement of HIPAA and HITECH vary significantly depending on the failure and include civil monetary penalties of up to $1.5 million per violation of the same requirement per calendar year. A single breach incident can violate multiple requirements, resulting in potential penalties in excess of $1.5 million. Additionally, a person who knowingly obtains or discloses individually identifiable health information in violation of HIPAA may face a criminal penalty of up to $50,000 and up to one year of imprisonment. These criminal penalties increase if the wrongful conduct involves false pretenses or the intent to sell, transfer or use identifiable health information for commercial advantage, personal gain or malicious harm. Covered entities are also subject to enforcement by state attorneys general who were given authority to enforce HIPAA under HITECH. Further, to the extent that we submit electronic healthcare claims and payment transactions that do not comply with the electronic data transmission standards established under HIPAA and HITECH, payments to us may be delayed or denied.

The HIPAA privacy, security, and breach notification regulations establish a uniform federal "floor" but do not supersede state laws that are more stringent or provide individuals with greater rights with respect to the privacy or security of, and access to, their records containing PHI or insofar as such state laws apply to personal information that is broader in scope than PHI as defined under HIPAA. The compliance requirements of these laws, including additional breach reporting requirements, and the penalties for violation vary widely and new privacy and security laws in this area are evolving. For example, several states, such as California, have implemented comprehensive privacy laws and regulations. The California Confidentiality of Medical Information Act imposes restrictive requirements regulating the use and disclosure of health information and other personally identifiable information. In addition to fines and penalties imposed upon violators, some of these state laws also afford private rights of action to individuals who believe their personal information has been misused. California's patient privacy laws, for example, provide for penalties of up to $250,000 and permit injured parties to sue for damages. In addition to the California Confidentiality of Medical Information Act, California recently adopted the California Consumer Privacy Act of 2018, or CCPA, which came into effect on January 1, 2020. The CCPA establishes a new privacy framework for covered businesses by creating an expanded definition of personal information, establishing new data privacy rights for consumers in the State of California, imposing special rules on the collection of consumer data from minors, and creating a new and potentially severe statutory damages framework for violations of the CCPA and for businesses that fail to implement reasonable security procedures and practices to prevent data breaches. There is uncertainty surrounding the application of the CCPA to parts of our business, and amendments to the law before its effective data may have impact on operations. In addition to the CCPA, other states are introducing similar legislation which will impact compliance obligations and increase complexity and cost of compliance.

Many states, such as Massachusetts, have also implemented genetic testing and privacy laws imposing specific patient consent requirements and requirements for protecting test results. The interplay of federal and state laws may be subject to varying interpretations by courts and government agencies, creating complex compliance issues for us and our clients and potentially exposing us to additional expense, adverse publicity, and liability. Further, as regulatory focus on privacy issues continues to increase and laws and regulations concerning the protection of personal information expand and become more complex, these potential risks to our business could intensify. In addition, the interpretation and application of consumer, health-related, and data protection laws are often uncertain, contradictory, and in flux. The applicability and requirements of these laws and penalties for violations vary widely. Failure to maintain compliance, or changes in state or federal laws regarding privacy or security, could result in civil and/or criminal penalties and could have a material adverse effect on our business.

Numerous other federal, state and foreign laws, including consumer protection laws and regulations, govern the collection, dissemination, use, access to, confidentiality and security of patient health information. In addition, Congress and some states are considering new laws and regulations that further protect the privacy and security of medical records or medical information. With the recent increase in publicity regarding data breaches resulting in improper dissemination of consumer information, all 50 states have passed laws regulating the actions that a business must take if it experiences a data breach, as defined by state law, including prompt disclosure within a specified amount of time to affected individuals. Congress has also been considering similar federal legislation relating to data privacy and data protection. The FTC and states' Attorneys General have also brought enforcement actions and prosecuted some data breach cases as unfair and/or deceptive acts or practices under the FTC Act and comparable state laws. In addition to data breach notification laws, some states have enacted statutes and rules requiring businesses to reasonably protect certain types of personal information they hold or to otherwise comply with certain specified data security requirements for personal information. We intend to continue to comprehensively protect all personal information and to comply with all applicable laws regarding the protection of such information.

Foreign Laws

We are also subject to foreign privacy laws in the jurisdictions in which we sell our tests. The interpretation, application and interplay of consumer and health-related data protection laws in the United States, Europe and elsewhere are often uncertain, contradictory and in flux. For example, the new General Data Protection Regulation, or GDPR, and Cybersecurity Directive have been enacted in the European Union and became effective in May 2018. These texts introduced many changes to privacy and security in the European Union, including stricter rules on consent and security duties for critical industries, including for the health sector. The interpretation of some rules is still unclear, and some requirements may be completed by national legislation. This makes it difficult to assess the impact of these new data protection laws on our business at this time. More generally, foreign laws and interpretations governing data privacy and security are constantly evolving and it is possible that laws may be interpreted and applied in a manner that is inconsistent with our current practices, in which case we could be subject to government-imposed fines or orders requiring that we change our practices. These fines can be very high. For instance, the GDPR introduces fines of up to approximately $22 million or 4% of a group's worldwide annual turnover for certain infringements. In addition, privacy regulations differ widely from country to country.

In many activities, including the conduct of clinical trials, we are subject to laws and regulations governing data privacy and the protection of health-related and other personal information. These laws and regulations govern our processing of personal data, including the collection, access, use, analysis, modification, storage, transfer, security breach notification, destruction and disposal of personal data. We must comply with laws and regulations associated with the international transfer of personal data based on the location in which the personal data originates and the location in which it is processed.

If we or our vendors fail to comply with applicable data privacy laws, or if the legal mechanisms we or our vendors rely upon to allow for the transfer of personal data from the European Union to the United States (or other countries not considered by the European Commission to provide an adequate level of data protection) are not considered adequate, we could be subject to government enforcement actions and significant penalties against us, and our business could be adversely impacted if our ability to transfer personal data outside of the European Union is restricted, which could adversely impact our operating results. The GDPR has increased our responsibility and potential liability in relation to European Union personal data that we process, and we may be required to put in place additional mechanisms to ensure compliance with the GDPR. However, our ongoing efforts related to compliance with the GDPR may not be successful and could increase our cost of doing business. In addition, data protection authorities of the different European Union member states may interpret the GDPR differently, and guidance on implementation and compliance practices are often updated or otherwise revised, which adds to the complexity of processing personal data in the European Union. In addition to the GDPR, other countries have enacted data protection legislation which increase the complexity of doing international business and transferring sensitive personal information from those countries to the United States.

The privacy and security of personally identifiable information stored, maintained, received or transmitted, including electronically, subject to significant regulation in the United States and abroad. While we strive to comply with all applicable privacy and security laws and regulations, legal standards for privacy continue to evolve and any failure or perceived failure to comply may result in proceedings or actions against us by government entities or others, or could cause reputational harm, which could have a material adverse effect on our business.

Fraud and Abuse Laws

In the United States, we must comply with various fraud and abuse laws, and we are subject to regulation by various federal, state and local authorities, including CMS, other divisions of HHS (such as the Office of Inspector General), the U.S. Department of Justice, individual U.S. Attorney's Offices within the Department of Justice and state and local governments. We also may be subject to foreign fraud and abuse laws.

Anti-Kickback and Fraud Statutes

In the United States, the federal Anti-Kickback Statute prohibits, among other things, knowingly and willfully offering, paying, soliciting or receiving remuneration, directly or indirectly, overtly or covertly, in cash or in kind, in order to induce or in return for the referral of an individual for the furnishing of, or the recommending or arranging for the furnishing of, purchasing, leasing, ordering or arranging for or recommending purchasing, leasing or ordering of any good, facility, service or item for which payment may be made in whole or in part by a federal healthcare program. Courts have stated that a financial arrangement may violate the Anti-Kickback Statute if any one purpose of the arrangement is to encourage patient referrals or other federal healthcare program business, regardless of whether there are other legitimate purposes for the arrangement. The definition of "remuneration" has been broadly interpreted to include anything of value, including gifts, discounts, credit arrangements, payments of cash, consulting fees, waivers of co-payments, ownership interests and providing anything at less than its fair market value. The Anti-Kickback Statute is broad and may technically prohibit many innocuous or beneficial arrangements within the healthcare industry, although it does contain several exceptions. HHS has issued a series of regulatory "safe harbors" setting forth certain provisions that, if met, will immunize the parties to the arrangement from prosecution under the Anti-Kickback Statute. Although full compliance with the statutory exceptions or regulatory safe harbors ensures against prosecution under the federal Anti-Kickback Statute, the failure of a transaction or arrangement to fit within a specific statutory exception or regulatory safe harbor does not necessarily mean that the transaction or arrangement is illegal or that prosecution under the Anti-Kickback Statute will be pursued. Furthermore, a person or entity does not need to have actual knowledge of the statute or specific intent to violate it in order to have committed a violation. Penalties for violations of the Anti-Kickback Statute are severe and include imprisonment, criminal fines, civil monetary penalties and exclusion from participation in federal healthcare programs. In addition, a violation of the federal Anti-Kickback Statute can serve as a basis of liability under the federal False Claims Act (described below). Many states also have anti-kickback statutes, some of which may apply to items or services reimbursed by any third-party payor, including commercial insurers.

In addition, in October 2018, the Eliminating Kickbacks in Recovery Act of 2018, or EKRA, was enacted as part of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act. EKRA is an all-payer anti-kickback law that makes it a criminal offense to pay any remuneration to induce referrals to, or in exchange for, patients using the services of a recovery home, a substance use clinical treatment facility, or laboratory. However, unlike the federal Anti-

Kickback Statute, EKRA is not limited to services covered by federal or state health care programs but applies more broadly to services covered by "health care benefit programs," including commercial insurers. Although it appears that EKRA was intended to reach patient brokering and similar arrangements to induce patronage of substance use recovery and treatment, the language in EKRA is broadly written. Further, certain of EKRA's exceptions, such as the exception applicable to relationships with employees that effectively prohibits incentive compensation, are inconsistent with the federal anti-kickback statute and regulations, which permit payment of employee incentive compensation, a practice that is common in the industry. Significantly, EKRA permits the U.S. Department of Justice to issue regulations clarifying EKRA's exceptions or adding additional exceptions, but such regulations have not yet been issued. Laboratory industry stakeholders are reportedly seeking clarification or correction regarding EKRA's scope.

There are also U.S. federal laws related to healthcare fraud and false statements relating to healthcare matters. The healthcare fraud statute prohibits, among other things, knowingly and willfully executing a scheme to defraud any healthcare benefit program, including private payors. A violation of this statute is a felony and may result in fines, imprisonment or exclusion from government payor programs such as the Medicare and Medicaid programs. The false statements statute prohibits knowingly and willfully falsifying, concealing or covering up a material fact or making any materially false, fictitious or fraudulent statement in connection with the delivery of or payment for healthcare benefits, items or services. Similar to the federal Anti-Kickback Statute, a person or entity does not need to have actual knowledge of the statute or specific intent to violate it in order to have committed a violation. A violation of this statute is also a felony and may result in fines, imprisonment or exclusion from government payor programs.

False Claims Act

Another development affecting the healthcare industry is the increased enforcement of the federal False Claims Act and, in particular, actions brought pursuant to the False Claims Act's "whistleblower" or "qui tam" provisions. The False Claims Act imposes liability on any person or entity that, among other things, knowingly presents, or causes to be presented, a false or fraudulent claim for payment to the federal government. The qui tam provisions of the False Claims Act allow a private individual to bring an action under the False Claims Act on behalf of the federal government and permit such an individual to share in any amounts paid by the entity to the government in fines or settlement. In addition, providers and suppliers must report and return any overpayments received from the Medicare and Medicaid programs within 60 days of identification. Failure to identify and return such overpayments exposes the provider or supplier to False Claims Act liability. When an entity is determined to have violated the False Claims Act, it may be required to pay up to three times the actual damages sustained by the government, plus civil penalties ranging from $5,500 to $11,000 for each false claim, as set by statute. However, the civil penalty amounts are adjusted annually for inflation. For civil penalties assessed after June 19, 2020, whose associated violations occurred after November 2, 2015, the civil penalty amount ranges between $11,665 and $23,331 per claim.

In addition, various states have enacted false claim laws analogous to the federal False Claims Act, although many of these state laws apply where a claim is submitted to any third-party payor and not merely a government payor program.

Civil Monetary Penalties Law

The federal Civil Monetary Penalties Law, or the CMP Law, prohibits, among other things, (1) the offering or transfer of remuneration to a Medicare or state health care program beneficiary if the person knows or should know it is likely to influence the beneficiary's selection of a particular provider, practitioner, or supplier of services reimbursable by Medicare or a state health care program, unless an exception applies; (2) employing or contracting with an individual or entity that the provider knows or should know is excluded from participation in a federal health care program; (3) billing for services requested by an unlicensed physician or an excluded provider; and (4) billing for medically unnecessary services. The penalties for violating the CMP Law include exclusion, substantial fines, and payment of up to three times the amount billed, depending on the nature of the offense.

Physician Referral Prohibitions

The U.S. federal law directed at "self-referrals," commonly known as the "Stark Law," prohibits a physician from making referrals for certain designated health services, including laboratory services, that are covered by the Medicare program, to an entity with which the physician or an immediate family member has a direct or indirect financial relationship, unless an exception applies. Violation of the Stark Law results in a denial of payment for any services provided pursuant to a prohibited referral. A physician or entity that engages in a scheme to circumvent the Stark Law's referral prohibition may be fined up to $172,137 (which reflects the annual adjustment for inflation effective as of January 17, 2020) for each such arrangement or scheme. In addition, any person who presents or causes to be presented a claim to the Medicare program in violation of the Stark Law is subject to civil monetary penalties of up to $ 25,820 per service (which reflects the annual inflation adjustment effective as of January 17, 2020), an assessment of up to three times the amount claimed and possible exclusion from participation in federal healthcare programs. The Stark Law is a strict liability statute, meaning that a physician's financial relationship with a laboratory must meet an exception under the Stark Law or the

referrals are prohibited. Thus, unlike the Anti-Kickback Statute's safe harbors, if a laboratory's financial relationship with a referring physician does not meet the requirements of a Stark Law exception, then the physician is prohibited from making Medicare and Medicaid referrals to the laboratory and any such referrals will result in overpayments to the laboratory and subject the laboratory to the Stark Law's penalties. A violation of the Stark Law can serve as a basis of liability under the federal False Claims Act.

Many states, including California, have comparable laws that are not limited to Medicare referrals. The Stark Law also prohibits state receipt of federal Medicaid matching funds for services furnished pursuant to a prohibited referral, but this provision of the Stark Law has not been implemented by regulations.

Physician Sunshine Laws

The Physician Payments Sunshine Act imposes reporting requirements on manufacturers of certain devices, drugs and biologics for certain payments and transfers of value by them (and in some cases their distributors) to physicians, teaching hospitals and certain advanced non-physician health care practitioners, as well as ownership and investment interests held by physicians and their immediate family members. The reporting program (known as the Open Payments program) is administered by CMS. Because we manufacture our own LDTs solely for use by or within our own laboratory, we believe we are exempt from these reporting requirements. We may become subject to such reporting requirements under the terms of current CMS regulations, however, if the VALID Act or other legislation renders our tests regulated by FDA or if FDA engages in notice-and-comment rulemaking to exercise authority over LDTs or otherwise requires us to obtain premarket clearance or approval for our tests.

Anti-Bribery Laws

FCPA

We are subject to U.S. Foreign Corrupt Practices Act, or FCPA, which prohibits companies and their intermediaries from making payments in violation of law to non-U.S. government officials for the purpose of obtaining or retaining business or securing any other improper advantage. The sale of our tests internationally demands a high degree of vigilance in maintaining, implementing and enforcing a policy against participation in corrupt activity. Other U.S. companies in the medical device and pharmaceutical fields have faced substantial monetary fines and criminal penalties under the FCPA for allowing their agents to deviate from appropriate practices in doing business with non-U.S. government officials.

Foreign Laws

We are also subject to similar anti-bribery laws in the foreign jurisdictions in which we operate. In Europe, various countries have adopted anti-bribery laws providing for severe consequences, in the form of criminal penalties and/or significant fines for individuals and/or companies committing a bribery offence. For instance, in the United Kingdom, under the Bribery Act of 2010, which became effective in July 2011, a bribery occurs when a person offers, gives or promises to give a financial or other advantage to induce or reward another individual to improperly perform certain functions or activities, including any function of a public or private nature. Bribery of foreign public officials also falls within the scope of the Bribery Act of 2010. An individual found in violation of the Bribery Act of 2010 faces imprisonment of up to 10 years and could be subject to an unlimited fine, as could commercial organizations for failure to prevent bribery.

Healthcare Policy Laws

In March 2010, the Affordable Care Act, or ACA, was enacted in the United States. The ACA made a number of substantial changes to the way healthcare is financed both by governmental and private payors. Although the ACA included a medical device tax, the tax never went into effect and was fully repealed by Congress with enactment of the 2019 federal spending package signed into law by President Trump on December 20, 2019.

Since the ACA's enactment, there have been judicial and Congressional challenges to certain aspects of the ACA, and we expect there will be additional challenges and amendments to the ACA in the future. Members of the US Congress have indicated that they may continue to seek to modify, repeal or otherwise invalidate all, or certain provisions of, the ACA. During his term in office, President Trump signed Executive Orders and other directives designed to delay the implementation of certain provisions of the ACA or otherwise circumvent some of the requirements for health insurance mandated by the ACA. Concurrently, Congress considered legislation that would repeal or repeal and replace all or part of the ACA. While Congress has not passed comprehensive repeal legislation, at least two bills affecting the implementation of certain taxes under the ACA have been signed into law. For example, the Tax Cuts and Jobs Act of 2017, or TCJA, repealed 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." In December 2019, the Fifth Circuit Court of Appeals upheld a district court's finding that the individual mandate in the ACA is unconstitutional following removal of the penalty provision from the law. However, the Fifth Circuit reversed and remanded the case to the district court to determine if other reforms enacted as part of the ACA but not specifically related to the individual mandate or health insurance could be severed from the rest of the ACA so as not to have the law declared invalid in its entirety. On March 2, 2020, the United States Supreme Court, or the Supreme Court, granted the petitions for writs of certiorari to review this case and allocated one hour for oral arguments, which occurred on November 10, 2020. A decision from the Supreme Court is expected to be issued in spring 2021. It is unclear how this litigation and other efforts to repeal and replace the ACA will affect the implementation of that law and our business. However, the new Democrat-led presidential administration has been taking steps to strengthen the ACA and the 117th Congress is not expected to have the same interest in repealing the law, in part due to the healthcare economic impacts of the ongoing COVID-19 pandemic on many subsets of the U.S. population. Following his inauguration on January 20, 2021, President Biden also took immediate steps to order a regulatory freeze on all pending substantive executive actions taken by the previous administration, in order to permit incoming department and agency heads to review whether questions of fact, policy, and law may be implicated and to determine how to proceed. We continue to evaluate the potential impact of the ACA and its possible repeal or replacement on our business.

Corporate Practice of Medicine

Numerous states have enacted laws prohibiting business corporations, such as us, from practicing medicine and employing or engaging physicians to practice medicine, generally referred to as the prohibition against the corporate practice of medicine. These laws are designed to prevent interference in the medical decision-making process by anyone who is not a licensed physician. For example, California's Medical Board has indicated that determining the appropriate diagnostic tests for a particular condition and taking responsibility for the ultimate overall care of a patient, including providing treatment options available to the patient, would constitute the unlicensed practice of medicine if performed by an unlicensed person. Violation of these corporate practice of medicine laws may result in civil or criminal fines, as well as sanctions imposed against the business corporation and/or the professional through licensure proceedings. Typically, such laws are only applicable to entities with a physical presence in the applicable state.

Environmental and Other Regulatory Requirements

Our laboratory is subject on an ongoing basis to federal, state and local laws and regulations governing the use, storage, handling and disposal of regulated medical waste, hazardous waste and biohazardous waste, including chemicals, biological agents and compounds and blood and other tissue specimens. Typically, we use licensed or otherwise qualified outside vendors to dispose of this waste. However, many of these laws and regulations provide for strict liability, holding a party potentially liable without regard to fault or negligence. As a result, we could be held liable for damages and fines if our, or others', business operations or other actions result in contamination of the environment or personal injury due to exposure to hazardous materials. Our costs for complying with these laws and regulations cannot be estimated or predicted and depends on a number of factors, including the amount and nature of waste we produce (which depends in part on the number of tests we perform) and the terms we negotiate with our waste disposal vendors.

Our operations are also subject to extensive requirements established by the U.S. Occupational Safety and Health Administration relating to workplace safety for healthcare employees, including requirements to develop and implement programs to protect workers from exposure to blood-borne pathogens by preventing or minimizing any exposure through needle stick or similar penetrating injuries.

Employees

We believe growing and retaining a strong team is crucial to our success. As of March 1, 2021, we had 429 full-time employees, engaged in bioinformatics, genetics and COVID-19 testing, software engineering, laboratory management, sales and marketing and corporate and administrative activities. None of our employees are represented by a labor union or covered by collective bargaining agreements and we believe our relationship with our employees is good.

Corporate Information

We were incorporated in Delaware on May 13, 2016. We are the holding company of our subsidiaries, including primarily Fulgent Therapeutics LLC, which was initially formed in June 2011. On September 30, 2016, Fulgent Therapeutics LLC became our wholly owned subsidiary in a transaction we refer to as the Reorganization, in which the holders of all equity interests in Fulgent Therapeutics LLC immediately prior to the Reorganization became all of our stockholders immediately following the Reorganization.

Our initial operations focused on Fulgent Therapeutics LLC's former pharmaceutical business, or the Pharma Business, and in 2013 we commenced the genetic testing business we are currently pursuing. In October 2015, we recapitalized Fulgent Therapeutics LLC to establish two series of units, with the Class D units having economic rights based on the genetic testing business we are currently pursuing and the Class P units having economic rights based on the Pharma Business. On April 4, 2016, Fulgent Therapeutics LLC separated the Pharma Business from the genetic testing business we are currently pursuing. The operating results of the Pharma Business have been reported as discontinued operations for all periods in our consolidated financial statements included in this report.

Our headquarters and laboratory are located at 4978 Santa Anita Avenue, Temple City, California 91780, and our telephone number is (626) 350-0537. Our website address is *www.fulgentgenetics.com*. The information contained on or that can be accessed through our website is not part of and is not incorporated into this report by this reference.

We qualify as an emerging growth company as defined in the Jumpstart Our Business Startups Act of 2012, as amended, or JOBS Act. As an emerging growth company, we may take advantage of specified reduced disclosure and other requirements that are applicable generally to other public companies. We expect we will remain an emerging growth company until December 31, 2021.

Available Information

We file reports with the Securities and Exchange Commission, or the SEC, and make available, free of charge, on or through our website, our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, proxy and information statements and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act as soon as reasonably practicable after we electronically file such material with, or furnish it to, the SEC on their website located at www.sec.gov.

Item 1A. Risk Factors.

Summary Risk Factors

The risk factors described below are a summary of the principal risk factors associated with an investment in us. These are not the only risks we face. You should carefully consider these risk factors, together with the risk factors set forth in "Item 1A. Risk Factors" of this Report and the other reports and documents filed by us with the SEC.

- Our results of operations may fluctuate significantly from period to period and can be difficult to predict.
- The expansion of our COVID-19 testing business has resulted in a substantial change in our business that presents important challenges to our ability to manage our rapidly expanding business, and we anticipate that this business will eventually decrease after the development and widespread deployment of an effective vaccine.
- We have a history of losses, and we may not be able to achieve or sustain profitability.
- Our industry is subject to rapidly changing technology and new and increasing amounts of scientific data, and if we fail to keep pace with these technological advances, we may be unable to compete effectively and our business and prospects could suffer.
- If we are not able to grow and diversify our customer base and increase demand for our tests from existing and new customers, our potential for growth could be limited.
- Failure to comply with government laws and regulations related to submission of claims for our services could result in significant monetary damages and penalties and exclusion from the Medicare and Medicaid programs and corresponding foreign reimbursement programs.
- We rely on a limited number of suppliers and, in some cases, a sole supplier, for certain of our laboratory substances, equipment and other materials, and any delays or difficulties securing these materials could disrupt our laboratory operations and materially harm our business.
- Billing and collections processing for our tests is complex and time-consuming, and any delay in transmitting and collecting claims could have an adverse effect on our revenue.
- We rely on highly skilled personnel in a broad array of disciplines, and if we are unable to hire, retain or motivate these individuals, we may not be able to maintain the quality of our tests or grow our business.
- We may acquire businesses or assets, form joint ventures, make investments in other companies or technologies or establish other strategic relationships, any of which could harm our operating results, dilute our stockholders' ownership or cause us to incur debt or significant expense.
- Any changes in laws, regulations or the enforcement discretion of the FDA with respect to the marketing of diagnostic products, or violations of laws or regulations by us, could adversely affect our business, prospects, results of operations or financial condition.
- If we fail to comply with applicable federal, state, local and foreign laboratory licensing requirements, we could lose the ability to perform our tests or experience disruptions to our business.
- We conduct business in a heavily regulated industry. Complying with the numerous statutes and regulations pertaining to our business is expensive and time-consuming, and any failure by us, our consultants or commercial partners to comply could result in substantial penalties.
- Changes in laws and regulations, or in their application, may adversely affect our business, financial condition and results of operations.
- Marketing of our COVID-19 tests under the EUA from FDA is subject to certain limitations and we are required to maintain compliance with the terms of the EUA, among other things, and the continuance of our EUA is subject to government discretion.
- We primarily rely on trade secret protection, non-disclosure agreements and invention assignment agreements to protect our proprietary information, which may not be effective.
- Litigation or other proceedings or third-party claims of intellectual property infringement or misappropriation could require us to spend significant time and money and prevent us from selling our tests.
- An active, liquid trading market for our common stock may not be sustained, which could make it difficult for stockholders to sell their shares of our common stock.
- The price of our common stock may be volatile and you could lose all or part of your investment.

- Our principal stockholders and management own a significant percentage of our capital stock and are able to exert significant control over matters subject to stockholder approval.

Investing in our common stock involves a high degree of risk. Before making any investment decision with respect to our common stock, you should carefully consider the risks described below and all of the other information included in this report and the other filings we make with the SEC. We believe the risks and uncertainties described below are the most significant we face and the occurrence of any of these risks could harm our business, financial condition, results of operations, prospects and reputation and could cause the trading price of our common stock to decline. Additional risks and uncertainties not presently known to us or that we currently deem immaterial may also impair our business.

Business and Strategy Risks

Our results of operations may fluctuate significantly from period to period and can be difficult to predict.

Our results of operations have experienced fluctuations from period to period, which we expect may continue in the future. These fluctuations can occur because of a variety of factors, including, among others, the amount and timing of sales of billable tests; the prices we charge for our tests due to changes in product, customer or payor mix, general price degradation for genetic tests or other competitive factors, global health crises and pandemics which may generate demand for our tests, such as the ongoing pandemic related to COVID-19, the disease caused by the novel coronavirus since named SARS-CoV-2, the rate and timing of our billings and collections and the timing and amount of our commitments and other payments, as well as the other risk factors discussed in this report. Our results have been, and may in the future be, impacted by events that may not recur regularly, in the same amounts or at all in the future. In 2020, we developed and began offering a series of COVID-19 tests, but the pricing and margins from these tests continue to evolve. For the year ended December 31, 2020, we experienced substantial revenue growth due primarily to recent sales of, and growing demand, for these COVID-19 tests. While we believe there will be a continued demand for our COVID-19 tests in the near term, the future outcome and circumstances of the COVID-19 pandemic continue to rapidly evolve and remain uncertain. There can be no assurance our COVID-19 related growth or other growth we may experience will continue. This recent growth and other fluctuations in our operating results may render period-to-period comparisons less meaningful, and investors should not rely on the results of any one period as an indicator of future performance. These fluctuations in our operating results could cause our performance in any particular period to fall below the expectations of securities analysts or investors or guidance we have provided to the public, which could negatively affect the price of our common stock. Moreover, our limited operating history may make it difficult to determine if fluctuations in our performance reflect seasonality, pandemic-related demand or other trends or if these fluctuations are the result of other factors or events.

The expansion of our COVID-19 testing business has resulted in a substantial change in our business that presents important challenges to our ability to manage our rapidly expanding business, and we anticipate that this business will eventually decrease after the development and widespread deployment of an effective vaccine.

Since March 2020, we have commercially launched several COVID-19 tests for the detection of SARS-CoV-2, the virus that causes COVID-19, including NGS and RT-PCR-based tests. We have received an EUA from the FDA for our RT-PCR-based tests for the detection of SARS-CoV-2 using upper respiratory specimens (nasal, nasopharyngeal, and oropharyngeal swabs) and for our at-home COVID-19 testing service through Picture Genetics. Our at-home testing service for COVID-19 and RT-PCR-based tests have been granted an EUA by the FDA only for the detection of nucleic acid from SARS-CoV-2, not for any other viruses or pathogens. We are currently accepting patient samples directly to our BSL-2 certified laboratories in Temple City, California and Houston, Texas where we have the capacity to accept and process thousands of samples per day with a typical turn-around time of 24-48 hours from the time the sample was received and accepted. To date, we have processed orders for our COVID-19 tests from a variety of customers, including governmental bodies, municipalities, and large corporations. Due to the significant demand for COVID-19 testing services, our business has expanded rapidly since March 2020. This expansion has necessitated a very significant increase in our total headcount from 154 in March 2020 to 480 in December 2020, and the volume of tests we perform on a daily basis has increased by more than 19,000% in that time.

In addition, while most of our genetics testing business relied upon direct payments from hospitals, medical institutions and other laboratories, the majority of our revenues from our COVID-19 testing business result from reimbursements from third party payors, including private insurance and Medicare. To meet the demand for COVID-19 testing, we have increased the number of shifts at our main laboratory in Temple City, California and established a new laboratory in Houston, Texas. This substantial increase in all of our activities has caused significant changes in our business and a dramatic increase in our revenues and operating results. Each of these developments presents new challenges for our company and management team, and we cannot provide assurance that we will continue to be able to manage those challenges effectively. Our management team has not previously managed a business through such a dramatic acceleration, and the impacts of any failures, mistakes or missed opportunities could be magnified by our current rate of growth. The continued success of this business will depend upon our ability to rapidly deliver accurate results, and any failure, or

perceived failure, in meeting these objectives could cause our COVID-19 testing business to decline rapidly. In addition, there are many new entrants to this market, and these competitors may cause price declines or reduced market share for us. The increase of our business with third party payors increases the regulatory scrutiny and risks that we face. While we anticipate that demand for our COVID-19 tests will eventually decrease once effective vaccines are widely deployed, we are continuing to invest in expanding our capacity to meet the increasing demand that we anticipate over the next several years. There can be no assurance that our increased investments in our COVID-19 testing capacity and capabilities will result in desirable returns, and if our operating results decline as a result of decreased demand, whether before or after the deployment of an effective vaccine, our stock price could decline.

We have a history of losses, and we may not be able to achieve or sustain profitability.

We have a history of losses. Although we achieved profitability in the first half of 2017, the second and third quarters of 2019 and the second, third and fourth quarters of 2020, we recorded losses in all other periods since our inception. We may not be able to maintain profitability in future periods. Further, our revenue levels may not grow at historical rates or at all, and we may not be able to achieve additional profitability or sustain profitability. We may incur additional losses in the future, particularly as we focus on investing in and growing our business and operations in response to recent demand for our COVID-19 tests. Our prior losses have had and any future losses will continue to have an adverse effect on our stockholders' equity and working capital, which could negatively impact our operations and your investment in our company. Any failure to sustain or grow our revenue levels and achieve or maintain profitability would negatively affect our business, financial condition, results of operations and cash flows, and could cause the market price of our common stock to decline.

We are an early-stage company with a limited operating history, which could expose us to enhanced risks and increase the difficulty of evaluating our business and prospects.

We began operations in May 2012 and commercially launched our first genetic tests in 2013. As a result, we have only a limited operating history upon which you can evaluate our business and prospects. Our limited operating history makes it difficult to evaluate our current business and hinders our ability to reliably forecast our future operating results, including revenue, cash flows and movement toward sustained profitability. Our revenue levels may not continue to grow at historical rates or at all, and we may not be able to achieve or sustain profitability. We have encountered and will continue to encounter risks and uncertainties frequently experienced by growing companies in the life sciences and technology industries, such as risks related to an evolving and unpredictable industry and business model, management of growth and the other uncertainties described in this report. If our assumptions regarding these risks and uncertainties are incorrect or these risks and uncertainties change due to fluctuations in our markets, or if we do not address these risks successfully, our operating and financial results could differ materially from our expectations and our business could suffer.

Our industry is subject to rapidly changing technology and new and increasing amounts of scientific data, and if we fail to keep pace with these technological advances, we may be unable to compete effectively and our business and prospects could suffer.

In recent years, there have been numerous advances in the ability to analyze large amounts of genomic information and the role of genetics and gene variants in disease diagnosis and treatment. Our industry has been, and we believe will continue to be, characterized by rapid technological change, increasing amounts of data, frequent introductions of new genetic tests and evolving industry standards, all of which could make our tests obsolete if we are not able to enhance our technologies and tests faster and better than our competitors. We believe our future success will depend in part on our ability to keep pace with the evolving needs of our customers in a timely and cost-effective manner and to pursue new market opportunities that develop as a result of technological and scientific advances. If we are not able to keep pace with these advances and increased customer expectations that develop as a result of these advances, we may be unable to sustain or grow our business and our future operations and prospects could suffer.

Our mix of customers can fluctuate from period to period and our revenue may be concentrated among only a small number of customers, and the loss of or a reduction in sales to any of our customers could materially harm our business.

The composition and concentration of our customer base can fluctuate from period to period, and in certain prior periods, a small number of customers accounted for a significant portion of our revenue. When customers who, to our knowledge, are under common control or otherwise affiliated with each other are aggregated, two customers, the County of Los Angeles and San Bernardino County, contributed 28% and 10% of our total revenue in the year ended December 31, 2020, respectively. For these customers and for customers generally, tests are purchased on a test-by-test basis and not pursuant to any long-term purchasing arrangements. As a result, any or all of our customers, including affiliated customers or customers under common control who purchase large quantities of billable tests, could decide at any time to decrease, delay or discontinue their orders from us which could adversely affect our revenue. Although we believe some of these fluctuations in customer demand may be attributable, in part, to the nature of our business, in which our customers can experience significant volatility in their genetic testing demand from period to period in the ordinary course of their operations, these demand fluctuations, particularly for any key customers, can have a significant impact on our period-to-period performance regardless of their cause. In addition, the failure of any one of our customers or their payors to pay on a timely basis would negatively impact our results and cash flows. Our ability to maintain or increase sales to our existing customers depends on a variety of factors, including the other risk factors discussed in this report, many of which are beyond our control. Because of these and other factors, sales to any of our customers, including any key, affiliated or commonly controlled customers, may not continue in the amounts or at the rates as they have in the past, and such sales may never reach or exceed historical levels in any future period. The loss of any of our customers, or a reduction in orders or difficulties collecting payments for tests ordered by any of them, could significantly reduce our revenue and adversely affect our operating results.

If we are not able to grow and diversify our customer base and increase demand for our tests from existing and new customers, our potential for growth could be limited. We may incur cost overruns as a result of fixed price contracts which could limit profits or otherwise adversely affect our business results of operations and financial condition.

To achieve our desired revenue growth, we must increase test volume by further penetrating our existing hospital and medical institution customers and by expanding sales of our COVID-19 tests to additional governmental bodies, municipalities and large corporations in need of regular COVID-19 testing for large populations. In addition, we must grow our customer base beyond hospitals, medical institutions and other laboratories and into additional customer groups, such as individual physicians, other practitioners and research institutions. To this end, we are making efforts to diversify our customer market, including building relationships with research institutions and other similar institutional customers, national clinical laboratories, governmental bodies, municipalities and large corporations in need of regular COVID-19 testing for large populations and various other organizations to facilitate access to physicians, practitioners and other new customer groups, including certain U.S. government agencies. We are also pursuing relationships with payors, including Medicare, some state Medicaid programs and commercial payors, in an effort to obtain coverage and reimbursement for our tests to make them accessible to more individual physicians and are pursuing relationships with individual customers through our Picture Genetics platform. These efforts could fail. Even if we successfully develop relationships with new customers in these or any other new customers groups, these relationships may not lead to improve our ability to achieve or sustain profitability.

Generally, when we establish these new customer relationships, we agree with the applicable payor, laboratory or other customer to provide certain of our tests at negotiated rates, but, subject to limited exceptions, most of these relationships do not obligate any party to order our tests at any agreed volume or frequency or at all. Further, any relationships we may develop with any government agencies are subject to unique risks associated with government contracts, including cancellation if adequate appropriations for subsequent performance periods are not made and modification or termination at the government's convenience and without prior notice. In particular, certain of government contracts are multi-award, indefinite-delivery and indefinite-quantity, or IDIQ, task order-based contracts, which generally provide for fixed price schedules for products and services, have no pre-set delivery schedules, have very low minimum purchase requirements, are typically competed among multiple awardees and force us to carry the burden of any cost overruns. Due to their nature, fixed-priced contracts inherently have more risk than cost reimbursable contracts. If we are unable to control costs or if our initial cost estimates are incorrect, we can lose money on these contracts. In addition, some of our contracts may have provisions relating to cost controls and audit rights, and if we fail to meet the terms specified in those contracts, we may not realize their full benefits. Low earnings caused by cost overruns and cost controls would have a negative impact on our results of operations. Since the price competition to win both IDIQ and fixed-priced contracts is intense and costs of further contracts performance cannot be predicted with certainty, there can be no assurance as to the profits, if any, that the Company will realize over the term of such contracts.

We may fail to obtain the customer growth needed to grow volumes and revenue levels as desired or anticipated or at all, which could occur for a variety of reasons, including, among others:

- the genetic testing market generally, and particularly the market for NGS genetic tests and our COVID-19 tests, is relatively new and may not grow as predicted or may decline;

- our efforts to improve our existing tests and develop and launch new tests may be unsuccessful;
- we may not be able to convince additional hospitals, medical institutions and other laboratories or additional customer groups of the utility of our tests and their potential advantages over existing and new alternatives;
- our investments in our sales and marketing functions, including our efforts to increase and restructure our sales force and re-focus and expand our marketing initiatives and strategies, may fail;
- we may be unsuccessful in convincing customers of the benefits of our broad and customizable test menu;
- genetic testing is expensive and many existing and potential new customers may be sensitive to pricing, particularly if we are not able to maintain low prices relative to our competitors;
- potential new customers, particularly individual physicians and other practitioners, may not adopt our tests if coverage and adequate reimbursement are not available;
- negative publicity or regulatory investigations into the actions of companies in our industry could raise doubts about the legitimacy of diagnostic technologies generally, and could result in scrutiny of diagnostic activities by the FDA, or other applicable government agencies; and
- our competitors could introduce new tests that cover more genes or that provide more accurate, reliable or rapid results.

If we are unable to address these and other risks associated with growing our customer base and deepening our relationships with existing customers, we may not achieve our desired growth in billable tests and revenue, and our results of operations could be adversely impacted.

We face intense competition, which could intensify further in the future, and we may fail to maintain or increase our revenue levels, maintain the current prices and margins for our billable tests, or achieve or sustain profitability if we cannot compete successfully.

With the development of NGS, the clinical genetic testing market has become increasingly competitive, and as the COVID-19 pandemic continues, potentially competitive COVID-19 tests have entered and may continue to enter the market. We expect this competition to intensify in the future. We face competition from a variety of sources, including, among others, an increasing number of companies seeking to develop and commercialize, or who have developed and commercialized, COVID-19 tests, dozens of companies focused on molecular genetic testing services, such as specialty and reference laboratories that offer traditional single-gene and multi-gene tests, and established and emerging healthcare, information technology and service companies that may develop and sell competitive products or services, which may include informatics, analysis, integrated genetic tools and services for health and wellness.

Additionally, participants in closely related markets, such as prenatal testing and clinical trial or companion diagnostic testing, could converge on offerings that are competitive with the type of tests we perform. Instances where potential competitors are aligned with key suppliers or are themselves suppliers could provide these potential competitors with significant advantages. Further, hospitals, research institutions, individual physicians and other practitioners, governmental bodies, municipalities and corporations may also seek to perform testing, including rapid COVID-19 testing, at their own facilities rather than use our services. In this regard, access to these on site or point-of-care testing solutions and the continued development of, and associated decreases in the cost of, equipment, reagents and other materials and databases and genetic data interpretation services may enable broader direct participation in genetic testing and analysis and drive down the use of third-party testing companies such as ours. Moreover, the biotechnology and genetic testing fields continue to undergo significant consolidation, permitting larger clinical laboratory service providers to increase cost efficiencies and service levels, resulting in more intense competition.

Many of our existing and potential future competitors have longer operating histories, larger customer bases, more expansive brand recognition and deeper market penetration, substantially greater financial, technological and research and development resources and selling and marketing capabilities, and considerably more experience dealing with third-party payors. As a result, they may be able to respond more quickly to changes in customer requirements or preferences, develop faster, better and more expansive advancements for their technologies and tests, create and implement more successful strategies for the promotion and sale of their tests, obtain more favorable results from third-party payors regarding coverage and reimbursement for their offerings, adopt more aggressive pricing and/or price reduction policies for their tests, secure supplies from vendors on more favorable terms or devote substantially more resources to infrastructure and systems development. We may not be able to compete effectively against these organizations.

Additionally, increased competition and cost-saving initiatives on the part of government entities and other third-party payors could result in downward pressure on the price for our testing services and genetic analysis and interpretation generally, which could harm our revenue levels and sales volume and our ability to gain market share. This downward pricing pressure could intensify in future periods as adoption of genetic and COVID-19 testing becomes more widespread, and we may not be able to maintain acceptable margins on our sales if we are forced to reduce prices for our tests to try to remain competitive, especially if we are also experiencing increasing expenses as we make efforts to grow our business or otherwise meet customer demands. The occurrence of

these risks could materially harm our ability to achieve or sustain profitability. In addition, competitors may be acquired by, receive investments from or enter into other commercial relationships with larger, well-established and well-financed companies. Further, companies or governments that effectively control access to testing through umbrella contracts or regional preferences could promote our competitors or prevent us from performing certain tests in certain territories. If we are unable to compete successfully against current and future competitors for these or any other reasons, we may be unable to increase market acceptance and sales volume of our tests, which could prevent us from maintaining or increasing our revenue levels or achieving or sustaining profitability or could otherwise negatively affect our performance.

Our level of commercial success will depend in part on our ability to generate and grow sales with our sales and marketing team, strategies and partnerships, and we may be unsuccessful in these efforts.

We may not be able to market or sell our existing tests or any tests we may develop in the future in order to drive demand sufficiently to support our desired growth. We currently sell our tests through a small internal sales force and a number of contractors who serve as independent sales representatives. Although we have made efforts to enhance and improve our internal sales department, it remains significantly smaller than many of our competitors' sales teams. We have historically relied significantly on organic growth and word-of-mouth among our customers to generate interest in our tests, but our ability to rely on this type of interest in future periods is uncertain.

We believe our ability to maintain and grow sales volume in the future will depend in large part on our ability to further develop our sales team and create and implement effective sales and marketing strategies. We have been focused on these objectives and have taken steps to pursue them in recent periods, including hiring new key members and restructuring the organization of our sales and marketing team, re-focusing our sales and marketing initiatives and strategies and increasing the overall scope of our marketing activities. These efforts have required and will continue to involve significant time and expense. Moreover, these efforts may be unsuccessful. For instance, we may not be able to attract and hire the qualified personnel we need to grow or otherwise improve our sales and marketing team as quickly or as successfully as we would like for various reasons, including intense competition in our industry for qualified personnel and our relative lack of experience selling and marketing our tests. Even if we are able to further develop our sales and marketing team and strategy, we may not be successful in growing our customer base or increasing order volumes from our existing customers. Further, our reliance on independent sales representatives subjects us to risks, as we have very little control over their activities and they are generally free to market and sell other, potentially competing, products. As a result, these independent sales representatives could devote insufficient time or resources to marketing and selling our tests, could market them in an ineffective manner or could otherwise be unsuccessful in selling adequate or expected quantities of our tests.

In addition, our future sales levels will depend in large part on the effectiveness of our sales and marketing strategies, including our ability to expand our brand awareness by providing education about the benefits and full scale of our offering to the medical community in general and to our targeted geographic and customer markets. We also intend to continue to pursue targeted marketing initiatives, including working with medical professional societies to promote awareness of the benefits of our tests and genetic testing in general, pursuing or supporting scientific studies of our tests and publication of results in medical or scientific journals and making presentations at medical, scientific or industry conferences and trade shows. We may not be successful in implementing these initiatives or other marketing strategies we may develop and pursue. If we are not able to drive sufficient revenue using our sales and marketing strategies to support our planned growth, our business and results of operations would be negatively affected.

Our sales and marketing strategies also include a continued focus on growing our international sales and customer base, which we plan to pursue through our direct sales team, a number of independent contractor sales representatives, and, if opportunities arise, by engaging distributors or establishing other types of arrangements, such as joint ventures or other relationships, to manage or assist with sales, logistics, education or customer support in certain territories. To this end, we worked with Xi Long USA, Inc. to form a joint venture in the second quarter of 2017, which we refer to as FF Gene Biotech, to offer genetic testing to customers in China. Although we believe this joint venture could result in expanded long-term opportunities to address the genetic testing market in Asia, these expectations could turn out to be wrong and we may never realize the benefits we anticipate from this joint venture. While it may become necessary to identify, qualify and engage other commercial partners or distributors with local industry experience and knowledge in order to effectively market and sell our tests outside the United States, we have established some relationships to cover any non-U.S. territories including this joint venture in China and other distribution relationships. As a result, we may not be successful in finding, attracting and retaining qualified distributors or other commercial partners or we may not be able to enter into arrangements covering desired territories on favorable terms. In addition, sales practices utilized by distributors or other commercial partners that are locally acceptable may not comply with sales practices or standards required under U.S. laws that apply to us, which could subject us to additional compliance risks. If our sales and marketing efforts outside the United States are not successful, we may not achieve significant acceptance for our tests in international markets, which could materially and adversely impact our business operations.

We will need to invest in and expand our infrastructure and hire additional skilled personnel in order to support our desired growth, and our failure to effectively manage any future growth could jeopardize our business.

To continue to increase the volume of tests we offer and deliver, we must make substantial investments in our infrastructure, including our testing capacity, laboratory capacity, information systems, enterprise software systems, customer service, billing and collections systems and processes and internal quality assurance programs. We will also need to invest in our workforce by hiring additional skilled personnel, including biostatisticians, geneticists, software engineers, laboratory directors and specialists, sales and marketing experts and other scientific, technical and managerial personnel to market, process, interpret and validate the quality of results of our genetic tests and otherwise manage our operations. For example, before we deliver a report for any of our tests, including our COVID-19 tests, the results summarized in the report must be reviewed and approved by a licensed and qualified laboratory director. We currently have four laboratory directors with all of the required licenses, including Dr. Han Lin Gao. We may need to hire additional licensed laboratory directors in the future to further scale our business. If we fail to hire additional qualified personnel when needed or otherwise develop our infrastructure sufficiently in advance of demand or if we fail to generate demand commensurate with our level of investment in our infrastructure, our business, prospects, financial condition and results of operations could be adversely affected. We are expanding our existing laboratory space and we may acquire new laboratory space, which would involve significant costs and attention from our management.

The time and resources required to implement new systems, to add and train new skilled personnel and to expand or acquire new laboratory space as needed are uncertain. Any future growth we may experience could create a strain on our organizational, administrative and operational infrastructure, including laboratory operations, quality control, customer service, sales and marketing and management. We may not be able to maintain the quality of or expected turnaround times for our tests or satisfy customer demand if and when it grows. Our ability to effectively manage any growth we experience will also require us to continue to improve our laboratory and other operational, financial and management systems and controls and our reporting processes and procedures, which may involve significant time and costs and which we may not be able to do successfully.

Our ability to achieve or sustain profitability depends on our collection of payment for the tests we deliver, which we may not be able to do successfully.

Since starting our genetic testing business, we have historically focused primarily on providing our tests to hospitals, medical institutions and other laboratories, our traditional genetic testing customer base. Our customer base for our COVID-19 tests is principally comprised of governmental bodies, municipalities, and large corporations who pay us directly or through third-party payors for our COVID-19 tests. In March 2020, the CARES Act was enacted, and it provides for reimbursement to healthcare providers for COVID-19 tests provided to uninsured individuals, subject to continued available funding. In recent months, this reimbursement has accounted for a significant portion of our revenue. Should reimbursement under the CARES Act for COVID-19 testing cease to be available for any reason, our ability to collect payment would be adversely affected. Further, healthcare policy changes that influence the way healthcare is financed or other changes in the market that impact payment rates by institutional or non-institutional customers could also affect our collection rates. If we are unable to convince hospitals, medical institutions and other laboratories of the value and benefit provided by our tests, these customers may slow, or stop altogether, their purchases of our tests. Moreover, our ability to collect payment for our tests in a timely manner or at all from our healthcare provider customers may decline to the extent we expand our business into new healthcare provider customer groups, including individual physicians and other practitioners, from which collection rates are often significantly lower than hospitals, medical institutions and other laboratories and which involve substantial additional risks that are discussed in these risk factors below. Our collection risks also include the potential for default or bankruptcy by the party responsible for payment and other risks associated with payment collection generally. Any inability to maintain our past payment collection levels could cause our revenue and ability to achieve profitability to decline and adversely affect our business, prospects and financial condition.

If third-party payors do not provide coverage and adequate reimbursement for our tests, our potential for growth could be limited.

Coverage and reimbursement by third-party payors, including managed care organizations, private health insurers and government healthcare programs, such as Medicare and Medicaid, for the types of genetic tests we perform can be limited and uncertain. Although our existing customer base consists primarily of hospitals, medical institutions, municipalities, governmental bodies, large corporations and other laboratories, from which we typically receive direct payment for ordered tests, including our COVID-19 tests, we believe our potential for future growth is dependent on our ability to attract new customer groups, including individual physicians and other practitioners. Our healthcare provider customers and laboratories may not order our tests unless third-party payors cover and provide adequate reimbursement for a substantial portion of the price of the tests. If we are not able to obtain coverage and an acceptable level of reimbursement for our tests from third-party payors, there would typically be a greater co-insurance or co-payment requirement from the patient for whom the test is ordered or the patient may be forced to pay the entire cost of the test out-of-pocket, which could dissuade practitioners from ordering our tests and, if ordered, could result in a delay in or

decreased likelihood of collecting payment, whether from patients or from third-party payors. We believe our ability to increase the number of tests we sell to our healthcare provider customers and any corresponding revenue will depend in part on our ability to achieve broad coverage and reimbursement for our tests from third-party payors.

Coverage and reimbursement by a third-party payor may depend on a number of factors, including a payor's determination that a test is appropriate, medically necessary and cost-effective. Each payor makes its own decision as to whether to establish a policy or enter into a contract to cover our tests and the amount it will reimburse for each test, and any determination by a payor regarding coverage and amount of reimbursement for our tests would likely be made on an indication-by-indication basis. Even if a test has been approved for reimbursement for any particular indication or in any particular jurisdiction, there is no guarantee this test will remain approved for reimbursement or that any similar or additional tests will be approved for reimbursement in the future. Moreover, there can be no assurance that any new tests we launch will be reimbursed or reimbursed at rates comparable to the rates of any previously reimbursed tests if reimbursement is available at all. In addition, the coding procedure used by all third-party payors with respect to establishing payment rates for various procedures, including our tests, is complex, does not currently adapt well to the genetic tests we perform and may not enable coverage and adequate reimbursement rates for our tests. If physicians fail to provide appropriate codes for desired tests, we may not be reimbursed for our tests. Additionally, if we are not able to obtain sufficient clinical information in support of our tests, third-party payors could designate our tests as experimental or investigational and decline to cover and reimburse our tests because of this designation. As a result of these factors, obtaining approvals from third-party payors to cover our tests and establishing adequate reimbursement levels is an unpredictable, challenging, time-consuming and costly process, and we may never be successful.

To date, we have contracted directly with national health insurance companies to become an in-network provider and enrolled as a supplier in the Medicare program and some state Medicaid programs, and we have also received payment for our tests from other third-party payors as an out-of-network provider. Although becoming an in-network provider or enrolling as a supplier means that we have agreed with these payors to provide certain of our tests at negotiated rates, it does not obligate any physicians or other practitioners to order our tests or guarantee that we will receive reimbursement for our tests from these or any other payors at adequate levels. As a result, these payor relationships, any other similar relationships we may establish in the future, or any additional payments we may receive from other payors as an out-of-network provider, may not amount to acceptable levels of reimbursement for our tests or meaningful or any increases in our physician customer base or the number of billable tests we sell to physicians. We expect to focus on increasing coverage and reimbursement for our current tests and any future tests we may develop, but we cannot predict whether, under what circumstances, or at what payment levels payors will cover and reimburse us for our tests. Further, even if we are successful, we believe it could take several years to achieve coverage and adequate contracted reimbursement with third-party payors. If we fail to establish and maintain broad coverage and reimbursement for our tests, our ability to maintain or grow our test volume, customer base, collectability rates and revenue levels could be limited and our future prospects and our business could suffer.

Failure to comply with government laws and regulations related to submission of claims for our services could result in significant monetary damages and penalties and exclusion from the Medicare and Medicaid programs and corresponding foreign reimbursement programs.

We are subject to laws and regulations governing the submission of claims for payment for our services, such as those relating to: coverage of our services under Medicare, Medicaid and other state, federal and foreign health care programs; the amounts that we may bill for our services; and the party to which we must submit claims. Our failure to comply with applicable laws and regulations could result in our inability to receive payment for our services or in attempts by state and federal healthcare programs, such as Medicare and Medicaid, to recover payments already made. Submission of claims in violation of these laws and regulations can result in recoupment of payments already received, substantial civil monetary penalties, and exclusion from state and federal health care programs, and can subject us to liability under the federal False Claims Act and similar laws. The failure to report and return an overpayment to the Medicare or Medicaid program within 60 days of identifying its existence can give rise to liability under the False Claims Act. Further, a government agency could attempt to hold us liable for causing the improper submission of claims by another entity for services that we performed if we were found to have knowingly participated in the arrangement at issue.

We may not be successful in developing and marketing new tests, which could negatively impact our performance and prospects.

We believe our future success will depend in part on our ability to continue to expand our test offerings and develop and sell new tests. We may not be successful in launching or marketing any new tests we may develop, including our recently launched COVID-19 testing and Picture Genetics offerings, and, even if we are successful, the demand for our other tests could decrease or may not continue to increase at historical rates due to sales of the new tests. Our pipeline of new tests is in various stages of development and will be time-consuming and costly to fully develop and introduce, as development and marketing of new tests requires us to conduct research and development activities regarding the new tests and to further scale our laboratory processes and infrastructure to be able to analyze increasing amounts of more diverse data. Further, we may be unable to discover or develop and launch new tests for

a variety of reasons, including failure of any proposed test to perform as expected, lack of validation or reference data for the test or failure to demonstrate the utility of the test. Further, any new test we are able to discover and develop may not be launched in a timely manner, meet applicable regulatory standards, successfully compete with other technologies and available tests, avoid infringing the proprietary rights of others, achieve coverage and adequate reimbursement from third-party payors, be capable of performance at commercial levels and at reasonable costs, be successfully marketed or achieve sufficient market acceptance for us to recoup our time and capital investment in the development of the test. Any failure to successfully develop, market and sell new tests could negatively impact our ability to attract and retain customers and our revenue and prospects.

We are exposed to additional business, regulatory, political, operational, financial and economic risks related to our international operations.

Our existing customer base includes international customers from a variety of geographic markets. In addition, we have established FF Gene Biotech to offer genetic testing to customers in China. As part of our strategy, we aim to increase our volume of direct sales to international customers in a variety of markets by conducting targeted marketing outreach activities and, if opportunities arise, engaging distributors or establishing other types of arrangements, such as joint ventures or other relationships. However, we may never be successful in achieving these objectives, and even if we are successful, these strategies may not result in meaningful or any increases in our customer base, test volumes or revenue.

Doing business internationally involves a number of risks, including, among others:

- compliance with the laws and regulations of multiple jurisdictions, which may be conflicting or subject to increasing stringency or other changes, including privacy regulations, tax laws, employment laws, healthcare regulatory requirements and other related approvals, including permitting and licensing requirements;
- logistics associated with the shipment of blood or other tissue specimens, including infrastructure conditions, transportation delays and the impact of U.S. and local laws and regulations, such as export and import restrictions, tariffs or other charges and other trade barriers, all of which involve increased risk related to the trade policies of the current administration, which may threaten existing and proposed trade agreements and impose more restrictive U.S. export-import regulations that impact our business;
- limits on our ability to penetrate international markets, including legal and regulatory requirements that would force us to conduct our tests locally by building additional laboratories or engaging in joint ventures or other relationships in order to offer our tests in certain countries, which relationships could involve significant time and resources to establish, deny us control over certain aspects of the foreign operations or reduce the economic value to us of these operations;
- failure by us, any joint ventures or other arrangements we may establish or any distributors or other commercial partners we may engage to obtain any regulatory approvals required to market, sell and use our tests in various countries;
- challenges predicting the market for genetic testing generally and tailoring our test menu to meet varying customer expectations in different countries and territories;
- difficulties gaining market share in territories in which we do not have a strong physical presence or brand awareness;
- complexities and difficulties obtaining protection for and enforcing our intellectual property rights;
- difficulties in staffing and managing foreign operations;
- complexities associated with managing multiple payor coverage and reimbursement regimes, government payors or patient self-pay systems;
- financial risks, such as longer payment cycles, difficulty collecting accounts receivable and the impact of local and regional financial conditions on demand and payment for our tests;
- exposure to foreign currency exchange rate fluctuations, including increased risk with respect to the Canadian dollar after we recently started billing certain of our Canadian hospital customers in their local currency and with respect to the RMB related to revenue received under our agreements with FF Gene Biotech;
- risks relating to conversion and repatriation of certain foreign currencies, particularly the RMB, which is subject to legal procedures and restrictions on currency conversion and movement outside China and which could impact our ability to receive the anticipated financial benefits of our FF Gene Biotech joint venture;
- natural disasters, political and economic instability, including wars, terrorism and political unrest, outbreak of disease (e.g. the COVID-19 pandemic), boycotts and other business restrictions; and
- regulatory and compliance risks related to applicable anti-bribery laws, including requirements to maintain accurate information and control over activities that may fall within the purview of these laws.

Any of these factors could significantly harm our existing relationships with international customers or derail our international expansion plans, which would cause our revenue and results of operations to suffer.

In addition, we are exposed to a number of additional risks and challenges related to our efforts to access customers in China with the formation of FF Gene Biotech. These risks include, among others, difficulties predicting the market for genetic testing in Asia; competitive factors in this market, including challenges securing market share; local differences in customer demands and preferences and regulatory requirements; our lack of control over FF Gene Biotech due to our non-majority ownership interest; and many of the other risks of doing business internationally that are discussed above. Further, we could experience declines in our direct sales to, and revenue from, customers in Asia if any of these customers choose to order genetic tests from FF Gene Biotech instead of directly from us. As a result of these risks, although we believe FF Gene Biotech could result in expanded long-term opportunities to address the genetic testing market in Asia, this belief could turn out to be wrong and we may never realize these or any other benefits we anticipate from this joint venture. Moreover, FF Gene Biotech or any other joint venture we may seek to establish may never produce sufficient revenue to us to recover our capital and other investments in the joint venture, and we could become subject to liabilities based on our involvement in the joint venture's operations. The materialization of any of these risks related to FF Gene Biotech could materially harm our performance and prospects.

If we are sued for product or professional liability, we could face substantial liabilities that exceed our resources.

Our business depends on our ability to provide reliable and accurate test results that incorporate rapidly evolving information about the role of genes and gene variants in disease and clinically relevant outcomes associated with these variants. Hundreds of genes can be implicated in some disorders and overlapping networks of genes and symptoms can be implicated in multiple conditions. As a result, substantial judgment is required in order to interpret the results of each test we perform and produce a report summarizing these results. Errors, such as failures to detect genomic variants with high accuracy, or mistakes, such as failures to completely and correctly identify the significance of gene variants, could subject us to product liability or professional liability claims. Any such claim against us could result in substantial damages and be costly and time-consuming to defend. Although we maintain liability insurance, including for errors and omissions, our insurance may not fully protect us from the financial impact of defending against these types of claims or any judgments, fines or settlement costs arising out of any such claims. Additionally, any liability claim brought against us, with or without merit, could increase our insurance rates or prevent us from securing adequate insurance coverage in the future. Moreover, any liability lawsuit could damage our reputation or force us to suspend sales of our tests. The occurrence of any of these events could have a material adverse effect on our business, reputation and results of operations.

If our laboratory facilities become inoperable, if we are forced to vacate a facility or if we are unable to obtain additional laboratory space as and when needed, we would be unable to perform our tests and our business would be harmed.

We perform all of our tests at our laboratories in Temple City, California and Houston, Texas. Our laboratories and the equipment we use to perform our tests would be costly to replace and could require substantial lead time to replace and qualify for use. This and any other laboratory facilities and equipment we may use could be damaged or rendered inoperable by natural or man-made disasters, including earthquakes, floods, fires and power outages, which could render it difficult or impossible for us to perform our tests for some period of time. The inability to perform our tests or the backlog that could develop if a laboratory becomes inoperable for even a short time could result in the loss of customers or harm to our reputation. Although we maintain insurance for damage to our property and disruption of our business, this insurance may not be sufficient to cover all of our potential losses and may not continue to be available to us on acceptable terms, if at all.

Further, if we need to relocate from one laboratory facility to another laboratory facility or obtain additional laboratory space, we may have difficulty locating suitable space in a timely manner, on reasonable terms or at all, and even if acceptable space was available, it would be challenging, time-consuming and expensive to obtain or transfer the licensure and accreditation required for a commercial laboratory like ours and the equipment we use to perform our tests. These challenges could be amplified if we or our joint ventures or other commercial partners seek to procure and maintain laboratory space outside the United States as we pursue international expansion. If we are unable to obtain or are delayed in obtaining new laboratory space as needed, we may not be able to provide our existing tests or develop and launch new tests, which could result in harm to our business, reputation, financial condition and results of operations.

We face risks related to the impact of the COVID-19 pandemic and the related protective public health measures.

Despite our recent revenue growth and recent demand for our COVID-19 tests, our business could be materially and adversely affected by the effects of the global pandemic of COVID-19 and the related protective public health measures. Our business depends upon the continuous testing services that we provide at our laboratory facilities, and our business faces the same risks as are currently prevalent in most of the United States, including the risks that employees could contract COVID-19 which could result in a disruption in our ability to continue to provide testing services. Although we take what we believe are reasonable precautions to prevent the spread of COVID-19 within our facilities and among our employees, we cannot provide assurance that we will not suffer from an exposure to the SARS-CoV-2 virus that would require a temporary closure of our laboratory facilities, which would materially

adversely affect our operations and financial results. In addition, the responses of the federal, international, state and regional governments to the pandemic, including the shelter in place orders and the allocation of healthcare resources to treating those infected with the virus, has caused and may continue to cause a significant decline in sales of our non-COVID-19 tests. Other adverse effects of the pandemic on our business could include disruptions or restrictions on our employees' ability to travel, as well as temporary closures of the facilities of our suppliers, third party service providers or customers, which could impact our test volume and results of operations. In addition, a significant outbreak of contagious disease in the human population could result in a widespread health crisis that could adversely affect the economies and financial markets of many countries, resulting in an economic downturn that could affect demand for our tests and impact our results of operations.

We rely on a limited number of suppliers and, in some cases, a sole supplier, for certain of our laboratory substances, equipment and other materials, and any delays or difficulties securing these materials could disrupt our laboratory operations and materially harm our business.

We rely on a limited number of suppliers for certain of our laboratory substances, including reagents, as well as for the sequencers and various other equipment and materials we use in our laboratory operations. In particular, we rely on Illumina, Inc. as the sole supplier of the next generation sequencers and associated reagents we use to perform our genetic tests and as the sole provider of maintenance and repair services for these sequencers. We do not have long-term agreements with most of our suppliers and, as a result, they could cease supplying these materials and equipment to us at any time due to an inability to reach agreement with us on supply terms, disruptions in their operations, a determination to pursue other activities or lines of business or for other reasons, or they could fail to provide us with sufficient quantities of materials that meet our specifications. These suppliers may also themselves be affected by the COVID-19 pandemic or its related effects on the global supply chain. Transitioning to a new supplier or locating a temporary substitute, if any are available, would be time-consuming and expensive, could result in interruptions in or otherwise affect the performance specifications of our laboratory operations or could require that we revalidate our tests. In addition, the use of equipment or materials provided by a replacement supplier could require us to alter our laboratory operations and procedures. Moreover, we believe there are currently only a few manufacturers that are capable of supplying and servicing some of the equipment and other materials necessary for our laboratory operations, including sequencers and various associated reagents. As a result, replacement equipment and materials that meet our quality control and performance requirements may not be available on reasonable terms, in a timely manner or at all. If we encounter delays or difficulties securing, reconfiguring or revalidating the equipment, reagents and other materials we require for our tests, including as a result of the COVID-19 pandemic, our operations could be materially disrupted and our business, financial condition, results of operations and reputation could be adversely affected.

Billing and collections processing for our tests is complex and time-consuming, and any delay in transmitting and collecting claims could have an adverse effect on our revenue.

Billing for our tests is complex, time-consuming and expensive. Depending on the billing arrangement and applicable law, we may bill various different parties for our tests, including customers directly in the case of our hospital and medical institution customers, as well as Medicare, Medicaid, insurance companies and patients, all of which may have different billing requirements. We may face increased risk in our collection efforts due to the complexities of these billing requirements, including long collection cycles and lower collection rates, which could adversely affect our business, results of operations and financial condition.

Several factors make this billing process complex, including:

- differences between the list price for our tests and the reimbursement rates of payors;
- compliance with complex federal and state regulations related to billing government healthcare programs, including Medicare and Medicaid;
- disputes among payors as to which party is responsible for payment;
- differences in coverage among payors and the effect of patient co-payments or co-insurance;
- differences in information and billing requirements among payors;
- incorrect or missing billing information; and
- the resources required to manage the billing and claims appeals process.

We have developed internal systems and procedures to handle these billing and collections functions, but we will need to make significant efforts and expend substantial resources to further develop our systems and procedures to handle these aspects of our business, which could become increasingly important as we focus on increasing test volumes from non-hospital and medical institution customer groups and establishing coverage and reimbursement policies with third-party payors. As a result, these billing complexities, along with the related uncertainty in obtaining payment for our tests, could negatively affect our revenue and cash flow, our ability to achieve or sustain profitability and the consistency and comparability of our results of operations. In addition, if claims for our tests are not submitted to payors on a timely basis, or if we are required to switch to a different provider to handle our processing and collections functions, our revenue and our business could be adversely affected.

Ethical, legal and social concerns related to the use of genetic information could reduce demand for our tests.

Genetic testing has raised ethical, legal and social issues regarding privacy and the appropriate uses of the resulting information. Government authorities could, for social or other purposes, limit or regulate the use of genetic information or genetic testing or prohibit testing for genetic predisposition to certain conditions, particularly for those that have no known cure. Similarly, these concerns may cause patients to refuse to use, or physicians to be reluctant to order, genetic tests such as ours, even if permissible. These and other ethical, legal and social concerns may limit market acceptance and adoption of our tests or reduce the potential markets for our tests, any of which could have an adverse effect on our business, financial condition and results of operations.

Actual or attempted security breaches, loss of data or other disruptions could compromise sensitive information related to our business or to patients or prevent us from accessing critical information, any of which could expose us to liability and adversely affect our business and our reputation.

In the ordinary course of our business, we generate, collect and store sensitive data, including PHI, personally identifiable information, intellectual property and proprietary and other business-critical information, such as research and development data, commercial data and other business and financial information. We manage and maintain the data we generate, collect and store utilizing a combination of on-site systems and managed data center systems. We also communicate sensitive patient data when we deliver reports summarizing test results to our customers, which we deliver via our online encrypted web portal, encrypted email or fax or overnight courier. We face a number of risks related to protecting this information, including loss of access, unauthorized modification or inappropriate disclosure.

The secure processing, storage, maintenance and transmission of this information is vital to our operations and business strategy, and we devote significant resources to protecting the confidentiality and integrity of this information. Although we have implemented security measures and other controls designed to protect sensitive information from unauthorized access, use or disclosure, our information technology and infrastructure could fail, be inadequate or vulnerable to attacks by hackers or viruses or be breached due to employee error, malfeasance or other disruptions. A breach or interruption could compromise our information systems and the information we store could be accessed by unauthorized parties, manipulated, publicly disclosed, lost, or stolen. Any such unauthorized access, manipulation, disclosure or other loss of information could result in legal claims or proceedings and could result in liability or penalties under federal, state or foreign laws that protect the privacy of personal information, discussed below under "—We are subject to broad legal requirements regarding the information we test and analyze, and any failure to comply with these requirements could result in harsh penalties, damage our reputation and materially harm our business." Additionally, unauthorized access, manipulation, loss, or dissemination could significantly damage our reputation and disrupt our operations, including our ability to perform our tests, analyze and provide test results, bill customers or other payors, process claims for reimbursement, provide customer service, conduct research and development activities, collect, process, and prepare company financial information, conduct education and outreach activities and manage the administrative aspects of our operations, as described further below under "—We depend on our information technology systems and any failure of these systems, due to hardware or software malfunctions, delays in operation, failures to implement new or enhanced systems or cybersecurity breaches, could harm our business." The occurrence of any of these risks could materially adversely affect our business.

The loss of any member of our senior management team could adversely affect our business.

Our success depends in large part on the skills, experience and performance of our executive management team and others in key leadership positions, especially Ming Hsieh, our founder, Chief Executive Officer and Chairman of our board of directors, Paul Kim, our Chief Financial Officer, Dr. Han Lin Gao, our Chief Scientific Officer and Laboratory Director, and Jian Xie, our Chief Operating Officer. The continued efforts of these persons will be critical to us as we continue to develop our technologies and test processes and focus on growing our business. If we lose one or more key executives, we could experience difficulties maintaining our operations, including the ability to deliver reports to customers after review and approval by a licensed and qualified laboratory director, competing effectively, advancing our technologies, developing new tests and implementing our business strategies. All of our executives and employees, including Messrs. Hsieh, Kim and Xie, and Dr. Gao, are at-will, which means either we or the executive or employee may terminate their employment at any time. We do not carry key man insurance for any of our executives or other employees. In addition, we do not have long-term retention agreements in place with any of our executives or key employees.

We rely on highly skilled personnel in a broad array of disciplines, and if we are unable to hire, retain or motivate these individuals, we may not be able to maintain the quality of our tests or grow our business.

Our business, including our research and development programs, laboratory operations and administrative functions, largely depends on our continued ability to identify, hire, train, motivate and retain highly skilled personnel for all areas of our organization, including biostatisticians, geneticists, software engineers, laboratory directors and specialists, sales and marketing experts and other scientific, technical and managerial personnel. Competition in our industry for qualified executives and other employees is intense, and we may not be able to attract or retain the qualified personnel we need to execute our business plans due to high levels of competition for these personnel among our competitors, other life science businesses, universities and public and private research institutions. In addition, our compensation arrangements may not be successful in attracting new employees and retaining and motivating our existing employees. If we are not able to attract and retain the necessary personnel to accomplish our business objectives, we may experience constraints that could adversely affect our ability to expand our business and support our clinical laboratory operations and our sales and marketing and research and development efforts, which would negatively affect our prospects for future growth and success.

Any inability to obtain additional capital when needed and on acceptable terms may limit our ability to execute our business plans, and our liquidity needs could be materially affected by market fluctuations and general economic conditions.

We expect our capital expenditures and operating expenses to increase over the next several years as we seek to expand our infrastructure, sales and marketing and other commercial operations and research and development activities. As of December 31, 2020, we had cash and cash equivalents of approximately $87.4 million. We maintain our cash, cash equivalents and short-term marketable securities with high quality, accredited financial institutions. However, these accounts may exceed federally insured limits, and, while we believe the Company is not exposed to significant credit risk due to the financial strength of these depository institutions, the failure or collapse of one or more of these depository institutions could materially adversely affect our ability to recover these assets. We may seek to fund future cash needs through securities offerings, credit facilities or other debt financings, asset sales or collaborations or licensing arrangements. Additional funding may not be available to us when needed, on acceptable terms or at all. For example, the COVID-19 pandemic has recently caused extreme disruption and volatility in the global capital markets, which could reduce our ability to access capital and/or adversely affect the stability of the depository institutions maintaining our assets.

If we raise funds by issuing equity securities, our existing stockholders could experience substantial dilution. Additionally, any preferred stock we issue could provide for rights, preferences or privileges senior to those of our common stock, and our issuance of any additional equity securities, or the possibility of such an issuance, could cause the market price of our common stock to decline. The terms of any debt securities we issue or borrowings we incur, if available, could impose significant restrictions on our operations, such as limitations on our ability to incur additional debt or issue additional equity or other restrictions that could adversely affect our ability to conduct our business, and would result in increased fixed payment obligations. If we seek to sell assets or enter into collaborations or licensing arrangements to raise capital, we may be required to accept unfavorable terms or relinquish or license to a third party our rights to important or valuable technologies or tests we may otherwise seek to develop ourselves. Moreover, we may incur substantial costs in pursuing future capital, including investment banking, legal and accounting fees, printing and distribution expenses and other similar costs. If we are not able to secure funding if and when needed and on reasonable terms, we may be forced to delay, reduce the scope of or eliminate one or more sales and marketing initiatives, research and development programs or other growth plans or strategies. In addition, we may be forced to work with a partner on one or more aspects of our tests or market development programs or initiatives, which could lower the economic value to us of these tests, programs or initiatives. Any such outcome could significantly harm our business, performance and prospects.

U.S. federal income tax reform could adversely affect us.

New legislation or regulation which could affect our tax burden could be enacted by any governmental authority. We cannot predict the timing or extent of such tax-related developments which could have a negative impact on our financial results. U.S. federal legislation affecting the tax laws was enacted in December 2017 (the TCJA); and twice in March 2020, first in the Families First Coronavirus Response Act and again in the CARES Act. We cannot estimate how the changes in tax law from this legislation will affect our tax liability in future years.

Additionally, we use our best judgment in attempting to quantify and reserve for these tax obligations. However, a challenge by a taxing authority, our ability to utilize tax benefits such as carryforwards or tax credits, or a deviation from other tax-related assumptions may cause actual financial results to deviate from previous estimates.

We may acquire businesses or assets, form joint ventures, make investments in other companies or technologies or establish other strategic relationships, any of which could harm our operating results, dilute our stockholders' ownership or cause us to incur debt or significant expense.

As part of our business strategy, we may pursue acquisitions of complementary businesses or assets, investments in other companies, such as our recent investment in BostonMolecules, technology licensing arrangements, joint ventures or other strategic relationships. As an organization, we have limited experience with respect to acquisitions, investments or the formation of strategic relationships or joint ventures. If we make acquisitions in the future, we may not be able to successfully integrate the acquired businesses or technologies into our existing operations, we could assume unknown or contingent liabilities and we could be forced to record significant write-offs or incur debt as a result of the acquisitions, any of which could harm our operating results. Further, integration of an acquired business or technology could involve significant difficulties, and could require management and capital resources that otherwise would be available for ongoing development of our existing business or pursuit of other opportunities. If we pursue relationships with pharmaceutical companies or other strategic relationships, our ability to establish and maintain these relationships could be challenging due to several factors, including competition with other genetic testing companies and internal and external constraints placed on pharmaceutical and other organizations that limit the number and type of relationships they can establish with companies like ours. Moreover, we may not be able to identify or complete any acquisition, investment, technology license, joint venture or other strategic relationship in a timely manner, on a cost-effective basis or at all, and we may not realize the anticipated benefits of any such transaction sufficiently to recoup our costs.

To finance any acquisitions, investments, joint ventures or other strategic relationships, we may seek to raise additional funds through securities offerings, credit facilities, asset sales or collaborations or licensing arrangements. Each of these methods of fundraising is subject to a variety of risks, including those discussed above under "—Any inability to obtain additional capital when needed and on acceptable terms may limit our ability to execute our business plans." Further, additional funds from capital-raising transactions may not be available when needed, on acceptable terms or at all. Any inability to fund any acquisitions, investments or strategic relationships we pursue could cause us to forfeit opportunities we believe are promising or valuable, which could harm our prospects.

We depend on our information technology systems and any failure of these systems, due to hardware or software malfunctions, delays in operation, and/or failures to implement new or enhanced systems or cybersecurity breaches, could harm our business.

We depend on information technology and telecommunications systems for significant elements of our operations, such as our laboratory information management systems, including test validation, specimen tracking and quality control; our bioinformatics analytical software systems; our reference library of information relating to genetic variants and their role in disease; personal information storage, maintenance and transmission; our customer-facing web-based software and customer service functions; our report production systems; our billing and reimbursement procedures; our scientific and medical data analysis and other research and development activities and programs; and our general and administrative activities, including disclosure controls, internal control over financial reporting and other public reporting functions. In addition, our third-party service providers depend on technology and telecommunications systems in order to provide contracted services for us. We expect we will need to continue to expand and strengthen a number of enterprise software systems that affect a broad range of business processes and functions, particularly if and as our operations grow, including, for example, systems handling human resources, financial and other disclosure controls and reporting, customer relationship management, regulatory compliance, security controls and other infrastructure functions.

Information technology and telecommunications systems are vulnerable to disruption and damage from a variety of sources, including power outages and other telecommunications or network failures, natural disasters, and the outbreak of war or acts of terrorism. Breaches resulting in the compromise, disruption, degradation, manipulation, loss, theft, destruction, or unauthorized disclosure of sensitive information, can occur in a variety of ways, including but not limited to, negligent or wrongful conduct by employees or former employees or others with permitted access to our information technology systems and information, or wrongful conduct by hackers, competitors, or certain governments. Our third-party vendors and business partners face similar risks. Moreover, despite network security and back-up measures, our servers and other electronic systems are potentially vulnerable to cybersecurity breaches, such as physical or electronic break-ins, computer viruses, ransomware attacks, phishing schemes, and similar disruptive events. Despite the precautionary measures we have taken to detect and prevent or solve problems that could affect our information technology and telecommunications systems, there may be significant downtime or failures of these systems or those used by our third-party service providers. There can be no assurance that we will promptly detect and/or intercept any such disruption or security breach, if at all. Any such downtime or failure could prevent us from conducting tests, preparing and providing reports to customers, billing payors, responding to customer inquiries, conducting research and development activities, maintaining our financial and disclosure controls and other reporting functions and managing the administrative aspects of our business. Moreover, any such downtime or failure could force us to transfer data collection operations to an alternate provider of server-hosting services, which could involve significant costs and result in further delays in our ability to conduct tests, deliver reports to our customers and

otherwise manage our operations. Further, although we carry property, business interruption and cyber lability insurance, the coverage may not be adequate to compensate for all losses that may occur in the event of system downtime or failure. Any such disruption or loss of information technology or telecommunications systems on which critical aspects of our operations depend could have a material adverse effect on our business and our reputation.

Additionally, if and as our business grows, we will need to continually improve and expand the scope of our technology systems in order to maintain their adequacy for the scale of our operations. Any failure to make such improvements or any significant delay in the planned implementation of new or enhanced systems could render our systems obsolete or inadequate, in which case our service to our customers and our other business activities could suffer and we could be more vulnerable to electronic breaches from outside sources.

We rely on commercial courier delivery services to transport specimens to our laboratory facilities in a timely and cost-efficient manner, and if these delivery services are disrupted, our business would be harmed.

Our business depends on our ability to quickly and reliably deliver test results to our customers. We typically receive specimens from customers within days of shipment, or in some cases overnight, for analysis at our laboratory facilities. Disruptions in delivery service, whether due to labor disruptions, bad weather, natural disasters, pandemics or epidemics, terrorist acts or threats or for other reasons, could adversely affect specimen integrity and our ability to process specimens in a timely manner and otherwise service our customers, and ultimately our reputation and our business. In addition, if we are unable to continue to obtain expedited delivery services on commercially reasonable terms, our operating results may be adversely affected.

If we are unable to maintain effective internal control over financial reporting, investors could lose confidence in the accuracy and completeness of our reported financial information and the market price of our common stock could decline.

We are required to maintain internal control over financial reporting and report any material weaknesses in these internal controls. Section 404 of the Sarbanes-Oxley Act requires that we evaluate and determine the effectiveness of our internal control over financial reporting and annually provide a management report on these internal controls. Although we have implemented systems, processes and controls and performed this evaluation as of the end of 2020, we will need to maintain and enhance these controls if and as we grow, and we may need to hire additional personnel and devote more resources to our financial reporting function in order to do so.

If we identify one or more material weaknesses during the process of annually evaluating our internal controls, we may not detect errors on a timely basis and our financial statements may be materially misstated. In addition, in that event, our management would be unable to conclude that our internal control over financial reporting is effective. Further, when we are no longer an emerging growth company or when and if we become a large accelerated filer or accelerated filer, our independent registered public accounting firm will be required to issue an attestation report on the effectiveness of our internal control over financial reporting. When that occurs, our independent registered public accounting firm may conclude that there are material weaknesses in our internal controls or the level at which our internal controls are documented, designed, implemented or reviewed even if our management concludes that our internal control over financial reporting is effective.

If we or our auditors were to conclude that our internal control over financial reporting was not effective because one or more material weaknesses had been identified or if internal control deficiencies result in the restatement of our financial results, investors could lose confidence in the accuracy and completeness of our financial disclosures and the price of our common stock could decline.

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

We are subject to the periodic reporting and other requirements of the Exchange Act. We have implemented disclosure controls and procedures designed to provide reasonable assurance 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. However, any disclosure controls and procedures, no matter how well-conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. These inherent limitations include the realities that judgments in decision-making can be faulty and that breakdowns can occur because of simple errors or mistakes. 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. As a result, because of these inherent limitations in our control system, misstatements or omissions due to error or fraud may occur and may not be detected, which could result in failures to file required reports in a timely manner and filing reports containing incorrect information. Any of these outcomes could result in SEC enforcement actions, monetary fines or other penalties, damage to our reputation and harm to our financial condition and stock price.

We may elect to comply with reduced public company reporting requirements available to us because we are an emerging growth company and a smaller reporting company, which could make our common stock less attractive to investors.

We are an emerging growth company, as defined in the JOBS Act, and we will remain an emerging growth company until December 31, 2021. In addition, we are a smaller reporting company, as defined in applicable SEC rules, and we will remain a smaller reporting company until the market value of our common stock held by non-affiliates, or public float, equals or exceeds $250 million. When and if our public float exceeds $250 million, we may still qualify to report as a smaller reporting company provided our public float is less than $700 million and our annual revenues are less than $100 million for the year preceding the date of determination. As an emerging growth company and smaller reporting company, we are eligible for exemptions from certain reporting requirements applicable to other public companies, including, reduced financial statement and other financial disclosure requirements in registration statements and periodic reports we file, reduced disclosure obligations regarding executive compensation and, so long as we remain an emerging growth company, an exemption from the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act, exemption from the requirements to hold non-binding advisory votes on executive compensation and exemption from the requirements to obtain stockholder approval for any golden parachute payments not previously approved. We have relied on many of these exemptions in periodic reports to date, and investors may find our common stock less attractive if we choose to continue to rely on these exemptions, in which case there may be a less active trading market for our common stock and our stock price may be more volatile.

Under the Securities Act, emerging growth companies can elect to delay adoption of new or revised accounting standards until those standards apply to private companies. We have irrevocably elected not to avail ourselves of this exemption and, as a result, we are subject to the same new or revised accounting standards at the same time as other public companies that are not emerging growth companies.

The auditor for our joint venture in China, like other independent registered public accounting firms operating in China, is not permitted to be subject to inspection by the Public Company Accounting Oversight Board, and as such, investors may be deprived of the benefits of such inspection.

The independent registered public accounting firm that issues the audit reports for our joint venture in China, FF Gene Biotech, included in our reports filed with the SEC, as an auditor of companies that are traded publicly in the United States and a firm registered with the Public Company Accounting Oversight Board (United States), or PCAOB, is required by the laws of the United States to undergo regular inspections by PCAOB to assess its compliance with the laws of the United States and professional standards. On May 24, 2013, the PCAOB announced that it had signed a Memorandum of Understanding, or MOU, with Chinese securities regulators that would enable the PCAOB under certain circumstances to obtain audit work papers of China-based audit firms. The MOU establishes a framework under which the PCAOB can request and obtain audit papers and permits the PCAOB to share the work papers it obtains with the SEC, subject to certain requirements. But the MOU, which is non-binding, is also limited by its own terms. For instance, Chinese regulators may refuse to produce documents in specified circumstances, including where production would violate Chinese law or run contrary to the public interest. Moreover, the MOU does not provide the PCAOB with the ability to conduct on-the-ground inspections of auditors in China, an important part of the PCAOB's oversight function. As a result, our auditor, like other independent registered public accounting firms operating in China, is currently not inspected by PCAOB in the same way that PCAOB inspects independent registered public accounting firms operating outside China. Inspections of other firms that PCAOB has conducted outside of China have identified deficiencies in those firms' audit procedures and quality control procedures, which may be addressed as part of the inspection process to improve future audit quality. The inability of PCAOB to conduct regular inspections of independent registered public accounting firms operating in China makes it more difficult to evaluate the effectiveness of our auditor's audit procedures or quality control procedures. As a result, investors may be deprived of the benefits of PCAOB regular inspections.

Regulatory Risks

Any changes in laws, regulations or the enforcement discretion of the FDA with respect to the marketing of diagnostic products, or violations of laws or regulations by us, could adversely affect our business, prospects, results of operations or financial condition.

The laws and regulations governing the marketing of diagnostic products are evolving, extremely complex and in many instances, there are no significant regulatory or judicial interpretations of these laws and regulations. Pursuant to its authority under the federal FDC Act, the FDA has jurisdiction over medical devices, including in vitro diagnostics and, therefore, potentially our clinical laboratory tests. Among other things, pursuant to the FDC Act and its implementing regulations, the FDA regulates the research, testing, manufacturing, safety, labeling, storage, recordkeeping, premarket clearance or approval, marketing and promotion, and sales and distribution of medical devices in the United States to ensure that medical products distributed domestically are safe and effective for their intended uses. In addition, the FDA regulates the import and export of medical devices.

Although the FDA has statutory authority to assure that medical devices and in vitro diagnostics, including potentially our tests, are safe and effective for their intended uses, the FDA has historically exercised its enforcement discretion and not enforced applicable provisions of the FDC Act and regulations with respect to LDTs, which are a particular type of medical device. We believe our tests are LDTs. As a result, we believe our tests are not currently subject to the FDA's enforcement of its medical device regulations and the applicable FDC Act provisions.

Even though we commercialize our tests as LDTs, our tests may in the future become subject to more onerous regulation by the FDA. For example, the FDA may disagree with our assessment that our tests fall within the definition of an LDT and seek to regulate our tests as medical devices. Moreover, the FDA issued draft guidance and a 2017 Discussion Paper to allow for further public discussion about an appropriate LDT oversight approach and to give congressional committees the opportunity to develop a legislative solution. The FDA also solicited public input and published two final guidance documents in April 2018 relating to FDA oversight of NGS-based tests. These two guidance documents describe the FDA's thinking and recommendations regarding test developer's use of FDA-recognized standards to support analytical validity, and public human genetic variant databases to support clinical validity, of these tests.

On August 19, 2020, the HHS, published a policy announcement that FDA must go through the formal notice-and-comment rulemaking process before requiring pre-market review of LDTs rather than making such changes through guidance documents, compliance manuals, or other informal policy statements. However, laboratories may still voluntarily submit LDTs to the FDA for pre-market review. Although the ultimate impact of HHS's policy statement on FDA's plans for regulating LDTs and its current thinking relating to such testing products is unclear, the announcement appears to confirm that laboratories may commercialize LDTs for clinical use without submitting such tests for FDA review and marketing authorization, including EUA. HHS's policy statement does not affect proposed legislation for the regulation of LDTs, which is discussed below. It is also unclear whether the Biden Administration, which assumed control of the executive branch on January 20, 2021, would take the same position as the former administration or seek to revoke or revise the HHS policy announcement from August 2020.

In December 2018, members of Congress released a discussion draft of a possible bill to regulate in vitro clinical tests including LDTs, and provided opportunities for additional stakeholders to also provide input on the proposed reform legislation. On March 5, 2020, U.S. Representatives Diana DeGette (D-CO) and Dr. Larry Bucshon (R-IN) formally introduced the long-awaited legislation, called the VALID Act. An identical version of the bill was also introduced in the Senate and is sponsored by U.S. Senators Michael Bennet (D-CO) and Richard Burr (R-NC), demonstrating both bicameral and bipartisan support for the effort to overhaul how the FDA reviews and approves diagnostic tests going forward. The VALID Act would codify into law the term "in vitro clinical test" to create a new medical product category separate from medical devices that includes products currently regulated as in vitro diagnostics, or IVDs, as well as LDTs. The VALID Act would also create a new system for labs and hospitals to use to submit their tests electronically to the FDA for approval, which is aimed at reducing the amount of time it takes for the agency to approve such tests, and establish a new program to expedite the development of diagnostic tests that can be used to address a current unmet need for patients.

It is unclear whether the VALID Act would be passed by Congress in its current form or signed into law by President Trump. Until the FDA promulgates binding regulations through notice-and-comment rulemaking regarding LDTs, or the VALID Act or other legislation is passed reforming the federal government's regulation of LDTs, it is unknown how the FDA may regulate our tests in the future and what testing and data may be required to support any required clearance or approval.

If the FDA creates a new regulation to enforce its medical device requirements for LDTs or if the FDA disagrees with our assessment that our tests are LDTs, we could for the first time be subject to enforcement of a variety of regulatory requirements, including registration and listing, medical device reporting and quality control, and we could be required to obtain premarket clearance or approval for our existing tests and any new tests we may develop, which may force us to cease marketing our tests until we obtain

the required clearance or approval. The premarket review process can be lengthy, expensive, time-consuming and unpredictable. Further, obtaining pre-market clearance may involve, among other things, successfully completing clinical trials. Clinical trials require significant time and cash resources and are subject to a high degree of risk, including risks of experiencing delays, failing to complete the trial or obtaining unexpected or negative results. If we are required to obtain premarket clearance or approval and/or conduct premarket clinical trials, our development costs could significantly increase, our introduction of any new tests we may develop may be delayed and sales of our existing tests could be interrupted or stopped. Any of these outcomes could reduce our revenue or increase our costs and materially adversely affect our business, prospects, results of operations or financial condition. Moreover, any cleared or approved labeling claims may not be consistent with our current claims or adequate to support continued adoption of and reimbursement for our tests. For instance, if we are required by the FDA to label our tests as investigational, or if labeling claims the FDA allows us to make are limited, order levels may decline and reimbursement may be adversely affected. As a result, we could experience significantly increased development costs and a delay in generating additional revenue from our existing tests or from tests we may develop.

In addition, while we qualify all materials used in our products in accordance with the regulations and guidelines of CLIA, the FDA could promulgate regulations or guidance documents impacting our ability to purchase materials necessary for the performance of our tests. If any of the reagents we obtain from suppliers and use in our tests are affected by future regulatory actions, our business could be adversely affected, including by increasing the cost of testing or delaying, limiting or prohibiting the purchase of reagents necessary to perform testing with our products.

Failure to comply with any applicable FDA requirements could trigger a range of enforcement actions by the FDA, including warning letters, civil monetary penalties, injunctions, criminal prosecution, recall or seizure, operating restrictions, partial suspension or total shutdown of operations and denial of or challenges to applications for clearance or approval, as well as significant adverse publicity.

If we fail to comply with applicable federal, state, local and foreign laboratory licensing requirements, we could lose the ability to perform our tests or experience disruptions to our business.

We are subject to CLIA, a federal law that establishes quality standards for all laboratory testing and is intended to ensure the accuracy, reliability and timeliness of patient results. CLIA requires that we hold a certificate specific to the laboratory examinations we perform and that we comply with various standards with respect to personnel qualifications, facility administration, proficiency testing, quality control, quality assurance and inspections. CLIA certification is required in order for us to be eligible to bill federal and state health care programs, as well as many private third-party payors, for our tests. We have obtained CLIA certification to conduct our tests at our laboratories in Temple City, California and in Houston, Texas. To renew this certification, we are subject to survey and inspection every two years and we may be subject to additional unannounced inspections.

In addition to CLIA requirements, we elect to participate in the accreditation program of CAP. The Centers for Medicare & Medicaid Services, or CMS, has deemed CAP standards to be equally or more stringent than CLIA regulations and has approved CAP as a recognized accrediting organization. Inspection by CAP is performed in lieu of inspection by CMS for CAP-accredited laboratories. Because we are accredited by the CAP Laboratory Accreditation Program, we are deemed to also comply with CLIA. While not required to operate a CLIA-certified laboratory, many private payors require CAP accreditation as a condition to contracting with clinical laboratories to cover their tests. In addition, some countries outside the United States require CAP accreditation as a condition to permitting clinical laboratories to test samples taken from their citizens. Failure to maintain CAP accreditation could have a material adverse effect on the sales of our tests and the results of our operations.

We are also required to maintain a license to conduct testing in the State of California. California laws establish standards for day-to-day operation of our clinical reference laboratory in Temple City, including with respect to the training and skills required of personnel, quality control and proficiency testing requirements. In addition, because we receive test specimens originating from New York, we have obtained a state laboratory permit for our Temple City laboratory from the New York DOH. The New York state laboratory laws, regulations and rules are equal to or more stringent than the CLIA regulations and establish standards for the operation of a clinical laboratory and performance of test services, including education and experience requirements for laboratory directors and personnel; physical requirements of a laboratory facility; equipment validations; and quality management practices. The laboratory director must maintain a Certificate of Qualification issued by New York's DOH in permitted categories. We are subject to on-site routine and complaint-driven inspections under both California and New York state laboratory laws and regulations. If we are found to be out of compliance with either California or New York requirements, the CA Department of Public Health or New York's DOH may suspend, restrict or revoke our license or laboratory permit, respectively (and, with respect to California, may exclude persons or entities from owning, operating or directing a laboratory for two years following such license revocation), assess civil monetary penalties, or impose specific corrective action plans, among other sanctions. Any such actions could materially and adversely affect our business by prohibiting or limiting our ability to offer testing.

Moreover, certain other states require us to maintain out-of-state laboratory licenses or obtain approval on a test-specific basis to perform testing on specimens from these states. Additional states could adopt similar licensure requirements in the future, which could require us to modify, delay or discontinue our operations in such jurisdictions. We are also subject to regulation in foreign jurisdictions, which we expect will increase as we seek to expand international utilization of our tests or if jurisdictions in which we pursue operations adopt new or modified licensure requirements. Foreign licensure requirements could require review and modification of our tests in order to offer them in certain jurisdictions or could impose other limitations, such as restrictions on the transport of human blood or other tissue necessary for us to perform our tests that may limit our ability to make our tests available outside the United States. Additionally, complying with licensure requirements in new jurisdictions may be expensive, time-consuming and subject us to significant and unanticipated delays.

Failure to comply with applicable clinical laboratory licensure requirements could result in a range of enforcement actions, including license suspension, limitation or revocation, directed plan of correction, onsite monitoring, civil monetary penalties, civil injunctive suits, criminal sanctions and exclusion from the Medicare and Medicaid programs, as well as significant adverse publicity. Any sanction imposed under CLIA, its implementing regulations or state or foreign laws or regulations governing clinical laboratory licensure, or our failure to renew our CLIA certificate or any other required local, state or foreign license or accreditation, could have a material adverse effect on our business, financial condition and results of operations. In such case, even if we were able to bring our laboratory back into compliance, we could incur significant expenses and lose revenue while doing so.

We are subject to broad legal requirements regarding the information we test and analyze, and any failure to comply with these requirements could result in harsh penalties, damage our reputation and materially harm our business.

Our business is subject to federal and state laws that protect the privacy and security of personal information, including HIPAA, HITECH, and similar state laws, as well as numerous other federal, state and foreign laws, including consumer protection laws and regulations, that govern the collection, dissemination, use, access to, confidentiality and security of patient health information. In addition, new laws and regulations that further protect the privacy and security of medical records or medical information are regularly considered by federal and state governments. Further, with the recent increase in publicity regarding data breaches resulting in improper dissemination of consumer information, federal and state governments have passed or are considering laws regulating the actions that a business must take if it experiences a data breach, such as prompt disclosure to affected customers. The FTC and states' Attorneys General have also brought enforcement actions and prosecuted some data breach cases as unfair and/or deceptive acts or practices under the FTC Act and comparable state laws. In addition to data breach notification laws, some states have enacted statutes and rules requiring businesses to reasonably protect certain types of personal information they hold or to otherwise comply with certain specified data security requirements for personal information. We intend to continue to comprehensively protect all personal information and to comply with all applicable laws regarding the protection of such information.

Any failure to implement appropriate security measures to protect the confidentiality and integrity of personal information or any breach or other failure of these systems resulting in the unauthorized access, manipulation, disclosure or loss of this information could result in our noncompliance with these laws. Penalties for failure to comply with a requirement of HIPAA and HITECH vary significantly depending on the failure and could include civil monetary or criminal penalties.

The European Union formally adopted the GDPR, in 2016, which applies to all European Union member states from May 25, 2018 and replaced the European Data Protection Directive. The GDPR introduced stringent new data protection and operational requirements in the European Union for companies that receive or process personal data of European residents, as well as substantial fines for breaches of the data protection rules. It has increased our responsibility and liability in relation to personal data that we process and we are required to maintain additional mechanisms ensuring compliance with the GDPR. The GDPR is a complex law and the regulatory guidance is still evolving, including with respect to how the GDPR should be applied in the context of clinical studies and the collection, processing, and storage of sensitive personal data, including genetic information and testing. Furthermore, many of the countries within the European Union are still in the process of drafting supplementary data protection legislation in key fields where the GDPR allows for national variation, including the fields of clinical study and other health-related information. These variations in the law may raise our costs of compliance and result in greater legal risks. On July 16, 2020, the Court of Justice of the European Union or the CJEU, issued a landmark opinion in the case *Maximilian Schrems vs. Facebook* (Case C-311/18), called *Schrems II.* This decision calls into question certain data transfer mechanisms as between the European Union member states and the US. The CJEU is the highest court in Europe and the *Schrems II* decision heightens the burden on data importers to assess U.S. national security laws on their business, and future actions of European Union data protection authorities are difficult to predict at this early date. Consequently, there is some risk of any such data transfers from the European Union being halted by one or more European Union member states. Any contractual arrangements requiring the transfer of personal data from the European Union to us in the United States will require greater scrutiny and assessments as required under *Schrems II* and may have an adverse impact on cross-border transfers of personal data, or increase costs of compliance.

In addition, many states, such as California (where one of our clinical laboratories is located), have implemented similar privacy laws and regulations, such as the California Confidentiality of Medical Information Act, that impose restrictive requirements regulating the use and disclosure of patient health information and other personal information. In addition to fines and penalties imposed upon violators, some of these state laws also afford private rights of action to individuals who believe their personal information has been misused. California's patient privacy laws, for example, provide for penalties of up to $250,000 and permit injured parties to sue for damages. In addition to the California Confidentiality of Medical Information Act, California also recently enacted the CCPA, which became effective on January 1, 2020. The CCPA has been characterized as the first "GDPR-like" privacy statute to be enacted in the United States because it mirrors a number of the key provisions of the GDPR. The CCPA establishes a new privacy framework for covered businesses in the State of California by creating an expanded definition of personal information, establishing new data privacy rights for California residents, imposing special rules on the collection of personal data from minors, and creating a new and potentially severe statutory damages framework for violations of the CCPA and for businesses that fail to implement reasonable security procedures and practices to prevent data breaches. On November 3, 2020, California voters passed the California Privacy Rights Act, or CPRA, which expands the CCPA. The CPRA will be fully effective in January of 2023 and, among other things, establishes the California Privacy Protection Agency, or CPPA, a new regulatory authority charged with administering and enforcing the CRPA and privacy rights in California. The CPPA will have the power to levy fines and bring other enforcement actions. The CPRA could impact our operations or that of our collaborators and business partners and impose new regulatory requirements and increase costs of compliance. Other states are considering expanded privacy legislation similar to the GDPR and CPRA, and several federal privacy proposals are under consideration in the current session of Congress.

The interplay of federal and state laws may be subject to varying interpretations by courts and government agencies, creating complex compliance issues for us and potentially exposing us to additional expense, adverse publicity and liability. Further, as regulatory focus on privacy issues continues to increase and laws and regulations concerning the protection of personal information expand and become more complex, these potential risks to our business could intensify. Additionally, the interpretation, application and interplay of consumer and health-related data protection laws in the United States, Europe and elsewhere are often uncertain, contradictory and in flux. As a result, it is possible that laws may be interpreted and applied in a manner that is inconsistent with our current practices. Moreover, these laws and their interpretations are constantly evolving and they may become more stringent over time. Complying with these laws or any new laws or interpretations of their application could involve significant time and substantial costs or require us to change our business practices and compliance procedures in a manner adverse to our business. We may not be able to obtain or maintain compliance with the diverse privacy and security requirements in all of the jurisdictions in which we currently or plan to do business, and failure to comply with any of these requirements could result in civil or criminal penalties, harm our reputation and materially adversely affect our business.

We conduct business in a heavily regulated industry. Complying with the numerous statutes and regulations pertaining to our business is expensive and time-consuming, and any failure by us, our consultants or commercial partners to comply could result in substantial penalties.

Our industry and our operations are heavily regulated by various federal, state, local and foreign laws and regulations, and the regulatory environment in which we operate could change significantly and adversely in the future. These laws and regulations currently include, among others:

- the HHS policy decision from August 2020 establishing that FDA does not presently have authority to oversee LDTs;
- CLIA's and CAP's regulation of our laboratory activities;
- federal and state laws and standards affecting reimbursement by government payors, including certain coding requirements to obtain reimbursement and certain changes to the payment mechanism for clinical laboratory services resulting from the Protecting Access to Medicare Act of 2014, or PAMA;
- HIPAA and HITECH, which establish comprehensive federal standards with respect to the privacy and security of PHI, and requirements for the use of certain standardized electronic transactions with respect to transmission of such information, as well as similar laws protecting other types of personal information;
- state laws governing the maintenance of personally identifiable information of state residents, including medical information, and which impose varying breach notification requirements, some of which allow private rights of action by individuals for violations and also impose penalties for such violations;
- the federal Anti-Kickback Statute, which generally prohibits knowingly and willfully offering, paying, soliciting or receiving remuneration, directly or indirectly, in return for or to induce a person to refer to an individual any good, facility, item or service that is reimbursable under a federal health care program;
- the federal Stark Law, which generally prohibits a physician from making a referral for certain designated health services covered by the Medicare program, including laboratory and pathology services, if the physician or an immediate family member has a financial relationship with the entity providing the designated health services;

- the federal False Claims Act, which imposes civil penalties, and provides for civil whistleblower or qui tam actions, against individuals or entities for knowingly presenting, or causing to be presented, to the federal government, claims for payment that are false or fraudulent or making a false statement to avoid, decrease or conceal an obligation to pay money to the federal government;
- the federal Civil Monetary Penalties Law, which generally prohibits, among other things, the offering or transfer of remuneration to a Medicare or Medicaid beneficiary if it is likely to influence the beneficiary's selection of a particular provider, practitioner or supplier of services reimbursable by Medicare or Medicaid;
- the Affordable Care Act, which, among other things, establishes a requirement for providers and suppliers to report and return any overpayments received from the Medicare and Medicaid programs;
- other federal and state fraud and abuse laws, such as anti-kickback laws, prohibitions on self-referral, fee-splitting restrictions, insurance fraud laws, anti-markup laws, prohibitions on the provision of tests at no or discounted cost to induce physician or patient adoption and false claims acts, some of which may extend to services reimbursable by any third-party payor, including private payors;
- the federal Physician Sunshine Payment Act and various state laws on reporting relationships with health care providers and customers, which could be determined to apply to our LDTs;
- the prohibition on reassignment of Medicare claims;
- state laws that prohibit other specified healthcare practices, such as billing physicians for tests that they order, waiving coinsurance, copayments, deductibles and other amounts owed by patients, business corporations practicing medicine or employing or engaging physicians to practice medicine and billing a state Medicaid program at a price that is higher than what is charged to one or more other payors;
- the FCPA, and applicable foreign anti-bribery laws;
- federal, state and local regulations relating to the handling and disposal of regulated medical waste, hazardous waste and biohazardous waste and workplace safety for healthcare employees;
- laws and regulations relating to health and safety, labor and employment, public reporting, taxation and other areas applicable to businesses generally, all of which are subject to change, including, for example, the significant changes to the taxation of business entities were enacted in December 2017; and
- similar foreign laws and regulations that apply to us in the countries in which we operate or may operate in the future.

The genetic testing industry is currently under a high degree of government scrutiny. The Office of Inspector General for the Department of Health and Human Services and a variety of states' Attorneys General have issued fraud alerts regarding a variety of cancer genetic testing fraud schemes, and the Department of Justice has announced indictments in such fraud schemes involving a variety of individuals and entities, including genetic testing and other laboratories, physicians who order genetic testing for a large volume of patients without treating them, and third parties who arranged for the genetic testing by approaching patients through telemarketing calls, booths at public events, health fairs, and door-to-door visits. These individuals then shared the proceeds received from Medicare, TRICARE, and other third-party payors. This increased regulatory scrutiny could decrease demand for our testing services or increase our costs of regulatory compliance, either of which could have a material adverse effect on our business.

Any future growth of our business, including, in particular, growth of our international business and continued reliance on consultants, commercial partners and other third parties, may increase the potential for violating these laws. In some cases, our risk of violating these or other laws and regulations is further increased because of the lack of their complete interpretation by applicable regulatory authorities or courts, and their provisions are thus open to a variety of interpretations. Our recently launched Picture Genetics line of at-home genetic test offerings are patient-initiated screening tests, which may receive greater scrutiny from regulatory authorities than our traditional testing services that are offered directly to health care providers.

We have adopted policies and procedures designed to comply with these laws and regulations and, in the ordinary course of our business, we conduct internal reviews of our compliance with these laws. Our compliance is also subject to review by applicable government agencies. It is not always possible to identify and deter misconduct by employees, distributors, consultants and commercial partners, 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 government investigations or other actions or lawsuits stemming from a failure to comply with applicable laws or regulations. Additionally, we are subject to the risk that a person or government could allege such fraud or other misconduct, even if none occurred. Any action brought against us for violation of these or other laws or regulations, even if we successfully defend against it, could cause us to incur significant legal expenses, divert our management's attention from the operation of our business and harm our reputation. If our operations, including the conduct of our employees, consultants and commercial partners, are found to be in violation of any of these laws and regulations, we may be subject to applicable penalties associated with the violation, including administrative, civil and criminal penalties, damages, fines, individual imprisonment, exclusion from participation in federal healthcare programs, refunding of payments received by us and curtailment or cessation of our operations. Any of these consequences could seriously harm our business and our financial results.

Healthcare policy changes, including recently enacted and proposed new legislation reforming the U.S. healthcare system, could cause significant harm to our business, operations and financial condition.

The ACA made a number of substantial changes to the way healthcare is financed both by governmental and private payors. The ACA also introduced mechanisms to reduce the per capita rate of growth in Medicare spending if expenditures exceed certain targets. Any such reductions could affect reimbursement payments for our tests. The ACA also contains a number of other provisions, including provisions governing enrollment in federal and state healthcare programs, reimbursement matters and fraud and abuse, which we expect will impact our industry and our operations in ways that we cannot currently predict.

In April 2014, Congress passed PAMA, which included substantial changes to the way in which clinical laboratory services will be paid under Medicare. Under PAMA, certain clinical laboratories are required to periodically report to CMS private payor payment rates and volumes for their tests. Laboratories that fail to report the required payment information may be subject to substantial civil monetary penalties. Further, effective January 1, 2018, under PAMA, Medicare reimbursement for diagnostic tests will be based on the weighted-median of the payments made by private payors for these tests, rendering private payor payment levels even more significant. As a result, future Medicare payments may fluctuate more often and become subject to the willingness of private payors to recognize the value of diagnostic tests generally and any given test individually. The impact of this new payment system on rates for our tests, including any current or future tests we may develop, is uncertain.

On December 20, 2019, President Trump signed the Further Consolidated Appropriations Act, which included the LAB Act. The LAB Act delayed by one year the reporting of payment data under PAMA for CDLTs that are not ADLTs until the first quarter of 2021. The CARES Act, which was signed into law on March 27, 2020, delayed the reporting period by an additional year, until the first quarter of 2022. As a result, Medicare payment rates determined by data reported in 2017 will continue through December 31, 2022.

In addition, under PAMA, as amended by the LAB Act, any reduction to a particular payment rate resulting from the new methodology is limited to 10% per test per year in 2020 and to 15% per test per year in each of the years 2021 through 2023. The CARES Act delayed the 15% cut scheduled to take effect on January 1, 2021, for one year.

We cannot predict whether or when these or other recently enacted healthcare initiatives will be implemented at the federal or state level or how any such legislation or regulation may affect us. For instance, the payment reductions imposed by the ACA and the changes to reimbursement amounts paid by Medicare for tests such as ours based on the procedure set forth in PAMA, could limit the prices we will be able to charge or the amount of available reimbursement for our tests, which would reduce our revenue. Additionally, these healthcare policy changes could be amended or additional healthcare initiatives could be implemented in the future. For instance, there is uncertainty regarding the continued effect of the ACA in its current form and in light of the policies of the certain members of Congress, who have threatened to repeal, replace or change the ACA. During his term in office, President Trump signed Executive Orders and other directives designed to delay the implementation of certain provisions of the ACA or otherwise circumvent some of the requirements for health insurance mandated by the ACA. Although Congress has not passed comprehensive repeal legislation, at least two bills affecting the implementation of certain taxes under the ACA have been signed into law. For example, the Tax Cuts and Jobs Act of 2017 repealed 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.” In December 2019, the Fifth Circuit Court of Appeals upheld a district court’s finding that the individual mandate in the ACA is unconstitutional following removal of the penalty provision from the law. However, the Fifth Circuit reversed and remanded the case to the district court to determine if other reforms enacted as part of the ACA but not specifically related to the individual mandate or health insurance could be severed from the rest of the ACA so as not to have the law declared invalid in its entirety. On March 2, 2020, the Supreme Court granted the petitions for writs of certiorari to review this case and allocated one hour for oral arguments, which occurred on November 10, 2020. A decision from the Supreme Court is expected to be issued in spring 2021. It is unclear how this litigation and other efforts to repeal and replace the ACA will affect the implementation of that law and our business. However, the new Democrat-led presidential administration has been taking steps to strengthen the ACA and the 117th Congress is not expected to have the same interest in repealing the law, in part due to the healthcare economic impacts of the ongoing COVID-19 pandemic on many subsets of the U.S. population. Following his inauguration on January 20, 2021, President Biden also took immediate steps to order a regulatory freeze on all pending substantive executive actions taken by the previous administration, in order to permit incoming department and agency heads to review whether questions of fact, policy, and law may be implicated and to determine how to proceed.

Further, the impact on our business of the expansion of the federal and state governments’ role in the U.S. healthcare industry generally, including the social, governmental and other pressures to reduce healthcare costs while expanding individual benefits, is uncertain. Any future changes or initiatives could have a materially adverse effect on our business, financial condition, results of operations and cash flows.

Changes in laws and regulations, or in their application, may adversely affect our business, financial condition and results of operations.

The clinical laboratory testing industry is highly regulated, and failure to comply with applicable regulatory, supervisory, accreditation, registration or licensing requirements may adversely affect our business, financial condition and results of operations. In particular, the laws and regulations governing the marketing and research of clinical diagnostic testing are extremely complex, and in many instances there are no clear regulatory or judicial interpretations of these laws and regulations, increasing the risk that we may be found to be in violation of these laws.

Furthermore, the genetic testing industry as a whole is a growing industry and regulatory agencies such as HHS or FDA may apply heightened scrutiny to new developments in the field, or the U.S. Congress may do so. Since 2017, Congress has been working on legislation to create an LDT and IVD regulatory framework that would be separate and distinct from the existing medical device regulatory framework. On March 5, 2020, U.S. Representatives Diana DeGette (D-CO) and Dr. Larry Bucshon (R-IN) formally introduced the VALID Act in the House and an identical version of the bill was introduced in the U.S. Senate by Senators Michael Bennet (D-CO) and Richard Burr (R-NC). As anticipated from a discussion draft of the legislation released for stakeholder comment in December 2018, the VALID Act would codify into law the term "in vitro clinical test" to create a new medical product category separate from medical devices, and bring all such products within the scope of FDA's oversight. It is unclear whether the VALID Act would be passed by Congress in its current form or signed into law by President Trump.

In addition, there has been a recent trend of increased U.S. federal and state regulation, scrutiny and enforcement relating to payments made to referral sources, which are governed by laws and regulations including the Stark law, the federal Anti-Kickback Statute, the federal False Claims Act, as well as state equivalents of such laws. For example, EKRA, was passed in October 2018 as part of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act. Similar to the federal Anti-Kickback Statute, EKRA imposes criminal penalties for knowing or willful payment or offer, or solicitation or receipt, of any remuneration, whether directly or indirectly, overtly or covertly, in cash or in kind, in exchange for the referral or inducement of laboratory testing (among other health care services) unless a specific exception applies. However, unlike the federal Anti-Kickback Statute, EKRA is not limited to services covered by federal or state health care programs but applies more broadly to services covered by "health care benefit programs," including commercial insurers. Additionally, because EKRA's exceptions are not identical to the federal Anti-Kickback Statute's safe harbors, compliance with a federal Anti-Kickback Statute safe harbor does not guarantee protection under EKRA. As currently drafted, EKRA potentially expands the universe of arrangements that could be subject to government enforcement under federal fraud and abuse laws. Because EKRA is a new law, there is no agency guidance or court precedent to indicate how and to what extent it will be applied and enforced. We cannot assure you that our relationships with physicians, sales representatives, hospitals, customers, or any other party will not be subject to scrutiny or will survive regulatory challenge under such laws. If imposed for any reason, sanctions under the EKRA could have a negative effect on our business.

Marketing of our COVID-19 tests under the EUA from FDA is subject to certain limitations and we are required to maintain compliance with the terms of the EUA, among other things, and the continuance of our EUA is subject to government discretion.

Since March 2020, we have commercially launched several molecular tests for the detection of SARS-CoV-2, the virus that causes COVID-19, including NGS and RT-PCR-based tests as well as related antibody testing options. In May 2020, we were granted an EUA for our RT-PCR-based test for the detection of SARS-CoV-2 using upper and lower respiratory specimens (nasal, nasopharyngeal, and oropharyngeal swabs). In June 2020, we received an amendment to the EUA to add our at-home testing solution for COVID-19 through Picture Genetics.

Although there are certain regulatory requirements the FDA has waived for the duration of the EUA, we remain subject to specific conditions of the authorizations. As with other FDA-regulated tests, issues could emerge during the course of the marketing and use of our test under an EUA that could impact our ability to continue the sale and distribution of the authorized test or home collection kit. Factors that may be out of the Company's control, such as the availability of supplies and key personnel, may impact the Company's ability to maintain testing capacity and test result delivery, and its other responses to the COVID-19 pandemic, and may have an adverse impact on the Company's operations. Our EUA remains effective only until the HHS declaration is terminated or revoked, and FDA also may revoke an EUA if it determines the criteria for issuance are no longer met or other circumstances make such revocation appropriate to protect the public health or safety.

However, on August 19, 2020, HHS published a policy announcement that FDA must go through the formal notice-and-comment rulemaking process before requiring pre-market review (including emergency use authorization) of LDTs rather than making such changes through guidance documents, compliance manuals, or other informal policy statements. Based on HHS's policy announcement, which specifically states that LDT developers are not required to obtain an EUA or other marketing authorization from FDA prior to commercialization, we believe we may continue to market our COVID-19 tests even if our EUA is terminated or

revoked. FDA may seek to establish a new regulation through notice-and-comment rulemaking requiring pre-market review and authorization of LDTs, and if that were to occur and if our EUA is either terminated or revoked, then in order to continue marketing our COVID-19 tests, we could be required to obtain the necessary regulatory clearances or approvals and be subject to the full and usual regulatory obligations. It is currently unclear whether the Biden Administration, which assumed control of the executive branch on January 20, 2021, would take the same position as the former administration or seek to revoke or revise the HHS policy announcement from August 2020.

If the hazardous materials we use in our operations cause contamination or injury, we could be liable for resulting damages.

Our operations require the use of regulated medical waste, hazardous waste and biohazardous waste, including chemicals, biological agents and compounds and blood and other tissue specimens. We are subject on an ongoing basis to federal, state and local laws and regulations governing the use, storage, handling and disposal of these hazardous materials and other specified waste products. Although we typically use licensed or otherwise qualified outside vendors to dispose of this waste, applicable laws and regulations could hold us liable for damages and fines if our, or others', business operations or other actions result in contamination to the environment or personal injury due to exposure to hazardous materials. We cannot eliminate the risk of contamination or injury, and any liability imposed on us for any resulting damages or injury could exceed our resources or any applicable insurance coverage. The cost to secure such insurance coverage and to comply with these laws and regulations could become more significant in the future, and any failure to comply could result in substantial costs and other business and reputational consequences, any of which could negatively affect our operating results.

If we were deemed to be an investment company under the Investment Company Act of 1940, as amended, or the 1940 Act, applicable restrictions could make it impractical for us to continue our business as currently conducted and could have a material adverse effect on our business, financial condition and results of operations.

Under the 1940 Act, a company generally will be deemed to be an "investment company" for purposes of the 1940 Act if (1) it is, or holds itself out as being, engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting or trading in securities or (2) it engages, or proposes to engage, in the business of investing, reinvesting, owning, holding or trading in securities and it owns or proposes to acquire investment securities having a value exceeding 40% of the value of its total assets (exclusive of U.S. government securities and cash items) on an unconsolidated basis. We do not believe that we are an "investment company," as such term is defined in either of those sections of the 1940 Act, and we intend to conduct our operations so that we will not be deemed an investment company. However, if we were to be deemed an investment company, restrictions imposed by the 1940 Act, including limitations on our capital structure and our ability to transact with affiliates, could make it impractical for us to continue our business as it is currently being conducted and could have a material adverse effect on our business, financial condition and results of operations.

Our partnerships in China subject us to risks and uncertainties relating to the laws and regulations of China and the changes in relations between the United States and China.

Under its current leadership, the government of China has been pursuing economic reform policies, including by encouraging foreign trade and investment. However, there is no assurance that the Chinese government will continue to pursue such policies, that such policies will be successfully implemented, that such policies will not be significantly altered, or that such policies will be beneficial to our partnerships in China. China's system of laws can be unpredictable, especially with respect to foreign investment and foreign trade. The United States government has called for substantial changes to foreign trade policy with China and has raised, and has proposed to further raise in the future, tariffs on several Chinese goods. China has retaliated with increased tariffs on United States goods. Moreover, China's legislature has recently adopted a national security law to substantially change the way Hong Kong has been governed since the territory was handed over by the United Kingdom to China in 1997. This law increases the power of the central government in Beijing over Hong Kong, limits the civil liberties of residents of Hong Kong and could restrict the ability of businesses in Hong Kong to continue to conduct business or to continue to with business as previously conducted. The U.S. State Department has indicated that the United States no longer considers Hong Kong to have significant autonomy from China. The U.S. State Department has recently enacted sanctions related to China's governing of Hong Kong. Any further changes in United States trade policy could trigger retaliatory actions by affected countries, including China, resulting in trade wars. Any regulatory changes and changes in United States and China relations may have a material adverse effect on our partnerships in China which could materially harm our business and financial condition.

We could be adversely affected by violations of the FCPA and other anti-bribery laws.

Our international operations are subject to various anti-bribery laws, including the FCPA and similar anti-bribery laws in the non-U.S. jurisdictions in which we operate. The FCPA prohibits companies and their intermediaries from offering, making, or

authorizing improper payments to non-U.S. or foreign officials for the purpose of obtaining or retaining business or securing any other improper advantage. These laws are complex and far-reaching in nature, and we may be required in the future to alter one or more of our practices to be in compliance with these laws or any changes to these laws or their interpretation.

We currently engage in significant business outside the United States, and we plan to increase our international operations in the future. These operations could involve dealings with governments, foreign officials and state-owned entities, such as government hospitals, outside the United States. In addition, we may engage distributors, other commercial partners or third-party intermediaries, such as representatives or contractors, or establish joint ventures or other arrangements to manage or assist with promotion and sale of our tests abroad and obtaining necessary permits, licenses and other regulatory approvals. Any such third parties could be deemed to be our agents and we could be held responsible for any corrupt or other illegal activities of our employees or these third parties, even if we do not explicitly authorize or have actual knowledge of such activities. We have instituted policies, procedures, and internal controls reasonably designed to promote compliance with the FCPA and other anti-corruption laws and we exercise a high degree of vigilance in maintaining, implementing and enforcing these policies and controls. However, these policies and controls could be circumvented or ignored and they cannot guarantee compliance with these laws and regulations. Any violations of these laws or allegations of such violations could disrupt our operations, involve significant management distraction, involve significant costs and expenses, including legal fees, and harm our reputation. Additionally, other U.S. companies in the medical device and pharmaceutical fields have faced substantial fines and criminal penalties in the recent past for violating the FCPA, and we could also incur these types of penalties, including criminal and civil penalties, disgorgement, and other remedial measures, if we violate the FCPA or other applicable anti-bribery laws. Any of these outcomes could result in a material adverse effect on our business, prospects, financial condition, or results of operations.

Our services present the potential for embezzlement, identity theft or other similar illegal behavior by our employees, consultants, service providers or commercial partners.

Our operations involve the use and disclosure of personal and business information that could be used to impersonate third parties or otherwise gain access to their data or funds. If any of our employees, consultants, service providers or commercial partners takes, converts or misuses these funds or data, we could be liable for any resulting damages, which could harm our financial condition and damage our business reputation.

We could be adversely affected by alleged violations of the FTC Act or other truth-in-advertising and consumer protection laws.

Our advertising for laboratory services and tests is subject to federal truth-in-advertising laws enforced by the FTC, as well as comparable state consumer protection laws. Under the FTC Act, the FTC is empowered, among other things, to (a) prevent unfair methods of competition and unfair or deceptive acts or practices in or affecting commerce; (b) seek monetary redress and other relief for conduct injurious to consumers; and (c) gather and compile information and conduct investigations relating to the organization, business, practices, and management of entities engaged in commerce. The FTC has very broad enforcement authority, and failure to abide by the substantive requirements of the FTC Act and other consumer protection laws can result in administrative or judicial penalties, including civil penalties, injunctions affecting the manner in which we would be able to market services or products in the future, or criminal prosecution. In conjunction with the recent launch of our Picture Genetics line of at-home genetic test offerings that are initiated consumers, we plan to increase our advertising activities that would be subject to these federal and state truth-in-advertising laws. Any actual or perceived non-compliance with those laws could lead to an investigation by the FTC or a comparable state agency, or could lead to allegations of misleading advertising by private plaintiffs. Any such action against us would disrupt our business operations, cause damage to our reputation, and result in a material adverse effects on our business.

Intellectual Property Risks

We primarily rely on trade secret protection, non-disclosure agreements and invention assignment agreements to protect our proprietary information, which may not be effective.

We currently rely on trade secret protection, non-disclosure agreements and invention assignment agreements with our employees, consultants and third-parties to protect our confidential and proprietary information. Although our competitors have utilized and are expected to continue to utilize technologies and methods similar to ours and have aggregated and are expected to continue to aggregate libraries of genetic information similar to ours, we believe our success will depend in part on our ability to develop proprietary methods and libraries and to defend any advantages afforded to us by these methods and libraries relative to our competitors. If we do not protect our intellectual property and other confidential information adequately, competitors may be able to use our proprietary technologies and information and thereby erode any competitive advantages they provide us.

We will be able to protect our proprietary rights from unauthorized use by third parties only to the extent these rights are effectively maintained as confidential. We expect to rely primarily on trade secret and contractual protections for our confidential and proprietary information and we have taken security measures we believe are appropriate to protect this information. These measures, however, may not provide adequate protection for our trade secrets, know-how or other confidential information. We seek to protect our proprietary information by, among other things, entering into confidentiality agreements with employees, consultants and other third parties. These confidentiality agreements may not sufficiently safeguard our trade secrets and other confidential information and may not provide adequate remedies in the event of unauthorized use or disclosure of this information. Enforcing a claim that a party illegally disclosed or misappropriated a trade secret or other proprietary information could be difficult, expensive and time-consuming and the outcome could be unpredictable. In addition, trade secrets or other confidential information could otherwise become known or be independently developed by others in a manner that could prevent legal recourse by us. If any of our trade secrets or other confidential or proprietary information were disclosed or misappropriated or if any such information was independently developed by a competitor, our competitive position could be harmed and our business could suffer.

Litigation or other proceedings or third-party claims of intellectual property infringement or misappropriation could require us to spend significant time and money and prevent us from selling our tests.

We believe our ability to succeed will depend in part on our avoidance of infringement of patents and other proprietary rights owned by third parties, including the intellectual property rights of competitors. There are numerous third-party-owned U.S. and foreign patents, pending patent applications and other intellectual property rights that cover technologies relevant to genetic testing. We may be unaware of patents or other intellectual property rights that a third-party might assert are infringed by our business, and there may be pending patent applications that, if issued, could be asserted against us. As a result, our existing or future operations may be alleged or found to infringe existing or future patents or other intellectual property rights of others. Moreover, as we continue to sell our existing tests and if we launch new tests and enter new markets, competitors may claim that our tests infringe or misappropriate their intellectual property rights as part of strategies designed to impede our existing operations or our entry into new markets.

If a patent infringement or misappropriation of intellectual property lawsuit was brought against us, we could be forced to discontinue or delay our development or sales of any tests or other activities that are the subject of the lawsuit while it is pending, even if it is not ultimately successful. In the event of a successful claim of infringement against us, we could be forced to pay substantial damages, including treble damages and attorneys' fees if we were found to have willfully infringed patents; obtain one or more licenses, which may not be available on commercially reasonable terms when needed or at all; pay royalties, which may be substantial; or redesign any infringing tests or other activities, which may be impossible or require substantial time and expense. In addition, third parties making claims against us for infringement or misappropriation of their patents or other intellectual property rights could seek and obtain injunctive or other equitable relief, which, if granted, could prohibit us from performing some or all of our tests. Further, defense against these claims, regardless of their merit or success, could cause us to incur substantial expenses, be a substantial diversion to our management and other employee resources and significantly harm our reputation. Any of these outcomes could delay our introduction of new tests, significantly increase our costs or prevent us from conducting certain of our essential activities, which could materially adversely affect our ability to operate and grow our business.

Developments in patent law could have a negative impact on our business.

From time to time, the Supreme Court, other federal courts, the U.S. Congress or the U.S. Patent and Trademark Office, or USPTO, may change the standards of patentability, and any such changes could have a negative impact on our business.

Three cases involving diagnostic method claims and "gene patents" have been decided by the Supreme Court in recent years. In March 2012, the Supreme Court issued a decision in *Mayo Collaborative v. Prometheus Laboratories*, or Prometheus, a case involving patent claims directed to optimizing the amount of drug administered to a specific patient, holding that the applicable patents' claims failed to incorporate sufficient inventive content above and beyond mere underlying natural correlations to allow the claimed processes to qualify as patent-eligible processes that apply natural laws. In June 2013, the Supreme Court decided *Association for Molecular Pathology v. Myriad Genetics*, or Myriad, a case challenging the validity of patent claims relating to the breast cancer susceptibility genes BRCA1 and BRCA2, holding that isolated genomic DNA that exists in nature, such as the DNA constituting the BRCA1 and BRCA2 genes, is not patentable subject matter, but that cDNA, which is an artificial construct created from RNA transcripts of genes, may be patent eligible. In June 2014, the Supreme Court decided *Alice Corporation Pty. Ltd. v. CLS Bank International*, or Alice, which affirmed the Prometheus and Myriad decisions and provided additional interpretation.

If we make efforts to seek patent protection for our technologies and tests, these efforts may be negatively impacted by the Prometheus, Myriad and Alice decisions, rulings in other cases or guidance or procedures issued by the USPTO. However, we cannot fully predict the impact of the Prometheus, Myriad and Alice decisions on the ability of genetic testing, biopharmaceutical or other companies to obtain or enforce patents relating to DNA, genes or genomic-related discoveries in the future, as the contours of when claims reciting laws of nature, natural phenomena or abstract ideas may meet patent eligibility requirements are not clear and may take

years to develop via interpretation at the USPTO and in the courts. There are many previously issued patents claiming nucleic acids and diagnostic methods based on natural correlations that issued before these recent Supreme Court decisions and, although many of these patents may be invalid under the standards set forth in these decisions, they are presumed valid and enforceable until they are successfully challenged, and third parties holding these patents could allege that we infringe or request that we obtain a license under such patents. Whether based on patents issued before or after these Supreme Court decisions, we could be forced to defend against claims of patent infringement or obtain license rights, if available, under these patents. In particular, although the Supreme Court has held in Myriad that isolated genomic DNA is not patent-eligible subject matter, third parties could allege that our activities infringe other classes of gene-related patent claims. There are numerous risks associated with any patent infringement claim that may be brought against us, as discussed above under "—Litigation or other proceedings or third-party claims of intellectual property infringement or misappropriation could require us to spend significant time and money and prevent us from selling our tests."

In addition, the Leahy-Smith America Invents Act, or America Invents Act, which was signed into law in 2011, includes a number of significant changes to U.S. patent law. These changes include a transition from a "first-to-invent" system to a "first-to-file" system, changes to the way issued patents are challenged and changes to the way patent applications are disputed during the examination process. These changes may favor larger and more established companies that have greater resources to devote to patent application filing and prosecution. The USPTO has developed new regulations and procedures to govern the full implementation of the America Invents Act, but the impact of the America Invents Act on the cost of prosecuting any patent applications we may file, our ability to obtain patents based on our discoveries if we pursue them and our ability to enforce or defend any patents that may issue remains uncertain.

These and other substantive changes to U.S. patent law could affect our susceptibility to patent infringement claims and our ability to obtain any patents we may pursue and, if obtained, to enforce or defend them, any of which could have a material adverse effect on our business.

We may not be able to enforce our intellectual property rights outside the United States.

The laws of some foreign countries do not protect proprietary rights to the same extent as the laws of the United States, and many companies have encountered significant challenges in establishing and enforcing their proprietary rights outside the United States. These challenges can be caused by the absence of rules and methods for the establishment and enforcement of intellectual property rights in certain jurisdictions. In addition, the legal systems of some countries, particularly developing countries, do not favor the enforcement of certain intellectual property protection, especially relating to healthcare. These aspects of many foreign legal systems could make it difficult for us to prevent or stop the misappropriation of our intellectual property rights in these jurisdictions. Moreover, changes in the law and legal decisions by courts in foreign countries could affect our ability to obtain adequate protection for our technologies and enforce our intellectual property rights. As a result, our efforts to protect and enforce our intellectual property rights outside the United States may prove inadequate, in which case our ability to remain competitive and grow our business and revenue could be materially harmed.

Third parties may assert that our employees or consultants have wrongfully used or disclosed confidential information or misappropriated trade secrets.

We employ individuals who were previously employed at universities and biometric solution, genetic testing, diagnostic or other healthcare companies, including our competitors or potential competitors. Further, we may become subject to ownership disputes in the future arising from, for example, conflicting obligations of consultants or others who are involved in developing our and other parties' technologies and intellectual property rights. Although we try to ensure that our employees and consultants do not use the proprietary information or know-how of others in their work for us, we may be subject to claims that we or our employees or consultants have inadvertently or otherwise used or disclosed intellectual property rights, including trade secrets or other proprietary information, of a former employer or other third-party. Litigation may be necessary to defend against these claims, should they arise. If we fail in defending against any such claims, we could be subject to monetary damages and the loss of valuable intellectual property rights or personnel. Even if we are successful in defending against any such claims, litigation could result in substantial costs, distract management and other employees and damage our reputation.

Common Stock Risks

An active, liquid trading market for our common stock may not be sustained, which could make it difficult for stockholders to sell their shares of our common stock.

An active trading market for our common stock may not be sustained. Further, Mr. Hsieh, our founder, Chief Executive Officer and Chairman of our board of directors, beneficially owns 28% of our outstanding voting equity as of December 31, 2020. As a result, fewer shares are actively traded in the public market, which reduces the liquidity of our common stock. The lack of an active trading market could impair our stockholders' ability to sell their shares at the desired time or at a price considered reasonable. Further, an inactive trading market may impair our ability to raise capital by selling shares of our common stock in the future, and may impair our ability to enter into strategic relationships or acquire companies or technologies using shares of our common stock as consideration.

Our common stock is listed on the Nasdaq Global Market, or Nasdaq, under the symbol "FLGT." If we fail to satisfy the continued listing standards of Nasdaq, however, we could be de-listed, which would negatively impact the price and liquidity of our common stock.

The price of our common stock may be volatile and you could lose all or part of your investment.

The trading price of our common stock has experienced, and may continue to experience, wide fluctuations and significant volatility. This volatility may be exacerbated by the relatively small and illiquid market for our common stock. Other factors that may contribute to this volatility include, among others:

- actual or anticipated fluctuations in our operating results;
- competition from existing tests or new tests that may emerge, particularly if competitive factors in our industry, including prices for genetic or other testing, become more acute;
- failures to meet or exceed financial estimates and projections of the investment community or guidance we have provided to the public;
- issuance of new or updated research or reports by securities analysts or changed recommendations for our common stock;
- announcements by us or our competitors of significant acquisitions, investments, strategic relationships, joint ventures, collaborations or capital commitments;
- the timing and amount of our investments in our business and the market's perception of these investments and their impact on our prospects;
- actual or anticipated changes in laws or regulations applicable to our business or our tests;
- additions or departures of key management or other personnel;
- changes in coverage and reimbursement by current or potential payors;
- inability to obtain additional funding as and when needed on reasonable terms;
- disputes or other developments with respect to our or others' intellectual property rights;
- product liability claims or other litigation;
- sales of our common stock by us or our stockholders;
- general economic, political, industry and market conditions, including factors not directly related to our operating performance or the operating performance of our competitors, such as increased uncertainty in the U.S. regulatory environment for healthcare, trade and tax-related matters;
- events that affect, or have the potential to affect, general economic conditions, including but not limited to political unrest, global trade wars, natural disasters, act of war, terrorism, or disease outbreaks (such as the global pandemic related to COVID-19);
- and the other risk factors discussed in this report.

In addition, the stock market in general, and the market for the stock of companies in the life sciences and technology industries in particular, has experienced extreme price and volume fluctuations in recent years that have at times been unrelated or disproportionate to the operating performance of specific companies. These broad market and industry factors may negatively affect the market price of our common stock, regardless of our actual operating performance. In addition, in the past, following periods of volatility in the overall market and the market price of a particular company's securities, securities class action litigation has often been instituted against such company. This type of litigation, if instituted against us, could result in substantial costs, a diversion of our management's attention and resources and could damage our reputation.

Our principal stockholders and management own a significant percentage of our capital stock and are able to exert significant control over matters subject to stockholder approval.

Our executive officers, directors, beneficial owners of 5% or more of our outstanding voting equity and their respective affiliates collectively beneficially owns approximately 32% of our outstanding voting equity as of December 31, 2020, and of this, Mr. Hsieh, our founder, Chief Executive Officer and Chairman of our board of directors, by himself beneficially owns 28% of our outstanding voting equity as of December 31, 2020. As a result, these stockholders have the ability to control matters submitted to our stockholders for approval, including elections of directors, amendments to our organizational documents or approval of any merger, sale of assets or other major corporate transaction. This concentration of ownership may prevent or discourage unsolicited acquisition proposals or offers to acquire our common stock that some of our stockholders feel are in their best interests, as the interests of these stockholders may not coincide with the interests of our other stockholders and they may act in a manner that advances their best interests and not necessarily those of all of our stockholders. Further, this concentration of ownership could adversely affect the prevailing market price for our common stock.

Sales of a substantial number of shares of our common stock in the public market, or the perception that such sales could occur, could cause the price of our common stock to fall.

Sales of a substantial number of shares of our common stock in the public market could occur at any time. Any such sales, or the perception in the market that sales are pending or could occur, could reduce the market price of our common stock. All of the outstanding shares of our common stock are freely tradable without restriction in the public market, subject to certain volume and manner of sale limitations applicable to shares held by our affiliates, as that term is defined in the Securities Act. In addition, subject to similar limitations and any other applicable legal and contractual limitations, all of the shares of our common stock subject to outstanding equity-based awards or reserved for issuance pursuant to such awards we may grant in the future are registered under the Securities Act or are otherwise eligible under applicable securities laws for free trading in the public market upon their issuance.

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

To raise capital or for other strategic purposes, 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. In addition, in November 2020 we entered into an Equity Distribution Agreement, or the November 2020 Equity Distribution Agreement, with Piper Sandler & Co. (f/k/a Piper Jaffray & Co.), or Piper, Oppenheimer & Co. Inc., and BTIG LLC, as sales agents, pursuant to which we may, from time to time, sell through Piper as our sales agent shares of our common stock with an aggregate purchase price of up to $175.0 million. During the year ended December 31, 2020, we sold an aggregate of 2.0 million shares of our common stock pursuant to the November 2020 Equity Distribution Agreement at a weighted-average net selling price of $48.70 per share. We also may issue common stock or grant other equity awards for compensatory purposes under our equity incentive plan. If we issue common stock, convertible securities or other equity securities, including shares pursuant to the November 2020 Equity Distribution Agreement or equity awards under our equity incentive plan, our then-existing stockholders could be materially diluted by such issuances and, if we otherwise issue preferred stock, new investors could gain rights, preferences and privileges senior to the holders of our common stock, any of which could cause the price of our common stock to decline.

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

We currently anticipate that we will retain any future earnings to finance the continued development, operation and expansion of our business. As a result, we do not anticipate declaring or paying any cash dividends or other distributions in the foreseeable future. Further, if we were to enter into a credit facility or issue debt securities or preferred stock in the future, we may become contractually restricted from paying dividends. If we do not pay dividends, our common stock may be less valuable because stockholders must rely on sales of their common stock after price appreciation, which may never occur, to realize any gains on their investment.

If securities or industry analysts do not publish research or reports about our business or if they issue an adverse or misleading opinion regarding our common stock, our stock price and trading volume could decline.

The trading market for our common stock is influenced by the research and reports that industry or securities analysts publish about us or our business. If one or more of these analysts ceases coverage of us or fails to publish reports on us regularly, we could lose visibility in the financial markets, which could cause the price and trading volume of our common stock to decline. Further, if any of these analysts issues an adverse or misleading opinion regarding us, our business model, our industry or our stock performance or if our operating results fail to meet analyst expectations, the price of our common stock could also decline.

Provisions in our charter documents and Delaware law could discourage, delay or prevent a change in control of our company or changes in our management and depress the market price of our common stock.

Our certificate of incorporation and bylaws contain provisions that could depress the market price of our common stock by acting to discourage, delay or prevent a change in control of our company or changes in our management that our stockholders may deem advantageous. These provisions, among other things:

- authorize our board of directors to issue, without further action by our stockholders, up to 1.0 million shares of undesignated or "blank check" preferred stock;
- prohibit stockholder action by written consent, thus requiring all stockholder actions to be taken at a duly noticed and held meeting of our stockholders;
- specify that special meetings of our stockholders can be called only by our board of directors, the Chairman of our board of directors or our President, thereby eliminating the ability of our stockholders to call special meetings;
- permit only our board of directors to establish the number of directors and fill vacancies on the board of directors, except as may be required by law;
- permit our board of directors to amend our bylaws, subject to the power of our stockholders to repeal any such amendment;
- do not permit cumulative voting by our stockholders on the election of directors; and
- establish advance notice requirements for stockholders to propose nominees for election as directors or matters to be acted upon at annual meetings of stockholders.

In addition, we are subject to Section 203 of the Delaware General Corporation Law, or DGCL, which imposes certain restrictions on mergers, business combinations and other transactions between us and holders of 15% or more of our common stock. Section 203 may have the effect of discouraging, delaying or preventing a change in control of our company.

Holders of our common stock could be adversely affected if we issue preferred stock.

Pursuant to our certificate of incorporation, our board of directors is authorized to issue up to 1.0 million shares of preferred stock without any action by our stockholders. Our board of directors also has the power, without stockholder approval, to set the terms of any series of preferred stock that may be issued, among others, including voting rights, dividend rights and preferences over our common stock with respect to dividends or in the event of a dissolution, liquidation or winding up. If we issue preferred stock in the future that has preferences over our common stock with respect to payment of dividends or upon a liquidation, dissolution or winding up, or if we issue preferred stock that is convertible into our common stock at greater than a one-to-one ratio, the voting and other rights of the holders of our common stock and the market price of our common stock could be adversely affected.

Our certificate of incorporation designates the Court of Chancery of the State of Delaware as the sole and exclusive forum for certain types of actions and proceedings that may be initiated by our stockholders, which could limit our stockholders' ability to obtain a judicial forum they consider favorable for disputes with us or our directors, officers or other employees.

Our certificate of incorporation and bylaws provide that, unless we consent in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall be the sole and exclusive forum for:

- any derivative action brought on our behalf;
- any direct action brought by a stockholder against us or any of our directors, officers or other employees, alleging a breach of a fiduciary duty;
- any action brought by a stockholder against us or any of our directors, officers or other employees, alleging a violation of the DGCL, our certificate of incorporation or our bylaws; and
- any action brought by a stockholder against us or any of our directors, officers or other employees, asserting a claim against us governed by the internal affairs doctrine.

We refer to the forgoing limitations as the Exclusive Forum Provisions. The Exclusive Forum Provisions do not apply to (i) actions in which the Court of Chancery in the State of Delaware concludes that an indispensable party is not subject to the jurisdiction of the Delaware courts, and (ii) actions in which a federal court has assumed exclusive jurisdiction of a proceeding.

Accordingly, the Exclusive Forum Provisions do not apply to actions brought to enforce a duty or liability created by the Exchange Act or the rules and regulations thereunder, or Exchange Act Claims. Further, the clause in our certificate of incorporation excepting "actions in which a federal court has assumed exclusive jurisdiction of a proceeding" from the Exclusive Forum Provisions is not intended to mean that a federal court must take any actual or affirmative action to assume jurisdiction over an Exchange Act

Claim, as Section 27 of the Exchange Act creates exclusive federal jurisdiction over all Exchange Act Claims, regardless of whether a federal court takes any action. The Exclusive Forum Provisions also do not apply to federal and state suits brought to enforce any duty or liability created by the Securities Act or the rules and regulations thereunder, or Securities Act Claims. To the extent applicable or enforceable, the Exclusive Forum Provisions may limit a stockholder's ability to bring a claim in a judicial forum it finds favorable for disputes with us or our directors, officers or other employees, which may discourage these lawsuits. Alternatively, for Securities Act Claims, Exchange Act Claims or claims for which a court were to find these Exclusive Forum Provisions inapplicable or unenforceable for one or more of the specified types of actions or proceedings, we may incur additional costs associated with resolving these matters in other jurisdictions, which could adversely affect our business, financial condition or results of operations.

Item 1B. Unresolved Staff Comments.

Not applicable.

Item 2. Properties.

Our corporate headquarters and laboratory operations are located in Temple City, California, where we lease and occupy approximately 12,000 square feet of office and laboratory space under leases that will expire in January 2023. We use these facilities for laboratory testing and management activities and certain research and development, administrative and other functions.

We have another CLIA-certified laboratory located in Houston, Texas, where we lease and occupy approximately 12,000 square feet under a lease that will expire in November 2023. We use these facilities for laboratory testing and certain administrative and other functions.

In 2020, the Company purchased a real property located at 4399-4401 Santa Anita Avenue, El Monte, California, or the Property, from 4401 Santa Anita Corporation, a California corporation, or the Seller. The Company paid an aggregate of $15.4 million in exchange for the Property which consists of approximately 61,612 total square feet of building situated on 2.6 acres of land. We believe our existing facilities are adequate for our current and expected near-term needs and additional space would be available on commercially reasonable terms if required.

Item 3. Legal Proceedings.

From time to time, we may be involved in legal proceedings arising in the ordinary course of our business. We are not presently a party, and our properties are not presently subject, to any legal proceedings that, in the opinion of management, would have a material effect on our business. Regardless of outcome, litigation can have an adverse impact on us due to defense and settlement costs, diversion of management resources, negative publicity and reputational harm, among other factors.

Item 4. Mine Safety Disclosures.

Not applicable.

PART II

Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities.

Market Information

On September 29, 2016, our common stock was listed for trading on Nasdaq under the symbol "FLGT." There was no public market for our common stock prior to September 29, 2016.

Holders of Common Stock

As of March 1, 2021, there were 9 holders of record of our common stock, plus an indeterminate number of additional stockholders whose shares of our common stock are held on their behalf by brokerage firms or other agents.

Dividend Policy

We currently anticipate that we will retain any future earnings to finance the continued development, operation and expansion of our business. As a result, we do not anticipate declaring or paying any cash dividends or other distributions in the foreseeable future. Any determination to pay dividends would be at the discretion of our board of directors and would depend on our results of operation, financial condition and other factors that our board of directors, in its discretion, considers relevant**.**

Use of Proceeds from Registered Securities

On October 4, 2016, we completed the initial public offering of our common stock, or the IPO, pursuant to an Underwriting Agreement with Credit Suisse Securities (USA) LLC and Piper, as the representatives of the several underwriters, in which we issued and sold an aggregate of 4.8 million shares of common stock (including 630,000 shares issued and sold on October 7, 2016 pursuant to the underwriters' exercise in full of their option to purchase additional shares) at a public offering price of $9.00 per share. We received net proceeds of approximately $36.0 million, after deducting underwriting discounts and commissions and offering expenses paid or payable by us of approximately $4.4 million. The shares issued and sold in the IPO were registered under the Securities Act on a registration statement on Form S-1 (File No. 333-213469), as amended, and the final prospectus dated September 28, 2016 included in such registration statement, or the Prospectus.

To date, we have used $28.8 million of the net proceeds from the IPO, of which, $4.5 million was used for contributions to our joint venture, FF Gene Biotech in partial satisfaction of our contribution obligations under the joint venture cooperation agreement, and $24.3 million was used to fund the Company's operation. All other net proceeds from the IPO are invested in investment-grade, interest-bearing securities, such as money market accounts, certificates of deposit, commercial paper and guaranteed obligations of the U.S. government. There has been no material change in the planned use of proceeds from the IPO from that described in the Prospectus.

On August 30, 2019, we entered into an Equity Distribution Agreement, or the 2019 Equity Distribution Agreement, with Piper as sales agent, which was amended on August 4, 2020. During the year ended December 31, 2019, we sold an aggregate of 104,000 shares of our common stock pursuant to the 2019 Equity Distribution Agreement at a weighted-average net selling price of $9.37 per share, which resulted in $979,000 of net proceeds to the Company. During the year ended December 31, 2020, we sold an aggregate of 1.1 million shares of our common stock pursuant to the 2019 Equity Distribution Agreement at a weighted-average net selling price of $38.50 per share, which resulted in $42.7 million of net proceeds to the Company. Shares sold under the Equity Distribution Agreement were offered and sold pursuant to our shelf registration statement on Form S-3 (File No. 333-233227) filed with the SEC on August 12, 2019 and declared effective on August 23, 2019, and prospectus supplements and accompanying base prospectus filed with the SEC on August 30, 2019, May 6, 2020 and August 5, 2020. There has been no material change in the planned use of proceeds as described in the prospectus supplements and accompanying base prospectus.

On November 13, 2019, we entered into a purchase agreement with Piper, as representative of the several underwriters, pursuant to which we sold 2,673,750 shares of our common stock at a price of $10.51875 per share, with a public offering price of $11.25 per share. We received net proceeds of approximately $27.6 million, after deducting underwriting discounts and commissions and offering expenses paid or payable by us of approximately $2.4 million. The shares issued and sold in the underwritten offering were registered under the Securities Act and sold pursuant to our shelf registration statement on Form S-3 (File No. 333-233227), and a prospectus supplement and accompanying base prospectus filed with the SEC on November 13, 2019. There has been no material change in the planned use of proceeds as described in the prospectus supplement and accompanying base prospectus.

On September 25, 2020, we entered into an Equity Distribution Agreement, or the September 2020 Equity Distribution Agreement, with Piper as sales agent, pursuant to which we sold 2.8 million shares of our common stock pursuant to the 2020 Equity Distribution Agreement at a weighted-average net selling price of $42.90 per share, which resulted in $122.1 million of net proceeds to the Company. Shares sold under the September 2020 Equity Distribution Agreement were offered and sold pursuant to the Company's registration statement on Form S-3 (File No. 333-239964) filed with the SEC on July 21, 2020, as amended on August 5, 2020, and declared effective on August 12, 2020, and a prospectus supplement and accompanying base prospectus filed with the SEC on September 25, 2020. There has been no material change in the planned use of proceeds as described in the prospectus supplement and accompanying base prospectus.

On November 20, 2020, we entered into the November 2020 Equity Distribution Agreement, with Piper, Oppenheimer & Co. Inc., and BTIG LLC, as sales agents, pursuant to which we may offer and sell, from time to time through Piper, shares of our common stock having an aggregate offering price of up to $175.0 million. Piper may receive a commission of up to 3% of the gross proceeds received by the Company for sales pursuant to the November 2020 Equity Distribution Agreement. During the year ended December 31, 2020, the Company sold an aggregate of 2.0 million shares of our common stock pursuant to the November 2020 Equity Distribution Agreement at a weighted-average net selling price of $48.70 per share, which resulted in $99.1 million of net proceeds to the Company. Shares sold under the November 2020 Equity Distribution Agreement were offered and sold pursuant to the Company's registration statement on Form S-3 (File No. 333-239964) filed with the SEC on July 21, 2020, as amended on August 5, 2020, and declared effective on August 12, 2020, and a prospectus supplement and accompanying base prospectus filed with the SEC on November 20, 2020. There has been no material change in the planned use of proceeds as described in the prospectus supplement and accompanying base prospectus.

Item 6. Selected Financial Data.

Not applicable.

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations.

The following discussion and analysis of our financial condition and results of operations should be read together with our consolidated financial statements and related notes included in this report.

Forward-Looking Statements

The following discussion and analysis contains forward-looking statements within the meaning of Section 27A of the Securities Act and Section 21E of the Securities Exchange Act. Forward-looking statements are statements other than historical facts and relate to future events or circumstances or our future performance, and they are based on our current assumptions, expectations and beliefs concerning future developments and their potential effect on our business. The forward-looking statements in this discussion and analysis include statements about, among other things, our future financial and operating performance, our future cash flows and liquidity and our growth strategies, as well as anticipated trends in our business and industry. These forward-looking statements are subject to a number of risks and uncertainties, including, among others, those described under "Item 1A. Risk Factors" in Part I of this report. Moreover, we operate in a competitive and rapidly evolving industry and new risks emerge from time to time. It is not possible for us to predict all of the risks we may face, nor can we assess the impact of all factors on our business or the extent to which any factor or combination of factors could cause actual results to differ from our expectations. In light of these risks and uncertainties, the forward-looking events and circumstances described in this discussion and analysis may not occur, and actual results could differ materially and adversely from those described in or implied by any forward-looking statements we make. Although we have based our forward-looking statements on assumptions and expectations we believe are reasonable, we cannot guarantee future results, levels of activity, performance or achievements or other future events. As a result, forward-looking statements should not be relied on or viewed as predictions of future events, and this discussion and analysis should be read with the understanding that actual future results, levels of activity, performance and achievements may be materially different than our current expectations. The forward-looking statements in this discussion and analysis speak only as of the date of this report, and except as required by law, we undertake no obligation to update publicly any forward-looking statements for any reason after the date of this report to conform these statements to actual results or to changes in our expectations.

Overview

Fulgent is a technology company offering comprehensive genetic testing and providing physicians with clinically actionable diagnostic information they can use to improve the quality of patient care. We have developed a proprietary technology platform that allows us to offer a broad and flexible test menu and continually expand and improve our proprietary genetic reference library, while maintaining accessible pricing, high accuracy and competitive turnaround times. Combining NGS with our technology platform, we perform full-gene sequencing with deletion/duplication analysis in single-gene tests; pre-established, multi-gene, disease-specific panels; and customized panels that can be tailored to meet specific customer needs. We believe our test menu offers more genes for testing than our competitors in today's market, which enables us to provide expansive options for test customization and clinically actionable results. After launching our first commercial genetic tests in 2013, we have expanded our test menu to include more than 18,000 single-gene tests and more than 900 panels that collectively test for more than 5,700 genetic conditions, including various cancers, cardiovascular diseases, neurological disorders and pediatric conditions. A cornerstone of our business is our ability to provide expansive options and flexibility for all clients' unique genetic testing needs.

Our technology platform, which integrates sophisticated data comparison and suppression algorithms, adaptive learning software, advanced genetic diagnostics tools and integrated laboratory processes, allows us to offer a test menu with expansive genetic coverage. We believe the comprehensive data output and high detection rates of our tests, both made possible by this expansive genetic coverage, provide physicians with information they can readily incorporate into treatment decisions for their patients, which we refer to as clinical actionability. In addition, our technology platform facilitates our ability to perform customized genetic tests using our expansive library of genes, and we believe this flexibility increases the utility of the genetic data we produce. Further, our technology platform provides us with operating efficiencies that help lower our internal costs, which allows us to offer our tests at accessible price points. As a result, our efforts to build and continually enhance our technology platform allow us to deliver comprehensive, adaptable, clinically actionable and affordable genetic analysis while maintaining a low cost per billable test, enabling us to efficiently meet the needs of our growing base of customers.

Since March 2020, we have also commercially launched several tests for the detection of SARS-CoV-2, the virus that causes COVID-19, including NGS and RT-PCR-based tests. To date, we have processed orders for our COVID-19 tests from a variety of customers, including governmental bodies, municipalities, and large corporations.

We have experienced rapid volume growth since our commercial launch, with 4.4 million billable tests delivered in 2020, compared to 59,000 billable tests delivered in 2019, and an aggregate of over 4.5 million billable tests delivered to over 1,300 customers from inception through December 31, 2020.

We offer tests at competitive prices, averaging approximately $96 per billable test delivered in 2020, and at a lower cost to us than many of our competitors, averaging approximately $20 per billable test delivered in 2020. Our volume has grown rapidly since our commercial launch, with 4.4 million billable tests delivered in 2020, 59,000 billable tests delivered in 2019, and an aggregate of over 4.5 million billable tests delivered to over 1,300 customers from inception through December 31, 2020. We have experienced compound quarterly growth of 137.2% in the number of billable tests delivered in our last eight completed fiscal quarters. We recorded revenue and income from operations of $421.7 million and $214.3 million, respectively, in 2020, compared to revenue and loss from operations of $32.5 million and $411,000, respectively, in 2019. We achieved profitability in the first quarter of 2017, and in the second and the third quarter of 2019, and the second, third and fourth quarters of 2020, but we have recorded losses in all other periods since our inception.

2020 Developments

Launch of COVID-19 Tests

Since March 2020, we have commercially launched several COVID-19 tests, for the detection of SARS-CoV-2, the virus that causes COVID-19, including NGS and RT-PCR-based tests. We have received an EUA from the FDA for the RT-PCR-based tests for the detection of SARS-CoV-2 using upper respiratory specimens (nasal, nasopharyngeal, and oropharyngeal swabs) and for our at-home COVID-19 testing service through Picture Genetics. Our at-home testing service for COVID-19 and RT-PCR-based tests have been granted an EUA by the FDA only for the detection of nucleic acid from SARS-CoV-2, not for any other viruses or pathogens. We are currently accepting patient samples directly to our BSL-2 certified laboratories in Temple City, California and Houston, Texas where we have the capacity to accept and process thousands of samples per day with a typical turn-around time of 24-48 hours from the time the sample was received and accepted. To date, we have processed orders for our COVID-19 tests from a variety of customers, including governmental bodies, municipalities, and large corporations.

2019 Developments

Partnered with Parkinson's Foundation on Launch of Genetic Testing Initiative for People with Parkinson's Disease

In 2019, we partnered with the Parkinson's Foundation on a new genetic testing initiative for individuals living with Parkinson's Disease. The nation-wide initiative, called PD GENEration: Mapping the Future of Parkinson's Disease, provides genetic testing for clinically relevant Parkinson's-related genes for eligible individuals. The initiative is offered through the Parkinson's Foundation Centers of Excellence network and Parkinson Study Group sites, and it leverages our next generation genetic testing technology. As part of the collaboration agreement, we are compensated for processing, sequencing, and storing each DNA sample for patients participating in the initiative. Also supporting this initiative are Indiana University School of Medicine, providing genetic counseling for tested individuals; University of Florida CTSI Data Coordinating Center, assisting with secure data storage; and University of Rochester's Clinical Trials Coordination Center. In collaboration with these partners, we have leveraged the flexibility of our broad testing catalog to select and develop a targeted list of seven genes relevant to Parkinson's patients and clinicians: GBA, LRRK2, SNCA, PRKN, PARK7, VPS35, and PINK1. We analyze and generate clinical reports for these target genes, and the findings are made available to the treating physicians and future researchers

Genetic testing can help determine whether an individual's genetic makeup indicates a potential genetic cause for Parkinson's disease. This knowledge can assist patients and physicians in better understanding each case and can help to identify whether a patient qualifies for enrollment in certain clinical trials. Participants will also be able to better understand their genetic test results through free genetic counseling provided by Indiana University and on-site clinicians. Raw data accumulated through the initiative will be captured for future research by scientists to develop improved treatments and precision medicine options for Parkinson's Disease.

Launched Picture Genetics, a Patient-Initiated Genetic Testing Offering

In 2019, we launched our first patient-initiated genetic testing offering, a new line of at-home screening tests that combines our advanced NGS solutions with actionable results and genetic counseling options for patients. Patients order test kits online, complete a sample collection at home and return the kits for our processing and analysis. Patients receive results that have been reviewed by an independent external physician, as well as genetic counseling support to help them better understand their screening results. We have partnered with PWNHealth, an independent provider network, for physician review and genetic counseling. Picture Genetics offers three distinct at-home test options: Picture Parenting, Picture Newborn, and Picture Wellness. Picture Parenting is a carrier screening test that gives prospective parents better insight into their status as carriers of variants in 30 different genes which could affect their children. Picture Newborn and Picture Wellness offer insight into health risks based on genetic markers. All three tests are completed at home without the need for a doctor visit or insurance.

Expanded Reproductive Testing Options Including Preimplantation Genetic Testing, or PGT

In 2019, we expanded our reproductive testing options, including Preimplantation Genetic Testing, or PGT. PGT is appropriate for anyone undergoing IVF treatment, and is especially helpful for women over 35, women who have previously experienced miscarriages, women who want to reduce the likelihood of having multiples, couples experiencing infertility (male or female), and those who have experienced IVF failure in the past. The information gained from these tests will allow for purposeful selection of chromosomally normal embryos for implantation which will expand the prospects of a successful IVF treatment and a healthy pregnancy.

COVID-19 Considerations

The current COVID-19 pandemic has presented a substantial public health and economic challenge around the world and is affecting our employees, patients, communities and business operations, as well as the U.S. economy and financial markets. We are closely monitoring the impact of COVID-19 on all aspects of our business, including its impact on our customers, suppliers, third-party service providers, and our employees. The full extent to which the COVID-19 pandemic will directly or indirectly impact our business, results of operations and financial condition will depend on future developments that are highly uncertain and cannot be accurately predicted, including new information that may emerge concerning COVID-19 and its variants, the actions taken to contain it or treat it and the economic impact on local, regional, national and international markets and supply chains.

During the year ended December 31, 2020, and for the entirety of the COVID-19 pandemic to such point, we continued to operate as an essential business in response to COVID-19. In year ended December 31, 2020, the COVID-19 pandemic did not have a negative impact on our consolidated operating results. Since the outbreak of the current COVID-19 pandemic there has been strong demand for accurate COVID-19 testing with rapid turn-around times as private businesses, municipalities and healthcare providers began to increasingly rely on diagnostic testing to continue operations and as a tool to aide containment efforts, and as result we have recognized significant revenue growth in connection with sales of our COVID-19 tests. While the duration of the ongoing COVID-19 pandemic and continuing market for COVID-19 diagnostic tests remains subject to a number of uncertainties, including uncertainties regarding the effectiveness of disease containment efforts, speed and effectiveness of global COVID-19 vaccine distributions, newly emerging viral variants, continuing government actions in response to the pandemic and regulatory requirements or preferences that may emerge following the pandemic, a robust market for COVID-19 diagnostic testing persists to present day. However, the responses of the federal, international, state and regional governments to the pandemic, including any shelter in place orders and the allocation of healthcare resources to treating those infected with the virus, previously caused a significant decline in the number of our traditional genetic tests ordered, which may impact our future revenues for these tests. Even after the COVID-19 outbreak has subsided, we may experience materially adverse impacts on our financial condition and results of operations. Our ability to continue to operate as currently planned, including our ability to continue to offer our COVID-19 tests with accurate results and competitive turn-around times without any significant negative operational impact from the COVID-19 pandemic will depend in part on our, and any of our third-party service providers' and suppliers' ability to protect our respective employees and supply chains. We have endeavored to follow the recommended actions of government and health authorities to protect our employees. We intend to continue to adhere to our employee safety measures to ensure that any disruptions to our operations remain minimal during the pandemic. However, the uncertainty resulting from the pandemic could result in an unforeseen disruption to our, or our third-party service providers' and suppliers', workforce and supply chain.

The COVID-19 pandemic has not negatively impacted the Company's liquidity position as of December 31, 2020. We have not incurred any material impairments of our assets or a significant change in the fair value of our assets due to the COVID-19 pandemic as of December 31, 2020.

For additional information on risk factors related to the COVID-19 pandemic or other risks that could impact our results, please refer to "Item 1A. Risk Factors" in Part I of this Form 10-K.

Factors Affecting Our Performance

Market and Industry Trends

Genetic testing has experienced significant growth in recent years. If this growth trend continues, we believe genetic testing could become a more accepted part of standard medical care and the knowledge of a person's unique genetic makeup could begin to play a more important role in the practice of medicine. The advent of NGS technology, a relatively new genetic testing technique that enables millions of DNA fragments to be sequenced in parallel, has dramatically lowered the cost and improved the quality of genetic testing, contributing to increased adoption generally and increased volumes for our tests.

The growth of genetic testing in recent years has caused increased competition in our industry. This increased competition, as well as cost-saving initiatives on the part of government entities and other third-party payors, has resulted in downward pressure on the price for genetic analysis and interpretation, which could intensify in future periods if adoption of genetic testing becomes more widespread. We have reduced the prices for certain of our tests in recent periods to maintain our competitive position, and increased downward pricing pressure could harm our revenue and margins and our ability to achieve and sustain profitability. The impact of this pricing pressure has been and may continue to be intensified if we continue to incur increased expenses in order to meet customer demands and make investments in our business.

While adoption of genetic testing has increased in recent years, we believe widespread utilization has been tempered because of certain challenges and barriers to adoption that exist in today's market. Among these industry challenges are that genetic testing can be prohibitively expensive, only a limited number of genetic tests are currently reimbursable, certain genetic conditions cannot be diagnosed due to the limited scope of some genetic analysis, genetic testing can be an inefficient process and the interpretation of genetic results can be cumbersome and time-consuming. We have approached these competitive and operational industry challenges by building and continually advancing a multi-faceted technology platform that we believe will facilitate our ability to address many of these challenges.

Launch of 2020 COVID-19 Testing Services

We have experienced rapid volume growth since our commercial launch, with 4.4 million billable tests delivered in 2020, compared to 59,000 billable tests delivered in 2019, and an aggregate of over 4.5 million billable tests delivered to over 1,300 customers from inception through December 31, 2020. Most of the growth in our testing volume has resulted from COVID-19 tests that we conduct for certain counties and states including the County of Los Angeles and San Bernardino County. The expansion of our COVID-19 testing business has resulted in a substantial change in our business that presents important challenges to our ability to manage our rapidly expanding business, and we anticipate that this business will eventually decrease after the development and widespread deployment of an effective vaccine.

Number and Mix of Billable Tests Delivered

Our performance is closely correlated with the number of tests for which we bill our customers, which we refer to as billable tests. The number of billable tests we deliver in any period depends on a number of factors, including the other factors affecting our performance described in this discussion and analysis. We believe the number of billable tests that we deliver is an important indicator of the performance of our business.

In addition, we offer our tests at different price points, and we incur different amounts and types of costs, depending on the nature and level of complexity and customization of the test and the specific terms we have negotiated for the tests, which can vary from customer to customer. As a result, the mix of billable tests delivered in any period, and the customers that order these tests, impacts our financial results for the period.

Mix of Customers

Through December 31, 2020, we have sold our tests to over 1,300 total customers. We consider each single billing and paying unit to be an individual customer, even though a unit may represent multiple physicians and healthcare providers ordering tests. The composition and concentration of our customer base can fluctuate from period to period, and in certain prior periods, a small number of customers has accounted for a significant portion of our revenue. Generally, we do not have long-term purchase agreements with any of our customers, including these key customers, and, as result, any or all of them could decide at any time to increase, accelerate, decrease, delay or discontinue their orders from us. Although we believe some of these fluctuations in customer demand may be attributable in part to the nature of our business, in which our customers can experience significant volatility in their testing demand from period to period in the ordinary course of their operations, these demand fluctuations, particularly for our key customers, can have a significant impact on our period-to-period performance regardless of their cause.

We currently classify our customers into three payor types: (i) Insurance, (ii) Institutional, including hospitals, medical institutions, other laboratories, governmental bodies, municipalities and large corporations or (iii) Patients who pay directly. Typically, we bill our Institutional customers for our tests and they are responsible for paying us directly and billing their patients separately or obtaining reimbursement from third-party payors in connection with a patient's DRG. A small percentage of our customers are patients, who elect to pay for tests themselves with out-of-pocket payments after their physicians have ordered our tests.

We are making efforts to diversify our customer market, including building relationships with research institutions and other similar institutional customers, national clinical laboratories, governmental bodies, municipalities and large corporations in need of regular COVID-19 testing for large populations and various other organizations to facilitate access to physicians, practitioners and other new customer groups, including certain U.S. government agencies. We are also pursuing relationships with payors, including Medicare, some state Medicaid programs and commercial payors, in an effort to obtain coverage and reimbursement for our tests to make them accessible to more individual physicians. Generally, when we establish these new customer relationships, we agree with the applicable payor, laboratory or other customer to provide certain of our tests at negotiated rates, but, subject to limited exceptions, most of these relationships do not obligate any party to order our tests at any agreed volume or frequency or at all. Further, any relationships we may develop with any government agencies are subject to unique risks associated with government contracts, including cancellation if adequate appropriations for subsequent performance periods are not made and modification or termination at the government's convenience without prior notice. Our efforts to pursue individual consumers under our Picture Genetics platform, new payor or institutional customers, new COVID-19 testing customers or other new customer markets could fail, and even if we are able to develop relationships with new customers in these or any other new customer groups, these relationships may not lead to meaningful or any increases in our customer base, the number of billable tests we deliver or our revenue, and may not improve our ability to achieve or sustain profitability.

Ability to Maintain Our Broad and Flexible Test Menu

We believe the large number of genes we incorporate into our test menu provides a meaningful competitive advantage. We believe the breadth of genes in our portfolio allows us to provide more comprehensive genetic information and improves our variant detection rate, which can increase the clinical actionability of the data we produce. The breadth of genes in our portfolio also allows us to offer hundreds of pre-established, multi-gene panels that focus on specified genetic conditions, including our *Focus* and *Comprehensive* oncology panels and *Beacon* carrier screening panels and somatic cancer panels. In addition, all of our panel tests can be adjusted up or down to include more or fewer genes, or customers can design their own panels to their exact specifications, resulting in a flexible and customizable test menu. We believe our ability to continue to offer more genes and more ordering flexibility than our competitors could be a key contributor to the long-term growth of our business.

Ability to Maintain Low Internal Costs

We have developed various proprietary technologies that improve our laboratory efficiency and reduce the costs we incur to perform our tests, including our proprietary gene probes, data algorithms, adaptive learning software and genetic reference library. This technology platform enables us to perform each test and deliver its results at a lower cost to us than many of our competitors, and this low cost per billable test allows us to maintain affordable and competitive pricing for our customers, which we believe encourages repeat ordering from existing customers and attracts new customers. We believe this low internal cost is a key factor in our ability to grow our business and obtain margins on our sales that allow us to drive toward sustained profitability.

We calculate our cost per billable test by dividing the number of billable tests delivered in any given period by our cost of revenue in the same period. Investments in our operational capabilities could increase our cost of revenue, but these investments could also, on a near-term and/or long-term basis, increase our operating efficiencies and lead to cost of revenue decreases. As a result, the amount, timing, nature and success of these investments, as well as other influences on our cost of revenue from period to period, can impact the amount of our cost per billable test. Moreover, changes in our other operating expenses, due to investments in these aspects of our business or other factors, are not taken into account in the calculation of this measure but impact our overall results, which can limit the utility of cost per billable test as an overall cost measurement tool.

Ability to Obtain Reimbursement

In today's market, third-party payors generally restrict the reimbursement of genetic testing to only a narrow subset of genetic tests and certain patients who meet specific criteria. The lack of widespread favorable reimbursement policies has presented a challenge for genetic testing companies in building sustainable business models. As part of our business plan for future growth, we intend to pursue coverage and reimbursement from third-party payors at a level adequate for us to achieve profitability with this payor group. However, we cannot predict whether, under what circumstances, or at what payment levels payors will cover and reimburse for our tests, and even if we are successful, we believe it could take several years to achieve coverage and adequate contracted reimbursement with third-party payors. To date, we have contracted directly with national health insurance companies to become an in-network provider and enrolled as a supplier with the Medicare program and some state Medicaid programs, which means that we

have agreed with these payors to provide certain of our tests at negotiated rates. Although this does not guarantee that we will receive reimbursement for our tests from these or any other payors at adequate levels, we believe our low cost per billable test could enhance our ability to compete effectively in the third-party payor market and our flexibility in establishing relationships with additional third-party payors in the future. Our level of success in obtaining and maintaining adequate coverage and reimbursement from third-party payors for our testing services will, we believe, be a key factor in the rate and level of growth of our business over the long term.

Foreign Currency Exchange Rate Fluctuations

Some of our business to date has been from non-U.S. customers, and we may record increasing revenue levels from non-U.S. sources as we focus on growing our international customer base. These revenue sources expose us to fluctuations in our results associated with changes in foreign currency exchange rates depending on the value of the U.S. dollar compared to the foreign currencies in which we record revenue. During all periods covered by this report, we consider the estimated effect on our revenue of foreign currency exchange rate fluctuations to be immaterial; however, the impact of foreign currency exchange rate fluctuations may increase in future periods as we pursue continued international expansion.

Business Risks and Uncertainties

Our business and prospects are exposed to numerous risks and uncertainties. For more information, see “Item 1A. Risk Factors” in this report.

Financial Overview

Revenue

We generate revenue from sales of our COVID-19 tests and genetic tests. We recognize revenue upon delivery of a report to the ordering physician or other customer based on the established billing rate, less contractual and other adjustments, to arrive at the amount we expect to collect. We currently classify our customers into three payor types: (i) Insurance; (ii) Institutional, including hospitals, medical institutions, other laboratories, governmental bodies, municipalities and large corporations; and (iii) Patients who pay directly.

Cost of Revenue

Cost of revenue reflects the aggregate costs incurred in delivering test results, including sequencing as a service tests, and consists of: costs of laboratory supplies, including collection kits, personnel costs, including salaries, employee benefit costs, bonuses and equity-based compensation expenses; depreciation of laboratory equipment; amortization of leasehold improvements; and allocated overhead expenses, including rent and utilities. Costs associated with performing tests are recorded as tests are processed. We expect cost of revenue to generally increase as we increase the number of billable tests we deliver.

Operating Expenses

Our operating expenses are classified into three categories: research and development; selling and marketing; and general and administrative. For each category, the largest component is personnel costs, which include salaries, employee benefit costs, bonuses and equity-based compensation expenses.

Research and Development Expenses

Research and development expenses represent costs incurred to develop our technology and future tests. These costs consist of personnel costs, laboratory supplies, consulting costs and allocated overhead expenses, including rent and utilities. We expense all research and development costs in the periods in which they are incurred. We expect our research and development expenses will continue to increase in absolute dollars as we expect to continue to invest in research and development activities.

Selling and Marketing Expenses

Selling and marketing expenses consist of personnel costs, customer service expenses, direct marketing expenses, educational and promotional expenses, market research and analysis and allocated overhead expenses, including rent and utilities. We expense all selling and marketing costs as incurred. We expect our selling and marketing expenses will continue to increase in absolute dollars, primarily driven by our increased investment in sales and marketing in recent periods, including developing and expanding our sales team, creating and implementing new sales and marketing strategies and increasing the overall scope of our marketing efforts.

General and Administrative Expenses

General and administrative expenses include executive, finance, accounting, legal and human resources functions. These expenses consist of personnel costs, audit and legal expenses, consulting costs and allocated overhead expenses, including rent and utilities. We expense all general and administrative costs as incurred. We expect our general and administrative expenses will continue to increase in absolute dollars as we seek to continue to scale our operations. We also expect to continue to incur increased general and administrative expenses as a result of operating as a public company, including expenses related to compliance with the rules and regulations of the SEC, and the Nasdaq Stock Market, additional insurance expenses, investor relations activities and other administrative and professional services.

Provision for (Benefit from) Income Taxes

Provision for income taxes consists of U.S. federal and state income taxes. A deferred tax liability is recognized for all taxable temporary differences, and a deferred tax asset is recognized for all deductible temporary differences, operating losses and tax credit carryforwards. A valuation allowance is provided when it is more likely than not that some portion or all of a deferred tax asset will not be realized.

The factors that most significantly impact our effective tax rate include the levels of net earnings and certain deductions, including those related to equity-based compensation, the effect of state income taxes, return to provision adjustments, and foreign tax rate differential. We expect that these factors could cause our consolidated effective tax rate to differ significantly from the U.S. federal income tax rate in future periods.

Results of Operations

The table below summarizes the results of our continuing operations for each of the periods presented. Historical results are not indicative of the results to be expected in the current period or any future period.

	Year Ended December 31,		$	%
	2020	2019	Change	Change
Statement of Operations Data:	(dollars and billable tests in thousands, except per billable test data)			
Revenue	$ 421,712	$ 32,528	$ 389,184	1196%
Cost of revenue	89,807	14,107	75,700	537%
Gross profit	331,905	18,421	313,484	1702%
Operating expenses:				
Research and development	11,580	6,537	5,043	77%
Selling and marketing	14,952	5,898	9,054	154%
General and administrative	15,215	6,414	8,801	137%
Total operating expenses	41,747	18,849	22,898	121%
Operating income (loss)	290,158	(428)	290,586	67894%
Interest and other income, net	1,526	837	689	82%
Income before income taxes and equity loss in investee and impairment loss	291,684	409	291,275	71216%
Provision for income taxes	72,532	43	72,489	168579%
Income before equity loss in investee and impairment loss	219,152	366	218,786	59778%
Equity loss in investee	(488)	(777)	289	37%
Impairment loss in equity-method investment	(4,354)	—	(4,354)	*
Net income (loss)	$ 214,310	$ (411)	$ 214,721	52244%
Other Operating Data:				
Billable tests delivered(1)	4,409	59	4,350	7373%
Average price per billable test delivered(2)	$ 96	$ 555	$ (459)	(83)%
Cost per billable test delivered(3)	$ 20	$ 241	$ (221)	(92)%

* Percentage not meaningful.

(1) We determine the number of billable tests delivered in a period by counting the number of tests which are delivered to our customers and for which we bill our customers and recognize some amount of revenue in the period.

(2) We calculate the average price per billable test delivered by dividing the amount of revenue we recognized from the billable tests delivered in a period by the number of billable tests delivered in the same period.
(3) We calculate cost per billable test delivered by dividing our cost of revenue in a period by the number of billable tests delivered in the same period.

Revenue

Revenue increased $389.2 million, or 1196%, from $32.5 million in 2019 to $421.7 million in 2020. The increase in revenue between periods was primarily due to an increase in the number of billable tests delivered, primarily related to the increased orders for our COVID-19 tests, offset by a substantial decline in the average selling price per test.

The average price of the billable tests we delivered decreased $459, or 83%, from $555 in 2019 to $96 in 2020. The decrease was due to (i) lower price-points for the mix of tests we delivered in 2020, including our COVID-19 tests launched in 2020, (ii) the mix of customers ordering tests in this period, who may order tests at different rates depending on the arrangements we have negotiated with them, and (iii) our reduction of prices for certain of our tests due to general price degradation for genetic tests and other competitive factors during 2020.

Revenue from non-U.S. sources decreased $1.1 million, or 15%, from $7.5 million in 2019 to $6.4 million in 2020. The decrease in revenue from non-U.S. sources between periods were primarily due to decreased sales of our traditional genetic testing services to customers in other countries adversely affected by the COVID-19 pandemic, which decreased by $616,000 and specifically decreased sales to customers in Canada, which decreased by $520,000 in 2020.

The number of billable tests we delivered increased approximately 4.4 million, from 59,000 in 2019 to 4.4 million in 2020. The increase was primarily attributable to the expansion of our test menu, including our COVID-19 tests launched in 2020, and increases in sales to certain of our existing and new customers.

Aggregating customers that are under common control or are affiliates, two customers, the County of Los Angeles and San Bernardino County, contributed 28% and 10% of our revenue in 2020, respectively, and one customer contributed 28% of our revenue in 2019.

Cost of Revenue

Cost of revenue increased $75.7 million, or 537%, from $14.1 million in 2019 to $89.8 million in 2020. The increase was primarily due to increases of $49.9 million in reagent and supply expenses related to increased billable tests delivered, $10.6 million in consulting and outside labor expense related to increase of outside labor for production 2020, $8.1 million in personnel costs and equity-based compensation related to increased headcount and the market price of the Company’s stock, and $3.5 million in software expense related to usage of COVID-19 tests software.

Cost per billable test delivered decreased $221, or 92% from $241 in 2019 to $20 in 2020 as the increase in the number of billable tests we delivered was greater than the increase in our cost of revenue due to economies of scale related to the increased number of billable tests for the period. The greater increase in the number of billable tests we delivered was primarily attributable to new customers and our expanded test menu, including our launch of COVID-19 tests in 2020. Our cost per billable test decreased in part due to our efforts to leverage our technology, such as engineered chemistry and competitive analytics powered by artificial intelligence and machine learning.

Our gross profit increased $313.5 million, or 1702%, from $18.4 million in 2019 to $331.9 million in 2020. The increase in gross profit was primarily due to an increase in revenue between periods that exceeded the increase in cost of revenue over the same period. Our gross profit as a percentage of revenue, or gross margin, increased from 56.6% to 78.7% between periods due in part to the increase in revenue and decreases in our cost per billable test and cost of revenue described above.

Research and Development

Research and development expenses increased $5.0 million, or 77%, from $6.5 million in 2019 to $11.6 million in 2020. The increase was primarily due to increases of $3.9 million in personnel costs and equity-based compensation related to increased headcount and the market price of the Company’s stock and $758,000 in reagent and supply expenses related to increased reagent usage for COVID-19 research.

Selling and Marketing

Selling and marketing expenses increased $9.1 million, or 154%, from $5.9 million in 2019 to $15.0 million in 2020. The increase was primarily due to increases of $4.4 million in personnel costs and equity-based compensation related to increased commission expense and stock award granted to sales representative, $2.6 million in marketing supplies and shipping to potential customers including kits related to the increased number of COVID-19 tests, and $1.7 million in consulting and outside labor expense related to COVID-19 marketing projects in 2020.

General and Administrative

General and administrative expenses increased $8.8 million, or 137%, from $6.4 million in 2019 to $15.2 million in 2020. The increase was primarily due to increases of $2.6 million in personnel costs and equity-based compensation related to increased headcount and the market price of the Company's stock, $2.8 million in software and licensing related to the increased number COVID-19 tests, $981,000 in bad debt expenses related to additional reserve for doubtful accounts in the current period, $879,000 in accounting fees, and $580,000 in other state tax.

Interest and Other Income, Net

Interest income, net was $1.5 million and $871,000 for 2020 and 2019, respectively. This income mainly related to interest received on various investments in marketable securities.

Other income (expense) was not significant for 2020 or 2019. The primary components of other income (expense) for 2020 and 2019 were rental income net of rental expenses and foreign currency valuation gains (losses).

Provision for Income Taxes

We recorded income tax of $72.5 million and $43,000 for 2020 and 2019, respectively. Our effective income tax rate was 24.9% and 10.5% of income before income taxes for 2020 and 2019, respectively. The increase in effective tax rates for 2020 relative to 2019 was primarily attributable to a significant increase in income for the year ended December 31, 2020, partially offset by a reduction in the valuation allowance on deferred tax assets and increased windfall tax deductions related to stock-based compensation. The decrease in the 2020 tax rate related to the reduction in the valuation allowance is due to management's conclusion that, as of December 31, 2020, the allowance is generally no longer appropriate given the Company's increase in current and forecasted future earnings, as well as other positive evidence.

See Note 11, *Income Taxes*, to our consolidated financial statements included in this report for more information regarding our income taxes.

Equity Loss in Investee

Equity loss in investee was $488,000 and $777,000 in 2020 and 2019, respectively, and relates to our 30% ownership interest in FF Gene Biotech.

Impairment Loss in Equity Method Investments

Impairment loss in equity-method investments was $4.4 million in the year ended December 31, 2020. Impairment loss in equity relates to our 30% ownership interest in FF Gene Biotech and 25% ownership interest in BostonMolecules.

Liquidity and Capital Resources

Liquidity and Sources of Cash

We had $87.4 million and $12.0 million in cash and cash equivalents as of December 31, 2020 and 2019, respectively. We had $344.4 million in marketable securities, primarily consisting of equity securities and corporate bonds, as of December 31, 2020 and $58.3 million in marketable securities, primarily consist of corporate bonds, as of December 31, 2019.

Initially after commencing operations in May 2012, our operations were financed primarily by our founder, Chief Executive Officer and Chairman of our board of directors, Ming Hsieh, and in more recent periods, by cash from our operations and equity financings.

Our primary uses of cash are to fund our operations as we continue to invest in and seek to grow our business. Cash used to fund operating expenses is impacted by the timing of our expense payments, as reflected in the changes in our outstanding accounts payable and accrued expenses. In addition, in April 2017, in connection with the establishment of FF Gene Biotech, we became obligated to contribute to FF Gene Biotech genetic sequencing and other equipment with a total cost of 60.0 million renminbi, or RMB, over a five-year period, previously three-year per original agreement and amended in April 2019. To date, we have purchased and contributed to FF Gene Biotech equipment with an aggregate fair value of $4.5 million pursuant to these contribution obligations, of which $1.4 million and $137,000 were contributed in 2020 and 2019, respectively. Depending on the performance of FF Gene Biotech, this joint venture may never produce sufficient revenue to us to recover these capital and other investments and could cause our revenue to decrease if any of our direct customers in Asia choose to order genetic tests from FF Gene Biotech instead of from us, any of which could negatively affect our liquidity and cash flow. In addition, although we have in the past made cash distributions for tax and other purposes to the equity holders of our predecessor, we do not expect to use our cash to make these or any other types of distributions or dividends in the foreseeable future.

On August 30, 2019, we entered into an Equity Distribution Agreement, or the 2019 Equity Distribution Agreement, with Piper, as sales agent, which was subsequently amended on August 4, 2020. Pursuant to the 2019 Equity Distribution Agreement, we offered and sold an aggregate of 104,000 shares of our common stock at a weighted-average net selling price of $9.37 per share, which resulted in $979,000 of net proceeds to the Company during the year ended December 31, 2019, and we sold an aggregate of 1.1 million shares of our common stock at a weighted-average net selling price of $38.50 per share, which resulted in $42.7 million of net proceeds to the Company during the year ended December 31, 2020. Shares sold under the 2019 Equity Distribution Agreement are offered and sold pursuant to the Company's registration statement on Form S-3 (File No. 333-233227) filed with the SEC on August 12, 2019 and declared effective on August 23, 2019, and prospectus supplements and accompanying base prospectus filed with the SEC on August 30, 2019, May 6, 2020 and August 5, 2020.

On November 13, 2019, we entered into a purchase agreement with Piper, as representative of the several underwriters, pursuant to which we sold 2,673,750 shares of our common stock at a price of $10.52 per share, with a public offering price of $11.25 per share. We received net proceeds of approximately $27.6 million, after deducting underwriting discounts and commissions and offering expenses paid or payable by us of approximately $2.4 million. The shares issued and sold in the underwritten offering were sold pursuant to the Company's registration statement on Form S-3 (File No. 333-233227), and a prospectus supplement and accompanying base prospectus filed with the SEC on November 13, 2019.

On September 25, 2020, we entered into the September 2020 Equity Distribution Agreement, with Piper as sales agent, pursuant to which we offered and sold an aggregate of 2.8 million shares of our common stock at a weighted-average net selling price of $42.90 per share, which resulted in $122.1 million of net proceeds to the Company. Shares sold under the September 2020 Equity Distribution Agreement were offered and sold pursuant to the Company's registration statement on Form S-3 (File No. 333-239964) filed with the SEC on July 21, 2020, as amended on August 5, 2020, and declared effective on August 12, 2020, and a prospectus supplement and accompanying base prospectus filed with the SEC on September 25, 2020.

On November 20, 2020, we entered into the November 2020 Equity Distribution Agreement, with Piper, Oppenheimer & Co. Inc., and BTIG LLC, as sales agents, pursuant to which we may offer and sell, from time to time through Piper, shares of our common stock having an aggregate offering price of up to $175.0 million. Piper may receive a commission of up to 3% of the gross proceeds received by the Company for sales pursuant to the November 2020 Equity Distribution Agreement. During the year ended December 31, 2020, the Company sold an aggregate of 2.0 million shares of our common stock pursuant to the November 2020 Equity Distribution Agreement at a weighted-average net selling price of $48.70 per share, which resulted in $99.1 million of net proceeds to the Company. Shares sold under the November 2020 Equity Distribution Agreement were offered and sold pursuant to the Company's registration statement on Form S-3 (File No. 333-239964) filed with the SEC on July 21, 2020, as amended on August 5, 2020, and declared effective on August 12, 2020, and a prospectus supplement and accompanying base prospectus filed with the SEC on November 20, 2020.

We believe our existing cash, cash equivalent, short-term marketable securities, along with cash from operations and proceeds from our equity financings, will be sufficient to meet our anticipated cash requirements for at least the next 12 months. Much of the losses we have incurred in certain prior periods were attributable to a variety of non-cash charges, including equity-based compensation expenses. As a result, in spite of the losses we recorded during these periods, cash provided by continuing operations has been mostly positive since 2015 and has significantly contributed to our ability to meet our liquidity needs, including paying for capital expenditures. Additionally, if our business continues to grow and we are able to achieve increased efficiencies and economies of scale in line with this growth, we expect increased revenue levels would increase our ability to rely on cash from our operations to support our business in future periods, even if our expenses also increase as a result of the growth of our business. Based on these factors, we anticipate that cash from our operations will continue to play a meaningful role in our ability to meet our liquidity requirements and pursue our business plans and strategies in the next 12 months and in the longer term.

However, our expectations regarding the cash that may be provided by our operations and our cash needs in future periods could turn out to be wrong, in which case we may require additional financing to support our operations, as we do not presently have any commitments for future capital. For instance, cash provided by our operations has in the past experienced fluctuations from period to period, which we expect may continue in the future. These fluctuations can occur because of a variety of factors, including, among others, factors relating to the ongoing COVID-19 pandemic, the amount and timing of sales of billable tests, the prices we charge for our tests due to changes in product mix, customer mix, general price degradation for tests or other factors, the rate and timing of our billing and collections cycles and the timing and amount of our commitments and other payments. Moreover, even if our liquidity expectations are correct, we may still seek to raise additional capital through securities offerings, credit facilities or other debt financings, asset sales or collaborations or licensing arrangements.

If we raise funds by issuing equity securities, our existing stockholders could experience substantial dilution. Additionally, any preferred stock we issue could provide for rights, preferences or privileges senior to those of our common stock, and our issuance of any additional equity securities, or the possibility of such an issuance, could cause the market price of our common stock to decline. The terms of any debt securities we issue or borrowings we incur, if available, could impose significant restrictions on our operations, such as limitations on our ability to incur additional debt or issue additional equity or other restrictions that could adversely affect our ability to conduct our business, and would result in increased fixed payment obligations. If we seek to sell assets or enter into collaborations or licensing arrangements to raise capital, we may be required to accept unfavorable terms or relinquish or license to a third party our rights to important or valuable technologies or tests we may otherwise seek to develop ourselves. Moreover, we may incur substantial costs in pursuing future capital, including investment banking, legal and accounting fees, printing and distribution expenses and other similar costs. Additional funding may not be available to us when needed, on acceptable terms or at all. For example, the COVID-19 pandemic has recently caused extreme disruption and volatility in the global capital markets, which could reduce our ability to access capital. If we are not able to secure funding if and when needed and on reasonable terms, we may be forced to delay, reduce the scope of or eliminate one or more sales and marketing initiatives, research and development programs or other growth plans or strategies. In addition, we may be forced to work with a partner on one or more aspects of our tests or market development programs or initiatives, which could lower the economic value to us of these tests, programs or initiatives. Any such outcome could significantly harm our business, performance and prospects.

Cash Flows

The following table summarizes cash flows from continuing operations for each of the periods presented:

	Year Ended December 31,	
	2020	**2019**
	(in thousands)	
Net cash provided by operations	$ 140,628	$ 5,517
Net cash used in investing activities	$ (326,438)	$ (29,046)
Net cash provided by financing activities	$ 261,251	$ 28,775

Operating Activities

Cash provided by operating activities in 2020 was $140.6 million. The difference between net income and cash provided by operating activities for the period was primarily due to the effect of $8.2 million in equity-based compensation expenses, $4.4 million in impairment loss from equity-method investments and $3.0 million in the depreciation of assets. Cash provided by operating activities decreased between periods primarily due to the negative effect of increases of $178.5 million in accounts receivable mainly due to the timing of collections from customers and $21.1 million in other current assets related to purchases of an increased amount of reagents and supplies, partially offset by increases of $53.3 million in income tax payable due to a significant increase in income, $32.7 million in accrued and other liabilities related to contract liabilities, and $22.6 million in accounts payable mainly due to timing of payments.

Cash provided by operating activities in 2019 was $5.5 million. The difference between net loss and cash provided by operating activities for the period was primarily due to the effect of $3.2 million in equity-based compensation expenses and $2.1 million in the depreciation of assets. Cash provided by operating activities decreased between periods primarily due to the negative effect of a $839,000 increase in accounts receivable mainly due to the timing of collections from customers.

Investing Activities

Cash used in investing activities in 2020 was $326.4 million, which primarily related to $324.4 million in purchases of marketable securities, $35.1 million in purchases of fixed assets consisting mainly of medical laboratory equipment, real property located in El Monte, California, a 2008 Cessna Citation Sovereign aircraft, computer hardware and building and land improvements, $2.6 million in investment in BostonMolecules and direct costs associates with the investment, and purchase equipment with an aggregate fair value of $1.4 million contributed to FF Gene Biotech, partially offset by maturities of $19.9 million of marketable debt securities and proceeds of $17.1 million from sales of marketable securities.

Cash used in investing activities in 2019 was $29.0 million, which primarily related to $52.1 million in purchases of marketable securities, $1.2 million in purchases of fixed assets consisting mainly of medical laboratory equipment, computer hardware and leasehold improvements, and purchased equipment with an aggregate fair value of $137,000 contributed to FF Gene Biotech, partially offset by maturities of $24.4 million of marketable securities.

Financing Activities

Cash provided by financing activities in 2020 was $261.3 million, which primarily represents net proceeds from sales of shares of our common stock made pursuant to various equity distribution agreements with Piper and $15.0 million borrowed from a margin loan collateralized by marketable debt securities held by the Company, to purchase real property located in El Monte, California.

Cash provided by financing activities in 2019 was $28.8 million, which primarily represents net proceeds from sales of shares of our common stock pursuant to 2019 Equity Distribution Agreements with Piper and our underwritten offering in November 2019.

Material Cash Requirements and Contractual Obligations as of December 31, 2020

As of December 31, 2020, we have an outstanding balance of $15.0 million in our margin account.

The following summarizes our contractual obligations as of December 31, 2020:

	Payments Due by Period				
	Total	Less than 1 year	1-3 years	3-5 years	More than 5 years
			(in thousands)		
Operating lease liabilities(1)	$ 835	$ 267	$ 542	$ 25	$ 1
Purchase obligations(2)	27,634	26,934	700	—	—
Total contractual obligations	$ 28,469	$ 27,201	$ 1,242	$ 25	$ 1

(1) Represents non-cancelable operating leases. For further information, refer to Note 9 to the Consolidated Financial Statements.

(2) Represents non-cancelable purchase obligations for medical lab equipment, reagents and other supplies.

Critical Accounting Policies and Use of Estimates

This discussion and analysis is based on our consolidated financial statements included in this report, which have been prepared in accordance with U.S. Generally Accepted Accounting Principles, or U.S. GAAP. The preparation of consolidated financial statements in accordance with U.S. GAAP requires management to make certain estimates, judgments and assumptions and decisions that affect the reported amounts and related disclosures, including the selection of appropriate accounting principles and the assumptions on which to base accounting estimates. In making these estimates and assumptions and reaching these decisions, we apply judgment based on our understanding and analysis of the relevant circumstances, including historical data and experience available at the date of the consolidated financial statements, as well as various other factors management believes to be reasonable under the circumstances, including but not limited to the potential impacts arising from the recent global pandemic related to COVID-19. As the extent and duration of the impacts from COVID-19 remain unclear, our estimates and assumptions may evolve as conditions change. Actual results could differ from our estimates. We are committed to incorporating accounting principles, assumptions and estimates that promote the representational faithfulness, verifiability, neutrality and transparency of the accounting information included in our consolidated financial statements.

While our significant accounting policies are described in more detail in the notes to the consolidated financial statements included in this report, we believe the accounting policies discussed below used in the preparation of our consolidated financial statements require the most significant estimates, judgments, assumptions and decisions.

Revenue Recognition

We generate revenue from sales of our COVID-19 tests and genetic tests. We currently receive payments from: hospitals, medical institutions, municipalities, governmental bodies, large corporations and other laboratories with which we have direct-bill relationships; research institutions; individual patients and third-party payors.

We recognize revenue in an amount that reflects the consideration to which we expect to be entitled in exchange for the transfer of promised goods or services to our customers. To determine revenue recognition for contracts with customers, the Company performs the following steps: (1) identifies the contract with the customer, (2) identifies the performance obligations in the contract, (3) determines the transaction price, (4) allocates the transaction price to the performance obligations in the contract, and (5) recognizes revenue when (or as) the entity satisfies a performance obligation.

Our test results are primarily delivered electronically. We bill certain customers for shipping and handling fees incurred by us associated with COVID-19 tests, and shipping and handling fees billed to customers are included in revenue, and shipping and handling fees incurred are included in cost of revenue in the accompanying Consolidated Statements of Operations.

While the transaction price is typically stated within the contract, we may accept payments from third-party payors that are less than the contractually stated price and is therefore variable consideration, and revenue is recognized based on an estimate of the consideration to which we will be entitled at an amount for which it is probable that a reversal of cumulative consideration will not occur. In developing the estimate of variable consideration, we utilize the expected value method under a portfolio approach. Our estimate requires significant judgment and is developed using known reimbursement rates and historical reimbursement data from payors and patients. As these contracts typically have a single performance obligation, no allocation of the transaction price is required. Control over COVID-19 and genetic testing services is transferred to our ordering physicians at a point in time. Specifically, we determined the customer obtains control of the promised service upon delivery of the test results. These judgments are reviewed each reporting period and updated as necessary.

Recent Accounting Pronouncements

See Note 2, Summary of Significant Accounting Policies, to our consolidated financial statements included in this report for information about recent accounting pronouncements.

The JOBS Act

We qualify as an “emerging growth company” as defined in the JOBS Act. As an emerging growth company, we may take advantage of specified reduced disclosure and other requirements that are otherwise applicable to public companies that are not emerging growth companies, including an extended transition period to comply with new or revised accounting standards applicable to public companies. We have chosen to “opt out” of this extended transition period and, as a result, we will comply with new or revised accounting standards as required when they are adopted. This decision to opt out of the extended transition period under the JOBS Act is irrevocable. We will remain an emerging growth company until December 31, 2021, unless our gross revenue exceeds $1.07 billion in any fiscal year before that date, we issue more than $1.0 billion of non-convertible debt in any three-year period before that date or the market value of our common stock held by non-affiliates exceeds $700.0 million as of the last business day of the second fiscal quarter of any fiscal year before that date.

Off-Balance Sheet Arrangements

We did not have, and do not currently have, any off-balance sheet arrangements during the periods presented, as defined in the rules and regulations of the SEC, that have or are reasonably likely to have a current or future effect on our financial condition, changes in financial condition, revenue or expenses, results of operations, liquidity, capital expenditures or capital resources that is material to investors.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk.

Not applicable.

Item 8. Financial Statements and Supplementary Data.

The information required by this Item 8 immediately follows the signature page to this report and is incorporated herein by reference.

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure.

None.

Item 9A. Controls and Procedures.

Evaluation of Disclosure Controls and Procedures

Disclosure controls and procedures are controls and other procedures of a company that are designed to ensure that information required to be disclosed by the company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the company's management, including its principal executive officer and principal financial officer, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure. As required by Rules 13a-15(b) and 15d-15(b) under the Exchange Act, our management, with the participation of our principal executive officer and principal financial officer, conducted an evaluation of the effectiveness of our disclosure controls and procedures as of December 31, 2020. Based on this evaluation, our principal executive officer and principal financial officer concluded that our disclosure controls and procedures were effective as of December 31, 2020.

Management's Annual Report on Internal Control over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting for our company, as this term is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act. As required by Rules 13a-15(c) and 15d-15(c) under the Exchange Act, our management, with the participation of our principal executive officer and principal financial officer, conducted an evaluation of the effectiveness of our internal control over financial reporting as of December 31, 2020, based on the criteria set forth in the Internal Control—Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on this evaluation, our management concluded that our internal control over financial reporting was effective as of December 31, 2020.

This report does not include an attestation report of our independent registered public accounting firm regarding our internal control over financial reporting, in accordance with applicable SEC rules that permit us to provide only management's report in this report.

Changes in Internal Control over Financial Reporting

There has been no change in our internal control over financial reporting during the quarter ended December 31, 2020, that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

Inherent Limitations on Disclosure Controls and Procedures and Internal Control over Financial Reporting

Management recognizes that any controls and procedures, no matter how well-designed and operated, can provide only reasonable assurance of achieving their objectives, and management necessarily applies its judgment in evaluating the benefits of possible controls and procedures relative to their costs. Because of these inherent limitations, our disclosure and internal controls may not prevent or detect all instances of fraud, misstatements or other control issues. In addition, projections of any evaluation of the effectiveness of disclosure or internal controls to future periods are subject to risks, including, among others, that controls may become inadequate because of changes in conditions or that the degree of compliance with policies or procedures may deteriorate.

Item 9B. Other Information.

On March 8, 2021, we entered into an Executive Employment Agreement and Severance Agreement with our Chief Operations Officer, Jian Xie. Pursuant to the Employment Agreement, Mr. Xie will receive an annual base salary of $300,000 which may be adjusted in the sole discretion of the Company and will be eligible to receive cash bonuses and equity awards under our equity incentive plans at any time at the discretion of our board of directors or compensation committee. The Severance Agreement provides that, subject to Mr. Xie's execution and absence of revocation of a release in favor of us, Mr. Xie is entitled to one year of continuation of his then-current annual base salary following a termination of his employment with us for any reason within one year after a change in control of the Company or Fulgent Therapeutics LLC.

PART III

Item 10. Directors, Executive Officers and Corporate Governance.

The information required by this item is incorporated by reference to the definitive proxy statement for our 2021 annual meeting of stockholders or an amendment to this report, in either case to be filed with the SEC within 120 days after the end of our fiscal year ended December 31, 2020.

Item 11. Executive Compensation.

The information required by this item is incorporated by reference to the definitive proxy statement for our 2021 annual meeting of stockholders or an amendment to this report, in either case to be filed with the SEC within 120 days after the end of our fiscal year ended December 31, 2020.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.

The information required by this item is incorporated by reference to the definitive proxy statement for our 2021 annual meeting of stockholders or an amendment to this report, in either case to be filed with the SEC within 120 days after the end of our fiscal year ended December 31, 2020.

Item 13. Certain Relationships and Related Transactions, and Director Independence.

The information required by this item is incorporated by reference to the definitive proxy statement for our 2021 annual meeting of stockholders or an amendment to this report, in either case to be filed with the SEC within 120 days after the end of our fiscal year ended December 31, 2020.

Item 14. Principal Accounting Fees and Services.

The information required by this item is incorporated by reference to the definitive proxy statement for our 2021 annual meeting of stockholders or an amendment to this report, in either case to be filed with the SEC within 120 days after the end of our fiscal year ended December 31, 2020.

PART IV

Item 15. Exhibits, Financial Statement Schedules.

(a)(1) Consolidated Financial Statements.

The following financial statements are included immediately following the signature page hereof and are filed as part of this report:

(a)(2) Financial Statement Schedules.

All financial statement schedules have been omitted, as they are not required, not applicable, or the required information is otherwise included.

(a)(3) Exhibits.

The information required by this Item 15(a)(3) is set forth on the Exhibit Index immediately preceding the signature page of this report and is incorporated herein by reference.

Item 16. Form 10-K Summary.

We have elected not to provide summary information.

EXHIBIT INDEX

Exhibit Number	Description	Form	File Number	Incorporated by Reference Exhibit	Filing Date	Filed Herewith
2.1	Agreement and Plan of Merger, dated September 16, 2016, by and among the registrant, Fulgent MergerSub, LLC and Fulgent Therapeutics LLC.	S-1/A	333-213469	2.1	9/19/2016	
3.1	Certificate of Incorporation of the registrant, dated May 13, 2016.	10-Q	001-37894	3.1	8/14/2017	
3.1.1	Certificate of Amendment to Certificate of Incorporation of the registrant, dated August 2, 2016 .	10-Q	001-37894	3.1.1	8/14/2017	
3.1.2	Certificate of Amendment to Certificate of Incorporation of the registrant, dated May 17, 2017.	10-Q	001-37894	3.1.2	8/14/2017	
3.2	Bylaws of the registrant.	S-1/A	333-213469	3.2	9/26/2016	
4.1	Form of Certificate of Common Stock of the registrant .	S-1/A	333-213469	4.1	9/19/2016	
4.2	Investor's Rights Agreement, dated May 17, 2016, by and between Fulgent Therapeutics LLC and Xi Long USA, Inc..	S-1	333-213469	4.2	9/2/2016	
4.3	Description of the registrant's securities.	10-K	001-37894	4.3	3/13/2020	
10.1#	Form of Indemnification Agreement between the registrant and each of its officers and directors.	S-1	333-213469	10.1	9/2/2016	
10.2#	Amended and Restated 2015 Equity Incentive Plan of Fulgent Therapeutics LLC.	S-1	333-213469	10.2	9/2/2016	
10.3#	Form of Notice of Option Grant and Option Agreement under the Amended and Restated 2015 Equity Incentive Plan of Fulgent Therapeutics LLC.	S-1	333-213469	10.3	9/2/2016	
10.4#	Form of Notice of Profits Interest Grant and Profits Interest Agreement under the Amended and Restated 2015 Equity Incentive Plan of Fulgent Therapeutics LLC.	S-1	333-213469	10.4	9/2/2016	
10.5#	Form of Notice of Restricted Share Unit Grant and Restricted Share Unit Agreement under the Amended and Restated 2015 Equity Incentive Plan of Fulgent Therapeutics LLC.	S-1	333-213469	10.5	9/2/2016	
10.6#	2016 Omnibus Incentive Plan of the registrant.	S-1/A	333-213469	10.6	9/26/2016	
10.7#	Form of Notice of Stock Option Award and Stock Option Award Agreement under the 2016 Omnibus Incentive Plan of the registrant.	S-1	333-213469	10.7	9/2/2016	
10.8#	Form of Notice of Restricted Stock Unit Award and Restricted Stock Unit Agreement under the 2016 Omnibus Incentive Plan of the registrant.	10-K	001-37894	10.8	3/17/2017	
10.9#	Form of Option Substitution Award under the 2016 Omnibus Incentive Plan of the registrant.	S-1	333-213469	10.9	9/2/2016	

Exhibit Number	Description	Form	File Number	Incorporated by Reference Exhibit	Filing Date	Filed Herewith
10.10#	Form of Notice of Restricted Stock Unit Substitution Award and Restricted Stock Unit Agreement under the 2016 Omnibus Incentive Plan of the registrant Form of Notice of Restricted Stock Unit Substitution Award and Restricted Stock Unit Agreement under the 2016 Omnibus Incentive Plan of the registrant.	S-1	333-213469	10.10	9/2/2016	
10.11#	Employment Agreement, dated May 25, 2016, by and among Fulgent Therapeutics LLC, the registrant and Ming Hsieh.	S-1	333-213469	10.11	9/2/2016	
10.12#	Employment Agreement, dated May 25, 2016, by and among Fulgent Therapeutics LLC, the registrant and Paul Kim.	S-1	333-213469	10.12	9/2/2016	
10.13#	Amended and Restated Employment Agreement, dated May 25, 2016, by and among Fulgent Therapeutics LLC, the registrant and Han Lin Gao.	S-1	333-213469	10.13	9/2/2016	
10.14#	Severance Agreement, dated July 7, 2016, by and among Fulgent Therapeutics LLC, the registrant and Ming Hsieh.	S-1	333-213469	10.14	9/2/2016	
10.15#	Severance Agreement, dated July 7, 2016, by and among Fulgent Therapeutics LLC, the registrant and Paul Kim.	S-1	333-213469	10.15	9/2/2016	
10.16#	Severance Agreement, dated July 7, 2016, by and among Fulgent Therapeutics LLC, the registrant and Han Lin Gao.	S-1	333-213469	10.16	9/2/2016	
10.17	Contribution and Allocation Agreement, dated May 19, 2016, by and among Fulgent Therapeutics LLC, Fulgent Pharma LLC and Ming Hsieh.	S-1	333-213469	10.17	9/2/2016	
10.18	Form of Fourth Amended and Restated Operating Agreement of Fulgent Therapeutics LLC, to be in effect upon completion of the Reorganization.	S-1/A	333-213469	2.1	9/19/2016	
10.19	Commercial Leases, dated April 14, 2015, April 28, 2016, March 24, 2016 and August 1, 2016, by and between E & E Plaza LLC and Fulgent Therapeutics LLC.	S-1	333-213469	10.19	9/2/2016	
10.20	Director Compensation Program of the registrant, effective as of September 28, 2016 and amended November 2, 2017.	10-K	001-37894	10.20	3/20/2018	
10.21§	Cooperation Agreement on the Establishment of Fujian Fujun Gene Biotech Co., Ltd., dated April 25, 2017, by and among Shenzhen Fujin Gene Science & Technology Co., Ltd., Xilong Scientific Co., Ltd. and Fuzhou Jinqiang Investment Partnership (LP).	10-Q	001-37894	10.1	8/14/2017	
10.22§	Supplemental Agreement to Cooperation Agreement, dated April 10, 2019, by and among Fulgent Genetics, Inc., Shenzhen Fujin Gene Technology Co., Ltd., Xilong Science Co., Ltd. and Fuzhou Jinqiang Investment Partnership (Limited).	10-Q	001-37894	10.1	8/12/2019	

Exhibit Number	Description	Form	File Number	Incorporated by Reference Exhibit	Filing Date	Filed Herewith
10.23	Commercial Lease, dated January 31, 2019, by and between E & E Plaza LLC and Fulgent Therapeutics LLC.	10-K	001-37894	10.23	3/22/2020	
10.24	Commercial Lease, dated April 1, 2019, by and between 4401 Santa Anita Corporation and Fulgent Genetics, Inc.	10-K	001-37894	10.24	3/22/2020	
10.25	Equity Distribution Agreement, dated August 30, 2019, by and between Fulgent Genetics, Inc. and Piper Jaffray & Co.	8-K	001-37894	1.1	8/30/2019	
10.26	Purchase Agreement, dated as of November 13, 2019, by and between Fulgent Genetics, Inc. and Piper Jaffray & Co.	8-K	001-37894	1.1	11/14/2019	
10.27	Amendment No. 1 to Equity Distribution Agreement, dated August 4, 2020, by and between Fulgent Genetics, Inc. and Piper Sandler & Co.	8-K	001-37894	1.1	8/5/2020	
10.28	Equity Distribution Agreement, dated as of September 24, 2020, by and between Fulgent Genetics, Inc. and Piper Sandler & Co.	8-K	001-37894	1.1	9/25/2020	
10.29	Equity Distribution Agreement, dated as of November 20, 2020, by and between Fulgent Genetics, Inc. and Piper Sandler & Co., BTIG, LLC, and Oppenheimer & Co. Inc.	8-K	001-37894	1.1	11/20/2020	
10.30	Fulgent Genetics, Inc. Amended and Restated 2016 Omnibus Incentive Plan	8-K	001-37894	10.1	5/21/2018	
10.31	Fulgent Genetics, Inc. Amended and Restated 2016 Omnibus Incentive Plan	8-K	001-37894	10.1	9/18/2020	
10.32^	Agreement for Purchase and Sale of Property, dated July 23, 2020	8-K	001-37894	2.1	10/21/2020	
10.33^	Aircraft Purchase Agreement, dated August 18, 2020, by and between ServiceMaster Acceptance Corporation and the Company	10-Q	001-37894	10.2	11/9/2020	
10.34	Commercial Sublease Agreement, dated July 1st, 2020, between Medscan Laboratories Inc. and Fulgent Genetics, Inc.; Commercial Lease Agreement, dated June 17, 2020, by and between Medscan Laboratories Inc. and Ten-Voss Ltd.					X
10.35	Commercial Lease, dated January 11, 2021 by and between Ten-Voss Ltd., Medscan Laboratories, Inc. and Fulgent Genetics, Inc.					X
10.36	Commercial Lease Addendum, dated February 1, 2021, by and between E & E Plaza LLC and Fulgent Genetics, Inc.					X
10.37#	Employment Agreement, dated March 8, 2021, by and among Fulgent Therapeutics, LLC, Fulgent Genetics, Inc. and Jian Xie.					X
10.38#	Severance Agreement, dated March 8, 2021, by and among Fulgent Therapeutics LLC, Fulgent Genetics, Inc. and Jian Xie.					X
21.1	Subsidiaries of the registrant.	10-K	001-37894	21.1	3/22/2020	

Exhibit Number	Description	Form	File Number	Incorporated by Reference Exhibit	Filing Date	Filed Herewith
23.1	Consent of Deloitte & Touche LLP, independent registered public accounting firm, relating to the financial statements of the registrant.					X
24.1	Power of Attorney (included on the signature page hereto)					X
31.1	Certification of Principal Executive Officer pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.					X
31.2	Certification of Principal Financial Officer pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.					X
32.1*	Certification of Principal Executive Officer and Principal Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.					X
101.INS	XBRL Instance Document					X
101.SCH	XBRL Taxonomy Extension Schema Document					X
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document					X
101.DEF	XBRL Definition Linkbase Document					X
101.LAB	XBRL Taxonomy Extension Label Linkbase Document					X
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document					X

* This certification is being furnished solely to accompany this report pursuant to 18 U.S.C. 1350, and are not being filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, and is not to be incorporated by reference into any filing of the registrant, whether made before or after the date hereof, regardless of any general incorporation by reference language in such filing.

\# Management contract or compensatory plan, contract or arrangement.

§ Confidential treatment has been granted with respect to portions of this exhibit pursuant to Rule 24b-2 under the Exchange Act, and these confidential portions have been redacted from the version of this agreement that is incorporated by reference in this report. A complete copy of this exhibit, including the redacted portions, has been separately furnished to the SEC.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

FULGENT GENETICS, INC.

Date: March 8, 2021

By: /s/ Ming Hsieh
Ming Hsieh
President, Chief Executive Officer

POWER OF ATTORNEY

IN WITNESS WHEREOF, each person whose signature appears below constitutes and appoints Ming Hsieh and Paul Kim as his true and lawful agent, proxy and attorney-in-fact, each acting alone, with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to (i) act on and sign any amendments to this report, with exhibits thereto and other documents in connection therewith, (ii) act on and sign such certificates, instruments, agreements and other documents as may be necessary or appropriate in connection therewith, and in each case file the same with the SEC, hereby approving, ratifying and confirming all that such agent, proxy and attorney-in-fact or any of his substitutes may lawfully do or cause to be done by virtue thereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, this report has been signed below by the following persons on behalf of the registrant in the capacities and on the dates indicated.

Name and Signature	Title	Date
/s/ Ming Hsieh Ming Hsieh	President, Chief Executive Officer and Chairman of the Board (principal executive officer)	March 8, 2021
/s/ Paul Kim Paul Kim	Chief Financial Officer (principal financial and accounting officer)	March 8, 2021
/s/ John Bolger John Bolger	Director	March 8, 2021
/s/ Yun Yen Yun Yen	Director	March 8, 2021
/s/ Linda Marsh Linda Marsh	Director	March 8, 2021

INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the stockholders and the Board of Directors of Fulgent Genetics, Inc.:

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Fulgent Genetics, Inc. and subsidiaries (the "Company") as of December 31, 2020 and 2019, the related consolidated statements of operations, comprehensive income (loss), stockholders' equity, and cash flows, for the years ended December 31, 2020 and 2019, and the related notes (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2020 and 2019, and the results of its operations and its cash flows for the years ended December 31, 2020 and 2019, in conformity with accounting principles generally accepted in the United States of America.

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 Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit 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 audits, 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 of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the 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.

/s/ DELOITTE & TOUCHE LLP
Los Angeles, California

March 8, 2021

We have served as the Company's auditor since 2016.

FULGENT GENETICS, INC.
Consolidated Balance Sheets
(in thousands, except par value data)

	December 31, 2020	December 31, 2019
Assets		
Current assets		
Cash and cash equivalents	$ 87,426	$ 11,965
Marketable securities	211,941	16,304
Trade accounts receivable, net of allowance for doubtful accounts of $1,898 and $751, as of December 31, 2020 and 2019, respectively	183,857	6,555
Other current assets	40,392	2,255
Total current assets	523,616	37,079
Marketable securities, long-term	132,502	41,947
Equity method investments	—	872
Fixed assets, net	40,199	5,974
Operating lease right-of-use asset	828	2,633
Other long-term assets	3,316	251
Total assets	$ 700,461	$ 88,756
Liabilities and Stockholders' Equity		
Current liabilities		
Accounts payable	$ 26,488	$ 1,581
Accrued liabilities	8,446	1,333
Income tax payable	53,319	24
Contract liabilities	26,576	365
Investment margin loan	15,019	—
Operating lease liabilities, short-term	267	420
Total current liabilities	130,115	3,723
Operating lease liabilities, long-term	568	2,256
Unrecognized tax benefits	377	—
Other long-term liabilities	14	—
Total liabilities	131,074	5,979
Commitments and contingencies (Note 8)		
Stockholders' equity		
Common stock, $0.0001 par value per share, 50,000 shares authorized, 28,178 and 21,483 shares issued and outstanding at December 31, 2020 and 2019, respectively	3	2
Preferred stock, $0.0001 par value per share, 1,000 shares authorized, no shares issued or outstanding at December 31, 2020 and 2019	—	—
Additional paid-in capital	418,065	146,058
Accumulated other comprehensive income	438	146
Retained earnings (accumulated deficit)	150,881	(63,429)
Total stockholders' equity	569,387	82,777
Total liabilities and stockholders' equity	$ 700,461	$ 88,756

The accompanying notes are an integral part of these consolidated financial statements.

FULGENT GENETICS, INC.
Consolidated Statements of Operations
(in thousands, except per share data)

	Year Ended December 31,	
	2020	**2019**
Revenue	$ 421,712	$ 32,528
Cost of revenue	89,807	14,107
Gross profit	331,905	18,421
Operating expenses:		
Research and development	11,580	6,537
Selling and marketing	14,952	5,898
General and administrative	15,215	6,414
Total operating expenses	41,747	18,849
Operating income (loss)	290,158	(428)
Interest and other income, net	1,526	837
Income before income taxes, equity loss in investee and impairment loss	291,684	409
Provision for income taxes	72,532	43
Income before equity loss in investee and impairment loss	219,152	366
Equity loss in investee	(488)	(777)
Impairment loss in equity-method investments	(4,354)	—
Net income (loss)	$ 214,310	$ (411)
Net income (loss) per common share:		
Basic	$ 9.44	$ (0.02)
Diluted	$ 8.91	$ (0.02)
Weighted-average common shares:		
Basic	22,694	18,709
Diluted	24,056	18,709

The accompanying notes are an integral part of these consolidated financial statements.

FULGENT GENETICS, INC.
Consolidated Statements of Comprehensive Income (Loss)
(in thousands)

	Year Ended December 31,	
	2020	**2019**
Net income (loss)	$ 214,310	$ (411)
Other comprehensive income (loss)		
Foreign currency translation gain (loss)	20	(17)
Net unrealized gain on marketable debt securities, net of tax	272	198
Comprehensive income (loss)	$ 214,602	$ (230)

The accompanying notes are an integral part of these consolidated financial statements.

FULGENT GENETICS, INC.
Consolidated Statements of Stockholders' Equity
(in thousands)

	Stockholders' Equity					
	Shares	Amount	Additional Paid-In Capital	Accumulated Other Comprehensive Income (Loss)	Retained Earnings (Accumulated Deficit)	Total Equity
Balance at December 31, 2018	**18,172**	**$ 2**	**$ 114,203**	**$ (35)**	**$ (63,018)**	**$ 51,152**
Equity-based compensation	—	—	3,209	—	—	3,209
Exercise of common stock options	100	—	38	—	—	38
Restricted stock awards	434	—	—	—	—	—
Issuance of common stock at an average of $9.37 per share, net	104	—	979	—	—	979
Issuance of common stock at an average of $10.34 per share, net	2,674	—	27,650	—	—	27,650
Repurchases of capital stock	(1)	—	(21)	—	—	(21)
Other comprehensive gain, net	—	—	—	181	—	181
Net loss	—	—	—	—	(411)	(411)
Balance at December 31, 2019	**21,483**	**2**	**146,058**	**146**	**(63,429)**	**82,777**
Equity-based compensation	—	—	8,157	—	—	8,157
Exercise of common stock options	56	—	104	—	—	104
Restricted stock awards	655	—	—	—	—	—
Issuance of common stock at an average of $38.50 per share, net	1,108	—	42,655	—	—	42,655
Issuance of common stock at an average of $42.90 per share, net	2,846	1	122,102	—	—	122,103
Issuance of common stock at an average of $48.70 per share, net	2,034	—	99,051	—	—	99,051
Repurchases of capital stock	(4)	—	(62)	—	—	(62)
Other comprehensive gain, net	—	—	—	292	—	292
Net income	—	—	—	—	214,310	214,310
Balance at December 31, 2020	**28,178**	**$ 3**	**$ 418,065**	**$ 438**	**$ 150,881**	**$ 569,387**

The accompanying notes are an integral part of these consolidated financial statements.

FULGENT GENETICS, INC.
Consolidated Statements of Cash Flows
(in thousands)

	Year Ended December 31,	
	2020	**2019**
Cash flow from operating activities:		
Net income (loss)	$ 214,310	$ (411)
Adjustments to reconcile net income (loss) to net cash provided by operating activities:		
Equity-based compensation	8,157	3,209
Depreciation	2,962	2,107
Noncash lease expense	409	413
Loss on disposal of fixed asset	672	11
Amortization of premium of marketable securities	857	106
Provision for bad debt	1,170	189
Deferred taxes	(1,775)	(21)
Unrecognized tax benefits	377	—
Holding loss on equity securities	90	—
Equity loss in investee	488	777
Impairment loss in equity method investments	4,354	—
Other	8	52
Changes in operating assets and liabilities:		
Accounts receivable	(178,480)	(839)
Other current and long-term assets	(21,149)	374
Accounts payable	22,617	(329)
Accrued liabilities and other liabilities	32,655	264
Income tax payable	53,295	24
Operating lease liabilities	(389)	(409)
Net cash provided by operations	140,628	5,517
Cash flow from investing activities:		
Purchases of fixed assets	(35,130)	(1,182)
Proceeds from sale of fixed assets	8	—
Purchase of marketable securities	(324,359)	(52,077)
Maturities of marketable securities	19,919	24,350
Purchase of equipment contributed to equity-method investee	(1,380)	(137)
Proceeds from sale of marketable securities	17,095	—
Investment in equity method investee	(2,591)	—
Net cash used in investing activities	(326,438)	(29,046)
Cash flow from financing activities:		
Proceeds from public offerings of common stock, net of issuance costs	246,190	28,758
Proceeds from exercise of stock options	104	38
Repurchases of capital stock	(62)	(21)
Borrowing under margin account	15,019	—
Net cash provided by financing activities	261,251	28,775
Effect of exchange rate changes on cash and cash equivalents	20	(17)
Net increase in cash and cash equivalents	75,461	5,229
Cash and cash equivalents at beginning of period	11,965	6,736
Cash and cash equivalents at end of period	$ 87,426	$ 11,965
Supplemental disclosures of cash flow information:		
Income taxes paid	$ 20,612	$ 20
Supplemental disclosures of non-cash investing and financing activities:		
Purchases of fixed assets in accounts payable	$ 3,402	$ 557
Operating lease right-of-use assets obtained in exchange for lease liabilities	$ 402	$ 110
Operating lease liabilities removed due to purchasing of underlying assets	$ 1,853	$ —
Public offerings proceeds in other receivable included in other current assets	$ 17,799	$ —
Public offerings costs included in accounts payable	$ 359	$ 129

The accompanying notes are an integral part of these consolidated financial statements.

Note 1. Overview and Basis of Presentation

The accompanying consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America, or U.S. GAAP. These financial statements include the assets, liabilities, revenues and expenses of all wholly-owned subsidiaries and entities in which the Company has a controlling financial interest or is deemed to be the primary beneficiary. In determining whether the Company is the primary beneficiary of an entity, the Company applies a qualitative approach that determines whether it has both (i) the power to direct the economically significant activities of the entity and (ii) the obligation to absorb losses of, or the right to receive benefits from, the entity that could potentially be significant to that entity. The Company uses the equity method to account for its investments in entities that it does not control, but in which it has the ability to exercise significant influence over operating and financial policies. All significant intercompany accounts and transactions are eliminated from the accompanying consolidated financial statements.

Nature of the Business

Fulgent Genetics, Inc., together with its subsidiaries, collectively referred to as the Company, unless otherwise noted or the context otherwise requires, is a technology company offering comprehensive genetic testing providing physicians with clinically actionable diagnostic information they can use to improve the quality of patient care. The Company has developed a proprietary technology platform that allows it to offer a broad and flexible test menu and continually expand and improve its proprietary genetic reference library, while maintaining accessible pricing, high accuracy and competitive turnaround times. Combining next generation sequencing, or NGS, with its technology platform, the Company performs full-gene sequencing with deletion/duplication analysis in single-gene tests; pre-established, multi-gene, disease-specific panels; and customized panels that can be tailored to meet specific customer needs. In 2019, the Company launched its first patient-initiated product, Picture Genetics, a new line of at-home screening tests that combines the Company's advanced NGS solutions with actionable results and genetic counseling options for individuals. Since March 2020, the Company has commercially launched several tests for the detection of SARS-CoV-2, the virus that causes the novel coronavirus, or COVID-19, including NGS and reverse transcription polymerase chain reaction – based, or RT-PCR-based, tests. The Company has received an Emergency Use Authorization, or EUA, from the U.S. Food and Drug Administration, or the FDA, for the RT-PCR-based tests for the detection of SARS-CoV-2 using upper respiratory specimens (nasal, nasopharyngeal, and oropharyngeal swabs) and for the at-home testing service through Picture Genetics. The Company's at-home testing service for COVID-19 and RT-PCR-based test have been granted an EUA by the FDA only for the detection of nucleic acid from SARS-CoV-2, not for any other viruses or pathogens. The Company believes its test menu offers more genes for testing than its competitors in today's market, which enables it to provide expansive options for test customization and clinically actionable results. A cornerstone of the Company's business is its ability to provide expansive options and flexibility for all clients' unique testing needs.

Note 2. Summary of Significant Accounting Policies

Use of Estimates

The preparation of consolidated financial statements in conformity with U.S. GAAP requires management to make certain estimates, judgments and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements, as well as the reported amounts of revenue and expenses during the reporting periods. These estimates, judgments and assumptions are based on historical data and experience available at the date of the accompanying consolidated financial statements, as well as various other factors management believes to be reasonable under the circumstances, including but not limited to the potential impacts arising from the recent global pandemic related to COVID-19. As the extent and duration of the impacts from COVID-19 remain unclear, the Company's estimates and assumptions may evolve as conditions change. Actual results could differ significantly from these estimates.

On an on-going basis, management evaluates its estimates, primarily those related to: (i) revenue recognition criteria, (ii) accounts receivable and allowances for doubtful accounts, (iii) the useful lives of fixed assets, (iv) estimates of tax liabilities and (v) valuation of equity method investments.

Principles of Consolidation

The accompanying consolidated financial statements include the accounts of the Company and its wholly-owned subsidiaries. All intercompany transactions and balances have been eliminated in consolidation.

Cash and Cash Equivalents

The Company considers all highly liquid investments with original maturities of three months or less at the date of purchase to be cash equivalents. Cash and cash equivalents include cash held in banks and money market accounts. Cash equivalents are stated at fair value.

Accounts Receivable and Allowance for Doubtful Accounts

Accounts receivable are stated at the amount the Company expects to collect. The Company performs credit evaluations of its customers and generally does not require collateral. The Company establishes an allowance for doubtful accounts based upon factors surrounding the credit risk of specific customers, historical trends and other information that assists in management's evaluation. The Company writes off accounts receivable following a review by management and a determination that the receivable is uncollectible.

A roll-forward of the activity in the Company's allowance for doubtful accounts is as follows:

	December 31,	
	2020	**2019**
	(in thousands)	
Allowance for doubtful accounts at beginning of year	$ 751	$ 590
Bad debt expense	1,170	189
Write-offs	(23)	(28)
Allowance for doubtful accounts at end of year	$ 1,898	$ 751

Marketable Securities

All marketable debt securities, which consist of corporate debt securities, U.S. government agency debt securities, and Yankee debt securities issued by foreign governments or entities and denominated in U.S. dollars, have been classified as "available for sale" and are carried at fair value. Unrealized gains and losses, net of any related tax effects, are excluded from earnings and are included in other comprehensive income (loss) and reported as a separate component of stockholders' equity until realized. Realized gains and losses and declines in value judged to be other than temporary, if any, on marketable debt securities are included in interest and other income, net, in the accompanying Consolidated Statements of Operations. The cost of any marketable debt securities sold is based on the specific-identification method. The amortized cost of marketable debt securities is adjusted for amortization of premiums and accretion of discounts to maturity. Interest on marketable debt securities is included in interest and other income, net. In accordance with the Company's investment policy, management invests to diversify credit risk and only invests in securities with high credit quality, including U.S. government securities, and the maximum final maturity from the date of purchase is three years.

The Company's investments in marketable equity securities are measured at fair value with the related gains and losses, realized and unrealized, recognized in interest and other income, net, in the accompanying Consolidated Statements of Operations. The cost of any marketable equity securities sold is based on the specific-identification method.

The Company regularly evaluates whether declines in the fair value of its investments below their cost are other than temporary. The evaluation includes consideration of the cause of the impairment, including the creditworthiness of the security issuers, the number of securities in an unrealized loss position, the severity and duration of the unrealized losses, whether the Company has the intent to sell the securities, and whether it is more likely than not that the Company will be required to sell the securities before the recovery of their amortized cost basis. If the Company determines that the decline in fair value of an investment is below its accounting basis and this decline is other than temporary, the Company would reduce the carrying value of the security it holds and record a loss for the amount of such decline. The Company has not recorded any realized losses or declines in value judged to be other than temporary on its investments.

Fair Value of Financial Instruments

The Company's financial instruments consist principally of cash and cash equivalents, marketable securities, accounts receivable, accounts payable and investment margin loan. The carrying amounts of certain of these financial instruments, including cash and cash equivalents, accounts receivable, accounts payable and investment margin loan, approximate fair value due to their short maturities. Fair value of marketable securities is disclosed in Note 4, Fair Value Measurements, to the accompanying consolidated financial statements.

Concentrations of Credit Risk, Customers and Suppliers

Financial instruments that potentially subject the Company to significant concentrations of credit risk consist primarily of cash and cash equivalents, accounts receivable and marketable securities, which consist of debt securities and equity securities. As of December 31, 2020, substantially all of the Company's cash and cash equivalents were deposited in accounts at financial institutions, and amounts may exceed federally insured limits. Management believes that the Company is not exposed to significant credit risk due to the financial strength of the depository institutions in which its cash and cash equivalents are held.

In certain periods, a small number of customers has accounted for a significant portion of the Company's revenue. Aggregating customers that are under common control or are affiliates, two customers comprised 28% and 10% of total revenue in the year ended December 31, 2020, and one customer comprised 28% of total revenue in the year ended December 31, 2019. No customer comprised at least 10% of total accounts receivable as of December 31, 2020 and 2019.

Revenue from the U.S. government was less than 10% of total revenue in each of the years ended December 31, 2020 and 2019.

The Company relies on a limited number of suppliers for its test collection kits and certain laboratory substances used in the chemical reactions incorporated into its processes, referred to as reagents, as well as for the sequencers and various other equipment and materials it uses in its laboratory operations. In particular, the Company relies on a sole supplier for the next generation sequencers and associated reagents it uses to perform its genetic tests and as the sole provider of maintenance and repair services for these sequencers. The Company's laboratory operations would be interrupted if it encountered delays or difficulties securing these test collection kits, reagents, sequencers, other equipment or materials or maintenance and repair services, which could occur for a variety of reasons, including if the Company needs a replacement or temporary substitute for any of its limited or sole suppliers and is not able to locate and make arrangements with an acceptable replacement or temporary substitute. The Company believes there are currently only a few other manufacturers that are capable of supplying and servicing some of the equipment and other materials necessary for its laboratory operations, including collection kits, sequencers and various associated reagents.

Equity Method Investments

The Company uses the equity method to account for investments in entities that it does not control, but in which it has the ability to exercise significant influence over operating and financial policies. The Company's proportionate share of the net income or loss of these companies is included in consolidated net earnings. Judgments regarding the level of influence over each equity method investment include consideration of key factors such as the Company's ownership interest, representation on the board of directors or other management body and participation in policy-making decisions.

The Company evaluates its equity method investments for impairment whenever events or changes in circumstances indicate that a decline in value has occurred that is other than temporary. Evidence considered in this evaluation includes, but would not necessarily be limited to, the financial condition and near-term prospects of the investee, recent operating trends and forecasted performance of the investee, market conditions in the geographic area or industry in which the investee operates and the Company's strategic plans for holding the investment in relation to the period of time expected for an anticipated recovery of its carrying value. If the investments is determined to have a decline in value deemed to be other than temporary it is written down to estimated fair value.

Leases

The Company determines if an arrangement is a lease at inception. Operating leases are included as operating lease right-of-use, or ROU, assets, operating lease liabilities, short-term, and operating lease liabilities, long-term, on the Company's Consolidated Balance Sheets.

ROU lease assets represent the Company's right to use an underlying asset for the lease term and lease liabilities represent the Company's obligation to make lease payments arising from the lease. Operating ROU lease assets and liabilities are recognized at the commencement date based on the present value of lease payments over the lease term, including options to extend the lease when it is reasonably certain that the Company will exercise that option. The Company uses its incremental borrowing rate based on the information available at the commencement date in determining the present value of lease payments since its leases do not provide an implicit rate. The ROU lease asset includes any base rent payments made and excludes lease incentives and variable operating expenses. Lease expense for lease payments is recognized on a straight-line basis over the lease term.

The Company leases out space in buildings it owns in El Monte, California, to third-party tenants under noncancelable operating leases and has leased out such space since the Company purchased such buildings. The Company determines whether a lease exists at inception. The Company recognizes lease payments as income over the lease terms on a straight-line basis and recognizes variable lease payments as income in the period in which the changes in facts and circumstances on which the variable lease payment are based

occur. The net rental income is included in the interest and other income, net, in the accompanying Consolidated Statement of Operations.

Fixed Assets

Fixed assets are recorded at cost, net of accumulated depreciation and amortization. Depreciation is recorded using the straight-line method over the estimated useful lives of the assets, which is generally between three and thirty-nine years. Leasehold improvements are capitalized and amortized over the shorter of their expected lives or the applicable lease term, including renewal options, if available. Major replacements and improvements are capitalized, while general repairs and maintenance are expensed as incurred.

Software for Internal Use

The Company capitalizes certain costs incurred to purchase computer software for internal use. These costs include purchased software packages for Company use. Capitalized computer software costs are amortized over the estimated useful life of the computer software, which is generally three years. Internally developed software costs are capitalized after management has committed to funding the project, it is probable that the project will be completed and the software will be used for its intended function. Costs that do not meet that criteria and costs incurred on projects in the preliminary and post-implementation phases are expensed as incurred.

Impairment of Long-Lived Assets

The Company evaluates the carrying amount of its long-lived assets whenever events or changes in circumstances indicate that the assets may not be recoverable. An impairment loss would be recognized when estimated future cash flows expected to result from the use of an asset and its eventual disposition is less than the carrying amount of the asset. To date, there have been no such impairment losses.

Reporting Segment and Geographic Information

Reporting segments are identified as components of an enterprise about which separate discrete financial information is available for evaluation by the chief operating decision-maker in making decisions regarding resource allocation and assessing performance. The Company's chief operating decision maker is its Chief Executive Officer. The Company views its operations and manages its business in one reporting segment.

Revenue Recognition

The Company generates revenue from sales of its COVID-19 and genetic tests. The Company currently receives payments from primarily three different customer types: insurance customers, institutional customers, including hospitals, medical institutions, other laboratories, governmental bodies, municipalities and large corporations, and patients who pay directly.

The Company's test results are primarily delivered electronically. The Company bills certain customers for shipping and handling fees incurred by the Company associated with COVID-19 tests, and shipping and handlings fees billed to customers are included in revenue, and shipping and handling fees incurred are included in cost of revenue in the accompanying Consolidated Statements of Operations.

Performance Obligations

COVID-19 and Genetic Testing Services

Institutional and Patient Direct Pay

The Company's institutional contracts for COVID-19 and genetic testing services typically have a single performance obligation to deliver COVID-19 or genetic testing services to the ordering facility or patient. Some arrangements involve the delivery of genetic testing services to research institutions, which the Company refers to as "sequencing as a service." In arrangements with institutions, including hospitals, medical institutions, other laboratories, governmental bodies, municipalities and large corporations, and patients who pay directly, the transaction price is stated within the contract and is therefore fixed consideration. For most of the Company's testing volume, the Company identified the institutions, including hospitals, medical institutions, other laboratories, governmental bodies, municipalities and large corporations, and patients as the customer in Step 1 of the model and have determined a contract exists with those customers in Step 1. As these contracts typically have a single performance obligation, no allocation of the transaction price is required in Step 4 of the model. Control over COVID-19 or genetic testing services is transferred to the

Company's ordering facility at a point in time. Specifically, the Company determined the customer obtains control of the promised service upon delivery of test results.

Insurance

The Company's insurance contracts for COVID-19 and genetic testing services typically have a single performance obligation to deliver COVID-19 or genetic testing services to the ordering facility or patient. For most of the Company's insurance volume, the Company identified the patient as the customer in Step 1 of the model and have determined a contract exists with the patient in Step 1. In arrangements with insurance patients, the transaction price is typically stated within the contract, however, the Company may accept payments from third-party payors that are less than the contractually stated price and is therefore variable consideration. In developing the estimate of variable consideration, the Company utilizes the expected value method under a portfolio approach. The Company's estimate requires significant judgment and is developed using known reimbursement rates and historical reimbursement data from payors and patients. As these contracts typically have a single performance obligation, no allocation of the transaction price is required in Step 4 of the model. Control over COVID-19 and genetic testing services is transferred to the Company's ordering physicians at a point in time. Specifically, the Company determined the customer obtains control of the promised service upon delivery of the test results.

Certain incremental costs pertaining to both insurance and institutional, such as commissions, are incurred in obtaining contracts. Historically contract costs have not been significant to the financial statements.

Significant Judgments and Contract Estimates

COVID-19 and Genetic Testing Services

Accounting for insurance contracts includes estimation of the transaction price, defined as the amount the Company expects to be entitled to receive in exchange for providing the services under the contract. Due to the Company's out-of-network status with the majority of payors, estimation of the transaction price represents variable consideration. In order to estimate variable consideration, the Company utilizes a portfolio approach in which payors with similar reimbursement experience are grouped into portfolios. The Company's estimates of variable consideration are based primarily on historical reimbursement data. Certain assumptions will also be adjusted based on known and anticipated factors not reflected in the historical reimbursement data. The Company monitors these accrual estimates at each reporting period based on actual cash collections in order to assess whether a revision to the estimate is required. Both the initial accrual estimate and any subsequent revision to the estimate contain uncertainty and require the use of judgment in the estimation of the transaction price and application of the constraint for variable consideration. If actual results in the future vary from the Company's estimates, the Company will adjust these estimates, which would affect revenue and earnings in the period such variances become known.

Contract Liabilities

Contract liabilities are recorded when the Company receives payment or bills prior to completing its obligation to transfer goods or services to a customer, and the Company subsequently recognizes contract liabilities as revenue in the period in which the applicable revenue recognition criteria, as described above, are met.

Overhead Expenses

The Company allocates overhead expenses, such as rent and utilities, to cost of revenue and operating expense categories based on headcount. As a result, an overhead expense allocation is reflected in cost of revenue and each operating expense category.

Cost of Revenue

Cost of revenue reflects the aggregate costs incurred in delivering test results and consists of: personnel costs, including salaries, employee benefit costs, bonuses and equity-based compensation expenses; costs of laboratory supplies; depreciation of laboratory equipment; amortization of leasehold and building improvements and allocated overhead. Costs associated with performing tests are recorded as tests are processed.

Research and Development Expenses

Research and development expenses represent costs incurred to develop the Company's technology and future tests. These costs consist of: personnel costs, including salaries, employee benefit costs, bonuses and equity-based compensation expenses; laboratory supplies; consulting costs and allocated overhead. The Company expenses all research and development costs in the periods in which they are incurred.

Selling and Marketing Expenses

Selling and marketing expenses consist of: personnel costs, including salaries, employee benefit costs, bonuses and equity-based compensation expenses; customer service expenses; direct marketing expenses; educational and promotional expenses; market research and analysis and allocated overhead. The Company expenses all selling and marketing costs as incurred.

General and Administrative Expenses

General and administrative expenses include executive, finance and accounting, legal and human resources functions. These expenses consist of: personnel costs, including salaries, employee benefit costs, bonuses and equity-based compensation expenses; audit and legal expenses; consulting costs and allocated overhead. The Company expenses all general and administrative expenses as incurred.

Income Taxes

Income taxes are accounted for under the asset and liability method. The Company provides for federal, state and foreign income taxes currently payable, as well as for taxes deferred due to timing differences between reporting income and expenses for financial statement purposes versus tax purposes. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to temporary differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted income tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect of a change in income tax rates is recognized as income or expense in the period that includes the enactment date.

The Company recognizes the effect of income tax positions only if those positions are more likely than not to be sustained. Recognized income tax positions are measured at the largest amount with a greater than 50% likelihood of being realized. Changes in recognition or measurement are reflected in the period in which the change in judgment occurs. For income tax positions where it is not more likely than not that a tax benefit will be sustained, the Company does not recognize a tax benefit in its consolidated financial statements. The Company records interest and penalties related to uncertain tax positions, if applicable, as a component of income tax expense.

Equity-Based Compensation

The Company grants various types of equity-based awards to its employees, consultants and non-employee directors. Equity-based compensation costs are reflected in the accompanying Consolidated Statements of Operations based upon each award recipient's role with the Company. The Company primarily grants to its employees restricted stock unit, or RSU, awards that generally vest over a specified period of time upon the satisfaction of service-based conditions. The Company measures compensation expense for equity-based awards granted to employees based on the fair value of the award on the grant date of the award. Compensation expense for employee RSU awards with a service-based vesting condition is recognized ratably over the vesting period of the award.

Foreign Currency Translation and Foreign Currency Transactions

The Company translates the assets and liabilities of its non-U.S. dollar functional currency subsidiaries into U.S. dollars using exchange rates in effect at the end of each period. Expenses for these subsidiaries are translated using average rates in effect during the period. Gains and losses from these translations are recognized in foreign currency translation included in other comprehensive income (loss) as a component in the accompanying Consolidated Statements of Stockholders' Equity. The Company's subsidiaries that use the U.S. dollar as their functional currency remeasure monetary assets and liabilities at exchange rates in effect at the end of each period, and inventories, property and nonmonetary assets and liabilities at historical rates. Gains and losses resulting from the remeasurements are included in interest and other income, net in the accompanying Consolidated Statements of Operations. Gains and losses from these remeasurements were not significant in the year ended December 31, 2020.

Comprehensive Income (Loss)

Comprehensive income (loss) is comprised of net income (loss) and other comprehensive income (loss). Other comprehensive income (loss) consists of unrealized gain or loss on marketable debt securities and foreign currency translation adjustments from its subsidiaries not using the U.S. dollar as their functional currency. The Company did not have reclassifications from other comprehensive income (loss) to net loss during the year ended December 31, 2020. The tax effects related to unrealized holding gains on marketable debt securities were $147,000 in 2020. The tax effects related to unrealized gain was insignificant in 2019 due to valuation allowance.

Basic and Diluted Net Income or Loss per Share

Basic net income or loss per common share is computed by dividing the net income or loss attributable to common stockholders by the weighted-average number of common shares outstanding during the period. Diluted net income or loss per common share is computed by dividing the net loss attributable to common stockholders by the weighted-average number of common shares and dilutive common share equivalents outstanding during the period.

Emerging Growth Company

Pursuant to the Jumpstart Our Business Startups Act of 2012, or the JOBS Act, a company constituting an "emerging growth company" is, among other things, entitled to rely upon certain reduced reporting requirements. The Company is an emerging growth company, but has irrevocably elected not to take advantage of the extended transition period afforded by the JOBS Act for the implementation of new or revised accounting standards. As a result, the Company will comply with new or revised accounting standards on the relevant dates on which adoption of such standards is required for public companies that are not emerging growth companies.

Disaggregation of Revenue

The Company classifies its customers into three payor types: (i) Insurance, (ii) Institutional, including hospitals, medical institutions, other laboratories, governmental bodies, municipalities and large corporations, or (iii) Patients who pay directly, as the Company believes this best depicts how the nature, amount, timing, and uncertainty of its revenue and cash flows are affected by economic factors. The following table summarizes revenue from contracts with customers by payor type for the years ended December 31, 2020 and 2019.

	Year Ended December 31,	
	2020	**2019**
	(in thousands)	
Testing Services by payor		
Insurance	$ 257,587	$ 705
Institutional	163,083	31,284
Patient	1,042	539
Total Revenue	$ 421,712	$ 32,528

There was no material variable consideration recognized in the current period that relates to performance obligations that were completed in the prior period.

Contract Balances

Receivables from contracts with customers - As of December 31, 2020 and 2019, receivables from contracts with customers were approximately $183.9 million and $6.6 million, respectively, and are included within Trade accounts receivable on the Consolidated Balance Sheets.

Contracts assets and liabilities - As of December 31, 2020 and 2019, contract assets from contracts with customers were $1.4 million and $150,000, respectively, associated with contract execution and certain costs to fulfill a contract, which is included in other current assets in the accompanying Consolidated Balance Sheets. Contract liabilities are recorded when the Company receives payment prior to completing its obligation to transfer goods or services to a customer. The Company had $26.6 million and $365,000 of contract liabilities as of December 31, 2020 and 2019, respectively. Revenues of $257,000 and $59,000 for the years ended December 31, 2020 and 2019, respectively, related to contract liabilities at the beginning of the respective periods were recognized.

Transaction Price Allocated to Future Performance Obligations

The Accounting Standards Codification, or ASC, 606, Revenue from Contracts with Customers, issued by the Financial Accounting Standards Board, or FASB, requires that the Company disclose the aggregate amount of transaction price that is allocated to performance obligations that have not yet been satisfied as December 31, 2020. ASC 606 provides certain practical expedients that limit the requirement to disclose the aggregate amount of transaction price allocated to unsatisfied performance obligations.

The Company applied the practical expedient to not disclose the amount of transaction price allocated to unsatisfied performance obligations when the performance obligation is part of a contract that has an original expected duration of one year or

less. The Company does not have material future obligations associated with COVID 19 or genetic testing Services that extend beyond one year.

Recent Accounting Pronouncements

The Company evaluates all Accounting Standards Updates, or ASUs, issued by FASB for consideration of their applicability. ASUs not included in the Company's disclosures were assessed and determined to be either not applicable or are not expected to have a material impact on the Company's consolidated financial statements or disclosures.

ASU No. 2016-13

In June 2016, the FASB issued *ASU No. 2016-13, Financial Instruments-Credit Losses: Measurement of Credit Losses on Financial Instruments*. ASU No. 2016-13 replaces the incurred loss impairment methodology in current U.S. GAAP with a methodology that reflects expected credit losses. The update is intended to provide financial statement users with more decision-useful information about the expected credit losses on financial instruments and other commitments to extend credit held by a reporting entity at each reporting date. Entities will apply the standard's provisions as a cumulative-effect adjustment to retained earnings as of the beginning of the first reporting period in which the guidance is effective. The standard will be effective for annual reporting periods beginning after December 15, 2019, including interim periods within those reporting periods for public business entities that meet the definition of an SEC filer, excluding entities eligible to be smaller reporting companies as defined by the SEC. For all other entities, the amendments in this update are effective for fiscal years beginning after December 15, 2022, including interim periods within those fiscal years. Early application of the amendments is permitted. The Company does not expect the adoption of the new guidance under the standard to materially affect its financial position or results of operations and plans to adopt during fiscal year 2021.

ASU No. 2018-15

In August 2018, the FASB issued *ASU No. 2018-15, Intangibles-Goodwill and Other-Internal-Use Software (Subtopic 350-40): Customer's Accounting for Implementation Costs Incurred in a Cloud Computing Arrangement That Is a Service Contract*, which provides new guidance on the accounting for implementation, set-up, and other upfront costs incurred in a hosted cloud computing arrangement. Under the new guidance, entities will apply the same criteria for capitalizing implementation costs as they would for an internal-use software license arrangement. This guidance is effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2019. This ASU can be adopted prospectively to eligible costs incurred on or after the date of adoption or retrospectively. The adoption of this update did not have a material impact on the Company's consolidated financial statements or disclosures.

ASU No. 2019-12

In December 2019, the FASB issued *ASU No. 2019-12, Simplifying the Accounting for Income Taxes (Topic 740)*, which is intended to reduce the complexity of accounting standards while maintaining or enhancing the helpfulness of information provided to financial statement users. The amendment in this update simplifies the accounting for income taxes by removing some exceptions including the incremental approach for intraperiod tax allocation, the requirement to recognize a deferred tax liability for equity method investments, the ability not to recognize a deferred tax liability for a foreign subsidiary, and the general methodology for calculating income taxes in an interim period. Other changes include requiring entities to recognize franchise tax that is partially based on income as an income-based tax and account for any incremental amount incurred as a non-income-based tax, evaluate tax basis step-up in goodwill obtained in a transaction that is not a business combination, and reflect the effect of an enacted change in tax laws or rates in the annual effective tax rate computation in the interim period that includes the enactment date, making minor codification improvements for income taxes related to employee stock ownership plans and investments in qualified affordable housing projects accounted for using the equity method, and specifying that an entity is not required to allocate the consolidated current and deferred tax expense to a legal entity that is not subject to tax in its separate financial statements. This amendment is effective for public business entities beginning after December 15, 2020 with early adoption permitted. The Company does not expect the adoption of the new guidance under the standard to materially affect its financial position or results of operations and plans to adopt during fiscal year 2021.

Note 3. Marketable Securities

The Company's marketable securities consisted of the following:

	December 31, 2020			
	Amortized Cost Basis	Unrealized Gains	Unrealized Losses	Aggregate Fair Value
	(in thousands)			
Marketable securities:				
Short-term				
Equity securities				
Bond fund	$ 153,269	$ 67	$ (151)	$ 153,185
Exchange traded funds	17,614	—	(5)	17,609
Available-for-sale debt securities				
Money market accounts	47,461	—	—	47,461
Corporate debt securities	41,061	101	(15)	41,147
Less: Cash equivalents	(47,461)	—	—	(47,461)
Total short-term marketable securities	211,944	168	(171)	211,941
Long-term				
Corporate debt securities	124,989	580	(117)	125,452
U.S. government agency debt securities	1,000	2	—	1,002
Yankee debt securities	6,054	4	(10)	6,048
Total long-term marketable securities	132,043	586	(127)	132,502
Total marketable securities	$ 343,987	$ 754	$ (298)	$ 344,443

	December 31, 2019			
	Amortized Cost Basis	Unrealized Gains	Unrealized Losses	Aggregate Fair Value
	(in thousands)			
Marketable securities:				
Short-term				
Money market accounts	$ 4,700	$ —	$ —	$ 4,700
Corporate debt securities	17,962	43	(2)	18,003
Less: Cash equivalents	(6,399)	—	—	(6,399)
Total short-term marketable securities	16,263	43	(2)	16,304
Long-term				
Corporate debt securities	41,861	116	(30)	41,947
Total long-term marketable securities	41,861	116	(30)	41,947
Total marketable securities	$ 58,124	$ 159	$ (32)	$ 58,251

Management determined that the gross unrealized losses of $298,000 on the Company's marketable securities as of December 31, 2020 were temporary in nature. Gross unrealized losses on the Company's marketable securities were $32,000 as of December 31, 2019. The Company currently does not intend to sell the debt securities prior to maturity and does not consider these investments to be other-than-temporarily impaired as of December 31, 2020.

The proceeds and gross realized gains from sale of available-for-sale securities for the year ended December 31, 2020 were $8.1 million and $131,000, respectively. The proceeds and gross realized gains from sale of equity securities for the year ended December 31, 2020 were $9.0 million and $24,000, respectively. The Company did not sell any marketable securities in 2019. The net unrealized loss related to equity securities still held at December 31, 2020 was $89,000. The Company did not hold any equity securities in 2019.

The Company's available-for-sale debt securities of $221.1 million are used as collateral for an outstanding margin account borrowing. As of December 31, 2020, the Company had an outstanding borrowing of $15.0 million under its margin account. Margin account borrowings were used for the purchase of real property located in El Monte, California.

Note 4. Fair Value Measurements

The authoritative guidance on fair value measurements establishes a framework with respect to measuring assets and liabilities at fair value on a recurring basis and non-recurring basis. Under the framework, fair value is defined as the exit price, or the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants, as of the measurement date. The framework also establishes a three-tier hierarchy for inputs used in measuring fair value that maximizes the use of observable inputs and minimizes the use of unobservable inputs by requiring that the most observable inputs be used when available. Observable inputs are inputs market participants would use in valuing the asset or liability and are developed based on market data obtained from sources independent of the Company. Unobservable inputs are inputs that reflect the Company's assumptions about the factors market participants would use in valuing the asset or liability and are developed based on the best information available in the circumstances. The hierarchy consists of the following three levels:

Level 1:	Inputs are quoted prices (unadjusted) in active markets for identical assets or liabilities that the reporting entity can access at the measurement date.
Level 2:	Inputs are inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly.
Level 3:	Inputs are unobservable inputs for the asset or liability.

The following tables present information about the Company's financial assets measured at fair value on a recurring basis, based on the three-tier fair value hierarchy:

	December 31, 2020			
	Total	Level 1	Level 2	Level 3
	(in thousands)			
Marketable securities and cash equivalents:				
Bond Fund	$ 153,185	$ 153,185	$ —	$ —
Exchange traded funds	17,609	17,609	—	—
Corporate debt securities	166,599	—	166,599	—
U.S. government agency debt securities	1,002	—	1,002	—
Yankee debt securities	6,048	—	6,048	—
Money market accounts	47,461	47,461	—	—
Total marketable securities and cash equivalents	$ 391,904	$ 218,255	$ 173,649	$ —

	December 31, 2019			
	Total	Level 1	Level 2	Level 3
	(in thousands)			
Marketable securities and cash equivalents:				
Corporate debt securities	$ 59,950	$ —	$ 59,950	$ —
Money market accounts	4,700	4,700	—	—
Total marketable securities and cash equivalents	$ 64,650	$ 4,700	$ 59,950	$ —

The Company's Level 1 assets include marketable equity securities and money market instruments and are valued based upon observable market prices. Level 2 assets consist of U.S. government agency debt securities, corporate debt securities and Yankee debt securities. Level 2 securities are valued based upon observable inputs that include reported trades, broker/dealer quotes, bids and offers. As of December 31, 2020 and 2019, the Company had no investments that were measured using unobservable (Level 3) inputs.

There were no transfers between fair value measurement levels during the years ended December 31, 2020 and 2019.

There were no gross unrealized losses for cash equivalents as of December 31, 2020, and gross unrealized losses for marketable securities as of December 31, 2020 were not material. There were no unrealized losses for securities in an unrealized loss position for more than 12 months. During the years ended December 31, 2020 and 2019, the Company did not recognize other-than-temporary impairment losses related to its marketable securities.

Note 5. Fixed Assets

Major classes of fixed assets consisted of the following:

	Useful Lives	December 31, 2020	December 31, 2019
		(in thousands)	
Medical lab equipment	5 Years	$ 20,849	$ 10,493
Building	39 Years	6,731	—
Aircraft	7 Years	6,503	—
Computer hardware	3 Years	3,699	1,705
Leasehold improvements	Shorter of lease term or estimated useful life	1,580	876
Building improvements	6 months to 5 Years	707	—
Computer software	3 Years	541	541
Furniture and fixtures	5 Years	454	235
Land improvements	5 to 15 Years	403	—
Automobile	5 Years	53	—
General equipment	5 Years	44	—
Land		7,500	—
Assets not yet placed in service		2,055	114
Total		51,119	13,964
Less: Accumulated depreciation		(10,920)	(7,990)
Property and equipment, net		$ 40,199	$ 5,974

Depreciation expense on fixed assets totaled $3.0 million and $2.1 million for the years ended December 31, 2020 and 2019, respectively.

Note 6. Other Current Assets

Other current assets consisted of the following:

	December 31, 2020	December 31, 2019
	(in thousands)	
Other receivable	$ 17,810	$ 16
Reagents and supplies	16,491	277
Prepaid expenses	3,682	1,288
Contract assets	1,379	150
Marketable securities interest receivable	1,016	478
Prepaid income taxes	14	46
Total	$ 40,392	$ 2,255

Reagents and supplies include reagents and consumables used for DNA sequencing applications in the Company’s DNA sequencing equipment and collection kits for COVID-19 tests. Other receivable primarily consists of proceeds to be received from public offerings of the Company’s common stock.

Note 7. Reporting Segment and Geographic Information

The Company views its operations and manages its business in one reporting segment. All long-lived assets were located in the United States as of December 31, 2020 and 2019 with an insignificant amount located in Canada. Revenue by region for the years ended December 31, 2020 and 2019 were as follows:

	Year Ended December 31,	
	2020	2019
	(in thousands)	
Revenue:		
United States	$ 415,334	$ 25,014
Foreign:		
Canada	1,725	2,245
Other Countries	4,653	5,269
Total	$ 421,712	$ 32,528

Note 8. Debt, Commitments and Contingencies

Debt

In 2020, the Company purchased a real property located at 4399 - 4401 Santa Anita Avenue, El Monte, California, or the Property, from 4401 Santa Anita Corporation, a California corporation, or the Seller. The Company paid an aggregate of $15.4 million in exchange for the Property, or the Property Purchase Agreement, which consists of approximately 61,612 total square feet of building situated on 2.6 acres of land. In connection with the signing of the Property Purchase Agreement, the Company provided a refundable $350,000 deposit to the Seller. In connection with the closing of escrow, the Company paid the remaining amount owed pursuant to the Property Purchase Agreement of approximately $15.0 million to the Seller. The $15.0 million paid in connection with the close of escrow was financed using a margin loan with the custodian of the Company's marketable debt security investment account. The marketable securities in the brokerage account were used as collateral for the margin loan. The custodian can issue a margin call at any time. The interest rate on the margin loan was the effective federal funds rate, or EFFR, plus a spread, and the EFFR and/or the spread can be changed by Bank of New York at any time. The interest was 1% at the time of withdrawal of $15.0 million from the margin account, and the interest rate at December 31, 2020 was 0.78%. The Company did not make any other withdrawals from the margin account, and the outstanding balance of $15.0 million is included in the accompanying Consolidated Balance Sheets. The related interest expenses for the year ended December 31, 2020 was $20,000.

Operating Leases

See Note 9, Leases, for further information.

Gene Biotech

See Note 15, Equity Method Investments, for a description of the Company's commitments related to its joint venture, FF Gene Biotech, as defined in Note 15.

Purchase Obligations

As of December 31, 2020, the Company had non-cancelable purchase obligations of $27.6 million, of which, $23.6 million for reagents and other supplies and $3.3 million for medical lab equipment are payable within twelve months, and $700,000 for medical lab equipment is payable within the next twenty-four months.

Contingencies

From time to time, the Company may be subject to legal proceedings and claims arising in the ordinary course of business. Management does not believe that the outcome of any of these matters will have a material effect on the Company's consolidated financial position, results of operations or cash flows.

Note 9. Leases

Lessee

The Company has various non-cancelable operating leases with varying terms through October 2025 primarily for office space and equipment. The Company has options to renew some of these leases for three years after their expiration. The Company considers these options, which may be elected at the Company's sole discretion, in determining the lease term on a lease-by-lease basis. The Company does not have any finance leases or leases with variable lease payments.

The determination of whether an arrangement contains a lease is made at inception by evaluating whether the arrangement conveys the right to use an identified asset and whether the Company obtains substantially all of the economic benefits from and has the ability to direct the use of the asset.

The Company's headquarters is located in Temple City, California, which is comprised of various corporate offices and a laboratory certified under the Clinical Laboratory Improvement Amendments of 1988, or CLIA, accredited by the College of American Pathologists and licensed by the State of California Department of Public Health. Additional offices are located in El Monte, California, and in 2020, the Company purchased the real property from the landlord. The Company paid an aggregate of $15.4 million in exchange for the real property which consists of approximately 61,612 total square feet of building situated on 2.6 acres of land. Additional offices are located in Atlanta, Georgia and are used for certain report generation functions. During the year ended December 31, 2020, the Company opened another CLIA-certified laboratory in Houston, Texas to expand its capacity.

The Company adopted new accounting standard *ASC 842, Leases*, on January 1, 2019, including the practical expedient on not separating lease components from nonlease components for all operating leases. Upon adoption, the Company recorded ROU assets of $3.0 million and short-term and long-term lease liabilities of $384,000 and $2.6 million, respectively. The difference between the ROU asset and liability is due to the existing balance of deferred rent at the date of adoption. There was no impact to retained earnings upon adoption. The Company entered into three operating leases with an existing landlord during the year. Upon entering into the leases, the Company recorded ROU assets of $393,000 and short-term and long-term lease liabilities of $58,000 and $335,000, respectively. These three leases along with other leases for the office spaces in El Monte were terminated due to the Company's purchase of the buildings from the landlord. The difference between the carrying amount of ROU assets and lease liabilities immediately before the purchase was recorded as an adjustment to the carrying amount of the buildings. The Company entered an operating lease for a copier during the year. Upon entering into the lease, the Company recorded ROU assets of $9,000 and short-term and long-term lease liabilities of $1,000 and $8,000, respectively. The Company also entered into fifteen short-term leases during the year ended December 31, 2020 and elected short-term lease recognition exemption for such leases.

As the Company's leases do not provide an implicit rate, the Company uses its incremental borrowing rate based on information available at the commencement date in determining the discount rate used to calculate present value lease payment. The Company determined its incremental borrowing rate based on inquiries with its bank. The Company's lease agreements do not contain any residual value guarantees, material restrictive covenants, bargain purchase options or asset retirement obligations. Lease expense for the Company's operating leases is recognized on a straight-line basis over the lease term. The Company's leases do not contain variable lease payments.

The following was operating lease expense:

	Year Ended December 31,	
	2020	2019
	(in thousands)	
Operating lease cost	$ 566	$ 587
Short-term lease cost	142	—
Total lease cost	$ 708	$ 587

Supplemental cash flow information related to leases was the following:

	Year Ended December 31,	
	2020	2019
	(in thousands)	
Cash paid for amounts included in the measurement of lease liabilities	$ 801	$ 535
Noncash lease expense	$ 409	$ 413
Right-of-assets obtained in exchange for new operating lease liabilities	$ 402	$ 110

Supplemental information related to leases was the following:

	December 31, 2020
Weighted average remaining lease term - operating leases	3.0 years
Weighted average discount rate - operating leases	6.22%

The following is a maturity analysis of operating lease liabilities using undiscounted cash flows on an annual basis with renewal periods included:

	Operating Leases (in thousands)
Year Ending December 31,	
2021	$ 311
2022	309
2023	270
2024	24
2025	2
Thereafter	1
Total lease payments	917
Less imputed interest	(82)
Total	$ 835

Lessor

The Company leases out space in buildings it owns to third-party tenants under noncancelable operating leases and has leased out such space since the Company purchased such buildings in October 2020. The Company determines whether a lease exists at inception. The remaining terms left after purchasing the buildings are from 2 months to 4 years including renewal options and may include rent escalation clauses. Lease income primarily represents fixed lease payments from tenants recognized on a straight-line basis over the application lease term. Variable lease income represents tenant payments for real estate taxes, insurance and maintenance.

The lease income was $145,000 for 2020, which was included in interest and other income, net, in the accompanying Consolidated Statements of Operations. There was no lease income in 2019. Total lease income for 2020 was as follows:

	Year Ended December 31, 2020 (in thousands)
Lease income	$ 144
Variable lease income	1
Total lease income	$ 145

Future fixed lease payments from tenants for all noncancelable operating leases as of December 31, 2020 are as follows:

	Lease Payments from Tenants (in thousands)
Year Ending December 31,	
2021	$ 335
2022	190
2023	95
2024	61
Total	$ 681

Note 10. Equity-Based Compensation

The Company has included equity-based compensation expense as part of cost of revenue and operating expenses in the accompanying Consolidated Statements of Operations as follows:

	Year Ended December 31,	
	2020	2019
	(in thousands)	
Cost of revenue	$ 1,452	$ 676
Research and development	2,693	1,024
Selling and marketing	2,092	845
General and administrative	1,920	664
Total	$ 8,157	$ 3,209

Award Activity

Option Awards

The following table summarizes activity for options to acquire shares of the Company's common stock in the years ended December 31, 2020 and 2019:

	Number of Shares Subject to Options (in thousands)	Weighted-Average Exercise Price	Weighted-Average Grant Date Fair Value	Weighted-Average Remaining Contractual Life (in years)	Aggregate Intrinsic Value (in thousands) (1)
Balance at December 31, 2018	417	$ 0.64		7.1	$ 1,116
Granted	30	$ 6.98	$ 4.58		
Exercised	(100)	$ 0.38	$ 5.36		
Canceled	(6)	$ 0.38	$ 7.10		
Balance at December 31, 2019	341	$ 1.27		6.4	$ 3,960
Granted	10	$ 15.82	$ 11.45		
Exercised	(56)	$ 1.86	$ 5.04		
Canceled	(8)	$ 4.18	$ 4.68		
Balance at December 31, 2020	287	$ 1.59		5.5	$ 14,484
Exercisable as of December 31, 2020	258	$ 0.65		5.1	$ 13,274

(1) Aggregate intrinsic value is calculated as the difference between (i) the exercise price of options and (ii) the market value of the Company's common stock as of the applicable date.

The total fair value of options that vested during the years ended December 31, 2020 and 2019 was $223,000 and $549,000, respectively. As of December 31, 2020, the remaining unrecognized compensation expense related to all outstanding option awards was $178,000 and is expected to be recognized over a weighted-average period of 3.0 year.

RSU Awards

RSUs are awards that entitle the holder to receive shares of the Company's common stock upon satisfaction of vesting conditions. Each RSU represents the contingent right to receive one share of the Company's common stock upon vesting and settlement.

The following table summarizes activity for RSUs relating to shares of the Company's common stock in the years ended December 31, 2020 and 2019:

	Number of Shares (in thousands)	Weighted-Average Grant Date Fair Value
Balance at December 31, 2018	1,086	$ 5.94
Granted	982	$ 7.00
Vested and settled	(434)	$ 6.39
Forfeited	(123)	$ 5.38
Balance at December 31, 2019	1,511	$ 6.54
Granted	1,389	$ 24.86
Vested and settled	(655)	$ 7.97
Forfeited	(160)	$ 11.17
Balance at December 31, 2020	2,085	$ 17.93

The RSU awards granted in the years ended December 31, 2020 and 2019 will result in aggregate equity-based compensation expense of $34.5 million and $6.9 million, respectively, to be recognized over the vesting periods from the grant date of each award granted in the period. As of December 31, 2020, the remaining unrecognized compensation expense related to all outstanding RSU awards was $33.5 million and is expected to be recognized over a weighted-average period of 3.4 years. As of December 31, 2019, the remaining unrecognized compensation expense related to all outstanding RSU awards was $8.7 million and was expected to be recognized over a weighted-average period of 2.9 years.

Fair Value Assumptions for Option Awards

The Company uses the Black-Scholes option-pricing model to measure the fair value of option awards. The Black-Scholes option-pricing model requires the input of various assumptions, each of which is subjective and requires significant judgment. These assumptions include the following:

- *Expected Term.* The expected term represents the period that the Company's equity-based awards are expected to be outstanding. The Company determines the expected term assumption based on the vesting terms, exercise terms and contractual terms of the options.
- *Risk-Free Interest Rate.* The Company determines the risk-free interest rate by using the equivalent to the expected term based on the U.S. Treasury yield curve in effect as of the date of grant.
- *Dividend Yield.* The assumed dividend yield is based on the Company's expectation that it will not pay dividends in the foreseeable future, which is consistent with its history of not paying dividends.
- *Expected Volatility.* The Company calculates expected volatility based on historical volatility data of its stock that is publicly traded.
- *Forfeiture Rate.* The Company accounts for forfeitures as they occur.

Awards to Employees

The table below sets forth the weighted-average assumptions used in the Black-Scholes option-pricing model to estimate the fair value of options to acquire shares of the Company's common stock granted to employees during the year ended December 31, 2020 and 2019.

	Year Ended December 31,	
	2020	**2019**
Expected term (in years)	6.1	6.1
Risk-free interest rates	0.4%	1.8%
Dividend yield	—	—
Expected volatility	87.5%	73.6%

Determination of Fair Value on Grant Dates

The fair value of the shares of the Company's common stock underlying option and RSU awards is determined by the Company's board of directors or the compensation committee thereof based on the closing sales price of the Company's common stock on the date of grant as reported by the Nasdaq Global Market.

Note 11. Income Taxes

Provision for income taxes consists of U.S. federal and state income taxes. A deferred tax liability is recognized for all taxable temporary differences, and a deferred tax asset is recognized for all deductible temporary differences, operating losses and tax credit carryforwards. A valuation allowance is provided when it is more likely than not that some portion or all of a deferred tax asset will not be realized.

The following table summarizes income (loss) before income taxes, equity loss in investee and impairment loss in equity-method investments:

	Year Ended December 31,	
	2020	2019
	(in thousands)	
U.S. income before income taxes, equity loss in investee and impairment loss	$ 291,739	$ 679
Foreign loss before income taxes and equity loss in investee	(55)	(270)
Income before income taxes, equity loss in investee and impairment loss	$ 291,684	$ 409

Income tax expense (benefit) consisted of the following:

	Year Ended December 31,	
	2020	2019
	(in thousands)	
Current:		
Federal	$ 53,794	$ 5
State	20,513	38
Total Current	74,307	43
Deferred:		
Federal	(248)	(249)
State	(14)	(280)
Change in valuation allowance	(1,513)	529
Total Deferred	(1,775)	—
Total income tax expense	$ 72,532	$ 43

Reconciliation of the difference between the federal statutory income tax rate and the effective income tax rate is as follows:

	Year Ended December 31,	
	2020	2019
Tax provision at federal statutory rate	21.00%	21.00%
State taxes	5.68%	-46.76%
Foreign tax rate differential	0.00%	13.83%
Uncertain Tax Positions	0.13%	0.00%
Stock based compensation	-0.92%	-53.53%
Return to provision	-0.11%	-57.11%
Other permanent differences	0.02%	3.87%
Other	-0.41%	0.01%
Change in valuation allowance	-0.52%	129.22%
Tax provision	24.87%	10.53%

The following table summarizes the elements of the deferred tax assets (liabilities):

	Year Ended December 31,	
	2020	2019
	(in thousands)	
Deferred tax assets		
Accrued vacation and other accrued expenses	$ 166	$ 97
Provision for bad debts	513	180
Net operating losses	206	445
Stock based compensation	1,424	609
State income taxes	4,306	8
Foreign	1,220	545
Credits	—	680
Lease liability	226	643
Equity loss in investment	700	—
Other	89	—
Gross deferred tax assets	8,850	3,207
Less: Valuation allowance	(2,021)	(2,125)
Net deferred tax assets	6,829	1,082
Deferred tax liabilities		
Depreciation	4,830	419
Right of use asset	224	633
Other	147	30
Total deferred tax liabilities	5,201	1,082
Net deferred tax assets	$ 1,628	$ —

As of December 31, 2020, the Company has no estimated federal net operating loss, or NOL, carryforwards and estimated state NOL carryforwards of $1.9 million. The Company's state NOLs are scheduled to expire from 2022 through 2042. The Company also has foreign NOL carryforwards of $405,000 which are scheduled to expire from 2021 through 2025.

FASB ASC 740 requires that deferred income tax assets be reduced by a valuation allowance if it is more likely than not that some or all of the deferred income tax assets will not be realized. The Company has evaluated the realizability of its deferred tax assets and has concluded that it is more likely than not that the Company may not realize the benefit of certain deferred tax assets. These deferred tax assets consist primarily of equity losses in joint ventures and foreign net operating loss carryforwards; accordingly, a valuation allowance of $2.0 million has been recorded on these deferred tax assets as of December 31, 2020. At December 31, 2019, the Company concluded that it was more likely than not that the Company may not realize the benefit of its deferred tax assets, primarily as a result of operating losses in recent years and, accordingly, provided a full valuation allowance of $2.1 million. The decrease in the valuation allowance of $104,000 for the year ended December 31, 2020 was primarily due to current and expected future operating profits.

During 2020 and 2019 the Company recorded deferred tax assets related to its equity method investment in FF Gene Biotech. When realized, the asset will generate a capital loss which may only be used to offset capital gain income. The Company does not currently have any capital gain income and has therefore recorded a full valuation allowance against this asset. During 2020, the Company recorded a deferred tax asset related to the impairment of its investment in BostonMolecules, Inc. When realized, the asset will generate a capital loss which may only be used to offset capital gain income; therefore, the Company has recorded a full valuation allowance against this asset. The net deferred assets are included in other long-term assets in the accompanying Consolidated Balance Sheets.

Uncertain Tax Positions

The Company is subject to income taxation by the United States government and certain states in which the Company's activities give rise to an income tax filing requirement. The Company does not have any significant income tax filing requirements in any foreign jurisdiction. As of December 31, 2020, there were no pending tax audits in any jurisdiction. The tax returns are subject to statutes of limitations that vary by jurisdiction. At December 31, 2020, the Company remains subject to income tax examinations in the U.S. and various states for tax years 2017 through 2020. However, due to the Company's NOL carryforwards in various jurisdictions, tax authorities have the ability to adjust carryforwards related to closed years until the statute expires on the year(s) in which the NOL carryforwards are utilized.

A reconciliation of the Company's gross unrecognized tax benefits is as follows:

	Year Ended December 31,	
	2020	2019
	(in thousands)	
Balance at beginning of year	$ —	$ —
Increases to prior positions	141	—
Increases for current year positions	236	—
Balance at end of year	$ 377	$ —

As of December 31, 2020, the Company has $377,000 of gross unrecognized tax benefits, related to research and experimental tax credits. The Company has $377,000 of unrecognized tax benefits as of December 31, 2020, which, if recognized, would affect the annual effective tax rate. The Company has no accrual for interest or penalties at December 31, 2020 or 2019, and has not recognized interest or penalties during the years ended December 31, 2020 and 2019. Although it is possible that the amount of unrecognized benefits with respect to our uncertain tax positions will increase or decrease in the next twelve months, the Company does not expect material changes.

While the Company believes it has adequately provided for all tax positions, amounts asserted by taxing authorities could differ from the Company's accrued positions. Accordingly, additional provisions on federal, state and foreign tax-related matters could be recorded in future periods as revised estimates are settled or otherwise resolved.

Note 12. Income (Loss) per Share

The following is a reconciliation of the basic and diluted income (loss) per share computations:

	Year Ended December 31,	
	2020	2019
	(in thousands, except per share data)	
Net income (loss)	$ 214,310	$ (411)
Weighted-average common shares - outstanding, basic	22,694	18,709
Weighted-average common shares - outstanding, diluted	24,056	18,709
Net income (loss) per common share, basic	$ 9.44	$ (0.02)
Net income (loss) per common share, diluted	$ 8.91	$ (0.02)

The following securities have been excluded from the calculation of diluted loss per share for all periods presented because their effect would have been anti-dilutive:

	Year Ended December 31,	
	2020	2019
	(in thousands)	
Options	10	36
RSUs	347	161

The anti-dilutive shares described above were calculated using the treasury stock method. During the year ended December 31, 2019, the Company had outstanding options and RSUs that were excluded from the weighted-average share calculation for continuing operations due to the Company's net loss positions.

Note 13. Retirement Plans

The Company offers a 401(k) retirement savings plan, or the 401 (k) Plan, for its employees, including its executive officers, who satisfy certain eligibility requirements. The Internal Revenue Code of 1986, as amended, allows eligible employees to defer a portion of their compensation, within prescribed limits, on a pre-tax basis through contributions to the 401(k) Plan. The Company matches contributions to the 401(k) Plan based on the amount of salary deferral contributions the participant makes to the 401(k) Plan. The Company will match up to 3% of an employee's compensation that the employee contributes to his or her 401(k) Plan account. Total Company matching contributions to the 401(k) Plan were $422,000 and $237,000 in the years ended December 31, 2020 and 2019, respectively.

Note 14. Related Party

Linda Marsh, who is a member of the Company's board of directors, is currently the Senior Executive Vice President of AHMC Healthcare Inc., or AHMC. The Company performs genetic testing and other testing services, on an arms-length basis, for AHMC, and the Company recognized $3.1 million in revenue in the year ended December 31, 2020. As of December 31, 2020, $1.8 million was owed to the Company by AHMC, which is included in trade accounts receivable, net, in the accompanying Consolidated Balance Sheets, in connection with this relationship.

The Spouse of the Company's founder, Chief Executive Officer and Chairman of the Company's board of directors, Ming Hsieh, is the owner of JEM Enterprise, or JEM. In the year ended December 31, 2020, the Company purchased $200,000 of office furniture and supplies from JEM. The Company believed $200,000 was a fair market price for the furniture purchased. As of December 31, 2020, zero was owed to JEM by the Company in connection with this relationship.

The Chief Executive Officer and Chairman of the Company's board of directors, Ming Hsieh, is the owner of PTJ Associates Inc., or PTJ. PTJ provides flight services to the Company on an arms-length basis. In the year ended December 31, 2020, the Company incurred $343,000 in expenses for flights between California and Texas to transport employees and supplies. As of December 31, 2020, $94,000 was owed to PTJ by the Company, which is included in accounts payable in the accompanying Consolidated Balance Sheets, in connection with this relationship.

As more fully described in Note 15, Equity Method Investments, in April 2017, the Company, through an affiliated company formed for the purpose of the relationship, entered into a cooperation agreement, or JV Agreement, with Xilong Scientific Co., Ltd., or Xilong Scientific, and Fuzhou Jinqiang Investment Partnership (LP), or FJIP, to form a joint venture under the laws of the People's Republic of China, or China, called Fujian Fujun Gene Biotech Co., Ltd., or FF Gene Biotech. Xilong Scientific is an affiliate of Xi Long USA, Inc., a company which at one point owned greater than 10% of the Company's common stock. XiLong USA, Inc. has since reported beneficial ownership of 4.92% of the Company's common stock in a Schedule 13G filed with the SEC on June 12, 2020. FJIP is owned by key management of FF Gene Biotech, including Dr. Han Lin Gao, the Chief Scientific Officer and a large stockholder of the Company and the owner of approximately 25% of FJIP.

The Company and Fulgent Pharma LLC, the Company's former subsidiary, are party to shared services arrangements where research and development and administrative services and office space and equipment are provided between the companies, on an arms-length basis. Ming Hsieh is the Manager and a member of Fulgent Pharma LLC. During the year ended December 31, 2020, the research development service rendered by Fulgent Pharma LLC was $427,000 and costs allocated to Fulgent Pharma, LLC were $52,000. Costs allocated to Fulgent Pharma LLC were not significant during the year ended December 31, 2019. As of December 31, 2020, $409,000 was owed to Fulgent Pharma LLC by the Company, which is included in accrued liabilities in the accompanying Consolidated Balance Sheets, and as of December 31, 2019, $26,000 was owed to the Company by Fulgent Pharma, which is recorded in other receivable in other current assets in the accompanying Consolidated Balance Sheet, in connection with these relationships.

Note 15. Equity Method Investments

In April 2017, the Company, through an affiliated company formed for the purpose of the relationship, entered into the JV Agreement with Xilong Scientific and FJIP to form FF Gene Biotech, a joint venture formed under the laws of China to offer genetic testing services to customers in China. Pursuant to the terms of the JV Agreement, the Company has agreed to contribute to FF Gene Biotech genetic sequencing and other equipment with a total cost of 60.0 million renminbi, or RMB, over a five-year period for a 30% ownership interest in FF Gene Biotech, previously three-year per original agreement and amended in April 2019. Xilong Scientific has agreed to contribute to FF Gene Biotech 102.0 million RMB over a five-year period for a 51% ownership interest in the FF Gene Biotech, previously three-year per original agreement and amended in April 2019. FJIP has agreed to contribute to FF Gene Biotech 19.0 million RMB over a ten-year period for a 19% ownership interest in FF Gene Biotech, previously five-year per original agreement and amended in April 2019. The Company's maximum exposure to fund losses of FF Gene Biotech as a result of its minority ownership of this entity is equal to its contribution obligation under the JV Agreement as described above. As of December 31, 2020, 29.7 million RMB (or approximately $4.5 million U.S. dollars) remained to be contributed to FF Gene Biotech by the

Company under the terms of the JV Agreement, and the Company has purchased and contributed equipment with an aggregate fair value of $4.5 million pursuant to its contribution commitment under the JV Agreement, of which, $1.4 million and $137,000 were contributed in the year ended December 31, 2020 and 2019, respectively. The Company accounted for this contribution in accordance with ASC 845, Nonmonetary Transactions, and recorded an investment based on the fair value of the contributed equipment, which is the same as carryover basis. In the year ended December 31, 2020, the Company recorded an impairment loss of $1.8 million from the investment on FF Gene Biotech as the decline in the fair value of the investment compared to the pro forma carrying value is more than the current carrying value, and the Company believes the decline is other-than-temporary.

The Company concluded FF Gene Biotech is a variable interest entity as FF Gene Biotech lacks sufficient capital to operate independently. The Company concluded that it alone does not have the power to direct the most significant activities of FF Gene Biotech and therefore is not the primary beneficiary of the entity. Judgment regarding the level of influence over FF Gene Biotech includes consideration of key factors such as the Company's ownership interest, representation on the board of directors or other management body and participation in policy-making decisions.

The Company accounts for its 30% interest in FF Gene Biotech using the equity method of accounting. The Company recorded its proportionate share of the losses of FF Gene Biotech for the year ended December 31, 2020 and 2019 in the accompanying Consolidated Statements of Operations, and recorded its contribution during the period, net of its proportionate share in the accumulated losses and impairment loss of FF Gene Biotech, in the accompanying Consolidated Balance Sheet as of December 31, 2020 and 2019. FF Gene Biotech provided curation services, on an arms-length basis, for the Company, the cost of such services was insignificant for the year ended December 31, 2020 and 2019.

Summary Financial Information

In the year ended December 31, 2020, FF Gene did not constitute 10 percent or more of the Company’s consolidated assets, equity or income from continuing operation, thus the results of operations of FF Gene were not significant to the Company. Summarized financial information for FF Gene Biotech for 2019 is as follows.

	December 31, 2019
Consolidated Balance Sheet Data:	**(in thousands)**
Current assets	$ 3,007
Non-current assets	$ 4,457
Current liabilities	$ 3,748
Non-current liabilities	$ 889
Minority interest	$ (426)
Stockholders' equity	$ 3,253

	Year Ended December 31, 2019
Consolidated Statement of Operations Data:	**(in thousands)**
Net sales	$ 4,055
Gross profit	$ 1,354
Net loss	$ (3,009)
Share of loss from investments accounted for using the equity method	$ (777)

BostonMolecules, Inc.

In September 2020, the Company entered into a Series A Preferred Stock Purchase Agreement, or the Series A Purchase Agreement, with BostonMolecules, Inc., or BostonMolecules, a Delaware corporation, pursuant to which the Company purchased 333 shares of Series A Preferred Stock of BostonMolecules, $0.0001 par value per share, or the BostonMolecules Shares, at a purchase price of $7,500 per share and an aggregate purchase price of $2.5 million. The BostonMolecules Shares represent an approximate 25% ownership interest in BostonMolecules. In connection with its purchase of the BostonMolecules Shares, the Company was granted the right to designate a member of BostonMolecules board of directors and the Company has designated Ming Hsieh to hold this position.

The Company concluded that it has the ability to exercise significant influence over the operating and financial policies of BostonMolecules and therefore concluded the purchase is an equity-method investment. Judgment regarding the level of influence over BostonMolecules includes consideration of key factors such as the Company's ownership interest and representation on the board of directors.

The Company initially accounted for its 25% interest in BostonMolecules using the equity method of accounting. The primary purpose of the investment was to gain access to certain technologies and products BostonMolecules was developing, however, after the investment was made, similar products became available in the market, and the development of BostonMolecules' products was delayed. Since the current expected performance of BostonMolecules is significantly worse than anticipated when the investment was initially made and recoverability of the Company's investment is not expected, the Company determined its investment has been fully impaired. Total investment and direct costs associated with the investment were $2.6 million for the year ended December 31, 2020. The Company recorded the impairment loss using the equity method in the accompanying Consolidated Statements of Operations.

The Company also entered into a distribution agreement with BostonMolecules in June 2020, or the Distribution Agreement, and upon the closing of the aforementioned investment, the Distribution Agreement was amended and restated, as amended and restated, the Amended Distribution Agreement. Pursuant to the Amended Distribution Agreement, the Company will purchase, use and distribute COVID-19 test kits from BostonMolecules and offer a testing service using these test kits for its customers within the United States and Canada. Pursuant to the Amended Distribution Agreement, the Company may purchase the COVID-19 test kits from BostonMolecules at a price that is no less favorable than the lowest price charged by BostonMolecules to any third party in the United States and Canada for these test kits or their substantial equivalent during the same calendar year. The Company did not purchase any test kits from BostonMolecules in the year ended December 31, 2020.

Equity method investments as of December 31, 2020 and 2019 consisted of the following:

	December 31,			
	2020		2019	
	Carrying Value	Ownership Percentage	Carrying Value	Ownership Percentage
	(in thousands)		(in thousands)	
FF Gene Biotech	$ —	30%	$ 872	30%
BostonMolecules	—	25%	—	0%
Total equity method investments	$ —		$ 872	

Note 16. Equity Distribution Agreements

In August 2019, the Company entered into an Equity Distribution Agreement, or the 2019 Equity Distribution Agreement, with Piper Jaffray & Co., or Piper, as sales agent, which was amended on August 4, 2020. During the year ended December 31, 2019, the Company sold an aggregate of 104,000 shares of its common stock pursuant to the 2019 Equity Distribution Agreement at a weighted-average net selling price of $9.37 per share, which resulted in $979,000 of net proceeds to the Company. During the year ended December 31, 2020, the Company sold an aggregate of 1.1 million shares of its common stock pursuant to the 2019 Equity Distribution Agreement at a weighted-average net selling price of $38.50 per share, which resulted in $42.7 million of net proceeds to the Company. Shares sold under the 2019 Equity Distribution Agreement were offered and sold pursuant to the Company's shelf registration statement on Form S-3 (File No. 333-233227) filed with the SEC on August 12, 2019 and declared effective on August 23, 2019, and prospectus supplements and accompanying base prospectus filed with the SEC on August 30, 2019, May 6, 2020 and August 5, 2020.

In September 2020, the Company entered into an Equity Distribution Agreement, or the September 2020 Equity Distribution Agreement, with Piper as sales agent, pursuant to which the Company sold an aggregate of 2.8 million shares of its common stock at a weighted-average net selling price of $42.90 per share, which resulted in $122.1 million of net proceeds to the Company. Shares sold under the September 2020 Equity Distribution Agreement were offered and sold pursuant to the Company's registration statement on Form S-3 (File No. 333-239964) filed with the SEC on July 21, 2020, as amended on August 5, 2020, and declared effective on August 12, 2020, and a prospectus supplement and accompanying base prospectus filed with the SEC on September 25, 2020.

In November 2020, the Company entered into an Equity Distribution Agreement, or the November 2020 Equity Distribution Agreement, with Piper, Oppenheimer & Co. Inc., and BTIG LLC, as sales agents, pursuant to which the Company may offer and sell, from time to time through Piper, shares of its common stock having an aggregate offering price of up to $175.0 million. Piper may receive a commission of up to 3% of the gross proceeds received by the Company for sales pursuant to the November 2020 Equity Distribution Agreement. During the year ended December 31, 2020, the Company sold an aggregate of 2.0 million shares of its

common stock pursuant to the November 2020 Equity Distribution Agreement at a weighted-average net selling price of $48.70 per share, which resulted in $99.1 million of net proceeds to the Company. Shares sold under the November 2020 Equity Distribution Agreement were offered and sold pursuant to the Company's registration statement on Form S-3 (File No. 333-239964) filed with the SEC on July 21, 2020, as amended on August 5, 2020, and declared effective on August 12, 2020, and a prospectus supplement and accompanying base prospectus filed with the SEC on November 20, 2020.

Note 17. Underwriting Agreement

On November 13, 2019, the Company entered into a purchase agreement with Piper as representative of the several underwriters, pursuant to which the Company sold 2,673,750 shares of its common stock at a price of $10.51875 per share, with a public offering price of $11.25 per share. The Company received net proceeds of approximately $27.6 million, after deducting underwriting discounts and commissions and offering expenses paid or payable by us of approximately $2.4 million. The shares issued and sold in the underwritten offering were sold pursuant to a shelf registration statement registered under the Securities Act on a registration statement on Form S-3 (File No. 333-233227), as amended, and a prospectus supplement and accompanying base prospectus filed with the SEC on November 13, 2019.

Note 18. Subsequent Event

Subsequent to December 31, 2020, the Company sold an aggregate of 582,650 shares of its common stock pursuant to the November 2020 Equity Distribution Agreement at a weighted-average selling price of $53.15 per share, which resulted in approximately $31.0 million of gross proceeds to the Company. Shares sold under the November 2020 Equity Distribution Agreement were offered and sold pursuant to the Company's registration statement on Form S-3 (File No. 333-239964) filed with the SEC on July 21, 2020, as amended on August 5, 2020, and declared effective on August 12, 2020, and a prospectus supplement and accompanying base prospectus filed with the SEC on November 20, 2020.

Note 19. Selected Quarterly Financial Data (Unaudited)

The tables below set forth the Company's quarterly Consolidated Statements of Operations data for the eight quarters ended December 31, 2020. In the opinion of management, this quarterly data has been prepared on the same basis as the accompanying consolidated financial statements and includes all adjustments, consisting of normal recurring adjustments, necessary for a fair presentation of the results of operations for the periods presented. See Item 7. "Management's Discussion and Analysis of Financial Condition and Results of Operations," in the report in which these consolidated financial statements are included for descriptions of the effects of any extraordinary, unusual or infrequently occurring items recognized in any of the periods covered by this data. The results for any one quarter are not indicative of the results to be expected in the current period or any future period.

	Three Months Ended							
	Dec. 31, 2020	Sept. 30, 2020	June 30, 2020	Mar. 31, 2020	Dec. 31, 2019	Sept. 30, 2019	June 30, 2019	Mar. 31, 2019
	(dollars in thousands, except per share data)							
Statement of Operations Data:								
Revenue	$ 294,978	$ 101,716	$ 17,265	$ 7,753	$ 8,387	$ 10,347	$ 8,424	$ 5,370
Cost of revenue	51,772	26,261	7,717	4,057	3,634	3,885	3,620	2,968
Gross profit	243,206	75,455	9,548	3,696	4,753	6,462	4,804	2,402
Operating expenses:								
Research and development	4,576	3,177	1,849	1,978	1,795	1,744	1,574	1,424
Selling and marketing	5,081	5,014	3,260	1,597	1,635	1,687	1,304	1,272
General and administrative	7,640	3,741	1,799	2,035	1,732	1,522	1,631	1,529
Total operating expenses	17,297	11,932	6,908	5,610	5,162	4,953	4,509	4,225
Operating income (loss)	225,909	63,523	2,640	(1,914)	(409)	1,509	295	(1,823)
Interest and other income, net	589	421	275	241	249	189	192	207
Income (loss) before income taxes, equity earnings (loss) in investee and impairment loss	226,498	63,944	2,915	(1,673)	(160)	1,698	487	(1,616)
Provision for (benefit from) income taxes	58,571	14,526	(599)	34	(38)	61	7	13
Income (loss) before equity earnings (loss) in investee and impairment loss	167,927	49,418	3,514	(1,707)	(122)	1,637	480	(1,629)
Equity earnings (loss) in investee	143	(189)	(193)	(249)	(174)	(175)	(149)	(279)
Impairment loss in equity-method investment	(1,763)	(2,591)	—	—	—	—	—	—
Net income (loss)	$ 166,307	$ 46,638	$ 3,321	$ (1,956)	$ (296)	$ 1,462	$ 331	$ (1,908)
Net income (loss) per common share:								
Basic	$ 6.55	$ 2.11	$ 0.15	$ (0.09)	$ (0.01)	$ 0.08	$ 0.02	$ (0.10)
Diluted	$ 6.16	$ 1.98	$ 0.14	$ (0.09)	$ (0.01)	$ 0.08	$ 0.02	$ (0.10)

Exhibit 10.34

SUBLEASE AGREEMENT

This SUBLEASE AGREEMENT (this "***Sublease***") is entered into as of July 1st, 2020 (the "***Effective Date***"), between **Medscan Laboratory** ("***Tenant***") and **Fulgent Genetics** ("***Subtenant***"), with reference to the following:

A. Ten Voss, LTD, a Texas Limited Partnership, ("***Landlord***") as Landlord, and Tenant with respect to that certain Lease Agreement dated June 17th, 2020 (the "***Original Lease***"), whereby certain premises located on the first (1st) floor of 8560 Katy Freeway, Suite 200, Houston, TX 77024 (the "***Building***"), and more particularly described in the Original Lease (the "***Premises***"), were leased to Tenant.

B. Tenant desires to sublease a portion of the Premises to Subtenant, and Subtenant wishes to sublease a portion of the Premises from Tenant

C. For good and valuable consideration, the receipt and sufficiency of which are acknowledged, Tenant and Subtenant agree as follows:

1. Sublease. Tenant subleases to Subtenant, and Subtenant subleases from Tenant, upon the terms and conditions set forth in this Sublease, the sq. footage of the Premises consisting of approximately **9,684** rentable square feet and incorporated by reference for all purposes (the "***Subleased Premises***").

2. Term and Termination. The term of the Sublease shall be for a period of Six Months (6) months commencing on July 1st, 2020 and ending on December 31, 2020 (the "***Expiration Date***"), continuing on a month-to-month basis thereafter; provided, however, that this Sublease shall terminate earlier upon termination, for any cause whatsoever, of the Primary Lease.

Termination shall be by 30 days advance written notice to Tenant by Subtenant.

3. Rent.

(a) Subtenant agrees to pay Tenant for the proportional use of the Subleased Premises the monthly sum of **$8,877.00** (the "***Base Rent***"). The Base Rent shall be paid in advance on or before the first day of each calendar month without notice or demand.

(b) Subtenant further agrees to pay Tenant's proportional share of the Operating Expenses (as defined in **Paragraph 3.1 (a)** of the Primary Lease) ("***Additional Rent***"). Subtenant agrees to make all such payments of Additional Rent to Tenant at least five (5) days prior to the date on which Tenant is required to make such payments to Landlord pursuant to the Primary Lease. Operating costs are projected by Landlord to be **$6.18 per sq. ft** per year for 2020. Operating Costs projected for 2020 will be **$4,987.26** per month for a projected total monthly payment of **$13,864.26**.

(c) Subtenant shall pay the first full monthly Base Rent on Subtenant's execution of this Sublease.

(d) Except when this Sublease provides otherwise, Sublease will remit all amounts due hereunder to Tenant at the following address:

Tenant **Medscan laboratory**
Address **8562 Katy Freeway, Suite 152, Houston, TX 77024**

(e) Other remedies for non-payment of Rent notwithstanding, if any monthly installment of Base Rent or Additional Rent is not received by Tenant on or before five (5) days after the date due, a late charge of five percent (5%) of such past due amount shall be immediately due and payable as additional rent.

(f) Upon execution of this Sublease, Subtenant shall also pay $13,864.26 to Tenant as a security deposit. Tenant may apply the security deposit to any amounts owed by Subtenant under this Sublease. If Tenant applies any part of the security deposit during any time this Sublease is in effect to amounts owed by Subtenant, Subtenant must, with 10 days after receipt of notice from Tenant, restore the security deposit to the amount stated. Within 60 days after Subtenant surrenders the Subleased Premises and provides Tenant written notice of Subtenant's forwarding address, Tenant will refund the security deposit less any amounts applied toward amounts owed by Subtenant or other charges authorized by this Sublease.

4. Primary Lease.

(a) The terms and conditions of the Primary Lease are incorporated into this Sublease by reference for all purposes. Subtenant, by Subtenant's execution of this Sublease, acknowledges that Tenant has furnished Subtenant with a copy of the Primary Lease. Subtenant has examined the Primary Lease and is familiar with its terms. Except as otherwise expressly provided in this Sublease, Subtenant agrees to comply in all respects with the terms and conditions of the Primary Lease insofar as the same are applicable to the Subleased Premises.

(b) As between Tenant and Subtenant, Tenant shall be entitled to all of the rights and remedies reserved by and granted to the landlord in the Primary Lease as if Tenant was the "Landlord" under the Primary Lease and Subtenant was the "Tenant" under the Primary Lease. Such rights and remedies are incorporated into this Sublease by reference for all purposes.

(c) This Sublease is subject and subordinate to all of the terms, covenants and conditions of the Primary Lease and to all of the rights of Landlord under the Primary Lease. If the Primary Lease terminates for any reason prior to the expiration or termination of this Sublease, Subtenant shall not have any claim whatsoever against Tenant arising or resulting from such termination of the Primary Lease.

(d) During all time that this Sublease is in effect, Subtenant must, at Subtenant's expense, maintain in full force and effect insurance policies that are equivalent in coverage and amounts to the insurance policies that Tenant is required to maintain under the Primary Lease. Such policies must name Tenant and Landlord as additional insureds. Subtenant must provide Tenant with a copy of the insurance certificates evidencing the required coverage as soon as practical.

Initialed for identification by Subtenant */s/ BP* and Tenant */s/ JH*

5. **Limitation of Liability and Indemnity.** Notwithstanding any provision of the Primary Lease to the contrary, neither Landlord nor the Tenant shall be liable to Subtenant, or any of its agents, employees, servants or invitees, for any damage to persons or property due to the condition or design or any defect in the Building or its mechanical systems which may exist or subsequently occur. Subtenant with respect to itself and its agents, employees, servants and invitees, expressly assumes all risks and damage to persons and property, either proximate or remote, by the reason of the present or future condition of the Subleased Premises or the Building. All indemnification hold harmless and release provisions contained in the Primary Lease running to the benefit of Landlord are incorporated into this Sublease by reference for the benefit of Tenant as if Tenant was the "Landlord" and Subtenant was the "Tenant" under the Primary Lease. Except as otherwise expressly provided in this Sublease, all indemnification, hold harmless and release provisions contained in the Primary Lease running to the benefit of the Tenant are incorporated into this Sublease by reference for the benefit of Subtenant as if Subtenant was the "Tenant" under the Primary Lease and Tenant was the "Landlord" under the Primary Lease. This **Paragraph** is for the benefit of the Subtenant, Tenant and Landlord only, and no right of action shall accrue under this **Paragraph** to any other party by way of subrogation or otherwise.

6. **Furniture and Equipment.** Except as provided in the following sentence, all furniture and equipment placed in the Subleased Premises by Subtenant shall remain the property of Subtenant, subject to the rights of Tenant in such property as provided by law. The Subtenant may, prior to the expiration of the Sublease term, remove all furniture and equipment, provided (i) such removal is done so as not to damage the Subleased Premises and (ii) Subtenant strictly complies with the terms of the Primary Lease with respect to such removal. In connection with furniture and equipment situated on the Subleased Premises on the date hereof, Subtenant and Tenant have executed a "Bill of Sale" transferring said furniture and equipment from Tenant to Subtenant. Rent due to Tenant shall include "as-is" furnishings, inventory attached as Exhibit "C".

7. **Alterations.** Subtenant may not make any alterations, improvements or additions to the Subleased Premises (collectively, "***Improvements***") without the express prior written consent of Landlord and Tenant. Any Improvements to which Landlord and Tenant consent must be constructed and installed in accordance with (a) all requirements contained in the Primary Lease and (b) any requirements imposed by Tenant to protect Tenant's interest in the Primary Lease and/or in the Subleased Premises. Further, upon termination of this Sublease, any Improvements to the Subleased Premises shall remain in the Subleased Premises, and Subtenant shall not have the right to remove such Improvements.

8. **Damage and Destruction.**

(a) If the Subleased Premises, or any portion of the Subleased Premises, are damaged or destroyed by any cause whatsoever, such that the Primary Lease is terminated, this Sublease shall terminate immediately upon termination of the Primary Lease. Rent and any other payments for which Subtenant is liable shall be apportioned and paid to the date of such damage or destruction, and Subtenant shall immediately deliver possession of the Subleased Premises to Tenant.

(b) If all or any portion of the Subleased Premises is damaged or destroyed by any cause whatsoever, and such damage or destruction is not significant enough to cause a termination

Initialed for identification by Subtenant */s/ BP* and Tenant */s/ JH*

of the Primary Lease, Tenant agrees, subject to **Paragraphs 7.1-7.4** of the Primary Lease, to use good faith efforts to cause Landlord to repair such damage. Notwithstanding any such damage, Subtenant shall continue to be obligated to pay all rent under this Sublease during the period of restoration.

9. **Condemnation.** Upon any taking by condemnation or other eminent domain proceeding of all or a portion of the Premises which results in the termination of the Primary Lease, this Sublease shall terminate concurrently with the Primary Lease. As between Tenant and Subtenant, any awards or damages payable as a result of such taking by condemnation or other eminent domain proceeding shall be the sole property of Tenant, and Subtenant shall have no claim to any part of such awards or damages.

10. **Certificates.** Subtenant agrees to furnish to Tenant or to Landlord certificates certifying as to any information reasonably requested by either Tenant or Landlord.

11. **Condition of Subleased Premises and Surrender of the Subleased Premises. SUBTENANT ACKNOWLEDGES THAT (A) SUBTENANT HAS FULLY INSPECTED THE SUBLEASED PREMISES AND ACCEPTS THE SAME IN THEIR PRESENT CONDITION, "AS IS, WHERE IS", WITH ALL FAULTS, AND (B) TENANT HAS MADE NO WARRANTIES OR REPRESENTATIONS TO SUBTENANT WHATSOEVER WITH RESPECT TO THE CONDITION OF THE SUBLEASED PREMISES.** Upon the expiration or termination of this Sublease, Subtenant agrees to return the Subleased Premises to Tenant and Landlord in the condition required by the Primary Lease.

12. **Certificates, Licenses and/or Permits.** Subtenant shall, at Subtenant's sole expense, obtain all necessary certificates, licenses or permits to do business in the Subleased Premises, which may be required by any governmental authorities.

13. **Attorneys' Fees and Costs of Enforcement.** If either party to this Sublease commences an action to enforce any of the provisions of this Sublease, the prevailing party in such action shall be entitled to collect all of the costs of such action (including, without limitation, attorneys' fees and court costs) from the other party.

14. **Cumulative Rights and Remedies.** No right or remedy contained in this Sublease, in the Primary Lease, or provided by law is intended to be exclusive of any other right or remedy, but shall be cumulative and in addition to every other right or remedy.

15. **Assignment and Subletting.** Subtenant may not assign Subtenant's rights under this Sublease or sublet all or any portion of the Subleased Premises without the express written permission of Tenant and Landlord.

16. **Parking.** Subtenant shall be entitled to the use of Tenants parking spaces.

17. **Signage.** All signage is subject to the written approval and consent by both Tenant and Landlord and shall be at Subtenant's sole cost and expense. Any approved signage must be removed without damage at the termination of this Sublease.

Initialed for identification by Subtenant */s/ BP* and Tenant */s/ JH*

18. **Brokerage.** SECTION INTENTIONALLY BLANK.

19. **General Provisions.** This Sublease sets forth the complete agreement between Tenant and Subtenant regarding the subject matter of this Sublease. This Sublease may not be terminated, amended or modified in any respect except by agreement in writing executed by both Tenant and Subtenant. All duties and obligations of Subtenant under this Sublease that are unperformed shall survive the termination or expiration of this Sublease. Except as limited by this **Paragraph**, this Sublease, and all the terms and conditions of this Sublease, shall be binding upon and inure to the benefit of both Tenant and Subtenant and their respective successors, representatives and assigns.

[Signatures Appear on the Following Page]

Initialed for identification by Subtenant */s/ BP* and Tenant */s/ JH*

ACCORDINGLY, the parties have executed this Sublease as of the Effective Date.

TENANT:

By: */s/ Jesse J. Howard*

Name: Jesse J. Howard, Ph.D.

Title: CEO & President

Phone: 713-775-0258

Email: jesse.howard@medscanlab.com

Notice Address to Tenant shall be as cited in Paragraph 3(d)

SUBTENANT:

By: */s/ Brandon Perthuis*

Name: Brandon Perthuis

Title: Chief Commercial Officer

Phone: 713-705-3612

Email bperthuis@fulgentgenetics.com

Notice Address to Subtenant shall be the Premises

Initialed for identification by Subtenant */s/ BP* and Tenant */s/ JH*

SERVICE CENTER LEASE AGREEMENT

In consideration of the mutual covenants and upon the terms and conditions set forth in Part One "Basic Lease Provisions", Part Two "General Lease Provisions", and other attachments and exhibits numerated in the Table of Contents to this Service Center Lease Agreement ("Lease"), TEN-VOSS, LTD ("Landlord") hereby leases to the Tenant named below and Tenant hereby leases from Landlord, certain premises described below.

20. BASIC LEASE PROVISIONS

1. Tenant: **MEDSCAN LABORATORIES INC.**

2. Premises: Designated as "8560 Katy Freeway, Suite 200", Houston, Texas 77024, outlined and crosshatched on Exhibit B hereof and containing approximately 9,684 square feet of Rentable Area on the 1st floor of the Building (Part Two, Article 1).

3. Term: Thirty-Nine (39) months beginning on the Commencement Date September 1, 2020 and ending on November 30, 2023

4. Monthly Installment of Base Annual Rent: (Part Two, Section 3.1)

From	Through	Sq. Feet	Rate	Monthly Base Rent
September 1, 2020	November 30, 2020	9,684	$0.00	ABATED
December 1, 2020	November 30, 2021	9,684	$11.00	$8,877.00
December 1, 2021	November 30, 2022	9,684	$11.50	$9,280.50
December 1, 2022	November 30, 2023	9,684	$12.00	$9,684.00

*NNN (CAM or Operating Costs): Operating Costs are projected by Landlord to be $6.18 per sq. ft. per year for 2020. Operating Costs projected for 2020 will be $4,987.26 per month for a projected total monthly payment of $13,864.26.

Tenant's Pro Rata Share: Tenant's Pro Rata Share is estimated to be 23.57% of the total Building square footage which is the percentage obtained by dividing the 41,093 sq. ft. of rentable square feet in the Building by the Premises net rentable square feet.

5. Security Deposit: $13,864.26 due and payable upon execution of the Lease. Security deposits currently held for 8562 Katy Freeway, Suite 152 ($3,440.44) and security deposit held for 8556 Katy Freeway, Suite 105 ($1,205.43) will be transferred to this Lease which will leave a deficit of $9,218.99 due and payable upon execution of the Lease.

6. Prepaid Rent: $13,864.26 payable and due upon execution of Lease and to be applied to the fourth month of the Term.

7. Guarantor: Jesse James Howard

8. Premises Use: Office/Warehouse

Landlord Initials: */s/ ONB*

Tenant Initials: */s/ JH*

9. Tenant's Insurance: (Part Two, Article 8).

10. Addresses for Notices and Payment of Rent and Other Charges (Part Two Article 16):

MedScan Laboratories Inc.
8560 Katy Freeway, #200
Houston, TX 77024
Attn: Jesse Howard

TEN-VOSS, LTD
8554 Katy Freeway, Suite 301
Houston, TX 77024

11. Brokers: NONE

12. Parking Spaces: Landlord shall provide Tenant up to 20 unreserved parking permits allowing access to the parking lot which Landlord provides for the use of tenants and occupants of the Building. During the Lease Term, there shall be no charge for the unreserved parking permits.

13. Riders: The following numbered Riders are attached to this Lease and made of a part of this Lease for all purposes:

Rider I	Landlord Work
Rider II	Option to Renew
Rider II	Guaranty of Lease

14. Incorporation of Other Provisions: All of the provisions, covenants and conditions set forth in Part Two and all other exhibits and riders described in the attached Table of Contents and the preceding Paragraph, are by this reference incorporated into the Basic Lease Provisions as fully as if the same were set forth at length in the Basic Lease Provisions. Each reference in Part Two and exhibits and riders to any provision in the Basic Lease Provisions will be construed to incorporate all of the terms provided under the referenced provision in the Basic Lease Provisions. In the event of any conflict between a provision in the Basic Lease Provisions, on the one hand, and a provision in Part Two or exhibits or riders, on the other hand, the latter will control.

15. Special Conditions: Upon Commencement of this Lease the current Lease Agreements will be null and void:

8562 Katy Freeway, Suite 152 -2,655 sq. ft. by and between Medscan Laboratories, Inc. ("Tenant") and Ten-Voss, Ltd ("Landlord") dated November 11, 2016 and First Amendment to the Lease dated December 16, 2019 ("Lease");

8556 Katy Freeway, Suite 105, 508 sq. ft. by and between Medscan Laboratories, Inc. ("Tenant") and Ten-Voss, Ltd ("Landlord") dated November 8, 2018 ("Lease").

Landlord Initials: */s/ ONB*

Tenant Initials: */s/ JH*

Provided that all rentals are paid up to date and the Tenant does return these suites in satisfactory, clean condition, the Tenant will no longer be liable for any remaining Lease Term for these Leases. This release of this Lease liability does not include any deficit in operating expenses for the escrow accounts retained over the current calendar year.

Landlord Initials: */s/ ONB*

Tenant Initials: */s/ JH*

This Lease has been executed by Landlord and Tenant as of the 17 day of June, 2020.

TENANT:		**LANDLORD:**	
MEDSCAN LABORATORIES INC.		**TEN-VOSS, LTD**	
By:	*/s/ Jesse Howard*	By:	*/s/ O.N. Baker*
Name:	Jesse Howard	Name:	O.N. Baker
Title:	President	Title:	President

Landlord Initials: */s/ ONB*

Tenant Initials: */s/ JH*

Table of Contents

21. GENERAL LEASE PROVISIONS

(a) PREMISES, COMMON AREAS, SERVICE AREAS

(i) Building. The term "Building" in this Lease will refer to "8560 Katy Freeway, Suite 200 Houston, Texas", an office/warehouse building situated on a tract of land ("Land") in the City of Houston and County of Harris, Texas, described in Exhibit A of this Lease, and having a postal address of 8560 Katy Freeway, Suite 200 Houston, Texas 77024. The Land, Complex, Building, the parking areas and garages, any present or future associated walkways, and *any* other improvements situated in the Complex are sometimes referred to collectively as the "Project".

(ii) Minor Variations in Area. The Rentable Area of the Premises contained in the Basic Lease Provisions is agreed to be the Rentable Area of the Premises regardless of minor variations resulting from construction of the Building and/or tenant improvements.

(iii) Ceilings. Walls. Floors. Tenant acknowledges that pipes, ducts, conduits, wires and equipment serving other parts of the Building may be located above acoustical ceiling surfaces, below floor surfaces or within walls in the Premises.

(iv) Condition of Premises. The taking of possession of the Premises by Tenant will establish conclusively that the Premises and the Project were at such time in satisfactory order and condition except for (i) minor matters of structural, mechanical, electrical, and finish adjustment in the Premises (commonly referred to as "punch-list items") specified in reasonable detail on a list delivered by Tenant to Landlord within fifteen (15) days after the date on which Tenant takes possession of the Premises and (ii) defects not discoverable upon inspection and about which Tenant notifies Landlord within 30 days after taking possession of the Premises.

(v) Common and Service Areas. Tenant is hereby granted a nonexclusive right to use the Common Areas during the term of this Lease for their intended purposes, in common with others, subject to the terms and conditions of this Lease, including, without limitation, the Rules and Regulations.

Common Areas. "Common Areas" will mean all areas, spaces, facilities, and equipment in the Project made available by Landlord for the common and joint use of Landlord, Tenant and others, including, but not limited to, sidewalks, parking areas, driveways, landscaped areas, loading areas, public corridors, public restrooms, stairs, drinking fountains and such other areas and facilities, if any, as are designated by Landlord from time to time as Common Areas.

Service Areas. "Service Areas" will refer to areas, spaces, facilities and equipment serving the Project but to which Tenant and other occupants of the Building will not have access, including, but not limited to, mechanical, telephone, electrical and similar rooms, and air and water refrigeration equipment.

(b) TERM

(i) Term. The Term of this Lease will commence on September 1, 2020 and will terminate on the date set forth in the Basic Lease Provisions ("Expiration Date") unless sooner terminated in accordance with the provisions of this Lease.

(ii) Holding Over. If Tenant, or any party claiming rights to the Premises through Tenant, retains possession of the Premises without the written consent of Landlord after the Expiration Date or earlier termination of this Lease, such possession will constitute a tenancy at will, subject, however, to all the terms and provisions of this Lease except for (i) the Term and (ii) the Base Annual Rent, which Base Annual Rent will become an amount equal to one and one-half (1.50) times the highest amount set forth in this Lease as Base Annual Rent, plus any adjustments which have previously occurred. No holding over by Tenant, and no acceptance of rental payments by Landlord during a holdover period, whether with or without consent of Landlord, will operate to extend this Lease.

(c) MONETARY PROVISIONS

(i) Base Annual Rent. Subject to the prepaid rent provisions of Section 3.4, Tenant will pay as the monthly installment of "Base Annual Rent" for each month of the Term, the sum set forth in the Basic Lease Provisions, in advance on the first day of each calendar month of the Term, without deduction, offset, prior notice, or demand, and in lawful money of the United States. If the Commencement Date is not the first day of a calendar month, Tenant will pay to Landlord on the Commencement Date a portion of the monthly installment of Base Annual Rent prorated on the basis of a thirty (30) day month.

(ii) Tenant's Share of Certain Costs. In addition to all other sums due under this Lease, Tenant will pay to Landlord, in the manner and at the times set forth below, Tenant's Pro Rata Share of Operating Costs for each calendar year or partial calendar year.

Operating Costs. "Operating Costs" will mean all costs, charges, and expenses incurred by Landlord in connection with owning, operating, maintaining, repairing, insuring and managing the Project, computed on an accrual basis and including, without limitation, costs, charges and expenses incurred with respect to the items enumerated as "Operating Cost Examples" in

Paragraph 2 of Exhibit C to this Lease. Operating Costs will not include those items enumerated as "Operating Cost Exclusions" in Paragraph 1 of Exhibit C to this Lease.

Pro Rata Share Computation. "Tenant's Pro Rata Share" of Operating Costs will be computed by multiplying (i) the Operating Costs per square foot of Rentable Area in the Building for each calendar year times (ii) the number of square feet of Rentable Area in the Premises.

Estimated Costs. Tenant's Pro Rata Share of Operating Costs for the remainder of the first calendar year (whether full or partial) and for each subsequent calendar year of the Term will be estimated by Landlord, and notice of such estimated amounts will be given to Tenant at least thirty (30) days prior to the Commencement Date or the beginning of each calendar year, as the case may be. If Commencement Date does not occur on January 1, for the partial calendar year after the Commencement Date, Tenant will pay to Landlord each month, at the same time the monthly installment of Base Annual Rent is due, an amount equal to the Tenant's estimated Pro Rata Share of Operating Costs for the remainder of such calendar year divided by the number of full months remaining in such year. For each full calendar year of the Term, Tenant will pay to Landlord each month, at the same time the monthly installment of Base Annual Rent is due, an amount equal to one-twelfth (1/12) of Tenant's estimated Pro Rata Share of Operating Costs due for such calendar year. If the Expiration Date does not occur on December 31, for the partial calendar year preceding the Expiration Date, Tenant will pay to Landlord, each month, at the same time the monthly installment of Base Annual Rent is due, an amount equal to the amount of Tenant's estimated Pro Rata Share of Operating Costs for such partial calendar year divided by the number of full calendar months of such partial calendar year.

Estimate Revisions. At any time and from time to time during the Term, Landlord will have the right, by notice to Tenant, to change the monthly amount then payable by Tenant for Tenant's estimated Pro Rata Share of Operating Costs to reflect more accurately, in the reasonable judgment of Landlord, Tenant's actual Pro Rata Share of Operating Costs for the then current calendar year. Tenant will begin paying the revised estimated amount together with the next monthly payment of Base Annual Rent due after receipt by Tenant of Landlord's notice.

Annual Adjustments. On or before April 1 of each calendar year, Landlord will prepare and deliver to Tenant a statement setting forth the calculation of Tenant's actual Pro Rata Share of Operating Costs for the previous calendar year. Within thirty (30) days after receipt of the statement of Tenant's actual Pro Rata Share of Operating Costs, Tenant will pay to Landlord, or Landlord will credit against the next rental or other payment or payments due from Tenant, as the case may be, the difference between Tenant's actual Pro Rata Share of Operating Costs for the preceding calendar year and Tenant's estimated Pro Rata Share of Operating Costs paid by Tenant during such year.

Final Partial Year. If the Term will expire or this Lease has been terminated prior to a final determination of the Tenant's actual Pro Rata Share of Operating Costs, the amount of adjustment between Tenant's estimated Pro Rata Share and Tenant's actual Pro Rata Share of Operating Costs payable for the preceding calendar year and/or the final partial calendar year of the Term will be projected by the Landlord based upon the best data available to Landlord at the time of the estimate. Within thirty (30) days after receipt of a statement from Landlord

setting forth Landlord's projections, Tenant will pay to Landlord, or Landlord will pay to Tenant, as the case may be, the difference between Tenant's projected actual Pro Rata Share of Operating Costs for the period in question and Tenant's estimated Pro Rata Share of Operating Costs paid by Tenant for the period in question. The obligations set forth in the preceding sentence will survive the Expiration Date or earlier termination of this Lease.

Adjustment for Occupancy. During any calendar year in which the Building has less than full occupancy, Operating Costs will be computed as though the Building had been completely occupied for the entire calendar year.

(iii) Personal Property Taxes. Tenant agrees to pay, before delinquency, all taxes, fees or charges, rates, duties and assessments, imposed, levied or assessed directly against Tenant, or indirectly through Landlord, and payable during the Term hereof, upon Tenant's equipment, furniture, movable trade fixtures and other personal property located in the Premises. Tenant will also pay, before delinquency, business and other taxes, fees or charges, rates, duties and assessments imposed, levied or assessed because of the Tenant's occupancy of the Premises or upon the business or income of the Tenant generated from the Premises.

(iv) Late Payments. Should Tenant fail to pay when due any installment of Base Annual Rent on or before the fifth (5th) day of each calendar month, Interest will accrue from the date on which such sum is due and such Interest, together with a "Late Charge" (herein so called) in an amount equal to five percent (5%) of the installment then due, will be paid by Tenant to Landlord at the time of payment of the delinquent sum. The Late Charge is agreed by Landlord and Tenant to be a reasonable estimate of the extra administrative expenses incurred by Landlord in handling such delinquency.

(v) Interest. Whenever reference is made in this Lease to the accrual of interest on sums due Landlord or whenever any amount owed to Landlord is not paid when due, such sum will bear interest ("Interest") at an annual rate equal to the lesser of (i) two percent (2%) over the "base" or "prime rate published from time to time by Citibank, N.A., or (ii) the maximum lawful rate.

(vi) Administrative Reimbursement. In the event Landlord performs construction, maintenance, or repairs for Tenant under Sections 7.2 or 12.2 of Part Two of this Lease, Tenant will reimburse Landlord within five (5) days after receipt of an invoice from Landlord for the cost of such construction, maintenance or repairs plus an amount equal to ten percent (10%) of such costs ("Administrative Reimbursement") to reimburse Landlord for administration and overhead.

(d) CONSTRUCTION

Tenant accepts the Premises in its "as-is" condition. In the event any construction of tenant improvements is necessary for the Premises, such construction will be accomplished and the cost of such construction will be borne by Landlord and/or Tenant in accordance with a separate Rider to this Lease ("Work Letter") between Landlord and Tenant. Except as expressly provided in this Lease or in the Work Letter, if any, Tenant acknowledges that Landlord has not undertaken to

perform any modification, alteration or improvement to the Premises. By taking possession of the Premises, Tenant waives (i) any claims due to defects in the Premises; and (ii) all express and implied warranties of suitability, habitability and fitness for any particular purpose. Except to the extent otherwise expressly provided in this Lease, Tenant waives the right to terminate the Lease due to the condition of the Premises.

(e) SERVICES AND UTILITIES

(i) Services by Landlord. Landlord shall provide, at its cost, electricity and telephone service connections into the Premises; but Tenant shall pay for all water, gas, heat and air-conditioning, light, power and electricity, telephone, sewer, sprinkler charges and other utilities and services used on or from the Premises, together with any taxes, penalties, surcharges or the like pertaining thereto and any maintenance charges for utilities, and shall furnish all electric light bulbs and tubes. Such payments will be made directly to the supplier of any utility that is separately metered to the Premises. If any such services are not separately metered to Tenant, Tenant shall pay its Pro Rata Share, as determined by Landlord, of all charges jointly metered with other Premises. Landlord shall in no event be liable for any interruption or failure of utility services on the Premises. Tenant will indemnify and hold harmless Landlord from any utility charge incurred at the Premises during the Term. No interruption or malfunction of any utility service will constitute an eviction or disturbance of Tenant's use and possession of the Premises, nor shall such constitute a breach by Landlord of any of its obligations under this Lease or render Landlord liable for damages or entitle Tenant to be relieved of any of is obligations under this Lease or grant Tenant any right of setoff or recoupment.

(ii) Tenant's Obligations. Tenant will pay for, prior to delinquency, all telephone charges and all other materials and services not expressly the obligation of Landlord that are furnished to or used on or about the Premises during the Term of this Lease.

Landlord and Tenant agree that there are several telecommunications companies (hereinafter "Telco") which serve the lease premises. As each of the Telco's offer its own set of advantages and disadvantages, Tenant agrees to select a Telco within 30 days of signing this lease and to provide Landlord a copy of its contract with the Telco which will include services to be rendered as well as the term of the agreement. Tenant agrees, at Landlord's option, to cause all of the wiring and other Telco equipment to be removed from the premises upon the termination of this lease. Should any changes be made to the Telco vendor during the term of the Lease, Tenant must advise Landlord of these changes in addition to any revisions to the Telco contract etc.

(iii) Tenant's Additional Service Requirements.

Additional Services Requiring Landlord Consent. Tenant will not, without Landlord's prior consent, do the following: (i) install or use special lighting beyond Building standard, or any equipment, machinery, or device in the Premises which requires a nominal voltage of more than one hundred twenty (120) volts single phase, or which in Landlord's reasonable opinion exceeds the capacity of existing feeders, conductors, risers, or wiring in or to the Premises or Building, or which requires amounts of water in excess of that usually furnished or supplied for use in office/warehouse space, or which will decrease the amount or pressure of water or the amperage or voltage of electricity Landlord can furnish to other occupants of the Building; (ii) install or use any heat or cold-generating equipment, machinery or device which affects the temperature otherwise maintainable by the heat or air conditioning system of the Building; (iii) use portions of the Premises for special purposes requiring greater or more difficult cleaning work than office/warehouse areas, such as, but not limited to, kitchens, reproduction rooms, interior glass partitions, and non-Building standard materials or finishes; or (iv) accumulate refuse or rubbish (A) in excess of that ordinarily accumulated in business office/warehouse occupancy or (B) at times other than the Building's standard cleaning times.

Providing Additional Services. lf, in the reasonable opinion of Landlord, additional services to Tenant are necessary, Landlord will have the following rights:

Removal by Tenant. Landlord may require that Tenant cease the activity or remove the item (or refuse to permit the activity or installation of the item), causing (or which will cause) the need for such additional service, if Landlord and Tenant are not able to agree upon a mutually satisfactory method for providing such additional services or, in the reasonable opinion of Landlord, providing such additional service is not operationally or economically feasible.

Replacement Bulbs. With respect to lighting beyond standard lighting used throughout the Building, Landlord may purchase and replace, at the expense of Tenant, light bulbs and ballasts and/or fixtures.

Cleaning Contractor. With respect to additional cleaning work, Landlord may instruct Landlord's janitorial contractor to provide such services and the cost of such service will be the obligation of Tenant.

(iv) Interruption of Utility Service. Landlord will use Landlord's best efforts to provide the services required of Landlord under this Lease. However, Landlord reserves the right, without any liability to Tenant and without affecting Tenant's covenants and obligations under this Lease, to stop or interrupt or reduce any of the services listed in Section 5.1 or to stop or interrupt or reduce any other services required of Landlord under this Lease, whenever and for so long as may be necessary, by reason of (i) accidents or emergencies, (ii) the making of repairs or changes which Landlord in good faith deems necessary or is required or is permitted by this Lease or by law to make, (iii) difficulty in securing proper supplies of fuel, water, electricity, labor or supplies, (iv) the compliance by Landlord with governmental, quasi-governmental or utility company energy conservation measures, or (v) the exercise by Landlord of any right under Section 6.5. Landlord will, in the event of an interruption of a utility service, use Landlord's best efforts

to cause such service to be resumed. However, no interruption or stoppage of any of such services will ever be construed as an eviction of Tenant nor will such interruption or stoppage cause any abatement of the rent payable under this Lease or in any manner relieve Tenant from any of Tenant's obligations under this Lease.

(f) OCCUPANCY AND CONTROL

(i) Use. The demised Premises shall be used only for the purpose of corporate office and warehouse, receiving, storing and testing of materials and merchandise made and/or distributed by Tenant for such other lawful purposes as may be incidental thereto. The storage of any materials or chemicals by Tenant will require the Tenant to utilize MSDA sheets in the handling, storage and utilization of /Tenant's materials. Tenant will use the Premises in a careful, safe and proper manner an will not commit waste, overload the floor or structure of the Premises or subject the Premises to use that would damage the Premises. Outside storage, including, without limitation, trucks and other vehicles, is prohibited without Landlord's prior written consent. Tenant shall obtain, at its own cost and expense, any and all licenses and permits necessary for any such use. Tenant shall comply with all governmental laws, ordinances and regulations applicable to the use of the Premises, and shall promptly comply with all governmental orders and directives for the correction, prevention and abatement of nuisances in, upon, or in connection with the Premises, all at Tenant's sole expense. Tenant shall not permit *any* objectionable or unpleasant odors, smoke, dust, gas noise or vibrations to emanate from the Premises, nor take any other action which would constitute a nuisance or would disturb or endanger any other tenants of the Building in which the Premises are situated or unseasonably interfere with their use of their respective premises. Without Landlord's prior written consent, Tenant shall not receive, store or otherwise handle any product, material or merchandise which is explosive or highly inflammable. Tenant will not permit the Premises to be used for any purpose or in any manner (including, without limitation, any method of storage) which would render the insurance thereon void or the insurance risk more hazardous or cause the State Board of Insurance or other insurance authority to disallow any sprinkler credits. Tenant agrees to comply with all City of Spring Valley rules and regulations regarding flammable substances.

(ii) Rules and Regulations. Tenant's use of the Premises and the Common Areas will be subject at all times during the Term to the "Rules and Regulations" attached to the Lease as Exhibit D and to any modifications of such Rules and Regulations and any additional Rules and Regulations from time to time promulgated by Landlord. Additional Rules and Regulations will not become effective and a part of this Lease until a copy of same has been delivered to Tenant. The inability of Landlord to cause another occupant of the Building to comply with the Rules and Regulations will neither excuse Tenant's obligation to comply with such Rules and Regulations or any other obligation of Tenant under this Lease nor cause the Landlord to be liable to Tenant for any damage resulting to Tenant. Tenant will cause Tenant's employees, servants and agents to comply with the Rules and Regulations.

(iii) Additional Covenants of Tenant.

Laws, Statutes. Tenant will, at Tenant's sole cost, promptly comply with (i) all laws, orders, regulations, and other government requirements now in force or hereafter enacted relating to the use, condition, or occupancy of the Premises, including without limitation, (A) Title III of The Americans with Disabilities Act of 1990, all regulations issued thereunder, and the Accessibility Guidelines for Buildings and Facilities issued pursuant thereto, and the Texas Architectural Barriers Act, as the same are in effect on the date of this Lease and as hereafter amended, ("Disabilities Acts"), and (B) all applicable laws, ordinances, and regulations (including consent orders and administrative orders) relating to public health and safety and protection of the environment and regulation of "Hazardous Substances", as such term is defined in Article 21 of the General Lease Provisions ("Environmental Laws"), and (ii) all rules, orders, mandates, directives, regulations and requirements pertaining to the use of the Premises and the conduct of Tenant's business imposed by Landlord's insurers, American Insurance Association (formerly known as "National Board of Fire Underwriters") or insurance service office, any utility company serving the Building or any other similar body having jurisdiction over the Building, any related parking areas, and the Premises.

Nuisance. Tenant will not do or permit anything to be done in or about the Premises which will in any way obstruct or interfere with the operation of the Project or with the rights of other tenants or occupants of the Project or injure, disturb or annoy other tenants or occupants of the Project.

Building Reputation. Tenant will not use or permit the Premises to be used for any objectionable purpose or any purpose which, in the reasonable opinion of the Landlord, harms or tends to harm the business or reputation of the Landlord or Building or reflects unfavorably on the Building, or any part of the Building, or deceives or defrauds the public.

Recording. Tenant will not record this Lease or any memorandum of this Lease without the prior written consent of Landlord. Tenant will, upon request of Landlord, execute, acknowledge and deliver to Landlord a short form or memorandum of this Lease for recording purposes.

(iv) Access by Landlord. Landlord reserves the right for Landlord and Landlord's agents to enter the Premises at any reasonable time (i) to inspect the Premises, (ii) to supply janitorial service or other services to be provided by Landlord to Tenant under this Lease, (iii) to show the Premises to prospective lenders, purchasers or tenants, (iv) to alter, improve, maintain or repair the Premises or any other portion of the Building abutting the Premises, (v) to install, maintain, repair, replace or relocate any pipe, duct, conduit, wire or equipment serving other portions of the Building but located in the ceiling, wall or floor of the Premises, (vi) to perform any other obligation of Tenant after Tenant's failure to perform same, or (vii) upon default by Tenant under this Lease. If Landlord enters the Premises for the purpose of performing work, Landlord may erect scaffolding and store tools, material, and equipment in the Premises when required by the character of the work to be performed.

(v) Control of Project. The Project will be at all times under the exclusive control, management and operation of the Landlord. Landlord hereby reserves the right

from time to time (i) to alter or redecorate the Project, or any part thereof, or construct additional facilities adjoining or proximate to the Project; (ii) to close temporarily doors, entry ways, public spaces and corridors and to interrupt or suspend temporarily Building services and facilities in order to perform any redecorating or alteration or in order to prevent the public from acquiring prescriptive rights in the Common Areas; and (iii) to change the name of the Building.

(vi) Minimization of Disruption. Landlord will attempt not to disrupt Tenant's operations in the Premises during the exercise of Landlord's rights or the performance by Landlord of Landlord's obligations under this Lease, but will not be required to incur extra expenses in order to minimize such disruption. No exercise by Landlord of any right or the performance by Landlord of Landlord's obligations under this Lease will constitute actual or constructive eviction or a breach of any express of implied covenant for quiet enjoyment.

(g) REPAIRS, MAINTENANCE AND ALTERATIONS

(i) Landlord's Repair Obligations. Landlord will, subject to the casualty provisions of Article 9, maintain the (i) the Common Areas and Service Areas, (ii) roof, foundation, exterior windows and load bearing items of the Building; (iii) exterior surfaces of walls; and (iv) plumbing, pipes and conduits located in the Common Areas or Service Areas of the Building. Landlord will not be required to make any repair in connection with or resulting from (1) any alteration or modification to the Premises or to Building equipment performed by, for or because of Tenant or to special equipment or systems installed by, for or because of Tenant, (2) the installation, use or operation of Tenant's property, fixtures and equipment, (3) the moving of Tenant's property in or out of the Building or in and about the Premises, (4) Tenant's use or occupancy of the Premises in violation of Article 6 or in a manner not contemplated by the parties at the time of execution of this Lease (e.g., subsequent installation of special use rooms), (5) the acts or omissions of Tenant and Tenant's employees, agents, invitees, subtenants, licensees or contractors, (6) fire or other casualty, except as provided in Article 9, or (7) condemnation, except as provided in Article 10. Depending upon the nature of repairs undertaken by Landlord, the cost of such repairs will be borne solely by Landlord or reimbursed to Landlord either by a particular tenant or tenants or by all tenants as an Operating Cost.

(ii) Tenant's Repair Obligations. Tenant, at Tenant's expense, will maintain the Premises in good order, condition and repair including, without limitation, the interior surfaces of the windows, walls and ceilings; floors; wall and floor coverings; window coverings; doors; interior windows, the heat and air-conditioning equipment installed in the Premises; and all switches, fixtures and equipment in the Premises. Upon receipt of reasonable notice from Tenant, Landlord will perform, at the expense of Tenant, all repairs and maintenance to plumbing, pipes and electrical wiring located within walls, above ceiling surfaces and below floor surfaces resulting from the use of the Premises by Tenant. In no event will Tenant be responsible for any plumbing, pipes and electrical wiring, switches, fixtures and equipment located in the Premises but serving another tenant or for portions of the electrical, mechanical and plumbing systems of the Building which are located in the Premises, except for (i) repairs resulting from the acts of Tenant and Tenant's employees, agents, invitees, subtenants, licensees or contractors, and (ii) modifications made to such systems by, for, or because of Tenant, and (iii) special equipment installed by, for, or because of Tenant.

(iii) Rights of Landlord. In the event Tenant fails, in the reasonable judgment of Landlord, to maintain the Premises in good order, condition and repair, Landlord will have the right to perform such maintenance, repairs, refurbishing or repairing at Tenant's expense.

(iv) Surrender. Upon the expiration or earlier termination of this Lease, or upon the exercise by Landlord of Landlord's right to re-enter the Premises without terminating this Lease, Tenant will surrender the Premises in the same condition as received or as subsequently improved by Landlord or Tenant, except for (i) ordinary wear and tear and (ii) damage by fire, earthquake, acts of God or the elements for which damage Landlord has received all insurance proceeds, and will deliver to Landlord all keys for the Premises and combinations to safes located in the Premises. Tenant will, at Landlord's option, remove, or cause to be removed, from the Premises or the Building, at Tenant's expense and as of Expiration Date or earlier termination of this Lease, all signs, notices, displays, millwork, non-movable trade fixtures, or, at the option of Landlord, any leasehold improvements placed in the Premises by or at the request of Tenant. Tenant agrees to repair, at Tenant's expense, any damage to the Premises or any other part of the Project resulting from the removal of any articles of personal property, movable business or trade fixtures, machinery, equipment, furniture, movable partitions or tenant improvements, including without limitation, repairing the floor and patching and painting the walls where required by Landlord. Tenant's obligations under this Section 7.4 will survive the expiration or earlier termination of this Lease. If Tenant fails to remove any item of property permitted or required to be removed at the expiration or earlier termination of the Term, Landlord, may, at Landlord's option, (a) remove such property from the Premises at the expense of Tenant and sell or dispose of same in such manner as Landlord deems advisable, or (b) place such property in storage at the expense of Tenant. Any property of Tenant remaining in the Premises ten (10) days after the Expiration Date or earlier termination of this Lease will be deemed to have been abandoned by Tenant.

(v) Alterations by Tenant.

Approval Required. Tenant will not make, or cause or permit to be made, any additions, alterations, installations or improvements in or to the Premises (collectively, "Alterations"), without the prior written consent of Landlord. Unless Landlord has waived such requirement in writing, together with Tenant's request for approval of any Alteration, Tenant must also submit details with respect to the proposed source of funds for the payment of the cost of the Alteration by Tenant, design concept, plans and specifications, names of proposed contractors, and financial and other pertinent information about such contractors (including without limitation, the labor organization affiliation or lack of affiliation of any contractors), certificates of insurance to be maintained by Tenant's contractors, hours of construction, proposed construction methods, details with respect to the quality of the proposed work and evidence of security (such as payment and performance bonds) to assure timely completion of the work by the contractor and payment by the contractor of all costs of the work. With respect to any Alteration which is visible from outside the Premises, such proposed Alteration must, in the opinion of Landlord, also be architecturally and aesthetically harmonious with the remainder of the Building.

Complex Alterations. If the nature, volume or complexity of any proposed Alterations, causes Landlord to consult with an independent architect, engineer or other consultant, Tenant will reimburse Landlord for the fees and expenses incurred by Landlord. If any improvements will affect the basic heat, ventilation and air conditioning or other Building systems or the Building, Landlord may require that such work be designed by consultants designated by Landlord and be performed by Landlord or Landlord's contractors.

Standard of Work. All work to be performed by or for Tenant pursuant hereto will be performed diligently and in a first-class, workmanlike manner, and in compliance with all applicable laws, ordinances, regulations and rules of any public authority having jurisdiction over the Project and/or Tenant, including, without limitation, the Disabilities Acts, Environmental Laws, and Landlord's insurance carriers. Landlord will have the right, but not the obligation, to inspect periodically the work on the Premises and may require changes in the method or quality of the work.

Ownership of Alterations. All Alterations made by or for Tenant (other than the Tenant's movable trade fixtures), will immediately become the property of Landlord, without compensation to the Tenant; provided, however, Landlord will have no obligation to repair, maintain or insure such Alterations. Carpeting, shelving and cabinetry will be deemed improvements of the Premises and not movable trade fixtures, regardless of how or where affixed. Such Alterations will not be removed by Tenant from the Premises either during or at the expiration or earlier termination of the Term and will be surrendered as a part of the Premises unless Landlord has requested that Tenant remove such Alterations.

(vi) Liens. Tenant will keep the Premises and the Building free from any liens arising out of work performed, materials furnished, or obligations incurred by or on behalf of or for the benefit of Tenant. If Tenant does not, within ten (10) days following the imposition of any such lien, cause such lien to be released of record by payment or posting of a

proper bond or other security, Landlord will have, in addition to all other remedies provided in this Lease and by law, the option, to cause the same to be released by such means as Landlord deems proper, including payment of the claim giving rise to such lien. All sums paid and expenses incurred by Landlord in connection therewith, including attorneys' fees and a reasonable amount for Landlord's administrative time, will be payable to Landlord by Tenant on demand with Interest from the date such sums are expended.

(h) INSURANCE

(i) Insurance Required of Tenant. Tenant will, at Tenant's sole expense, procure and maintain the coverage required by this Section 8.1.

Commercial General Liability Insurance. Tenant will procure and maintain commercial general liability insurance ("Liability Insurance") which (a) insures against claims for bodily injury, property damage, personal injury and advertising injury arising out of or relating, directly or indirectly, to the use, occupancy, or maintenance of the Premises or any portion of the Property by Tenant or any of its agents, employees, contractors, invitees and licensees, (b) insures, without exclusion, damage or injury arising from heat, smoke, or fumes from a hostile fire, (c) has limits of not less than (i) $1,000,000.00 per occurrence, (ii) $2,000,000.00 general aggregate per location, (iii) $2,000,000.00 products and completed operations aggregate, (iv) $1,000,000.00 for personal and advertising injury liability, (v) $50,000.00 for fire damage legal liability, and (vi) $5,000.00 for medical payments, which minimum limits may be increased if recommended by Landlord's consultants or other insurance professionals, (d) includes blanket contractual liability and broad form property damage liability coverage, and (e) contains a standard separation of insured's provision;

Motor Vehicle liability. For any owned or leased automobiles, trucks, or other motor vehicles, auto liability insurance which insures against bodily injury and property damage claims arising out of ownership, use, or maintenance of any auto with a combined single limit per accident of not less than $1,000,000.00;

Workers' Compensation and Employer Liability Coverage. For any employees, Tenant will procure and maintain workers' compensation insurance and employer's liability insurance, as required by applicable laws, with limits of no less than $250,000.00 per accident, $250,000.00 per employee for bodily injury by disease, and $250,000.00 policy limit for bodily injury by disease.

Property Insurance. Tenant will procure and maintain property insurance coverage ("Property Insurance") for the following: (i) all office furniture, trade fixtures, office equipment, merchandise and all other items of Tenant's personal property in, on, at or about the Premises or any other part of the Project; and (ii) all leasehold improvements to the Premises constructed pursuant to the Work Letter, if any, attached to this Lease and other improvements, betterments, and Alterations to the Premises. Tenant's Property Insurance must be written on the broadest available "all-risk" (special-causes-of-loss) policy form or an equivalent form acceptable to Landlord, include an agreed-amount endorsement for no less than one hundred percent (100%) of the full replacement cost (new without deduction for depreciation) of the covered items and

property; be written in amounts of coverage that meet any coinsurance requirements of the policy or policies, and include vandalism and malicious mischief coverage, and sprinkler leakage coverage. Landlord must be named as an "insured as its interest may appear" under Tenant's Property Insurance.

Umbrella Insurance. Umbrella excess liability insurance, in addition to and in excess of the commercial general liability, business auto liability and employer's liability insurance described above, which insures against claims for bodily injury, personal injury, advertising injury and property damage and having limits of not less than (i) $1,000,000 per occurrence, and (ii) $1,000,000 for the annual aggregate.

Other Tenant Insurance Coverage. Tenant will, at Tenant's sole expense, procure and maintain any other and further insurance coverage that are generally required of similar class properties in the same geographical area.

(ii) Form of Policies and Additional Requirements. Each liability insurance policy described above (except employer's policies) shall name Landlord, Landlord's agent and advisor, Landlord's property manager and any mortgages and expressly including any trustees, directors, officers, employees or agents of any such entities, all as additional insureds. Each property insurance policy described above shall name Landlord as loss payee with respect to any permanently affixed improvements and betterments to the Premises. All such policies shall (i) be issued by insurers licensed to do business in the state in which the Property is located, (ii) be issued by insurers with a current rating of "A-" "VIII" or better in Best's Insurance Reports, (iii) be primary without right of contribution from any of Landlord's insurance, (iv) be written on an occurrence (and not claims-made) basis, and (v) be uncancellable without at least 30 days' prior written notice to the Landlord and any Mortgagee. At least 15 days before the Commencement Date (or, if earlier, the date Tenant first enters into the Premises for any reason), Tenant shall deliver to the Landlord certificates of insurance satisfactory to Landlord for each such policy required above. Within 10 days after any such policy expires, Tenant shall deliver to the Landlord a certificate of renewal evidencing replacement of the policy. The limits of insurance required by this Lease or as otherwise carried by Tenant shall not limit the liability of Tenant or relieve Tenant of any obligations under this Lease, except to the extent provided in any waiver of subrogation contained in this Lease. Tenant shall have sole responsibility for payment of all deductibles.

(iii) Waiver of Subrogation. Notwithstanding anything to the contrary in this Lease, Landlord and Tenant each waives all rights to recovery, claims or causes of action against the other and the other's agents, trustees, officers, directors and employees on account of any loss or damage which may occur to the Premises, the Property or any improvements thereto or to any personal property of such party to the extent such loss or damage is caused by a peril which is required to be insured against under this Lease, regardless of the cause or origin (including negligence of the other party). Landlord and Tenant each covenants to the other that, to the fullest extent permitted by law, no insurer shall hold any right of subrogation against the other party. Tenant covenants to Landlord that all policies of insurance maintained by Tenant respecting property damage shall permit such waiver of subrogation, and Tenant agrees to advise all of its insurers in writing of the waiver. IT IS THE INTENTION OF LANDLORD AND TENANT THAT THE WAIVER CONTAINED IN THIS SECTION 8.3 APPLY TO ALL CLAIMS

DESCRIBED HEREIN, INCLUDING, WITHOUT LIMITATION, ANY OF THE SAME THAT ARE CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OF LANDLORD, TENANT OR THEIR RESPECTIVE EMPLOYEES, AGENTS, INVITEES, SUBTENANTS, LICENSEES OR CONTRACTORS.

(iv) Landlord's Insurance. The Landlord shall maintain throughout the Term all-risk or fire and extended coverage insurance upon the Building in an amount equal to the replacement value thereof (or, in lieu thereof, a specified plan of self-insurance). The premiums for such insurance and of each endorsement thereto shall be deemed to be part of the Insurance Costs for purposes of Section 3.2 hereof. Furthermore, Tenant shall pay, as Additional Rent and as billed by Landlord, the entire amount of any increase in premiums for any insurance obtained by Landlord which occurs solely due to the particular use of the Premises by Tenant.

(v) Chemical Storage. Tenant agrees to comply with the National Fire Protection Association (NFPA) for product storage, all local fire code requirements, underwriter laboratories (UL), OSHA, Environmental Protection Agency, and other subsets for chemical storage which are identified in the link below:

http://www.ehs.columbia.edu/safeuseofchemicals.html#statel

(i) DAMAGE OR DESTRUCTION

(i) Repair by Landlord. Tenant will immediately notify Landlord of fire or other casualty in the Premises. If the Premises are damaged by fire or other casualty and unless this Lease is terminated as hereinafter provided, Landlord will proceed with reasonable diligence to repair the so-called "shell" of the Premises and any leasehold improvements originally installed by Landlord. Landlord's obligation to repair is subject to (i) delays which may arise by reason of adjustment of loss under insurance policies, including, without limitation, Tenant's policy for leasehold improvements and betterments described in Section 8.1 of this Lease, and (ii) other delays beyond Landlord's reasonable control. Landlord's obligation to repair will be limited to the extent of insurance proceeds actually available to Landlord for repairs after the election by the holder of any mortgage against the Building to apply a portion or all of the proceeds against the debt owing to such holder. Until Landlord's repairs to the Premises are completed, the Base Annual Rent and additional rent will abate in proportion to the part of the Premises, if any, that is rendered untenantable.

(ii) Landlord's Rights Upon The Occurrence of Certain Casualties. In the event: (i) either the Premises or the Building (whether or not the Premises are affected) is totally or partially destroyed or damaged by fire or other casualty and repairs cannot, in Landlord's reasonable judgment, be completed within one hundred eighty (180) days after the occurrence of such damage without the payment by Landlord of overtime or other premiums; (ii) fifty percent (50%) or more of the Rentable Area of the Building (wherever located) is damaged or destroyed by fire or other casualty (whether or not the Premises are affected thereby); (iii) damage is otherwise so great that Landlord, in Landlord's absolute discretion, decides to demolish the Building, in whole or in substantial part; (iv) insurance proceeds remaining after payment of any proceeds required to be paid to the holder of any mortgage affecting the Project are insufficient to

repair or restore the damage or destruction; (v) the Building or the Premises are damaged or destroyed as a result of any cause other than the perils covered by Landlord's property insurance; or (vi) the Premises are materially damaged, in Landlord's judgment, by fire or other casualty during the last twenty-four (24) months of the Term; Landlord may elect (a) to the extent of the insurance proceeds actually received by Landlord, to proceed to repair, restore or rebuild the Building or the Premises, in which event this Lease will continue in effect, or (b) to terminate this Lease (effective as of the event of destruction) upon thirty (30) days' prior notice to Tenant, which notice will be given, if at all, within sixty (60) days following the date of the occurrence of the destruction. In repairing or restoring the Building or any part thereof, Landlord may use designs, plans and specifications, other than those used in the original construction of the Building and Landlord may alter or relocate, or both, any or all buildings, facilities and improvements, including the Premises, provided that the Premises as altered or relocated will be substantially the same size and will be in all material respects reasonably comparable to the Premises. Upon any such termination of this Lease, Tenant will surrender to Landlord the Premises and deliver to Landlord all proceeds from Tenant's insurance attributable to tenant improvements and other additions, improvements, and property items which Tenant has no right to remove. Tenant will pay Base Annual Rent and all other sums payable under this Lease prorated through the effective date of such termination and Landlord and Tenant will be free and discharged from all obligations under this Lease arising after the effective date of such termination, except those obligations expressly stated in this Lease to survive the termination of this Lease.

(iii) Repairs by Tenant. Landlord will not be required to repair any injury or damage by fire or other cause, to restore or replace or to reimburse Tenant for damage to any of Tenant's property or any leasehold improvements installed in the Premises by Tenant. Landlord's obligations to repair leasehold improvements originally installed by Landlord will be subject to, and limited to the extent of, receipt of adequate proceeds from Landlord's and/or Tenant's insurance under Sections 8.1(c) and 8.4. Tenant will be required to repair any injury or damage to the Premises or to the contents of the Premises which Landlord is not responsible for repairing. Except for abatement, if any, of Base Annual Rent and additional rent in accordance with the provisions of this Lease, Tenant will not be entitled to any allowance, compensation or damages from Landlord for loss of use of all or any part of the Premises or Tenant's property or for any inconvenience, annoyance, disturbance or loss or interruption of business, or otherwise, arising from any damage to the Premises or any other part of the Project by fire or any other cause, or arising from any repairs, reconstruction or restoration, nor will Tenant have the right to terminate this Lease.

(j) EMINENT DOMAIN

(i) Taking. If at any time during the initial term or any renewal term of this Lease all or substantially all of the Project ("substantially all" being defined in Section 10.2 below) shall be taken through exercise of the power of eminent domain or conveyed by deed in lieu of condemnation, this Lease shall terminate on the date that the acquiring agency requires the Project or the portion thereof being acquired to be vacated (the 'Early Termination Date"). All rental amounts paid by Tenant to Landlord shall be reconciled as of the Early Termination Date. Landlord shall use its best efforts to provide Tenant with written notice of the scheduled start of any construction that would affect the Project. Such construction, for the purposes of this

provision, shall include, but not be limited to, road work that alters either the existing entrances and exits providing access between the Project and the service road of the Katy Freeway OH 10 west) or the intersection of Bingle Road and the Katy Freeway service road or that otherwise utilizes or takes a portion of the Project.

(ii) Definition. Substantially all of the Project shall be deemed to have been taken if any portion of the Project is taken through the exercise of the power of eminent domain or conveyed by deed in lieu of condemnation and, in the Landlord's sole discretion, the portion of the Project remaining cannot reasonably be used for the conduct and operation of the Tenant's business after the taking or conveyance. Landlord shall use commercially reasonable efforts to give Tenant notice of its determination that substantially all of the Project has been taken at least thirty (30) days prior to Early Termination Date.

(iii) Awards. Landlord shall be entitled to and shall receive any and all awards that may be made as compensation for the taking of the Project or the portion thereof being acquired, including any compensation for damages to any remaining portions of the Project, and Tenant hereby assigns and transfers to Landlord any and all portions of such awards that otherwise would be paid to Tenant; provided, however, that Tenant does not assign and shall be entitled to receive and retain any separate relocation payment offered to Tenant by the acquiring authority.

(k) ASSIGNMENT AND SUBLETTING

(i) Consent. Tenant will not assign this Lease or sublet all or any portion of the Premises without the prior written consent of Landlord. If consent to any assignment or subletting is given by Landlord, such consent will not relieve Tenant or any guarantor of this Lease from any obligation or liability under this Lease. If this Lease is assigned or any part of the Premises is occupied by any person other than Tenant without the consent of Landlord, Landlord may nevertheless collect Base Annual Rent and additional rent from the assignee or occupant, and apply the net amount collected to the Base Annual Rent and other amounts payable under this Lease but, in no event will such collection be construed as a waiver of this covenant.

(ii) Landlord's Option. If Tenant desires to assign this Lease or sublet all or part of the Premises, Tenant will notify Landlord at least sixty (60) days in advance of the date on which Tenant desires to make such assignment or enter into such sublease. Tenant will provide Landlord with a copy of the proposed assignment or sublease, and sufficient information concerning the proposed sublessee or assignee to allow Landlord to make informed judgments as to the financial condition, reputation, operations and general desirability of the proposed assignee or subtenant. Within thirty (30) days after Landlord's receipt of Tenant's proposed assignment or sublease and all required information concerning the proposed subtenant(s) or assignee, Landlord will have the option to: (i) cancel the Lease as to all of the Premises, if Tenant proposes to assign the Lease or sublet more than fifty percent (50%) of the Premises, or cancel the Lease as to the portion of the Premises proposed to be sublet if Tenant proposes to sublet less than fifty percent (50%) of the Premises; or (ii) consent to the proposed assignment or sublease, provided, however, (A) if the rent due and payable by any assignee or sublessee under any such permitted assignment or sublease (or a combination of the rent payable under such assignment or sublease plus any bonus or any other consideration for the assignment or sublease or any payment incident to the

assignment or sublease) exceeds the rent payable under the Lease for such space, Tenant will pay to Landlord all of such excess rent and other excess consideration within ten (10) days following receipt of such excess rent and/or consideration by Tenant, and (B) if the Premises or Building must be altered in order for the proposed assignee or sublessee to comply with the Disabilities Act, Landlord may condition Landlord's consent upon receipt of plans and specifications acceptable to Landlord for complying with the Disabilities Acts and of security acceptable to Landlord that such construction be completed timely and lien-free; or (iii) refuse to consent to the proposed assignment or sublease but allow Tenant to continue in the search for an assignee or sublessee that will be acceptable to Landlord, which option will be deemed to be elected unless Landlord gives Tenant notice providing otherwise.

(iii) Definition of Assignment. The use of the words "assignment", "subletting", "assign", or "assigned" or "sublet" in this Article 11 will include (i) the pledging, mortgaging or encumbering of Tenant's interest in this Lease, or the Premises or any part thereof, (ii) the total or partial occupancy of all or any part of the Premises by any person, firm, partnership, or corporation, or any groups of persons, firms, partnerships, or corporations, or any combination thereof, other than Tenant, (iii) an assignment or transfer by operation of law, and (iv) a sale of substantially all of Tenant's assets, and (v) with respect to a corporation, partnership, or other business entity, a transfer or issue by sale, assignment, bequest, inheritance, operation of law, or other disposition, or by subscription, any part or all of the corporate shares of or partnership or other interests in Tenant, so as to result in any change in the present effective voting control of Tenant by the party or parties holding such voting control on the date of this Lease. Upon the request of Landlord, Tenant will make available to Landlord or to Landlord's representatives, for inspection all books and records of Tenant necessary to ascertain whether there has, in effect, been a change in control of Tenant.

(iv) Legal Fees. All legal fees and expenses incurred by Landlord in connection with the review by Landlord of Tenant's request pursuant to this Article 11, together with any legal fees and disbursements incurred in the preparation and review of any documentation, will be the responsibility of Tenant and will be paid by Tenant within five (5) days from receipt of an invoice from Landlord, as additional rent.

(l) DEFAULT; REMEDIES

(i) Defaults by Tenant. The occurrence of any of the following will constitute a default under this Lease by Tenant: (i) any failure by Tenant to pay an installment of Base Annual Rent or to make any other payment required under this Lease when due [except that the first time such failure occurs during each calendar year, Tenant will not be in default unless Tenant fails to pay such sum within five (5) days after notice from Landlord]; (ii) any failure by Tenant to observe and perform any other provision of this Lease to be observed and performed by Tenant, where such failure continues for twenty (20) days after notice by Landlord to Tenant; (iii) failure to take possession or delivery of the Premises within ten (10) days after notice from Landlord that the Premises are ready for occupancy, or abandonment of the Premises, i.e., the failure by Tenant or Tenant's employees to occupy the Premises for ten (10) consecutive days; (iv) Tenant's interest in this Lease or in all or a part of the Premises is taken by process of law directed against Tenant, or becomes subject to any attachment at the instance of any creditor of or claimant

against Tenant, and such attachment is not discharged within ten (10) days; (v) Tenant or any guarantor of Tenant's obligations under this Lease: (a) is unable to pay such party's debts generally as they become due; (b) makes an assignment of all or a substantial part of such party's property for the benefit of creditors; (c) convenes or attends a meeting of such party's creditors, or any class thereof, for purposes of effecting a moratorium upon or extension or composition of such party's debts; (d) applies for or consents to or acquiesces in the appointment of a receiver, trustee, liquidator, or custodian of such party or of all or a substantial part of such party's property or of the Premises or of Tenant's interest in this Lease; or (e) files a voluntary petition in bankruptcy or a petition or an answer seeking reorganization under the Bankruptcy Code or any other law relating to bankruptcy, insolvency, reorganization or relief of debtors or an arrangement with creditors, or takes advantage of any insolvency law or files an answer admitting the material allegations of a petition filed against such party in any bankruptcy, relief, reorganization or insolvency proceedings; (vi) Tenant or any guarantor of Tenants obligations under this Lease takes any corporate action to authorize any of the actions set forth in Section 12.1(v); (vii) the entry of a court order, judgment or decree against Tenant or any guarantor of Tenant's obligations under this Lease, without the application, approval or consent of such party, approving a petition seeking reorganization of such party or relief of debtors under the Bankruptcy Code or any other law relating to bankruptcy, insolvency, reorganization, or relief of debtors or granting an order for relief against it as debtor or appointing a receiver, trustee, liquidator, or custodian of such party or of all or a substantial part of such party's property or of the Premises or of Tenant's interest in this Lease, or adjudicating such party bankrupt or insolvent, and such order, judgment or decree will not be vacated, set aside or dismissed within sixty (60) days from the date of entry.

(ii) Remedies. Upon the occurrence of any event of default enumerated in Section 12.1, Landlord will have the option of (i) terminating this Lease by notice thereof to Tenant or (ii) continuing this Lease in full force and effect and/or (iii) performing the obligation of Tenant and/or (iv) changing locks.

Termination of Lease. In the event Landlord elects to terminate this Lease, upon notice to Tenant this Lease will end as to Tenant and all persons holding under Tenant, and all of Tenant's rights will be forfeited and lapsed, as fully as if this Lease had expired by lapse of time, and there will be recoverable from Tenant: (i) the cost of restoring the Premises to good condition, normal wear and tear excepted, (ii) all accrued, unpaid sums, plus Interest and late charges, if in arrears, under the terms of this Lease up to the date of termination, (iii) Landlord's cost of recovering possession of the Premises, and (iv) rent and other sums accruing subsequent to the date of termination pursuant to the holdover provisions of Section 2.3. Notwithstanding any provision in this Lease to the contrary, if Tenant's default is by reason of Tenant's failure to pay rents, Landlord will, at Landlord's option, be entitled to liquidated damages equal to six (6) monthly installments of Base Annual Rent and, if Tenant's default constitutes an anticipatory breach under Texas law, Landlord shall also be entitled to collect all other damages permitted under Texas law for anticipatory breach. Landlord will at once have all the rights of re-entry upon the Premises, without becoming liable for damages, or guilty of a trespass.

Continuation of Lease. In the event that Landlord elects to continue this Lease in full force and effect, Tenant will continue to be liable for all rents. Landlord will nevertheless have all the rights of re-entry upon the Premises without becoming liable for damages, or guilty of a

trespass. Landlord, after re-entry, may relet all or a part of the Premises to a substitute tenant or tenants, for a period of time equal to or less or greater than the remainder of the Term on whatever terms and conditions Landlord, at Landlord's sole discretion, deems advisable. Against the rents and sums due from Tenant to Landlord during the remainder of the Term, credit will be given Tenant in the net amount of rent received from the new tenant after deduction by Landlord for: (i) the costs incurred by Landlord in reletting the Premises (including, without limitation, remodeling costs, brokerage fees, and the like), (ii) the accrued sums, plus Interest and late charges if in arrears, under the terms of this Lease, (iii) Landlord's cost of recovering possession of the Premises, and (iv) if Landlord elects to store Tenant's property in accordance with Section 7.4, the cost of storing any of Tenant's property left on the Premises after re-entry. Notwithstanding any provision in this Section 12.2(b) to the contrary, upon the default of any substitute tenant or upon the expiration of the term of such substitute tenant before the expiration of the Term hereof, Landlord may, at Landlord's election, either relet to another substitute tenant, or terminate this Lease and exercise Landlord's rights under Section 12.2(a) of this Lease.

Performance for Tenant. In the event that Landlord elects to perform the obligation(s) of Tenant, all sums expended by Landlord effecting such performance (including Administrative Reimbursement under Section 3.8), plus Interest thereon, will be due and payable with the next monthly installment of Base Annual Rent. Such sum will constitute additional rental under this Lease, and failure to pay such sums when due will enable Landlord to exercise all of Landlord's remedies under this Lease.

Changing Locks. Additionally, without notice, Landlord may alter locks or other security devices at the Premises to deprive Tenant of access to the Premises, and Landlord will not be required to provide a new key or rights of access to Tenant.

(iii) Remedies Cumulative. All rights and remedies of Landlord under this Lease will be nonexclusive of and in addition to any other remedies available to Landlord at law or in equity.

(iv) Attorneys' Fees. If legal action is necessary in order to enforce or interpret this Lease, the prevailing party will be entitled to reasonable attorneys' fees, costs and disbursements in addition to any other relief to which such party is entitled.

(v) Waiver. No covenant, term or condition or the breach thereof will be deemed waived, except by written consent of the party against whom the waiver is claimed and any waiver of the breach of any covenant, term or condition will not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term or condition. Acceptance by Landlord of any performance by Tenant after the time the same was due will not constitute a waiver by Landlord of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by Landlord in writing.

(vi) Landlords Lien. To assure payment of all sums due under this Lease and the faithful performance of all other covenants of the Lease, Tenant hereby grants to Landlord an express contract lien on and security interest in all goods, inventory, and equipment which may

be placed in the Premises and also upon all proceeds which may accrue from such property. Landlord will have all the rights and remedies of a secured party under the Texas Business and Commerce Code, and this lien and security interest may be foreclosed by process of law. Tenant agrees that Landlord may file a financing statement in form sufficient to perfect the security interest of Landlord under the Texas Business and Commerce Code. Tenant further agrees that Landlord may file this Lease as a financing statement. The lien and security interest granted in this Section 12.6 will be cumulative of and in addition to any statutory lien rights in favor of Landlord, now or hereafter existing.

(vii) Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefore (provided such inability does not arise from the inability of Landlord to pay for same), governmental restrictions, governmental action or inaction, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, mandatory or prohibitive injunction issued in connection with the enforcement of Disabilities Acts or Environmental Laws, and other causes beyond the reasonable control of Landlord, will excuse the performance by Landlord for a period of time equal to any such prevention, delay or stoppage, of any obligation Landlord is obligated to perform under this Lease.

(viii) Mitigation of Damages. Upon termination of Tenant's right to possess the Premises, Landlord shall, to the extent required by applicable law (and no further), use objectively reasonable efforts to mitigate damages by reletting the Premises. Landlord shall not be deemed to have failed to do so if Landlord refuses to lease the Premises to a prospective new tenant with respect to whom Landlord would be entitled to withhold its consent pursuant to Section 11.1, or who (i) is an affiliate, parent or subsidiary of Tenant; (ii) is not acceptable to Landlord's Mortgagee(s); (iii) requires improvements to the Premises to be made at Landlord's expense; or (iv) is unwilling to accept lease terms then proposed by Landlord, including: (A) leasing for a shorter or longer term than remains under this Lease, (B) re-configuring or combining the Premises with other space, (C) taking all or only a part of the Premises, and/or (D) changing the use of the Premises.

(m) ESTOPPEL CERTIFICATES

(i) Acknowledgment of Commencement Date. Upon tender of possession of the Premises to Tenant and as often thereafter as may be requested by Landlord, Tenant will, within ten (10) days after receipt of a request from Landlord, execute, acknowledge and deliver to Landlord a statement in the form of Exhibit E which will (i) set forth the actual Commencement Date and Expiration Date of the Term, and (ii) contain acknowledgments that Tenant has accepted the Premises and that the Premises and Building are satisfactory in all respects.

(ii) Certificates. Tenant will, within ten (10) days after receipt of a request from Landlord or any mortgagee of Landlord, execute, acknowledge and deliver to Landlord or such mortgagee either a statement in writing or three party agreement among Landlord, Tenant and such mortgagee (i) 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 date to which Base Annual Rent and other charges are paid in advance, if any; (ii) acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord under this Lease, or specifying such defaults if any are claimed, and (iii) specifying any further information and agreeing to such notice provisions and other matters reasonably requested by Landlord or such mortgagee. Any such statement may be conclusively relied upon by a prospective purchaser or mortgagee of the Premises. Tenant's failure to deliver such statement within ten (10) days will constitute a default under this Lease.

(n) SUBORDINATION AND ATTORNMENT

This Lease is and will be subject and subordinate to all ground or underlying leases which now exist or may hereafter be executed affecting the Project and to the lien and provisions of any mortgages or deeds of trust now or hereafter placed against the Project or against Landlord's interest or estate in the Project or on or against any ground or underlying lease, and any renewals, modifications, consolidations and extensions of such lease, without the necessity of the execution and delivery of any further instruments on the part of Tenant to effect subordination. If any mortgagee, trustee or ground lessor elects to have this Lease prior to the lien of such mortgagee's, trustee's or ground lessor's mortgage or deed of trust or ground lease, and gives notice of such election to Tenant, this Lease will be deemed prior to the lien of such mortgage or deed of trust or ground lease, whether this Lease is dated prior or subsequent to the date of such mortgage, deed of trust, or ground lease, or the date of the recording thereof. Tenant will execute and deliver upon request from Landlord, such further instruments evidencing the subordination of this Lease to any ground or underlying lease, and to any mortgage or deed of trust. In the event any proceedings are brought for default under any ground or underlying lease or in the event of foreclosure or the exercise of the power of sale under any mortgage or deed of trust against the Project, Tenant will, upon request of any person or party succeeding to the interest of Landlord as a result of such proceedings, attorn to such successor in interest and recognize such successor in interest as Landlord under this Lease.

(o) LANDLORD'S INTEREST

(i) Liability of Landlord. If Landlord defaults under this Lease and, if as a consequence of such default, Tenant recovers a money judgment against Landlord, such judgment will be satisfied only out of the right, title and interest of Landlord in the Project and Landlord will not be liable for any deficiency. In no event will Tenant have the right to levy execution against any property of Landlord or Landlord's partners other than Landlord's interest in the Project. In no event will Landlord be liable to Tenant for consequential or special damages.

(ii) Notice to Mortgagee. If Landlord defaults under this Lease and, if as a consequence of such default, Tenant will have the right to terminate this Lease, Tenant will not exercise such right to terminate unless and until (i) Tenant gives notice of such default (specifying the exact nature of such default and how such default may be remedied) to any lessor under a ground lease or any mortgagee of the Project whose name and address have been delivered to Tenant prior to the time of default and (ii) such lessor and/or mortgagee fails to cure, or to cause to be cured, such default within thirty (30) days after such lessor's or mortgagee's receipt of notice.

(iii) Sale of Project. The term "Landlord" will mean only the owner at the time in question of the fee title or a tenant's interest in a ground lease of the Project. The obligations contained in this Lease to be performed by Landlord will be binding on Landlord and Landlord's successors and assigns only during their respective periods of ownership. In the event of a sale of the Project or assignment of this Lease by Landlord, Landlord will have the right to transfer the Security Deposit to Landlord's vendee or assignee, subject to Tenant's rights therein, and Landlord will thereafter be released from any liability to Tenant with respect to the return of the Security Deposit to Tenant.

(p) NOTICES

Wherever in this Lease it is required or permitted that a request, notice or demand be given or served or consent be obtained by either party to, on, or from the other, such request, notice, demand, or consent must be in writing and (i) personally delivered, (ii) mailed by certified or registered United States mail, postage prepaid, or (iii) sent by Federal Express Corporation or other nationally recognized overnight carrier for next day delivery, to the addresses of the parties specified in the Basic Lease Provisions. Any notice which is mailed or sent by overnight courier will be deemed to have been given on the regular business day next following the date of deposit of such notice in a depository of the United States Postal Service or overnight carrier. Either party may change such address by notice to the other. Base Annual Rent and other charges will be paid to Landlord at Landlord's address as set forth in the Basic Lease Provisions, or as changed pursuant to a notice delivered to Tenant in the manner specified above.

(q) BROKERS

Tenant represents and warrants that Tenant has had no dealings with any broker or agent other than the broker(s) specified in Paragraph 10 of the Basic Lease Provisions in connection with the negotiation or execution of this Lease.

(r) INDEMNITIES AND WAIVERS

(i) INDEMNITIES. To the fullest extent permitted by law, Tenant will, at Tenant's sole cost and expense, Indemnify Landlord Parties against all Claims arising from (z) any Personal Injury, Bodily Injury or Property Damage whatsoever occurring in or at the Premises; (ii) any Bodily Injury to an employee of a Tenant Party arising out of and in the course of employment of the employee and occurring anywhere in the Project; (iii) the use or occupancy, or manner of use or occupancy, or conduct or management of the Premises or of any business therein; (iv) any act, error, omission, negligence, or willful misconduct of any of Tenant Parties in, on or about the Premises or the Project; (v) the conduct of Tenant's business; (vi) any alterations, activities, work or things done, omitted, permitted or allowed by Tenant Parties in, at or about the Premises or Project, including the violation of or failure to comply with, or the alleged violation of or alleged failure to comply with, Environmental Laws, Disabilities Acts or any other applicable laws, statutes, ordinances, standards, rules, regulations, orders, or judgments in existence on the date of the Lease or enacted, promulgated or issued after the date of this Lease; (vii) any breach or default by Tenant in the full and prompt payment of any amount due under this Lease, any breach, violation or nonperformance of any term, condition, covenant or other obligation of Tenant under

this Lease, or any misrepresentation made by Tenant or any guarantor of Tenant's obligations in connection with this Lease; (viii) all damages sustained by Landlord as a result of any holdover by Tenant or any Tenant party in the Premises including, but not limited to, any claims by another lessee resulting from a delay by Landlord in delivering possession of the Premises to such lessee; (ix) any liens or encumbrances arising out of any work performed or materials furnished by or for Tenant; or (x) commissions or other compensation or charges claimed by any real estate broker or agent [other than the Broker(s) specified in the Basic Lease Provisions], with respect to this Lease by, through, or under Tenant.

(ii) WAIVERS. To the fullest extent permitted by law, Tenant, on behalf of all Tenant Parties, Waives all Claims, against Landlord Parties arising from the following: (i) any Personal Injury, Bodily Injury, or Property Damage occurring in or at the Premises; (ii) any loss of or damage to property of a Tenant Party located in the Premises or other part of the Project by theft or otherwise; (iii) any Personal Injury, Bodily Injury, or Property Damage to any Tenant Party caused by other lessees of the Project, parties not occupying space in the Project, occupants of property adjacent to the Project, or the public or by the construction of any private, public, or quasi-public work occurring either in the Premises or elsewhere in the Project; (iv) any interruption or stoppage of any utility service or for any damage to persons or property resulting from such stoppage; (v) business interruption or loss of use of the Premises suffered by Tenant; (vi) any latent defect in construction of the Building; (vii) damages or injuries or interference with Tenant's business, loss of occupancy or quiet enjoyment and any other loss resulting from the exercise by Landlord of any right or the performance by Landlord of Landlord's maintenance or other obligations under this Lease, (viii) any Bodily Injury to an employee of a Tenant Party arising out of and in the course of employment of the employee and occurring anywhere in the Project.

(iii) DEFINITIONS. For purposes of this Article 18: (i) the term "Tenant Parties" means Tenant, and Tenant's officers, members, partners, agents, employees, sublessees, licensees, invitees and independent contractors, and all persons and entities claiming **through** any of these persons or entities; (ii) the term "Landlord Parties" means Landlord and the partners, venturers, trustees and ancillary trustees of Landlord and the respective officers, directors, shareholders, members, parents, subsidiaries and any other affiliated entities, personal representatives, executors, heirs, assigns, licensees, invitees, beneficiaries, agents, servants, employees and independent contractors of these persons or entities; (iii) the term "Indemnify" means indemnify, defend (with counsel reasonably acceptable to Landlord) and hold free and harmless from and against; (iv) the term "Claims" means all liabilities, claims, damages (including consequential damages), losses, penalties, litigation, demands, causes of action (whether in tort or contract, in law or at equity or otherwise), suits, proceedings, judgments, disbursements, charges, assessments, and expenses (including attorneys' and experts' fees and expenses and expenses incurred in investigating, defending, or prosecuting any litigation, claim, or proceeding); (v) the term "Waives" means that Tenant Parties waive and knowingly and voluntarily assume the risk of and (vi) the terms 'Bodily lnjury'; "Personal Injury" and "Property Damage" will have the same meanings as in the form of commercial general insurance policy issued by Insurance Services Office, Inc. most recently prior to the date of the injury or loss in question.

(iv) SCOPE OF INDEMNITIES AND WAIVERS. Except as provided in the following sentence, the indemnities and waivers contained in Article 18 will apply regardless of the active or passive negligence or sole, joint, concurrent, or comparative negligence of any of Landlord Parties, and regardless of whether liability without fault or strict liability is imposed or sought to be imposed on any of Landlord Parties. The indemnities and waivers contained in Article 18 will not apply to the extent of the percentage of liabilities that a final judgment of a court of competent jurisdiction establishes under the comparative negligence principles of the State of Texas, that a Claim against a Landlord Party was proximately caused by the willful' misconduct or gross negligence of that Landlord Party; provided, however, that in such event the indemnity or waiver will remain valid for all other Landlord Parties. To the extent that Landlord's insurance provides insurance for any such claim, then such claim will be the responsibility of the insurance company.

(v) OBLIGATIONS INDEPENDENT OF INSURANCE. The indemnification provided in Section 18.1 may not be construed or interpreted as in any way restricting, limiting or modifying Tenant's insurance or other obligations under this Lease, and the provisions of Section 18.1 are independent of Tenant's insurance and other obligations. Tenant's compliance with the insurance requirements and other obligations under this Lease does not in any way restrict, limit or modify Tenant's indemnification obligations under this Lease.

(vi) SURVIVAL. The provisions of this Article 18 will survive the expiration or earlier termination of this Lease until all claims against Landlord Parties involving any of the indemnified or waived matters are fully and finally barred by the applicable statutes of limitations.

(vii) DUTY TO DEFEND. Tenant's duty to defend Landlord Parties is separate and independent of Tenant's duty to Indemnify Landlord Parties. Tenant's duty to defend includes Claims for which Landlord Parties may be liable without fault or may be strictly liable. Tenant's duty to defend applies regardless of whether the issues of negligence, liability, fault, default or other obligation on the part of Tenant Parties have been determined. Tenant's duty to defend applies immediately, regardless of whether Landlord Parties have paid any sums or incurred any detriment arising out of or relating, directly or indirectly, to any Claims. It is the express intention of Landlord and Tenant that Landlord Parties will be entitled to obtain summary adjudication regarding Tenant's duty to defend Landlord Parties at any stage of any Claim within the scope of this Article 18.

(s) RELOCATION

(i) SUBSTITUTION OF SPACE/RELOCATION. Landlord reserves the right at any time prior to tender of possession of the Premises to Tenant or during the Term of this Lease after the Commencement Date and upon sixty (60) days' prior notice ("Substitution Notice") to substitute other space ("Substitute Space") within the Complex on a date of relocation (the "Relocation Date") specified therein provided the Rentable Area of the Substitute Space is approximately the same as the Rentable Area of the Premises. In such event, all reasonable expenses of moving Tenant and decorating the Substitute Space with substantially the same leasehold improvements shall be at the expense of Landlord; including the physical move,

relocating Tenant's existing telephone equipment and other costs set forth below. All moving costs (including the cost to relocate phones, computers and other systems of similar nature), all costs of reprinting stationery, cards and other printed material bearing Tenant's address at the Premises if such address changes due to the relocation (but only the quantity existing immediately prior to the relocation) and all other out-of-pocket costs directly incurred by Tenant in connection with the relocation to the Substitute Space, including reasonable decorating and sign costs, shall be paid by Landlord within thirty (30) days after receipt of third party invoices therefore. Tenant shall have the option, effective as of the Relocation Date, either to enter into an appropriate lease amendment relocating the Premises, or to terminate this Lease, which option shall be exercised within 5 business days following receipt of the Substitution Notice. Failure of Tenant to choose either option within such period shall constitute Tenant's election to relocate. If Tenant elects (or is deemed to have elected) to relocate, Landlord shall have the option to tender the Substitute Space to Tenant on any date within a 30 day period prior to or after the Relocation Date, in which event the date of tender of possession of the Substitute Space shall become the Relocation Date.

(ii) Maximum Base Annual Rent. The Base Annual Rent for the Substitute Space will be computed by multiplying the number of square feet of Rentable Area in the Substitute Space by the Base Annual Rent for the Premises per square foot of Rentable Area.

(iii) Condition of Premises. If relocation occurs after the Commencement Date, Tenant will have the election to take the Substitute Space "as is" or to have the Substitute Space improved in substantially the same manner as the Premises, such election to be exercised by notice delivered to Landlord within ten (10) days after Tenant's receipt of the Substitution Notice. Failure by Tenant to notify Landlord of Tenant's election within the ten (10) day period will be deemed to be an election to take the Substitute Space "as is".

(iv) Commencement of Rent. Rental for the Substitute Space will commence to accrue within fifteen (15) days after Landlord tenders possession of the Substitute Space to the Tenant. Tenant's continued occupancy of the Premises after such fifteen (15) day period will be treated as a holding over by Tenant under Section 2.3 hereof.

(t) PARKING

(i) Parking Spaces. Landlord hereby grants to Tenant and persons designated by Tenant ("Tenant's Designated Parkers") a license to use the number of parking spaces set forth in Paragraph 12 of the Basic Lease Provisions, in the surface parking lot (the "Lot") provided by Landlord for the use of tenants and occupants of the Building. The term of such license will commence on the Commencement Date and will continue until the earliest to occur of the Expiration Date, termination of the Lease, Tenant's abandonment of the Premises or Tenant's parking rights, or termination by Landlord of Tenant's parking rights in accordance with Section 20.4. During the term of this license, Tenant will pay Landlord the monthly charges established from time to time by Landlord for parking in the Lot as set forth in Paragraph 12 of the Basic Lease Provisions, payable in advance, with Tenant's payment of monthly installment of Base Annual Rental. No deductions from the monthly charges will be made for days on which the Lot is not used by Tenant. However, Tenant may reduce the number of parking spaces hereunder, at any time, by providing at least thirty (30) days' advance written notice to Landlord, accompanied by

any keycard, sticker or other identification or entrance system, if any, provided by Landlord or its parking contractor. Tenant's reduction of the number of parking spaces will be irrevocable.

(ii) Control of Parking. Landlord reserves the right from time to time to adopt, modify and enforce reasonable rules governing the use of the Lot, including any keycard, sticker or other identification or entrance system, and hours of operation. Landlord may refuse to permit any person who violates such rules to park in the Lot. The parking spaces hereunder will be provided on an unreserved "first-come, first-served" basis. Landlord reserves the right to assign specific spaces, and to reserve spaces for visitors, small cars, handicapped persons and for other lessees, guests of other lessees, or other parties, and Tenant and Tenant's Designated Parkers will not park in any such assigned or reserved spaces. Landlord also reserves the right to close all or any portion of the Lot in order to make repairs or perform maintenance services, or to alter, modify, restripe or renovate the Lot, or if required by casualty, strike, condemnation, act of God, governmental law or requirement or other reason beyond Landlord's reasonable control.

(iii) Landlord's Liability. If, for any other reason, Tenant or Tenant's Designated Parkers, are denied access to the Lot, and Tenant or such persons will have complied with this Section 20, Landlord's liability will be limited to parking charges (excluding tickets for parking violations) incurred by Tenant or such persons in utilizing alternative parking, which amount Landlord will pay upon presentation of documentation supporting Tenant's claims in connection therewith.

(iv) Remedies for Parking Violations. If Tenant or any of its designated parkers violate the rules applicable to the parking areas, Landlord will have the right to remove from the Lot any vehicles which are involved or are owned or driven by parties involved in the violation. In addition, Landlord will have the right to cancel Tenant's parking spaces on ten (10) days' written notice. If Tenant or any of Tenant's Designated Parkers violate the same term or condition more than three (3) times during any twelve (12) month period, the next violation of such term or condition during the succeeding twelve (12) month period, will, at Landlord's election, constitute an incurable violation of the parking rules. Landlord's rights to cancel parking privileges and remove vehicles are cumulative and in addition to any other rights or remedies available to Landlord at law or equity, or provided under this Lease.

(u) HAZARDOUS SUBSTANCES

The term "Hazardous Substances", as used in this Lease will mean pollutants, contaminants, toxic or hazardous wastes, or any other substances, the removal of which is required or the use of which is regulated, restricted, prohibited or penalized by any Environmental Law. Tenant hereby agrees that (i) no activity will be conducted on the Premises that will produce any Hazardous Substances, except for such activities that are part of the ordinary course of Tenant's business activities ("Permitted Activities") provided the Permitted Activities are conducted in accordance with all Environmental Laws; (ii) the Premises will not be used in *any* manner for the storage of any Hazardous Substances except for any temporary storage of such materials that are used in the ordinary course of Tenant's business ("Permitted Materials"), provided such Permitted Materials are properly stored in a manner and location meeting all Environmental Laws; (iii) Tenant will not permit any Hazardous Substances to be brought onto the Premises, except for the

Permitted Materials, and if so brought or found thereon, the same shall be immediately removed, with proper disposal, and all required cleanup procedures shall be diligently undertaken pursuant to all Environmental Laws. If any Hazardous Substance is discovered outside the Premises and such Hazardous Substance was brought into the Building or parking areas by Tenant or Tenant's employees or contractors, Tenant, at Tenant's sole cost and expense, will immediately take such action as is necessary to detain the spread of and remove the Hazardous Substance to the satisfaction of Landlord. Landlord shall have access to, and a right to perform inspections and tests of, the Premises to determine Tenant's compliance with Environmental Laws, its obligations under this Section 21, or the environmental condition of the Premises. Such inspections and tests shall be at Landlord's expense unless such inspections or tests reveal that Tenant has not complied with Environmental Laws, in which case Tenant shall reimburse Landlord for the reasonable cost of such inspection and tests. Landlord's receipt of or satisfaction with any environmental assessment in no way waives any rights that Landlord holds against Tenant.

(v) INTERPRETATIVE

(i) Calculation. Landlord and Tenant are knowledgeable and experienced in commercial transactions and agree that each the provision of this Lease for determining charges, amounts and additional rent payable by Tenant (i) is commercially reasonable and valid even though such methods may not state a precise mathematical formula for determining such charges and (ii) constitutes a "method by which the charge is to be computed" for purposes of Section 93.004 of the Texas Property Code. ACCORDINGLY, TENANT VOLUNTARILY AND KNOWINGLY WAIVES ALL RIGHTS AND BENEFITS OF TENANT UNDER SECTION 93.004 OF THE TEXAS PROPERTY CODE, AS SUCH SECTION NOW EXISTS OR AS MAY BE HEREAFTER AMENDED OR SUCCEEDED.

(ii) Captions. The captions of the Articles and Sections of this Lease are for convenience only and will not affect the interpretation or construction of any provision of this Lease.

(iii) Section Numbers. All references to section numbers contained in the Basic Lease Provisions, the General Lease Provisions, Exhibit C or the Work Letter, if any, are to sections in the General Lease Provisions, unless expressly provided to the contrary.

(iv) Attachments. Exhibits, addenda, schedules and riders attached hereto and listed in the Basic Lease Provisions (and no other exhibits, addendums, schedules and riders) are deemed by attachment to constitute part of this Lease and are incorporated into this Lease.

(v) Number, Gender, Defined Terms. The words "Landlord" and "Tenant", as used in this Lease, will include the plural as well as the singular. Words used in the neuter gender include the masculine and feminine and words in the masculine or feminine gender include the other and the neuter. If more than one person or entity constitutes Tenant, the obligations under this Lease imposed upon Tenant will be joint and several.

(vi) Entire Agreement. This Lease, including any exhibits and attachments hereto listed in the Basic Lease Provisions, constitutes the entire agreement between Landlord and Tenant relative to the Premises. Landlord and Tenant agree hereby that all prior or contemporaneous oral and written agreements between and among themselves or their agents, including any leasing agent, and representatives relative to the leasing of the Premises are merged in or revoked by this Lease.

(vii) Amendment. This Lease and the exhibits and attachments may be altered, amended or revoked only by an instrument in writing signed by both Landlord and Tenant.

(viii) Severability. If any term or provision of this Lease is, to any extent, determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Lease will not be affected thereby, and each remaining term and provision of this Lease will be valid and be enforceable to the fullest extent permitted by law.

(ix) Time of Essence. Time is of the essence of this Lease and each and every provision of this Lease.

(x) Best Efforts. Whenever in this Lease or the Work Letter, if any, there is imposed upon Landlord the obligation to use Landlord's best efforts or reasonable efforts or diligence, Landlord will be required to exert such efforts or diligence only to the extent the same are economically feasible and will not impose upon Landlord extraordinary financial or other burdens.

(xi) Binding Effect. Subject to any provisions of this Lease restricting assignment or subletting by Tenant and releasing Landlord upon sale of the Building, all of the provisions of this Lease will bind and inure to the benefit of the parties to this Lease and their respective heirs, legal representatives, successors and assigns.

(xii) Subtenancies. The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, will not work a merger of estates and will, at the option of Landlord, operate as an assignment to Landlord of any or all subleases or subtenancies.

(xiii) No Reservation. Submission by Landlord of this instrument to Tenant for examination or signature does not constitute a reservation of or option for lease. This Lease will be effective as a lease or otherwise only upon execution and delivery by both Landlord and Tenant.

(xiv) Consents. If Tenant requests Landlord's consent under any provision of this Lease and Landlord fails or refuses to give such consent, Tenant's sole remedy will be an action for specific performance or injunction.

(xv) Choice of Law. This Lease will be construed under, governed by and enforced in accordance with the laws of the State of Texas.

EXHIBIT A

LAND

Legal Description
West Memorial Park, Phase II (8562)

Being a tract of land out of the A.H. Osbourne Survey, Abstract 610, Spring Valley, Harris County, Texas, and being more particularly described as follows:

The point of reference is the North R-O-W line of the M.K.T. Railroad (100 feet wide) and the East R-O-W line of Bingle Road.

THENCE East along the North R-O-W line M.K.T. Railroad (100 feet wide), a distance of 390.65’ to a point ;

THENCE Northwesterly along a circular curve to the left having a central angle of 10° 19’ 47” and a radius of 459.85 feet, a distance of 82.91 feet to a point of reverse curvature;

THENCE Northwesterly along a circular curve to the left having a central angle of 10° 19’ 47” and a radius of 424.85 feet, a distance of 76.60 feet to a point of tangency;

THENCE North a distance of 91.40 feet to the point of beginning;

THENCE North a distance of 180.86 feet to the point of curvature;

THENCE Northwesterly along a circular to the left having a central angel of 5° 32; 57”, a radius of 729.36 feet, and a length of 74.03 feet to a point of reverse curvature;

THENCE Northwesterly along a circular to the left having a central angel of 5° 32; 57”, a radius of 764.36 feet, and a length of 70.64 feet to a point of reverse curvature;

THENCE North a distance of 179.14 feet to a point for a corner;

THENCE East a distance of 586.47 feet to a point for a corner;

THENCE South 0° 15’ 23” E a distance of 50427 feet to a point for a corner;

THENCE West a distance of 581.73 to the POINT OF BEGINNING and containing 6.761 acres of land, more or less.

EXHIBIT B

FLOOR PLAN

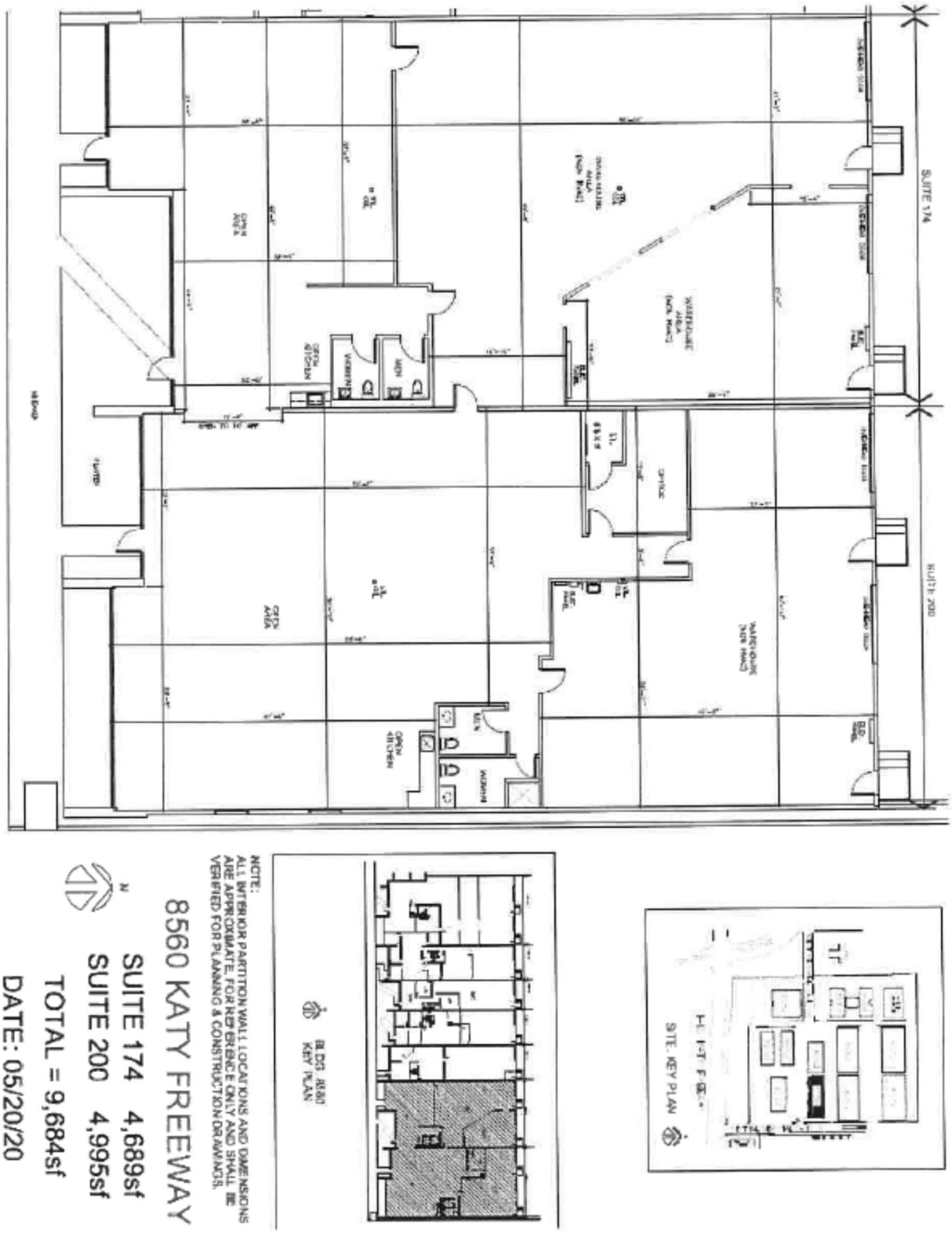


Exhibit B

EXHIBIT C

OPERATING COST COMPUTATION

1. Operating Cost Exclusions. The following are, without limitation, examples of costs excluded from the computation of Operating Costs:

(a) leasing commissions, attorneys' fees, costs and disbursement and other expenses incurred in connection with leasing, renovating or improving space for tenants or prospective tenants of the Project;

(b) costs incurred by Landlord in the discharge of its obligations under the Work Letter;

(c) costs (including permit, license and inspection fees) incurred in renovating or otherwise improving or decorating, painting or redecorating space for tenants or vacant space;

(d) Landlord's costs of any services sold to tenants for which Landlord is entitled to be reimbursed by such tenants as an additional charge or rental over and above the Base Annual Rent and Operating Costs payable under the lease with such tenant or other occupant;

(e) any depreciation and amortization on the Project except as expressly permitted herein;

(f) costs incurred due to violation by Landlord of any of the terms and conditions of this Lease or any other lease relating to the Project;

(g) interest on debt or amortization payments on any mortgages or deeds of trust or any other debt for borrowed money;

(h) all items and services for which Tenant reimburses Landlord outside of Operating Costs or pays third persons or which Landlord provides selectively to one or more tenants or occupants of the Project (other than Tenant) without reimbursement;

(i) advertising and promotional expenditures;

(j) repairs or other work occasioned by fire, windstorm or other work paid for through insurance or condemnation proceeds;

(k) costs, penalties and fines incurred due to the violation by Landlord or any other tenant of the Building of applicable laws, or the terms and conditions of any lease pertaining to the Building, except such as may be incurred by Landlord in contesting in good faith the alleged violation.

2. Operating Cost Examples. The following are, without limitation, examples of costs included within the computation of Operating Costs:

(a) garbage and waste disposal;

(b) janitorial service and window cleaning for the Project (including materials, supplies, light bulbs and ballasts standard to the Building, equipment and tools therefore and rental and depreciation costs related to any of the foregoing) or contracts with third parties to provide same;

(c) security;

(d) insurance premiums (including, without limitation, property, rental value, liability and any other types of insurance carried by Landlord with respect to the Project, the costs of which may include an allocation of a portion of the premium of a blanket insurance policy maintained by Landlord);

(e) business or excise taxes payable on account of Landlord's ownership or operation of the Project (excluding any inheritance, estate succession, transfer, gift, franchise, corporation, income or profits tax imposed upon Landlord);

(f) real estate taxes, assessments, excises, and any other governmental levies and charges of every kind and nature whatsoever, general and special, extraordinary and ordinary, foreseen and unforeseen, which may during the Term be levied or assessed against, or arising in connection with the use, occupancy, operation or possession of, the Project, or any part thereof, or substituted, in whole or in part, for a real estate tax, assessment, excise or governmental charge or levy previously in existence, by any authority having the direct or indirect power to tax, including interest on installment payments and all costs and fees (including attorneys' fees) incurred by Landlord in contesting or negotiating with taxing authorities as to same; provided, however, Landlord will have the option to pay any of the foregoing as rentals under a ground lease arrangement with the fee simple titleholder to the land upon which the Project is, or is to be, constructed;

(g) water and sewer charges and any add-ons;

(h) operation, maintenance, and repair (to include replacement of components) of the Project, including but not limited to all floor, wall and window coverings and personal property in the Common Areas, Building systems such as heat, ventilation and air conditioning system, and all other mechanical or electrical systems serving the Building and the Common Areas and Service Areas and service agreements for all such systems and equipment;

(i) charges for any easement maintained for the benefit of the Project;

(j) license, permit and inspection fees;

(k) compliance with any fire safety or other governmental rules, regulations, laws, statutes, ordinances or requirements imposed by any governmental authority or insurance company with respect to the Project during the Term hereof;

(1) wages, salaries, employee benefits and taxes (or an allocation of the foregoing) for personnel working full or part time in connection with the operation, maintenance and management of the Project;

(m) accounting and legal services (but excluding legal services in connection with negotiations and disputes with specific tenants unless the matter involved affects all tenants of the Project);

(n) administrative and management fees for the Project and Landlord's overhead expenses directly attributable to Project management;

(o) indoor or outdoor landscaping;

(p) depreciation (or amortization) of Required Capital Improvements and Cost Savings Improvements. "Required Capital Improvements" will mean capital improvements or replacements made in or to the Building in order to conform to any law, ordinance, rule, regulation or order of any governmental authority having jurisdiction over the Project, including, without limitations, The Disabilities Acts. "Cost Savings Improvements" will mean any capital improvements or replacements which are intended to reduce, stabilize or limit increases in Operating Costs. [The cost of Cost Savings Improvements will be amortized by spreading such costs uniformly over a term equal to the lesser of (a) the period of years over which the amount by which Operating Costs are reduced would be equal to the cost of such installation or (b) ten (10) years. The cost of Required Capital Improvements and depreciable (or amortizable) maintenance and repair items (e.g., painting of Common Areas, replacement of carpet in elevator lobbies), will be amortized by spreading such costs uniformly over a term equal to the lesser of (a) the period employed by Landlord for federal income tax purposes or (b) ten (10) years.]

(q) Interest (as defined in Section 3.7 of the General Lease Provisions) upon the un-depreciated (or unamortized) balance of the original cost of items which Landlord is entitled to depreciate (or amortize) as an Operating Cost;

(r) expenses and fees (including attorneys' fees) incurred contesting of the validity or applicability of any governmental enactments which may affect Operating Costs; and the costs incurred by Landlord for (i) any and all forms of fuel or energy utilized in connection with the operation, maintenance, and use of the Project, (ii) sales, use, excise and other taxes assessed by governmental authorities on energy sources, and (iii) other costs of providing energy to the Project.

(s) the cost of Common Area services which are provided by Landlord for the mutual benefit of all tenants, including all expenses incurred by landlord with respect to the maintenance and operation of the Building and/or Project of which the Premises are a apart. These services may include, but are not limited to, general landscaping, mowing of grass, care of shrubs (including replacement of expired plants); operation and maintenance of lawn sprinkler system; operation and maintenance of exterior lighting; water service and sewer charges; repainting of exterior surfaces of truck doors, handrails, downspouts, and other parts of the Building which require periodic preventive maintenance; parking lot

maintenance; pro rate share of the Project's Common Area maintenance and monitoring service; and a management fee equal to 3% of the gross rental due under this lease, payable monthly.

(t) Landlord will credit against Operating Costs any refunds received as a result of tax contests, after deduction for Landlord's costs in connection with same.

(u) The foregoing provisions of this Exhibit C will not be deemed to require Landlord to furnish or cause to be furnished any service or facility not otherwise required to be furnished by Landlord pursuant to the provisions of this Lease, although Landlord, in Landlord's absolute discretion, may choose to do so from time to time.

EXHIBIT D

RULES & REGULATIONS

1. Except as specifically provided for in this Lease, no sign, placard, picture, advertisement, name or notice will be inscribed, displayed or printed or affixed on or to any part of the outside or inside of the Building or the Premises without the written consent of Landlord first having been obtained.

2. Any directory of the Building provided by Landlord will be exclusively for the display of the name and location of tenants in the Building, and Landlord reserves the right to exclude any other names there from and may limit the number of listings per tenant. Tenant will pay Landlord's standard charge for Tenant's listing thereon and for any changes by Tenant.

3. Tenant will not place anything or allow anything to be placed near the glass of any window, door, partition or wall which may appear unsightly from outside the Premises. No awnings or other projections will be attached to the outside walls and roof of the Building without prior written consent of Landlord. No curtains, blinds, shades or screens will be attached to or hung in or used in connection with any window or door of the Premises without the prior consent of Landlord.

4. "Normal Business Hours" for Memorial Park will mean 7:00 a.m. to 6:00 p.m. Monday through Friday and 8:00 a.m. to 12:00 p.m. on Saturday except for the following holidays: New Year's Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving and Christmas.

5. The Premises will not be used for the manufacturing or storage of merchandise except as provided for in this Lease. The Premises will not be used for lodging or sleeping, or for any illegal purposes.

6. The sidewalks, halls, passages, exits, entrances, elevators and stairways will not be obstructed by any of the tenants or be used by them for any purpose other than for ingress to and egress from their respective leased premises. The halls, passages, exits, entrances, elevators, stairways, terraces and roof are not for the use of the general public, and Landlord will in all cases retain the right to control and prevent access thereto by all persons whose presence, in the judgment of Landlord, will be prejudicial to the safety, character, reputation and interest of the Building and its tenants, provided that nothing herein contained will be construed to prevent such access to persons with whom Tenant normally deals in the ordinary course of business, unless such persons are engaged in illegal activities. No tenant and no employee or invitee of any tenant will go upon the roof of the Building.

7. Except as expressly permitted in writing by Landlord, no additional locks or bolts of any kind will be placed upon any of the doors or windows by Tenant, nor will any changes be made to existing locks or the mechanisms thereof. Landlord will furnish two (2) keys for each lock it installs on the Premises without charge to Tenant. Landlord will make a reasonable charge for any additional keys requested by Tenant, and Tenant will not duplicate or obtain keys from any other source. Tenant will upon the termination of the Term of this Lease return to Landlord all keys so issued. Tenant will bear the cost for the replacing or changing of any lock or locks due to any keys issued to Tenant being lost.

8. The toilets and wash basins and other plumbing fixtures will not be used for any purpose other than those for which they were constructed, and no sweepings, rubbish, rags or foreign substances will be thrown therein.

9. No tenant will make or permit to be used any unseemly or disturbing noises, or disturb or interfere with occupants of this or neighboring buildings or leased premises, whether by the use of any musical instrument, radio, phonograph, unusual noise or in any other way. No Tenant will throw anything out of doors or down the passage ways.

10. Tenant will not use or keep in the Premises or the Project any kerosene, gasoline, or any inflammable, combustible or explosive fluid, chemical or substance or use any method of heating or air conditioning other than those supplied or approved by Landlord.

11. Tenant will see that the windows and doors of the Premises are closed and securely locked before leaving the Building. No tenant will permit or suffer any windows to be opened in the Premises while the air conditioning is in operation except at the direction of Landlord. Tenant must observe strict care and caution that all water faucets and other apparatus are entirely shut off before Tenant and Tenant's employees leave the Building, and that all electricity, gas or air conditioning will likewise be carefully shut off so as to prevent waste or damage; for any default or carelessness, Tenant will make good all injuries sustained by all other tenants or occupants or Landlord of the Building.

12. Landlord reserves the right to exclude or expel from the Project any person who, in the judgment of Landlord, is intoxicated or under the influence of liquor or drugs, or who will in any manner do any act in violation of any of the rules or regulations of the Project.

13. The requirements of Tenant will be attended to only upon application at the Building management office. Employees of Landlord will not perform any work or do anything outside of their regular duties unless under special instructions from Landlord.

14. No tenant will disturb, solicit, or canvass any occupant of the Project, nor will Tenant permit or cause others to do so, and Tenant will co-operate to prevent same by others.

15. Tenant will not permit in the Premises any cooking or the use of apparatus for the preparation of any food or beverages (except where Landlord has approved the installation of cooking facilities as part of Tenant's leasehold improvements), nor the use of any electrical apparatus likely to cause an overload of the electrical circuits.

16. Tenant's right to have heavy furnishings, equipment, and files in the Premises will be limited to items weighing less than the load-bearing limits of floors within the Premises as established by Landlord. Heavy items must be placed in locations approved in advance by Landlord. Upon written demand from Landlord, Tenant will promptly remove from the Premises any items which, in the judgment of Landlord, constitute a structural overload on floors within the Premises. If Landlord approves the presence of a heavy item for which reinforcement of the floor or other precautionary measures are necessary, Tenant will bear the entire cost of such reinforcement or other precautionary measures. If the services of a structural engineer are, in the judgment of Landlord, necessary to determine the location for and/or precautionary measures to

be taken in connection with any heavy load, Landlord will engage such engineer, but the fees and expenses of such engineer will be paid by Tenant upon demand.

17. Tenant will not, without the prior written consent of Landlord, use the name or any photograph, drawing or other likeness of the Building for any purpose other than as the address of the business to be conducted by Tenant in the Premises, nor will Tenant do or permit anything to be done in connection with Tenant's business or advertising which, in the reasonable judgment of Landlord, might mislead the public as to any apparent connection or relationship between Landlord, the Building and Tenant.

18. Tenant, its invitees, and employees will be allowed to smoke only in those designated smoking areas outside the building.

EXHIBIT E

CERTIFICATE OF ACCEPTANCES OF PREMISES

Re: Service Center Lease Agreement for space in 8560 Katy Freeway, Suite 200, Houston, TX 77024 executed on the ___ day of _____, 2020 between TEN-VOSS, LTD a Texas limited partnership, as "Landlord", and MedScan Laboratories Inc. (Tenant) and _____ (Guarantor).

Landlord and Tenant hereby agree that:

1. Except for those items shown on the attached "punch list" which Landlord will use Landlord's best efforts to remedy within thirty (30) days from the date of this Certificate, Landlord has fully completed the construction work required under the terms of the Lease and the Work Letter.

2. The Premises are tenantable, Landlord has no further obligation for construction (except as specified above), and Tenant acknowledges that both the Building and the Premises are satisfactory in all respects.

3. The Commencement Date of the Lease is the 1st day of September 2023

4. The Expiration Date of the Lease is be the last day November 2020

All other terms and conditions of the Lease are hereby ratified and acknowledged to be unchanged.

EXECUTED this ___ day of _____, 2020

TENANT:	**LANDLORD:**
MEDSCAN LABORATORIES INC.	TEN-VOSS, LTD
By: _____	By _____

RIDER I

WORK LETTER TO LEASE AGREEMENT
BETWEEN TEN-VOSS, LTD.
and
MEDSCAN LABORATORIES, INC.

Landlord is not required to perform any construction or repair or remodeling at the Leased Premises.

B. Tenant, at Tenant's sole cost and expense, shall construct any improvements within the Premises ("Tenants Work") desired by Tenant substantially in accordance with the plans and specifications to be prepared by Tenant and approved by Landlord as hereinafter provided. Tenant shall furnish preliminary plans to Landlord within twenty (10) days from the date of execution of the Lease by Landlord. Landlord shall have fifteen (5) days from the receipt of such preliminary plans within which to submit to Tenant a request for any changes Landlord desires in such preliminary plans. Landlord may request a change in such preliminary plans based on any reason in Landlord's sole discretion. Tenant shall have 5 days from the date of Landlord's request within which to amend the plans and specifications in accordance with the modifications so requested by Landlord. If Landlord and Tenant, after exercising good faith efforts to agree, shall fail to agree upon a mutually acceptable set of proposed plans and specifications within 30 days from the Effective Date, then either party shall have the right to terminate this Lease by providing written notice to the other party prior to (i) agreement by both parties upon a mutually acceptable set of plans or (ii) the expiration of five days after the end of such 30-day period. When Landlord and Tenant have mutually agreed upon final plans and specifications for construction of Tenant's improvements, said plans and specifications (the "Plans") shall be signed or initialed by both Landlord and Tenant and dated, and incorporated herein by reference but need not be attached to this Lease. All plans and specifications to be provided hereunder shall be at the sole cost and expense of Tenant.

C. Tenant shall commence Tenant's Work within ten (10) days after receiving a building permit (if required) and shall cause Tenant's Work to be completed in accordance with the Plans within 60 days after commencement of Tenant's Work. If the Tenant, for any reason, fails to complete construction as provided above (subject to Force Majeure delays), then Landlord, in addition to all other rights and remedies herein provided, shall have the right to terminate the Lease by giving written notice to Tenant of such termination. Upon termination of the Lease pursuant to the terms of this Exhibit (i) Tenant shall immediately vacate and relinquish possession of the Premises to Landlord, (ii) all obligations of the parties to this Lease shall cease except as may be specifically provided to the contrary in the Lease or in this Exhibit , and (iii) Tenant's right to the Construction Allowance provided under Paragraph I hereof shall terminate and Tenant shall have no further right or claim against Landlord on account of improvements, if any, constructed by Tenant at the Premises, and because of the difficulty and uncertainty of determining the damages Landlord will sustain as a result of delay and expenses incurred by Landlord, Landlord shall have the right to receive all out of pocket expenses Landlord may have incurred including, without limitation, Landlord's reasonable attorney's fees.

D. With respect to any labor performed or materials furnished by Tenant at the Premises, the following shall apply: All such labor shall be performed and materials furnished at Tenant's own cost, expense, and risk. Labor and materials used in the installation of Tenant's equipment, fixtures, and furnishings, and in any other work at the premises performed by Tenant, will be subject to Landlord's prior written approval. With respect to any contract for labor or materials, Tenant shall act as principal and not as an agent of Landlord. Tenant agrees to indemnify and hold Landlord harmless from all liabilities, suits, causes of action, costs, fees (including, without limitation, reasonable attorney's fees), damages and claims (including all costs and expenses of defending against such claims) of any kind arising or alleged to arise from the negligence or willful misconduct of Tenant or of Tenant's agents, employees, contractors, subcontractors, laborers, material-men or invitees or arising from any bodily injury or property damage occurring or alleged to have occurred incident to Tenant's Work. All of Tenant's construction at the Premises shall be performed in a good and workmanlike manner satisfactory to Landlord's architect and/or construction manager and in accordance with all applicable building codes, regulations and all other legal requirements.

E. Tenant shall not allow the Premises to suffer any lien to be filed against it. With respect to any contract for labor or materials, Tenant acts as principal and not as the agent of Landlord. Tenant shall, at the request of Landlord, cause its general contractor to furnish a payment and performance bond in a form and with a company acceptable to Landlord securing the faithful performance of the work to be performed by Tenant. Landlord expressly disclaims liability for the cost of labor performed or materials furnished at the request, or for the benefit, of Tenant. If, because of any actual or alleged act or omission of Tenant, any lien, affidavit, charge or order for the payment of money shall be filed against Landlord, the Center, the Premises, or any portion thereof or interest therein, whether or not same is valid or enforceable, Tenant shall, at its own expense, cause same to be discharged of record by payment, bonding or otherwise, at the option of Landlord, no later than 15 days after notice to Tenant of the filing thereof; and in the event Tenant fails to discharge same within such time, Landlord may, but shall not be obligated to, discharge same and Tenant shall pay to Landlord all amounts required to discharge same within ten (10) days after receipt of Landlord's statement of such amounts. The provisions of this paragraph shall survive the termination or expiration of the Lease.

F. Tenant shall indemnify and hold harmless Landlord from any claim by any party (which shall include reasonable attorney's fees and court costs) arising out of any construction and remodeling work provided at the request, or for the benefit, of Tenant. The provisions of this paragraph shall survive the termination or expiration of the Lease.

G. No work is to be done at the Premises that will diminish the structural integrity of the improvements located thereon.

H. Tenant shall be in default under the Lease if Tenant fails to comply with any or all of the provisions of this Paragraph H.

1. Prior to starting construction, Tenant shall submit Tenant's plans and specifications to Landlord and shall receive Landlords written approval, in accordance with the terms of this Exhibit.

2. Prior to starting construction, Tenant's general contractor shall submit evidence satisfactory to Landlord of contractor's insurance as required by Landlord.

3. Prior to starting construction, Tenant shall submit a copy of all required building permits to Landlord.

4. Tenant shall execute Landlord's standard form of acceptance of Premises letter.

5. Tenant shall complete all work in accordance with the Plans.

6. Tenant shall furnish Landlord with copies of the occupancy certificate for the Premises.

7. Tenant shall furnish Landlord with lien releases in form reasonably satisfactory to Landlord from all contractors and subcontractors.

8. Tenant shall not be in default under this Lease.

9. Tenant shall cooperate with Landlord and Landlord's lender's right to inspect and approve the Tenant's Work.

10. Tenant shall submit a Tenant draw request for the Allowance, in form reasonably satisfactory to Landlord.

11. If Landlord elects to conduct such an inspection, the Premises shall have passed inspection by an inspector hired by Landlord for such purposes to confirm compliance by Tenant with Tenant's plans and specifications and final completion of Tenant's Work. The reasonable cost of such inspector shall be paid by Tenant to Landlord on demand or, at Landlord's election, may be charged by Landlord against the Construction Allowance.

I Tenant shall complete Tenant's Work in accordance with the terms of the Lease and this Exhibit and shall be solely responsible for and shall pay any and all of such costs promptly as it becomes due.

RIDER II
RENEWAL OPTION

Provided that Tenant is not in default under this Lease beyond all applicable notice and cure periods, Tenant shall have the right to renew all of the Lease, including or excluding expansion space leased by Tenant, and extend this lease for the terms and annual basic rental as set forth below, along with any additional rentals, by providing written notice to Landlord no later than one hundred and eighty days (180) days prior to the termination date of this Lease or extension thereof. In the event of such renewal, the "Term" shall include such renewal term and such renewal shall be upon the same provisions as for the initial Term except that:

1. Landlord shall not be obligated to make any alterations or improvements to the Leased Premises, unless otherwise negotiated.

2. Tenant shall have no further right to renew this Lease except as set forth herein or subsequently agreed to in writing by Landlord.

3. In the event Landlord has not received written notice of Tenant's intention and desire to exercise the Option to lease the Premises for the Extended Term one hundred and eighty days (180) days prior to the Termination Date, such Option shall expire and the Lease shall terminate at the end of the Initial Term.

OPTION: One (1) Three-Year Term

BASE RENTAL:

- Tenant shall pay base rental and additional rental to Landlord in monthly installments in an amount equal to the Prevailing Market Rate for comparable space in the Project and comparable Buildings in the Flex/Warehouse/Office Market of Houston, Texas as of the commencement of the renewal term, as such Rental shall be reasonably determined by Landlord after Landlord receives Tenant's renewal notice. The "Prevailing Market Rate" shall mean the annual amount per rentable square foot that Landlord and comparable landlords of comparable buildings have accepted for space of comparable size and quality as the Premises taking into account the age, quality and layout of the existing improvements in the leased area at issue and taking into account items that professional real estate brokers customarily consider, including, but not limited to, rental rates, office space availability, credit of the tenant, tenant size, operating expenses and allowances, and the presence or absence of lease concessions.

Such renewal shall include all of the Premises, as well as any other space within the Building then being leased by Tenant as of the date of exercise of the Renewal Option unless Tenant elects to only rent one of the units. The renewal of this Lease will be upon the same terms, covenants, and conditions applicable during the Lease Term as provided in the Lease, except that (a) the Base Rental payable during the Renewal Term shall be an amount equal to the amount specified above, (b) the defined term "Lease Term" shall be deemed to include the "Renewal Term," (c) no concessions applicable during the initial Lease Term (such as construction

allowances, moving allowances or free rent) shall be applicable during the Renewal Term unless negotiated otherwise, and (d) Tenant shall possess no further renewal options unless otherwise negotiated.

Within thirty (30) days after receipt of Tenant's renewal notice, Landlord shall deliver its determination of the Prevailing Market Rate for the Renewal Term. Within thirty (30) days after receipt of the Prevailing Market Rate, Tenant shall notify Landlord that Tenant either (a) accepts Landlord's renewal terms, in which event the parties shall promptly enter into an amendment to this Lease incorporating such terms, or (b) rejects Landlord's renewal terms and does not elect to renew which does not require any action on Tenant's behalf or (c) rejects Landlord's renewal terms, but Tenant requests that Landlord and Tenant will negotiate in good faith for an additional thirty (30) days ("Negotiation Period").

If, notwithstanding the exercise of such good faith efforts, Landlord and Tenant have not agreed in writing upon the renewal terms during the Negotiation Period ("Determination Period"), Tenant shall deliver written notice to Landlord within ten (10) days after the expiration of the Determination Period, notifying Landlord whether Tenant (i) withdraws its election to exercise the Option in which case Tenant may extend the term of the Lease for a period of up to sixty (60) days on the same terms and conditions applicable as of the date the term otherwise would have expired, in order to give Tenant time to find new space and Landlord time to find a new tenant; or (ii) accepts Landlord's determination of the renewal terms. Tenant's failure to provide such notice shall be deemed Tenant's election to withdraw its exercise of the option and to extend the Lease for a period of sixty (60) days.

RIDER III

LIMITED GUARANTY OF LEASE

This Guaranty of Lease made as of the 16 day of June 2020 by Jesse James Howard */s/ JH* ("Guarantor").

In consideration of, and as inducement for, the lease by TEN-VOSS, LTD. ("Lessor") to MedScan Laboratories Inc., ("Lessee"), of certain premises located at 8560 Katy Freeway, Suite 200, Houston, TX, such lease commencing on or about the 1st day September 2020 (the "Lease") and in further consideration of the sum of One ($1.00) Dollar and other good and valuable consideration, Guarantor hereby guarantees to Lessor, its successors and assigns, full performance and observance of all the covenants, terms, conditions and agreements therein provided to be performed, made and observed by lessee, its successors and assigns, in the performance, making or observance of any of the terms, covenants, provisions or conditions contained in the Lease. Guarantor will, upon written notice and opportunity to cure within ten (10) business days of notice as hereinafter defined, forthwith faithfully perform and fulfill all of such terms, covenants, conditions and provisions, and shall pay all reasonable attorney fees thereinafter incurred by Lessor in the enforcement of this Guaranty and/or of the terms of the Lease in consequence of any default by Lessee, its successors and assigns.

This Guaranty is an absolute and unconditional guaranty of payment and of performance of the Lease. It shall be enforceable against Guarantor, their heirs, executors and administrators, or its successors and assigns, without the necessity for any suit or proceedings on the Lessor's part of any kind or nature whatsoever against lessee, its successor and assigns and without the necessity of any notice of non-payment, non-performance or non-observance or any notice of acceptance of the Guaranty or any other notice or demand to which Guarantor might otherwise be entitled, all of which Guarantor hereby expressly waives; and Guarantor hereby expressly agrees that the validity of this Guaranty and the obligations of Guarantor hereunder shall in no way be terminated, affected or impaired by reason of the assertion or the failure to assert by Lessor against Lessee, or the Lessee's successors and assigns.

This Guaranty shall be a continuing guaranty, and the liability of Guarantor hereunder shall in no way be affected, modified or diminished by reason of any assignment, renewal, modification or extension of the Lease or by reason of any modification or waiver of or change in any of the terms, covenants, conditions or provisions of the Lease, or by reason of any dealings or transactions or matter or things occurring between Lessor and Lessee, its successors or assigns, whether or not notice thereof is given to Guarantor. Any notice required or permitted hereunder shall be effective on the third business day following the day upon which the same shall be deposited into the U.S. Mail, postage prepaid, return receipt requested, addressed to the party to whom the same is intended at the address set forth below, which address may be changed by written notice delivered in the same manner.

Notwithstanding anything contained herein to the contrary, it is understood and agreed that the Guaranty of Lease shall be in effect only during the first thirty-nine (39) months of the Lease Term (starting on the date rent commences) and will be null and void and of no further force and effect thereafter.

If addressed to Guarantor(s):

BY: */s/ Jesse Howard*

NAME: Jesse Howard

Exhibit 10.35

LEASE ASSIGNMENT & ASSUMPTION

WHEREAS, by Service Center Lease Agreement (the "Lease") dated June 17, 2020, **TEN-VOSS, LTD**, "Landlord" or “Lessor”, leased **MEDSCAN LABORATORIES INC.** hereinafter “Tenant” or “Lessee”, those certain premises at 8560 Katy Freeway, Suite 200, Houston, Texas 77024.

WHEREAS, the Lease Term commenced September 1, 2020 and expires November 30, 2023 in accordance with the Lease Agreement.

WHEREAS, **MEDSCAN LABORATORIES INC.** hereinafter Assignor, desires to assign its interest as Lessee under the aforesaid Lease agreement to **FULGENT GENETICS, INC.** hereinafter referred to “Assignee” and Assignee agrees to such Assignment and assumes the duties of Lessee under the Lease Agreement.

NOW, THEREFORE, in consideration of the premises, the parties agree as follows:

1.

Assignor does hereby sell, assign and transfer unto Assignee, effective March 1, 2021 (hereinafter called “Effective Date”), all of Assignor’s leasehold interest under aforesaid Lease Agreement hereinabove referred to for the entire remainder of the lease term (such period being sometimes herein referred to as the “Assignment Period”).

TO HAVE AND TO HOLD the same unto the said Assignee, for and during the portion of the lease term under the Lease Agreement herein referred to as the Assignment Period.

2.

ASSIGNEE DOES HEREBY ACCEPT THIS ASSIGNMENT, ASSUME AND AGREE TO PERFORM THE COVENANTS, DUTIES AND OBLIGATIONS OF “Lessee” UNDER SAID LEASE AGREEMENT (INCLUDING THE PAYMENT OF RENT), AND AGREES TO BE BOUND BY ALL OF SUCH COVENANTS, DUTIES AND OBLIGATIONS OF Lessee AS FULLY AND TO THE SAME EXTENT AS IF ASSIGNEE HAD BEEN THE ORIGINAL PARTY DESIGNATED AS “Lessee” THEREUNDER; AND ASSIGNEE SHALL BE FULLY, DIRECTLY AND PRIMARILY LIABLE FOR THE PERFORMANCE THEREOF, AND IT IS AGREED THAT THE LIABILITY OF ASSIGNOR AND ASSIGNEE IS JOINT AND SEVERAL AND MAY BE ENFORCED AGAINST EITHER WITHOUT ANY NATURE OF NOTICE TO, DEMAND UPON, PROCEEDING AGAINST OR JUDGEMENT AGAINST THE OTHER. ASSIGNEE AGREES TO ACCEPT THE PREMISES IN AN “AS-IS” CONDITION AS SAME MAY EXIST WHEN VACATED BY ASSIGNOR.

3.

In the event that Assignor shall have heretofore sold (or shall hereinafter sell) Assignee any of the property (or any of the type of property) as to which Lessor has a statutory Lessor's lien or is granted an express contract lien and security interest under said Lease Agreement, then it is hereby further agreed that the aforesaid statutory lien and contractual lien and security interest of Lessor shall be prior and superior to any lien or security interest of Assignor until such time as all covenants, duties and obligations of Lessee under such Lease Agreement shall have been fully performed and Assignee agrees to sign UCC-1 with respect to such property.

Assignee does hereby grant Lessor an express contract lien and security interest on all property (including fixtures, equipment, merchandise and chattels) which may be placed in the Leased Premises by Assignee, and also upon all proceeds of any insurance which may accrue to Assignee by reason of destruction of or damage to any such property. All exemption laws are hereby waived in favor of said lien. This lien is given in addition to the Lessor's statutory lien and shall be cumulative thereto. This lien may be foreclosed with or without court proceedings by public or private sale, provided Lessor gives Assignee ten (10) days notice of the time and place of said sale; and Lessor shall have the right to become the purchaser, upon being the highest bidder at such sale. Assignee agrees to execute and deliver to Lessor (contemporaneous with the execution of this instrument and hereafter if requested by Lessor) one (1) or more Texas Uniform Commercial Code Financing Statements in sufficient form to reflect any proper amendment or modification in or extension of liens and security interests granted under such Lease Agreement to Lessor or hereby granted to Lessor.

4.

Assignor does hereby release and relinquish any and all claims which Assignor has or might hereafter have to any sum paid Lessor with respect to the Leased Premises, whether as rent for any portion of the lease term which has heretofore accrued, future rent or otherwise. Assignor acknowledges and agrees that Lessor has fully performed all of its covenants, duties and obligations heretofore accruing under such Lease Agreement and does hereby release Lessor from any and all claims for non-performance with respect thereto.

5.

Any notice which may or shall be given under the terms of the Lease Agreement or this assignment shall be in writing and shall either be delivered by hand or sent by U. S. Registered or Certified Mail, adequate postage prepaid, if for Lessor, to 8554 Katy Freeway, Suite 301, Houston, Texas 77024, if for Assignee to the lease premises at 8560 Katy Freeway, Suite 200, Houston, TX 77024 or if for Assignor to him at 8566 Katy Freeway, Suite 121, Houston, TX 77024. Either party's address may be changed from time to time by such party giving notice as provided above, except that the Lease Premises address may not be used by Lessee as the sole Notice Address. No change of address of either party shall be binding on the other party until notice of such change of address is given as herein provided. A post office receipt for registration of such notice or signed return receipt shall be conclusive that such notice was delivered in due course of mail if mailed as provided above.

Assignor, Assignee and Lessor hereby acknowledge that the current monthly base rental schedule is as follows:

FROM	THROUGH	SQ. FEET	RATE	MONTHLY BASE RENT
March 1, 2021	November 30, 2021	12,124	$11.00*	$11,113.67
December 1, 2021	November 30, 2022	12,124	$11.50*	$11,618.83
December 1, 2022	November 30, 2023	12,124	$12.00*	$12,124.00

*PLUS NNN (CAM or Operating Costs): Operating Costs are projected by Landlord in good faith to be $6.18 per sq. ft. per year for 2021. Operating Costs projected for 2021 for the combined space will be $6,243.86 per month for a projected total payment of $17,357.53 per month for the initial Term. The foregoing monthly common area charges are subject to adjustment as more fully set forth in the Lease Agreement.

Assignee agrees to pay Assignor the security deposit of $16,939.26 and therefore the security deposit of $16,939.26 held by Landlord will be the security deposit of the Assignee. Assignor is responsible for all real estate broker commissions occurred in this transaction.

Assignee acknowledges that the 8560, 8562, 8564, 8566, 8570 & 8572 buildings are classified as Flex/Warehouse space, which are buildings typically providing use flexibility between office, and other uses such as manufacturing, laboratory, warehouse, sport facilities, building suppliers, goods storage, showrooms, etc. These facilities usually provide high bays and overhead doors. It is not uncommon for tenants in this type of facilities to create noise by the use of fork-lifts, manufacturing equipment and other activities created by the use the space was intended for, including large truck deliveries and traffic.

Assignee further acknowledges that parking for the space is limited and employees, staff and visitors will park in the diagonal parking provided on the east side of the building, directly behind the warehouse docks as well as the parallel parking available on Central Memorial Park Drive. At no time will Assignee permit their employees, staff or visitors to park in the covered carport spaces located on the south side of the building nor directly in front of any of the other tenant spaces located at 8560 & 8562 Katy Freeway.

EXCEPT as otherwise specifically provided herein, all of the terms and provisions of the Lease Agreement shall remain in full force and effect during the Assignment Period. All defined terms used herein shall have the same meaning as when used in the Lease unless other meaning is clearly indicated.

EXECUTED in multiple counterparts, each of which shall have the force and effect of an original on this the 11th day of January, 2021.

LANDLORD:

TEN-VOSS, LTD.

BY: /s/ O.N. Baker

O. N. Baker

ASSIGNOR:

MEDSCAN LABORATORIES, INC.

BY: /s/ Dr. Jesse James Howard

Dr. Jesse James Howard

ASSIGNEE:

FULGENT GENETICS, INC.

BY: /s/ Jian Xie

NAME: Jian Xie

TITLE: COO

SERVICE CENTER LEASE AGREEMENT

In consideration of the mutual covenants and upon the terms and conditions set forth in Part One "Basic Lease Provisions", Part Two "General Lease Provisions", and other attachments and exhibits numerated in the Table of Contents to this Service Center Lease Agreement ("Lease"), TEN-VOSS, LTD ("Landlord") hereby leases to the Tenant named below and Tenant hereby leases from Landlord, certain premises described below.

PART ONE
BASIC LEASE PROVISIONS

1. Tenant: **MEDSCAN LABORATORIES INC.**

2. Premises: Designated as "8560 Katy Freeway, Suite 200", Houston, Texas 77024, outlined and crosshatched on Exhibit B hereof and containing approximately 9,684 square feet of Rentable Area on the 1st floor of the Building (Part Two, Article 1).

3. Term: Thirty-Nine (39) months beginning on the Commencement Date September 1, 2020 and ending on November 30, 2023

4. Monthly Installment of Base Annual Rent: (Part Two, Section 3.1)

From	Through	Sq. Feet	Rate	Monthly Base Rent
September 1, 2020	November 30, 2020	9,684	$0.00	ABATED
December 1, 2020	November 30, 2021	9,684	$11.00	$8,877.00
December 1, 2021	November 30, 2022	9,684	$11.50	$9,280.50
December 1, 2022	November 30, 2023	9,684	$12.00	$9,684.00

*NNN (CAM or Operating Costs): Operating Costs are projected by Landlord to be $6.18 per sq. ft. per year for 2020. Operating Costs projected for 2020 will be $4,987.26 per month for a projected total monthly payment of $13,864.26.

Tenant's Pro Rata Share: Tenant's Pro Rata Share is estimated to be 23.57% of the total Building square footage which is the percentage obtained by dividing the 41,093 sq. ft. of rentable square feet in the Building by the Premises net rentable square feet.

5. Security Deposit: $13,864.26 due and payable upon execution of the Lease. Security deposits currently held for 8562 Katy Freeway, Suite 152 ($3,440.44) and security deposit held for 8556 Katy Freeway, Suite 105 ($1,205.43) will be transferred to this Lease which will leave a deficit of $9,218.99 due and payable upon execution of the Lease.

6. Prepaid Rent: $13,864.26 payable and due upon execution of Lease and to be applied to the fourth month of the Term.

7. Guarantor: Jesse James Howard

8. Premises Use: Office/Warehouse

9. Tenant's Insurance: (Part Two, Article 8).

10. Addresses for Notices and Payment of Rent and Other Charges (Part Two Article 16):

MedScan Laboratories Inc.
8560 Katy Freeway, #200
Houston, TX 77024

Attn: Jesse Howard
TEN-VOSS, LTD
8554 Katy Freeway, Suite 301

Houston, TX 77024

11. Brokers: NONE

12. Parking Spaces: Landlord shall provide Tenant up to 20 unreserved parking permits allowing access to the parking lot which Landlord provides for the use of tenants and occupants of the Building. During the Lease Term, there shall be no charge for the unreserved parking permits.

13. Riders: The following numbered Riders are attached to this Lease and made of a part of this Lease for all purposes:

Rider I	Landlord Work
Rider II	Option to Renew
Rider II	Guaranty of Lease

14. Incorporation of Other Provisions: All of the provisions, covenants and conditions set forth in Part Two and all other exhibits and riders described in the attached Table of Contents and the preceding Paragraph, are by this reference incorporated into the Basic Lease Provisions as fully as if the same were set forth at length in the Basic Lease Provisions. Each reference in Part Two and exhibits and riders to any provision in the Basic Lease Provisions will be construed to incorporate all of the terms provided under the referenced provision in the Basic Lease Provisions. In the event of any conflict between a provision in the Basic Lease Provisions, on the one hand, and a provision in Part Two or exhibits or riders, on the other hand, the latter will control.

15. Special Conditions: Upon Commencement of this Lease the current Lease Agreements will be null and void:

8562 Katy Freeway, Suite 152 -2,655 sq. ft. by and between Medscan Laboratories, Inc. (“Tenant”) and Ten-Voss, Ltd (“Landlord”) dated November 11, 2016 and First Amendment to the Lease dated December 16, 2019 (“Lease”);

8556 Katy Freeway, Suite 105, 508 sq. ft. by and between Medscan Laboratories, Inc. (“Tenant”) and Ten-Voss, Ltd (“Landlord”) dated November 8, 2018 (“Lease”).

Provided that all rentals are paid up to date and the Tenant does return these suites in satisfactory, clean condition, the Tenant will no longer be liable for any remaining Lease Term for

these Leases. This release of this Lease liability does not include any deficit in operating expenses for the escrow accounts retained over the current calendar year.

Landlord Initials: */s/ ONB*
Tenant Initials: */s/ JH*

This Lease has been executed by Landlord and Tenant as of the 17 day of June, 2020.

TENANT:	**LANDLORD:**
MEDSCAN LABORATORIES INC.	**TEN-VOSS, LTD**
By: */s/ Jesse Howard*	By: */s/ O.N. Baker*
Name: Jesse Howard	Name: O.N. Baker
Title: President	Title: President

Landlord Initials: */s/ ONB*
Tenant Initials: */s/ JH*

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PART TWO
GENERAL LEASE PROVISIONS

1. PREMISES, COMMON AREAS, SERVICE AREAS

1.1. Building. The term "Building" in this Lease will refer to "8560 Katy Freeway, Suite 200 Houston, Texas", an office/warehouse building situated on a tract of land ("Land") in the City of Houston and County of Harris, Texas, described in Exhibit A of this Lease, and having a postal address of 8560 Katy Freeway, Suite 200 Houston, Texas 77024. The Land, Complex, Building, the parking areas and garages, any present or future associated walkways, and *any* other improvements situated in the Complex are sometimes referred to collectively as the "Project".

1.2. Minor Variations in Area. The Rentable Area of the Premises contained in the Basic Lease Provisions is agreed to be the Rentable Area of the Premises regardless of minor variations resulting from construction of the Building and/or tenant improvements.

1.3. Ceilings. Walls. Floors. Tenant acknowledges that pipes, ducts, conduits, wires and equipment serving other parts of the Building may be located above acoustical ceiling surfaces, below floor surfaces or within walls in the Premises.

1.4. Condition of Premises. The taking of possession of the Premises by Tenant will establish conclusively that the Premises and the Project were at such time in satisfactory order and condition except for (i) minor matters of structural, mechanical, electrical, and finish adjustment in the Premises (commonly referred to as "punch-list items") specified in reasonable detail on a list delivered by Tenant to Landlord within fifteen (15) days after the date on which Tenant takes possession of the Premises and (ii) defects not discoverable upon inspection and about which Tenant notifies Landlord within 30 days after taking possession of the Premises.

1.5. Common and Service Areas. Tenant is hereby granted a nonexclusive right to use the Common Areas during the term of this Lease for their intended purposes, in common with others, subject to the terms and conditions of this Lease, including, without limitation, the Rules and Regulations.

(a) Common Areas. "Common Areas" will mean all areas, spaces, facilities, and equipment in the Project made available by Landlord for the common and joint use of Landlord, Tenant and others, including, but not limited to, sidewalks, parking areas, driveways, landscaped areas, loading areas, public corridors, public restrooms, stairs, drinking fountains and such other areas and facilities, if any, as are designated by Landlord from time to time as Common Areas.

(b) Service Areas. "Service Areas" will refer to areas, spaces, facilities and equipment serving the Project but to which Tenant and other occupants of the Building will not have access, including, but not limited to, mechanical, telephone, electrical and similar rooms, and air and water refrigeration equipment.

2. TERM

2.1. Term. The Term of this Lease will commence on September 1, 2020 and will terminate on the date set forth in the Basic Lease Provisions ("Expiration Date") unless sooner terminated in accordance with the provisions of this Lease.

2.2. Holding Over. If Tenant, or any party claiming rights to the Premises through Tenant, retains possession of the Premises without the written consent of Landlord after the Expiration Date or earlier termination of this Lease, such possession will constitute a tenancy at will, subject, however, to all the terms and provisions of this Lease except for (i) the Term and (ii) the Base Annual Rent, which Base Annual Rent will become an amount equal to one and one-half (1.50) times the highest amount set forth in this Lease as Base Annual Rent, plus any adjustments which have previously occurred. No holding over by Tenant, and no acceptance of rental payments by Landlord during a holdover period, whether with or without consent of Landlord, will operate to extend this Lease.

3. MONETARY PROVISIONS

3.1. Base Annual Rent. Subject to the prepaid rent provisions of Section 3.4, Tenant will pay as the monthly installment of "Base Annual Rent" for each month of the Term, the sum set forth in the Basic Lease Provisions, in advance on the first day of each calendar month of the Term, without deduction, offset, prior notice, or demand, and in lawful money of the United States. If the Commencement Date is not the first day of a calendar month, Tenant will pay to Landlord on the Commencement Date a portion of the monthly installment of Base Annual Rent prorated on the basis of a thirty (30) day month.

3.2. Tenant's Share of Certain Costs. In addition to all other sums due under this Lease, Tenant will pay to Landlord, in the manner and at the times set forth below, Tenant's Pro Rata Share of Operating Costs for each calendar year or partial calendar year.

(a) Operating Costs. "Operating Costs" will mean all costs, charges, and expenses incurred by Landlord in connection with owning, operating, maintaining, repairing, insuring and managing the Project, computed on an accrual basis and including, without limitation, costs, charges and expenses incurred with respect to the items enumerated as "Operating Cost Examples" in Paragraph 2 of Exhibit C to this Lease. Operating Costs will not include those items enumerated as "Operating Cost Exclusions" in Paragraph 1 of Exhibit C to this Lease.

(b) Pro Rata Share Computation. "Tenant's Pro Rata Share" of Operating Costs will be computed by multiplying (i) the Operating Costs per square foot of Rentable Area in the Building for each calendar year times (ii) the number of square feet of Rentable Area in the Premises.

(c) Estimated Costs. Tenant's Pro Rata Share of Operating Costs for the remainder of the first calendar year (whether full or partial) and for each subsequent calendar year of the Term will be estimated by Landlord, and notice of such estimated amounts will be given to Tenant at least thirty (30) days prior to the Commencement Date or the beginning of each calendar year, as the case may be. If Commencement Date does not occur on January 1, for the partial

calendar year after the Commencement Date, Tenant will pay to Landlord each month, at the same time the monthly installment of Base Annual Rent is due, an amount equal to the Tenant's estimated Pro Rata Share of Operating Costs for the remainder of such calendar year divided by the number of full months remaining in such year. For each full calendar year of the Term, Tenant will pay to Landlord each month, at the same time the monthly installment of Base Annual Rent is due, an amount equal to one-twelfth (1/12) of Tenant's estimated Pro Rata Share of Operating Costs due for such calendar year. If the Expiration Date does not occur on December 31, for the partial calendar year preceding the Expiration Date, Tenant will pay to Landlord, each month, at the same time the monthly installment of Base Annual Rent is due, an amount equal to the amount of Tenant's estimated Pro Rata Share of Operating Costs for such partial calendar year divided by the number of full calendar months of such partial calendar year.

(d) Estimate Revisions. At any time and from time to time during the Term, Landlord will have the right, by notice to Tenant, to change the monthly amount then payable by Tenant for Tenant's estimated Pro Rata Share of Operating Costs to reflect more accurately, in the reasonable judgment of Landlord, Tenant's actual Pro Rata Share of Operating Costs for the then current calendar year. Tenant will begin paying the revised estimated amount together with the next monthly payment of Base Annual Rent due after receipt by Tenant of Landlord's notice.

(e) Annual Adjustments. On or before April 1 of each calendar year, Landlord will prepare and deliver to Tenant a statement setting forth the calculation of Tenant's actual Pro Rata Share of Operating Costs for the previous calendar year. Within thirty (30) days after receipt of the statement of Tenant's actual Pro Rata Share of Operating Costs, Tenant will pay to Landlord, or Landlord will credit against the next rental or other payment or payments due from Tenant, as the case may be, the difference between Tenant's actual Pro Rata Share of Operating Costs for the preceding calendar year and Tenant's estimated Pro Rata Share of Operating Costs paid by Tenant during such year.

(f) Final Partial Year. If the Term will expire or this Lease has been terminated prior to a final determination of the Tenant's actual Pro Rata Share of Operating Costs, the amount of adjustment between Tenant's estimated Pro Rata Share and Tenant's actual Pro Rata Share of Operating Costs payable for the preceding calendar year and/or the final partial calendar year of the Term will be projected by the Landlord based upon the best data available to Landlord at the time of the estimate. Within thirty (30) days after receipt of a statement from Landlord setting forth Landlord's projections, Tenant will pay to Landlord, or Landlord will pay to Tenant, as the case may be, the difference between Tenant's projected actual Pro Rata Share of Operating Costs for the period in question and Tenant's estimated Pro Rata Share of Operating Costs paid by Tenant for the period in question. The obligations set forth in the preceding sentence will survive the Expiration Date or earlier termination of this Lease.

(g) Adjustment for Occupancy. During any calendar year in which the Building has less than full occupancy, Operating Costs will be computed as though the Building had been completely occupied for the entire calendar year.

3.3. Personal Property Taxes. Tenant agrees to pay, before delinquency, all taxes, fees or charges, rates, duties and assessments, imposed, levied or assessed directly against Tenant, or

indirectly through Landlord, and payable during the Term hereof, upon Tenant's equipment, furniture, movable trade fixtures and other personal property located in the Premises. Tenant will also pay, before delinquency, business and other taxes, fees or charges, rates, duties and assessments imposed, levied or assessed because of the Tenant's occupancy of the Premises or upon the business or income of the Tenant generated from the Premises.

3.4. Late Payments. Should Tenant fail to pay when due any installment of Base Annual Rent on or before the fifth (5th) day of each calendar month, Interest will accrue from the date on which such sum is due and such Interest, together with a "Late Charge" (herein so called) in an amount equal to five percent (5%) of the installment then due, will be paid by Tenant to Landlord at the time of payment of the delinquent sum. The Late Charge is agreed by Landlord and Tenant to be a reasonable estimate of the extra administrative expenses incurred by Landlord in handling such delinquency.

3.5. Interest. Whenever reference is made in this Lease to the accrual of interest on sums due Landlord or whenever any amount owed to Landlord is not paid when due, such sum will bear interest ("Interest") at an annual rate equal to the lesser of (i) two percent (2%) over the "base" or "prime rate published from time to time by Citibank, N.A., or (ii) the maximum lawful rate.

3.6. Administrative Reimbursement. In the event Landlord performs construction, maintenance, or repairs for Tenant under Sections 7.2 or 12.2 of Part Two of this Lease, Tenant will reimburse Landlord within five (5) days after receipt of an invoice from Landlord for the cost of such construction, maintenance or repairs plus an amount equal to ten percent (10%) of such costs ("Administrative Reimbursement") to reimburse Landlord for administration and overhead.

4. CONSTRUCTION

Tenant accepts the Premises in its "as-is" condition. In the event any construction of tenant improvements is necessary for the Premises, such construction will be accomplished and the cost of such construction will be borne by Landlord and/or Tenant in accordance with a separate Rider to this Lease ("Work Letter") between Landlord and Tenant. Except as expressly provided in this Lease or in the Work Letter, if any, Tenant acknowledges that Landlord has not undertaken to perform any modification, alteration or improvement to the Premises. By taking possession of the Premises, Tenant waives (i) any claims due to defects in the Premises; and (ii) all express and implied warranties of suitability, habitability and fitness for any particular purpose. Except to the extent otherwise expressly provided in this Lease, Tenant waives the right to terminate the Lease due to the condition of the Premises.

5. SERVICES AND UTILITIES

5.1. Services by Landlord. Landlord shall provide, at its cost, electricity and telephone service connections into the Premises; but Tenant shall pay for all water, gas, heat and air-conditioning, light, power and electricity, telephone, sewer, sprinkler charges and other utilities and services used on or from the Premises, together with any taxes, penalties, surcharges or the like pertaining thereto and any maintenance charges for utilities, and shall furnish all electric light bulbs and tubes. Such payments will be made directly to the supplier of any utility that is

separately metered to the Premises. If any such services are not separately metered to Tenant, Tenant shall pay its Pro Rata Share, as determined by Landlord, of all charges jointly metered with other Premises. Landlord shall in no event be liable for any interruption or failure of utility services on the Premises. Tenant will indemnify and hold harmless Landlord from any utility charge incurred at the Premises during the Term. No interruption or malfunction of any utility service will constitute an eviction or disturbance of Tenant's use and possession of the Premises, nor shall such constitute a breach by Landlord of any of its obligations under this Lease or render Landlord liable for damages or entitle Tenant to be relieved of any of is obligations under this Lease or grant Tenant any right of setoff or recoupment.

5.2. Tenant's Obligations. Tenant will pay for, prior to delinquency, all telephone charges and all other materials and services not expressly the obligation of Landlord that are furnished to or used on or about the Premises during the Term of this Lease.

Landlord and Tenant agree that there are several telecommunications companies (hereinafter "Telco") which serve the lease premises. As each of the Telco's offer its own set of advantages and disadvantages, Tenant agrees to select a Telco within 30 days of signing this lease and to provide Landlord a copy of its contract with the Telco which will include services to be rendered as well as the term of the agreement. Tenant agrees, at Landlord's option, to cause all of the wiring and other Telco equipment to be removed from the premises upon the termination of this lease. Should any changes be made to the Telco vendor during the term of the Lease, Tenant must advise Landlord of these changes in addition to any revisions to the Telco contract etc.

5.3. Tenant's Additional Service Requirements.

(a) Additional Services Requiring Landlord Consent. Tenant will not, without Landlord's prior consent, do the following: (i) install or use special lighting beyond Building standard, or any equipment, machinery, or device in the Premises which requires a nominal voltage of more than one hundred twenty (120) volts single phase, or which in Landlord's reasonable opinion exceeds the capacity of existing feeders, conductors, risers, or wiring in or to the Premises or Building, or which requires amounts of water in excess of that usually furnished or supplied for use in office/warehouse space, or which will decrease the amount or pressure of water or the amperage or voltage of electricity Landlord can furnish to other occupants of the Building; (ii) install or use any heat or cold-generating equipment, machinery or device which affects the temperature otherwise maintainable by the heat or air conditioning system of the Building; (iii) use portions of the Premises for special purposes requiring greater or more difficult cleaning work than office/warehouse areas, such as, but not limited to, kitchens, reproduction rooms, interior glass partitions, and non-Building standard materials or finishes; or (iv) accumulate refuse or rubbish (A) in excess of that ordinarily accumulated in business office/warehouse occupancy or (B) at times other than the Building's standard cleaning times.

(b) Providing Additional Services. lf, in the reasonable opinion of Landlord, additional services to Tenant are necessary, Landlord will have the following rights:

(i) Removal by Tenant. Landlord may require that Tenant cease the activity or remove the item (or refuse to permit the activity or installation of the item), causing (or

which will cause) the need for such additional service, if Landlord and Tenant are not able to agree upon a mutually satisfactory method for providing such additional services or, in the reasonable opinion of Landlord, providing such additional service is not operationally or economically feasible.

(ii) Replacement Bulbs. With respect to lighting beyond standard lighting used throughout the Building, Landlord may purchase and replace, at the expense of Tenant, light bulbs and ballasts and/or fixtures.

(iii) Cleaning Contractor. With respect to additional cleaning work, Landlord may instruct Landlord's janitorial contractor to provide such services and the cost of such service will be the obligation of Tenant.

5.4. Interruption of Utility Service. Landlord will use Landlord's best efforts to provide the services required of Landlord under this Lease. However, Landlord reserves the right, without any liability to Tenant and without affecting Tenant's covenants and obligations under this Lease, to stop or interrupt or reduce any of the services listed in Section 5.1 or to stop or interrupt or reduce any other services required of Landlord under this Lease, whenever and for so long as may be necessary, by reason of (i) accidents or emergencies, (ii) the making of repairs or changes which Landlord in good faith deems necessary or is required or is permitted by this Lease or by law to make, (iii) difficulty in securing proper supplies of fuel, water, electricity, labor or supplies, (iv) the compliance by Landlord with governmental, quasi-governmental or utility company energy conservation measures, or (v) the exercise by Landlord of any right under Section 6.5. Landlord will, in the event of an interruption of a utility service, use Landlord's best efforts to cause such service to be resumed. However, no interruption or stoppage of any of such services will ever be construed as an eviction of Tenant nor will such interruption or stoppage cause any abatement of the rent payable under this Lease or in any manner relieve Tenant from any of Tenant's obligations under this Lease.

6. OCCUPANCY AND CONTROL

6.1. Use. The demised Premises shall be used only for the purpose of corporate office and warehouse, receiving, storing and testing of materials and merchandise made and/or distributed by Tenant for such other lawful purposes as may be incidental thereto. The storage of any materials or chemicals by Tenant will require the Tenant to utilize MSDA sheets in the handling, storage and utilization of /Tenant's materials. Tenant will use the Premises in a careful, safe and proper manner an will not commit waste, overload the floor or structure of the Premises or subject the Premises to use that would damage the Premises. Outside storage, including, without limitation, trucks and other vehicles, is prohibited without Landlord's prior written consent. Tenant shall obtain, at its own cost and expense, any and all licenses and permits necessary for any such use. Tenant shall comply with all governmental laws, ordinances and regulations applicable to the use of the Premises, and shall promptly comply with all governmental orders and directives for the correction, prevention and abatement of nuisances in, upon, or in connection with the Premises, all at Tenant's sole expense. Tenant shall not permit *any* objectionable or unpleasant odors, smoke, dust, gas noise or vibrations to emanate from the Premises, nor take any other action which would constitute a nuisance or would disturb or endanger any other tenants of the Building

in which the Premises are situated or unseasonably interfere with their use of their respective premises. Without Landlord's prior written consent, Tenant shall not receive, store or otherwise handle any product, material or merchandise which is explosive or highly inflammable. Tenant will not permit the Premises to be used for any purpose or in any manner (including, without limitation, any method of storage) which would render the insurance thereon void or the insurance risk more hazardous or cause the State Board of Insurance or other insurance authority to disallow any sprinkler credits. Tenant agrees to comply with all City of Spring Valley rules and regulations regarding flammable substances.

6.2. Rules and Regulations. Tenant's use of the Premises and the Common Areas will be subject at all times during the Term to the "Rules and Regulations" attached to the Lease as Exhibit D and to any modifications of such Rules and Regulations and any additional Rules and Regulations from time to time promulgated by Landlord. Additional Rules and Regulations will not become effective and a part of this Lease until a copy of same has been delivered to Tenant. The inability of Landlord to cause another occupant of the Building to comply with the Rules and Regulations will neither excuse Tenant's obligation to comply with such Rules and Regulations or any other obligation of Tenant under this Lease nor cause the Landlord to be liable to Tenant for any damage resulting to Tenant. Tenant will cause Tenant's employees, servants and agents to comply with the Rules and Regulations.

6.3. Additional Covenants of Tenant.

(a) Laws, Statutes. Tenant will, at Tenant's sole cost, promptly comply with (i) all laws, orders, regulations, and other government requirements now in force or hereafter enacted relating to the use, condition, or occupancy of the Premises, including without limitation, (A) Title III of The Americans with Disabilities Act of 1990, all regulations issued thereunder, and the Accessibility Guidelines for Buildings and Facilities issued pursuant thereto, and the Texas Architectural Barriers Act, as the same are in effect on the date of this Lease and as hereafter amended, ("Disabilities Acts"), and (B) all applicable laws, ordinances, and regulations (including consent orders and administrative orders) relating to public health and safety and protection of the environment and regulation of "Hazardous Substances", as such term is defined in Article 21 of the General Lease Provisions ("Environmental Laws"), and (ii) all rules, orders, mandates, directives, regulations and requirements pertaining to the use of the Premises and the conduct of Tenant's business imposed by Landlord's insurers, American Insurance Association (formerly known as "National Board of Fire Underwriters") or insurance service office, any utility company serving the Building or any other similar body having jurisdiction over the Building, any related parking areas, and the Premises.

(b) Nuisance. Tenant will not do or permit anything to be done in or about the Premises which will in any way obstruct or interfere with the operation of the Project or with the rights of other tenants or occupants of the Project or injure, disturb or annoy other tenants or occupants of the Project.

(c) Building Reputation. Tenant will not use or permit the Premises to be used for any objectionable purpose or any purpose which, in the reasonable opinion of the Landlord,

harms or tends to harm the business or reputation of the Landlord or Building or reflects unfavorably on the Building, or any part of the Building, or deceives or defrauds the public.

(d) Recording. Tenant will not record this Lease or any memorandum of this Lease without the prior written consent of Landlord. Tenant will, upon request of Landlord, execute, acknowledge and deliver to Landlord a short form or memorandum of this Lease for recording purposes.

6.4. Access by Landlord. Landlord reserves the right for Landlord and Landlord's agents to enter the Premises at any reasonable time (i) to inspect the Premises, (ii) to supply janitorial service or other services to be provided by Landlord to Tenant under this Lease, (iii) to show the Premises to prospective lenders, purchasers or tenants, (iv) to alter, improve, maintain or repair the Premises or any other portion of the Building abutting the Premises, (v) to install, maintain, repair, replace or relocate any pipe, duct, conduit, wire or equipment serving other portions of the Building but located in the ceiling, wall or floor of the Premises, (vi) to perform any other obligation of Tenant after Tenant's failure to perform same, or (vii) upon default by Tenant under this Lease. If Landlord enters the Premises for the purpose of performing work, Landlord may erect scaffolding and store tools, material, and equipment in the Premises when required by the character of the work to be performed.

6.5. Control of Project. The Project will be at all times under the exclusive control, management and operation of the Landlord. Landlord hereby reserves the right from time to time (i) to alter or redecorate the Project, or any part thereof, or construct additional facilities adjoining or proximate to the Project; (ii) to close temporarily doors, entry ways, public spaces and corridors and to interrupt or suspend temporarily Building services and facilities in order to perform any redecorating or alteration or in order to prevent the public from acquiring prescriptive rights in the Common Areas; and (iii) to change the name of the Building.

6.6. Minimization of Disruption. Landlord will attempt not to disrupt Tenant's operations in the Premises during the exercise of Landlord's rights or the performance by Landlord of Landlord's obligations under this Lease, but will not be required to incur extra expenses in order to minimize such disruption. No exercise by Landlord of any right or the performance by Landlord of Landlord's obligations under this Lease will constitute actual or constructive eviction or a breach of any express of implied covenant for quiet enjoyment.

7. REPAIRS, MAINTENANCE AND ALTERATIONS

7.1. Landlord's Repair Obligations. Landlord will, subject to the casualty provisions of Article 9, maintain the (i) the Common Areas and Service Areas, (ii) roof, foundation, exterior windows and load bearing items of the Building; (iii) exterior surfaces of walls; and (iv) plumbing, pipes and conduits located in the Common Areas or Service Areas of the Building. Landlord will not be required to make any repair in connection with or resulting from (1) any alteration or modification to the Premises or to Building equipment performed by, for or because of Tenant or to special equipment or systems installed by, for or because of Tenant, (2) the installation, use or operation of Tenant's property, fixtures and equipment, (3) the moving of Tenant's property in or out of the Building or in and about the Premises, (4) Tenant's use or occupancy of the Premises in

violation of Article 6 or in a manner not contemplated by the parties at the time of execution of this Lease (e.g., subsequent installation of special use rooms), (5) the acts or omissions of Tenant and Tenant's employees, agents, invitees, subtenants, licensees or contractors, (6) fire or other casualty, except as provided in Article 9, or (7) condemnation, except as provided in Article 10. Depending upon the nature of repairs undertaken by Landlord, the cost of such repairs will be borne solely by Landlord or reimbursed to Landlord either by a particular tenant or tenants or by all tenants as an Operating Cost.

7.2. Tenant's Repair Obligations. Tenant, at Tenant's expense, will maintain the Premises in good order, condition and repair including, without limitation, the interior surfaces of the windows, walls and ceilings; floors; wall and floor coverings; window coverings; doors; interior windows, the heat and air-conditioning equipment installed in the Premises; and all switches, fixtures and equipment in the Premises. Upon receipt of reasonable notice from Tenant, Landlord will perform, at the expense of Tenant, all repairs and maintenance to plumbing, pipes and electrical wiring located within walls, above ceiling surfaces and below floor surfaces resulting from the use of the Premises by Tenant. In no event will Tenant be responsible for any plumbing, pipes and electrical wiring, switches, fixtures and equipment located in the Premises but serving another tenant or for portions of the electrical, mechanical and plumbing systems of the Building which are located in the Premises, except for (i) repairs resulting from the acts of Tenant and Tenant's employees, agents, invitees, subtenants, licensees or contractors, and (ii) modifications made to such systems by, for, or because of Tenant, and (iii) special equipment installed by, for, or because of Tenant.

7.3. Rights of Landlord. In the event Tenant fails, in the reasonable judgment of Landlord, to maintain the Premises in good order, condition and repair, Landlord will have the right to perform such maintenance, repairs, refurbishing or repairing at Tenant's expense.

7.4. Surrender. Upon the expiration or earlier termination of this Lease, or upon the exercise by Landlord of Landlord's right to re-enter the Premises without terminating this Lease, Tenant will surrender the Premises in the same condition as received or as subsequently improved by Landlord or Tenant, except for (i) ordinary wear and tear and (ii) damage by fire, earthquake, acts of God or the elements for which damage Landlord has received all insurance proceeds, and will deliver to Landlord all keys for the Premises and combinations to safes located in the Premises. Tenant will, at Landlord's option, remove, or cause to be removed, from the Premises or the Building, at Tenant's expense and as of Expiration Date or earlier termination of this Lease, all signs, notices, displays, millwork, non-movable trade fixtures, or, at the option of Landlord, any leasehold improvements placed in the Premises by or at the request of Tenant. Tenant agrees to repair, at Tenant's expense, any damage to the Premises or any other part of the Project resulting from the removal of any articles of personal property, movable business or trade fixtures, machinery, equipment, furniture, movable partitions or tenant improvements, including without limitation, repairing the floor and patching and painting the walls where required by Landlord. Tenant's obligations under this Section 7.4 will survive the expiration or earlier termination of this Lease. If Tenant fails to remove any item of property permitted or required to be removed at the expiration or earlier termination of the Term, Landlord, may, at Landlord's option, (a) remove such property from the Premises at the expense of Tenant and sell or dispose of same in such manner as Landlord deems advisable, or (b) place such property in storage at the expense of

Tenant. Any property of Tenant remaining in the Premises ten (10) days after the Expiration Date or earlier termination of this Lease will be deemed to have been abandoned by Tenant.

7.5. Alterations by Tenant.

(a) Approval Required. Tenant will not make, or cause or permit to be made, any additions, alterations, installations or improvements in or to the Premises (collectively, "Alterations"), without the prior written consent of Landlord. Unless Landlord has waived such requirement in writing, together with Tenant's request for approval of any Alteration, Tenant must also submit details with respect to the proposed source of funds for the payment of the cost of the Alteration by Tenant, design concept, plans and specifications, names of proposed contractors, and financial and other pertinent information about such contractors (including without limitation, the labor organization affiliation or lack of affiliation of any contractors), certificates of insurance to be maintained by Tenant's contractors, hours of construction, proposed construction methods, details with respect to the quality of the proposed work and evidence of security (such as payment and performance bonds) to assure timely completion of the work by the contractor and payment by the contractor of all costs of the work. With respect to any Alteration which is visible from outside the Premises, such proposed Alteration must, in the opinion of Landlord, also be architecturally and aesthetically harmonious with the remainder of the Building.

(b) Complex Alterations. If the nature, volume or complexity of any proposed Alterations, causes Landlord to consult with an independent architect, engineer or other consultant, Tenant will reimburse Landlord for the fees and expenses incurred by Landlord. If any improvements will affect the basic heat, ventilation and air conditioning or other Building systems or the Building, Landlord may require that such work be designed by consultants designated by Landlord and be performed by Landlord or Landlord's contractors.

(c) Standard of Work. All work to be performed by or for Tenant pursuant hereto will be performed diligently and in a first-class, workmanlike manner, and in compliance with all applicable laws, ordinances, regulations and rules of any public authority having jurisdiction over the Project and/or Tenant, including, without limitation, the Disabilities Acts, Environmental Laws, and Landlord's insurance carriers. Landlord will have the right, but not the obligation, to inspect periodically the work on the Premises and may require changes in the method or quality of the work.

(d) Ownership of Alterations. All Alterations made by or for Tenant (other than the Tenant's movable trade fixtures), will immediately become the property of Landlord, without compensation to the Tenant; provided, however, Landlord will have no obligation to repair, maintain or insure such Alterations. Carpeting, shelving and cabinetry will be deemed improvements of the Premises and not movable trade fixtures, regardless of how or where affixed. Such Alterations will not be removed by Tenant from the Premises either during or at the expiration or earlier termination of the Term and will be surrendered as a part of the Premises unless Landlord has requested that Tenant remove such Alterations.

7.6. Liens. Tenant will keep the Premises and the Building free from any liens arising out of work performed, materials furnished, or obligations incurred by or on behalf of or for the

benefit of Tenant. If Tenant does not, within ten (10) days following the imposition of any such lien, cause such lien to be released of record by payment or posting of a proper bond or other security, Landlord will have, in addition to all other remedies provided in this Lease and by law, the option, to cause the same to be released by such means as Landlord deems proper, including payment of the claim giving rise to such lien. All sums paid and expenses incurred by Landlord in connection therewith, including attorneys' fees and a reasonable amount for Landlord's administrative time, will be payable to Landlord by Tenant on demand with Interest from the date such sums are expended.

8. INSURANCE

8.1. Insurance Required of Tenant. Tenant will, at Tenant's sole expense, procure and maintain the coverage required by this Section 8.1.

(a) Commercial General Liability Insurance. Tenant will procure and maintain commercial general liability insurance ("Liability Insurance") which (a) insures against claims for bodily injury, property damage, personal injury and advertising injury arising out of or relating, directly or indirectly, to the use, occupancy, or maintenance of the Premises or any portion of the Property by Tenant or any of its agents, employees, contractors, invitees and licensees, (b) insures, without exclusion, damage or injury arising from heat, smoke, or fumes from a hostile fire, (c) has limits of not less than (i) $1,000,000.00 per occurrence, (ii) $2,000,000.00 general aggregate per location, (iii) $2,000,000.00 products and completed operations aggregate, (iv) $1,000,000.00 for personal and advertising injury liability, (v) $50,000.00 for fire damage legal liability, and (vi) $5,000.00 for medical payments, which minimum limits may be increased if recommended by Landlord's consultants or other insurance professionals, (d) includes blanket contractual liability and broad form property damage liability coverage, and (e) contains a standard separation of insured's provision;

(b) Motor Vehicle liability. For any owned or leased automobiles, trucks, or other motor vehicles, auto liability insurance which insures against bodily injury and property damage claims arising out of ownership, use, or maintenance of any auto with a combined single limit per accident of not less than $1,000,000.00;

(c) Workers' Compensation and Employer Liability Coverage. For any employees, Tenant will procure and maintain workers' compensation insurance and employer's liability insurance, as required by applicable laws, with limits of no less than $250,000.00 per accident, $250,000.00 per employee for bodily injury by disease, and $250,000.00 policy limit for bodily injury by disease.

(d) Property Insurance. Tenant will procure and maintain property insurance coverage ("Property Insurance") for the following: (i) all office furniture, trade fixtures, office equipment, merchandise and all other items of Tenant's personal property in, on, at or about the Premises or any other part of the Project; and (ii) all leasehold improvements to the Premises constructed pursuant to the Work Letter, if any, attached to this Lease and other improvements, betterments, and Alterations to the Premises. Tenant's Property Insurance must be written on the broadest available "all-risk" (special-causes-of-loss) policy form or an equivalent form acceptable

to Landlord, include an agreed-amount endorsement for no less than one hundred percent (100%) of the full replacement cost (new without deduction for depreciation) of the covered items and property; be written in amounts of coverage that meet any coinsurance requirements of the policy or policies, and include vandalism and malicious mischief coverage, and sprinkler leakage coverage. Landlord must be named as an "insured as its interest may appear" under Tenant's Property Insurance.

(e) Umbrella Insurance. Umbrella excess liability insurance, in addition to and in excess of the commercial general liability, business auto liability and employer's liability insurance described above, which insures against claims for bodily injury, personal injury, advertising injury and property damage and having limits of not less than (i) $1,000,000 per occurrence, and (ii) $1,000,000 for the annual aggregate.

(f) Other Tenant Insurance Coverage. Tenant will, at Tenant's sole expense, procure and maintain any other and further insurance coverage that are generally required of similar class properties in the same geographical area.

8.2. Form of Policies and Additional Requirements. Each liability insurance policy described above (except employer's policies) shall name Landlord, Landlord's agent and advisor, Landlord's property manager and any mortgages and expressly including any trustees, directors, officers, employees or agents of any such entities, all as additional insureds. Each property insurance policy described above shall name Landlord as loss payee with respect to any permanently affixed improvements and betterments to the Premises. All such policies shall (i) be issued by insurers licensed to do business in the state in which the Property is located, (ii) be issued by insurers with a current rating of "A-" "VIII" or better in Best's Insurance Reports, (iii) be primary without right of contribution from any of Landlord's insurance, (iv) be written on an occurrence (and not claims-made) basis, and (v) be uncancellable without at least 30 days' prior written notice to the Landlord and any Mortgagee. At least 15 days before the Commencement Date (or, if earlier, the date Tenant first enters into the Premises for any reason), Tenant shall deliver to the Landlord certificates of insurance satisfactory to Landlord for each such policy required above. Within 10 days after any such policy expires, Tenant shall deliver to the Landlord a certificate of renewal evidencing replacement of the policy. The limits of insurance required by this Lease or as otherwise carried by Tenant shall not limit the liability of Tenant or relieve Tenant of any obligations under this Lease, except to the extent provided in any waiver of subrogation contained in this Lease. Tenant shall have sole responsibility for payment of all deductibles.

8.3. Waiver of Subrogation. Notwithstanding anything to the contrary in this Lease, Landlord and Tenant each waives all rights to recovery, claims or causes of action against the other and the other's agents, trustees, officers, directors and employees on account of any loss or damage which may occur to the Premises, the Property or any improvements thereto or to any personal property of such party to the extent such loss or damage is caused by a peril which is required to be insured against under this Lease, regardless of the cause or origin (including negligence of the other party). Landlord and Tenant each covenants to the other that, to the fullest extent permitted by law, no insurer shall hold any right of subrogation against the other party. Tenant covenants to Landlord that all policies of insurance maintained by Tenant respecting property damage shall permit such waiver of subrogation, and Tenant agrees to advise all of its insurers in writing of the

waiver. IT IS THE INTENTION OF LANDLORD AND TENANT THAT THE WAIVER CONTAINED IN THIS SECTION 8.3 APPLY TO ALL CLAIMS DESCRIBED HEREIN, INCLUDING, WITHOUT LIMITATION, ANY OF THE SAME THAT ARE CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OF LANDLORD, TENANT OR THEIR RESPECTIVE EMPLOYEES, AGENTS, INVITEES, SUBTENANTS, LICENSEES OR CONTRACTORS.

8.4. Landlord's Insurance. The Landlord shall maintain throughout the Term all-risk or fire and extended coverage insurance upon the Building in an amount equal to the replacement value thereof (or, in lieu thereof, a specified plan of self-insurance). The premiums for such insurance and of each endorsement thereto shall be deemed to be part of the Insurance Costs for purposes of Section 3.2 hereof. Furthermore, Tenant shall pay, as Additional Rent and as billed by Landlord, the entire amount of any increase in premiums for any insurance obtained by Landlord which occurs solely due to the particular use of the Premises by Tenant.

8.5. Chemical Storage. Tenant agrees to comply with the National Fire Protection Association (NFPA) for product storage, all local fire code requirements, underwriter laboratories (UL), OSHA, Environmental Protection Agency, and other subsets for chemical storage which are identified in the link below:

http://www.ehs.columbia.edu/safeuseofchemicals.html#statel

9. DAMAGE OR DESTRUCTION

9.1. Repair by Landlord. Tenant will immediately notify Landlord of fire or other casualty in the Premises. If the Premises are damaged by fire or other casualty and unless this Lease is terminated as hereinafter provided, Landlord will proceed with reasonable diligence to repair the so-called "shell" of the Premises and any leasehold improvements originally installed by Landlord. Landlord's obligation to repair is subject to (i) delays which may arise by reason of adjustment of loss under insurance policies, including, without limitation, Tenant's policy for leasehold improvements and betterments described in Section 8.1 of this Lease, and (ii) other delays beyond Landlord's reasonable control. Landlord's obligation to repair will be limited to the extent of insurance proceeds actually available to Landlord for repairs after the election by the holder of any mortgage against the Building to apply a portion or all of the proceeds against the debt owing to such holder. Until Landlord's repairs to the Premises are completed, the Base Annual Rent and additional rent will abate in proportion to the part of the Premises, if any, that is rendered untenantable.

9.2. Landlord's Rights Upon The Occurrence of Certain Casualties. In the event: (i) either the Premises or the Building (whether or not the Premises are affected) is totally or partially destroyed or damaged by fire or other casualty and repairs cannot, in Landlord's reasonable judgment, be completed within one hundred eighty (180) days after the occurrence of such damage without the payment by Landlord of overtime or other premiums; (ii) fifty percent (50%) or more of the Rentable Area of the Building (wherever located) is damaged or destroyed by fire or other casualty (whether or not the Premises are affected thereby); (iii) damage is otherwise so great that Landlord, in Landlord's absolute discretion, decides to demolish the Building, in whole or in

substantial part; (iv) insurance proceeds remaining after payment of any proceeds required to be paid to the holder of any mortgage affecting the Project are insufficient to repair or restore the damage or destruction; (v) the Building or the Premises are damaged or destroyed as a result of any cause other than the perils covered by Landlord's property insurance; or (vi) the Premises are materially damaged, in Landlord's judgment, by fire or other casualty during the last twenty-four (24) months of the Term; Landlord may elect (a) to the extent of the insurance proceeds actually received by Landlord, to proceed to repair, restore or rebuild the Building or the Premises, in which event this Lease will continue in effect, or (b) to terminate this Lease (effective as of the event of destruction) upon thirty (30) days' prior notice to Tenant, which notice will be given, if at all, within sixty (60) days following the date of the occurrence of the destruction. In repairing or restoring the Building or any part thereof, Landlord may use designs, plans and specifications, other than those used in the original construction of the Building and Landlord may alter or relocate, or both, any or all buildings, facilities and improvements, including the Premises, provided that the Premises as altered or relocated will be substantially the same size and will be in all material respects reasonably comparable to the Premises. Upon any such termination of this Lease, Tenant will surrender to Landlord the Premises and deliver to Landlord all proceeds from Tenant's insurance attributable to tenant improvements and other additions, improvements, and property items which Tenant has no right to remove. Tenant will pay Base Annual Rent and all other sums payable under this Lease prorated through the effective date of such termination and Landlord and Tenant will be free and discharged from all obligations under this Lease arising after the effective date of such termination, except those obligations expressly stated in this Lease to survive the termination of this Lease.

9.3. Repairs by Tenant. Landlord will not be required to repair any injury or damage by fire or other cause, to restore or replace or to reimburse Tenant for damage to any of Tenant's property or any leasehold improvements installed in the Premises by Tenant. Landlord's obligations to repair leasehold improvements originally installed by Landlord will be subject to, and limited to the extent of, receipt of adequate proceeds from Landlord's and/or Tenant's insurance under Sections 8.1(c) and 8.4. Tenant will be required to repair any injury or damage to the Premises or to the contents of the Premises which Landlord is not responsible for repairing. Except for abatement, if any, of Base Annual Rent and additional rent in accordance with the provisions of this Lease, Tenant will not be entitled to any allowance, compensation or damages from Landlord for loss of use of all or any part of the Premises or Tenant's property or for any inconvenience, annoyance, disturbance or loss or interruption of business, or otherwise, arising from any damage to the Premises or any other part of the Project by fire or any other cause, or arising from any repairs, reconstruction or restoration, nor will Tenant have the right to terminate this Lease.

10. EMINENT DOMAIN

10.1. Taking. If at any time during the initial term or any renewal term of this Lease all or substantially all of the Project ("substantially all" being defined in Section 10.2 below) shall be taken through exercise of the power of eminent domain or conveyed by deed in lieu of condemnation, this Lease shall terminate on the date that the acquiring agency requires the Project or the portion thereof being acquired to be vacated (the 'Early Termination Date"). All rental amounts paid by Tenant to Landlord shall be reconciled as of the Early Termination Date.

Landlord shall use its best efforts to provide Tenant with written notice of the scheduled start of any construction that would affect the Project. Such construction, for the purposes of this provision, shall include, but not be limited to, road work that alters either the existing entrances and exits providing access between the Project and the service road of the Katy Freeway OH 10 west) or the intersection of Bingle Road and the Katy Freeway service road or that otherwise utilizes or takes a portion of the Project.

10.2. Definition. Substantially all of the Project shall be deemed to have been taken if any portion of the Project is taken through the exercise of the power of eminent domain or conveyed by deed in lieu of condemnation and, in the Landlord's sole discretion, the portion of the Project remaining cannot reasonably be used for the conduct and operation of the Tenant's business after the taking or conveyance. Landlord shall use commercially reasonable efforts to give Tenant notice of its determination that substantially all of the Project has been taken at least thirty (30) days prior to Early Termination Date.

10.3. Awards. Landlord shall be entitled to and shall receive any and all awards that may be made as compensation for the taking of the Project or the portion thereof being acquired, including any compensation for damages to any remaining portions of the Project, and Tenant hereby assigns and transfers to Landlord any and all portions of such awards that otherwise would be paid to Tenant; provided, however, that Tenant does not assign and shall be entitled to receive and retain any separate relocation payment offered to Tenant by the acquiring authority.

11. ASSIGNMENT AND SUBLETTING

11.1. Consent. Tenant will not assign this Lease or sublet all or any portion of the Premises without the prior written consent of Landlord. If consent to any assignment or subletting is given by Landlord, such consent will not relieve Tenant or any guarantor of this Lease from any obligation or liability under this Lease. If this Lease is assigned or any part of the Premises is occupied by any person other than Tenant without the consent of Landlord, Landlord may nevertheless collect Base Annual Rent and additional rent from the assignee or occupant, and apply the net amount collected to the Base Annual Rent and other amounts payable under this Lease but, in no event will such collection be construed as a waiver of this covenant.

11.2. Landlord's Option. If Tenant desires to assign this Lease or sublet all or part of the Premises, Tenant will notify Landlord at least sixty (60) days in advance of the date on which Tenant desires to make such assignment or enter into such sublease. Tenant will provide Landlord with a copy of the proposed assignment or sublease, and sufficient information concerning the proposed sublessee or assignee to allow Landlord to make informed judgments as to the financial condition, reputation, operations and general desirability of the proposed assignee or subtenant. Within thirty (30) days after Landlord's receipt of Tenant's proposed assignment or sublease and all required information concerning the proposed subtenant(s) or assignee, Landlord will have the option to: (i) cancel the Lease as to all of the Premises, if Tenant proposes to assign the Lease or sublet more than fifty percent (50%) of the Premises, or cancel the Lease as to the portion of the Premises proposed to be sublet if Tenant proposes to sublet less than fifty percent (50%) of the Premises; or (ii) consent to the proposed assignment or sublease, provided, however, (A) if the rent due and payable by any assignee or sublessee under any such permitted assignment or sublease

(or a combination of the rent payable under such assignment or sublease plus any bonus or any other consideration for the assignment or sublease or any payment incident to the assignment or sublease) exceeds the rent payable under the Lease for such space, Tenant will pay to Landlord all of such excess rent and other excess consideration within ten (10) days following receipt of such excess rent and/or consideration by Tenant, and (B) if the Premises or Building must be altered in order for the proposed assignee or sublessee to comply with the Disabilities Act, Landlord may condition Landlord's consent upon receipt of plans and specifications acceptable to Landlord for complying with the Disabilities Acts and of security acceptable to Landlord that such construction be completed timely and lien-free; or (iii) refuse to consent to the proposed assignment or sublease but allow Tenant to continue in the search for an assignee or sublessee that will be acceptable to Landlord, which option will be deemed to be elected unless Landlord gives Tenant notice providing otherwise.

11.3. Definition of Assignment. The use of the words "assignment", "subletting", "assign", or "assigned" or "sublet" in this Article 11 will include (i) the pledging, mortgaging or encumbering of Tenant's interest in this Lease, or the Premises or any part thereof, (ii) the total or partial occupancy of all or any part of the Premises by any person, firm, partnership, or corporation, or any groups of persons, firms, partnerships, or corporations, or any combination thereof, other than Tenant, (iii) an assignment or transfer by operation of law, and (iv) a sale of substantially all of Tenant's assets, and (v) with respect to a corporation, partnership, or other business entity, a transfer or issue by sale, assignment, bequest, inheritance, operation of law, or other disposition, or by subscription, any part or all of the corporate shares of or partnership or other interests in Tenant, so as to result in any change in the present effective voting control of Tenant by the party or parties holding such voting control on the date of this Lease. Upon the request of Landlord, Tenant will make available to Landlord or to Landlord's representatives, for inspection all books and records of Tenant necessary to ascertain whether there has, in effect, been a change in control of Tenant.

11.4. Legal Fees. All legal fees and expenses incurred by Landlord in connection with the review by Landlord of Tenant's request pursuant to this Article 11, together with any legal fees and disbursements incurred in the preparation and review of any documentation, will be the responsibility of Tenant and will be paid by Tenant within five (5) days from receipt of an invoice from Landlord, as additional rent.

12. DEFAULT; REMEDIES

12.1. Defaults by Tenant. The occurrence of any of the following will constitute a default under this Lease by Tenant: (i) any failure by Tenant to pay an installment of Base Annual Rent or to make any other payment required under this Lease when due [except that the first time such failure occurs during each calendar year, Tenant will not be in default unless Tenant fails to pay such sum within five (5) days after notice from Landlord]; (ii) any failure by Tenant to observe and perform any other provision of this Lease to be observed and performed by Tenant, where such failure continues for twenty (20) days after notice by Landlord to Tenant; (iii) failure to take possession or delivery of the Premises within ten (10) days after notice from Landlord that the Premises are ready for occupancy, or abandonment of the Premises, i.e., the failure by Tenant or Tenant's employees to occupy the Premises for ten (10) consecutive days; (iv) Tenant's interest in

this Lease or in all or a part of the Premises is taken by process of law directed against Tenant, or becomes subject to any attachment at the instance of any creditor of or claimant against Tenant, and such attachment is not discharged within ten (10) days; (v) Tenant or any guarantor of Tenant's obligations under this Lease: (a) is unable to pay such party's debts generally as they become due; (b) makes an assignment of all or a substantial part of such party's property for the benefit of creditors; (c) convenes or attends a meeting of such party's creditors, or any class thereof, for purposes of effecting a moratorium upon or extension or composition of such party's debts; (d) applies for or consents to or acquiesces in the appointment of a receiver, trustee, liquidator, or custodian of such party or of all or a substantial part of such party's property or of the Premises or of Tenant's interest in this Lease; or (e) files a voluntary petition in bankruptcy or a petition or an answer seeking reorganization under the Bankruptcy Code or any other law relating to bankruptcy, insolvency, reorganization or relief of debtors or an arrangement with creditors, or takes advantage of any insolvency law or files an answer admitting the material allegations of a petition filed against such party in any bankruptcy, relief, reorganization or insolvency proceedings; (vi) Tenant or any guarantor of Tenants obligations under this Lease takes any corporate action to authorize any of the actions set forth in Section 12.1(v); (vii) the entry of a court order, judgment or decree against Tenant or any guarantor of Tenant's obligations under this Lease, without the application, approval or consent of such party, approving a petition seeking reorganization of such party or relief of debtors under the Bankruptcy Code or any other law relating to bankruptcy, insolvency, reorganization, or relief of debtors or granting an order for relief against it as debtor or appointing a receiver, trustee, liquidator, or custodian of such party or of all or a substantial part of such party's property or of the Premises or of Tenant's interest in this Lease, or adjudicating such party bankrupt or insolvent, and such order, judgment or decree will not be vacated, set aside or dismissed within sixty (60) days from the date of entry.

12.2. Remedies. Upon the occurrence of any event of default enumerated in Section 12.1, Landlord will have the option of (i) terminating this Lease by notice thereof to Tenant or (ii) continuing this Lease in full force and effect and/or (iii) performing the obligation of Tenant and/or (iv) changing locks.

(a) Termination of Lease. In the event Landlord elects to terminate this Lease, upon notice to Tenant this Lease will end as to Tenant and all persons holding under Tenant, and all of Tenant's rights will be forfeited and lapsed, as fully as if this Lease had expired by lapse of time, and there will be recoverable from Tenant: (i) the cost of restoring the Premises to good condition, normal wear and tear excepted, (ii) all accrued, unpaid sums, plus Interest and late charges, if in arrears, under the terms of this Lease up to the date of termination, (iii) Landlord's cost of recovering possession of the Premises, and (iv) rent and other sums accruing subsequent to the date of termination pursuant to the holdover provisions of Section 2.3. Notwithstanding any provision in this Lease to the contrary, if Tenant's default is by reason of Tenant's failure to pay rents, Landlord will, at Landlord's option, be entitled to liquidated damages equal to six (6) monthly installments of Base Annual Rent and, if Tenant's default constitutes an anticipatory breach under Texas law, Landlord shall also be entitled to collect all other damages permitted under Texas law for anticipatory breach. Landlord will at once have all the rights of re-entry upon the Premises, without becoming liable for damages, or guilty of a trespass.

(b) Continuation of Lease. In the event that Landlord elects to continue this Lease in full force and effect, Tenant will continue to be liable for all rents. Landlord will nevertheless have all the rights of re-entry upon the Premises without becoming liable for damages, or guilty of a trespass. Landlord, after re-entry, may relet all or a part of the Premises to a substitute tenant or tenants, for a period of time equal to or less or greater than the remainder of the Term on whatever terms and conditions Landlord, at Landlord's sole discretion, deems advisable. Against the rents and sums due from Tenant to Landlord during the remainder of the Term, credit will be given Tenant in the net amount of rent received from the new tenant after deduction by Landlord for: (i) the costs incurred by Landlord in reletting the Premises (including, without limitation, remodeling costs, brokerage fees, and the like), (ii) the accrued sums, plus Interest and late charges if in arrears, under the terms of this Lease, (iii) Landlord's cost of recovering possession of the Premises, and (iv) if Landlord elects to store Tenant's property in accordance with Section 7.4, the cost of storing any of Tenant's property left on the Premises after re-entry. Notwithstanding any provision in this Section 12.2(b) to the contrary, upon the default of any substitute tenant or upon the expiration of the term of such substitute tenant before the expiration of the Term hereof, Landlord may, at Landlord's election, either relet to another substitute tenant, or terminate this Lease and exercise Landlord's rights under Section 12.2(a) of this Lease.

(c) Performance for Tenant. In the event that Landlord elects to perform the obligation(s) of Tenant, all sums expended by Landlord effecting such performance (including Administrative Reimbursement under Section 3.8), plus Interest thereon, will be due and payable with the next monthly installment of Base Annual Rent. Such sum will constitute additional rental under this Lease, and failure to pay such sums when due will enable Landlord to exercise all of Landlord's remedies under this Lease.

(d) Changing Locks. Additionally, without notice, Landlord may alter locks or other security devices at the Premises to deprive Tenant of access to the Premises, and Landlord will not be required to provide a new key or rights of access to Tenant.

12.3. Remedies Cumulative. All rights and remedies of Landlord under this Lease will be nonexclusive of and in addition to any other remedies available to Landlord at law or in equity.

12.4. Attorneys' Fees. If legal action is necessary in order to enforce or interpret this Lease, the prevailing party will be entitled to reasonable attorneys' fees, costs and disbursements in addition to any other relief to which such party is entitled.

12.5. Waiver. No covenant, term or condition or the breach thereof will be deemed waived, except by written consent of the party against whom the waiver is claimed and any waiver of the breach of any covenant, term or condition will not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term or condition. Acceptance by Landlord of any performance by Tenant after the time the same was due will not constitute a waiver by Landlord of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by Landlord in writing.

12.6. Landlords Lien. To assure payment of all sums due under this Lease and the faithful performance of all other covenants of the Lease, Tenant hereby grants to Landlord an express

contract lien on and security interest in all goods, inventory, and equipment which may be placed in the Premises and also upon all proceeds which may accrue from such property. Landlord will have all the rights and remedies of a secured party under the Texas Business and Commerce Code, and this lien and security interest may be foreclosed by process of law. Tenant agrees that Landlord may file a financing statement in form sufficient to perfect the security interest of Landlord under the Texas Business and Commerce Code. Tenant further agrees that Landlord may file this Lease as a financing statement. The lien and security interest granted in this Section 12.6 will be cumulative of and in addition to any statutory lien rights in favor of Landlord, now or hereafter existing.

12.7. Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefore (provided such inability does not arise from the inability of Landlord to pay for same), governmental restrictions, governmental action or inaction, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, mandatory or prohibitive injunction issued in connection with the enforcement of Disabilities Acts or Environmental Laws, and other causes beyond the reasonable control of Landlord, will excuse the performance by Landlord for a period of time equal to any such prevention, delay or stoppage, of any obligation Landlord is obligated to perform under this Lease.

12.8. Mitigation of Damages. Upon termination of Tenant's right to possess the Premises, Landlord shall, to the extent required by applicable law (and no further), use objectively reasonable efforts to mitigate damages by reletting the Premises. Landlord shall not be deemed to have failed to do so if Landlord refuses to lease the Premises to a prospective new tenant with respect to whom Landlord would be entitled to withhold its consent pursuant to Section 11.1, or who (i) is an affiliate, parent or subsidiary of Tenant; (ii) is not acceptable to Landlord's Mortgagee(s); (iii) requires improvements to the Premises to be made at Landlord's expense; or (iv) is unwilling to accept lease terms then proposed by Landlord, including: (A) leasing for a shorter or longer term than remains under this Lease, (B) re-configuring or combining the Premises with other space, (C) taking all or only a part of the Premises, and/or (D) changing the use of the Premises.

13. ESTOPPEL CERTIFICATES

13.1. Acknowledgment of Commencement Date. Upon tender of possession of the Premises to Tenant and as often thereafter as may be requested by Landlord, Tenant will, within ten (10) days after receipt of a request from Landlord, execute, acknowledge and deliver to Landlord a statement in the form of Exhibit E which will (i) set forth the actual Commencement Date and Expiration Date of the Term, and (ii) contain acknowledgments that Tenant has accepted the Premises and that the Premises and Building are satisfactory in all respects.

13.2. Certificates. Tenant will, within ten (10) days after receipt of a request from Landlord or any mortgagee of Landlord, execute, acknowledge and deliver to Landlord or such mortgagee either a statement in writing or three party agreement among Landlord, Tenant and such mortgagee (i) 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 date to which Base Annual Rent and other charges are paid in advance, if any; (ii) acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord under this Lease, or specifying such defaults if any are claimed, and (iii) specifying any further information and agreeing to such notice provisions and other matters reasonably requested by Landlord or such mortgagee. Any such statement may be conclusively relied upon by a prospective purchaser or mortgagee of the Premises. Tenant's failure to deliver such statement within ten (10) days will constitute a default under this Lease.

14. SUBORDINATION AND ATTORNMENT

This Lease is and will be subject and subordinate to all ground or underlying leases which now exist or may hereafter be executed affecting the Project and to the lien and provisions of any mortgages or deeds of trust now or hereafter placed against the Project or against Landlord's interest or estate in the Project or on or against any ground or underlying lease, and any renewals, modifications, consolidations and extensions of such lease, without the necessity of the execution and delivery of any further instruments on the part of Tenant to effect subordination. If any mortgagee, trustee or ground lessor elects to have this Lease prior to the lien of such mortgagee's, trustee's or ground lessor's mortgage or deed of trust or ground lease, and gives notice of such election to Tenant, this Lease will be deemed prior to the lien of such mortgage or deed of trust or ground lease, whether this Lease is dated prior or subsequent to the date of such mortgage, deed of trust, or ground lease, or the date of the recording thereof. Tenant will execute and deliver upon request from Landlord, such further instruments evidencing the subordination of this Lease to any ground or underlying lease, and to any mortgage or deed of trust. In the event any proceedings are brought for default under any ground or underlying lease or in the event of foreclosure or the exercise of the power of sale under any mortgage or deed of trust against the Project, Tenant will, upon request of any person or party succeeding to the interest of Landlord as a result of such proceedings, attorn to such successor in interest and recognize such successor in interest as Landlord under this Lease.

15. LANDLORD'S INTEREST

15.1. Liability of Landlord. If Landlord defaults under this Lease and, if as a consequence of such default, Tenant recovers a money judgment against Landlord, such judgment will be satisfied only out of the right, title and interest of Landlord in the Project and Landlord will not be liable for any deficiency. In no event will Tenant have the right to levy execution against any property of Landlord or Landlord's partners other than Landlord's interest in the Project. In no event will Landlord be liable to Tenant for consequential or special damages.

15.2. Notice to Mortgagee. If Landlord defaults under this Lease and, if as a consequence of such default, Tenant will have the right to terminate this Lease, Tenant will not exercise such right to terminate unless and until (i) Tenant gives notice of such default (specifying the exact nature of such default and how such default may be remedied) to any lessor under a ground lease or any mortgagee of the Project whose name and address have been delivered to Tenant prior to the time of default and (ii) such lessor and/or mortgagee fails to cure, or to cause to be cured, such default within thirty (30) days after such lessor's or mortgagee's receipt of notice.

15.3. Sale of Project. The term "Landlord" will mean only the owner at the time in question of the fee title or a tenant's interest in a ground lease of the Project. The obligations contained in this Lease to be performed by Landlord will be binding on Landlord and Landlord's successors and assigns only during their respective periods of ownership. In the event of a sale of the Project or assignment of this Lease by Landlord, Landlord will have the right to transfer the Security Deposit to Landlord's vendee or assignee, subject to Tenant's rights therein, and Landlord will thereafter be released from any liability to Tenant with respect to the return of the Security Deposit to Tenant.

16. NOTICES

Wherever in this Lease it is required or permitted that a request, notice or demand be given or served or consent be obtained by either party to, on, or from the other, such request, notice, demand, or consent must be in writing and (i) personally delivered, (ii) mailed by certified or registered United States mail, postage prepaid, or (iii) sent by Federal Express Corporation or other nationally recognized overnight carrier for next day delivery, to the addresses of the parties specified in the Basic Lease Provisions. Any notice which is mailed or sent by overnight courier will be deemed to have been given on the regular business day next following the date of deposit of such notice in a depository of the United States Postal Service or overnight carrier. Either party may change such address by notice to the other. Base Annual Rent and other charges will be paid to Landlord at Landlord's address as set forth in the Basic Lease Provisions, or as changed pursuant to a notice delivered to Tenant in the manner specified above.

17. BROKERS

Tenant represents and warrants that Tenant has had no dealings with any broker or agent other than the broker(s) specified in Paragraph 10 of the Basic Lease Provisions in connection with the negotiation or execution of this Lease.

18. INDEMNITIES AND WAIVERS

18.1. INDEMNITIES. To the fullest extent permitted by law, Tenant will, at Tenant's sole cost and expense, Indemnify Landlord Parties against all Claims arising from (z) any Personal Injury, Bodily Injury or Property Damage whatsoever occurring in or at the Premises; (ii) any Bodily Injury to an employee of a Tenant Party arising out of and in the course of employment of the employee and occurring anywhere in the Project; (iii) the use or occupancy, or manner of use or occupancy, or conduct or management of the Premises or of any business therein; (iv) any act, error, omission, negligence, or willful misconduct of any of Tenant Parties in, on or about the Premises or the Project; (v) the conduct of Tenant's business; (vi) any alterations, activities, work or things done, omitted, permitted or allowed by Tenant Parties in, at or about the Premises or Project, including the violation of or failure to comply with, or the alleged violation of or alleged failure to comply with, Environmental Laws, Disabilities Acts or any other applicable laws, statutes, ordinances, standards, rules, regulations, orders, or judgments in existence on the date of the Lease or enacted, promulgated or issued after the date of this Lease; (vii) any breach or default by Tenant in the full and prompt payment of any amount due under this Lease, any breach, violation or nonperformance of any term, condition, covenant or other obligation of Tenant under

this Lease, or any misrepresentation made by Tenant or any guarantor of Tenant's obligations in connection with this Lease; (viii) all damages sustained by Landlord as a result of any holdover by Tenant or any Tenant party in the Premises including, but not limited to, any claims by another lessee resulting from a delay by Landlord in delivering possession of the Premises to such lessee; (ix) any liens or encumbrances arising out of any work performed or materials furnished by or for Tenant; or (x) commissions or other compensation or charges claimed by any real estate broker or agent [other than the Broker(s) specified in the Basic Lease Provisions], with respect to this Lease by, through, or under Tenant.

18.2. WAIVERS. To the fullest extent permitted by law, Tenant, on behalf of all Tenant Parties, Waives all Claims, against Landlord Parties arising from the following: (i) any Personal Injury, Bodily Injury, or Property Damage occurring in or at the Premises; (ii) any loss of or damage to property of a Tenant Party located in the Premises or other part of the Project by theft or otherwise; (iii) any Personal Injury, Bodily Injury, or Property Damage to any Tenant Party caused by other lessees of the Project, parties not occupying space in the Project, occupants of property adjacent to the Project, or the public or by the construction of any private, public, or quasi-public work occurring either in the Premises or elsewhere in the Project; (iv) any interruption or stoppage of any utility service or for any damage to persons or property resulting from such stoppage; (v) business interruption or loss of use of the Premises suffered by Tenant; (vi) any latent defect in construction of the Building; (vii) damages or injuries or interference with Tenant's business, loss of occupancy or quiet enjoyment and any other loss resulting from the exercise by Landlord of any right or the performance by Landlord of Landlord's maintenance or other obligations under this Lease, (viii) any Bodily Injury to an employee of a Tenant Party arising out of and in the course of employment of the employee and occurring anywhere in the Project.

18.3. DEFINITIONS. For purposes of this Article 18: (i) the term "Tenant Parties" means Tenant, and Tenant's officers, members, partners, agents, employees, sublessees, licensees, invitees and independent contractors, and all persons and entities claiming **through** any of these persons or entities; (ii) the term "Landlord Parties" means Landlord and the partners, venturers, trustees and ancillary trustees of Landlord and the respective officers, directors, shareholders, members, parents, subsidiaries and any other affiliated entities, personal representatives, executors, heirs, assigns, licensees, invitees, beneficiaries, agents, servants, employees and independent contractors of these persons or entities; (iii) the term "Indemnify" means indemnify, defend (with counsel reasonably acceptable to Landlord) and hold free and harmless from and against; (iv) the term "Claims" means all liabilities, claims, damages (including consequential damages), losses, penalties, litigation, demands, causes of action (whether in tort or contract, in law or at equity or otherwise), suits, proceedings, judgments, disbursements, charges, assessments, and expenses (including attorneys' and experts' fees and expenses and expenses incurred in investigating, defending, or prosecuting any litigation, claim, or proceeding); (v) the term "Waives" means that Tenant Parties waive and knowingly and voluntarily assume the risk of and (vi) the terms 'Bodily lnjury'; "Personal Injury" and "Property Damage" will have the same meanings as in the form of commercial general insurance policy issued by Insurance Services Office, Inc. most recently prior to the date of the injury or loss in question.

18.4. SCOPE OF INDEMNITIES AND WAIVERS. Except as provided in the following sentence, the indemnities and waivers contained in Article 18 will apply regardless of the active

or passive negligence or sole, joint, concurrent, or comparative negligence of any of Landlord Parties, and regardless of whether liability without fault or strict liability is imposed or sought to be imposed on any of Landlord Parties. The indemnities and waivers contained in Article 18 will not apply to the extent of the percentage of liabilities that a final judgment of a court of competent jurisdiction establishes under the comparative negligence principles of the State of Texas, that a Claim against a Landlord Party was proximately caused by the willful' misconduct or gross negligence of that Landlord Party; provided, however, that in such event the indemnity or waiver will remain valid for all other Landlord Parties. To the extent that Landlord's insurance provides insurance for any such claim, then such claim will be the responsibility of the insurance company.

18.5. OBLIGATIONS INDEPENDENT OF INSURANCE. The indemnification provided in Section 18.1 may not be construed or interpreted as in any way restricting, limiting or modifying Tenant's insurance or other obligations under this Lease, and the provisions of Section 18.1 are independent of Tenant's insurance and other obligations. Tenant's compliance with the insurance requirements and other obligations under this Lease does not in any way restrict, limit or modify Tenant's indemnification obligations under this Lease.

18.6. SURVIVAL. The provisions of this Article 18 will survive the expiration or earlier termination of this Lease until all claims against Landlord Parties involving any of the indemnified or waived matters are fully and finally barred by the applicable statutes of limitations.

18.7. DUTY TO DEFEND. Tenant's duty to defend Landlord Parties is separate and independent of Tenant's duty to Indemnify Landlord Parties. Tenant's duty to defend includes Claims for which Landlord Parties may be liable without fault or may be strictly liable. Tenant's duty to defend applies regardless of whether the issues of negligence, liability, fault, default or other obligation on the part of Tenant Parties have been determined. Tenant's duty to defend applies immediately, regardless of whether Landlord Parties have paid any sums or incurred any detriment arising out of or relating, directly or indirectly, to any Claims. It is the express intention of Landlord and Tenant that Landlord Parties will be entitled to obtain summary adjudication regarding Tenant's duty to defend Landlord Parties at any stage of any Claim within the scope of this Article 18.

19. RELOCATION

19.1. SUBSTITUTION OF SPACE/RELOCATION. Landlord reserves the right at any time prior to tender of possession of the Premises to Tenant or during the Term of this Lease after the Commencement Date and upon sixty (60) days' prior notice ("Substitution Notice") to substitute other space ("Substitute Space") within the Complex on a date of relocation (the "Relocation Date") specified therein provided the Rentable Area of the Substitute Space is approximately the same as the Rentable Area of the Premises. In such event, all reasonable expenses of moving Tenant and decorating the Substitute Space with substantially the same leasehold improvements shall be at the expense of Landlord; including the physical move, relocating Tenant's existing telephone equipment and other costs set forth below. All moving costs (including the cost to relocate phones, computers and other systems of similar nature), all costs of reprinting stationery, cards and other printed material bearing Tenant's address at the Premises if such address changes due to the relocation (but only the quantity existing immediately

prior to the relocation) and all other out-of-pocket costs directly incurred by Tenant in connection with the relocation to the Substitute Space, including reasonable decorating and sign costs, shall be paid by Landlord within thirty (30) days after receipt of third party invoices therefore. Tenant shall have the option, effective as of the Relocation Date, either to enter into an appropriate lease amendment relocating the Premises, or to terminate this Lease, which option shall be exercised within 5 business days following receipt of the Substitution Notice. Failure of Tenant to choose either option within such period shall constitute Tenant's election to relocate. If Tenant elects (or is deemed to have elected) to relocate, Landlord shall have the option to tender the Substitute Space to Tenant on any date within a 30 day period prior to or after the Relocation Date, in which event the date of tender of possession of the Substitute Space shall become the Relocation Date.

19.2. Maximum Base Annual Rent. The Base Annual Rent for the Substitute Space will be computed by multiplying the number of square feet of Rentable Area in the Substitute Space by the Base Annual Rent for the Premises per square foot of Rentable Area.

19.3. Condition of Premises. If relocation occurs after the Commencement Date, Tenant will have the election to take the Substitute Space "as is" or to have the Substitute Space improved in substantially the same manner as the Premises, such election to be exercised by notice delivered to Landlord within ten (10) days after Tenant's receipt of the Substitution Notice. Failure by Tenant to notify Landlord of Tenant's election within the ten (10) day period will be deemed to be an election to take the Substitute Space "as is".

19.4. Commencement of Rent. Rental for the Substitute Space will commence to accrue within fifteen (15) days after Landlord tenders possession of the Substitute Space to the Tenant. Tenant's continued occupancy of the Premises after such fifteen (15) day period will be treated as a holding over by Tenant under Section 2.3 hereof.

20. PARKING

20.1. Parking Spaces. Landlord hereby grants to Tenant and persons designated by Tenant ("Tenant's Designated Parkers") a license to use the number of parking spaces set forth in Paragraph 12 of the Basic Lease Provisions, in the surface parking lot (the "Lot") provided by Landlord for the use of tenants and occupants of the Building. The term of such license will commence on the Commencement Date and will continue until the earliest to occur of the Expiration Date, termination of the Lease, Tenant's abandonment of the Premises or Tenant's parking rights, or termination by Landlord of Tenant's parking rights in accordance with Section 20.4. During the term of this license, Tenant will pay Landlord the monthly charges established from time to time by Landlord for parking in the Lot as set forth in Paragraph 12 of the Basic Lease Provisions, payable in advance, with Tenant's payment of monthly installment of Base Annual Rental. No deductions from the monthly charges will be made for days on which the Lot is not used by Tenant. However, Tenant may reduce the number of parking spaces hereunder, at any time, by providing at least thirty (30) days' advance written notice to Landlord, accompanied by any keycard, sticker or other identification or entrance system, if any, provided by Landlord or its parking contractor. Tenant's reduction of the number of parking spaces will be irrevocable.

20.2. Control of Parking. Landlord reserves the right from time to time to adopt, modify and enforce reasonable rules governing the use of the Lot, including any keycard, sticker or other identification or entrance system, and hours of operation. Landlord may refuse to permit any person who violates such rules to park in the Lot. The parking spaces hereunder will be provided on an unreserved "first-come, first-served" basis. Landlord reserves the right to assign specific spaces, and to reserve spaces for visitors, small cars, handicapped persons and for other lessees, guests of other lessees, or other parties, and Tenant and Tenant's Designated Parkers will not park in any such assigned or reserved spaces. Landlord also reserves the right to close all or any portion of the Lot in order to make repairs or perform maintenance services, or to alter, modify, restripe or renovate the Lot, or if required by casualty, strike, condemnation, act of God, governmental law or requirement or other reason beyond Landlord's reasonable control.

20.3. Landlord's Liability. If, for any other reason, Tenant or Tenant's Designated Parkers, are denied access to the Lot, and Tenant or such persons will have complied with this Section 20, Landlord's liability will be limited to parking charges (excluding tickets for parking violations) incurred by Tenant or such persons in utilizing alternative parking, which amount Landlord will pay upon presentation of documentation supporting Tenant's claims in connection therewith.

20.4. Remedies for Parking Violations. If Tenant or any of its designated parkers violate the rules applicable to the parking areas, Landlord will have the right to remove from the Lot any vehicles which are involved or are owned or driven by parties involved in the violation. In addition, Landlord will have the right to cancel Tenant's parking spaces on ten (10) days' written notice. If Tenant or any of Tenant's Designated Parkers violate the same term or condition more than three (3) times during any twelve (12) month period, the next violation of such term or condition during the succeeding twelve (12) month period, will, at Landlord's election, constitute an incurable violation of the parking rules. Landlord's rights to cancel parking privileges and remove vehicles are cumulative and in addition to any other rights or remedies available to Landlord at law or equity, or provided under this Lease.

21. HAZARDOUS SUBSTANCES

The term "Hazardous Substances", as used in this Lease will mean pollutants, contaminants, toxic or hazardous wastes, or any other substances, the removal of which is required or the use of which is regulated, restricted, prohibited or penalized by any Environmental Law. Tenant hereby agrees that (i) no activity will be conducted on the Premises that will produce any Hazardous Substances, except for such activities that are part of the ordinary course of Tenant's business activities ("Permitted Activities") provided the Permitted Activities are conducted in accordance with all Environmental Laws; (ii) the Premises will not be used in *any* manner for the storage of any Hazardous Substances except for any temporary storage of such materials that are used in the ordinary course of Tenant's business ("Permitted Materials"), provided such Permitted Materials are properly stored in a manner and location meeting all Environmental Laws; (iii) Tenant will not permit any Hazardous Substances to be brought onto the Premises, except for the Permitted Materials, and if so brought or found thereon, the same shall be immediately removed, with proper disposal, and all required cleanup procedures shall be diligently undertaken pursuant to all Environmental Laws. If any Hazardous Substance is discovered outside the Premises and

such Hazardous Substance was brought into the Building or parking areas by Tenant or Tenant's employees or contractors, Tenant, at Tenant's sole cost and expense, will immediately take such action as is necessary to detain the spread of and remove the Hazardous Substance to the satisfaction of Landlord. Landlord shall have access to, and a right to perform inspections and tests of, the Premises to determine Tenant's compliance with Environmental Laws, its obligations under this Section 21, or the environmental condition of the Premises. Such inspections and tests shall be at Landlord's expense unless such inspections or tests reveal that Tenant has not complied with Environmental Laws, in which case Tenant shall reimburse Landlord for the reasonable cost of such inspection and tests. Landlord's receipt of or satisfaction with any environmental assessment in no way waives any rights that Landlord holds against Tenant.

22. INTERPRETATIVE

22.1. Calculation. Landlord and Tenant are knowledgeable and experienced in commercial transactions and agree that each the provision of this Lease for determining charges, amounts and additional rent payable by Tenant (i) is commercially reasonable and valid even though such methods may not state a precise mathematical formula for determining such charges and (ii) constitutes a "method by which the charge is to be computed" for purposes of Section 93.004 of the Texas Property Code. ACCORDINGLY, TENANT VOLUNTARILY AND KNOWINGLY WAIVES ALL RIGHTS AND BENEFITS OF TENANT UNDER SECTION 93.004 OF THE TEXAS PROPERTY CODE, AS SUCH SECTION NOW EXISTS OR AS MAY BE HEREAFTER AMENDED OR SUCCEEDED.

22.2. Captions. The captions of the Articles and Sections of this Lease are for convenience only and will not affect the interpretation or construction of any provision of this Lease.

22.3. Section Numbers. All references to section numbers contained in the Basic Lease Provisions, the General Lease Provisions, Exhibit C or the Work Letter, if any, are to sections in the General Lease Provisions, unless expressly provided to the contrary.

22.4. Attachments. Exhibits, addenda, schedules and riders attached hereto and listed in the Basic Lease Provisions (and no other exhibits, addendums, schedules and riders) are deemed by attachment to constitute part of this Lease and are incorporated into this Lease.

22.5. Number, Gender, Defined Terms. The words "Landlord" and "Tenant", as used in this Lease, will include the plural as well as the singular. Words used in the neuter gender include the masculine and feminine and words in the masculine or feminine gender include the other and the neuter. If more than one person or entity constitutes Tenant, the obligations under this Lease imposed upon Tenant will be joint and several.

22.6. Entire Agreement. This Lease, including any exhibits and attachments hereto listed in the Basic Lease Provisions, constitutes the entire agreement between Landlord and Tenant relative to the Premises. Landlord and Tenant agree hereby that all prior or contemporaneous oral and written agreements between and among themselves or their agents, including any leasing agent, and representatives relative to the leasing of the Premises are merged in or revoked by this Lease.

22.7. Amendment. This Lease and the exhibits and attachments may be altered, amended or revoked only by an instrument in writing signed by both Landlord and Tenant.

22.8. Severability. If any term or provision of this Lease is, to any extent, determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Lease will not be affected thereby, and each remaining term and provision of this Lease will be valid and be enforceable to the fullest extent permitted by law.

22.9. Time of Essence. Time is of the essence of this Lease and each and every provision of this Lease.

22.10. Best Efforts. Whenever in this Lease or the Work Letter, if any, there is imposed upon Landlord the obligation to use Landlord's best efforts or reasonable efforts or diligence, Landlord will be required to exert such efforts or diligence only to the extent the same are economically feasible and will not impose upon Landlord extraordinary financial or other burdens.

22.11. Binding Effect. Subject to any provisions of this Lease restricting assignment or subletting by Tenant and releasing Landlord upon sale of the Building, all of the provisions of this Lease will bind and inure to the benefit of the parties to this Lease and their respective heirs, legal representatives, successors and assigns.

22.12. Subtenancies. The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, will not work a merger of estates and will, at the option of Landlord, operate as an assignment to Landlord of any or all subleases or subtenancies.

22.13. No Reservation. Submission by Landlord of this instrument to Tenant for examination or signature does not constitute a reservation of or option for lease. This Lease will be effective as a lease or otherwise only upon execution and delivery by both Landlord and Tenant.

22.14. Consents. If Tenant requests Landlord's consent under any provision of this Lease and Landlord fails or refuses to give such consent, Tenant's sole remedy will be an action for specific performance or injunction.

22.15. Choice of Law. This Lease will be construed under, governed by and enforced in accordance with the laws of the State of Texas.

EXHIBIT A

LAND

Legal Description

West Memorial Park, Phase II (8562)

Being a tract of land out of the A.H. Osbourne Survey, Abstract 610, Spring Valley, Harris County, Texas, and being more particularly described as follows:

The point of reference is the North R-O-W line of the M.K.T. Railroad (100 feet wide) and the East R-O-W line of Bingle Road.

THENCE East along the North R-O-W line M.K.T. Railroad (100 feet wide), a distance of 390.65’ to a point ;

THENCE Northwesterly along a circular curve to the left having a central angle of 10° 19’ 47” and a radius of 459.85 feet, a distance of 82.91 feet to a point of reverse curvature;

THENCE Northwesterly along a circular curve to the left having a central angle of 10° 19’ 47” and a radius of 424.85 feet, a distance of 76.60 feet to a point of tangency;

THENCE North a distance of 91.40 feet to the point of beginning;

THENCE North a distance of 180.86 feet to the point of curvature;

THENCE Northwesterly along a circular to the left having a central angel of 5° 32; 57”, a radius of 729.36 feet, and a length of 74.03 feet to a point of reverse curvature;

THENCE Northwesterly along a circular to the left having a central angel of 5° 32; 57”, a radius of 764.36 feet, and a length of 70.64 feet to a point of reverse curvature;

THENCE North a distance of 179.14 feet to a point for a corner;

THENCE East a distance of 586.47 feet to a point for a corner;

THENCE South 0° 15’ 23” E a distance of 50427 feet to a point for a corner;

THENCE West a distance of 581.73 to the POINT OF BEGINNING and containing 6.761 acres of land, more or less.

EXHIBIT B

FLOOR PLAN

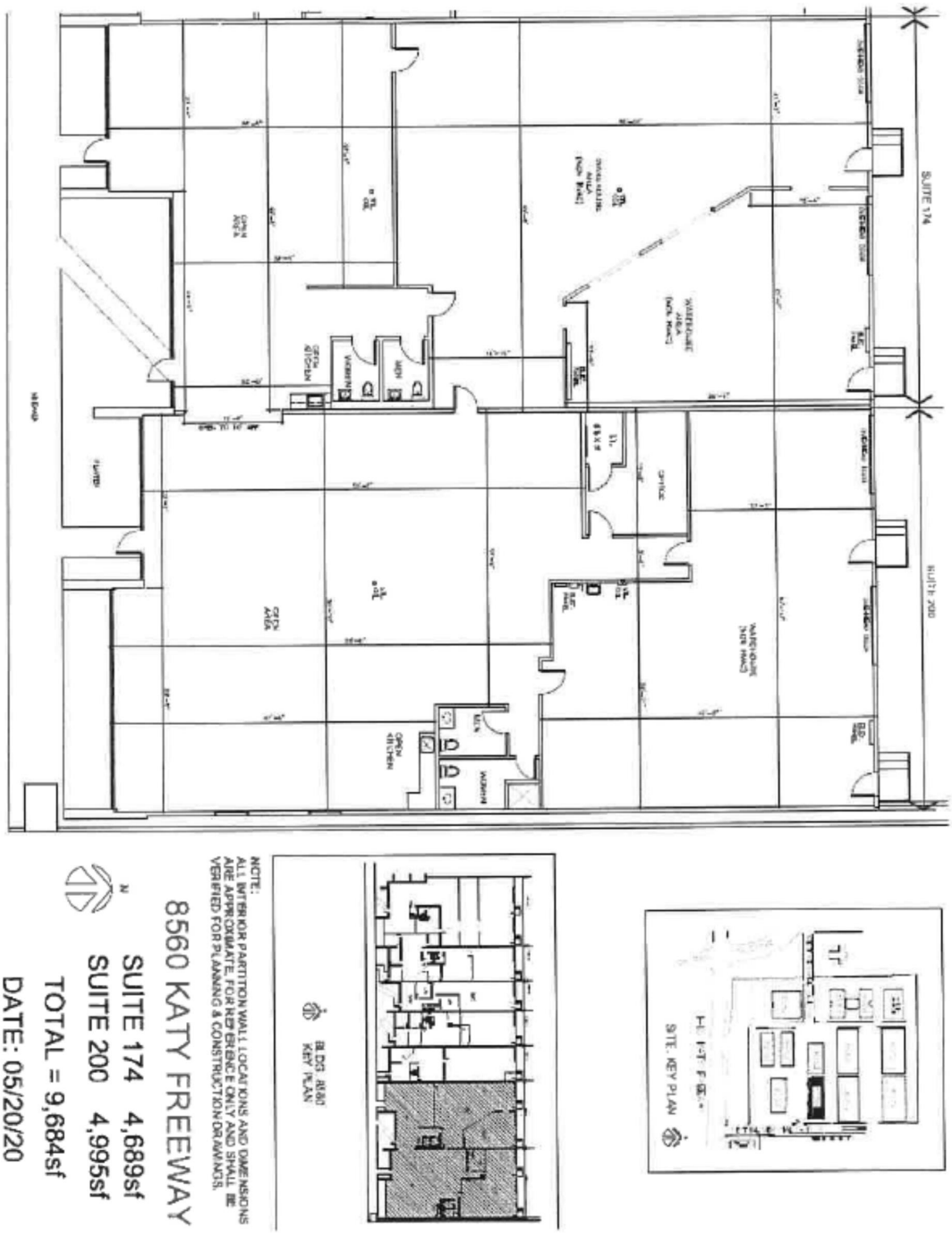

EXHIBIT C

OPERATING COST COMPUTATION

1. Operating Cost Exclusions. The following are, without limitation, examples of costs excluded from the computation of Operating Costs:

(a) leasing commissions, attorneys' fees, costs and disbursement and other expenses incurred in connection with leasing, renovating or improving space for tenants or prospective tenants of the Project;

(b) costs incurred by Landlord in the discharge of its obligations under the Work Letter;

(c) costs (including permit, license and inspection fees) incurred in renovating or otherwise improving or decorating, painting or redecorating space for tenants or vacant space;

(d) Landlord's costs of any services sold to tenants for which Landlord is entitled to be reimbursed by such tenants as an additional charge or rental over and above the Base Annual Rent and Operating Costs payable under the lease with such tenant or other occupant;

(e) any depreciation and amortization on the Project except as expressly permitted herein;

(f) costs incurred due to violation by Landlord of any of the terms and conditions of this Lease or any other lease relating to the Project;

(g) interest on debt or amortization payments on any mortgages or deeds of trust or any other debt for borrowed money;

(h) all items and services for which Tenant reimburses Landlord outside of Operating Costs or pays third persons or which Landlord provides selectively to one or more tenants or occupants of the Project (other than Tenant) without reimbursement;

(i) advertising and promotional expenditures;

(j) repairs or other work occasioned by fire, windstorm or other work paid for through insurance or condemnation proceeds;

(k) costs, penalties and fines incurred due to the violation by Landlord or any other tenant of the Building of applicable laws, or the terms and conditions of any lease pertaining to the Building, except such as may be incurred by Landlord in contesting in good faith the alleged violation.

2. Operating Cost Examples. The following are, without limitation, examples of costs included within the computation of Operating Costs:

(a) garbage and waste disposal;

(b) janitorial service and window cleaning for the Project (including materials, supplies, light bulbs and ballasts standard to the Building, equipment and tools therefore and rental and depreciation costs related to any of the foregoing) or contracts with third parties to provide same;

(c) security;

(d) insurance premiums (including, without limitation, property, rental value, liability and any other types of insurance carried by Landlord with respect to the Project, the costs of which may include an allocation of a portion of the premium of a blanket insurance policy maintained by Landlord);

(e) business or excise taxes payable on account of Landlord's ownership or operation of the Project (excluding any inheritance, estate succession, transfer, gift, franchise, corporation, income or profits tax imposed upon Landlord);

(f) real estate taxes, assessments, excises, and any other governmental levies and charges of every kind and nature whatsoever, general and special, extraordinary and ordinary, foreseen and unforeseen, which may during the Term be levied or assessed against, or arising in connection with the use, occupancy, operation or possession of, the Project, or any part thereof, or substituted, in whole or in part, for a real estate tax, assessment, excise or governmental charge or levy previously in existence, by any authority having the direct or indirect power to tax, including interest on installment payments and all costs and fees (including attorneys' fees) incurred by Landlord in contesting or negotiating with taxing authorities as to same; provided, however, Landlord will have the option to pay any of the foregoing as rentals under a ground lease arrangement with the fee simple titleholder to the land upon which the Project is, or is to be, constructed;

(g) water and sewer charges and any add-ons;

(h) operation, maintenance, and repair (to include replacement of components) of the Project, including but not limited to all floor, wall and window coverings and personal property in the Common Areas, Building systems such as heat, ventilation and air conditioning system, and all other mechanical or electrical systems serving the Building and the Common Areas and Service Areas and service agreements for all such systems and equipment;

(i) charges for any easement maintained for the benefit of the Project;

(j) license, permit and inspection fees;

(k) compliance with any fire safety or other governmental rules, regulations, laws, statutes, ordinances or requirements imposed by any governmental authority or insurance company with respect to the Project during the Term hereof;

(1) wages, salaries, employee benefits and taxes (or an allocation of the foregoing) for personnel working full or part time in connection with the operation, maintenance and management of the Project;

(m) accounting and legal services (but excluding legal services in connection with negotiations and disputes with specific tenants unless the matter involved affects all tenants of the Project);

(n) administrative and management fees for the Project and Landlord's overhead expenses directly attributable to Project management;

(o) indoor or outdoor landscaping;

(p) depreciation (or amortization) of Required Capital Improvements and Cost Savings Improvements. "Required Capital Improvements" will mean capital improvements or replacements made in or to the Building in order to conform to any law, ordinance, rule, regulation or order of any governmental authority having jurisdiction over the Project, including, without limitations, The Disabilities Acts. "Cost Savings Improvements" will mean any capital improvements or replacements which are intended to reduce, stabilize or limit increases in Operating Costs. [The cost of Cost Savings Improvements will be amortized by spreading such costs uniformly over a term equal to the lesser of (a) the period of years over which the amount by which Operating Costs are reduced would be equal to the cost of such installation or (b) ten (10) years. The cost of Required Capital Improvements and depreciable (or amortizable) maintenance and repair items (e.g., painting of Common Areas, replacement of carpet in elevator lobbies), will be amortized by spreading such costs uniformly over a term equal to the lesser of (a) the period employed by Landlord for federal income tax purposes or (b) ten (10) years.]

(q) Interest (as defined in Section 3.7 of the General Lease Provisions) upon the un-depreciated (or unamortized) balance of the original cost of items which Landlord is entitled to depreciate (or amortize) as an Operating Cost;

(r) expenses and fees (including attorneys' fees) incurred contesting of the validity or applicability of any governmental enactments which may affect Operating Costs; and the costs incurred by Landlord for (i) any and all forms of fuel or energy utilized in connection with the operation, maintenance, and use of the Project, (ii) sales, use, excise and other taxes assessed by governmental authorities on energy sources, and (iii) other costs of providing energy to the Project.

(s) the cost of Common Area services which are provided by Landlord for the mutual benefit of all tenants, including all expenses incurred by landlord with respect to the maintenance and operation of the Building and/or Project of which the Premises are a apart. These services may include, but are not limited to, general landscaping, mowing of grass, care of shrubs (including replacement of expired plants); operation and maintenance of lawn sprinkler system; operation and maintenance of exterior lighting; water service and sewer charges; repainting of exterior surfaces of truck doors, handrails, downspouts, and other parts of the Building which require periodic preventive maintenance; parking lot maintenance; pro rate share of the Project's Common Area maintenance and monitoring service; and a management fee equal to 3% of the gross rental due under this lease, payable monthly.

(t) Landlord will credit against Operating Costs any refunds received as a result of tax contests, after deduction for Landlord's costs in connection with same.

(u) The foregoing provisions of this Exhibit C will not be deemed to require Landlord to furnish or cause to be furnished any service or facility not otherwise required to be furnished by Landlord pursuant to the provisions of this Lease, although Landlord, in Landlord's absolute discretion, may choose to do so from time to time.

EXHIBIT D

RULES & REGULATIONS

1. Except as specifically provided for in this Lease, no sign, placard, picture, advertisement, name or notice will be inscribed, displayed or printed or affixed on or to any part of the outside or inside of the Building or the Premises without the written consent of Landlord first having been obtained.

2. Any directory of the Building provided by Landlord will be exclusively for the display of the name and location of tenants in the Building, and Landlord reserves the right to exclude any other names there from and may limit the number of listings per tenant. Tenant will pay Landlord's standard charge for Tenant's listing thereon and for any changes by Tenant.

3. Tenant will not place anything or allow anything to be placed near the glass of any window, door, partition or wall which may appear unsightly from outside the Premises. No awnings or other projections will be attached to the outside walls and roof of the Building without prior written consent of Landlord. No curtains, blinds, shades or screens will be attached to or hung in or used in connection with any window or door of the Premises without the prior consent of Landlord.

4. "Normal Business Hours" for Memorial Park will mean 7:00 a.m. to 6:00 p.m. Monday through Friday and 8:00 a.m. to 12:00 p.m. on Saturday except for the following holidays: New Year's Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving and Christmas.

5. The Premises will not be used for the manufacturing or storage of merchandise except as provided for in this Lease. The Premises will not be used for lodging or sleeping, or for any illegal purposes.

6. The sidewalks, halls, passages, exits, entrances, elevators and stairways will not be obstructed by any of the tenants or be used by them for any purpose other than for ingress to and egress from their respective leased premises. The halls, passages, exits, entrances, elevators, stairways, terraces and roof are not for the use of the general public, and Landlord will in all cases retain the right to control and prevent access thereto by all persons whose presence, in the judgment of Landlord, will be prejudicial to the safety, character, reputation and interest of the Building and its tenants, provided that nothing herein contained will be construed to prevent such access to persons with whom Tenant normally deals in the ordinary course of business, unless such persons are engaged in illegal activities. No tenant and no employee or invitee of any tenant will go upon the roof of the Building.

7. Except as expressly permitted in writing by Landlord, no additional locks or bolts of any kind will be placed upon any of the doors or windows by Tenant, nor will any changes be made to existing locks or the mechanisms thereof. Landlord will furnish two (2) keys for each lock it installs on the Premises without charge to Tenant. Landlord will make a reasonable charge for any additional keys requested by Tenant, and Tenant will not duplicate or obtain keys from any other source. Tenant will upon the termination of the Term of this Lease return to Landlord all keys so issued. Tenant will bear the cost for the replacing or changing of any lock or locks due to any keys issued to Tenant being lost.

8. The toilets and wash basins and other plumbing fixtures will not be used for any purpose other than those for which they were constructed, and no sweepings, rubbish, rags or foreign substances will be thrown therein.

9. No tenant will make or permit to be used any unseemly or disturbing noises, or disturb or interfere with occupants of this or neighboring buildings or leased premises, whether by the use of any musical instrument, radio, phonograph, unusual noise or in any other way. No Tenant will throw anything out of doors or down the passage ways.

10. Tenant will not use or keep in the Premises or the Project any kerosene, gasoline, or any inflammable, combustible or explosive fluid, chemical or substance or use any method of heating or air conditioning other than those supplied or approved by Landlord.

11. Tenant will see that the windows and doors of the Premises are closed and securely locked before leaving the Building. No tenant will permit or suffer any windows to be opened in the Premises while the air conditioning is in operation except at the direction of Landlord. Tenant must observe strict care and caution that all water faucets and other apparatus are entirely shut off before Tenant and Tenant's employees leave the Building, and that all electricity, gas or air conditioning will likewise be carefully shut off so as to prevent waste or damage; for any default or carelessness, Tenant will make good all injuries sustained by all other tenants or occupants or Landlord of the Building.

12. Landlord reserves the right to exclude or expel from the Project any person who, in the judgment of Landlord, is intoxicated or under the influence of liquor or drugs, or who will in any manner do any act in violation of any of the rules or regulations of the Project.

13. The requirements of Tenant will be attended to only upon application at the Building management office. Employees of Landlord will not perform any work or do anything outside of their regular duties unless under special instructions from Landlord.

14. No tenant will disturb, solicit, or canvass any occupant of the Project, nor will Tenant permit or cause others to do so, and Tenant will co-operate to prevent same by others.

15. Tenant will not permit in the Premises any cooking or the use of apparatus for the preparation of any food or beverages (except where Landlord has approved the installation of cooking facilities as part of Tenant's leasehold improvements), nor the use of any electrical apparatus likely to cause an overload of the electrical circuits.

16. Tenant's right to have heavy furnishings, equipment, and files in the Premises will be limited to items weighing less than the load-bearing limits of floors within the Premises as established by Landlord. Heavy items must be placed in locations approved in advance by Landlord. Upon written demand from Landlord, Tenant will promptly remove from the Premises any items which, in the judgment of Landlord, constitute a structural overload on floors within the Premises. If Landlord approves the presence of a heavy item for which reinforcement of the floor or other precautionary measures are necessary, Tenant will bear the entire cost of such reinforcement or other precautionary measures. If the services of a structural engineer are, in the judgment of Landlord, necessary to determine the location for and/or precautionary measures to be taken in connection with any heavy load, Landlord will engage such engineer, but the fees and expenses of such engineer will be paid by Tenant upon demand.

17. Tenant will not, without the prior written consent of Landlord, use the name or any photograph, drawing or other likeness of the Building for any purpose other than as the address of the business to be conducted by Tenant in the Premises, nor will Tenant do or permit anything to be done in connection with Tenant's business or advertising which, in the reasonable judgment of Landlord, might mislead the public as to any apparent connection or relationship between Landlord, the Building and Tenant.

18. Tenant, its invitees, and employees will be allowed to smoke only in those designated smoking areas outside the building.

EXHIBIT E

CERTIFICATE OF ACCEPTANCES OF PREMISES

Re: Service Center Lease Agreement for space in 8560 Katy Freeway, Suite 200, Houston, TX 77024 executed on the ___ day of _____, 2020 between TEN-VOSS, LTD a Texas limited partnership, as "Landlord", and MedScan Laboratories Inc. (Tenant) and _____ (Guarantor).

Landlord and Tenant hereby agree that:

1. Except for those items shown on the attached "punch list" which Landlord will use Landlord's best efforts to remedy within thirty (30) days from the date of this Certificate, Landlord has fully completed the construction work required under the terms of the Lease and the Work Letter.

2. The Premises are tenantable, Landlord has no further obligation for construction (except as specified above), and Tenant acknowledges that both the Building and the Premises are satisfactory in all respects.

3. The Commencement Date of the Lease is the 1st day of September 2023

4. The Expiration Date of the Lease is be the last day November 2020

All other terms and conditions of the Lease are hereby ratified and acknowledged to be unchanged.

EXECUTED this ___ day of _____, 2020

TENANT:	**LANDLORD:**
MEDSCAN LABORATORIES INC.	TEN-VOSS, LTD
By: _____	By: _____

RIDER I

WORK LETTER TO LEASE AGREEMENT
BETWEEN TEN-VOSS, LTD.
and

MEDSCAN LABORATORIES, INC.

Landlord is not required to perform any construction or repair or remodeling at the Leased Premises.

B. Tenant, at Tenant's sole cost and expense, shall construct any improvements within the Premises ("Tenants Work") desired by Tenant substantially in accordance with the plans and specifications to be prepared by Tenant and approved by Landlord as hereinafter provided. Tenant shall furnish preliminary plans to Landlord within twenty (10) days from the date of execution of the Lease by Landlord. Landlord shall have fifteen (5) days from the receipt of such preliminary plans within which to submit to Tenant a request for any changes Landlord desires in such preliminary plans. Landlord may request a change in such preliminary plans based on any reason in Landlord's sole discretion. Tenant shall have 5 days from the date of Landlord's request within which to amend the plans and specifications in accordance with the modifications so requested by Landlord. If Landlord and Tenant, after exercising good faith efforts to agree, shall fail to agree upon a mutually acceptable set of proposed plans and specifications within 30 days from the Effective Date, then either party shall have the right to terminate this Lease by providing written notice to the other party prior to (i) agreement by both parties upon a mutually acceptable set of plans or (ii) the expiration of five days after the end of such 30-day period. When Landlord and Tenant have mutually agreed upon final plans and specifications for construction of Tenant's improvements, said plans and specifications (the "Plans") shall be signed or initialed by both Landlord and Tenant and dated, and incorporated herein by reference but need not be attached to this Lease. All plans and specifications to be provided hereunder shall be at the sole cost and expense of Tenant.

C. Tenant shall commence Tenant's Work within ten (10) days after receiving a building permit (if required) and shall cause Tenant's Work to be completed in accordance with the Plans within 60 days after commencement of Tenant's Work. If the Tenant, for any reason, fails to complete construction as provided above (subject to Force Majeure delays), then Landlord, in addition to all other rights and remedies herein provided, shall have the right to terminate the Lease by giving written notice to Tenant of such termination. Upon termination of the Lease pursuant to the terms of this Exhibit (i) Tenant shall immediately vacate and relinquish possession of the Premises to Landlord, (ii) all obligations of the parties to this Lease shall cease except as may be specifically provided to the contrary in the Lease or in this Exhibit , and (iii) Tenant's right to the Construction Allowance provided under Paragraph I hereof shall terminate and Tenant shall have no further right or claim against Landlord on account of improvements, if any, constructed by Tenant at the Premises, and because of the difficulty and uncertainty of determining the damages Landlord will sustain as a result of delay and expenses incurred by Landlord, Landlord shall have the right to receive all out of pocket expenses Landlord may have incurred including, without limitation, Landlord's reasonable attorney's fees.

D. With respect to any labor performed or materials furnished by Tenant at the Premises, the following shall apply: All such labor shall be performed and materials furnished at Tenant's own cost, expense, and risk. Labor and materials used in the installation of Tenant's equipment, fixtures, and furnishings, and in any other work at the premises performed by Tenant, will be subject to Landlord's prior written approval. With respect to any contract for labor or materials, Tenant shall act as principal and not as an agent of Landlord. Tenant agrees to indemnify and hold Landlord harmless from all liabilities, suits, causes of action, costs, fees (including, without limitation, reasonable attorney's fees), damages and claims (including all costs and expenses of defending against such claims) of any kind arising or alleged to arise from the negligence or willful misconduct of Tenant or of Tenant's agents, employees, contractors, subcontractors, laborers, material-men or invitees or arising from any bodily injury or property damage occurring or alleged to have occurred incident to Tenant's Work. All of Tenant's construction at the Premises shall be performed in a good and workmanlike manner satisfactory to Landlord's architect and/or construction manager and in accordance with all applicable building codes, regulations and all other legal requirements.

E. Tenant shall not allow the Premises to suffer any lien to be filed against it. With respect to any contract for labor or materials, Tenant acts as principal and not as the agent of Landlord. Tenant shall, at the request of Landlord, cause its general contractor to furnish a payment and performance bond in a form and with a company acceptable to Landlord securing the faithful performance of the work to be performed by Tenant. Landlord expressly disclaims liability for the cost of labor performed or materials furnished at the request, or for the benefit, of Tenant. If, because of any actual or alleged act or omission of Tenant, any lien, affidavit, charge or order for the payment of money shall be filed against Landlord, the Center, the Premises, or any portion thereof or interest therein, whether or not same is valid or enforceable, Tenant shall, at its own expense, cause same to be discharged of record by payment, bonding or otherwise, at the option of Landlord, no later than 15 days after notice to Tenant of the filing thereof; and in the event Tenant fails to discharge same within such time, Landlord may, but shall not be obligated to, discharge same and Tenant shall pay to Landlord all amounts required to discharge same within ten (10) days after receipt of Landlord's statement of such amounts. The provisions of this paragraph shall survive the termination or expiration of the Lease.

F. Tenant shall indemnify and hold harmless Landlord from any claim by any party (which shall include reasonable attorney's fees and court costs) arising out of any construction and remodeling work provided at the request, or for the benefit, of Tenant. The provisions of this paragraph shall survive the termination or expiration of the Lease.

G. No work is to be done at the Premises that will diminish the structural integrity of the improvements located thereon.

H. Tenant shall be in default under the Lease if Tenant fails to comply with any or all of the provisions of this Paragraph H.

1. Prior to starting construction, Tenant shall submit Tenant's plans and specifications to Landlord and shall receive Landlords written approval, in accordance with the terms of this Exhibit.

2. Prior to starting construction, Tenant's general contractor shall submit evidence satisfactory to Landlord of contractor's insurance as required by Landlord.

3. Prior to starting construction, Tenant shall submit a copy of all required building permits to Landlord.

4. Tenant shall execute Landlord's standard form of acceptance of Premises letter.

5. Tenant shall complete all work in accordance with the Plans.

6. Tenant shall furnish Landlord with copies of the occupancy certificate for the Premises.

7. Tenant shall furnish Landlord with lien releases in form reasonably satisfactory to Landlord from all contractors and subcontractors.

8. Tenant shall not be in default under this Lease.

9. Tenant shall cooperate with Landlord and Landlord's lender's right to inspect and approve the Tenant's Work.

10. Tenant shall submit a Tenant draw request for the Allowance, in form reasonably satisfactory to Landlord.

11. If Landlord elects to conduct such an inspection, the Premises shall have passed inspection by an inspector hired by Landlord for such purposes to confirm compliance by Tenant with Tenant's plans and specifications and final completion of Tenant's Work. The reasonable cost of such inspector shall be paid by Tenant to Landlord on demand or, at Landlord's election, may be charged by Landlord against the Construction Allowance.

I Tenant shall complete Tenant's Work in accordance with the terms of the Lease and this Exhibit and shall be solely responsible for and shall pay any and all of such costs promptly as it becomes due.

RIDER II

RENEWAL OPTION

Provided that Tenant is not in default under this Lease beyond all applicable notice and cure periods, Tenant shall have the right to renew all of the Lease, including or excluding expansion space leased by Tenant, and extend this lease for the terms and annual basic rental as set forth below, along with any additional rentals, by providing written notice to Landlord no later than one hundred and eighty days (180) days prior to the termination date of this Lease or extension thereof. In the event of such renewal, the "Term" shall include such renewal term and such renewal shall be upon the same provisions as for the initial Term except that:

1. Landlord shall not be obligated to make any alterations or improvements to the Leased Premises, unless otherwise negotiated.

2. Tenant shall have no further right to renew this Lease except as set forth herein or subsequently agreed to in writing by Landlord.

3. In the event Landlord has not received written notice of Tenant's intention and desire to exercise the Option to lease the Premises for the Extended Term one hundred and eighty days (180) days prior to the Termination Date, such Option shall expire and the Lease shall terminate at the end of the Initial Term.

OPTION: One (1) Three-Year Term

BASE RENTAL:

- Tenant shall pay base rental and additional rental to Landlord in monthly installments in an amount equal to the Prevailing Market Rate for comparable space in the Project and comparable Buildings in the Flex/Warehouse/Office Market of Houston, Texas as of the commencement of the renewal term, as such Rental shall be reasonably determined by Landlord after Landlord receives Tenant's renewal notice. The "Prevailing Market Rate" shall mean the annual amount per rentable square foot that Landlord and comparable landlords of comparable buildings have accepted for space of comparable size and quality as the Premises taking into account the age, quality and layout of the existing improvements in the leased area at issue and taking into account items that professional real estate brokers customarily consider, including, but not limited to, rental rates, office space availability, credit of the tenant, tenant size, operating expenses and allowances, and the presence or absence of lease concessions.

Such renewal shall include all of the Premises, as well as any other space within the Building then being leased by Tenant as of the date of exercise of the Renewal Option unless Tenant elects to only rent one of the units. The renewal of this Lease will be upon the same terms, covenants, and conditions applicable during the Lease Term as provided in the Lease, except that (a) the Base Rental payable during the Renewal Term shall be an amount equal to the amount specified above, (b) the defined term "Lease Term" shall be deemed to include the "Renewal Term," (c) no concessions applicable during the initial Lease Term (such as construction allowances, moving allowances or free rent) shall be applicable during the Renewal Term unless

negotiated otherwise, and (d) Tenant shall possess no further renewal options unless otherwise negotiated.

Within thirty (30) days after receipt of Tenant's renewal notice, Landlord shall deliver its determination of the Prevailing Market Rate for the Renewal Term. Within thirty (30) days after receipt of the Prevailing Market Rate, Tenant shall notify Landlord that Tenant either (a) accepts Landlord's renewal terms, in which event the parties shall promptly enter into an amendment to this Lease incorporating such terms, or (b) rejects Landlord's renewal terms and does not elect to renew which does not require any action on Tenant's behalf or (c) rejects Landlord's renewal terms, but Tenant requests that Landlord and Tenant will negotiate in good faith for an additional thirty (30) days ("Negotiation Period").

If, notwithstanding the exercise of such good faith efforts, Landlord and Tenant have not agreed in writing upon the renewal terms during the Negotiation Period ("Determination Period"), Tenant shall deliver written notice to Landlord within ten (10) days after the expiration of the Determination Period, notifying Landlord whether Tenant (i) withdraws its election to exercise the Option in which case Tenant may extend the term of the Lease for a period of up to sixty (60) days on the same terms and conditions applicable as of the date the term otherwise would have expired, in order to give Tenant time to find new space and Landlord time to find a new tenant; or (ii) accepts Landlord's determination of the renewal terms. Tenant's failure to provide such notice shall be deemed Tenant's election to withdraw its exercise of the option and to extend the Lease for a period of sixty (60) days.

RIDER III

LIMITED GUARANTY OF LEASE

This Guaranty of Lease made as of the 16 day of June 2020 by Jesse James Howard */s/ JH* ("Guarantor").

In consideration of, and as inducement for, the lease by TEN-VOSS, LTD. ("Lessor") to MedScan Laboratories Inc., ("Lessee"), of certain premises located at 8560 Katy Freeway, Suite 200, Houston, TX, such lease commencing on or about the 1st day September 2020 (the "Lease") and in further consideration of the sum of One ($1.00) Dollar and other good and valuable consideration, Guarantor hereby guarantees to Lessor, its successors and assigns, full performance and observance of all the covenants, terms, conditions and agreements therein provided to be performed, made and observed by lessee, its successors and assigns, in the performance, making or observance of any of the terms, covenants, provisions or conditions contained in the Lease. Guarantor will, upon written notice and opportunity to cure within ten (10) business days of notice as hereinafter defined, forthwith faithfully perform and fulfill all of such terms, covenants, conditions and provisions, and shall pay all reasonable attorney fees thereinafter incurred by Lessor in the enforcement of this Guaranty and/or of the terms of the Lease in consequence of any default by Lessee, its successors and assigns.

This Guaranty is an absolute and unconditional guaranty of payment and of performance of the Lease. It shall be enforceable against Guarantor, their heirs, executors and administrators, or its successors and assigns, without the necessity for any suit or proceedings on the Lessor's part of any kind or nature whatsoever against lessee, its successor and assigns and without the necessity of any notice of non-payment, non-performance or non-observance or any notice of acceptance of the Guaranty or any other notice or demand to which Guarantor might otherwise be entitled, all of which Guarantor hereby expressly waives; and Guarantor hereby expressly agrees that the validity of this Guaranty and the obligations of Guarantor hereunder shall in no way be terminated, affected or impaired by reason of the assertion or the failure to assert by Lessor against Lessee, or the Lessee's successors and assigns.

This Guaranty shall be a continuing guaranty, and the liability of Guarantor hereunder shall in no way be affected, modified or diminished by reason of any assignment, renewal, modification or extension of the Lease or by reason of any modification or waiver of or change in any of the terms, covenants, conditions or provisions of the Lease, or by reason of any dealings or transactions or matter or things occurring between Lessor and Lessee, its successors or assigns, whether or not notice thereof is given to Guarantor. Any notice required or permitted hereunder shall be effective on the third business day following the day upon which the same shall be deposited into the U.S. Mail, postage prepaid, return receipt requested, addressed to the party to whom the same is intended at the address set forth below, which address may be changed by written notice delivered in the same manner.

Notwithstanding anything contained herein to the contrary, it is understood and agreed that the Guaranty of Lease shall be in effect only during the first thirty-nine (39) months of the Lease

Term (starting on the date rent commences) and will be null and void and of no further force and effect thereafter.

If addressed to Guarantor(s):

BY: */s/ Jesse Howard*

NAME: Jesse Howard

Exhibit 10.36

COM*M*ERCIAL LEASE ADDENDU*M* #1

This is addendum to the Commercial Lease Agreement signed on February 1, 2018 by **E & E Plaza L**LC ("Lessor") and Ful**gent Therapeutics LLC** ("Lessee"). This document modifies the Commercial Lease Agreement as described below.

1. The Lessor agrees to extend this lease for Two (2) Years, starting on February 1, 2021 and expiring on January 31, 2023.

2. For this two year extension, the Monthly rent shall be adjusted from $22,375.75 to $23,585.00 per month.

3. Lessee remains to be the only occupant of this building. The Lessor will only be responsible for the Property Taxes, Building Insurance, and the Roof of this building. The Lessee is responsible for all of the utilities, upkeep, and maintenance of this building, starting on February 1, 2021.

4. All other terms of the existing lease will remain in full affect.

Lessee: Fulgent Therapeutics, LLC

By: /s/ Jian Xie

Lessee: COO

Lessor: E & E Plaza LLC

By: /s/ Marlene Xu

Title: MG

Exhibit 10.37

EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT (the "Agreement"), dated March 8, 2021, is by and among Fulgent Therapeutics LLC, a California limited liability company (the "Company"), Fulgent Genetics, Inc., a Delaware corporation ("HoldCo") and Jian Xie ("Executive").

1. POSITION AND RESPONSIBILITIES

(a) Position. Executive is employed by the Company to render services to the Company in the position of Chief Operating Officer and HoldCo in the position of Chief Operating Officer. Executive shall perform such duties and responsibilities as are normally related to such positions in accordance with the standards of the industry and any additional duties now or hereafter assigned to Executive by the Company or HoldCo, as applicable. Executive shall abide by the rules, regulations, policies, procedures and practices as adopted or modified from time to time in the Company's or HoldCo's, as applicable, sole discretion.

(b) Other Activities. Except upon the prior written consent of the Company and HoldCo, Executive will not, during the term of this Agreement, (i) accept any other employment, or (ii) engage, directly or indirectly, in any other business activity (whether or not pursued for pecuniary advantage) that might interfere with Executive's duties and responsibilities hereunder or create a conflict of interest with the Company or HoldCo.

(c) No Conflict. Executive represents and warrants that Executive's execution of this Agreement, Executive's employment with the Company and HoldCo, and the performance of Executive's proposed duties under this Agreement shall not violate any obligations Executive may have to any other employer, person or entity, including any obligations with respect to proprietary or confidential information of any other person or entity.

2. COMPENSATION AND BENEFITS

(a) Base Salary. In consideration of the services to be rendered under this Agreement, the Company shall pay Executive a salary at the rate of Three Hundred Thousand Dollars ($300,000) per year ("Base Salary"). The Base Salary shall be paid in accordance with the Company's regularly established payroll practice. Executive's Base Salary will be reviewed from time to time in accordance with the established procedures of the Company for adjusting salaries for similarly-situated employees and may be adjusted in the sole discretion of the Company.

(b) Benefits. Executive shall be eligible to participate in the benefits made generally available by the Company to similarly-situated employees, in accordance with the benefit plans established by the Company, and as may be amended from time to time in the Company's sole discretion.

(c) Bonus and Equity Compensation. Executive may be eligible for an annual cash bonus or equity compensation. Any such bonus or equity compensation, including applicable terms and conditions, shall be determined by the Board of Directors or the Compensation Committee of HoldCo in its sole discretion, as applicable. Executive must remain employed by the Company or HoldCo, as applicable, for the full fiscal year in order to be eligible for a bonus for that fiscal year.

(d) Expenses. The Company or HoldCo, as applicable, shall reimburse Executive for reasonable business expenses incurred in the performance of Executive's duties hereunder in accordance with the Company's or HoldCo's, as applicable, expense reimbursement guidelines.

3. AT-WILL EMPLOYMENT

(a) At-Will Termination by Company and HoldCo. Executive's employment with the Company and HoldCo shall be "at-will" at all times. The Company or HoldCo may terminate Executive's employment with the Company or HoldCo, as applicable, at any time, without any advance notice, for any reason or no reason at all, notwithstanding anything to the contrary contained in or arising from any statements, policies, procedures or practices of the Company or HoldCo, as applicable, relating to the employment, discipline or termination of its

employees. Upon and after such termination, all obligations of the Company or HoldCo, as applicable, under this Agreement shall cease, except as otherwise provided herein.

(b) At-Will Termination by Executive. Executive may terminate employment with the Company and HoldCo at any time for any reason or no reason at all, upon written notice. Thereafter all obligations of the Company shall cease.

(c) Payment. Upon termination of Executive's employment, the Company shall pay to Executive all compensation to which Executive is entitled up through the date of termination, subject to any other rights or remedies of the Company or HoldCo, as applicable, under law; and thereafter all of the obligations of the Company or HoldCo, as applicable, under this Agreement shall cease.

4. TERMINATION OBLIGATIONS

(a) Return of Property. Executive agrees that all property (including without limitation all equipment, tangible proprietary information, documents, records, notes, contracts and computer-generated materials) furnished to or created or prepared by Executive incident to Executive's employment belongs to the Company or HoldCo, as applicable, and shall be promptly returned to the Company or HoldCo, as applicable, upon termination of Executive's employment.

(b) Resignation and Cooperation. Unless otherwise agreed in writing, upon termination of Executive's employment, Executive shall be deemed to have resigned from all offices and directorships then held with the Company or HoldCo, as applicable. Following any termination of employment, Executive shall cooperate with the Company or HoldCo, as applicable, in the winding up of pending work on behalf of the Company or HoldCo, as applicable, and the orderly transfer of work to other employees. Executive shall also cooperate with the Company or HoldCo, as applicable, in the defense of any action brought by any third party against the Company or HoldCo, as applicable, that relates to Executive's employment by the Company or HoldCo, as applicable.

(c) Continuing Obligations. Executive understands and agrees that Executive's obligations under Sections 4 and 5 (including the Proprietary Information Agreement (as defined below)) shall survive the termination of Executive's employment for any reason and the termination of this Agreement.

5. INVENTIONS AND PROPRIETARY INFORMATION; PROHIBITION ON THIRD PARTY INFORMATION

(a) Proprietary Information Agreement. Prior to the date hereof, Executive has signed the Company's Proprietary Information and Invention Assignment Agreement ("Proprietary Information Agreement") and delivered such signed Proprietary Information Agreement to the Company.

(b) Non-Disclosure of Third Party Information. Executive represents and warrants and covenants that Executive shall not disclose to the Company or HoldCo, as applicable, or use, or induce the Company or HoldCo, as applicable, to use, any proprietary information or trade secrets of others at any time, including but not limited to any proprietary information or trade secrets of any former employer, if any; and Executive acknowledges and agrees that any violation of this provision shall be grounds for Executive's immediate termination and could subject Executive to substantial civil liabilities and criminal penalties. Executive further specifically and expressly acknowledges that no officer or other employee or representative of the Company or HoldCo has requested or instructed Executive to disclose or use any such third party proprietary information or trade secrets.

6. AMENDMENTS; WAIVERS; REMEDIES

This Agreement may not be amended or waived except by a writing signed by Executive and by a duly authorized representative of the Company and HoldCo other than Executive. Failure to exercise any right under this Agreement shall not constitute a waiver of such right. Any waiver of any breach of this Agreement shall not operate as a waiver of any subsequent breaches. All rights or remedies specified for a party herein shall be cumulative and in addition to all other rights and remedies of the party hereunder or under applicable law.

7. ASSIGNMENT; BINDING EFFECT

(a) Assignment. The performance of Executive is personal hereunder, and Executive agrees that Executive shall have no right to assign and shall not assign or purport to assign any rights or obligations under this Agreement. This Agreement may be assigned or transferred by the Company or HoldCo, as applicable; and nothing in this Agreement shall prevent the consolidation, merger or sale of the Company or HoldCo, as applicable, or a sale of any or all or substantially all of its or their assets.

(b) Binding Effect. Subject to the foregoing restriction on assignment by Executive, this Agreement shall inure to the benefit of and be binding upon each of the parties; the affiliates, officers, directors, agents, successors and assigns of the Company and HoldCo; and the heirs, devisees, spouses, legal representatives and successors of Executive.

8. SEVERABILITY

If any provision of this Agreement shall be held by a court or arbitrator to be invalid, unenforceable, or void, such provision shall be enforced to the fullest extent permitted by law, and the remainder of this Agreement shall remain in full force and effect.

9. TAXES

All amounts paid under this Agreement (including, without limitation, Base Salary) shall be paid less all applicable state and federal tax withholdings and any other withholdings required by any applicable jurisdiction or authorized by Executive. Notwithstanding any other provision of this Agreement whatsoever, the Company or HoldCo, as applicable, in its sole discretion, shall have the right to provide for the application and effects of Section 409A of the Internal Revenue Code of 1986, as amended (the "Code") (relating to deferred compensation arrangements), and any related administrative guidance issued by the Internal Revenue Service. The Company or HoldCo, as applicable, shall have the authority to delay the payment of any amounts under this Agreement to the extent it deems necessary or appropriate to comply with Section 409A(a)(2)(B)(i) of the Code (relating to payments made to certain "key employees" of publicly-traded companies); in such event, the payment(s) at issue may not be made before the date which is six (6) months after the date of Executive's separation from service, or, if earlier, the date of death.

10. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of California.

11. INTERPRETATION

This Agreement shall be construed as a whole, according to its fair meaning, and not in favor of or against any party. Sections and section headings contained in this Agreement are for reference purposes only, and shall not affect in any manner the meaning or interpretation of this Agreement. Whenever the context requires, references to the singular shall include the plural and the plural the singular.

12. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original of this Agreement, but all of which together shall constitute one and the same instrument.

13. AUTHORITY

Each party represents and warrants that such party has the right, power and authority to enter into and execute this Agreement and to perform and discharge all of the obligations hereunder; and that this Agreement constitutes the valid and legally binding agreement and obligation of such party and is enforceable in accordance with its terms.

14. ENTIRE AGREEMENT

This Agreement is intended to be the final, complete, and exclusive statement of the terms of Executive's employment by the Company or HoldCo, as applicable, and may not be contradicted by evidence of any prior or contemporaneous statements or agreements, except for agreements specifically referenced herein (including the Proprietary Information Agreement). To the extent that the practices, policies or procedures of the Company or HoldCo, as applicable, now or in the future, apply to Executive and are inconsistent with the terms of this Agreement, the provisions of this Agreement shall control. Any subsequent change in Executive's duties, position, or compensation will not affect the validity or scope of this Agreement.

15. EXECUTIVE ACKNOWLEDGEMENT

EXECUTIVE ACKNOWLEDGES EXECUTIVE HAS HAD THE OPPORTUNITY TO CONSULT LEGAL COUNSEL CONCERNING THIS AGREEMENT, THAT EXECUTIVE HAS READ AND UNDERSTANDS THE AGREEMENT, THAT EXECUTIVE IS FULLY AWARE OF ITS LEGAL EFFECT, AND THAT EXECUTIVE HAS ENTERED INTO IT FREELY BASED ON EXECUTIVE'S OWN JUDGMENT AND NOT ON ANY REPRESENTATIONS OR PROMISES OTHER THAN THOSE CONTAINED IN THIS AGREEMENT.

(*Signature Page Follows*)

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first written above.

FULGENT THERAPEUTICS LLC:

By: */s/ Ming Hsieh*

Name: Ming Hsieh

Title: Manager

JIAN XIE:

/s/ Jian Xie

FULGENT GENETICS, INC.:

By: */s/ Ming Hsieh*

Name: Ming Hsieh

Title: President

Exhibit 10.38

SEVERANCE AGREEMENT

This SEVERANCE AGREEMENT (the "Agreement"), dated March 8, 2021, is by and among Fulgent Therapeutics LLC, a California limited liability company (the "Company"), Fulgent Genetics, Inc., a Delaware corporation ("HoldCo") and Jian Xie ("Executive").

WHEREAS, Executive is employed by the Company to render services to the Company in the position of Chief Operating Officer and HoldCo in the position of Chief Operating Officer; and

WHEREAS, the Company, HoldCo and Executive desire to provide for certain rights of Executive with respect to severance payments due to Executive in the event of a termination of employment following a Change in Control (as defined below).

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements set forth in this Agreement, the sufficiency of which the parties acknowledge, it is agreed as follows:

1. DEFINED TERMS

Defined terms, when used in this Agreement, shall have the meaning ascribed thereto in this Section 1 or elsewhere in this Agreement.

(a) "Base Salary" means Executive's annualized base salary, determined based on the rate of pay in effect during the last regularly scheduled payroll period immediately preceding the Change in Control. Base Salary does not include any bonuses, commissions, fringe benefits, overtime, car allowances, other irregular payments or any other compensation except base salary.

(b) "Board" means the Board of Directors of HoldCo.

(c) "Change in Control" means (i) any Person (other than the Company or HoldCo, any trustee or other fiduciary holding securities under any employee benefit plan of the Company or HoldCo, or any company owned, directly or indirectly, by the beneficial owners of voting securities the Company or HoldCo in substantially the same proportions as their ownership of voting securities of the Company or HoldCo), becoming the beneficial owner (as defined in Rule 13(d)(3) under the Exchange Act), directly or indirectly, of securities of the Company or Holdco representing more than fifty percent (50%) of the combined voting power of the Company's or Holdco's then outstanding securities, (ii) during any twelve (12) month period, individuals who, as of the effective date of HoldCo's initial public offering pursuant to a registration statement under the Securities Act, constitute the Board (the "Incumbent Board") cease for any reason to constitute at least a majority of the Board; *provided*, *however*, that any individual becoming a director subsequent to such initial public offering whose election, or nomination for election by HoldCo's shareholders, was approved by a vote of at least two-thirds of the directors then comprising the Incumbent Board shall be considered as though such individual were a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the Board, (iii) a merger or consolidation of the Company or HoldCo with any other entity, other than a merger or consolidation which would result in the voting securities of such entity outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) more than 50% of the combined voting power of the voting securities of the Company or HoldCo (as applicable) or such surviving entity outstanding immediately after such merger or consolidation; *provided*, *however*, that a merger or consolidation effected to implement a recapitalization of the Company or HoldCo (or similar transaction) in which no Person (other than those covered by the exceptions in subsection (i) above) acquires more than fifty percent (50%) of the combined voting power of the Company's or HoldCo's (as applicable) then outstanding securities shall not constitute a Change in Control for purposes of this Agreement, or (iv) a complete liquidation or dissolution of the Company or HoldCo or the consummation of a sale or disposition by the Company or HoldCo of all or substantially all of its assets, other than the sale or disposition of all or substantially all of such assets to a Person or Persons who beneficially own, directly or indirectly, 50% or more of the combined voting power of the outstanding voting securities of the Company or HoldCo at the time of the sale; *provided*, *further*, that notwithstanding the foregoing, to the extent

required to avoid payments under this Agreement being subject to any accelerated or additional tax under Section 409A of the Code, a Change in Control shall not be deemed to have occurred under this Agreement unless the transaction or event constituting would also constitute a "change in control event" (as defined in Treasury Regulation §1.409A-3(i)(5)).

(d) "Code" means the Internal Revenue Code of 1986, as amended.

(e) "Exchange Act" means the Securities Exchange Act of 1934, as amended.

(f) "Person" means an individual, entity group or group (within the meaning of Sections 13(d)(3) or 14(d)(2) of the Exchange Act).

(g) "Securities Act" means the Securities Act of 1933, as amended.

2. SEVERANCE

(a) If Executive's employment is terminated by the Company, HoldCo or Executive for any reason at any time during the period commencing on the date of the Change in Control and ending on the one (1)-year anniversary thereof, Executive shall be entitled to receive an amount equal to one (1) year of Executive's Base Salary, payable in accordance with the Company's regular payroll practices (collectively, the "Severance"); *provided, however*, that Executive's right to receive the Severance shall be subject to (i) execution and delivery by Executive of a release agreement in substantially the form attached as Exhibit A, and (ii) such release agreement becoming irrevocable not later than sixty (60) days after Executive's employment terminates. If the foregoing conditions are satisfied, the Severance payments will commence (subject to any required delay pursuant to Section 6), within ninety (90) days following the termination date, on the first payroll date following the date the release agreement becomes irrevocable (with the first payment including any installments that otherwise would have been paid between the date of termination and the date of such first installment); *provided, however,* that if the ninety (90) day period described above spans calendar years, the Severance will commence in the second calendar year.

3. AMENDMENTS; WAIVERS; REMEDIES

This Agreement may not be amended or waived except by a writing signed by Executive and a duly authorized representative of each of the Company and HoldCo other than Executive. Failure to exercise any right under this Agreement shall not constitute a waiver of such right. Any waiver of any breach of this Agreement shall not operate as a waiver of any subsequent breaches. All rights or remedies specified for a party herein shall be cumulative and in addition to all other rights and remedies of the party hereunder or under applicable law.

4. ASSIGNMENT; BINDING EFFECT

(a) **Assignment.** This Agreement may not be assigned or transferred, except with the prior written consent of each of the parties hereto.

(b) **Binding Effect.** Subject to the foregoing restriction on assignment, this Agreement shall inure to the benefit of and be binding upon each of the parties, the affiliates, officers, directors, agents, successors and assigns of the Company and HoldCo, and the heirs, devisees, spouses, legal representatives and successors of Executive.

5. SEVERABILITY

If any provision of this Agreement shall be held by a court or arbitrator to be invalid, unenforceable, or void, such provision shall be enforced to the fullest extent permitted by law, and the remainder of this Agreement shall remain in full force and effect.

6. TAXES

All amounts paid under this Agreement shall be paid less all applicable state and federal tax withholdings and any other withholdings required by any applicable jurisdiction or authorized by Executive. To the extent applicable, it is intended that this Agreement and any payment made hereunder will comply with the requirements of (or an exemption or exclusion from) Section 409A of the Code, and any related regulations or other guidance promulgated with respect to such section by the U.S. Department of the Treasury or the Internal Revenue Service ("Section 409A"), and any ambiguities in this Agreement will be interpreted accordingly. Any provision of this Agreement that would cause this Agreement to fail to satisfy Section 409A will have no force and effect until amended to comply therewith (which amendment may be retroactive to the extent permitted by Section 409A). Notwithstanding anything contained herein to the contrary, to the extent required in order to avoid accelerated taxation and/or tax penalties under Section 409A, Executive will not be considered to have terminated employment with the Company for purposes of this Agreement and no payments will be due to Executive under this Agreement which are payable upon Executive's termination of employment until Executive would be considered to have incurred a "separation from service" from the Company within the meaning of Section 409A. To the extent required in order to avoid accelerated taxation and/or tax penalties under Section 409A (as determined by the Company and Executive), amounts that would otherwise be payable and benefits that would otherwise be provided pursuant to this Agreement during the six (6)-month period immediately following Executive's termination of employment shall instead be paid on the first business day after the date that is six (6) months following Executive's termination of employment (or upon Executive's death, if earlier). Payments of Severance pursuant to this Agreement are intended to constitute a series of separate payments for purposes of Treasury Regulation §1.409A-2(b)(2)(iii). The Company and HoldCo shall consult with Executive in good faith regarding the implementation of the provisions of this Section 6. Notwithstanding anything herein to the contrary, none of the Company, HoldCo their respective affiliates, or their respective employees, members, managers, agents or representatives shall have any liability to Executive with respect to any taxes, penalties, interest or other costs or expenses Executive or any related party may incur under Code Section 409A or for damages for failing to comply with Code Section 409A.

7. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of California.

8. INTERPRETATION

This Agreement shall be construed as a whole, according to its fair meaning, and not in favor of or against any party. Sections and section headings contained in this Agreement are for reference purposes only, and shall not affect in any manner the meaning or interpretation of this Agreement. Whenever the context requires, references to the singular shall include the plural and the plural the singular.

9. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original of this Agreement, but all of which together shall constitute one and the same instrument.

10. AUTHORITY

Each party represents and warrants that such party has the right, power and authority to enter into and execute this Agreement and to perform and discharge all of the obligations hereunder; and that this Agreement constitutes the valid and legally binding agreement and obligation of such party and is enforceable in accordance with its terms.

11. ENTIRE AGREEMENT

This Agreement is intended to be the final, complete, and exclusive statement of the terms of Executive's severance rights from the Company and HoldCo and may not be contradicted by evidence of any prior or contemporaneous statements or agreements, except for agreements specifically referenced herein. Any Severance paid or payable under this Agreement shall be in lieu of (and not in addition to) any other severance to which Executive may otherwise be entitled. To the extent that any plans, practices, policies, agreements or arrangements of the Company, HoldCo or their respective affiliates, as applicable, now or in the future, apply to Executive and are inconsistent with the terms of this Agreement, the provisions of this Agreement shall control. Any subsequent change in Executive's duties, position, or compensation will not affect the validity or scope of this Agreement.

12. EXECUTIVE ACKNOWLEDGEMENT

EXECUTIVE ACKNOWLEDGES EXECUTIVE HAS HAD THE OPPORTUNITY TO CONSULT LEGAL COUNSEL CONCERNING THIS AGREEMENT, THAT EXECUTIVE HAS READ AND UNDERSTANDS THE AGREEMENT, THAT EXECUTIVE IS FULLY AWARE OF ITS LEGAL EFFECT, AND THAT EXECUTIVE HAS ENTERED INTO IT FREELY BASED ON EXECUTIVE'S OWN JUDGMENT AND NOT ON ANY REPRESENTATIONS OR PROMISES OTHER THAN THOSE CONTAINED IN THIS AGREEMENT.

(*Signature Page Follows*)

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first written above.

FULGENT THERAPEUTICS LLC:

By: */s/ Ming Hsieh*
Name: Ming Hsieh
Title: Manager

JIAN XIE:

/s/ Jian Xie

FULGENT GENETICS, INC.:

By: */s/ Ming Hsieh*
Name: Ming Hsieh
Title: Chief Executive Officer

EXHIBIT A

FORM OF RELEASE AGREEMENT

This RELEASE AGREEMENT (the "Release Agreement"), dated [●], 20[●], by and among Fulgent Therapeutics LLC, a California limited liability company (the "Company"), Fulgent Genetics, Inc., a Delaware corporation ("HoldCo") and Jian Xie ("Executive").

WHEREAS, the Company, HoldCo and Executive are parties to that certain Severance Agreement, dated March 8, 2021 (the "Severance Agreement"), pursuant to which Executive is eligible to receive severance benefits, contingent upon certain conditions set forth in the Severance Agreement. All capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Severance Agreement;

WHEREAS, the Company, HoldCo and Executive are parties to that certain Employment Agreement, dated March 8, 2021 ("Employment Agreement"); and

WHEREAS, one such condition set forth in the Severance Agreement to receiving the severance benefits is Executive's execution, delivery and non-revocation of this Release Agreement.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements set forth in this Release Agreement, the sufficiency of which the parties acknowledge, it is agreed as follows:

1. In exchange for the general release of claims and other agreements contained in this Release Agreement, Executive will receive the Severance as set forth in the Severance Agreement following Executive's execution and subsequent non-revocation of this Release Agreement during any applicable statutory revocation period.

2. Executive agrees not to disparage the Company or HoldCo, and its and their officers, directors, employees, shareholders, members and agents, in any manner likely to be harmful to them or their business, business reputation, or personal reputation.

3. In exchange for the separation benefits described above, Executive completely releases the Company and HoldCo, and each of its and their affiliated, related, parent or subsidiary entities, and each of its and their present and former officers, directors, employees, shareholders, members and agents (the "Released Parties") from any and all claims of any kind, known and unknown, which Executive may now have or have ever had against any of them. This release includes all claims arising from Executive's employment with the Company and/or HoldCo and its and their termination, including claims under the California Fair Employment and Housing Act, Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, as amended, or any other claims for violation of any federal, state, or municipal statutes, any and all claims in contract or tort or premised on any other legal theory and any and all claims for attorneys' fees and costs; *provided*, *however*, that nothing in this Release Agreement shall (a) waive any rights or claims of Executive that arise after this Release Agreement becomes effective, (b) impair or preclude Executive's right to take action to enforce the terms of this Release Agreement, (c) impair Executive's vested rights under any tax-qualified retirement plan maintained by the Company, HoldCo and its and their affiliates, or (d) impair Executive's rights to indemnification under any indemnification agreement(s) between Executive and the Company or HoldCo, as applicable, any rights to and claims for indemnification or as an insured under any directors and officers liability insurance policy in connection with Executive's service as an officer, employee or agent of the Company or HoldCo, as applicable, or any of its and their subsidiaries and affiliates, under their respective certificates of incorporation, by-laws or operating agreements, or otherwise as provided by law. Executive agrees not to file, cause to be filed, or otherwise pursue any claims released by this paragraph. Notwithstanding the foregoing, Executive acknowledges and understands that Executive is not waiving and is not being required to waive any right that cannot be waived by law, including the right to file a charge or participate in an administrative investigation or proceeding; *provided*, *however*, that Executive hereby disclaims and waives any right to share or participate in any monetary award resulting from the prosecution of such charge or investigation.

4. It is the Company's and Executive's intention that the foregoing release shall be construed in the broadest sense possible, and shall be effective as a prohibition to all claims, charges, actions, suits, demands, obligations,

damages, injuries, liabilities, losses, and causes of action of every character, nature, kind or description, known or unknown, and suspected or unsuspected that Executive may have against the Released Parties.

Executive expressly acknowledges that he is aware of the existence of California Civil Code § 1542 and its meaning and effect. Executive expressly acknowledges that he has read and understands the following provision of that section, which provides:

> **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HER OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR**.

Executive expressly waives and releases any right to benefits he may have under California Civil Code § 1542 to the fullest extent he may do so lawfully. Executive further acknowledges that he may later discover facts different from, or in addition to, those facts now known to him or believed by him to be true with respect to any or all of the matters covered by this Release Agreement, and he agrees this Release Agreement nevertheless shall remain in full and complete force and effect.

5. Executive acknowledges that the Severance as set forth in the Severance Agreement exceeds the amount to which Executive otherwise is entitled should Executive not execute, deliver and not revoke this Release Agreement, each within the applicable periods set forth in this Release Agreement. Executive understands and agrees that this Release Agreement shall be maintained in strict confidence, and that Executive shall not disclose any of its terms to another person, except legal counsel, unless required by law. [Executive further acknowledges that Executive has received the Disclosure under Title 29 U.S. Code Section 626(f)(1)(H) which is attached hereto as Exhibit 1.]

6. Executive agrees to return all Company and HoldCo materials in Executive's possession. Executive shall comply with Executive's continuing obligations under the Proprietary Information and Invention Assignment Agreement (the "Proprietary Information Agreement").

7. Executive acknowledges that Executive has [twenty-one (21)][forty-five (45)] days to consider this Release Agreement (but may sign it at any time beforehand if Executive so desires), and that Executive is advised to consult an attorney in doing so. Executive hereby acknowledges that Executive understands the significance of this Release Agreement, and represents that the terms of this Release Agreement are fully understood and voluntarily accepted by Executive. Executive also acknowledges that Executive can revoke this Release Agreement within seven (7) days of signing it by sending a letter to that effect at the following address:

Fulgent Genetics, Inc.
Board of Directors
4978 Santa Anita Ave.
Temple City, California 91780

Executive understands and agree that this Release Agreement shall not become effective nor enforceable until the seven (7) day revocation period has expired.

8. This Release Agreement and the Severance Agreement contain all of the parties' agreements and understandings with respect to the matters herein and fully supersede any prior agreements or understandings that the parties may have had regarding such matters, except for the Proprietary Information Agreement and the Employment Agreement. This Release Agreement shall be governed by California law and may be amended only in a written document signed by Executive and duly authorized representative of each of the Company and HoldCo, other than Executive. If any term in this Release Agreement is unenforceable, the remainder of the Release Agreement will remain enforceable.

9. If Executive wishes to accept the terms of this Release Agreement, please sign below and return a copy of this Release Agreement to the Company between the last day of employment and [●], 20[●].

(*Signature Page Follows*)

IN WITNESS WHEREOF, the parties have duly executed this Release Agreement as of the last date written below.

FULGENT THERAPEUTICS LLC:

By: _____
Name: _____
Title: _____

Date: _____

Jian Xie:

_____

Date _____

FULGENT Genetics, INC.:

By: _____
Name: _____
Title: _____

Date: _____

EXHIBIT 1

JOB TITLES AND AGES OF EMPLOYEES WHO WERE AND WERE NOT SELECTED FOR RIF:

Selected for RIF		Eligible but not selected for RIF	
Job Title	Age	Job Title	Age

107784665v.2

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in Registration Statement No. 333-239964 on Form S-3 and No. 333-248962 on Form S-8 of our report dated March 8, 2021, relating to the financial statements of Fulgent Genetics, Inc., appearing in this Annual Report on Form 10-K for the year ended December 31, 2020.

/s/ DELOITTE & TOUCHE LLP

Los Angeles, California
March 8, 2021

Exhibit 31.1

CERTIFICATION PURSUANT TO
RULES 13a-14(a) AND 15d-14(a) UNDER THE SECURITIES EXCHANGE ACT OF 1934,
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Ming Hsieh, certify that:

1. I have reviewed this Annual Report on Form 10-K for the fiscal year ended December 31, 2020 of Fulgent Genetics, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 8, 2021

By: /s/ Ming Hsieh
Ming Hsieh
President, Chief Executive Officer
(principal executive officer)

Exhibit 31.2

CERTIFICATION PURSUANT TO
RULES 13a-14(a) AND 15d-14(a) UNDER THE SECURITIES EXCHANGE ACT OF 1934,
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Paul Kim, certify that:

1. I have reviewed this Annual Report on Form 10-K for the fiscal year ended December 31, 2020 of Fulgent Genetics, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant 's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant 's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 8, 2021

By: /s/ Paul Kim
Paul Kim
Chief Financial Officer
(principal financial and accounting officer)

Exhibit 32.1

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report on Form 10-K for the fiscal year ended December 31, 2020 of Fulgent Genetics, Inc. (the "Company"), as filed with the Securities and Exchange Commission on the date hereof (the "Report"), each of the undersigned hereby certifies in his capacity as the specified officer of the Company, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that, to the best of his knowledge:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
(2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

Date: March 8, 2021

By: /s/ Ming Hsieh
Ming Hsieh
President, Chief Executive Officer
(principal executive officer)

Date: March 8, 2021

By: /s/ Paul Kim
Paul Kim
Chief Financial Officer
(principal financial and accounting officer)

This certification accompanies the Report to which it relates and shall not be deemed filed with the Securities and Exchange Commission or incorporated by reference into any filing of the Company under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended (whether made before or after the date of the Report), irrespective of any general incorporation language contained in such filing.