VIVEVE MEDICAL, INC.

FORM S-1/A
(Securities Registration Statement)

Filed 03/13/17

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BUILDING B, SUITE 250
ENCEWOOD, CO, 80112

Telephone 4085301900
CIK 0000879682
Symbol VIVE
SIC Code 3845 - Electromedical and Electrotherapeutic Apparatus
Industry Advanced Medical Equipment & Technology
Sector Healthcare
Fiscal Year 12/31
As filed with the Securities and Exchange Commission on March 13, 2017

Registration Statement No. 333-216187

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

Amendment No. 1 to
FORM S-1

REGISTRATION STATEMENT UNDER
THE SECURITIES ACT OF 1933

VIVEVE MEDICAL, INC.
(Exact name of Registrant as specified in its charter)

Delaware
(State or other jurisdiction of incorporation or organization)

3841
(Primary Standard Industrial Classification Code Number)

04-3153858
(I.R.S. Employer Identification No.)

150 Commercial Street
Sunnyvale, California 94086
Telephone: (408) 530-1900
(Address and telephone number of principal executive offices)

Scott Durbin
150 Commercial Street
Sunnyvale, California 94086
Telephone: (408) 530-1900
(Name, address and telephone number of agent for service)

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One Financial Center
Boston, MA 02111
(617) 542-6000
Approximate Date of Proposed Sale to the Public: As soon as practicable after the effective date of this registration statement.

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

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

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

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

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

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

(Do not check if a smaller reporting company)

CALCULATION OF REGISTRATION FEE

<table>
<thead>
<tr>
<th>Title of Each Class of Securities to be Registered</th>
<th>Amount to be Registered(1)</th>
<th>Proposed Maximum Aggregate Offering Price Per Share(2)</th>
<th>Proposed Maximum Aggregate Offering Price(2)</th>
<th>Amount of Registration Fee(3)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Common Stock, $0.0001 par value per share</td>
<td>6,995,133</td>
<td>$4.23</td>
<td>$29,589,412.59</td>
<td>$3,429.41</td>
</tr>
</tbody>
</table>

(1) Includes 912,408 additional shares of common stock that the underwriters have the option to purchase.

(2) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(c) under the Securities Act of 1933, as amended, based upon the average of the high and low sales prices of the registrant’s common stock as reported by The NASDAQ Capital Market on March 9, 2017.

(3) Previously paid.

The registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.
We are selling 6,082,725 shares of our common stock in this offering.

Our common stock is quoted on The Nasdaq Capital Market under the symbol "VIVE". On March 9, 2017, the last reported sale price of our common stock on The Nasdaq Capital Market was $4.11 per share.

Our business and investing in our common stock involves significant risks. These risks are described under the caption “Risk Factors” beginning on page 9 of this prospectus.

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

<table>
<thead>
<tr>
<th></th>
<th>Per Share</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public offering price</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Underwriting discounts</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Proceeds to us before expenses</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>

The underwriters may also purchase up to an additional 912,408 shares from us at the public offering price, less the underwriting discount, within 30 days from the date of this prospectus.

The underwriters expect to deliver the shares against payment in Boston, MA on , 2017.
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<td>F-1</td>
</tr>
</tbody>
</table>
We and the underwriters have not authorized anyone to provide any information other than that contained in this prospectus or in any free writing prospectus prepared by or on behalf of us or to which we have referred you. We take no responsibility for, and can provide no assurance as to the reliability of, any other information that others may give you. We and the underwriters are not making an offer to sell these securities in any jurisdiction where the offer or sale is not permitted. You should assume that the information appearing in this prospectus is accurate only as of the date on the front cover of this prospectus. Our business, financial condition, results of operations and prospects may have changed since that date.

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

The following summary highlights information contained elsewhere in this prospectus. This summary may not contain all of the information that may be important to you. You should read this entire prospectus carefully, including the sections titled “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our historical consolidated financial statements and related notes included elsewhere in this prospectus. In this prospectus, unless otherwise noted, the terms “Viveve”, “the Company,” “we,” “us,” and “our” refer to Viveve Medical, Inc. and its wholly-owned subsidiary, Viveve, Inc.

The Company

Viveve designs, develops, manufactures and markets a medical device for the non-invasive treatment of vaginal introital laxity, for improved sexual function, for vaginal rejuvenation, and for use in general surgery for electrocoagulation and hemostasis, depending on the relevant country-specific clearance or approval, that we refer to as Geneveve™. Women can develop vaginal laxity for a number of reasons, including aging, genetic predisposition, lifestyle, and/or the trauma of natural childbirth. Vaginal laxity can often cause decreased sexual function and satisfaction in women, yet most surveyed physicians who practice obstetrics and gynecology (“OB/GYNs”) and urogynecologists recognize that it is an underreported, yet bothersome, medical condition that impacts relationship happiness as well as sexual function. Currently, few medical treatments are available to effectively treat vaginal laxity. The most widely prescribed treatments include Kegel exercises, although, to our knowledge, there is no validated evidence indicating that Kegel exercises improve vaginal laxity, and surgical procedures, which are not only invasive and expensive but sometimes lead to worse outcomes as a result of scarring. At this time, our products are indicated for use in general surgical procedures for electrocoagulation and hemostasis in the United States, and the device has not been cleared or approved for use for the treatment of vaginal laxity, to improve sexual function, or for vaginal rejuvenation in the United States. Accordingly, the Company is prohibited under current U.S. regulations from promoting it to physicians or consumers for these unapproved uses.

Geneveve is a non-invasive solution for vaginal laxity which includes three major components: the Viveve System™ (an RF, or radio frequency, generator housed in a table-top console), a reusable handpiece and a single-use treatment tip, as well as several other consumable accessories. Physicians attach the single-use treatment tip to the handpiece, which is connected to the console. The generator authenticates the treatment tip and programs the system for the desired treatment without further physician intervention. The treatment is performed in a physician’s office, in less than 30 minutes, and does not require the use of anesthesia. The tissue tightening effect resulting from Geneveve has been demonstrated by our pre-clinical and clinical research.

We believe that Geneveve provides a number of benefits for physicians and patients, including:

- a non-invasive, non-ablative alternative to surgery with no identified safety issues to date;
- it requires only a single treatment;
- compelling physician economics; and
- ease of use.
Currently, our products are cleared for marketing in 51 countries throughout the world under the following indications for use:

<table>
<thead>
<tr>
<th>Indication for Use</th>
<th>No. of Countries</th>
</tr>
</thead>
<tbody>
<tr>
<td>General surgical procedures for electrocoagulation and hemostasis</td>
<td>3 (including the U.S.)</td>
</tr>
<tr>
<td>For treatment of vaginal laxity</td>
<td>34</td>
</tr>
<tr>
<td>For treatment of the vaginal introitus, after vaginal childbirth, to improve sexual function</td>
<td>13</td>
</tr>
<tr>
<td>For vaginal rejuvenation</td>
<td>1</td>
</tr>
</tbody>
</table>

In the U.S., our products are indicated for use in general surgical procedures for electrocoagulation and hemostasis, and we market and sell it through a direct sales force to health care practitioners. Outside the U.S., we market and sell through an extensive network of distribution partners.

Our goal is to become the leading provider of non-invasive solutions to treat vaginal laxity by:

- **Increasing the Installed Base of Viveve Systems**. In our existing markets, we plan to (i) expand the number of Viveve Systems from our initial base of early adopters by leveraging our current and future clinical study results and through innovative marketing programs directed at both physicians and patients, where permissible by law, and (ii) expand our efforts and obtain regulatory approvals in additional markets, although there are no assurances that we will ever receive such approvals.

- **Driving Increased Treatment Tip Usage**. We work collaboratively with our physician customer base to increase treatment tip usage by enhancing customer awareness and facilitating the marketing efforts of our physician customers to their patients, where permissible by law. We intend to launch innovative marketing programs with physician customers to develop a profitable Geneveve practice, where permissible by law.

- **Broadening Our Physician Customer Base**. While our initial focus is on marketing our procedure to the OB/GYN specialty, we intend to selectively expand our sales efforts into other physician specialties, such as plastic surgery, dermatology, urology, urogynecology, general surgery and family practice. Additionally, we intend to pursue sales from physician-directed medi-spas with track records of safe and successful aesthetic treatments.

- **Developing New Treatment Tips and System Enhancements**. We intend to continue to expand our line of treatment tips to allow for even shorter procedure times to benefit both physicians and patients. We also plan to pursue potential system modifications and next generation enhancements that will further increase the ease-of-use of Geneveve.

- **Investing in Intellectual Property and Patent Protection**. We will continue to invest in expanding our intellectual property portfolio, and we intend to file for additional patents to strengthen our intellectual property rights.

As of December 31, 2016, we have sold 217 Viveve Systems and approximately 4,050 single-use treatment tips in countries primarily outside of the U.S.

**Risks and Uncertainties**

We are subject to numerous risks and uncertainties, including the following:

- We will require additional capital in order to continue our operations, and may have difficulty raising additional capital;

- We have a history of recurring losses, and we can provide no assurance as to our future operating results;
● We have a history of recurring losses and an accumulated deficit, which, among other factors, raise substantial doubt about our ability to continue as a going concern, which in turn may hinder our ability to obtain future financing;

● The failure to obtain government approvals, including additional U.S. Food and Drug Administration ("FDA") approvals, or to comply with ongoing governmental regulations could prevent, delay or limit the introduction or sale of our product and result in failure to achieve revenues or maintain our ongoing business;

● Clinical trials involve a lengthy and expensive process with an uncertain outcome, and results of earlier studies and trials may not be predictive of future trial results;

● We may be required to suspend or discontinue clinical trials due to unexpected side effects or other safety risks that could preclude FDA approval of our product for the treatment of vaginal laxity or sexual function;

● Acceptance of our product in the marketplace is uncertain and failure to achieve market acceptance will prevent or delay our ability to generate revenues;

● If we are unable to protect or enforce our rights to intellectual property adequately we may lose valuable rights or incur costly litigation to protect our intellectual property rights;

● Confidentiality agreements with employees and others may not adequately prevent disclosure of our trade secrets and other proprietary information and may not adequately protect our intellectual property, which could limit our ability to compete;

● Due to our limited marketing, sales and distribution experience, we may be unsuccessful in our efforts to sell our product, enter into relationships with third parties or develop a direct sales organization;

● If we are unable to convince physicians of the benefits of the Geneveve Treatment, we may incur delays or additional expense in our attempt to establish market acceptance;

● The market for our product is competitive and new therapeutics, new drugs and new treatments that may be developed by others could impair our ability to maintain and grow our business and remain competitive;

● Patients will not be able to obtain reimbursement from third-party payers for the Geneveve Treatment, which could discourage women from undergoing the Geneveve Treatment, thereby hindering or preventing our commercial success;

● Our stock price has experienced price fluctuations and may continue to do so, thereby adversely affecting our business;

● Officers, directors and affiliate stockholders own in the aggregate approximately 40% of our outstanding common stock, which limits the influence of other stockholders;

● If we fail to maintain effective internal controls over financial reporting, the price of our common stock may be adversely affected;
We are required to comply with certain provisions of Section 404 of the Sarbanes-Oxley Act of 2002 and if we fail to continue to comply, our business could be harmed and our stock price could decline;

Our common stock could be further diluted as the result of the issuance of additional shares of common stock, convertible securities, warrants or options; and

We have not paid dividends in the past and do not expect to pay dividends for the foreseeable future. Any return on investment may be limited to the increase, if any, in the value of our common stock.

Corporate Information

The address of our corporate headquarters is 150 Commercial Street, Sunnyvale, California 94086 and our telephone number is (408) 530-1900. Our website can be accessed at www.viveve.com. The information contained on, or that may be obtained from, our website is not a part of this prospectus.

“Geneveve” and our logo are our trademarks. All other service marks, trademarks and trade names appearing in this prospectus are the property of their respective owners. We do not intend our use or display of other companies’ trade names, trademarks or service marks to imply a relationship with, or endorsement or sponsorship of us by, these other companies.

Merger with PLC Systems, Inc.

On September 23, 2014, Viveve Medical, Inc. (formerly PLC Systems, Inc.), a Delaware corporation (“Viveve Medical”) completed a reverse acquisition and recapitalization pursuant to the terms and conditions of an Agreement and Plan of Merger (the “Merger Agreement”) by and among PLC Systems Acquisition Corp., a wholly owned subsidiary of PLC Systems Inc., with and into Viveve, Inc., a Delaware corporation (the “Merger”). In conjunction with the Merger, we changed our name from PLC Systems Inc. to Viveve Medical, Inc. to better reflect our new business. Viveve Medical competes in the women’s health industry by marketing the Geneveve™ product as a way to improve the overall sexual well-being and quality of life of women experiencing vaginal laxity, depending on the relevant country-specific clearance or approval.

Reverse Stock Splits

On September 23, 2014, immediately prior to the effective time of the Merger, PLC Systems, Inc. effected a 1-for-100 reverse stock split.

On July 22, 2015, we held our 2015 Annual and Special Meeting of Stockholders. At the meeting, the stockholders voted to approve a special resolution authorizing a share consolidation (reverse split) of our common stock at a ratio of up to 1-for-10, which ratio was to be determined by the Board of Directors, in its sole discretion, and effective as of a date no more than 12 months from the date of the meeting. On April 15, 2016, we effected a 1-for-8 reverse stock split of our common stock. On the effective date of the reverse stock split, (i) each 8 shares of outstanding common stock were reduced to 1 share of common stock; (ii) the number of shares of common stock into which each outstanding warrant or option to purchase common stock was exercisable were proportionately reduced on a 1-for-8 basis; and (iii) the exercise price of each outstanding warrant or option to purchase common stock was proportionately increased on a 1-for-8 basis. All of the share numbers, share prices, and exercise prices have been adjusted, on a retroactive basis, to reflect this 1-for-8 reverse stock split (collectively, the “Stock Split”).
Except where otherwise indicated, all share and per share data in this prospectus reflect these reverse stock splits.

Change of Corporate Domicile

At the 2015 Annual and Special Meeting of Stockholders, the stockholders approved a special resolution authorizing a continuance of the Company from the Yukon Territory, Canada into the State of Delaware under the Delaware General Corporation Law (the “DGCL”) and the adoption of charter documents that comply with the DGCL in connection therewith (the “Continuance”), effective as of a date to be determined by the Board, in its sole discretion, no more than twelve months from the date of the meeting. On May 9, 2016, the Company filed the necessary Application for Authorization to Continue into Another Jurisdiction and Statutory Declaration with the Yukon registrar. On May 10, 2016, the Company filed a Certificate of Conversion and Certificate of Incorporation with the Secretary of State of the State of Delaware to move its domicile from the Yukon Territory to Delaware. A discussion of the Continuance can be found in the section of this prospectus titled “Our Business – Continuance into Delaware”.

Going Concern

Our independent registered public accounting firm issued an unqualified opinion with an explanatory paragraph to the effect there is substantial doubt about our ability to continue as a going concern in its report included in our consolidated financial statements for the fiscal year ended December 31, 2016. This unqualified opinion with an explanatory paragraph could have a material adverse effect on our business, financial condition, results of operations and cash flows. See our consolidated financial statements for the fiscal year ended December 31, 2016 included elsewhere in this prospectus. We experienced net losses of $20,111,000 and $12,426,000 for the years ended December 31, 2016 and 2015, respectively.

Unless and until we execute an underwriting agreement with the Representative in connection with this offering, we have no committed sources of capital other than a credit facility which has been fully drawn down and do not know whether additional financing will be available when needed on terms that are acceptable, if at all. The going concern statement from our independent registered public accounting firm may discourage some investors from purchasing our stock or from providing alternative capital financing to us. The failure to satisfy our capital requirements could adversely affect our business, financial condition, results of operations and prospects.

Unless we raise additional funds, either through the sale of equity securities such as through this offering or one or more collaborative arrangements, we will not have sufficient funds to continue our operations. Even if we take these actions, the funds we raise may be insufficient, particularly if our costs are higher than projected or unforeseen expenses arise.
THE OFFERING

The following summary contains basic information about the offering and our common stock and is not intended to be complete. It does not contain all the information that is important to you. For a more complete understanding of our common stock, please refer to the section of this prospectus entitled “Description of Capital Stock.”

Common Stock offered by us
Up to 6,082,725 shares of our common stock, par value $0.0001 per share.

Common Stock to be Outstanding Immediately after the Offering
16,783,331 shares (1)(2)

Over-Allotment Option
We have granted an option to the underwriters to purchase up to an additional 912,408 shares of common stock, or up to 15% of the number of shares of common stock offered to the public, within 30 days of the date of this prospectus in order to cover over-allotments, if any.

Use of Proceeds
We expect to use the net proceeds received from this offering for general corporate purposes. For a more complete description of our anticipated use of proceeds from this offering, see “Use of Proceeds.”

Risk Factors
See “Risk Factors” beginning on page 9 and the other information included in this prospectus for a discussion of factors you should carefully consider before deciding whether to purchase our securities.

NASDAQ Capital Market Symbol
“VIVE”.

(1) The number of shares of our common stock outstanding before and after this offering is based on 10,700,606 shares of common stock outstanding as of February 7, 2017 and excludes, as of that date:

- 425,274 shares of common stock issuable upon exercise of outstanding warrants,
- 1,904,354 shares of common stock issuable upon exercise of outstanding options,
- 18,750 shares of restricted common stock subject to vesting conditions and not yet issued,
- 538,855 additional shares of common stock reserved for future issuance under the Viveve Medical, Inc. Amended and Restated 2013 Stock Option and Incentive Plan, and
- issuances of additional shares of common stock subsequent to February 7, 2017.

(2) Does not include an over-allotment option granted to the underwriters to purchase an additional 912,408 shares.

Certain of our existing stockholders and their affiliated entities, including holders of more than 5% of our common stock have indicated an interest in purchasing shares of our common stock in this offering at the public offering price per share. However, because indications of interest are not binding agreements or commitments to purchase, the underwriters may determine to sell more, less or no shares in this offering to any of these entities, or any of these entities may determine to purchase more, less or no shares in this offering.
**SUMMARY HISTORICAL FINANCIAL INFORMATION**

The table below includes historical selected financial data for each of the years ended December 31, 2016 and 2015 derived from our audited consolidated financial statements included elsewhere in this prospectus.

You should read the historical selected financial information presented below, rounded to the nearest thousand dollars, in conjunction with the section of this prospectus titled “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our consolidated financial statements and the notes to those consolidated financial statements included elsewhere in this prospectus. Historical results are not necessarily indicative of the results that may be expected for any future period.

**Consolidated Statements of Operations Data** *(in thousands, except per share data)*

<table>
<thead>
<tr>
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<th>Year Ended December 31,</th>
<th></th>
</tr>
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<tr>
<td></td>
<td></td>
<td>2016</td>
</tr>
<tr>
<td>Revenue</td>
<td>$</td>
<td>7,141</td>
</tr>
<tr>
<td>Cost of revenue</td>
<td>4,612</td>
<td>985</td>
</tr>
<tr>
<td>Gross profit</td>
<td>2,529</td>
<td>462</td>
</tr>
<tr>
<td>Operating expenses</td>
<td>21,233</td>
<td>12,452</td>
</tr>
<tr>
<td>Loss from operations</td>
<td>(18,704)</td>
<td>(11,990)</td>
</tr>
<tr>
<td>Interest expense, net</td>
<td>(1,370)</td>
<td>(415)</td>
</tr>
<tr>
<td>Other expense, net</td>
<td>(37)</td>
<td>(21)</td>
</tr>
<tr>
<td>Net loss</td>
<td>$ (20,111)</td>
<td>$ (12,426)</td>
</tr>
<tr>
<td>Net loss per share:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Basic and diluted</td>
<td>$ (2.18)</td>
<td>$ (2.47)</td>
</tr>
</tbody>
</table>

**Consolidated Balance Sheet Data** *(in thousands)*

<table>
<thead>
<tr>
<th></th>
<th>As of December 31,</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2016</td>
<td>2015</td>
</tr>
<tr>
<td>Cash and cash equivalents</td>
<td>$ 8,086</td>
<td>$ 7,360</td>
</tr>
<tr>
<td>Working capital</td>
<td>6,791</td>
<td>3,559</td>
</tr>
<tr>
<td>Total assets</td>
<td>14,549</td>
<td>11,107</td>
</tr>
<tr>
<td>Total liabilities</td>
<td>14,954</td>
<td>7,171</td>
</tr>
<tr>
<td>Total stockholders’ equity (deficit)</td>
<td>$ (405)</td>
<td>$ 3,936</td>
</tr>
</tbody>
</table>
WHERE YOU CAN FIND MORE INFORMATION

We are subject to the informational requirements of the Securities Exchange Act of 1934, as amended (the “Exchange Act”) and file annual, quarterly and current reports and other information with the Commission. You can read our filings, including the registration statement of which this prospectus is a part, over the internet at the Commission’s website at www.sec.gov. You may also read and copy any document we file with the Commission at its public reference facility at 100 F Street, N.E., Washington, D.C., 20549, on official business days during the hours of 10:00 a.m. to 3:00 p.m. You may also obtain copies of the documents at prescribed rates by writing to the Public Reference Section of the Commission at 100 F Street, N.E., Washington, D.C., 20549. Please call the Commission at 1-800-SEC-0330 for further information on the operation of the public reference facility. If you do not have internet access, requests for copies of such documents, which will be provided to you without charge, should be directed to Mr. Scott Durbin, our Chief Financial Officer, at Viveve Medical, Inc., 150 Commercial Street, Sunnyvale, California 94086; Tel: (408)-530-1900; e-mail: sdurbin@viveve.com.

Statements contained in this prospectus concerning the provisions of any documents are summaries of those documents and are not necessarily complete. We refer you to the documents filed with the Commission for more information.
RISK FACTORS

Investing in our common stock involves a high degree of risk. Prospective investors should carefully consider the risks described below, together with all of the other information included in this prospectus, before purchasing shares of our common stock. There are numerous and varied risks that may prevent us from achieving our goals. If any of these risks actually occurs, our business, financial condition or results of operations may be materially adversely affected. In such case, the trading price of our common stock could decline and investors in our common stock could lose all or part of their investment.

Risks Related to Our Business

We are dependent upon the success of Geneveve, which has a limited commercial history. If Geneveve fails to gain or loses market acceptance, our business will suffer.

In 2012, we began marketing Geneveve in Canada, Hong Kong and Japan, and we expect that sales of Geneveve, including the Viveve System (radio frequency generator), single-use treatment tips and other ancillary consumables, will account for substantially all of our revenue for the foreseeable future. Geneveve may not significantly penetrate current or new markets, including the U.S. and elsewhere. If demand for Geneveve does not increase as we anticipate, or if demand declines, our business, financial condition and results of operations will be harmed.

We compete against companies that have more established products, longer operating histories and greater resources, which may prevent us from achieving significant market penetration or increased operating results.

The medical device and aesthetics markets are highly competitive and dynamic, and are marked by rapid and substantial technological development and product innovations. Demand for Geneveve could be diminished by equivalent or superior products and technologies developed by competitors. Specifically, Geneveve competes against other offerings in these markets, including laser and other light-based medical devices, pharmaceutical and consumer products, surgical procedures and exercise therapies.

Competing in these markets could result in price-cutting, reduced profit margins and loss of market share, any of which would harm our business, financial condition and results of operations. Our ability to compete effectively depends upon our ability to distinguish our company and Geneveve from our competitors and their products, on such factors as:

- safety and effectiveness;
- product pricing;
- success of our marketing initiatives;
- compelling clinical data;
- intellectual property protection;
- quality of customer support; and
- development of successful distribution channels, both domestically and internationally.
Some of our competitors have more established products and customer relationships than we have, which could inhibit our market penetration efforts. For example, we may encounter situations where, due to pre-existing relationships, potential customers decide to purchase additional products from our competitors. Potential customers may need to recoup the cost of expensive products that they have already purchased to perform laser vaginal rejuvenation (“LVR”) surgery or vaginoplasty and thus may decide not to purchase, or to delay the purchase of, Geneveve. If we are unable to achieve continued market penetration, we will be unable to compete effectively and our business will be harmed.

In addition, potential competitors could have significantly greater financial, research and development, manufacturing, and sales and marketing resources than we have and could utilize their greater resources to acquire or develop new technologies or products that could effectively compete with our existing product. Given the relatively few competitors currently in the market, any such action could exacerbate existing competitive pressures, which could harm our business.

Performing clinical studies on, and collecting data from, Geneveve is inherently subjective, and we have limited data regarding the efficacy of Geneveve. If future data is not positive or consistent with our prior experience, rates of physician adoption will likely be harmed.

We believe that in order to significantly grow our business, we will need to conduct future clinical studies of the effectiveness of Geneveve. Clinical studies of vaginal laxity and sexual function are subject to a number of limitations. First, these studies do not involve objective standards for measuring the effectiveness of treatment. Subjective, patient reported outcomes are the most common method of evaluating effectiveness. As a result, clinical studies may conclude that a treatment is effective even in the absence of objective measures. Second, as with other non-invasive, energy-based devices, the perceived effect of Geneveve varies from patient to patient and can be influenced by a number of factors, including the age, ethnicity and level of vaginal laxity and sexual function of the patient, among other things.

Current published studies of Geneveve conducted in the U.S. and Japan have investigated the tissue-tightening effect of Viveve’s monopolar RF technology using single-arm studies where all patients enrolled in the trial received 110 pulses of RF energy coupled with cooling without comparison to a control group. These pilot studies included a total of 54 patients, with 3 patients treated at 60 J/cm2, 3 patients treated at 75 J/cm2, and 48 patients treated at 90 J/cm2. Clinical studies designed in a randomized, blinded and controlled fashion (e.g., assessing the efficacy of a product or therapy versus a placebo or sham group) represent the gold-standard in clinical trial design. A sham-controlled treatment or procedure refers to a procedure performed as a control and that is similar to the treatment or procedure under investigation without the key therapeutic element being investigated. Future clinical studies, which may be required to drive physician adoption or support regulatory clearance or approval, will likely require randomized, blinded and controlled trial designs. In the fourth quarter of 2014, we initiated a new randomized, blinded and sham-controlled clinical trial in Europe and Canada designed to demonstrate the efficacy of Geneveve versus a sham-controlled procedure for the treatment of vaginal laxity and sexual function (the “OUS Clinical Trial”). In April 2016, we completed this study. (See discussion under the heading “Clinical Studies”.)
Additionally, we have not conducted any head-to-head clinical studies that compare results from treatment with Geneveve to surgery or treatment with other therapies. Without head-to-head studies against competing alternative treatments, which we have no current plans to conduct, potential customers may not find clinical studies of our technology sufficiently compelling to purchase Geneveve. If we decide to pursue additional studies in the future, such studies could be expensive and time consuming, and the data collected may not produce favorable or compelling results. If the results of such studies do not meet physicians’ expectations, Geneveve may not become widely adopted, physicians may recommend alternative treatments for their patients, and our business may be harmed.

*We currently have clearance to market our products in the U.S. for general surgical procedures for electrocoagulation and hemostasis but not for vaginal laxity or sexual function. If we want to sell Geneveve and single-use treatment tips in the U.S. for the treatment of vaginal laxity or sexual function, we will need to obtain additional FDA clearance or approval, which may not be granted.*

Developing and promoting Geneveve in additional countries for additional indications, including the U.S., is a key element of our future growth strategy. We currently do not have FDA clearance or approval to market Geneveve in the U.S. for the treatment of vaginal laxity or sexual function. We intend to seek clearance or approval from the FDA to expand our marketing efforts and have engaged with the FDA to help improve our likelihood of success, including with regard to our planned VIVEVE II clinical trial. However, we cannot predict whether we will receive such clearances or approvals. The FDA will require us to conduct clinical trials to support regulatory clearance or approval, which trials may be time-consuming and expensive, and may produce results that do not result in clearance or approval of our FDA marketing application. In the event that we do not obtain FDA clearance or approval of Geneveve for the treatment of vaginal laxity or sexual function, we will be unable to promote Geneveve in the U.S. for those indications, and the ability to grow our revenues may be adversely affected.

*Our business is not currently profitable, and we may not be able to achieve profitability even if we are able to generate significant revenue.*

As of December 31, 2016, we have incurred losses since inception of approximately $68.6 million. In 2016, we incurred a loss of $20.1 million and in 2015 a loss of $12.4 million. Even though our revenue may increase, we expect to incur significant additional losses while we grow and expand our business. We cannot predict if and when we will achieve profitability. Our failure to achieve and sustain profitability could negatively impact the market price of our common stock and may require us to seek additional financing for our business. There are no assurances that we will be able to obtain any additional financing or that any such financing will be on terms that are favorable to us.

*If there is not sufficient consumer demand for the procedures performed with our products, demand for our products could decline, which would adversely affect our operating results.*

The medical device and aesthetic markets in which we operate are particularly vulnerable to economic trends. The procedures performed using our aesthetic treatment systems are elective procedures that are not reimbursable through government or private health insurance. The cost of these elective procedures must be borne by the patient. As a result, the decision to undergo a procedure that uses our products may be influenced by the cost.
Consumer demand, and therefore our business, is sensitive to a number of factors that affect consumer spending, including political and macroeconomic conditions, health of credit markets, disposable consumer income levels, consumer debt levels, interest rates, consumer confidence and other factors. If there is not sufficient consumer demand for the procedures performed with our products, practitioner demand for our products would decline, and our business would suffer.

It is difficult to forecast future performance, which may cause our financial results to fluctuate unpredictably.

Our limited operating history makes it difficult to predict future performance. Additionally, the demand for Geneveve may vary from quarter to quarter. A number of factors, over which we have limited or no control, may contribute to fluctuations in our financial results, such as:

- delays in receipt of anticipated purchase orders;
- performance of our independent distributors;
- positive or negative media coverage of Geneveve, the Viveve System or products of our competitors;
- our ability to obtain further regulatory clearances or approvals;
- delays in, or failure of, product and component deliveries by our subcontractors and suppliers;
- customer response to the introduction of new product offerings; and
- fluctuations in foreign currency.

Our limited operating history has limited our ability to determine an appropriate sales price for our products.

Our historical operating performance has limited our ability to determine the proper sales prices for Geneveve and the single-use treatment tips. Establishing appropriate pricing for our capital equipment and components has been challenging because there have not existed directly comparable competitive products. We may experience similar pricing challenges in the future as we enter new markets or introduce new products, which could have an unanticipated negative impact on our financial performance.

If there is not sufficient patient demand for our treatments, practitioner demand for Geneveve could drop, resulting in unfavorable operating results.

All procedures performed using Geneveve are elective procedures, the cost of which must be borne by the patient, and are not reimbursable through government or private health insurance. The decision to undergo treatment with Geneveve is thus driven by consumer demand, which may be influenced by a number of factors, such as:

- whether our marketing efforts directed toward increasing consumer awareness of Geneveve, for which we have limited experience and resources, are successful;
- the extent to which physicians recommend Geneveve to their patients;
- the cost, safety and effectiveness of Geneveve versus alternative treatments;
- general consumer sentiment about the benefits and risks of such procedures; and
- consumer confidence, which may be impacted by economic and political conditions.

Our financial performance could be materially harmed in the event that any of the above factors discourage patients from seeking treatment with Geneveve.
The failure of Geneveve to meet patient expectations or the occurrence of unpleasant side effects from Geneveve could impair our financial performance.

Our future success depends upon patients having a positive experience with Geneveve in order to increase physician demand for our products, as a result of positive feedback and word-of-mouth referrals. Patients may be dissatisfied if their expectations of the procedure, side effects and results, among other things, are not met. Despite what we believe to be the safety of Geneveve, patients may experience undesirable side-effects such as temporary swelling or reddening of the treated tissue. Experiencing any of these side effects could discourage a patient from completing Geneveve or discourage a patient from having future procedures or referring Geneveve to others. In order to generate referral business, we believe that patients must be satisfied with the effectiveness of Geneveve. Results obtained from Geneveve are subjective and may be subtle. Geneveve may produce results that may not meet patients’ expectations. If patients are not satisfied with the procedure or feel that it is too expensive for the results obtained, our reputation and future sales will suffer.

Our success depends on growing physician adoption of Geneveve and continued use of treatment tips.

Some of our target physician customers already own self-pay device products. Our ability to grow our business and convince physicians to purchase Geneveve depends on the success of our sales and marketing efforts. Our business model involves both a capital equipment purchase of Geneveve and continued purchases by our customers of single-use treatment tips and ancillary consumables. This may be a novel business model for many potential customers who may be used to competing products that are exclusively capital equipment, such as many laser-based systems. We must be able to demonstrate that the cost of Geneveve and the revenue that the physician can derive from performing procedures using it are compelling when compared to the cost and revenue associated with alternative products or therapies. When marketing to plastic surgeons, we must also, in some cases, overcome a bias against non-invasive procedures. If we are unable to increase physician adoption of Geneveve and use of the treatment tips, our financial performance will be adversely affected.

To successfully market and sell Geneveve internationally, we must address many issues with which we have limited experience.

Sales outside the U.S. accounted for 96% of our revenue during the year ended December 31, 2016 and 100% of our revenue during the years ended December 31, 2015 and 2014. We believe that a significant portion of our business will continue to come from sales outside the U.S. through increased penetration in countries where we currently sell Geneveve, combined with expansion into new international markets. However, international sales are subject to a number of risks, including:

- difficulties in staffing and managing international operations;
- difficulties in penetrating markets in which our competitors’ products may be more established;
- reduced or no protection for intellectual property rights in some countries;
- export restrictions, trade regulations and foreign tax laws;
- fluctuating foreign currency exchange rates;
- foreign certification and regulatory clearance or approval requirements;
- difficulties in developing effective marketing campaigns for unfamiliar, foreign countries;
- customs clearance and shipping delays;
- political and economic instability; and
- preference for locally produced products.
If one or more of these risks were realized, it could require us to dedicate significant resources to remedy the situation, and even if we are able to find a solution, our revenues may still decline.

We depend on distributors to market and sell Geneveve internationally. If they are not successful, our marketing and sales efforts will be harmed.

We currently depend exclusively on third-party distributors to sell and service Geneveve internationally and to train our international customers, and if these distributors terminate their relationships with us or under-perform, we may be unable to maintain or increase our level of international revenue. We will also need to engage additional international distributors to grow our business and expand the territories in which we sell Geneveve. Distributors may not commit the necessary resources to market, sell and service Geneveve to the level of our expectations. If current or future distributors do not perform adequately, or if we are unable to engage distributors in particular geographic areas, our revenue from international operations will be adversely affected.

We currently have limited sales and marketing resources or experience and failure to build and manage a sales force or to market and distribute Geneveve effectively could have a material adverse effect on our business.

We expect to rely on a direct sales force to sell Geneveve in the U.S. In order to meet our future anticipated sales objectives, we expect to grow our domestic sales organization significantly over the next several years. There are significant risks involved in building and managing our sales organization, including risks related to our ability to:

- hire qualified individuals as needed;
- provide adequate training for the effective sale of Geneveve; and
- retain and motivate sales employees.

It is difficult to predict how well our sales force will perform. Our failure to adequately address these risks could have a material adverse effect on our ability to sell Geneveve, causing our revenue to be lower than expected and harming our results of operations.

Competition among providers of devices for the medical device and aesthetics markets is characterized by rapid innovation, and we must continuously innovate Geneveve and develop new products or our revenue may decline.

While we attempt to protect Geneveve through patents and other intellectual property rights, there are few barriers to entry that would prevent new entrants or existing competitors from developing products that compete directly with our products. For example, while we believe our monopolar RF technology maintains a strong intellectual property position, there may be other companies employing competing technologies which claim to have a similar clinical effect to our technology. Additionally, there are others who may market monopolar RF technology for competing purposes in a direct challenge to our intellectual property position. As we continue to create market demand for a non-surgical, non-invasive way to treat vaginal laxity and sexual dysfunction, competitors may enter the market with other products making similar or superior claims. We expect that any competitive advantage we may enjoy from our current and future innovations may diminish over time, as companies successfully respond to our innovations, or create their own. Consequently, we believe that we will have to continuously innovate and improve Geneveve and technology or develop new products to compete successfully. If we are unable to develop new products or innovate successfully, Geneveve could become obsolete and our revenue will decline as our customers purchase competing products.
We outsource the manufacturing and repair of key elements of Geneveve to a single manufacturing partner. We outsource the manufacture and repair of Geneveve to a single contract manufacturer, Stellartech. If Stellartech’s operations are interrupted or if Stellartech is unable to meet our delivery requirements due to capacity limitations or other constraints, we may be limited in our ability to fulfill new customer orders or to repair equipment at current customer sites, and we may be required to seek new manufacturing partners in the future. Stellartech has limited manufacturing capacity, is itself dependent upon third-party suppliers and is dependent on trained technical labor to effectively repair components making up Geneveve. In addition, Stellartech is a medical device manufacturer and is required to demonstrate and maintain compliance with the FDA’s Quality System Regulation, or QSR. If Stellartech or any future manufacturing partner fails to comply with the FDA’s QSR, its manufacturing and repair operations could be halted. In addition, both the availability of our product to support the fulfillment of new customer orders as well as our ability to repair those products installed at current customer sites would be impaired. In addition, as of the date of this prospectus, the development and manufacturing agreement under which Viveve and Stellartech operate has expired without any subsequent extension or renewal by the parties. Although the parties continue to operate under the terms of this agreement, our manufacturing operations could be adversely impacted if we are unable to enforce Stellartech’s performance under this agreement, or enter into a new agreement with Stellartech or a potential new manufacturer, if necessary, upon favorable terms or at all.

Our manufacturing operations and those of our key manufacturing subcontractors are dependent upon third-party suppliers, making us vulnerable to supply shortages and price fluctuations, which could harm our business.

The single source supply of Geneveve from Stellartech could not be replaced without significant effort and delay in production. Also, several other components and materials that comprise Geneveve are currently manufactured by a single supplier or a limited number of suppliers. In many of these cases, we have not yet qualified alternate suppliers and we rely upon purchase orders, rather than long-term supply agreements. A supply interruption or an increase in demand beyond our current suppliers’ capabilities could harm our ability to manufacture Geneveve until new sources of supply are identified and qualified. Our reliance on these suppliers subjects us to a number of risks that could harm our business, including:

- interruption of supply resulting from modifications to or discontinuation of a supplier’s operations;
- delays in product shipments resulting from uncorrected defects, reliability issues or a supplier’s variation in a component;
- a lack of long-term supply arrangements for key components with our suppliers;
- inability to obtain adequate supply in a timely manner, or to obtain adequate supply on commercially reasonable terms;
• difficulty locating and qualifying alternative suppliers for our components in a timely manner;
• production delays related to the evaluation and testing of products from alternative suppliers, and corresponding regulatory qualifications;
• delay in delivery due to suppliers prioritizing other customer orders over our orders;
• damage to our brand reputation caused by defective components produced by our suppliers;
• increased cost of our warranty program due to product repair or replacement based upon defects in components produced by our suppliers; and
• fluctuation in delivery by our suppliers due to changes in demand from us or from their other customers.

Any interruption in the supply of components or materials, or our inability to obtain substitute components or materials from alternate sources at acceptable prices in a timely manner, could impair our ability to meet the demand of our customers, which would have an adverse effect on our business.

**If, in the future, we decide to perform additional manufacturing functions internally that we currently outsource, our business could be harmed by our limited manufacturing experience and related capabilities.**

In the future, for financial or operational purposes, we may elect to perform component or system manufacturing functions internally. Our limited experience with manufacturing processes could lead to difficulties in producing sufficient quantities of manufactured items that meet our quality standards and that comply with applicable regulatory requirements in a timely and cost-effective manner. In addition, if we experience these types of manufacturing difficulties, it may be expensive and time consuming to engage a new or previous subcontractor or supplier to fulfill our replacement manufacturing needs. The occurrence of any of these events could harm our business.

**If Geneveve malfunctions or if we discover a manufacturing defect that could lead to a malfunction, we may have to initiate a product recall or replace components, which could adversely impact our business.**

Problems in our manufacturing processes, or those of our manufacturers or subcontractors, which lead to an actual or possible malfunction in any of the components of Geneveve, may require us to recall product from customers or replace components and could disrupt our operations. For example, in December 2012, we began replacing handpiece assemblies that were causing system malfunctions due to fiber optic damage that occurred during the manufacturing process. We subsequently worked with our manufacturer to redesign and test the reliability of the newly designed handpiece. The problem was resolved within several weeks and did not have a significant impact on our ability to supply products to our customers or, more generally, on our results of operations. However, our results of operations, reputation and market acceptance of our products could be harmed if we encounter difficulties in manufacturing that result in a more significant issue or significant patient injury, and delays our ability to fill customer orders.
We may not be able to develop an alternative cooling module that will be in compliance with changing environmental regulations in a timely or cost-effective manner.

Our cooling module relies upon a hydrofluorocarbon, or HFC, called R134a, to protect the outer layer of the tissue from over-heating while the device delivers RF energy to the submucosal tissue. New environmental regulations phasing out HFCs over the next decade have been adopted or are under consideration in a number of countries. Since 2007, European Union directives aimed at the automotive industry require the phase-out of HFCs and prohibit the introduction of new products incorporating HFCs and it is currently anticipated that such directives may impact the medical device industry. As a result, if we are unable to develop an alternative cooling module for our device which is not dependent on HFCs in a timely or cost-effective manner, Geneveve may not be in compliance with environmental regulations, which could result in fines, civil penalties and the inability to sell our products in certain major international markets.

In addition, the impending restrictions on HFCs have reduced their current availability, as suppliers have less of an incentive to expand production capacity or maintain existing capacity. This change in supply could expose us to supply shortages or increased prices for R134a, which could impair our ability to manufacture Geneveve and adversely affect our results or operations. HFCs may also be classified by some countries as a hazardous substance and, therefore, subject to significant shipping surcharges that may negatively impact profit margins.

We rely on a limited number of suppliers and third-party manufacturers, and if they are unable or unwilling to continue to work with us, our business could be materially adversely affected.

We rely on a limited number of suppliers and third-party manufacturers. Our reliance on them increases our risk since in the event of an interruption from one or more of them, we may not be able to develop alternative resources without incurring additional costs or delays. For example, we entered into a Coupling Fluid License and Product Supply Agreement with Solta Medical (“Solta”) pursuant to which Solta agreed to grant to us a license for the coupling fluid and supply the coupling fluid at preferred pricing for two years and at non-preferred pricing after two years. The agreement was for an initial term of three years, after which it continues to remain in effect unless and until terminated in accordance with the terms therein. We use the cryogen cooling method and coupling fluid with our compatible radio frequency medical device for the purpose of conducting our clinical trials as well as for commercial purposes. Since we currently do not have any alternative sources of cryogen, if Solta refuses to sell to us for commercial reasons, or otherwise, our business could be materially adversely affected.

We forecast sales to determine requirements for components and materials used in Geneveve, and if our forecasts are incorrect, we may experience delays in shipments or increased inventory costs.

We keep limited materials, components and finished product on hand. To manage our manufacturing operations with our suppliers, we forecast anticipated product orders and material requirements to predict our inventory needs up to six months in advance and enter into purchase orders on the basis of these requirements. Our limited historical experience may not provide us with enough data to accurately predict future demand. If our business expands, our demand for components and materials would increase and our suppliers may be unable to meet our demand. If we overestimate our component and material requirements, we will have excess inventory, which would increase our expenses. If we underestimate our component and material requirements, we may have inadequate inventory, which could interrupt, delay or prevent delivery of Geneveve to our customers. Any of these occurrences would negatively affect our financial performance and the level of satisfaction that our customers have with our business.
Even though we require training for users of Geneveve and we do not sell Geneveve to non-physicians, there exists a potential for misuse, which could harm our reputation and our business.

Outside of the U.S., our independent distributors sell in many jurisdictions that do not require specific qualifications or training for purchasers or operators of Geneveve. We do not supervise the procedures performed with Geneveve, nor can we be assured that direct physician supervision of our equipment occurs according to our recommendations. We and our distributors require purchasers of Geneveve to undergo an initial training session as a condition of purchase, but do not require ongoing training. In addition, we prohibit the sale of Geneveve to companies that rent Geneveve to third parties, but we cannot prevent an otherwise qualified physician from contracting with a rental company in violation of his or her purchase agreement with us.

In the U.S., we only sell Geneveve to licensed physicians who have met certain training requirements. However, our device clearance for prescription use will allow us to sell Geneveve to “practitioner[s] . . . licensed by law to use or order the use of the device.” The meaning of “practitioners licensed by law to use or order the use of the device” varies from state to state. As a result, Geneveve may be operated by licensed practitioners with varying levels of training, and in many states by non-physicians, including physician assistants, registered nurses and nurse practitioners. Thus, in some states, the definition of “licensed practitioner” may result in the legal use of Geneveve by non-physicians.

The use of Geneveve by non-physicians, as well as noncompliance with the operating guidelines set forth in our training programs, may result in product misuse and adverse treatment outcomes, which could harm our reputation and expose us to costly product liability litigation.

**Product liability suits could be brought against us due to defective design, labeling, material or workmanship, or misuse of Geneveve, and could result in expensive and time-consuming litigation, payment of substantial damages and an increase in our insurance rates.**

If Geneveve is defectively designed, manufactured or labeled, contains defective components or is misused, we may become subject to substantial and costly litigation by our customers or their patients. Misusing Geneveve or failing to adhere to operating guidelines could cause serious adverse events. In addition, if our operating guidelines are found to be inadequate, we may be subject to liability. We may, in the future, be involved in litigation related to the use of Geneveve. Product liability claims could divert management’s attention from our business, be expensive to defend and result in sizable damage awards against us. We may not have sufficient insurance coverage for all future claims. We may not be able to obtain insurance in amounts or scope sufficient to provide us with adequate coverage against all potential liabilities. Any product liability claims brought against us, with or without merit, could increase our product liability insurance rates or prevent us from securing continuing coverage, could harm our reputation in the industry and reduce product sales. Product liability claims in excess of our insurance coverage would be paid out of cash reserves, harming our financial condition and adversely affecting our operating results.
After-market modifications to treatment tips by third parties and the development of counterfeit products could reduce our sales, expose us to product liability litigation and dilute our brand quality.

Third parties may introduce adulterated after-market modifications to our treatment tips, which enable re-use of treatment tips in multiple procedures. Because the treatment tips are designed to withstand a finite number of pulses, modifications intended to increase the number of pulses could result in patient injuries caused by the use of worn-out or damaged treatment tips. In addition, third parties may seek to develop counterfeit products that are compatible with Geneveve and available to practitioners at lower prices. If security features incorporated into the design of Geneveve are unable to prevent after-market modifications to the treatment tips or the introduction of counterfeit products, we could be subject to reduced sales, product liability lawsuits resulting from the use of damaged or defective goods and damage to our reputation.

We depend on skilled and experienced personnel to operate our business effectively. If we are unable to recruit, hire and retain these employees, our ability to manage and expand our business will be harmed, which would impair our future revenue and profitability.

Our success largely depends on the skills, experience and efforts of our officers and other key employees. While we have employment contracts with our Chief Executive Officer and our Chief Financial Officer, these officers and other key employees may terminate their employment at any time. The loss of any senior management team members could weaken our management expertise and harm our business.

Our ability to retain our skilled labor force and our success in attracting and hiring new skilled employees will be a critical factor in determining whether we will be successful in the future. We may not be able to meet our future hiring needs or retain existing personnel. We will face particularly significant challenges and risks in hiring, training, managing and retaining engineering and sales and marketing employees, as well as independent distributors, most of whom are geographically dispersed and must be trained in the use and benefits of Geneveve. Failure to attract and retain personnel, particularly technical and sales and marketing personnel, would materially harm our ability to compete effectively and grow our business.

Any acquisitions or in-licenses that we make could disrupt our business and harm our financial condition.

We expect to evaluate potential strategic acquisitions of complementary businesses, products or technologies. We may also consider joint ventures and other collaborative projects, including in-license opportunities. We may not be able to identify appropriate acquisition candidates or strategic partners, or successfully negotiate, finance or integrate acquisitions of any businesses, products or technologies, as applicable, on favorable terms or at all. Furthermore, the integration of any acquisition or in-license and management of any collaborative project may divert management’s time and resources from our business and disrupt our operations. We do not have any experience with acquiring companies or products or in-licensing of technologies. If we decide to expand our product offerings, we may spend time and money on projects that do not increase our revenues. Our inability to identify and secure such opportunities may harm our financial condition and our ability to compete and grow our business.
Risks Related to Regulatory Matters

We or our distributors may be unable to obtain or maintain international regulatory clearances or approvals for our current or future products, or our distributors may be unable to obtain necessary qualifications, which could harm our business.

Sales of Geneveve internationally are subject to foreign regulatory requirements that vary widely from country to country. In addition, the FDA regulates exports of medical devices from the U.S. Complying with international regulatory requirements can be an expensive and time-consuming process, and marketing approval or clearance is not certain. The time required to obtain clearances or approvals, if required by other countries, may be longer than that required for FDA clearance or approvals, and requirements for such clearances or approvals may significantly differ from FDA requirements. We may rely on third-party distributors to obtain all regulatory clearances and approvals required in other countries, and these distributors may be unable to obtain or maintain such clearances or approvals. Our distributors may also incur significant costs in attempting to obtain and in maintaining foreign regulatory approvals or clearances, which could increase the difficulty of attracting and retaining qualified distributors. If our distributors experience delays in receiving necessary qualifications, clearances or approvals to market our products outside the U.S., or if they fail to receive those qualifications, clearances or approvals, we may be unable to market our products or enhancements in international markets effectively, or at all.

Foreign governmental authorities that regulate the manufacture and sale of medical devices have become increasingly stringent and, to the extent we market and sell our products outside of the U.S., we may be subject to rigorous international regulation in the future. In these circumstances, we would be required to rely on our foreign independent distributors to comply with the varying regulations, and any failures on their part could result in restrictions on the sale of our product in foreign countries.

If we fail to maintain regulatory approvals and clearances, or if we are unable to obtain, or experience significant delays in obtaining, FDA clearances or approvals for Geneveve or any future products we may develop or acquire, including product enhancements, our business and results of operations could be adversely affected.

Geneveve is, and any future products we may acquire or develop will be, subject to extensive regulation by the FDA and numerous other federal, state and foreign governmental authorities. The process of obtaining regulatory clearances or approvals to market a medical device can be costly and time consuming, and we may not be able to obtain these clearances or approvals on a timely basis, if at all. In particular, the FDA permits commercial distribution of a new medical device only after the device has received clearance under section 510(k) of the Federal Food, Drug, and Cosmetic Act, or FDCA, (unless the device is exempt from the 510(k) requirements), has been classified pursuant to a de novo classification request, or is the subject of an approved premarket approval application, or PMA. The FDA will permit marketing of a lower risk medical device through the 510(k) process if the manufacturer demonstrates that the new product is substantially equivalent to another 510(k)-cleared product, referred to as a predicate device. Devices deemed to pose the greatest risk, such as life-sustaining, life-supporting, or implantable devices, or devices not deemed substantially equivalent to a previously cleared device, require the approval of a PMA. The PMA process is more costly, lengthy and uncertain than the 510(k) clearance process. A PMA application must be supported by extensive data, including, but not limited to, technical, preclinical, clinical trial, manufacturing and labeling data, to demonstrate to the FDA a reasonable assurance of the safety and efficacy of the device for its intended use.
If FDA has not issued a regulation classifying a particular type of device as Class I, and if there is no known predicate for a device, the device is automatically Class III, regardless of the risk the device poses. If a device is automatically/statutorily classified into Class III in this manner, a company can petition FDA to reclassify the category of devices into Class II or Class I via a process known as "Evaluation of Automatic Class III Designation," which is typically referred to as the de novo process. The direct de novo process allows a company to request that a new product classification be established without the company first submitting a 510(k) notification for the device. Our plan is to seek FDA authorization to market Geneveve for the treatment of vaginal tissue to improve sexual function by utilizing the direct de novo process. However, we cannot predict when or if such de novo classification will be obtained. If FDA fails to reclassify the device pursuant to the de novo process, we will be required to seek FDA premarket approval (via the more stringent PMA process) for Geneveve. Delays in receipt of FDA clearance or approval or failure to receive FDA clearance or approval could adversely affect our business, results of operations and future growth prospects.

Our marketed products may be used by physicians for indications that are not cleared by the FDA. If the FDA finds that we marketed our products in a manner that promoted off-label use, we may be subject to a variety of enforcement actions including civil or criminal penalties.

Under the FDCA and other laws, we are prohibited from promoting our products for off-label uses. This means that we may not make claims about the use of any of our marketed medical device products outside of their approved or cleared indications, and that our website, advertising promotional materials and training methods may not promote or encourage unapproved uses. Therefore, we may not provide information to physicians or patients concerning off-label uses, except in limited circumstances, such as in response to unsolicited requests for off-label information or the distribution of scientific and medical publications under certain circumstances. The FDA does not generally restrict physicians from prescribing products for off-label uses (or using products in an off-label manner) in their practice of medicine. Should the FDA determine that our activities constitute the promotion of off-label uses, the FDA could bring action to prevent us from distributing our devices for the off-label use and could impose fines and penalties on us and our executives. In addition, failure to follow FDA rules and guidelines relating to promotion and advertising can result in, among other things, the FDA’s refusal to approve or clear products, the withdrawal of an approved/cleared product from the market, product recalls, fines, disgorgement of profits, operating restrictions, injunctions or criminal prosecutions. Any of these adverse regulatory actions could result in substantial costs and could significantly and adversely impact our reputation and divert management’s attention and resources, which could have a material adverse effect on our business.

If the Office of Inspector General within the Department of Health and Human Services, the DOJ, or another federal or state agency determines that we have promoted off-label use of our products, we may be subject to various penalties, including civil or criminal penalties, and the off-label use of our products may result in injuries that lead to product liability suits, which could be costly to our business.

In addition to the FDA restrictions on our marketed products, other state and federal healthcare laws have been applied by DOJ and state attorneys general to restrict certain marketing practices in the medical device industry. While physicians may generally prescribe and administer products for off-label uses, if we engage in off-label promotion, we may be subject to civil or criminal penalties including significant fines and could be prohibited from participating in government healthcare programs such as Medicaid and Medicare. Even if we are successful in resolving such matters without incurring penalties, responding to investigations or prosecutions will likely result in substantial costs and could significantly and adversely impact our reputation and divert management’s attention and resources, which could have a material adverse effect on our business, operating results, financial condition and ability to finance our operations. In addition, the off-label use of our products may increase the risk of injury to patients, and, in turn, the risk of product liability claims. Product liability claims are expensive to defend and could divert our management’s attention and result in substantial damage awards against us.
If we modify an FDA-cleared device, we may need to seek and obtain new clearances, which, if not granted, would prevent the sale of our modified product or require us to redesign the product.

Any modifications to an FDA-cleared device that could significantly affect its safety or effectiveness or that would constitute a major change in its intended use would require a new 510(k) clearance or possibly a premarket approval. We may not be able to obtain additional 510(k) clearances or premarket approvals for new products or for modifications to, or additional indications for, our existing product in a timely fashion, or at all. Delays in obtaining future clearances or approvals would adversely affect our ability to introduce new or enhanced products in a timely manner, which in turn could harm our revenue and potential future profitability. We have made modifications to our device in the past and may make additional modifications in the future that we believe do not or will not require additional clearances or approvals. If the FDA disagrees, and requires new clearances or approvals for the modifications, we may be required to recall and to stop marketing the modified device, which could harm our operating results and require us to redesign the product.

Clinical trials necessary to support a 510(k) notification, de novo petition or PMA application will be expensive and will require the enrollment of large numbers of patients. Suitable patients may be difficult to identify and recruit. Delays or failures in our clinical trials may prevent us from commercializing our current product or any modified or new products and will adversely affect our business, operating results and prospects.

The FDA has asked us to conduct a clinical study, pursuant to the agency’s investigational device exemption, or IDE, regulations, to support a future product submission for Geneveve. Initiating and completing clinical trials necessary to support a 510(k) notification, de novo petition, or PMA application for Geneveve, as well as other possible future product candidates, will be time consuming and expensive and the outcome is uncertain. Moreover, the results of early clinical trials are not necessarily predictive of future results, and any product we advance into clinical trials may not have favorable results in later clinical trials.

Conducting successful clinical studies will require the enrollment of patients, and suitable patients may be difficult to identify and recruit. Patient enrollment in clinical trials and completion of patient participation and follow-up depends on many factors, including the size of the patient population, the nature of the trial protocol, the desirability of, or the discomforts and risks associated with, the treatments received by enrolled subjects, the availability of appropriate clinical trial investigators and support staff, the proximity of patients to clinical sites, the ability of patients to comply with the eligibility and exclusion criteria for participation in the clinical trial and patient compliance. For example, patients may be discouraged from enrolling in our clinical trials if the trial protocol requires them to undergo extensive post-treatment procedures or follow-up to assess the safety and effectiveness of our product or if they determine that the treatments received under the trial protocols are not desirable or involve unacceptable risk or discomfort.
Development of sufficient and appropriate clinical protocols to demonstrate safety and efficacy are required and we may not adequately develop such protocols to support clearance or approval. Further, the FDA may require us to submit data on a greater number of patients than we originally anticipated and/or for a longer follow-up period or change the data collection requirements or data analysis applicable to our clinical trials. Delays in patient enrollment or failure of patients to continue to participate in a clinical trial may cause an increase in costs and delays in the approval or clearance and attempted commercialization of our product or result in the failure of the clinical trial. In addition, despite considerable time and expense invested in clinical trials, the FDA may not consider our data adequate to demonstrate safety and efficacy. Such increased costs and delays or failures could adversely affect our business, operating results and prospects.

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

We do not have the ability to independently conduct the preclinical studies and clinical trials for our product; therefore, we must rely on third parties, such as contract research organizations, medical institutions, clinical investigators and contract laboratories to conduct the studies and trials. If these third parties do not successfully carry out their contractual duties or regulatory obligations or meet expected deadlines, if these third parties need to be replaced, or if the quality or accuracy of the data they obtain is compromised due to the failure to adhere to our clinical protocols or regulatory requirements or for other reasons, our preclinical development activities or clinical trials may be extended, delayed, suspended or terminated, and we may not be able to obtain regulatory clearance or approval for, or be able to successfully commercialize, our product on a timely basis, if at all. In that event, our business, operating results and prospects may be adversely affected.

The results of our clinical trials may not support our proposed product claims or may result in the discovery of adverse side effects. Any of these events could have a material adverse impact on our business.

Even if our clinical trials are completed as planned, it cannot be certain that the results of the clinical trials will support our proposed claims for Geneveve, that the FDA or foreign authorities will agree with our conclusions regarding them or that even if our product receives regulatory approval or clearance, that it will not later result in adverse side effects that limit or prevent its use. Success in preclinical studies and early clinical trials does not ensure that later clinical trials will be successful, and we cannot be sure that the later trials will replicate the results of prior trials and preclinical studies. The clinical trial process may fail to demonstrate that our product is safe and effective for the proposed indicated uses. Any delay of our clinical trials or failure by the FDA or other foreign authorities to accept our product claims will delay, or even prevent, our ability to commercialize our product and generate revenues.
Even if our product is approved by regulatory authorities, if we or our suppliers fail to comply with ongoing FDA or other foreign regulatory authority requirements, or if we experience unanticipated problems with our product, the product could be subject to restrictions or withdrawal from the market.

Any product for which we obtain clearance or approval, and the manufacturing processes, reporting requirements, post-approval clinical data and promotional activities for such product, will be subject to continued regulatory review, oversight and periodic inspections by the FDA and other domestic and foreign regulatory bodies, such as the Food and Drug Branch of the California Department of Health Services, or CDHS. In particular, we and our suppliers are required to comply with the FDA’s QSR, and International Standards Organization, or ISO, standards for the manufacture of our product and other regulations which cover the methods and documentation of the design, testing, production, control, quality assurance, labeling, packaging, storage and shipping of any product for which we obtain clearance or approval. Regulatory bodies, such as the FDA, enforce the QSR and other regulations through periodic inspections. In the past, our facility has been inspected by the FDA and CDHS, and observations were noted. The FDA and CDHS have accepted our responses to these observations, and we believe that we are in substantial compliance with the QSR. Any future failure by us or one of our suppliers to comply with applicable statutes and regulations administered by the FDA and other regulatory bodies, or the failure to timely and adequately respond to any adverse inspectional observations or product safety issues, could result in, among other things, any of the following enforcement actions and unanticipated expenditures to address or defend such actions:

- untitled letters, warning letters, fines, injunctions, consent decrees and civil penalties;
- customer notifications for repair, replacement or refunds;
- recall, detention or seizure of our products;
- operating restrictions or partial suspension or total shutdown of production;
- refusing or delaying our requests for 510(k) clearance, de novo classification, or premarket approval of new products or modified products;
- operating restrictions;
- reclassifying a device that previously received a 510(k) clearance or withdrawing a PMA approval that was previously granted;
- refusal to grant export approval for our product; or
- criminal prosecution.

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

Even if regulatory clearance or approval of a product is granted for Geneveve or future products, such clearance or approval may be subject to limitations on the intended uses for which the product may be marketed and reduce our potential to successfully commercialize the product and generate revenue from the product. If the FDA determines that our promotional materials, labeling, training or other marketing or educational activities constitute promotion of an unapproved use, it could request that we cease or modify our training or promotional materials or subject us to regulatory enforcement actions. It is also possible that other federal, state, local and foreign enforcement authorities might also regulate the marketing of medical devices. For example, the Federal Trade Commission (”FTC”) also has the authority to regulate advertising for most types of medical devices, including the ones that we produce.
In addition, we may be required by the FDA or other foreign regulatory bodies to conduct costly post-market testing and surveillance to monitor the safety or effectiveness of our products, and we must comply with medical device reporting requirements, including the reporting of adverse events and malfunctions related to our products. Later discovery of previously unknown problems with our products, including unanticipated adverse events or adverse events of unanticipated severity or frequency, manufacturing problems, or failure to comply with regulatory requirements such as the QSR, may result in changes to labeling, restrictions on such products or manufacturing processes, withdrawal of the products from the market, voluntary or mandatory recalls, a requirement to repair, replace or refund the cost of any medical device we manufacture or distribute, fines, suspension of regulatory approvals, product seizures, injunctions or the imposition of civil or criminal penalties which would adversely affect our business, operating results and prospects.

Geneveve may also be subject to state regulations which are, in many instances, in flux. Changes in state regulations may impede sales. For example, federal regulations may allow Geneveve to be sold to, or on the order of, "licensed practitioners," as determined on a state-by-state basis. As a result, in some states, non-physicians may legally purchase and operate Geneveve. However, a state could change its regulations at any time, disallowing sales to particular types of end users. We cannot predict the impact or effect of future legislation or regulations at the federal or state levels.

If we or our third-party manufacturers fail to comply with the FDA’s QSR, our business would suffer.

We and our third-party manufacturers are required to demonstrate and maintain compliance with the FDA’s QSR. The QSR is a complex regulatory scheme that covers the methods and documentation of the design, testing, control, manufacturing, labeling, quality assurance, packaging, storage and shipping of our product. The FDA enforces the QSR through periodic unannounced inspections. We anticipate that in the future we will be subject to such inspections. Our failure, or the failure of our third-party manufacturers, to take satisfactory corrective action in response to an adverse QSR inspection could result in enforcement actions, including a public warning letter, a shutdown of our manufacturing operations, a recall of our product, civil or criminal penalties or other sanctions, which would cause our reputation, sales and business to suffer.

If our product causes or contributes to a death or a serious injury, or malfunctions in certain ways, we will be subject to medical device reporting regulations, which can result in voluntary corrective actions or agency enforcement actions.

Under the FDA’s medical device reporting regulations, medical device manufacturers are required to report to the FDA information that a device has or may have caused or contributed to a death or serious injury or has malfunctioned in a way that would be likely to cause or contribute to death or serious injury if the malfunction of the device were to recur. If we fail to report these events to the FDA within the required timeframes, or at all, the FDA could take enforcement action against us. Any such adverse event involving Geneveve or future products could result in future voluntary corrective actions, such as recalls or customer notifications, or agency action, such as inspection or enforcement action. Any corrective action, whether voluntary or involuntary, as well as mounting a defense to a legal action, if one were to be brought, would require the dedication of our time and capital, distract management from operating our business, and may harm our reputation and financial results.
Geneveve may, in the future, be subject to product recalls that could harm our reputation, business and financial results.

The FDA and similar foreign governmental authorities have the authority to require the recall of commercialized products in the event of material deficiencies or defects in design or manufacture. In the case of the FDA, the authority to require a recall must be based on an FDA finding that there is a reasonable probability that the device would cause serious, adverse health consequences or death. Manufacturers may, under their own initiative, recall a product if any material deficiency in a device is found. A government-mandated or voluntary recall by us or one of our distributors could occur as a result of component failures, manufacturing errors, design or labeling defects or other deficiencies and issues. A recall of our product would divert managerial and financial resources and have an adverse effect on our financial condition and results of operations. The FDA requires that certain classifications of recalls be reported to the FDA within 10 working days after the recall is initiated. Companies are required to maintain certain records of recalls, even if they are not reportable to the FDA. In the future, we may initiate one or more voluntary correction or removal actions involving our product that we determine do not require notification to the FDA. If the FDA disagrees with our determinations, the FDA could require us to report those actions as recalls. A future recall announcement could harm our reputation with customers and negatively affect our sales. In addition, the FDA could take enforcement action for failing to report the recalls when they were conducted.

Federal and state regulatory reforms may adversely affect our ability to sell our product profitably.

From time to time, legislation is drafted and introduced in Congress that could significantly change the statutory provisions governing the clearance or approval, manufacture and marketing of a medical device. In addition, FDA regulations and guidance are often revised or reinterpreted by the agency in ways that may significantly affect our business and our product. It is impossible to predict whether legislative changes will be enacted or FDA regulations, guidance or interpretations will be changed, and what the impact of such changes, if any, may be.

For example, in August 2010, the FDA issued its preliminary recommendations on reform of the 510(k) premarket notification process for medical devices. On January 19, 2011, the FDA announced its “Plan of Action” for implementing these recommendations. The Plan of Action included 25 action items, including revising existing guidance or developing guidance to clarify various aspects of the 510(k) process and to streamline the review process for innovative, lower risk products (the “de novo” process); improving training for the Center for Devices and Radiological Health staff; increasing reliance on external experts; and addressing and improving internal processes. In August 2016, the FDA released its proposals for reforming long-standing procedures and requirements related to modifications to medical devices already on the market. In December 2016, Congress passed the 21st Century Cures Act, which makes multiple changes to FDA’s rules for medical devices as well as for clinical trials, and Congress is expected to pass another large piece of legislation related to medical devices during 2017 (the Medical Device User Fee reauthorization package).

The FDA or Congress may implement other reforms in the future. Future reforms could have the effect of making it more difficult and expensive for us to obtain FDA clearance or approval. Such changes may also be made by legislators or regulators in the foreign jurisdictions in which we do business and could similarly affect our operations and profitability in those markets.
In addition, a state could change its statutes or regulations at any time, disallowing sales to particular types of end users or placing restrictions on certain chemicals, such as those used in our cryogen. We cannot predict the impact or effect of future legislation or regulations at the federal or state levels, or in any foreign jurisdiction in which we do business.

Failure to comply with the U.S. Foreign Corrupt Practices Act and similar laws associated with our activities outside the U.S. could subject us to penalties and other adverse consequences.

A significant portion of our revenues is and will be from jurisdictions outside of the U.S. We are subject to the U.S. Foreign Corrupt Practices Act, or the FCPA, which generally prohibits U.S. companies and their intermediaries from making payments to foreign officials for the purpose of directing, obtaining or keeping business, and requires companies to maintain reasonable books and records and a system of internal accounting controls. The FCPA applies to companies and individuals alike, including company directors, officers, employees and agents. Under the FCPA, U.S. companies may be held liable for the corrupt actions taken by employees, strategic or local partners or other representatives. In addition, the government may seek to rely on a theory of successor liability and hold us responsible for FCPA violations committed by companies or associated with assets which we acquire. In recent years, the medical device and pharmaceutical industries have been a focus of the U.S. government’s FCPA enforcement priorities, and settlements often include very significant payments potentially consisting of millions of dollars. Other countries have similar laws to which we may be subject, including the United Kingdom Bribery Act.

In many foreign countries where we operate, particularly in countries with developing economies, it may be a local custom for businesses to engage in practices that are prohibited by the FCPA or other similar laws and regulations. In contrast, we have implemented a company policy requiring our employees and consultants to comply with the FCPA and similar laws. At the present time, we have not conducted formal FCPA compliance training for our foreign distributors and partners, but we are in the process of devising a training schedule for certain of our employees, agents and partners. Nevertheless, there can be no assurance that our employees, partners and agents, as well as those companies to which we outsource certain of our business operations, will not take actions in violation of the FCPA or our policies for which we may be ultimately held responsible. As a result of our anticipated growth, our development of infrastructure designed to identify FCPA matters and monitor compliance is at an early stage. If we or our intermediaries fail to comply with the requirements of the FCPA or similar legislation, governmental authorities in the U.S. and elsewhere could seek to impose civil and/or criminal fines and penalties which could have a material adverse effect on our reputation, business, operating results and financial conditions. We may also face collateral consequences, such as debarment and the loss of our export privileges.

Viveve’s relationships with customers and healthcare providers and professionals may be subject to applicable anti-kickback, fraud and abuse and other healthcare laws and regulations, as well as comparable state and foreign laws, which could expose Viveve to criminal sanctions, civil penalties, contractual damages, reputational harm and diminished profits and future earnings.

Healthcare providers and physicians play a primary role in the recommendation and prescription of any medical product, including the Geneveve treatment marketed by the Company. Viveve’s future arrangements with customers, healthcare providers and other medical professionals could expose Viveve to broadly applicable fraud and abuse and other healthcare laws and regulations that may constrain the business or financial arrangements and relationships through which Viveve markets, sells and distributes its medical device products. There are various federal and state healthcare laws and regulations that impose restrictions that may apply to Viveve, and there may also be comparable foreign laws and regulations that similarly could apply to the Company.
The federal healthcare anti-kickback statute prohibits, among other things, persons from knowingly and willfully soliciting, offering, receiving or providing remuneration, directly or indirectly, in cash or in kind, to induce or reward either the referral of an individual for, or the purchase, order or recommendation of, any good or service, for which payment may be made under federally funded healthcare programs. This statute has been broadly interpreted to apply to manufacturer arrangements with prescribers and purchasers, among others. There are similar laws at the state level in the U.S., and several other countries, including the United Kingdom, have enacted similar anti-kickback, fraud and abuse, and healthcare laws and regulations.

The federal Health Insurance Portability and Accountability Act of 1996, or HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act, imposes criminal and civil liability for executing a scheme to defraud any healthcare benefit program and also imposes obligations, including mandatory contractual terms, with respect to safeguarding the privacy, security and transmission of individually identifiable health information. HIPAA also imposes criminal liability for knowingly and willfully falsifying, concealing or covering up a material fact or making any materially false statement in connection with the delivery of or payment for healthcare benefits, items or services.

The federal Physician Sunshine Act requirements under the Patient Protection and Affordable Care Act of 2010, as amended by the Health Care and Education Reconciliation Act of 2010, referred to together as the Affordable Care Act, require manufacturers of drugs, devices, biologics and medical supplies for which payment is available under title XVIII of the Social Security Act (Medicare) or under a State plan under title XIX (Medicaid) or XXI (SCHIP) of the Social Security Act (or a waiver of such a plan) to report to the Department of Health and Human Services information related to payments and other transfers of value made to or at the request of covered recipients, such as physicians and teaching hospitals, and physician ownership and investment interests in such manufacturers. Payments made to physicians and research institutions for clinical trials are included within the scope of this federal disclosure law.

Analogous state laws and regulations, such as state anti-kickback and false claims laws, may apply to sales or marketing arrangements and claims involving healthcare items or services reimbursed by nongovernmental third-party payors, including private insurers. Some state laws also require pharmaceutical and medical device companies to comply with the relevant industry’s voluntary compliance guidelines, in addition to requiring manufacturers to report information related to payments to physicians and other health care providers or marketing expenditures. There may also be comparable foreign laws and regulations that could impact Viveve’s business and operations.

If Viveve’s operations are found to be in violation of any of these laws or any other governmental regulations that may apply to it, the Company may be subject to significant civil, criminal and administrative penalties, damages, or fines. Moreover, if any of the physicians or other providers or entities with whom Viveve expects to do business are found to be not in compliance with applicable laws, they may be subject to criminal, civil or administrative sanctions, or potentially to other sanctions in foreign jurisdictions.
Risks Related to Our Intellectual Property

Intellectual property rights may not provide adequate protection for Geneveve, which may permit third parties to compete against us more effectively.

We rely on patent, copyright, trade secret and trademark laws and confidentiality agreements to protect our technology and Geneveve. We have an exclusive license to or own 4 issued U.S. patents primarily covering our technology and Geneveve and methods of use. Additionally, we have 4 pending U.S. patent applications; 51 issued foreign patents; and 20 pending foreign patent applications, some of which foreign applications preserve an opportunity to pursue patent rights in multiple countries. Some of Geneveve components are not, and in the future may not be, protected by patents. Additionally, our patent applications may not issue as patents or, if issued, may not issue in a form that will be advantageous to us. Any patents we obtain may be challenged, invalidated or legally circumvented by third parties. Consequently, competitors could market products and use manufacturing processes that are substantially similar to, or superior to, ours. We may not be able to prevent the unauthorized disclosure or use of our technical knowledge or other trade secrets by consultants, vendors, former employees or current employees, despite the existence generally of confidentiality agreements and other contractual restrictions. Monitoring unauthorized uses and disclosures of our intellectual property is difficult, and we do not know whether the steps we have taken to protect our intellectual property will be effective. Moreover, we do not have patent rights in all foreign countries in which a market may exist, and where we have applied for foreign patent rights, the laws of many foreign countries may not protect our intellectual property rights to the same extent as the laws of the U.S.

In addition, competitors could purchase Geneveve and attempt to replicate some or all of the competitive advantages we derive from our development efforts, willfully infringe our intellectual property rights, design around our protected technology or develop their own competitive technologies that fall outside of our intellectual property rights. If our intellectual property is not adequately protected so as to defend our market against competitors’ products and methods, our competitive position and business could be adversely affected.

We are currently involved in and may be involved in future costly intellectual property litigation, which could impact our future business and financial performance.

Our industry has been characterized by frequent intellectual property litigation. Our competitors or other patent holders may assert that Geneveve and the methods we employ are covered by their patents. If Geneveve or methods are found to infringe, we could be prevented from marketing Geneveve. In addition, we do not know whether our competitors or potential competitors have applied for, or will apply for or obtain, patents that will prevent, limit or interfere with our ability to make, use, sell, import or export Geneveve. We may also initiate litigation against third parties to protect our intellectual property that may be expensive, protracted or unsuccessful. In the future there may be companies that market products for competing purposes in direct challenge to our intellectual property position, and we may be required to initiate litigation in order to stop them. For example, in October, 2016 we filed a patent infringement lawsuit against ThermiGen, LLC, ThermiAesthetics, LLC and Dr. Red Alinsod alleging unauthorized use of certain of our patented technologies. If we initiate additional litigation to protect our rights, we run the risk of having our patents invalidated, which would undermine our competitive position.
Litigation related to infringement and other intellectual property claims, with or without merit, is unpredictable, can be expensive and time-consuming and could divert management’s attention from our business. If we lose this kind of litigation, a court could require us to pay substantial damages, and prohibit us from using technologies essential to Geneveve, any of which would have a material adverse effect on our business, results of operations and financial condition. In that event, we do not know whether necessary licenses would be available to us on satisfactory terms, or whether we could redesign Geneveve or processes to avoid infringement.

Competing products may also appear in other countries in which our patent coverage might not exist or be as strong. If we lose a foreign patent lawsuit, we could be prevented from marketing Geneveve in one or more countries.

In addition, we may hereafter become involved in litigation to protect our trademark rights associated with our name or the names used with Geneveve. Names used with Geneveve and procedures may be claimed to infringe names held by others or to be ineligible for proprietary protection. If we have to change the name of the company or Geneveve, we may experience a loss in goodwill associated with our brand name, customer confusion and a loss of sales.

**Risks Related to our Securities**

**Public company compliance may make it more difficult to attract and retain officers and directors.**

The Sarbanes-Oxley Act and rules implemented by the Securities and Exchange Commission have required changes in corporate governance practices of public companies. As a public company, these rules and regulations increase our compliance costs and make certain activities more time consuming and costly. These rules and regulations may also make it more difficult and expensive for us to maintain our director and officer liability insurance and we may be required to accept reduced policy limits and coverage or incur substantially higher costs to obtain the same or similar coverage. As a result, it may be more difficult for us to attract and retain qualified persons to serve on our board of directors or as executive officers, and to maintain insurance at reasonable rates, or at all.

**Concentration of ownership of our common stock may have the effect of delaying or preventing a change in control.**

As of February 7, 2017, our officers, directors and principal stockholders, i.e., stockholders who beneficially own greater than 10% of our outstanding common stock, collectively beneficially own approximately 40% of our outstanding common stock. As a result, these stockholders, if they act together, will be able to control the management and affairs of our company and most matters requiring stockholder approval, including the election of directors and approval of significant corporate transactions. In addition, certain of our stockholders and their affiliated entities have expressed an interest in purchasing shares of our common stock at the public offering price per share in this offering. However, no firm commitments have been made by any of these individuals and participation in this offering will be based on each individual’s circumstances at the time the offering is launched. This concentration of ownership may have the effect of delaying or preventing a change in control and might adversely affect the market price of our common stock. This concentration of ownership may not be in the best interests of our other stockholders.
We are a holding company with no business operations of our own and we depend on cash flow from Viveve, Inc. to meet our obligations.

As a result of the Merger, we are a holding company with no business operations of our own or material assets other than the stock we own in Viveve, Inc. All of our operations are conducted by Viveve, Inc. As a holding company, we will require dividends and other payments from our subsidiary to meet cash requirements. The terms of any agreements governing indebtedness that we may enter into may restrict our subsidiary from paying dividends and otherwise transferring cash or other assets to us. If there is an insolvency, liquidation or other reorganization of our subsidiary, our stockholders likely will have no right to proceed against its assets. Creditors of our subsidiary will be entitled to payment in full from the sale or other disposal of the assets of our subsidiary before we, as an equity holder, would be entitled to receive any distribution from that sale or disposal. If Viveve, Inc. is unable to pay dividends or make other payments to us when needed, we will be unable to satisfy our obligations.

Our stock price may be volatile.

The market price of our common stock is likely to be highly volatile and could fluctuate widely in price in response to various factors, many of which are beyond our control, including the following:

- actual or anticipated fluctuations in our quarterly financial results or the quarterly financial results of companies perceived to be similar to us;
- changes in the market’s expectations about our operating results;
- success of competitors;
- our operating results failing to meet the expectations of securities analysts or investors in a particular period;
- changes in financial estimates and recommendations by securities analysts concerning our business, the market for our products, the health services industry, or the healthcare and health insurance industries in general;
- operating and stock price performance of other companies that investors deem comparable to us;
- our ability to market new and enhanced products on a timely basis;
- changes in laws and regulations affecting our business;
- commencement of, or involvement in, litigation involving us;
- changes in our capital structure, such as future issuances of securities or the incurrence of debt;
- the volume of shares of our common stock available for public sale;
- any major change in our board of directors or management;
- sales of substantial amounts of common stock by our directors, executive officers or significant stockholders or the perception that such sales could occur; and
- general economic and political conditions such as recessions, fluctuations in interest rates and international currency fluctuations.

In addition, the securities markets have from time to time experienced significant price and volume fluctuations that are unrelated to the operating performance of particular companies. These market fluctuations may also materially and adversely affect the market price of our common stock.
Our shares of common stock are thinly traded, the price may not reflect our value, and there can be no assurance that there will be an active market for our shares of common stock either now or in the future.

Our shares of common stock are thinly traded, our common stock is held by a small number of holders, and the price may not reflect our actual or perceived value. There can be no assurance that there will be an active market for our shares of common stock either now or in the future. The market liquidity will be dependent on the perception of our operating business, among other things. We will take certain steps including utilizing investor awareness campaigns, investor relations firms, press releases, road shows and conferences to increase awareness of our business. Any steps that we might take to bring us to the awareness of investors may require that we compensate consultants with cash and/or stock. There can be no assurance that there will be any awareness generated or the results of any efforts will result in any impact on our trading volume. Consequently, investors may not be able to liquidate their investment or liquidate it at a price that reflects the value of the business, and trading may be at a depressed price relative to the performance of the Company due to, among other things, the availability of sellers of our shares. If an active market should develop, the price may be highly volatile. Because there is currently a relatively low per-share price for our common stock, many brokerage firms or clearing firms are not willing to effect transactions in the securities or accept our shares for deposit in an account. Many lending institutions will not permit the use of low priced shares of common stock as collateral for any loans.

Offers or availability for sale of a substantial number of shares of our common stock may cause the price of our common stock to decline.

If our stockholders sell substantial amounts of our common stock in the public market upon the expiration of any statutory holding period under Rule 144, or shares issued upon the exercise of outstanding options or warrants, it could create a circumstance commonly referred to as an “overhang” and, in anticipation of which, the market price of our common stock could fall. The existence of an overhang, whether or not sales have occurred or are occurring, also could make more difficult our ability to raise additional financing through the sale of equity or equity-related securities in the future at a time and price that we deem reasonable or appropriate.

In general, under Rule 144, a non-affiliated person who has held restricted shares of our common stock for a period of six months may sell into the market all of their shares, subject to the Company being current in our periodic reports filed with the Commission.

As of February 7, 2017, there were approximately 3,552,465 shares of common stock of the 10,700,606 shares issued and outstanding that could be sold pursuant to Rule 144, 18,750 shares of restricted stock, 425,274 shares subject to outstanding warrants, 1,904,354 shares subject to outstanding options and an additional 538,855 shares reserved for future issuance under our 2013 Employee Stock Option and Incentive Plan, as amended, all of which will become eligible for sale in the public market to the extent permitted by any applicable vesting requirements or Rule 144 under the Securities Act.

We do not expect to declare or pay dividends in the foreseeable future.

We have never paid cash dividends on our common stock and have no plans to do so in the foreseeable future. We intend to retain any earnings to develop, carry on, and expand our business.
Risks Relating to this Offering

Our management team will have immediate and broad discretion over the use of the net proceeds from this offering and we may use the net proceeds in ways with which you disagree.

The net proceeds from this offering will be immediately available to our management to use at their discretion. We currently intend to use the net proceeds from this offering to fund our research and development activities, for general corporate purposes, and possibly for acquisitions of other companies, products or technologies, though no such acquisitions are currently contemplated. See “Use of Proceeds.” We have not allocated specific amounts of the net proceeds from this offering for any of the foregoing purposes. Accordingly, our management will have significant discretion and flexibility in applying the net proceeds of this offering. You will be relying on the judgment of our management with regard to the use of these net proceeds, and you will not have the opportunity, as part of your investment decision, to assess whether the proceeds are being used appropriately. It is possible that the net proceeds will be invested in a way that does not yield a favorable, or any, return for us or our stockholders. The failure of our management to use such funds effectively could have a material adverse effect on our business, prospects, financial condition, and results of operation.

You will experience immediate and substantial dilution as a result of this offering and may experience additional dilution in the future.

You will incur immediate and substantial dilution as a result of this offering. After giving effect to the sale by us of up to 6,082,725 shares of common stock in this offering, at an assumed public offering price of $4.11 per share, and after deducting the underwriters discounts and commissions and other estimated offering expenses payable by us, investors in this offering can expect an immediate dilution of approximately $2.78 per share, or approximately 68%, at the assumed public offering price. In addition, in the past, we issued options and warrants to acquire shares of common stock. To the extent these options and warrants are ultimately exercised, you will sustain future dilution. We may also acquire or license other technologies or finance strategic alliances by issuing equity, which may result in additional dilution to our stockholders.
FORWARD-LOOKING STATEMENTS

This prospectus contains forward-looking statements. Forward-looking statements give our current expectations or forecasts of future events. You can identify these statements by the fact that they do not relate strictly to historical or current facts. You can find many (but not all) of these statements by looking for words such as “approximates,” “believes,” “hopes,” “expects,” “anticipates,” “estimates,” “projects,” “intends,” “plans,” “would,” “should,” “could,” “may” or other similar expressions in this prospectus. In particular, forward-looking statements include statements relating to future actions, prospective products and applications, customers, technologies, future performance or future financial results. These forward-looking statements are subject to certain risks and uncertainties that could cause actual results to differ materially from our historical experience and our present expectations or projections. Factors that could cause actual results to differ from those discussed in the forward-looking statements include, but are not limited to:

- our limited cash and our history of losses;
- our ability to achieve profitability;
- our limited operating history;
- emerging competition and rapidly advancing technology;
- whether we are successful in having our medical device cleared or approved for sale by the FDA for all indications;
- whether demand develops for our medical device;
- the impact of competitive or alternative products, technologies and pricing;
- the adequacy of protections afforded to us by the patents that we own and the cost to us of maintaining, enforcing and defending those patents;
- our ability to obtain, expand and maintain patent protection in the future, and to protect our non-patented intellectual property;
- our exposure to and ability to defend third-party claims and challenges to our patents and other intellectual property rights;
- our ability to obtain adequate financing in the future, as and when we need it;
- our ability to continue as a going concern;
- our success at managing the risks involved in the foregoing items;
- the potential purchases by certain of our existing stockholders and their affiliated entities in this offering; and
- other factors discussed in this prospectus.
Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, levels of activity, performance or achievements. The forward-looking statements are based upon management's beliefs and assumptions and are made as of the date of this prospectus. We undertake no obligation to publicly update or revise any forward-looking statements included in this prospectus to conform such statements to actual results or changes in our expectations. You should not place undue reliance on these forward-looking statements.
USE OF PROCEEDS

Based on an assumed public offering price of $4.11 per share of common stock, which was the last reported sale price of our common stock on The NASDAQ Capital Market on March 9, 2017, we estimate that the net proceeds to us from the sale of the securities that we are offering will be approximately $22,744,000 or approximately $26,250,000 if the overallotment option is exercised in full, after deducting underwriting discounts and commissions and estimated offering expenses.

We expect to use any proceeds received from this offering as follows:

● sales and marketing expenses to support the commercialization of our products;
● clinical and regulatory expenses to expand global regulatory clearances and to conduct necessary clinical trials to support those applications, where applicable, including the VIVEVE II study;
● research and development expenses related to potentially designing new treatment tips, enhancing the security of our products and to the development of a new cooling system to maintain compliance with potential changes in international environmental regulations; and
● for general corporate and working capital purposes.

Even if we sell all of the securities subject to this offering, we will still need to obtain additional financing in the future in order to fully fund our business through the FDA regulatory clearance or approval process for vaginal laxity and/or sexual function indications. We may elect to seek such additional financing through public or private equity or debt offerings or other sources, including collaborative or other arrangements with corporate partners or through refinancing and/or increasing the lines of credit under our existing debt facilities. There can be no assurance we will be able to obtain such additional financing or that such additional financing will be on terms that are favorable to us. Although we currently anticipate that we will use the net proceeds of this offering as described above, there may be circumstances where a reallocation of funds may be necessary. The amounts and timing of our actual expenditures will depend upon numerous factors, including the progress of our development and commercialization efforts, the progress of our clinical studies, whether or not we enter into strategic collaborations or partnerships and our operating costs and expenditures. Accordingly, our management will have significant flexibility in applying the net proceeds of this offering.

The costs and timing of obtaining regulatory clearances or approvals, including conducting clinical studies needed to obtain regulatory clearances and approvals, are highly uncertain, are subject to substantial risks and can often change. Accordingly, we may change the allocation of use of these proceeds as a result of contingencies such as the progress and results of our clinical studies and other development activities, the establishment of collaborations, our manufacturing requirements and regulatory or competitive developments.

Pending the application of the net proceeds as described above or otherwise, we may invest the proceeds in short-term, investment-grade, interest-bearing securities or guaranteed obligations of the U.S. government or other securities.
CAPITALIZATION

The following table sets forth our cash and cash equivalents and capitalization, each as of December 31, 2016 on:

- an actual basis; and
- a pro forma basis to give effect to the issuance of the securities offered hereby.

You should consider this table in conjunction with our consolidated financial statements and the notes to those consolidated financial statements included elsewhere in this prospectus.

<table>
<thead>
<tr>
<th>As of December 31, 2016</th>
<th>Actual</th>
<th>Pro Forma (1)(2)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(in thousands, except share and per share data)</td>
<td></td>
</tr>
<tr>
<td>Cash and cash equivalents</td>
<td>$ 8,086</td>
<td>$ 30,830</td>
</tr>
<tr>
<td>Stockholders’ equity (deficit):</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Preferred stock, $0.0001 par value; 10,000,000 shares authorized as of December 31, 2016; no shares issued and outstanding</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Common stock, $0.0001 par value; 75,000,000 shares authorized; 10,661,201 shares issued and outstanding as of December 31, 2016; 16,743,926 shares issued and outstanding, pro forma</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Additional paid-in capital</td>
<td>68,216</td>
<td>90,959</td>
</tr>
<tr>
<td>Accumulated deficit</td>
<td>(68,622)</td>
<td>(68,622)</td>
</tr>
<tr>
<td>Total stockholders’ equity (deficit)</td>
<td>(405)</td>
<td>22,339</td>
</tr>
<tr>
<td>Total capitalization</td>
<td>$ (405)</td>
<td>$ 22,339</td>
</tr>
</tbody>
</table>

(1) Assumes that 6,082,725 shares of common stock are sold in this offering at an assumed offering price of $4.11 per share and that the net proceeds thereof are approximately $22,744,000 after underwriters’ discounts and commissions and estimated offering expenses.

(2) A $1.00 increase (decrease) in the assumed public offering price of $4.11 per share would increase (decrease) our pro forma additional paid-in capital, total stockholders’ equity and total capitalization by approximately $5.7 million, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. We may also increase or decrease the number of shares we are offering. A 1,000,000 share increase (decrease) in the number of shares offered by us would increase (decrease) our pro forma additional paid-in capital, total stockholders’ equity and total capitalization by approximately $3.8 million, assuming that the assumed public offering price, as set forth on the cover page of this prospectus, remains the same, and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. The pro forma information is illustrative only, and we will adjust this information based on the actual public offering price and other terms of this offering determined at pricing.

The following shares of our common stock were not included in the above information:

- 425,274 shares of common stock issuable, as of December 31, 2016, upon exercise of outstanding warrants,
- 1,909,764 shares of common stock issuable, as of December 31, 2016, upon exercise of outstanding options,
- 58,155 shares of restricted common stock subject to vesting conditions and not yet issued,
- 10,236 additional shares of common stock reserved for future issuance, as of December 31, 2016, under the Viveve Medical, Inc. Amended and Restated 2013 Stock Option and Incentive Plan, and
- issuances of additional shares of common stock subsequent to December 31, 2016.
MARKET FOR REGISTRANT’S COMMON EQUITY AND RELATED STOCKHOLDER MATTERS

Our common stock began trading on The NASDAQ Capital Market under the symbol “VIVE” on June 14, 2016. Prior to that, our common stock was quoted on the OTC Market’s OTCQB under the symbol “VIVMF”.

The following table sets forth the high and low bid prices for our common stock for the periods indicated as reported by the OTC Markets prior to June 14, 2016 and as reported by The NASDAQ Capital Market after June 13, 2016, after giving effect to the 1-for-8 reverse stock split that we implemented on April 15, 2016. The bid quotations reported by the OTC Markets reflect inter-dealer prices, without retail mark-up, mark-down or commission, and may not represent actual transactions.

<table>
<thead>
<tr>
<th>Period (Listed on The NASDAQ Capital Market)</th>
<th>High</th>
<th>Low</th>
</tr>
</thead>
<tbody>
<tr>
<td>October 1, 2016 through December 31, 2016</td>
<td>$ 7.99</td>
<td>$ 4.38</td>
</tr>
<tr>
<td>July 1, 2016 through September 30, 2016</td>
<td>$ 10.00</td>
<td>$ 4.10</td>
</tr>
<tr>
<td>June 14, 2016 through June 30, 2016</td>
<td>$ 5.14</td>
<td>$ 4.02</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Period (Listed on the OTCQB)</th>
<th>High</th>
<th>Low</th>
</tr>
</thead>
<tbody>
<tr>
<td>April 1, 2016 through June 13, 2016</td>
<td>$ 9.00</td>
<td>$ 1.01</td>
</tr>
<tr>
<td>January 1, 2016 through March 31, 2016</td>
<td>$ 6.80</td>
<td>$ 4.80</td>
</tr>
<tr>
<td>October 1, 2015 through December 31, 2015</td>
<td>$ 0.97</td>
<td>$ 0.67</td>
</tr>
<tr>
<td>July 1, 2015 through September 30, 2015</td>
<td>$ 1.05</td>
<td>$ 0.80</td>
</tr>
<tr>
<td>April 1, 2015 through June 30, 2015</td>
<td>$ 1.15</td>
<td>$ 0.30</td>
</tr>
<tr>
<td>January 1, 2015 through March 31, 2015</td>
<td>$ 0.65</td>
<td>$ 0.32</td>
</tr>
</tbody>
</table>

The last reported closing price of our common stock on The NASDAQ Capital Market on March 9, 2017 was $4.11 per share. As of February 7, 2017, there were approximately 598 holders of record of our common stock. This number does not include stockholders for whom shares were held in a “nominee” or “street” name.

Dividend Policy

We have not declared or paid any cash dividends on our common stock, and we currently intend to retain future earnings, if any, to finance the expansion of our business; we do not expect to pay any cash dividends in the foreseeable future. The decision whether to pay cash dividends on our common stock will be made by our board of directors, in their discretion, and will depend on our financial condition, results of operations, capital requirements and other factors that our board of directors considers significant.

Future Sales of Securities

There is a limited public market for our common stock and a limited number of shares in the public float. Sales of substantial amounts of our common stock in the public market could adversely affect the market price and our ability to raise capital in the future.
As of February 7, 2017, there were approximately 3,552,465 shares of common stock of the 10,700,606 shares issued and outstanding that could be sold pursuant to Rule 144, which estimate is based on a list provided to us by our transfer agent, 18,750 shares of restricted stock, 425,274 shares subject to outstanding warrants, 1,904,354 shares subject to outstanding options and an additional 538,855 shares reserved for future issuance under our 2013 Employee Stock Option and Incentive Plan, as amended, all of which will become eligible for sale in the public market to the extent permitted by any applicable vesting requirements or Rule 144 under the Securities Act.
Our net tangible book value as of December 31, 2016 was approximately $(405,000), or approximately $(0.04) per share of common stock, based upon 10,661,201 shares outstanding. Net tangible book value per share is determined by dividing such number of outstanding shares of common stock into our net tangible book value, which is our total tangible assets, less total liabilities at that date.

After giving effect to the sale of the securities in this offering at the assumed public offering price of $4.11 per share of common stock, which was the last reported sale price of our common stock on The NASDAQ Capital Market on March 9, 2017, excluding the exercise of the underwriters' overallotment option and after deducting underwriting discounts and commission and other estimated offering expenses payable by us, our adjusted net tangible book value as of December 31, 2016 would have been approximately $22,339,000, or approximately $1.33 per share. This represents an immediate increase in net tangible book value of approximately $1.37 per share to our existing stockholders, and an immediate dilution of $2.78 per share to investors purchasing securities in the offering.

The following table illustrates the per share dilution to investors purchasing securities in the offering:

<table>
<thead>
<tr>
<th>Description</th>
<th>Per Share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assumed public offering price per share of common stock</td>
<td>$4.11</td>
</tr>
<tr>
<td>Net tangible book value per share as of December 31, 2016</td>
<td>$(0.04)</td>
</tr>
<tr>
<td>Increase per share attributable to sale of common stock to investors</td>
<td>$1.37</td>
</tr>
<tr>
<td>Adjusted net tangible book value per share after the offering</td>
<td>$1.33</td>
</tr>
<tr>
<td>Dilution per share to investors</td>
<td>$2.78</td>
</tr>
</tbody>
</table>

The following shares of our common stock were not included in the above calculation:

- 425,274 shares of common stock issuable, as of December 31, 2016, upon exercise of outstanding warrants,
- 1,909,764 shares of common stock issuable, as of December 31, 2016, upon exercise of outstanding options,
- 58,155 shares of restricted common stock subject to vesting conditions and not yet issued,
- 10,236 additional shares of common stock reserved for future issuance, as of December 31, 2016, under the Viveve Medical, Inc. Amended and Restated 2013 Stock Option and Incentive Plan, and
- issuances of additional shares of common stock subsequent to December 31, 2016.

The foregoing illustration does not reflect the potential dilution from the exercise of the outstanding options or warrants to purchase shares of our common stock. To the extent that the above issued options and warrants were exercised, the pro forma net tangible book value per share of our common stock after giving effect to this offering would be approximately $1.89 per share, and the dilution in net tangible book value per share to investors in this offering would be $2.22 per share.

A $1.00 increase (decrease) in the assumed public offering price of $4.11 per share would increase (decrease) our as adjusted net tangible book value per share after this offering by approximately $5.7 million and the dilution per share to investors participating in this offering would increase (decrease) by approximately $0.66, assuming that the number of shares we are offering, as set forth on the cover page of this prospectus, remains the same and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. We may also increase or decrease the number of shares we are offering. A 1,000,000 share increase in the number of shares offered by us would increase our as adjusted net tangible book value per share after this offering by approximately $3.8 million and the dilution per share to investors in this offering would decrease by approximately $0.15, assuming that the assumed public offering price, as set forth on the cover page of this prospectus, remains the same, and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. Similarly, a 1,000,000 decrease in the number of shares offered by us would decrease our as adjusted net tangible book value per share after this offering by approximately $3.8 million and the dilution per share to investors in this offering would increase by approximately $0.16, assuming that the assumed public offering price, as set forth on the cover page of this prospectus, remains the same, and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us.

Certain of our existing stockholders and their affiliated entities, including holders of more than 5% of our common stock have indicated an interest in purchasing shares of our common stock in this offering at the public offering price per share. However, because indications of interest are not binding agreements or commitments to purchase, the underwriters may determine to sell more, less or no shares in this offering to any of these entities, or any of these entities may determine to purchase more, less or no shares in this offering. The foregoing discussion and tables do not reflect any potential purchases by these entities or their affiliated entities.
The following discussion should be read in conjunction with the consolidated financial statements and the related notes contained elsewhere in this prospectus. In addition to historical information, the following discussion contains forward looking statements based upon current expectations that are subject to risks and uncertainties. Actual results may differ substantially from those referred to herein due to a number of factors, including, but not limited to, risks described in the section entitled “Risk Factors” and elsewhere in this prospectus.

Overview

In the discussion below, when we use the terms “we”, “us” and “our”, we are referring to Viveve Medical, Inc. and our wholly-owned subsidiaries, Viveve, Inc. and Viveve BV.

We design, develop, manufacture and market a medical device for the non-invasive treatment of vaginal laxity that we refer to as Geneveve™, which includes a radio frequency (RF) generator, which we refer to as the Viveve System, single-use treatment tips and other ancillary disposables. Currently, Geneveve is cleared for marketing in 51 countries throughout the world under the following indications for use:

<table>
<thead>
<tr>
<th>Indication for Use</th>
<th>No. of Countries:</th>
</tr>
</thead>
<tbody>
<tr>
<td>General surgical procedures for electrocoagulation and hemostasis</td>
<td>3 (including the U.S.)</td>
</tr>
<tr>
<td>For treatment of vaginal laxity</td>
<td>34</td>
</tr>
<tr>
<td>For treatment of the vaginal introitus, after vaginal childbirth, to improve sexual function</td>
<td>13</td>
</tr>
<tr>
<td>For vaginal rejuvenation</td>
<td>1</td>
</tr>
</tbody>
</table>

In the U.S., Geneveve is cleared for use in general surgical procedures for electrocoagulation and hemostasis and we market and sell through a direct sales force. Outside the U.S., we market and sell through distribution partners. As of December 31, 2016, we have sold 217 Viveve Systems and approximately 4,050 single-use treatment tips in countries primarily outside of the U.S.

Because the revenues we have earned to date have not been sufficient to support our operations, we have relied on sales of our securities, loans from related parties and bank term loans to fund our operations. We are currently located in Sunnyvale, California. We plan to relocate the corporate headquarters toward the end of the first quarter of 2017 as discussed below in “Recent Events.”

Recent Events

On April 15, 2016, we effected a 1-for-8 reverse stock split of our common stock. On the effective date of the reverse stock split, (i) each 8 shares of outstanding common stock were reduced to one share of common stock; (ii) the number of shares of common stock into which each outstanding warrant or option to purchase common stock is exercisable were proportionately reduced on an 8-to-1 basis; and (iii) the exercise price of each outstanding warrant or option to purchase common stock were proportionately increased on a 1-to-8 basis. All of the share numbers, share prices, and exercise prices have been adjusted, on a retroactive basis, to reflect this 1-for-8 reverse stock split.
On May 9, 2016, we filed the necessary Application for Authorization to Continue into Another Jurisdiction and Statutory Declaration with the Yukon registrar. On May 10, 2016, we filed a Certificate of Incorporation with the Secretary of State of the State of Delaware to move our domicile from the Yukon Territory to Delaware.

On June 17, 2016, in connection with the closing of a public offering (the “June 2016 Offering”), we issued an aggregate of 3,105,000 shares of common stock, including the shares issued in connection with the exercise of the underwriters’ overallotment option, at a public offering price of $5.00 per share for gross proceeds of approximately $15.5 million. The net proceeds to us, after the deduction of underwriting discounts, commissions and other offering expenses, were approximately $13.9 million.

On June 20, 2016, we entered into a Loan and Security Agreement (the “2016 Loan Agreement”) with Western Alliance Bank (“WAB”), pursuant to which WAB agreed to loan us up to an aggregate of $10.0 million payable in two tranches of $7.5 million and $2.5 million. The funding conditions for both tranches were satisfied as of the closing date, and therefore, the aggregate principal amount of $10.0 million was provided to us on June 20, 2016. The proceeds received were used to repay outstanding existing indebtedness under a Loan and Security Agreement, as amended on February 19, 2015, May 14, 2015, November 30, 2015 and March 18, 2016 (collectively, the “2014 Loan Agreement”), with Pacific Western Bank (as successor in interest by merger to Square 1 Bank), and the remaining balance will be used for working capital purposes and to fund general business requirements. The borrowings are repayable in interest only payments until July 1, 2017 and then 30 monthly equal installments of principal and interest. The term loan bears interest on the outstanding obligations under the loan at a floating per annum rate equal to the greater of (i) the Index Rate (i.e., the 30 day U.S. LIBOR rate reported in the Wall Street Journal) plus 6.96%, determined as of the last day of each month, and (ii) 7.40%.

On January 13, 2017, we entered into a waiver and amendment (the “First Amendment”) to the 2016 Loan Agreement with WAB. Pursuant to the First Amendment, WAB agreed to waive the default resulting from the failure to comply with the performance to plan revenue covenants described in the 2016 Loan Agreement for the measuring periods ended October 31, 2016 and November 30, 2016. In addition, the First Amendment added a financial covenant that until the Company maintains a ratio of minimum unrestricted cash in accounts with WAB to indebtedness of at least 1.25 to 1.00, the Company must at all times maintain unrestricted cash in accounts with WAB in an amount equal to or greater than $2,000,000, which financial covenant shall no longer apply at such time that the Company achieves a ratio of minimum unrestricted cash in accounts with WAB to indebtedness of at least 1.25 to 1.00.

On February 1, 2017, the Company entered into a sublease agreement (the “Sublease”) for approximately 12,400 square feet of building space for the relocation of the Company’s corporate headquarters to Englewood, Colorado (the “Sublease Premises”), which is effective as of January 26, 2017. Physical relocation is planned toward the end of the first quarter of 2017 pending completion of the build-out of all office and warehouse facilities.
The term of the Sublease will commence on the later of (i) 120 days after the date sublandlord delivers possession of the Sublease Premises to the Company or (iii) upon substantial completion of the tenant improvements pursuant to the Sublease (the “Commencement Date”), and will expire 36 months after the Commencement Date, or such earlier date as the Master Lease may be terminated pursuant to the terms thereof.

The monthly base rent under the Sublease will be equal to $20.50 per rentable square foot of the Sublease Premises during the first year. The monthly base rent will be equal to $21.12 and $21.75 per rentable square foot during the second and third years, respectively. In connection with the execution of the Sublease, the Company also agreed to pay a security deposit of approximately $22,000. The Company is entitled to an allowance of approximately $88,000 for certain tenant improvements relating to the engineering, design and construction of the Sublease Premises.

We are subject to risks, expenses and uncertainties frequently encountered by companies in the medical device industry. These risks include, but are not limited to, intense competition, whether we can be successful in obtaining U.S. Food and Drug Administration (the “FDA”) clearance or approval for the sale of our product to treat vaginal laxity and/or improve sexual function, and whether there will be a demand for the Geneveve treatment, given that the cost of the procedure will likely not be reimbursed by the government or private health insurers. In addition, we will continue to require substantial funds to support our clinical trials and fund our efforts to expand regulatory approval for our products in locations in which we do not currently have approval to market our product, or to expand our cleared or approved indications for use in certain locations, including the U.S. We cannot be certain that any additional required financing will be available when needed or on terms which are favorable to us. As noted above, our operations to date have been primarily funded through the sales of our securities, loans from related parties and bank term loans. Various factors, including our limited operating history with minimal revenues to date and our limited ability to market and sell our product have resulted in limited working capital available to fund our operations. The merger that took place on September 23, 2014 between PLC Systems Inc., Viveve, Inc. and PLC Systems Acquisition Corp. (the “Merger”) and the concurrent private offering was consummated in an effort to raise additional capital and increase public awareness of Viveve, as well as to create opportunities for access to additional capital by increasing liquidity. There are no assurances that we will be successful in securing additional financing in the future to fund our operations going forward. Failure to generate sufficient cash flows from operations, raise additional capital or reduce certain discretionary spending could have a material adverse effect on our ability to achieve our intended business objectives. These factors raise substantial doubt about our ability to continue as a going concern.

Plan of Operation

We intend to increase our sales both internationally and in the United States market by seeking regulatory clearances or approvals for the sale and distribution of our products or for expanded indications, identifying and training qualified distributors and expanding the scope of physicians who offer treatment with Geneveve to include plastic surgeons, dermatologists, general surgeons, urologists, urogynecologists and primary care physicians.
In addition, we intend to use the strategic relationships that we have developed with outside contractors and medical experts to improve our products by focusing our research and development efforts on various areas including, but not limited to:

- designing new treatment tips optimized for both ease-of-use and to reduce procedure times for patients and physicians; and
- Developing new RF consoles, which may include increased security features to prevent piracy, or new cooling systems to maintain compliance with changing environmental regulations.

The net proceeds received from sales of our securities and the term loans have been used to support commercialization of our product in existing and new markets, for our research and development efforts and for protection of our intellectual property, as well as for working capital and other general corporate purposes. We expect that our cash will be sufficient to fund our activities for the next six months; however, we will continue to require funds to fully implement our plan of operation. Our operating costs include employee salaries and benefits, compensation paid to consultants, professional fees and expenses, costs associated with our clinical trials, capital costs for research and other equipment, costs associated with research and development activities including travel and administration, legal expenses, sales and marketing costs, general and administrative expenses, and other costs associated with an early stage public company subject to the reporting requirements of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). We also expect to incur expenses related to obtaining additional regulatory clearances or approvals in the U.S. and internationally as well as legal and related expenses to protect our intellectual property. We expect capital expenditures, for the foreseeable future, to be less than $500,000 annually.

We intend to continue to meet our operating cash flow requirements through the sales of our products and by raising additional funds from the sale of equity or debt securities. If we sell our equity securities, or securities convertible into equity, to raise capital, our current stockholders will likely be substantially diluted. We may also consider the sale of certain assets, or entering into a strategic transaction, such as a merger, with a business complimentary to ours, although we do not currently have plans for any such transaction. While we have been successful in raising capital to fund our operations since inception, other than as discussed in this prospectus, we do not have any committed sources of financing and there are no assurances that we will be able to secure additional funding, or if we do secure additional financing that it will be on terms that are favorable to us. If we cannot obtain financing, then we may be forced to curtail our operations or consider other strategic alternatives.

Results of Operations

Year Ended December 31, 2016 Compared to the Year Ended December 31, 2015

<table>
<thead>
<tr>
<th></th>
<th>Year Ended December 31,</th>
<th>Change</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2016</td>
<td>2015</td>
<td>$</td>
</tr>
<tr>
<td>Revenue</td>
<td>$7,141</td>
<td>$1,447</td>
<td>$5,694</td>
</tr>
</tbody>
</table>

44
We recorded revenue of $7,141,000 for the year ended December 31, 2016, compared to revenue of $1,447,000 for the year ended December 31, 2015, an increase of $5,694,000. The increase in revenue was primarily due to sales of 175 Viveve Systems and disposable treatment tips and other ancillary consumables to our new distributors. Sales in 2015 included only 34 Viveve Systems and were limited primarily because of insufficient commercial inventory available for sale and the majority of inventory during the first half of 2015 was used to support our OUS Clinical Trial.

Gross Profit

<table>
<thead>
<tr>
<th>Year Ended December 31,</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>2016</td>
<td>$2,529</td>
</tr>
<tr>
<td>2015</td>
<td>$462</td>
</tr>
<tr>
<td>$2,067</td>
<td>447%</td>
</tr>
</tbody>
</table>

Gross profit was $2,529,000, or 35% of revenue, for the year ended December 31, 2016, compared to gross profit of $462,000, or 32% of revenue, for the year ended December 31, 2015. The increase in gross profit was primarily due to sales of 175 Viveve Systems to our new distributors in 2016. Sales in 2015 included only 34 Viveve Systems and were limited to smaller quantities of disposable treatment tips and other ancillary consumables primarily because of insufficient commercial inventory available for sale and the majority of inventory during the first half of 2015 was used to support our OUS Clinical Trial.

Research and development expenses

<table>
<thead>
<tr>
<th>Year Ended December 31,</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>2016</td>
<td>$8,365</td>
</tr>
<tr>
<td>2015</td>
<td>$4,988</td>
</tr>
<tr>
<td>$3,377</td>
<td>68%</td>
</tr>
</tbody>
</table>

Research and development expenses totaled $8,365,000 for the year ended December 31, 2016, compared to research and development expenses of $4,988,000 for the year ended December 31, 2015, an increase of $3,377,000, or approximately 68%. Spending on research and development increased in 2016 primarily due to costs associated with increased engineering and development work with our contract manufacturer related to product improvement efforts. Research and development expense during 2016 also included higher personnel costs for new employees and related additional stock-based compensation expense for stock options granted to new employees and additional stock options granted to existing employees for performance bonuses.

Selling, general and administrative expenses

<table>
<thead>
<tr>
<th>Year Ended December 31,</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>2016</td>
<td>$12,868</td>
</tr>
<tr>
<td>2015</td>
<td>$7,464</td>
</tr>
<tr>
<td>$5,404</td>
<td>72%</td>
</tr>
</tbody>
</table>
Selling, general and administrative expenses totaled $12,868,000 for the year ended December 31, 2016, compared to $7,464,000 for the year ended December 31, 2015, an increase of $5,404,000, or approximately 72%. The increase in selling, general and administrative expenses in 2016 was primarily attributable to increased sales and marketing efforts to build brand and market awareness, expenses associated with being a public company and financing efforts. Selling, general and administrative expenses during 2016 also included higher personnel costs for new employees (primarily in connection with our sales and marketing efforts) and related additional stock-based compensation expense for stock options granted to new employees and additional options granted to existing employees for performance bonuses.

### Interest expense

<table>
<thead>
<tr>
<th>Year Ended December 31,</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td></td>
</tr>
<tr>
<td>2015</td>
<td></td>
</tr>
<tr>
<td>(in thousands, except percentages)</td>
<td>%</td>
</tr>
<tr>
<td>Interest expense, net</td>
<td>$1,370</td>
</tr>
</tbody>
</table>

During the year ended December 31, 2016, we had interest expense of $1,370,000, compared to $415,000 for the year ended December 31, 2015. The increase of $955,000, or approximately 230%, resulted primarily from the additional interest expense in connection with the payoff in June 2016 of the term loan under the 2014 Loan Agreement, and interest expense for the term loan in 2016, which was computed on a higher loan balance compared to the loan balance in 2015.

### Other expense, net

<table>
<thead>
<tr>
<th>Year Ended December 31,</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td></td>
</tr>
<tr>
<td>2015</td>
<td></td>
</tr>
<tr>
<td>(in thousands, except percentages)</td>
<td>%</td>
</tr>
<tr>
<td>Other expense, net</td>
<td>$37</td>
</tr>
</tbody>
</table>

During the year ended December 31, 2016 we had other expense, net, of $37,000 as compared to other expense, net, of $21,000 for the year ended December 31, 2015.

### Liquidity and Capital Resources

**Year Ended December 31, 2016**

Liquidity is our ability to generate sufficient cash flows from operating activities to meet our obligations and commitments. In addition, liquidity includes the ability to obtain appropriate financing or to raise capital. We have funded our operations since inception through the sale of our securities, loans from related parties and bank term loans. To date, we have not generated sufficient cash flows from operating activities to meet our obligations and commitments, and we anticipate that we will continue to incur losses for the foreseeable future. We expect that our cash will be sufficient to fund our activities for the next six months, however, we will continue to require funds to fully implement our plan of operation.
Because we have incurred losses and reported negative cash flow from operations since inception, our consolidated financial statements have been prepared assuming that we will continue as a going concern. These conditions raise substantial doubt about our ability to continue as a going concern. Our consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

The following table summarizes the primary sources and uses of cash for the periods presented below (in thousands):

<table>
<thead>
<tr>
<th>Year Ended December 31</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net cash used in operating activities</td>
<td>$(18,087)</td>
<td>$(12,195)</td>
</tr>
<tr>
<td>Net cash used in investing activities</td>
<td>(256)</td>
<td>(109)</td>
</tr>
<tr>
<td>Net cash provided by financing activities</td>
<td>19,069</td>
<td>18,769</td>
</tr>
<tr>
<td>Net increase in cash and cash equivalents</td>
<td>$726</td>
<td>$6,465</td>
</tr>
</tbody>
</table>

Operating Activities

We have incurred, and expect to continue to incur, significant expenses in the areas of research and development, regulatory and clinical study costs associated with Geneveve.

Operating activities used $18,087,000 for the year ended December 31, 2016 compared to $12,195,000 used for the year ended December 31, 2015. The primary use of our cash was to fund selling, general and administrative expenses and research and development expenses associated with Geneveve. Net cash used during the year ended December 31, 2016 consisted of a net loss of $20,111,000 adjusted for non-cash expenses including depreciation and amortization of $111,000, stock-based compensation of $981,000, fair value of warrants issued to distributor and consultants of $162,000, a restricted stock award granted to a consultant of $39,000, non-cash interest expense of $456,000 and cash inflows from changes in operating assets and liabilities of $275,000. Net cash used during the year ended December 31, 2015 consisted of a net loss of $12,426,000 adjusted for non-cash expenses including depreciation and amortization of $77,000, stock-based compensation of $220,000, fair value of warrants issued to employees for performance bonuses of $286,000, fair value of warrants issued to service providers of $251,000 (primarily related to nonemployee contractors), non-cash interest expense of $197,000, and cash outflows from changes in operating assets and liabilities of $800,000.
Investing Activities

Net cash used in investing activities during the year ended December 31, 2016 and 2015 was $256,000 and $109,000, respectively. Net cash used in investing activities during 2016 and 2015 was used for the purchase of property and equipment. We expect to continue to purchase property and equipment in the normal course of our business. The amount and timing of these purchases and the related cash outflows in future periods is difficult to predict and is dependent on a number of factors including, but not limited to, any increase in the number of our employees and any changes to the capital equipment requirements related to our development programs and clinical trials.

Financing Activities

Net cash provided by financing activities during year ended December 31, 2016 was $19,069,000 which was the result of the net proceeds of $13,886,000 from our June 2016 Offering, the proceeds of $10,000,000 from the drawdown of funds from the first and second tranches of the new term loan under the 2016 Loan Agreement (partially offset by debt issuance costs of $90,000), and proceeds from the exercise of warrants and stock options of $106,000, partially offset by the repayment of the existing term loan under the 2014 Loan Agreement of $4,833,000.

Net cash provided by financing activities during year ended December 31, 2015 was $18,769,000, which was primarily the result of the net proceeds of $11,040,000 from the May 2015 Offering, the net proceeds of $5,393,000 from our November 2015 Offering, the proceeds of $2,500,000 from the drawdown of funds from the second and third tranches of the term loan under the 2014 Loan Agreement.

Contractual Payment Obligations

We have obligations under a non-cancelable operating lease, a bank term loan and a purchase commitment for inventory. As of December 31, 2016, our contractual obligations are as follows (in thousands):

<table>
<thead>
<tr>
<th>Contractual Obligations:</th>
<th>Total</th>
<th>Less than 1 Year</th>
<th>1 - 3 Year</th>
<th>3 - 5 Years</th>
<th>More than 5 Years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-cancellable operating lease obligations</td>
<td>$385</td>
<td>$303</td>
<td>$82</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Debt obligations (including interest)</td>
<td>11,694</td>
<td>2,719</td>
<td>8,975</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Total</td>
<td>$12,079</td>
<td>$3,022</td>
<td>$9,057</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

In June 2006, we entered into a Development and Manufacturing Agreement with Stellartech Research Corporation (the "Agreement"). The Agreement was amended on October 4, 2007. Under the Agreement, we agreed to purchase 300 generators manufactured by Stellartech. As of December 31, 2016, we have purchased 345 units. The price per unit is variable and dependent on the volume and timing of units ordered.

In January 2012, we entered into a lease agreement for office and laboratory facilities in Sunnyvale, California. The lease agreement, as amended in September 2016, commenced in March 2012 and will terminate in March 2018.
As described above, on February 1, 2017, we entered into a Sublease for approximately 12,400 square feet of building space for the relocation of the Company’s corporate headquarters to Englewood, Colorado. The lease term is 36 months and the monthly base rent for the first, second and third year is $20.50, $21.12 and $21.75 per rentable square foot, respectively. In connection with the execution of the Sublease, the Company paid a security deposit of approximately $22,000. The Company is also entitled to an allowance of approximately $88,000 for certain tenant improvements relating to the engineering, design and construction of the Sublease Premises.

As described above, on June 20, 2016, we entered into the 2016 Loan Agreement with WAB pursuant to which we received a term loan in the amount of $10.0 million. The proceeds from the term loan were used to repay the existing outstanding indebtedness with another financial institution and to provide general working capital to fund our operations. As of December 31, 2016 and the date of this filing, the outstanding term loan principal balance was $10.0 million.

Critical Accounting Policies and Estimates

The discussion and analysis of financial condition and results of operations is based upon our consolidated financial statements, which have been prepared in conformity with accounting principles generally accepted in the United States of America. Certain accounting policies and estimates are particularly important to the understanding of our financial position and results of operations and require the application of significant judgment by our management or can be materially affected by changes from period to period in economic factors or conditions that are outside of our control. As a result, they are subject to an inherent degree of uncertainty. In applying these policies, management uses their judgment to determine the appropriate assumptions to be used in the determination of certain estimates. Those estimates are based on our historical operations, our future business plans and projected financial results, the terms of existing contracts, observance of trends in the industry, information provided by our customers and information available from other outside sources, as appropriate. Please see Note 2 to our consolidated financial statements for a more complete description of our significant accounting policies.

Inventory

Inventory is stated at the lower of cost or market, cost being determined on an actual cost basis on a first-in, first-out method and market being determined as the lower of replacement cost or net realizable value. Inventory as of December 31, 2016 is mainly finished goods but also includes a small quantity of raw materials. All inventory as of December 31, 2015 is finished goods. We regularly assess the valuation of inventory and write down inventory which is obsolete or in excess of forecasted usage to their estimated realizable value. Estimates of realizable value are based upon our analysis and assumptions including, but not limited to, forecasted sales by product, expected product life cycle, product development plans and future demand requirements. If market conditions are less favorable than our forecast or actual demand from customers is lower than our estimates, we may be required to record additional inventory write-downs. At the point of write down, a new lower-cost basis for that inventory is established, and subsequent changes in facts and circumstances do not result in the restoration or increase in that newly established cost basis. If there were to be a sudden and significant decrease in demand for our products, or if there were a higher incidence of inventory obsolescence because of rapidly changing technology and customer requirements, we could be required to increase inventory write-downs, and our gross margin could be adversely affected. If demand is higher than expected, we may sell inventories that had previously been written down.
Impairment of Long-Lived Assets

The Company reviews long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset might not be recoverable. When such an event occurs, management determines whether there has been an impairment by comparing the anticipated undiscounted future net cash flows to the related asset's carrying value. If an asset is considered impaired, the asset is written down to fair value, which is determined based either on discounted cash flows or appraised value, depending on the nature of the asset. The Company has not identified any such impairment losses to date.

Revenue Recognition

The Company recognizes revenue from the sale of its products, the Viveve System, single-use treatment tips and ancillary consumables. Revenue is recognized upon shipment, provided that persuasive evidence of an arrangement exists, the price is fixed or determinable and collection of the resulting receivable is reasonably assured. Sales of our products are subject to regulatory requirements that vary from country to country. The Company has regulatory clearance, or can sell its products without a clearance, in many countries throughout the world, including countries within the following regions: North America, Latin America, Europe, the Middle East and Asia Pacific.

The Company does not provide its customers with a right of return.

Allowance for Doubtful Accounts

We make ongoing assumptions relating to the collectibility of our accounts receivable in our calculation of the allowance for doubtful accounts. In determining the amount of the allowance, we make judgments about the creditworthiness of customers based on ongoing credit evaluations and assess current economic trends affecting our customers that might impact the level of credit losses in the future and result in different rates of bad debts than previously seen. We also consider our historical level of credit losses. As of December 31, 2016 and 2015, there was no allowance for doubtful accounts.

Product Warranty

The Company’s products are generally subject to a one year warranty, which provides for the repair, rework or replacement of products (at the Company’s option) that fail to perform within stated specification. The Company has assessed the historical claims and, to date, product warranty claims have not been significant. The Company will continue to assess if there should be a warranty accrual going forward.

Research and Development

Research and development costs are charged to operations as incurred. Research and development costs include, but are not limited to, payroll and personnel expenses, prototype materials, laboratory supplies, consulting costs, and allocated overhead, including rent, equipment depreciation, and utilities.
**Income Taxes**

Accounting for income taxes requires that deferred tax assets and liabilities be recognized using enacted tax rates for the effect of temporary differences between the book and tax bases of recorded assets and liabilities. The liability method is used in accounting for income taxes. Deferred tax assets and liabilities are determined based on the differences between financial reporting and the tax basis of assets and liabilities, and are measured using the enacted tax rates and laws that will be in effect when the differences are expected to reverse. Deferred tax assets may be reduced by a valuation allowance if it is more likely than not that some or all of the deferred tax asset will not be realized. We evaluate annually the realizability of our deferred tax assets by assessing our valuation allowance and by adjusting the amount of such allowance, if necessary. The factors used to assess the likelihood of realization include our forecast of future taxable income and available tax planning strategies that could be implemented to realize the net deferred tax assets. As of December 31, 2016 and 2015, the Company has recorded a full valuation allowance for our deferred tax assets based on our historical losses and the uncertainty regarding our ability to project future taxable income. In future periods if we are able to generate income, we may reduce or eliminate the valuation allowance.

**Accounting for Uncertainty in Income Taxes**

We consider many factors when evaluating and estimating our tax positions and tax benefits, which may require periodic adjustments and which may not accurately anticipate actual outcomes. The first step is to evaluate the tax position for recognition by determining if the weight of available evidence indicates that it is more likely than not that the position will be sustained on audit, including resolution of related appeals or litigation processes, if any. The second step is to measure the tax benefit as the largest amount that is more than 50% likely of being realized upon ultimate settlement. Whether the more-likely-than-not recognition threshold is met for a tax position is a matter of judgment based on the individual facts and circumstances of that position evaluated in light of all available evidence.

**Accounting for Stock-Based Compensation**

Stock-based compensation cost is measured at grant date, based on the fair value of the award, and is recognized as expense over the employee’s service period. The Company recognizes compensation expense on a straight-line basis over the requisite service period of the award.

We determined that the Black-Scholes option pricing model is the most appropriate method for determining the estimated fair value for stock options. The Black-Scholes option pricing model requires the use of highly subjective and complex assumptions which determine the fair value of share-based awards, including the option’s expected term and the price volatility of the underlying stock.

Equity instruments issued to nonemployees are recorded at their fair value on the measurement date and are subject to periodic adjustment as the underlying equity instruments vest.
Recent Accounting Pronouncements

In May 2014, as part of its ongoing efforts to assist in the convergence of US GAAP and International Financial Reporting Standards ("IFRS"), the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") 2014-09, "Revenue from Contracts with Customers (Topic 606)." The new guidance sets forth a new five-step revenue recognition model which replaces the prior revenue recognition guidance in its entirety and is intended to eliminate numerous industry-specific pieces of revenue recognition guidance that have historically existed in US GAAP. The underlying principle of the new standard is that a business or other organization will recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects what it expects in exchange for the goods or services. The standard also requires more detailed disclosures and provides additional guidance for transactions that were not addressed completely in the prior accounting guidance. The ASU provides alternative methods of initial adoption and is effective for annual and interim periods beginning after December 15, 2017. The FASB has issued several updates to the standard which i) defer the original effective date from January 1, 2017 to January 1, 2018, while allowing for early adoption as of January 1, 2017 (ASU 2015-14); ii) clarify the application of the principal versus agent guidance (ASU 2016-08); iii) clarify the guidance on inconsequential and perfunctory promises and licensing (ASU 2016-10); and clarify the guidance on certain sections of the guidance providing technical corrections and improvements (ASU 2016-10). In May 2016, the FASB issued ASU 2016-12, "Revenue from Contracts with Customers (Topic 606) Narrow-Scope Improvements and Practical Expedients", to address certain narrow aspects of the guidance including collectibility criterion, collection of sales taxes from customers, noncash consideration, contract modifications and completed contracts. This issuance does not change the core principle of the guidance in the initial topic issued in May 2014. We are currently evaluating the impact that this standard will have on our consolidated financial statements.

In August 2014, the FASB issued ASU No. 2014-15, Presentation of Financial Statements—Going Concern (Subtopic 205-40): Disclosure of Uncertainties about an Entity’s Ability to Continue as a Going Concern. This guidance is effective for our annual reporting period ending December 31, 2016 and all annual and interim reporting periods thereafter. We adopted this standard for the year ended December 31, 2016. This guidance requires us to evaluate whether there is substantial doubt about our ability to continue as a going concern for at least 12 months from the issuance date of the consolidated financial statements and to provide related footnote disclosures.

In July 2015, the FASB issued ASU 2015-11, "Simplifying the Measurement of Inventory" ("ASU 2015-11"). ASU 2015-11 requires that an entity should measure inventory within the scope of this pronouncement at the lower of cost and net realizable value. Net realizable value is the estimated selling prices in the ordinary course of business, less reasonably predictable costs of completion, disposal, and transportation. The pronouncement does not apply to inventory that is being measured using the last-in, first-out ("LIFO") method or the retail inventory method. Subsequent measurement is unchanged for inventory measured using LIFO or the retail inventory method. We plan to adopt this guidance as of January 1, 2017 and believe the adoption of the guidance will not have a significant impact on the consolidated financial statements.

In February 2016, the FASB issued ASU 2016-02, "Leases (Topic 842)". Under this guidance, an entity is required to recognize right-of-use assets and lease liabilities on its balance sheet and disclose key information about leasing arrangements. This guidance offers specific accounting guidance for a lessee, a lessor and sale and leaseback transactions. Lessees and lessors are required to disclose qualitative and quantitative information about leasing arrangements to enable a user of the financial statements to assess the amount, timing and uncertainty of cash flows arising from leases. This guidance is effective for annual reporting periods beginning after December 15, 2018, including interim periods within the reporting period, and requires a modified retrospective adoption, with early adoption permitted. We are currently evaluating the effect of the adoption of this guidance on our consolidated financial statements.
In March 2016, the FASB issued ASU 2016-09, “Compensation – Stock Compensation (Topic 718): Improvements to Employee Share-Based Payment Accounting”. This guidance identifies areas for simplification involving several aspects of accounting for share-based payment transactions, including the income tax consequences, classification of awards as either equity or liabilities, an option to recognize gross stock compensation expense with actual forfeitures recognized as they occur, as well as certain classifications on the statement of cash flows. We plan to adopt this guidance as of January 1, 2017 and believe the adoption of the guidance will not have a significant impact on the consolidated financial statements.

In August 2016, the FASB issued ASU No. 2016-15, Statement of Cash Flows, Classification of Certain Cash Receipts and Cash Payments (Topic 230). This guidance addresses specific cash flow issues with the objective of reducing the diversity in practice for the treatment of these issues. The areas identified include: debt prepayment or debt extinguishment costs; settlement of zero-coupon debt instruments; contingent consideration payments made after a business combination; proceeds from the settlement of insurance claims; proceeds from the settlement of corporate-owned life insurance policies; distributions received from equity method investees; beneficial interests in securitization transactions and application of the predominance principle with respect to separately identifiable cash flows. This guidance is effective for annual reporting periods beginning after December 15, 2017, including interim periods within that reporting period, with early adoption permitted. We are currently evaluating the effect of the adoption of this guidance on our consolidated financial statements.

In August 2016, the FASB issued ASU No. 2016-18, Statement of Cash Flows, Restricted Cash (Topic 230). This guidance requires that a statement of cash flows explain the total change during the period of cash, cash equivalents, and amounts generally described as restricted cash or restricted cash equivalents. Amounts described as restricted cash and restricted cash equivalents should be included with cash and cash equivalents when reconciling the beginning of period and end of period to total amounts shown on the statement of cash flows. This guidance is effective for annual reporting periods beginning after December 15, 2017, including interim periods within that reporting period, with early adoption permitted. We are currently evaluating the effect of the adoption of this guidance on our consolidated financial statements.

**Off-Balance Sheet Transactions**

We do not have any off-balance sheet transactions.

**Trends, Events and Uncertainties**

Research, development and commercialization of new technologies and products is, by its nature, unpredictable. Although we will undertake development efforts with commercially reasonable diligence, there can be no assurance that we will have adequate capital to develop or commercialize our technology to the extent needed to create future sales to sustain our operations.
We cannot assure you that our technology will be adopted, that we will ever earn revenues sufficient to support our operations, or that we will ever be profitable. Furthermore, since we have no committed source of financing, we cannot assure you that we will be able to raise money as and when we need it to continue our operations. If we cannot raise funds as and when we need them, we may be required to severely curtail, or even to cease, our operations.

Other than as discussed above and elsewhere in this prospectus, we are not aware of any trends, events or uncertainties that are likely to have a material effect on our financial condition.
OUR BUSINESS

Viveve designs, develops, manufactures and markets a medical device for the non-invasive treatment of vaginal introital laxity, for improved sexual function, for vaginal rejuvenation, and for use in general surgery for electrocoagulation and hemostasis, depending on the relevant country-specific clearance or approval, that we refer to as Geneveve™. Women can develop vaginal laxity for a number of reasons, including aging, genetic predisposition, lifestyle, and/or the trauma of natural childbirth. Vaginal laxity can often cause decreased sexual function and satisfaction in women, yet most surveyed physicians who practice obstetrics and gynecology ("OB/GYNs") and urogynecologists recognize that it is an underreported, yet bothersome, medical condition that impacts relationship happiness as well as sexual function. Currently, few medical treatments are available to effectively treat vaginal laxity. The most widely prescribed treatments include Kegel exercises, although, to our knowledge, there is no validated evidence indicating that Kegel exercises improve vaginal laxity, and surgical procedures, which are not only invasive and expensive but sometimes lead to worse outcomes as a result of scarring. At this time, our products are indicated for use in general surgical procedures for electrocoagulation and hemostasis in the United States, and the device has not been cleared or approved for use for the treatment of vaginal laxity, to improve sexual function, or for vaginal rejuvenation in the United States. Accordingly, the Company is prohibited under current U.S. regulations from promoting it to physicians or consumers for these unapproved uses.

Geneveve is a non-invasive solution for vaginal laxity which includes three major components: the Viveve System™ (an RF, or radio frequency, generator housed in a table-top console), a reusable handpiece and a single-use treatment tip, as well as several other consumable accessories. Physicians attach the single-use treatment tip to the handpiece, which is connected to the console. The generator authenticates the treatment tip and programs the system for the desired treatment without further physician intervention. The treatment is performed in a physician’s office, in less than 30 minutes, and does not require the use of anesthesia. The tissue tightening effect resulting from Geneveve has been demonstrated by our pre-clinical and clinical research.

We believe that Geneveve provides a number of benefits for physicians and patients, including:

- a non-invasive, non-ablative alternative to surgery with no identified safety issues to date;
- it requires only a single treatment;
- compelling physician economics; and
- ease of use.

Currently, our products are cleared for marketing in 51 countries throughout the world under the following indications for use:

<table>
<thead>
<tr>
<th>Indication for Use:</th>
<th>No. of Countries:</th>
</tr>
</thead>
<tbody>
<tr>
<td>General surgical procedures for electrocoagulation and hemostasis</td>
<td>3 (including the U.S.)</td>
</tr>
<tr>
<td>For treatment of vaginal laxity</td>
<td>34</td>
</tr>
<tr>
<td>For treatment of the vaginal introitus, after vaginal childbirth, to improve sexual function</td>
<td>13</td>
</tr>
<tr>
<td>For vaginal rejuvenation</td>
<td>1</td>
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</tbody>
</table>
In the U.S., our products are cleared for use in general surgical procedures for electrocoagulation and hemostasis and we market and sell through a direct sales force to health care practitioners. Outside the U.S., we market and sell through an extensive network of distribution partners.

Our goal is to become the leading provider of non-invasive solutions to treat vaginal laxity by:

- **Increasing the Number of Installed Base of Viveve Systems**. In our existing markets, we plan to (i) expand the number of Viveve Systems from our initial base of early adopters by leveraging our current and future clinical study results and through innovative marketing programs directed at both physicians and patients, where permissible by law, and (ii) expand our efforts and obtain regulatory approvals in additional markets, although there are no assurances that we will ever receive such approvals.

- **Driving Increased Treatment Tip Usage**. We work collaboratively with our physician customer base to increase treatment tip usage by enhancing customer awareness and facilitating the marketing efforts of our physician customers to their patients, where permissible by law. We intend to launch innovative marketing programs with physician customers, where permissible by law, to develop a profitable Geneveve practice.

- **Broadening Our Physician Customer Base**. While our initial focus is on marketing our procedure to the OB/GYN specialty, we intend to selectively expand our sales efforts into other physician specialties, such as plastic surgery, dermatology, urology, urogynecology, general surgery and family practice. Additionally, we intend to pursue sales from physician-directed medi-spas with track records of safe and successful aesthetic treatments.

- **Developing New Treatment Tips and System Enhancements**. We intend to continue to expand our line of treatment tips to allow for even shorter procedure times to benefit both physicians and patients. We also plan to pursue potential system modifications and next generation enhancements that will further increase the ease-of-use of Geneveve.

- **Investing in Intellectual Property and Patent Protection**. We will continue to invest in expanding our intellectual property portfolio, and we intend to file for additional patents to strengthen our intellectual property rights.

As of December 31, 2016, we have sold 217 Viveve Systems and approximately 4,050 single-use treatment tips in countries outside of the U.S.

On September 23, 2014, Viveve Medical, Inc. (formerly PLC Systems, Inc.), a Delaware corporation (“Viveve Medical”) completed a reverse acquisition and recapitalization pursuant to the terms and conditions of an Agreement and Plan of Merger (the “Merger Agreement”) by and among PLC Systems Acquisition Corp., a wholly owned subsidiary of PLC Systems Inc., with and into Viveve, Inc., a Delaware corporation (the “Merger”). In conjunction with the Merger, we changed our name from PLC Systems Inc. to Viveve Medical, Inc. to better reflect our new business. Viveve Medical competes in the women’s health industry by marketing the Geneveve™ product as a way to improve the overall sexual well-being and quality of life of women experiencing vaginal laxity, depending on the relevant country-specific clearance or approval. We are currently located at 150 Commercial Street, Sunnyvale, California and our telephone number is (408) 530-1900. We plan to relocate the corporate headquarters toward the end of the first quarter of 2017 as discussed in Management’s Discussion and Analysis of Financial Condition and Results of Operations – Recent Events. Our website can be accessed at www.viveve.com. The information contained on or that may be obtained from our website is not a part of this prospectus. Viveve, Inc. operates as a wholly-owned subsidiary of Viveve Medical and was incorporated in 2005.
Overview of Vaginal Laxity

Vaginal laxity and tissue architecture have often been overlooked as contributing etiological factors to female sexual dysfunction. Vaginal laxity can lead to diminished physical sensation during intercourse. This reduction in sensation is often coupled with a reduction in sexual satisfaction, all of which can also impact a woman’s sense of sexual self-esteem and her relationship with her sexual partner.

Vaginal laxity is rarely discussed in the clinical situation, yet most surveyed OB/GYNs and urogynecologists recognize that it is an underreported, yet bothersome, medical condition that impacts relationship happiness and sexual function. ¹ Another survey of OB/GYNs, found that vaginal laxity is the most frequent physical change seen or discussed post-vaginal delivery ². Additionally, in a survey of women ranging from 25-45 years of age, who had experienced at least one vaginal delivery, approximately half expressed some degree of concern over “looseness” of the vaginal introitus. ³

Women can develop vaginal laxity for a number of reasons, including aging, genetic predisposition, lifestyle, and/or trauma. As women age, slower cellular renewal coupled with reduced vascular and glandular networks contributes to loss of underlying supportive fibrous tissue. Some women may have underlying pathophysiological issues with collagen formation, remodeling and repair; and their lifestyle choices (e.g., alcohol consumption, tobacco use, and excessive food consumption) may also play a role in sexual dysfunction.

All women who have given birth vaginally undergo stretching of the tissues of the vaginal opening to accommodate the fetal head. Often the effects are permanent and many women have long-term physical and psychological consequences including sexual dissatisfaction. One significant issue is the loosening of the introitus — the vaginal opening. This happens with the first vaginal delivery and can be made worse with subsequent vaginal deliveries. Vaginal laxity can result in decreased sexual pleasure for both women and their partners during intercourse. We believe that this condition is not frequently discussed because women are embarrassed, fear that their concerns will be dismissed or fear that their physicians will not understand. Physicians hesitate to discuss the situation with their patients because historically there has been no safe and effective treatment. Physicians frequently recommend Kegel exercises. However, these exercises only strengthen the pelvic floor muscles and do not address the underlying cause of vaginal laxity – loss of tissue elasticity. While surgery can be performed to tighten the vaginal canal, the formation of scar tissue from the surgery may lead to painful intercourse and permanent side effects.
As a consequence of the physical tissue damage that can result from childbirth, a significant decrease in sexual satisfaction has been reported in women who underwent vaginal delivery, when assessed six years after delivery, in comparison with those who underwent elective caesarian section. In the past several years there has been a marked increase in the number of women requesting delivery by caesarian section with the intention of preventing damage to the pelvic floor and introitus. Caesarian sections are not without risk to both the baby and mother. Whether or not to agree to a woman's request for an elective caesarian section has generated considerable controversy among obstetricians. If a procedure were available to address the concerns of women about vaginal laxity, we believe the perceived need to have a caesarian section to prevent vaginal tissue damage may decrease significantly.


3 Millheiser L, Kingsberg S, Pauls RN. A cross-sectional survey to assess the prevalence and symptoms associated with laxity of the vaginal introitus. ICS Annual Meeting 2010. Abstract #206
In 2009, we sponsored several on-line marketing surveys in the U.S. with both OB/GYNs and women, ages 25-55, to assess attitudes of physicians and women about vaginal laxity and towards a safe, non-invasive solution to treat this condition.

- **Physician Survey**: An OB/GYN marketing survey was conducted by OB/GYN Alliance with nearly 525 practicing OB/GYNs from across the U.S. The objectives of the study were to: obtain insights from physicians on physical changes resulting from childbirth and the corresponding sexual health implications for patients; understand the perceptions and opinions of OB/GYN physicians on a procedure that could be offered to address vaginal laxity following childbirth; and gain an understanding of whom the early adopters may be of Geneveve.

- **Consumer Survey**: In a consumer marketing survey conducted by Q&A Research, 421 women were screened for vaginal delivery, age (25-55), income, education and other factors. The objectives of the survey were to assess the need for Geneveve and better understand the complexity of emotions and the psychological profile of women who experience, but do not discuss, vaginal changes post childbirth.

Results from these surveys suggested that vaginal laxity is a significant unmet medical need, and that patients and physicians would benefit significantly from a safe and effective non-invasive treatment that would also increase physical sensation and sexual satisfaction following vaginal childbirth. Of the 421 patient respondents, up to 48% felt that vaginal laxity was a concern post-childbirth. Furthermore, we believe that patients and their OB/GYNs are not discussing vaginal laxity on a regular basis; in fact, we believe such conversations occur quite infrequently due to many factors, including patient embarrassment and fear of being ridiculed, lack of time and lack of solutions for physicians. Of the nearly 525 OB/GYNs surveyed, 84% indicated that vaginal laxity is the number one post-delivery physical change for women, being more prevalent than weight gain, urinary incontinence and stretch marks, and believe that it is under-reported by their patients. Additionally, in a separate international survey of urogynecologists, 83% of the 563 respondents described vaginal laxity as underreported by their patients and the majority considered it a bothersome condition that impacts sexual function and relationships. Despite the lack of communication regarding this issue, we believe there is a strong interest among patients and doctors for a treatment that is clinically proven and safe.

Applying U.S. census data, CDC Vital Statistics data and our projections as a result of these studies, we estimate there are approximately 6 million post-partum women who are potential candidates for this procedure in the U.S. alone, approximately 3 million of whom could be early adopters of Geneveve.

In 2012, we conducted a similar consumer study in Japan and Canada in order to understand any cultural differences that may exist towards vaginal laxity and Geneveve. The results corroborated our U.S. survey conclusions. Applying World Health Organization census data as well as data from individual countries, we estimate there are 10 million women outside the U.S. that could be early adopters of Geneveve.
Current Treatments and Their Limitations

Currently, few clinically proven medical treatments are available to effectively treat vaginal laxity. The most widely prescribed treatments include Kegel exercises and invasive surgical procedures, known as laser vaginal rejuvenation ("LVR") or vaginoplasty.

- **Kegel Exercises**: Kegels are an exercise that was developed by Dr. Arnold Kegel designed to strengthen the muscles of the pelvic floor - the pubococcygeal ("PC") muscles - to increase vaginal muscle tone, improve sexual response, and limit involuntary urine release due to stress urinary incontinence. These exercises are often prescribed following childbirth or during and after menopause. However, we are not aware of any validated evidence indicating that Kegels improve vaginal laxity or sexual function due to laxity.

- **Surgical Procedures**: Of the various alternatives for treating vaginal laxity, invasive surgical procedures, such as LVR, are the only modalities with any proven efficacy outcomes. Typically, they are performed by plastic surgeons with patients under general anesthesia. According to The International Society of Aesthetic Plastic Surgeons ("ISAPS"), approximately 114,135 LVR surgeries were performed worldwide in 2013. However, these invasive surgical procedures are expensive, costing thousands of dollars, and can involve weeks of post-surgical recovery time for the patient. They also carry the risk of scarring, which can lead to uncomfortable or painful intercourse, long-term or permanent loss of sensation, serious infection, tissue necrosis, hematomas (fluid collection under the tissue that may require removal), and adverse reactions to anesthesia.

The Viveve Solution

We believe that Geneveve provides a compelling, clinically proven, safe, non-invasive treatment for vaginal laxity and improvement of sexual function. Geneveve consists of three major components: the Viveve System™ (an RF, or radio frequency, generator housed in a table-top console), a reusable handpiece and a single-use treatment tip, as well as several other consumable accessories. Geneveve is typically performed in a medical office setting by, or under the supervision of, trained and qualified physicians, that may include obstetricians and gynecologists, plastic surgeons, dermatologists, general surgeons, urologists, urogynecologists or family practitioners.

Benefits of the Viveve Solution

Our solution provides a number of benefits for physicians and patients:

- **Non-Invasive, Non-Ablative Alternative to Surgery with No Identified Safety Issues**. Geneveve has been used to treat over 200 clinical study patients and physicians have used Geneveve on more than 2,000 patients as of the date of this prospectus. The procedure is non-invasive and offers an alternative to surgery at a much lower price with little or no downtime from the patient’s normal routine. It is also not a surgical procedure and does not damage either the mucosal or sub-mucosal tissue or require any form of anesthesia.
● **Single Treatment**. Geneveve is normally performed in a medical office setting as a single treatment that takes less than 30 minutes to complete. Our studies have shown that the clinical effect from our procedure occurs within one to three months and patients continue to report improvements over a period of six months following treatment. In addition, our studies have shown that Geneveve maintains its effect for at least 12 months, based upon currently available data from our clinical studies.

● **Compelling Physician Economics**. We believe that in an era of declining government and insurance reimbursement, many physicians are seeking to add effective and safe, self-pay procedures to their practices. Geneveve can be easily adapted into many physician practices and offers compelling per-procedure economics for the physician, despite requiring a small capital equipment purchase.

● **Ease of Use**. Geneveve offers an easy-to-use, straightforward user interface that allows a trained physician or nurse to perform the treatment in less than 30 minutes. Geneveve provides real-time feedback and the patient can be monitored during the treatment. The handpiece and single-use treatment tip are designed with a small profile for accurate placement during treatment, comfort and ease of use.

*Our Technology*

Geneveve uses a patented method for heating tissue.

● **Monopolar Radiofrequency Energy**. Monopolar RF delivery uses two electrodes, with one active electrode being held in the device handpiece by the physician or nurse and the second, a passive return electrode, typically attached to the patient’s upper leg. Monopolar delivery allows for precise administration of energy because the electrical current is concentrated where the active electrode touches the body and disperses quickly as it travels towards the return electrode. The monopolar RF process is distinct from bipolar RF-based technology, which is superficial, relying on current passing through tissue located between two probes placed close together on the surface of the skin. We believe that our monopolar technology delivers energy more effectively and to a greater tissue depth than bipolar technology.

● **The Capacitive Coupling Mechanism of Action for Collagen Heating**. Our single-use Viveve treatment tip contains patented technology that uses monopolar RF energy as a controlled tissue heating source through the use of a non-conducting material, known as a dielectric. Capacitive coupling is the use of the dielectric to create an electric field in the area where the treatment tip touches the body. The electric field induces a current within the surrounding tissue, resulting in volumetric heating of the tissue due to the tissue’s natural resistance to electrical current flow. Collagen is an efficient conductor of electricity and therefore acts as a pathway for the electric current. This process results in heating of the fibrous septae, the strands of collagen fibers that permeate tissues and connect the outer mucosal layer to the underlying muscle. Delivery of heat to the fibrous septae located in deeper layers of the tissue shrinks and shortens them, resulting in tightening of the mucosal tissue. Over time, new collagen strands may grow as part of the body’s natural response to the activation of fibroblasts that results from the application of low-energy hyperthermic RF energy. These new strands may add strength and produce additional tissue tightening over the next one to three months. This tightening of the tissue has the potential to reduce vaginal laxity and increase sexual function.
Geneveve

Geneveve includes three major components: the Viveve System™ (an RF, or radio frequency, generator housed in a table-top console), a reusable handpiece and a single-use treatment tip, as well as several other consumable accessories. Physicians or nurses attach the single-use treatment tip to the handpiece, which is connected to the console. The generator authenticates the treatment tip and programs the system for the desired treatment without further physician intervention.

- **Radiofrequency Generator**. The generator produces a six-megahertz signal and is simple and efficient to operate. Controls are within easy reach, and important user information is clearly displayed on the console’s built-in display, including energy delivered, tissue impedance, duration and feedback on procedure technique. Cooling is achieved, in conjunction with the generator, though the delivery of a coolant that helps to cool and protect the mucosa during a procedure.

- **Handpiece**. The reusable handpiece holds the treatment tip in place and processes information about temperature, contact, cooling system function and other important data. A precision control valve within the handpiece meters the delivery of coolant, which protects the mucosal surface.

- **Treatment Tip**. The single-use treatment tip is available in one size and comes pre-sterilized. Each treatment tip contains a proprietary internal EPROM, or programmable memory chip, which stores treatment parameters and safety limits in order to optimize performance and safety. To enhance procedural safety, we have programmed the EPROM for single-use treatments. Using the same treatment tip to perform multiple procedures could result in injury, therefore, the EPROM disables the treatment tip after a pre-programmed number of pulses to ensure that the treatment tip is not reused.

Geneveve also includes other consumable components. The console houses a canister of coolant that can be used for approximately four to five procedures. Each procedure requires a new return pad, which is typically adhered to the patient’s upper leg to allow a path of travel for the RF current through the body and back to the generator. We also sell proprietary single-use bottles of coupling fluid, a viscous liquid that helps ensure electrical and thermal contact with the treatment tip.

Geneveve is conducted on an outpatient basis in a physician’s office. The procedure typically takes less than 30 minutes and does not require any form of anesthesia. To perform the procedure, a physician or nurse attaches the single-use treatment tip to the handpiece. As described above, the return pad is then adhered to the patient’s upper leg to allow a path of travel for the RF current back to the generator. Prior to treatment, the treatment area is bathed in coupling fluid, which is used for conduction and lubrication. The area from the 1:00 o’clock position to the 11:00 o’clock position just inside the hymenal ring is treated using the Viveve treatment tip by delivering a three-phased pulse: Phase 1 – cooling, Phase 2 – 90 Joules/cm² of RF energy, and Phase 3 – cooling. Each pulse lasts approximately eight seconds. The Viveve treatment tip is then repositioned in an overlapping fashion clockwise and the three-phased treatment pulse is repeated. The entire circumferential treatment area from the 1:00 o’clock position to the 11:00 o’clock position is treated five times with overlapping pulses. Treatment of the urethral area is avoided. During the treatment procedure patients are expected to feel a sensation of warmth when the RF phase is delivered and a cooling sensation when the cooling phases are delivered. Based on our current clinical results, Geneveve is only required once, with efficacy lasting for at least 12 months.
Our Customers

To date, we have focused our initial commercial efforts in markets where we have received regulatory clearances for Geneveve, or in the case of Japan, where we use a physician import license pathway to sell our product. Within each market, we target thought leaders in the OB/GYN and plastic surgery specialties in order to increase awareness of vaginal laxity and accelerate patient acceptance of Geneveve. As our markets mature, we intend to target a broader number of physician specialties, including urogynecologists, dermatologists, urologists, general surgeons, and family practitioners.

Through our sales employees, and distributors, we currently target physicians who have a demonstrated commitment to building a high-volume, non-invasive, treatment business within their practice. As distribution of our product continues to expand globally, we intend to continue to utilize distribution partners in all countries except the U.S. and Canada where we have a direct sales force. To date, we are heavily reliant on our relationships with distribution partners for the sale of our products outside the U.S. and Canada.

Business Strategy

Our goal is to become the leading provider of non-invasive solutions to treat vaginal laxity by:

*Increasing the Installed Base of Viveve Systems*. In our existing markets, we plan to expand the number of Geneveve users from our initial base of early adopters by leveraging our current and future clinical study results and through innovative marketing programs directed at both physicians and patients, where permitted by law. As a condition that has historically had no viable, non-invasive solutions, we intend to focus much of our marketing effort on physician and patient education. Further, we intend to expand the number of regulatory approvals or clearances both internationally and in the U.S., to further increase the areas in which we can market Geneveve and to further expand the indications for which we can market Geneveve.

*Driving Increased Treatment Tip Usage*. Unlike the capital equipment model of other businesses, we maintain an active, continuous relationship with our physician customer base because of the single-use, disposable nature of the treatment tips. We work collaboratively with our physician customer base to increase treatment tip usage by enhancing customer awareness and facilitating the marketing efforts of our physician customers to their patients, where permitted by law. We believe that our customers’ interests are closely aligned with our interests, and we plan to monitor the market to foster continued procedure growth for our customers and treatment tip sales for us. We intend to launch innovative marketing programs with physician customers, where permitted by law, to develop a profitable Geneveve practice.
Broadening Our Physician Customer Base. While our initial focus is on marketing our procedure to the OB/GYN specialty, we intend to selectively expand our sales efforts into other physician specialties, such as plastic surgery, dermatology, urology, urogynecology, general surgery and family practice. Additionally, we intend to pursue sales from physician-directed medi-spas with track records of safe and successful aesthetic treatments.

Developing New Treatment Tips and System Enhancements. We intend to continue to expand our line of treatment tips to allow for even shorter procedure times to benefit both physicians and patients. We also plan to pursue potential system modifications and next generation enhancements that will further increase the ease-of-use of Geneveve.

Investing in Intellectual Property and Patent Protection. We will continue to invest in expanding our intellectual property portfolio, and we intend to file for additional patents to strengthen our intellectual property rights. Areas in which we may pursue additional patent protection include, but are not limited to, redesign of certain system components, disposable components and software algorithms. We believe that our intellectual property rights protect our position as the exclusive provider of a vaginal laxity treatment using monopolar RF technology in the U.S. and in many other countries. (See discussion under the heading “Patents and Proprietary Technology”.)

Sales and Marketing

International

We currently market and sell Geneveve, including the single-use treatment tips, in 51 countries (including the U.S.) through trained sales employees and distributors. As of the date of this prospectus, we had four sales directors (Europe, Middle East, Asia Pacific, and Latin America), and 26 sales distributors covering 69 countries throughout the world.

By using a consultative sales process, we form strong relationships with our customers through frequent interactions. Beyond performing initial system installation and on-site training, which can occur within two weeks of a physician’s purchase decision, our sales consultants provide ongoing consultation to physicians on how to integrate Geneveve into their practices and market procedures to their patients, where permitted by law.

We also provide comprehensive training and education to each physician upon delivery of Geneveve. We require this initial training to assist physicians in safely and effectively performing Geneveve treatment.

Our strategy to grow sales internationally is to:

- increase penetration of Geneveve by targeting physicians and clinics that perform in-office procedures and by implementing direct-to-consumer marketing programs to increase patient awareness of Geneveve, where permitted by law;
- expand into new international markets by gaining regulatory clearance or approval, and identifying and training qualified distributors; and
- expand the scope of physicians who offer Geneveve in addition to OB/GYNs, including plastic surgeons, dermatologists, general surgeons, urologists, urogynecologists and primary care physicians.
Further, to the extent applicable by law, we intend to actively engage in promotional opportunities through participation in industry tradeshows, clinical workshops and company-sponsored conferences with expert panelists, as well as through trade journals, brochures and our website. We intend to actively seek opportunities to obtain positive media exposure, and plan to engage in direct-to-consumer marketing of Geneveve, including extensive use of social media, where permitted by law.

**United States**

In December 2008, we received regulatory clearance from the FDA for a previous version of the device, no longer manufactured, for use in general surgical procedures for electrocoagulation and hemostasis. In March 2015, we submitted a Special 510(k) to the FDA seeking clearance for the updated Viveve System to take into account the design modifications to the original 510(k) cleared device, which include improved user interface capabilities and enhanced manufacturability. In October 2016, we received clearance from the FDA to sell the updated device for use in general surgical procedures for electrocoagulation and hemostasis.

We intend to seek regulatory clearance or approval from the FDA to allow us to begin to market Geneveve for the treatment of vaginal tissue to improve sexual function, to physicians practicing in the U.S. and to build awareness of Geneveve in patients residing in the U.S. In September 2016, we submitted an Investigational Device Exemption ("IDE") application to FDA to begin a U.S. clinical study and the FDA has responded with two sets of additional questions regarding the proposed protocol and other aspects of the clinical study design, which we are working to address. If and when approval of the IDE application is received, we intend to begin our U.S. clinical study to further demonstrate the safety and effectiveness of the device to treat vaginal laxity and/or improve sexual function.

**Clinical Studies**

We have completed several pre-clinical studies, as well as three human clinical studies and we are currently preparing to conduct a fourth human clinical study within the U.S., if and when we receive approval of our IDE application from the FDA. While we believe the three completed studies have shown that Geneveve has a very strong safety profile and is highly effective in the treatment of vaginal laxity and improvement of sexual function, there is risk that the FDA will not agree with this assessment or that the results of the clinical trial that will be performed under the IDE will not support the results of the earlier trials.

**Pre-clinical Studies**

In 2010, in collaboration with West Virginia University, we conducted an animal study in sheep to assess the safety, and further understand the mechanism of action, of Geneveve. The vaginal introitus of 16 parous sheep were treated once with Geneveve using a variety of energy levels (60-160 Joules/cm²). Each sheep then underwent serial vaginal biopsies immediately after treatment, at approximately one week, and at one, three and six months (4-5 samples per occurrence). Control biopsies were also obtained from three untreated parous sheep. We examined the vaginal mucosa and underlying connective tissue for thermal changes and subsequent tissue responses over a six month period through light microscopic examination of haematoxylin and eosin ("H&E") stained slides that were reviewed by pathologists who were blinded as to the treated and untreated sheep.
Both the 90 and 120 J/cm² doses met the criteria for success, including significantly increased submucosal fibroblast activation, without any safety concerns; supporting the hypothesis that the mechanism of action of our technology involves connective tissue remodeling with fibroblast activation and new collagen production. Given the post-treatment absence of ulcerations, regional necrosis or diffuse fibrosis, throughout the six month follow-up period, we believe that FDA will eventually agree with our assessment regarding the safety profile of Geneveve.

As part of our clinical studies, we have studied and continue to study, the interaction of RF energy and tissue to further understand the mechanism of action of Geneveve. We have used transmission electron microscopy on ovine biopsied tissue samples to corroborate that our product induces subtle collagen modification and the deposition of new collagen that leads to tissue tightening and restoration of tissue elasticity. We have developed histology techniques to investigate the depth of heat in tissue, fibroblast activation and collagen deposition that we believe is responsible for long-term improvement and tightening of tissue. We have also created three-dimensional computer models to study tissue heating with our product. Determining the effectiveness of this type of treatment is inherently a subjective evaluation. When performing our clinical studies, we attempt to utilize the most compelling measures we can in order to provide convincing evidence of efficacy.

Clinical Studies

In 2008 and 2010, we conducted two single-arm (non-placebo controlled) human clinical studies using Geneveve, one in the U.S. and one in Japan, respectively. Both studies were designed to assess the safety and efficacy of Geneveve for the treatment of vaginal laxity and improvement of sexual function and were submitted to regulatory authorities in Europe and Canada for the purpose of seeking regulatory clearance for the use and distribution of Geneveve in such locations. Each study resulted in patients reporting that Geneveve restored vaginal tightness to pre-childbirth level and improved sexual function. The results of our clinical trials are based on information reported by clinical patients in various response questionnaires (referred to as patient reported outcomes), designed to measure vaginal laxity and sexual function, completed by each clinical patient prior to treatment with respect to pre and post childbirth levels and at various times following treatment. All patient reported scores for each questionnaire and at each time point are compared to those scores reported by the same patients at baseline (prior to treatment) in order to assess whether patients have experienced a change due to the treatment. This change in score is then tested for statistical relevance (i.e. whether or not the change measured is due to chance). It is widely accepted by clinical trial industry standards that if the probability is less than 5% (p< .05) that this change is due to chance, than the results are deemed to be “Statistically Significant”. In other words, there is a 95% probability that the change in score measured is due to the treatment. Therefore, when we indicate that our clinical patients experienced a Statistically Significant result, we are referring to the change in responses as reported by such patients on the response questionnaires from the pre-treatment assessment (baseline) as compared to the post-treatment assessments at the various time points specified.
We conducted our first human study of Geneveve beginning in November 2008. The study was a single-arm study (without a control group) conducted in 24 female subjects, ages 25-44 years old, each of whom had experienced at least one full-term vaginal delivery. The study was designed to assess the safety and efficacy of the procedure at three RF dosing levels. Each woman was treated once with Geneveve, with no anesthesia – three patients received 60 joules/cm², three patients received 75 joules/cm², and 18 patients received 90 joules/cm². Patient outcomes were measured at baseline, 1, 3, 6, 9 and 12 months using several validated patient-reported outcome measures, including a company-designed vaginal laxity/tightness questionnaire (“VSQ”), Female Sexual Function Index (“FSFI”), Female Sexual Distress Scale-Revised (“FSDS-R”) and the Global Response Assessment.

Within one month after treatment with Geneveve, patients reported a Statistically Significant improvement in vaginal laxity scores, sexual function and sexual satisfaction scores to pre-childbirth levels. These results continued throughout the 12 month follow-up period. Additionally, patients reported a Statistically Significant decrease at one month, and thereafter, in their personal distress scores from sexual activity.

Geneveve also demonstrated a strong safety profile throughout the study. The treatment was well tolerated and there were no procedure-related adverse events or serious adverse events through the 12 month follow-up period. Notwithstanding the safety in trials to date of Geneveve, patients may experience undesirable side effects such as temporary swelling or reddening of the treated tissue.

Our second human clinical study of Geneveve began in March 2010. This study was an open-label study conducted in 30 female subjects, ages 21-52 years old, each of whom had experienced at least one full-term vaginal delivery. The study was designed to assess the safety and efficacy of the procedure. Each woman was treated once with Geneveve, with no anesthesia, using 90 joules/cm² of RF energy as the therapeutic dose.

Patient reported outcomes were measured at baseline, one month, three months, six months, and 12 months using several validated patient-reported outcome measures, including VSQ, FSFI, FSDS-R and the Global Response Assessment.

Within one month after Geneveve, patients reported a Statistically Significant improvement in vaginal laxity scores, sexual function and sexual satisfaction scores to pre-childbirth levels. These results continued throughout the 12 month follow-up period. Additionally, patients reported a Statistically Significant decrease at one month, and thereafter, in their personal distress scores from sexual activity.

Geneveve continued to demonstrate a strong safety profile. The treatment was well tolerated and there were no procedure-related adverse events or serious adverse events through the 12 month follow-up period.
In the fourth quarter of 2014, we began the VIVEVE I clinical study (Viveve Treatment of the Vaginal Introitus to Evaluate Effectiveness), sometimes referred to in this prospectus as the "OUS Clinical Trial," a randomized, blinded and sham-controlled trial designed to further demonstrate the efficacy and safety of Geneveve versus a sham-control procedure for the treatment of vaginal laxity. The study was designed to demonstrate that Geneveve was superior to the sham treatment for the primary effectiveness and safety endpoints described below. Nine clinical sites in four countries (Canada, Italy, Spain and Japan) enrolled 174 patients, which included pre-menopausal females 18 years of age or older who experienced at least one full term vaginal delivery at least 12 months prior to enrollment date, randomized in a 2:1 ratio to either an active treatment group or sham-control group. Patients were followed for six months post-treatment to assess the primary effectiveness and safety endpoints of the study with data being collected at one, three and six month intervals. The study also included a prospective interim data analysis at the 3 month endpoint of 50% of the patients enrolled. Patients randomized to the sham arm were offered the opportunity to receive Geneveve once they had completed the 6-month evaluation following the sham intervention.

The primary endpoint of the study was the proportion of subjects in the active arm as compared to the proportion of subjects in the sham arm reporting no vaginal laxity at six months post-intervention. "No vaginal laxity" is operationally defined as a score > 4 on the VSQ, a patient reported global assessment of vaginal laxity based on a 7 point scale. Additionally, the primary safety endpoint was the proportion of subjects in the active arm experiencing an adverse event ("AE") by six months post-treatment as compared to the proportion of the subjects in the sham arm experiencing an AE by six months post-intervention. Secondary endpoints included the adjusted change in mean score on the FSFI, FSDS-R and the Vaginal Laxity Inventory ("VALI"). The VALI was created specifically for the assessment of vaginal laxity by external medical experts. Its use as a comprehensive patient reported outcome questionnaire is currently being scientifically validated by us to assess women’s vaginal laxity on a 7 point scale.

In April 2016, we completed the VIVEVE I study and reported the following results:

At 6 months (n=155), the proportion of patients reporting "no vaginal laxity" in the active arm, as measured by the VSQ, was 41.7%, while the proportion of patients reporting "no vaginal laxity" in the sham arm on the VSQ was 19.2% (p=0.005). Moreover, the likelihood of having "no vaginal laxity" following treatment in the active arm was more than three times greater than for the sham arm (p=0.006). Further, nearly 80% of the subjects in the active arm experienced a positive change in VSQ score versus baseline.

At 6 months, for those patients who scored less than a 26.5 total score on the FSFI at baseline (n=103), the adjusted mean change from baseline score between the active arm and the sham arm was 3.2 (p=0.009). Moreover, for each of the six individual domains of the FSFI, subjects in the active group reported a greater increase in score than in the sham group. Change in scores from baseline for both the sexual arousal and orgasm domains were Statistically Significant and nearly 93% of subjects in the active arm experienced an increase in score versus baseline.

At 6 months, FSDS-R and VALI were also assessed as part of the secondary end-point analysis. While subjects in the active arm reported a greater increase in scores than the sham arm, the results for the FSDS-R and VALI were not Statistically Significant.
Safety for the study was assessed on the entire study population (n=174). Subjects reported the same level of unrelated (32.5% active versus 35.1% sham), related (11.1% active versus 12.3% sham) and serious (0.0% active versus 1.8% sham) adverse events in both the active and sham arm, further demonstrating that Geneveve is well tolerated with no safety concerns.

We believe that the consistency of results across these three clinical study populations, is indicative of the cross-cultural similarities in this medical condition and the positive impact that an effective non-invasive treatment can have on the sexual health of women after vaginal childbirth.

If our pending IDE is approved by the FDA, we intend to begin the VIVEVE II clinical study (Viveve Treatment of the Vaginal Introitus to EValuate Efficacy) in the first or second quarter of 2017. The VIVEVE II study is designed to be a randomized, double-blinded and sham-controlled study, expected to enroll 250 patients at up to 25 clinical sites in the U.S and Canada. The primary efficacy endpoint would be the FSFI total score at 12 months after treatment, with a secondary efficacy endpoint of arousal and orgasm FSFI domain scores at 12 months after treatment. If the results of the VIVEVE II clinical study are positive, we may be in a position to launch sales of Geneveve for a vaginal laxity/sexual function indication in the U.S. by the end of 2018.

Research and Development

We intend to focus on various research and development efforts for Geneveve, including but not limited to:

- conduct of the VIVEVE II study that is the subject of the pending IDE with FDA, in order to support a marketing application for a vaginal laxity/sexual function indication in the U.S.;
- expansion of the number of approved indications in the U.S. and internationally, including but not limited to postmenopausal vaginal atrophy and stress urinary incontinence;
- implementing a cost improvement program to further increase gross margins and gross profit opportunity;
- developing a new cooling system to maintain compliance with potential changes in environmental regulations;
- designing new treatment tips to further optimize ease-of-use and reduce procedure times for patients and physicians; and
- increasing security to prevent counterfeiting and refurbishment.

We have formed strategic relationships with outside contractors for assistance on research and development projects, and we work closely with experts in the medical community to supplement our research and development resources. Research and development expenses for the years ended December 31, 2016 and 2015 were $8,365,000 and $4,988,000, respectively. In the future, we expect to pursue further research and development initiatives to improve and extend our technological capabilities and to foster an environment of innovation and quality.

Manufacturing

Our manufacturing strategy involves the combined utilization of internal manufacturing resources and expertise, as well as approved suppliers and contract manufacturers. Our internal manufacturing activities include the testing and packaging of Viveve treatment tips and handpieces, as well as the final integration, system testing and packaging of Geneveve. We outsource the manufacture of components, subassemblies and certain finished products that are produced to our specifications and shipped to our Sunnyvale facility for final assembly or inspection, testing and certification. Our finished products are stored at and distributed from our Sunnyvale facility. Quality control, risk management, efficiency and the ability to respond quickly to changing requirements are the primary goals of our manufacturing operations.
We have arrangements with our suppliers that allow us to adjust the delivery quantities of components, subassemblies and finished products, as well as delivery schedules, to match our changing requirements. The forecasts we use are based on historical trends, current utilization patterns and sales forecasts of future demand. Lead times for components, subassemblies and finished products may vary significantly depending on the size of the order, specific supplier requirements and current market demand for the components and subassemblies. Most of our suppliers have no contractual obligations to supply us with, and we are not contractually obligated to purchase from them, the components used in our devices.

We obtain programmable memory chips for our treatment tips and the coolant valve for the handpiece from single suppliers, for which we attempt to mitigate risks through inventory management and utilization of 12- to 18-month purchase orders, and sterilization services from a single vendor, for which we attempt to mitigate risks by using two sterilization chambers at each of two locations. Other products and components come from single suppliers, but alternate suppliers have been qualified or, we believe, can be readily identified and qualified. In addition, the availability of cryogen for our cooling module, which we can source from multiple suppliers, may fluctuate due to changes in the global supply of this material. To date, shipments of finished products to our customers have not been delayed due to material delays in obtaining any of our components, subassemblies or finished products.

We are required to manufacture our product in compliance with Title 21 of the Code of Federal Regulations Part 820 (“21 CFR 820”) enacted by the FDA (known as the Quality System Regulation or QSR). 21 CFR 820 regulates the methods and documentation relating to the design, testing, control, manufacturing, labeling, quality assurance, packaging, storage and shipping of our product. We maintain quality assurance and quality management certifications to enable us to market our product in the member states of the European Union, the European Free Trade Association and countries which have entered into Mutual Recognition Agreements with the European Union. These certifications include EN ISO 9001:2000 and CAN/CSA ISO 13485:2003. We are also required to maintain our product registration in a number of other foreign markets such as Canada.

We use small quantities of common cleaning products in our manufacturing operations, which are lawfully disposed of through a routine waste management program. Except for costs that may be incurred in the future in connection with environmental regulations requiring the phase out of R134a, a hydrofluorocarbon, or HFC, upon which our cooling module relies, we do not anticipate any material costs due to compliance with environmental laws or regulations. In 2007, the European Union enacted directives aimed at the automotive industry for the removal of HFC's from air conditioning. As a result of these directives, we anticipate that similar directives may be imposed on the medical device industry over the next decade. While we do not anticipate that we will have to incur costs in the near future to develop an alternative cooling module for our device which is not dependent on HFCs, if and when we are required to do so, and if we do not do so in a timely or cost-effective manner, Geneveve may not be in compliance with environmental regulations, which could result in fines, civil penalties and the inability to sell our products in certain major international markets.
Given our limited commercial history, we only offer a one year warranty providing for the repair, rework or replacement (at the Company’s option) of products that fail to perform within stated specifications. To the extent that any of our components have performance related or technical issues in the field, we typically replace those components as necessary.

Patents and Proprietary Technology

We rely on patent, copyright, trade secret and trademark laws and confidentiality agreements to protect our technology and Geneveve. We have an exclusive license to or own 4 issued U.S. patents directed to our technology and Geneveve. Additionally, we have 4 pending U.S. patent applications, 51 issued foreign patents, and 20 pending foreign patent applications, some of which foreign applications preserve an opportunity to pursue patent rights in multiple countries.

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<tr>
<th>U.S. Patent</th>
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<tr>
<td>Issued</td>
<td>Pending</td>
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<td>4</td>
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<tr>
<td>Pending</td>
<td>4</td>
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Employees and consultants execute confidentiality agreements in connection with their employment and consulting relationships with us. They also agree to disclose and assign to us inventions conceived or made in connection with the employment or consulting relationship. We cannot provide any assurance that our employees and consultants will abide by the confidentiality or invention assignment terms of their agreements. Despite measures taken to protect our intellectual property, unauthorized parties may copy aspects of our product or obtain and use information that we regard as proprietary.

“Viveve,” is a registered trademark in the U.S. and several foreign countries. “Geneveve” is a registered trademark in the European Community and South Korea; there are pending applications in the U.S. as well as 4 foreign countries. As of the date of this prospectus, we have one registered trademark in the U.S., as well as various foreign registrations protecting the mark in 19 countries outside of the U.S. We may file for additional trademarks to strengthen our trademark rights, but we cannot be certain that our trademark applications will issue or that our trademarks will be enforceable.

Edward Knowlton Licensed Patents

On February 10, 2006, Viveve, Inc. entered into an Intellectual Property Assignment and License Agreement with Edward W. Knowlton (“Knowlton”), as amended on May 22, 2006 and July 20, 2007 (collectively, the “Knowlton IP Agreement”), pursuant to which Knowlton granted to Viveve, Inc. an exclusive, royalty-free and perpetual worldwide sublicense to certain intellectual property and technology licensed to Knowlton from a third party, including rights to several patents and patent applications owned by Thermage, Inc. outside the field of contraction, remodeling and ablation of the skin through and including (but not beyond) the subcutaneous fat layer below the skin (collectively, the “Knowlton Licensed IP”). The sublicense under the Knowlton Licensed IP is fully-paid, transferable, sublicensable and permits us to make, have made, use, sell, offer for sale and import any product or technology solely for use in the field of transmucosal treatment of the vagina or vulva (the “Field”) and to practice any process, method, or procedure solely in the Field. The Knowlton IP Agreement also assigns to us all technology and related intellectual property rights owned by Knowlton for the development and commercialization of devices, including any improvements, in the Field (the “Knowlton Assigned IP”). We are obligated to file and reasonably prosecute any patent applications that include a description of the Knowlton Assigned IP as prior art and maintain all patents included in the Knowlton Assigned IP, at our expense. In consideration of the sale, assignment, transfer, release and conveyance and other obligations of Knowlton under the Knowlton IP Agreement, Viveve, Inc. issued 200,000 shares of our common stock to Knowlton and agreed to engage the consulting services of Knowlton.

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Also on February 10, 2006, Viveve, Inc. entered into a Consulting Agreement with Knowlton (“Knowlton Consulting Agreement”), pursuant to which Knowlton assigned all rights to any inventions and intellectual property developed during the course of providing consulting services in the Field during the term of the agreement. Unless earlier terminated pursuant to the provisions described therein, the term of the Knowlton Consulting Agreement continued until the earlier to occur of (i) the date that is six months after the closing of an initial public offering of Viveve, Inc.’s stock; or (ii) the acquisition by a third party of all or substantially all of the business or assets of Viveve, Inc., whether by asset or stock acquisition, merger, consolidation or otherwise. The agreement could be renewed only upon the mutual written agreement of the parties prior to its expiration. The Knowlton Consulting Agreement expired by its terms on September 23, 2014, the effective date of the Merger. The assignment of the intellectual property developed during the term of the Knowlton Consulting Agreement survives termination.

Agreement with Solta Medical

Effective April 30, 2010, Viveve, Inc. entered into a Supply Agreement (the “Supply Agreement”) with Solta Medical, Inc. (“Solta”), pursuant to which Solta agreed to sell to Viveve, Inc. coupling fluid that Solta uses with its ThermaCool® System (“TC3 System”) for use with our compatible radio frequency medical device for the purpose of conducting our initial clinical trials. The applicable term of the Supply Agreement is the later of the period through completion of our initial clinical trials or six months following the effective date. On October 14, 2010, the parties amended the term of the Supply Agreement to remain in effect for so long as Solta supports its TC3 System. In the event that Solta discontinues support of its TC3 System and terminates the Supply Agreement, Solta agrees to (i) provide us with information for Solta’s cryogen supplier, (ii) permit us to make any arrangement with such supplier for a continued supply of cryogen and (iii) grant us a royalty free, non-exclusive perpetual license under any Solta intellectual property directed to the design of the cryogen container in the field of treating vaginal tissue.

The portion of the Supply Agreement relating to coupling fluid was subsequently superseded by the parties’ Coupling Fluid License and Product Supply Agreement on September 30, 2010, pursuant to which Solta agreed to (i) grant to Viveve, Inc. a license for the coupling fluid and (ii) supply the coupling fluid at preferred pricing for two years and at non-preferred pricing after two years. The agreement grants to us a royalty-free, fully paid-up, worldwide, perpetual, exclusive license in the field of treating vaginal tissue, with a right to grant sublicenses in such field, to make, have made, use and sell coupling fluid for an aggregate license fee of $125,000. The agreement was for an initial term of three years, after which it continues to remain in effect unless and until terminated in accordance with the terms therein. We currently do not have an alternative source of cryogen and if Solta refuses to sell to us for commercial reasons, or otherwise, our business could be materially adversely affected.
On June 12, 2006, Viveve, Inc. entered into a Development and Manufacturing Agreement (the “Stellartech Agreement”), as amended and restated on October 4, 2007, with Stellartech Research Corporation (“Stellartech”) for an initial term of three years in connection with the performance of development and manufacturing services by Stellartech and the license of certain technology and intellectual property rights to each party. Under the Stellartech Agreement, we agreed to purchase 300 units of generators manufactured by Stellartech. In conjunction with the Agreement, Stellartech purchased 37,500 shares of Viveve, Inc.’s common stock at $0.008. Under the Stellartech Agreement, we paid Stellartech $6,485,000 and $3,446,000 for goods and services during the years ended December 31, 2016 and 2015, respectively. In addition, Stellartech granted to us a non-exclusive, nontransferable, worldwide, royalty-free license in the Field (defined above in the discussions titled “Edward Knowlton Licensed Patents”) to use Stellartech’s technology incorporated into deliverables or products developed, manufactured or sold by Stellartech to us pursuant to the Stellartech Agreement (the “Stellartech Products”) to use, sell, offer for sale, import and distribute the Stellartech Products within the Field, including the use of software object code incorporated into the Stellartech Products. The Stellartech technology consists of know-how applicable to the manufacturing and repair of Geneveve, including any other intellectual property which Stellartech developed or acquired separate and apart from the Stellartech Agreement and all related derivative works. In addition, upon our purchase of a minimum commitment of 300 units of the RF generator component (the “Minimum Commitment”) and the expiration of our right to repurchase our shares sold to Stellartech under the Stock Purchase Agreement entered into in June 2006 (the “Stellartech Purchase Agreement”), Stellartech agrees to grant to us a nonexclusive, nontransferable, worldwide, royalty-free, fully-paid license to use the Stellartech technology incorporated into the Stellartech Products to make and have made Stellartech Products in the Field.

Stellartech also granted (i) an exclusive (even as to Stellartech), nontransferable, worldwide, royalty-free license within the Field under those certain intellectual property rights licensed to Stellartech pursuant to a development and supply agreement between Stellartech and Thermage, dated October 1, 1997 (the “Thermage Technology”), to use any elements of the Thermage Technology incorporated into the Stellartech Products, solely for the use, sale, offer for sale, importation and distribution within the Field; (ii) upon our satisfaction of the Minimum Commitment and the expiration of our right to repurchase our shares sold to Stellartech under the Stellartech Purchase Agreement, license rights in the Thermage Technology to use any elements of the Thermage Technology which are incorporated into the Stellartech Products to make and have made Stellartech Products in the Field; and (iii) the exclusive right within the Field to prosecute infringers of the portion of Stellartech’s Thermage Technology rights exclusively licensed to us. Our license rights in Thermage Technology also include the use of software object code for Thermage Technology used in the Stellartech Products. As of the date of this prospectus, the Stellartech Agreement has expired by its terms, however, the parties still continue to operate under the terms of the agreement. If Stellartech refuses or is unable to meet our delivery requirements for Geneveve, our business could be materially adversely affected.

In March 2012, Viveve, Inc. entered into a Quality and Regulatory Agreement with Stellartech, pursuant to which the parties clarified their respective quality and regulatory responsibilities under the Stellartech Agreement. The Quality and Regulatory Agreement provides that we will serve as the legal manufacturer for all Stellartech Products developed and sold to us thereunder and that we are obligated to maintain all relevant quality assurance and regulatory processes and requirements required by any regulatory authority and to comply with the processes and requirements set forth in the schedule of responsibilities provided in the agreement.
Government Regulation

Geneveve is a medical device subject to extensive and rigorous regulation by international regulatory bodies as well as the FDA. These regulations govern the following activities that we perform, or that are performed on our behalf, to ensure that medical products exported internationally or distributed domestically are safe and effective for their intended uses:

- product design, development and manufacture;
- product safety, testing, labeling and storage;
- record keeping procedures;
- product marketing, sales, distribution and import/export; and
- post-marketing surveillance, complaint handling, medical device reporting, reporting of deaths, serious injuries or device malfunctions and repair or recall of products.

In addition to the regulatory approvals already received in connection with the sale of Geneveve in the foreign jurisdictions and in the U.S. described below and the approvals/clearances being sought in the U.S. for expanded indications, we are currently seeking regulatory approval or clearance for the sale of our product in many other countries around the world.

International

Sales of our product outside the U.S. are subject to foreign regulatory requirements that vary widely from country to country. In addition, exports of medical devices from the U.S. are regulated by the FDA. Complying with international regulatory requirements can be an expensive and time-consuming process and marketing approval is not certain. The time required to obtain registrations or approvals, as required by other countries, may be longer than that required for FDA clearance, and requirements for such registrations or approvals may significantly differ from FDA requirements. We may be unable to obtain or maintain registrations or approvals in other countries. We may also incur significant costs in attempting to obtain and in maintaining foreign regulatory approvals. If we experience delays in receiving necessary registrations or approvals to market our product outside the U.S., or if we fail to receive those registrations or approvals, we may be unable to market our product or enhancements in international markets effectively, or at all, which could have a material adverse effect on our business and growth strategy.

An entity that seeks to export an unapproved Class III medical device from the U.S. to a “non-Tier I” country is required to obtain export approval from the FDA. The Tier I countries are largely defined as industrialized countries with established regulatory infrastructure, such as, among others, Canada and the European Union. In January of 2011, we sought to obtain FDA approval to export Geneveve to Mexico, Brazil and Korea (all non-Tier I countries). An export approval was obtained on March 7, 2011. Exportation of an unapproved Class III medical device to a Tier I country is permitted without FDA approval provided that certain conditions are met. Accordingly, we have exported Geneveve to Canada and the European Union without FDA approval in accordance with Section 802 of the Federal Food, Drug, and Cosmetic Act (FDC Act).
Once an entity has obtained a marketing authorization for the product in a Tier I country (e.g., a CE mark, etc.), the device can then be shipped from the U.S. to any country in the world without FDA approval. On December 7, 2010, we obtained a CE Mark for Geneveve. As a result, we may now legally export Geneveve to non-Tier I countries, such as China and Hong Kong without FDA approval.

Entities legally exporting products from the U.S. are often asked by foreign customers or foreign governments to supply an export certificate issued by the FDA to accompany a device. An export certificate is a document prepared by the FDA containing information about a product's regulatory or marketing status in the U.S. Although we have requested the issuance of export certificates to allow exports into many countries around the world, the FDA has not yet issued export certificates to us.

Currently, our products are cleared for marketing in 51 countries throughout the world under the following indications for use:

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<thead>
<tr>
<th>Indication for Use</th>
<th>No. of Countries:</th>
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<tbody>
<tr>
<td>General surgical procedures for electrocoagulation and hemostasis</td>
<td>3 (including the U.S.)</td>
</tr>
<tr>
<td>For treatment of vaginal laxity</td>
<td>34</td>
</tr>
<tr>
<td>For treatment of the vaginal introitus, after vaginal childbirth, to improve sexual function</td>
<td>13</td>
</tr>
<tr>
<td>For vaginal rejuvenation</td>
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Outside the U.S., we market and sell through an extensive network of distribution partners. We are subject to inspections by foreign authorities for those countries where we market Geneveve. In the U.S., our products are indicated for use in general surgical procedures for electrocoagulation and hemostasis and we market and sell through a direct sales force.

**United States**

**FDA’s Premarket Clearance and Approval Requirements**

Unless an exemption applies, any medical device we wish to commercially distribute in the U.S. will require either premarket clearance or approval from the FDA. The FDA classifies medical devices into one of three classes. The classification system is risk based, with devices deemed to pose the lowest risk being Class I, and devices posing the most risk being Class III. Most Class I devices are exempt from the requirement to obtain FDA premarket clearance or approval although they must still comply with QSRs. For most Class II devices (and a small number of Class I devices), a company must submit to the FDA a premarket notification (known as 510(k) submission) requesting clearance to commercially distribute the device. 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 cleared 510(k) device, are placed in Class III, requiring FDA premarket approval via a Premarket Approval (“PMA”) application. The FDA has issued regulations identifying the Class into which different types of devices fall and identifying whether the device type is exempt from the 510(k) process or if a 510(k) is needed.
510(k) Clearance Pathway

When a 510(k) clearance is required, we must submit a premarket notification to the FDA demonstrating that our device is substantially equivalent to a previously cleared and legally marketed device or a device that was in commercial distribution before May 28, 1976 for which the FDA has not yet called for the submission of PMAs (known as a predicate device). The FDA strives to make a determination that the device is substantially equivalent (SE) (i.e., clear the device) or not substantially equivalent (NSE) within 90 days of submission of the notification. As a practical matter, clearance often takes significantly longer. The FDA may require further information, including clinical data, to make a determination regarding substantial equivalence. If the FDA determines that the device is not substantially equivalent to a previously cleared device, the FDA will issue an NSE letter and place the device into Class III.

Any modification to a 510(k)-cleared device that would constitute a major change in its intended use, or any change that could significantly affect the safety or effectiveness of the device, requires a new 510(k) clearance and may even, in some circumstances, require a PMA, if the change raises complex or novel scientific issues or the product has a new intended use. The FDA requires every manufacturer to make the determination regarding the need for a new 510(k) submission in the first instance, but the FDA may review any manufacturer's decision. If the FDA were to disagree with a manufacturer’s determination that changes did not require a new 510(k), the FDA could require the manufacturer to cease marketing and distribution and/or recall the modified device until 510(k) clearance or PMA approval is obtained and the manufacturer could be subject to significant regulatory fines or penalties.

In December 2008, a predecessor company to Viveve received 510(k) clearance for a previous version of the Viveve System. Since then, we have made design modifications to the original 510(k)-cleared device. In March 2015, we submitted a Special 510(k) to the FDA seeking clearance for the updated Viveve System to take into account the design modifications to the original 510(k)-cleared device, which included improved user interface capabilities and enhanced manufacturability. In October 2016, we received clearance from the FDA to sell the updated device for use in general surgical procedures for electrocoagulation and hemostasis.

De Novo Process

If FDA has not issued a regulation classifying a particular type of device as Class I, and if there is no known predicate for a device (i.e., a legally-marketed device that is not subject to premarket approval with comparable indications for use and technological characteristics), the device is automatically Class III, regardless of the risk the device poses. If a device is automatically/statutorily classified into Class III in this manner, a company can petition FDA to reclassify the category of devices into Class II or Class I via a process known as “Evaluation of Automatic Class III Designation,” which is typically referred to as the “de novo process.” The direct de novo process allows a company to request that a new product classification be established without the company first submitting a 510(k) notification for the device. The reclassification petition should include a risk-benefit analysis demonstrating that, when subject to general controls or general and special controls, the probable benefits to health from use of the device outweigh any probable injury or illness from such use. The submitter also must describe why general controls or general and special controls are adequate to provide reasonable assurance of safety and effectiveness, and for proposed Class II devices, provide proposed special controls. If a product is classified as Class II through the direct de novo review process, then that device may serve as a predicate device for subsequent 510(k) premarket notifications, including by competitors.
We intend to seek FDA authorization to market Geneveve for the treatment of vaginal tissue to improve sexual function by utilizing the direct de novo process. However, we cannot predict when or if approval of such a petition will be obtained. In addition, if FDA fails to grant a de novo petition, we will be required to seek FDA premarket approval (via the more stringent PMA process) for Geneveve. Delays in receipt of FDA clearance or failure to receive FDA clearance or approval could reduce our sales, profitability and future growth prospects.

Clinical Trials

Clinical trials are almost always required to support an FDA de novo reclassification, and are sometimes required for 510(k) clearance. With respect to Geneveve, the FDA has asked us to conduct a clinical study under an IDE, to support a future product submission. In the U.S., clinical trials on medical devices generally require submission of an application for an IDE to the FDA if the device is a “significant risk” device. The IDE application must be supported by appropriate data, such as animal and laboratory testing results, showing that it is safe to test the device in humans and that the testing protocol is scientifically sound. The IDE must be approved in advance by the FDA for a specific number of patients. Clinical trials for significant risk devices may not begin until the IDE application is approved by both the FDA and the appropriate institutional review boards (“IRBs”) at the clinical trial sites. Our clinical trials must be conducted under the oversight of an IRB at the relevant clinical trial sites and in accordance with FDA regulations, including, but not limited to, those relating to good clinical practices. We are also required to obtain the patients’ informed consent, in compliance with both FDA requirements and state and federal privacy regulations. We, the FDA, or the IRB at each site at which a clinical trial is being performed may suspend a clinical trial at any time for various reasons, including a belief that the risks to study subjects outweigh the benefits. Even if a trial is completed, the results of clinical testing may not demonstrate the safety and efficacy of the device, may be equivocal or may otherwise not be sufficient to obtain clearance or approval of the product. Similarly, in Europe and other regions, clinical study protocols must be approved by the local ethics committee and in some cases, including studies with high-risk devices, by the Ministry of Health in the applicable country.

In June 2012, we submitted a pre-IDE submission to the FDA requesting an in-person meeting with the agency to solicit feedback in advance of filing an IDE to conduct a clinical study of Geneveve to support regulatory submission. In August 2012, we met with the FDA and received feedback on our pre-clinical data, historical clinical data, and a clinical protocol for a prospective randomized controlled trial. We had a second meeting with the FDA on December 17, 2015 and received additional feedback on our clinical protocol design and indication for use. In September 2016, we submitted an IDE application to FDA to begin a U.S. clinical study, and the FDA has responded with additional questions regarding the proposed protocol and other aspects of the clinical study design, which we are working to address. If and when approval is received, we intend to begin our U.S. clinical study to further demonstrate the safety and effectiveness of the device to treat vaginal laxity and/or improve sexual function.
Continuing Regulation

After a device is placed on the market, numerous regulatory requirements continue to apply. These include:

- product listing and establishment registration, which helps facilitate FDA inspections and other regulatory action;
- Quality system regulations (“QSRs”), which require manufacturers, including third-party manufacturers, to follow stringent design, testing, control, documentation and other quality assurance procedures during all aspects of the manufacturing process;
- labeling regulations and FDA prohibitions against the promotion of products for uncleared, unapproved or “off-label” uses to both physician and consumers;
- Medical Device Reporting (“MDR”) regulations, which require that a manufacturer report to the FDA if its device may have caused or contributed to a death or serious injury or malfunctioned in a way that would likely cause or contribute to a death or serious injury if the malfunction were to recur;
- post-market surveillance regulations, which apply when necessary to protect the public health or to provide additional safety and effectiveness data for the device;
- regulations pertaining to voluntary recalls and notices of corrections or removals; and
- any other postmarket requirements that FDA might impose as part of the device approval or clearance process.

The FDA has broad post-market and regulatory enforcement powers. We and our third-party manufacturers are subject to announced and unannounced inspections by the FDA and state equivalents such as the Food and Drug Branch of the California Department of Health Services (“CDHS”), to determine compliance with the QSR and other regulations. In the past, our facility has been inspected, and observations were noted, including an April 2012 CDHS inspection that cited deficiencies related to signature authority of inspection documentation, incomplete corrective action responses, and labeling indicating that our product contained no latex without proper objective evidence. The FDA and CDHS have accepted our responses to these observations, and we believe that we and our third-party manufacturer are in substantial compliance with the QSR.

Failure to comply with applicable regulatory requirements can result in enforcement action by the FDA, which may include any of the following actions:

- warning letters, untitled letters, fines, injunctions, consent decrees and civil penalties;
- repair, replacement, refunds, recall or seizure of our products;
- operating restrictions, partial suspension or total shutdown of production;

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● refusing our requests for 510(k) clearance or premarket approval of new products or new intended uses;

● refusing to grant export approval for our product;

● withdrawing 510(k) clearance or premarket approvals that are already granted; and

● criminal prosecution.

If any of these events were to occur, it could have a material adverse effect on our business.

We are also subject to a wide range of federal, state and local laws and regulations, including those related to the environment, health and safety, land use, advertising, and quality assurance. In addition, the FTC has the authority to regulate advertising for most types of medical devices, including the ones that we produce. We believe that compliance with these laws and regulations as currently in effect will not have a material adverse effect on our capital expenditures, earnings and competitive and financial position.

Competition

The medical device industry is characterized by intense competition and rapid innovation. While we believe that our solution to treat vaginal laxity is unique and offers a more effective solution from that which is on the market currently, we also believe that the market for the treatment of vaginal laxity and women’s sexual function remains a tremendous, under-developed opportunity. Therefore, competition is expected to increase, particularly as the market becomes more developed with further solutions. Aside from Kegel exercises and invasive surgical procedures, such as LVR, there are many companies developing or that have developed energy-based technologies for vaginal rejuvenation as well as others developing drug therapies and therapeutics for the treatment of various types of female sexual dysfunction. Further, the overall size and attractiveness of the market may compel larger companies focused in the OB/GYN, aesthetic or women’s health markets, and with much greater capital and other resources, to pursue development of or acquire technologies that may address these areas. Potential competitors include, but are not limited to Cynosure, Syneron Medical, Fotona, Thermi Aesthetics (acquired by Almirall, S.A.), Cutera, Apricus, and others, some of whom have more established products and customer relationships than we have.

Employees

As of February 7, 2017, we had 43 full-time employees and we retain the services of several qualified consultants. We believe that our future success will depend in part on our continued ability to attract, hire and retain qualified personnel. None of our employees is represented by a labor union, and we believe that our employee relations are good.
Facilities

We currently lease office and laboratory facilities at 150 and 154 Commercial St., Sunnyvale, California 94086. The space consists of approximately 7,777 square feet, leased from the Castine Group. The term of the lease agreement, dated January 25, 2012, as amended in January 2015 and September 2016, commenced in March 2012 and will terminate on March 31, 2018. Rent expense for the years ended December 31, 2016 and 2015 was $236,000 and $210,000, respectively. Future minimum payments under the lease are approximately as follows:

<table>
<thead>
<tr>
<th>Year Ending December 31,</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017 — $303,000</td>
</tr>
<tr>
<td>2018 — $82,000</td>
</tr>
</tbody>
</table>

On February 1, 2017, we entered into a sublease agreement (the “Sublease”) for approximately 12,400 square feet of building space for the relocation of our corporate headquarters to Englewood, Colorado (the “Sublease Premises”), which was effective as of January 26, 2017. Physical relocation is planned toward the end of the first quarter of 2017 pending completion of the build-out of all office and warehouse facilities.

The term of the Sublease will commence on the later of (i) 120 days after the date sublandlord delivers possession of the Sublease Premises to us or (ii) upon substantial completion of the tenant improvements pursuant to the Sublease (the “Commencement Date”), and will expire 36 months after the Commencement Date, or such earlier date as the Master Lease may be terminated pursuant to the terms thereof.

The monthly base rent under the Sublease will be equal to $20.50 per rentable square foot of the Sublease Premises during the first year. The monthly base rent will be equal to $21.12 and $21.75 per rentable square foot during the second and third years, respectively.

We believe that these facilities are adequate for our current business operations.

Legal Proceedings

On March 11, 2016, we filed a demand for Arbitration with the American Arbitration Association (“AAA”) against a former employee asserting common law and statutory negligence claims against the former employee arising from the former employee's negligent performance of certain work duties. The demand seeks damages for lost profits, along with attorney’s fees, interest, and costs. The former employee filed a counterclaim in the proceeding, alleging discrimination, retaliation, wrongful termination, and various claims for alleged wage and hour violations under the California Labor Code, stemming from the cessation of her employment with us. The former employee seeks damages for lost wages, punitive damages, statutory penalties, injunctive relief, and attorney’s fees, interest and costs.

Continuance into Delaware

On July 22, 2015, at our 2015 Annual and Special Meeting of Stockholders, our stockholders approved a special resolution authorizing a continuance of the Company (the “Continuance”) into the State of Delaware under the Delaware General Corporation Law (the “DGCL”) and the adoption of charter documents that comply with the DGCL in connection therewith, effective as of a date to be determined by the Board, in its sole discretion, no more than 12 months from the date of the meeting. On May 9, 2016, the Company filed the necessary Application for Authorization to Continue into Another Jurisdiction and Statutory Declaration with the Yukon registrar. On May 10, 2016, the Company filed a Certificate of Conversion and Certificate of Incorporation with the Secretary of State of the State of Delaware to move its domicile from the Yukon Territory to Delaware.
The Continuance did not involve any change in our business, properties, corporate headquarters or management. The officers of the Company immediately prior to the Continuance continued to serve as our officers following the Continuance, and the current members of the Board of Directors continued to serve as the members of the Board following the Continuance. There was no change in our operations, assets, liabilities or obligations as a result of the Continuance. Other than the approval of our stockholders and the filings with the Yukon Registrar of Corporations and the Secretary of State of Delaware, there were no federal or state regulatory requirements that we were required to comply with or approvals that we were required to obtain in connection with the Continuance.

Upon the effectiveness of the Continuance, each outstanding share of our common stock continued to be an outstanding share of our common stock as incorporated in Delaware and each outstanding option, right or warrant to acquire shares of our common stock continued to be an option, right or warrant to acquire an equal number of shares of common stock under the same terms and conditions. Upon effectiveness of the Continuance, we were governed by the Certificate of Incorporation filed with the Secretary of State of Delaware and by bylaws prepared in accordance with the DGCL, which were approved by our stockholders at the 2015 Annual and Special Meeting. Following the Continuance, we were governed by the DGCL instead of the Yukon Business Corporation Act.
Set forth below is certain information regarding our current executive officers and directors. Each of the directors was elected to serve until our next annual meeting of stockholders or until his or her successor is elected and qualified. Our officers are appointed by, and serve at the pleasure of, the board of directors.

<table>
<thead>
<tr>
<th>Name</th>
<th>Age</th>
<th>Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>Patricia Scheller</td>
<td>56</td>
<td>Chairperson of the Board of Directors and Chief Executive Officer</td>
</tr>
<tr>
<td>Lori Bush</td>
<td>60</td>
<td>Director</td>
</tr>
<tr>
<td>Daniel Janney</td>
<td>51</td>
<td>Director</td>
</tr>
<tr>
<td>Debora Jorn</td>
<td>58</td>
<td>Director</td>
</tr>
<tr>
<td>Arlene Morris</td>
<td>65</td>
<td>Director</td>
</tr>
<tr>
<td>Jon Plexico</td>
<td>48</td>
<td>Director</td>
</tr>
<tr>
<td>Scott Durbin</td>
<td>48</td>
<td>Chief Financial Officer</td>
</tr>
<tr>
<td>James Atkinson</td>
<td>59</td>
<td>President and Chief Business Officer</td>
</tr>
</tbody>
</table>

Biographical information with respect to our executive officers and directors is provided below. There are no family relationships between any of our executive officers or directors.

**Patricia Scheller.** Ms. Scheller was elected as a director of Viveve Medical, Inc. on September 18, 2014 (with her service beginning following the merger with PLC Systems Acquisition Corporation that was completed on September 23, 2014) and has been a director of our wholly-owned subsidiary, Viveve, Inc., since June 2012. Ms. Scheller also serves as our Chief Executive Officer and, since May 2012, as Chief Executive Officer of Viveve, Inc. Prior to joining Viveve, Inc., she served as the Chief Executive Officer of Prescient Medical, Inc. (“PMI”), a privately held company that developed diagnostic imaging catheters and coronary stents designed to reduce deaths from heart attacks, from September 2004 through April 2012 and as a director of PMI from July 2004 to September 2011. Prior to joining PMI, from August 2003 to September 2004, she was the Chief Executive Officer of SomaLogic, a biotechnology company focused on the development of diagnostic products using aptamer technology. From December 2000 to April 2003, Ms. Scheller also managed several business units at Ortho-Clinical Diagnostics, a Johnson & Johnson company, and from October 1997 to November 2000 served in key executive positions at Dade Behring, a clinical diagnostics firm. While at Dade Behring Holdings, Inc., she directed the commercialization of the hsCRP diagnostic test, a screening test for systemic inflammation, which has been shown to increase the risk of heart attacks. The hsCRP test was the first diagnostic test added to the cardiac test panel by the Centers for Disease Control and Prevention and the American Heart Association in over 30 years. As Director of Cardiology Systems at Cordis Corporation (a Johnson & Johnson company) from February 1994 to February 1996, Ms. Scheller managed the launch of the first Palmaz-Schatz® balloon-expandable coronary stent, the first major product entry into what became a $6 billion market. Ms. Scheller received a B.S.E. degree in Biomedical Engineering from Duke University and completed executive business education programs at Harvard University, Massachusetts Institute of Technology, Columbia University and Northwestern University. Because of her extensive experience in the healthcare industry, we concluded that Ms. Scheller should serve as a director.
**Lori Bush.** Ms. Bush joined our Board on May 11, 2016. Since January 2016, Ms. Bush has been a consultant, speaker, advisor and activist for micro-entrepreneurship and women’s leadership. From October 2007 to January 2016, Ms. Bush served as the President and General Manager, then President and CEO of Rodan + Fields, LLC (Rodan + Fields). Prior to joining Rodan + Fields, Ms. Bush served as Chief Operating Officer of Helix BioMedix, Inc., a biopharmaceutical discovery and development company from October 2006 to October 2007, and was the Managing Director of the Gremlin Group, a health and consumer product consulting company from March 2006 to October 2007. From May 2001 to May 2006, Ms. Bush served as President of Nu Skin, a division of Nu Skin Enterprises, a NYSE-listed direct selling company that markets premium quality personal care and nutrition products through a global network of sales representatives. Ms. Bush served as Vice President of Marketing of Nu Skin from February 2000 to May 2001. Prior to joining Nu Skin, she worked at Johnson & Johnson Consumer Products Companies as the worldwide executive director over skin care ventures from May 1998 to February 2000. She also served as Vice President of Professional Marketing at Neutrogena Corporation. Ms. Bush earned a Masters of Business Administration from Temple University and a Bachelor of Science degree from Ohio State University. Until its merger with Wonder Holdings Acquisition Corp., Ms. Bush was a director of Matrixx Initiatives Inc., formerly a publicly traded company. We determined that Ms. Bush should serve as a director because of her extensive executive and marketing experience in the over-the-counter healthcare industry.

**Daniel Janney.** Mr. Janney was elected as a director of Viveve Medical, Inc. on September 18, 2014 (with his service beginning following the merger with PLC Systems Acquisition Corporation that was completed on September 23, 2014). Since November 2012, Mr. Janney has served as a director of Esperion Therapeutics, Inc. (NASDAQ: ESPR). Mr. Janney is a managing director at Alta Partners, a life sciences venture capital firm, which he joined in 1996. Prior to joining Alta, from 1993 to 1996, he was a Vice President in Montgomery Securities’ healthcare and biotechnology investment banking group, focusing on life sciences companies. Mr. Janney is a director of a number of companies including Alba Therapeutics Corporation, Lithera, Inc., Prolacta Bioscience, Inc., Sutro Biopharma and ViroBay, Inc. He holds a Bachelor of Arts in History from Georgetown University and an M.B.A. from the Anderson School at the University of California, Los Angeles. Because of Mr. Janney’s experience working with and serving on the board of directors of various life sciences companies and his experience working in the venture capital industry, we concluded that he should serve as a director.

**Debora Jorn.** Ms. Jorn joined our Board on May 11, 2016. Ms. Jorn is currently serving as the Executive Vice President Corporate and Commercial Development at pSivida Corp. Ms. Jorn joined pSivida in November 2016. From August 2013 through March 2016, Ms. Jorn was Executive Vice President and Group Company Chair of Valeant Pharmaceuticals International, Inc. Ms. Jorn served as Chief Global Marketing Officer of Bausch & Lomb Pharmaceuticals from June 2010 to August 2013. She served as Group Vice President Women’s Healthcare and Fertility at Schering Plough from June 2008 to January 2010. She was the World Wide Vice President Internal Medicine and Early Commercial Input at Johnson & Johnson and the Vice President, Urology at Pharmacia Corporation. From 1989 to 2010, Ms. Jorn served as Acting Head of the ACE Inhibitor Franchise – Merck and Company. She served as Worldwide Vice President of Internal Medicine, Executive Director (Respiratory Franchise), Director of Marketing (Merck Frosst Canada), and various other roles for Merck. Since May 2016 Ms. Jorn has served on the board of directors of Orexigen Therapeutics, Inc., a biopharmaceutical company located in La Jolla, California. Ms. Jorn received her M.B.A from NYU Stern Graduate School of Business Administration and her B.A. from Rutgers University. Ms. Jorn’s extensive executive and marketing experience in the healthcare industry led us to believe that she should serve as a director.
Arlene Morris. Ms. Morris joined our Board of Directors on May 11, 2016. Ms. Morris has served as the CEO of Willow Advisors, LLC since May 2015. From May 2011 to April 2015, Ms. Morris was the President and CEO and a member of the Board of Directors of Syndax Pharmaceutical, a Boston based epigenetic company. Prior to her employment with Syndax, from June 2003 to February 2011 she was the President, CEO and a member of the Board of Directors of Affymax, Inc. During her eight years at Affymax, Ms. Morris led the company through the development of OMONTYS peginesatide, a strategic collaboration with Takeda, an initial public offering, and several follow on offerings. Prior to Affymax, Ms. Morris was the President and CEO of Clearview Projects, an advisory firm which counsels biopharmaceutical and biotechnology companies on strategic transactions. Before that, she was the Senior Vice President of Business Development at both Coulter Pharmaceuticals, Inc. and Scios. Ms. Morris began her career at Johnson & Johnson as a sales representative, rising to Vice President of Business Development. Ms. Morris serves on the board of directors of Neovacs SA, Palatin Technologies, Dimension Therapeutics and the Medical University of South Carolina Foundation for Research and Development. We believe Ms. Morris’ qualifications to serve on our Board include her many years serving as a senior executive with companies in the biopharma industry and her extensive experience serving on boards of directors.

Jon Plexico. Mr. Plexico was appointed as a director of Viveve Medical, Inc. on March 14, 2016. Mr. Plexico is currently one of two Managing Members of Stonepine Capital Management, LLC (“Stonepine Management”). Stonepine Management is the General Partner of Stonepine Capital, L.P. (“Stonepine”), a holder of approximately 25% of the outstanding common stock of the Company. Mr. Plexico was appointed to the Board of Directors as a representative of Stonepine, at Stonepine’s election, under the terms of that certain letter agreement dated May 12, 2015 (the “Letter Agreement”) by and between the Company and Stonepine, pursuant to which, among other things, for so long as Stonepine owns at least 15% of the Company’s outstanding equity securities, Stonepine shall have the option, but not the obligation, to designate a Stonepine representative to serve on the Board. The Company and Stonepine entered into the Letter Agreement in connection with a private offering of our securities undertaken in May 2015.

Mr. Plexico has approximately 25 years of life science industry operational and advisory experience, including ten years as Managing Member and Founder of Stonepine Management. Previously, Mr. Plexico was Managing Director at Merriman Curhan Ford & Co., now known as Merriman Capital, where he managed healthcare corporate finance focusing on private investments in public equity, secondary offerings, and mergers and acquisitions. Prior to that, Mr. Plexico was co-founding partner of Venture Ready Partners, a life science advisor providing capital raising services to private biotechnology companies. Mr. Plexico served as director of business development at Chemdex Corporation, an electronic life-science commerce company that grew to 500 employees and completed an initial public offering during his tenure. He began his career at Quidel Corporation, where he became National Sales Manager for the Autoimmune Division. He has served on the boards of directors of Zila, Inc. and Immunetech, Inc. Mr. Plexico is a graduate of Colgate University. Mr. Plexico’s extensive experience in advising life sciences companies and in raising funds for them led us to believe that he should serve as a director.

Scott Durbin. Mr. Durbin joined Viveve, Inc. as its Chief Financial Officer in February 2013 and was appointed as the Chief Financial Officer and Secretary of Viveve Medical, Inc. on September 23, 2014. From June 2012 to January 2013, he served as an advisor and Acting Chief Financial Officer for Viveve, Inc. Prior to joining Viveve, Inc., from June 2010 to October 2011, he was Chief Financial Officer of Aastrom Biosciences (“Aastrom”), a publicly traded, cardiovascular cell therapy company. Before Aastrom, he spent six years as Chief Operating and Financial Officer for Prescient Medical (“Prescient”) from May 2004 to June 2010, a privately held company that developed diagnostic imaging catheters and coronary stents designed to reduce deaths from heart attacks. Prior to Prescient, from January 2003 to April 2004, he spent several years as a financial consultant for two publicly traded biotech companies, Scios Inc., a Johnson & Johnson company, and Alteon Inc. Mr. Durbin began his career in corporate finance as an investment banker in the Healthcare and M&A groups at Lehman Brothers Inc. from August 1999 to January 2003, where he focused on mergers and acquisitions and financings for the life science industry. At Lehman, he successfully executed over $5 billion in transactions for medical device and biotechnology companies. He began his career as a Director of Neurophysiology for Biotronic, Inc. Mr. Durbin received a B.S. from the University of Michigan and an M.P.H. in Health Management with Honors from the Yale University School of Medicine and School of Management.
James Atkinson. Mr. Atkinson was appointed to serve as the Chief Business Officer and President of the Company and Viveve, Inc. effective as of February 4, 2015. Mr. Atkinson has over 30 years of experience in medical device sales, marketing and business development with both Fortune 50 and start-up medical device companies. Mr. Atkinson was a founding principal at Ulthera, Inc. where he served as Senior Vice President of Sales and Marketing from October 2006 through April 2014. While at Ulthera, he assisted in growing the company from 3 to 165 employees and established a global distribution network that included 42 distributors, covering 52 countries. Mr. Atkinson’s prior experience includes various executive positions, including (i) Vice President of Sales and Marketing for the Cardiac Surgery Division at St. Jude Medical, Inc. from October 2004 to October 2006 where his responsibilities included launching the Biocor® stented tissue valve, recognized as the fastest growing heart valve brand in the industry, (ii) Vice President of Sales for Medtronic Vascular, a $200 million division of Medtronic, Inc., a company whose stock is traded on the New York Stock Exchange (Ticker: MDT), from January 2003 to September 2004 and (iii) co-founder and Vice President of Sales and Business Development for Medical Simulation Corporation. Mr. Atkinson’s career began as a sales representative at Ethicon Endosurgery, a Johnson & Johnson company, where he progressed through positions with increasing responsibility to Regional Manager.

Director or Officer Involvement in Certain Legal Proceedings

To the best of our knowledge, none of our directors or executive officers has, during the past ten years, been involved in any legal proceedings described in subparagraph (f) of Item 401 of Regulation S-K.

Independent Directors

We believe that, with the exception of Patricia Scheller, each of our remaining directors are “independent directors,” as that term is defined by Rule 5605 of The NASDAQ Stock Market.
Committees of the Board of Directors

Audit Committee

Our audit committee consists of independent directors Daniel Janney, Jon Plexico and Arlene Morris. The audit committee’s duties under the terms of its charter are to (1) review with management and the independent registered public accounting firm, as appropriate, the Company’s financial reports and other financial information provided by the Company to any governmental body or the public, and the Company’s compliance with legal and regulatory requirements; (2) retain and monitor the independent registered public accounting firm’s qualifications, performance and independence; (3) establish and review compliance procedures regarding accounting, internal auditing controls and auditing matters and serve as an independent and objective party to monitor the Company’s financial reporting process and internal controls; (4) issue the report required by the Securities and Exchange Commission to be included in the Company’s annual proxy statement. However, the committee members are not acting as professional accountants or auditors, and their functions are not intended to duplicate or substitute for the activities of management and the independent registered public accounting firm. The audit committee is empowered to retain independent legal counsel and other advisors as it deems necessary or appropriate to assist the audit committee in fulfilling its responsibilities, and to approve the fees and other retention terms of the advisors. The audit committee members possess an understanding of financial statements and generally accepted accounting principles.

Compensation Committee

Our compensation committee consists of independent directors Daniel Janney, Arlene Morris and Lori Bush. The compensation committee has certain duties and powers as described in its charter, including but not limited to periodically reviewing and approving our salary and benefits policies, compensation of our executive officers, administering our stock option plans, and recommending and approving grants of stock options under those plans.

Governance and Nominating Committee

Our nominating committee consists of independent directors Daniel Janney, Jon Plexico and Debora Jorn. Under the charter of our governance and nominating committee, the governance and nominating committee (i) identifies, reviews and evaluates individuals qualified to become Board members; (ii) recommends nominees to the Board and to each committee of the Board; (iii) develops and recommends to the Board criteria for selecting qualified director candidates (including an assessment of any minimum qualifications a nominee for the Board should possess and any specific qualities or skills the Committee believes are necessary for one or more directors to possess); (iv) recommends corporate governance principles, codes of conduct and compliance mechanisms applicable to the Company, and monitors compliance with them, and (v) assists the Board in its annual reviews of the performance of the Board, and each committee.

Compensation Committee Interlocks and Insider Participation

None of our directors or executive officers serves as a member of the board of directors or compensation committee of any other entity that has one or more of its executive officers serving as a member of our board of directors.
The following table provides information regarding the total compensation for services rendered in all capacities that was earned during the fiscal year indicated by our named executive officers for 2016.

<table>
<thead>
<tr>
<th>Name and Principal Position</th>
<th>Fiscal Year</th>
<th>Salary ($)</th>
<th>Bonus ($)</th>
<th>Option Awards ($)</th>
<th>Non-Equity Incentive Plan Compensation ($)</th>
<th>All Other Compensation ($)</th>
<th>Total ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Patricia Scheller, Chief Executive Officer</td>
<td>2016</td>
<td>380,000</td>
<td>190,000</td>
<td>335,337</td>
<td></td>
<td>25,393(3)</td>
<td>930,730</td>
</tr>
<tr>
<td></td>
<td>2015</td>
<td>346,000</td>
<td>154,696</td>
<td>785,552</td>
<td></td>
<td>45,247</td>
<td>1,331,495</td>
</tr>
<tr>
<td>Scott Durbin, Chief Financial Officer</td>
<td>2016</td>
<td>323,440</td>
<td>130,000</td>
<td>111,779</td>
<td></td>
<td>27,368(3)</td>
<td>592,587</td>
</tr>
<tr>
<td></td>
<td>2015</td>
<td>311,000</td>
<td>97,965</td>
<td>314,059</td>
<td></td>
<td>24,222</td>
<td>747,246</td>
</tr>
<tr>
<td>James Atkinson, Chief Business Officer and President</td>
<td>2016</td>
<td>329,600</td>
<td>132,000</td>
<td>172,699</td>
<td></td>
<td>120,444</td>
<td>634,299</td>
</tr>
<tr>
<td></td>
<td>2015</td>
<td>290,667</td>
<td>144,904</td>
<td></td>
<td></td>
<td>417,442</td>
<td>973,457</td>
</tr>
</tbody>
</table>

(1) The amounts reported represent bonuses awarded with respect to the years indicated based upon the achievement of corporate performance goals related to (a) strengthening financial position; (b) expanding market opportunities and ensure competitiveness; (c) providing clinically proven solutions; and (d) ensuring reliable quality supply of products for the years indicated. The amounts reported for 2015 were paid in January 2016 and the amounts reported for 2016 are payable upon the closing of the Company’s next equity financing, which is expected to occur in 2017. Bonuses for the year ended December 31, 2015 were paid in a combination of cash and restricted stock (and for Mr. Atkinson a combination of restricted stock and a common stock warrant) and the amounts reported represent above the amount of cash paid and the grant date fair value of the restricted stock as follows: (i) Ms. Scheller received $108,990 in cash and restricted stock with a grant date fair value of $45,706, (ii) Mr. Durbin received $97,965 in cash and no restricted stock and (iii) Mr. Atkinson received $0 in cash, a restricted stock with a grant date fair value of $114,654 and a common stock warrant with a grant date fair value of $30,250. The warrant issued to Mr. Atkinson has a contractual life of ten years and is exercisable immediately in whole or in part, on or before 10 years from the issuance date. See Note 9 of the notes to our consolidated financial statements in this prospectus for a discussion of our assumptions in determining the grant date fair values of equity awards.

(2) The amounts reported represent the aggregate grant date fair value of option awards granted to our named executive officers computed in accordance with the Financial Accounting Standards Board Accounting Standards Codification “FASB ASC” Topic 718. See Note 9 of the notes to our consolidated financial statements in this prospectus for a discussion of our assumptions in determining the grant date fair values of equity awards. These amounts do not correspond to the actual value that may be recognized by the named executive officers.
The amounts reported represent cash-out of accrued PTO hours in accordance with the Company’s PTO Policy.

### Outstanding Equity Awards at Fiscal Year-End

The following table sets forth certain information regarding outstanding equity awards granted to our named executive officers that were outstanding as of December 31, 2016. These awards were granted under the 2006 Plan and the 2013 Plan.

**Option Awards**

<table>
<thead>
<tr>
<th>Name</th>
<th>Vesting Start Date</th>
<th>Number of Securities Underlying Unexercised Options (#)(1)</th>
<th>Option Exercise Price ($)</th>
<th>Option Expiration Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Patricia Scheller</td>
<td>12/23/2016</td>
<td>150,000</td>
<td>5.22</td>
<td>12/22/2026</td>
</tr>
<tr>
<td></td>
<td>12/16/2015</td>
<td>181,501</td>
<td>6.00</td>
<td>12/16/2025</td>
</tr>
<tr>
<td></td>
<td>9/26/2014</td>
<td>51,370</td>
<td>4.80</td>
<td>9/26/2024</td>
</tr>
<tr>
<td></td>
<td>10/24/2012 (2)</td>
<td>150,000</td>
<td>9.92</td>
<td>10/24/2022</td>
</tr>
<tr>
<td>Scott Durbin</td>
<td>12/23/2016</td>
<td>50,000</td>
<td>5.22</td>
<td>12/22/2026</td>
</tr>
<tr>
<td></td>
<td>12/16/2015</td>
<td>72,562</td>
<td>6.00</td>
<td>12/16/2025</td>
</tr>
<tr>
<td></td>
<td>9/26/2014</td>
<td>20,914</td>
<td>4.80</td>
<td>9/26/2024</td>
</tr>
<tr>
<td></td>
<td>2/2/2013 (2)</td>
<td>10,323</td>
<td>9.92</td>
<td>2/2/2023</td>
</tr>
<tr>
<td>James Atkinson</td>
<td>12/23/2016 (3)</td>
<td>75,000</td>
<td>5.22</td>
<td>12/22/2026</td>
</tr>
<tr>
<td></td>
<td>12/23/2016</td>
<td>66,001</td>
<td>6.00</td>
<td>12/16/2025</td>
</tr>
<tr>
<td></td>
<td>2/4/2015 (4)</td>
<td>36,224</td>
<td>3.76</td>
<td>2/4/2025</td>
</tr>
</tbody>
</table>

(1) Except as otherwise set forth below, the shares of our common stock underlying each of the outstanding stock options vest and become exercisable in equal monthly installments over 48 months following the grant date.

(2) This stock option was fully vested upon the merger that took place on September 23, 2014 between PLC Systems Inc., Viveve, Inc. and PLC Systems Acquisition Corp. Prior to merger, the board of directors voted to accelerate the vesting of all unvested options that were outstanding as of the date of the merger such that all options would be immediately vested and exercisable by the holders.

(3) This stock option was fully vested on the date of grant.

(4) The shares of common stock underlying this stock option vest and become exercisable as follows: ¼ of the shares vested on the one-year anniversary of the grant date and the remaining shares vest in equal monthly installments over the following 36 months.
Employment Agreements, Severance and Change-in Control Arrangements

Patricia Scheller

On May 14, 2012, Viveve, Inc. entered into an employment agreement with Patricia Scheller, the terms of which we have assumed. Pursuant to the agreement, Ms. Scheller serves as our Chief Executive Officer on an at-will basis and as a director. Ms. Scheller currently receives a base salary of $402,000, which is subject to periodic review and adjustment. Ms. Scheller is also eligible for an annual performance bonus targeted at 50% of her base salary and to participate in the employee benefit plans generally available to employees, subject to the terms of those plans.

Pursuant to the terms of the employment agreement, if Ms. Scheller’s employment is terminated by us without cause (as defined in her employment agreement), Ms. Scheller terminates her employment with us for good reason (as defined in her employment agreement) or Ms. Scheller’s employment is terminated due to her death or disability, Ms. Scheller will be entitled to receive: (i) base salary continuation for 12 months following termination and (ii) continued payment of the employer portion of her monthly health insurance premium until the earlier of 12 months following the date of termination, the expiration of her continuation coverage under COBRA or the date she becomes eligible for substantially equivalent health insurance coverage in connection with new employment or self-employment. Receipt of the severance payments and benefits described above is conditioned upon Ms. Scheller returning all Company property, resigning as a member of our board of directors and the boards of directors of any of our subsidiaries and entering into an effective release of claims against the Company and our affiliates.

Scott Durbin

On January 23, 2013, Viveve, Inc. entered into an employment agreement with Scott Durbin, the terms of which we have assumed. Pursuant to the agreement, Mr. Durbin serves as our Chief Financial Officer on an at-will basis. Mr. Durbin currently receives a base salary of $336,000, which is subject to periodic review and adjustment. Mr. Durbin is also eligible for an annual performance bonus targeted at 40% of his base salary and to participate in the employee benefit plans generally available to employees, subject to the terms of those plans.

Pursuant to the terms of the employment agreement, if Mr. Durbin’s employment is terminated by us without cause (as defined in his employment agreement), Mr. Durbin terminates his employment with us for good reason (as defined in his employment agreement) or Mr. Durbin’s employment is terminated due to his death or disability, Mr. Durbin will be entitled to receive: (i) base salary continuation for 10 months following termination and (ii) continued payment of the employer portion of his monthly health insurance premium until the earlier of 10 months following the date of termination, the expiration of his continuation coverage under COBRA or the date he becomes eligible for substantially equivalent health insurance coverage in connection with new employment or self-employment. Receipt of the severance payments and benefits described above is conditioned upon Mr. Durbin returning all Company property, resigning as a member of the board of directors and the boards of directors of any of our subsidiaries and entering into an effective release of claims against the Company and our affiliates.
On January 30, 2015, Viveve, Inc. entered into an employment agreement with James Atkinson, the terms of which we have assumed. Pursuant to the agreement, Mr. Atkinson serves as our Chief Business Officer and President on an at-will basis. Mr. Atkinson currently receives a base salary of $343,000, which is subject to periodic review and adjustment. Mr. Atkinson is also eligible for an annual performance bonus targeted at 40% of his base salary and to participate in the employee benefit plans generally available to employees, subject to the terms of those plans.

Pursuant to the terms of the employment agreement, if Mr. Atkinson’s employment is terminated by us without cause (as defined in his employment agreement), Mr. Atkinson terminates his employment with us for good reason (as defined in his employment agreement) or Mr. Atkinson’s employment is terminated due to his death or disability, Mr. Atkinson will be entitled to receive: (i) base salary continuation for six months following termination and (ii) continued payment of the employer portion of his monthly health insurance premium until the earlier of six months following the date of termination, the expiration of his continuation coverage under COBRA or the date he becomes eligible for substantially equivalent health insurance coverage in connection with new employment or self-employment. Receipt of the severance payments and benefits described above is conditioned upon Mr. Atkinson returning all Company property, resigning as a member of the board of directors and the boards of directors of any of our subsidiaries and entering into an effective release of claims against the Company and our affiliates.

Employee Benefits

Our executive officers are eligible to participate in all of our employee benefit plans, in each case on the same basis as other employees, including the 401(k) plan. The Company has not made any contributions to the 401(k) plan to date.

Director Compensation

Director Compensation Policy

On December 23, 2016, the board of directors adopted an independent director compensation policy, effective immediately, that is designed to compensate non-employee directors of the Company for their time, commitment and contributions to the Company’s board of directors. Under this policy, all non-employee directors will be paid cash compensation as set forth below, pro-rated to reflect the number of days served during any calendar quarter:

<table>
<thead>
<tr>
<th>Board of Directors:</th>
<th>Annual Retainer($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chairperson</td>
<td>25,000</td>
</tr>
<tr>
<td>All Independent Directors</td>
<td>35,000</td>
</tr>
<tr>
<td>Audit Committee:</td>
<td></td>
</tr>
<tr>
<td>Chairperson</td>
<td>20,000</td>
</tr>
<tr>
<td>Non-Chairperson members</td>
<td>10,000</td>
</tr>
<tr>
<td>Compensation Committee:</td>
<td></td>
</tr>
<tr>
<td>Chairperson</td>
<td>10,000</td>
</tr>
<tr>
<td>Non-Chairperson members</td>
<td>5,000</td>
</tr>
<tr>
<td>Governance and Nominating Committee:</td>
<td></td>
</tr>
<tr>
<td>Chairperson</td>
<td>7,500</td>
</tr>
<tr>
<td>Non-Chairperson members</td>
<td>3,750</td>
</tr>
</tbody>
</table>
In addition, under the policy, each new non-employee director who is initially appointed or elected to the board of directors after effectiveness of the policy will be granted an equity-based award with a value at the time of issuance equal to two times the Subsequent Award (defined below) in effect at the time of election, which will vest in three equal annual installments on each of the first three anniversaries of the date of grant, subject to the director’s continued service on the board of directors (the “Initial Award”). In addition, on the date of each annual meeting of the Company’s stockholders, each continuing non-employee director will be eligible to receive an annual option grant to purchase 17,500 shares of common stock, which will vest in full on the first anniversary of the grant date, subject to the director’s continued service on the board of directors (each a “Subsequent Award”). A non-employee director elected for the first time to the board of directors at an annual meeting of the Company’s stockholders shall only receive an Initial Award in connection with such election, and shall not receive a Subsequent Award until the annual meeting for the next fiscal year. In the event a non-employee director’s service on the board of directors terminates, the vesting and exercise of such director’s unvested stock options shall be subject to the terms of the applicable award agreement.

The Company has also agreed to reimburse all reasonable out-of-pocket expenses incurred by non-employee directors in attending board of directors and committee meetings.

### 2016 Director Compensation Table

The following table presents information regarding the compensation of our non-employee directors for the year ended December 31, 2016. Patricia Scheller, our Chief Executive Officer, serves on our board of directors but did not receive compensation for her service as a director and the compensation paid to Ms. Scheller as an employee during the year ended December 31, 2016 is set forth in the “2016 Summary Compensation Table” above.

<table>
<thead>
<tr>
<th>Name</th>
<th>Fees Earned or Paid in Cash ($)</th>
<th>Stock Awards ($)</th>
<th>Option Awards ($)</th>
<th>Total ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lori Bush</td>
<td>10,000</td>
<td>12,866</td>
<td>88,294</td>
<td>111,160</td>
</tr>
<tr>
<td>Mark Colella (1)</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Daniel Janney</td>
<td>15,625</td>
<td>20,582</td>
<td>39,669</td>
<td>75,876</td>
</tr>
<tr>
<td>Deborah Jorn</td>
<td>9,688</td>
<td>12,866</td>
<td>88,294</td>
<td>110,848</td>
</tr>
<tr>
<td>Arlene Morris</td>
<td>13,750</td>
<td>16,728</td>
<td>88,294</td>
<td>118,772</td>
</tr>
<tr>
<td>Jon Plexico</td>
<td>11,250</td>
<td>12,866</td>
<td>88,294</td>
<td>112,410</td>
</tr>
<tr>
<td>Carl Simpson (2)</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Brigette Smith (3)</td>
<td>—</td>
<td>10,091</td>
<td>—</td>
<td>10,091</td>
</tr>
</tbody>
</table>
(1) On May 11, 2016, Mr. Collela notified the board of directors of his resignation from the board of directors and all committees of the board of directors, effective immediately.

(2) On May 11, 2016, Mr. Simpson notified the board of directors of his resignation from the board of directors and all committees of the board of directors, effective immediately.

(3) On September 13, 2016, Ms. Smith notified the board of directors of her resignation from the board of directors and all committees of the board of directors, effective as of September 30, 2016.

(4) The amounts reported represent the cash retainers for the fourth quarter of 2016, which were paid in January 2017.

(5) The amounts reported represent the aggregate grant date fair value of restricted stock awards and stock options granted to our non-employee directors in 2016, computed in accordance with FASB ASC Topic 718. See Note 9 of the notes to our consolidated financial statements in this prospectus for a discussion of our assumptions in determining the grant date fair values of equity awards. These amounts do not correspond to the actual value that may be recognized by the directors.

(6) As of December 31, 2016, our non-employee directors serving on that date held outstanding stock options to purchase the following number of shares of common stock: Ms. Bush – 35,000; Mr. Janney – 35,000; Ms. Jorn – 35,000; Ms. Morris – 35,000; and Mr. Plexico – 35,000. Ms. Smith and Messrs. Colella and Simpson did not hold any outstanding stock options or other equity awards as of December 31, 2016. None of our non-employee directors held unvested restricted stock or other unvested equity awards as of December 31, 2016.
The following table sets forth certain information as of February 7, 2017 regarding the beneficial ownership of our common stock by the following persons:

- each person who, to our knowledge, owns more than 5% of our common stock;
- each of our named executive officers;
- each director; and
- all of our executive officers and directors as a group.

Unless otherwise indicated in the footnotes to the following table, each person named in the table has sole voting and investment power. The address for each of our named executive officers and directors is c/o Viveve Medical, Inc., 150 Commercial Street, Sunnyvale, California 94086. Shares of common stock subject to options, warrants or other rights currently exercisable or exercisable within 60 days of February 7, 2017, are deemed to be beneficially owned and outstanding for computing the share ownership and percentage of the stockholder holding the options, warrants or other rights, but are not deemed outstanding for computing the percentage of any other stockholder. As of February 7, 2017, we had 10,700,606 shares of common stock outstanding.

Certain of our existing stockholders and their affiliated entities, including holders of more than 5% of our common stock have indicated an interest in purchasing shares of our common stock in this offering at the public offering price per share. However, because indications of interest are not binding agreements or commitments to purchase, the underwriters may determine to sell more, less or no shares in this offering to any of these entities, or any of these entities may determine to purchase more, less or no shares in this offering. The following table does not reflect any potential purchases by these stockholders or their affiliated entities.

<table>
<thead>
<tr>
<th>Name and Address of Beneficial Owner</th>
<th>Amount and Nature of Beneficial Ownership (1)</th>
<th>Percent of Class</th>
</tr>
</thead>
<tbody>
<tr>
<td>Named Executive Officers and Directors</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Patricia Scheller</td>
<td>244,487 (2)</td>
<td>2.2%</td>
</tr>
<tr>
<td>Scott Durbin</td>
<td>106,146 (3)</td>
<td>1.0%</td>
</tr>
<tr>
<td>James Atkinson</td>
<td>651,316 (4)</td>
<td>6.0%</td>
</tr>
<tr>
<td>Arlene Morris</td>
<td>6,679 (5)</td>
<td>*</td>
</tr>
<tr>
<td>Lori Bush</td>
<td>4,618 (6)</td>
<td>*</td>
</tr>
<tr>
<td>Debora Jorn</td>
<td>6,106 (7)</td>
<td>*</td>
</tr>
<tr>
<td>Daniel Janney</td>
<td>894,610 (8)(12)</td>
<td>8.4%</td>
</tr>
<tr>
<td>Jon Plexico</td>
<td>2,605,817 (9)(10)</td>
<td>24.3%</td>
</tr>
<tr>
<td>All named executive officers and directors as a group (8 persons)</td>
<td>4,519,779</td>
<td>42%</td>
</tr>
<tr>
<td>Owners of More than 5% of Our Common Stock</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stonepine Capital, L.P. (9)</td>
<td>2,599,711</td>
<td>24.3%</td>
</tr>
<tr>
<td>919 NW Bond Street, Suite 208</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bend, Oregon 97701</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5AM Ventures II, L.P. (11)</td>
<td>913,780</td>
<td>8.5%</td>
</tr>
<tr>
<td>2200 Sand Hill Road, Suite 110</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Menlo Park, California 94025</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alta BioEquities, L.P. (8)</td>
<td>907,204</td>
<td>8.5%</td>
</tr>
<tr>
<td>One Embarcadero Center, Suite 3700</td>
<td></td>
<td></td>
</tr>
<tr>
<td>San Francisco, California 94111</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Laurence W. Lytton (13)</td>
<td>600,000</td>
<td>5.6%</td>
</tr>
<tr>
<td>467 CPW</td>
<td></td>
<td></td>
</tr>
<tr>
<td>N.Y., NY 10025</td>
<td></td>
<td></td>
</tr>
<tr>
<td>RTW Master Fund, Ltd. (14)</td>
<td>794,226</td>
<td>7.4%</td>
</tr>
<tr>
<td>c/o Intertrust Corporate Services (Cayman) Limited</td>
<td></td>
<td></td>
</tr>
<tr>
<td>190 Elgin Avenue, George Town</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Grand Cayman KY1-9001, Cayman Islands</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wexford Spectrum Investors LLC (15)</td>
<td>627,123</td>
<td>5.9%</td>
</tr>
</tbody>
</table>
* Represents beneficial ownership of less than 1% of the shares of common stock.

(1) Based on 10,700,606 shares issued and outstanding as of February 7, 2017. Beneficial ownership is determined in accordance with Rule 13d-3 under the Exchange Act and is generally determined by voting power and/or investment power with respect to securities. Unless otherwise noted, the shares of common stock listed above are owned as of February 7, 2017, and are owned of record by each individual named as the beneficial owner and such individual has sole voting and dispositive power with respect to the shares of common stock owned by each of them.

(2) Included in this amount are (i) 32,664 shares of common stock, and (ii) warrants and options to purchase 211,283 shares of common stock that are exercisable within 60 days of February 7, 2017.

(3) Included in this amount are (i) 6,568 shares of common stock and (ii) warrants and options to purchase 99,578 shares of common stock that are exercisable within 60 days of February 7, 2017.

(4) Included in this amount are (i) 433,737 shares of common stock owned of record by Charles Schwab & Co. Inc. for the benefit of James Gregory Atkinson IRA Contributory Account #3027-4954, of which James Atkinson is the sole beneficiary, (ii) 98,099 shares of common stock owned of record by the Atkinson Family Revocable Trust Dated 08/26/2013, of which Mr. Atkinson is co-trustee, (iii) 3,825 shares of common stock owned of record by Mr. Atkinson as custodian for the account of a minor child, (iv) 11,525 shares of common stock owned of record by Mr. Atkinson, and (v) warrants and options to purchase 104,130 shares of common stock that are exercisable within 60 days of February 7, 2017.

(5) Included in this amount are (i) 2,482 shares of common stock, and (ii) options to purchase 4,197 shares of common stock that are exercisable within 60 days of February 7, 2017.

(6) Included in this amount are (i) 2,709 shares of common stock, and (ii) options to purchase 1,909 shares of common stock that are exercisable within 60 days of February 7, 2017.

(7) Included in this amount are (i) 1,909 shares of common stock, and (ii) options to purchase 4,197 shares of common stock that are exercisable within 60 days of February 7, 2017.

(8) Based on information disclosed in a Schedule 13D/A filed on June 21, 2016 on behalf of Alta BioEquities, L.P. Includes 881,954 shares of common stock owned of record by Alta BioEquities, L.P. and a 10-year warrant to purchase 25,250 shares of common stock. Alta BioEquities Management, LLC is the general partner of Alta BioEquities, L.P. Daniel Janney, one of our directors, is the Managing Director of Alta BioEquities Management, LLC and has voting and investment power over the shares beneficially owned by Alta BioEquities, L.P.
Based on information disclosed in a Schedule 13D/A filed on November 21, 2016 on behalf of Stonepine Capital, L.P. Includes 2,599,711 shares of common stock owned of record by Stonepine Capital, L.P., Stonepine Capital Management, LLC is the general partner of Stonepine Capital, L.P. Jon M. Plexico and Timothy P. Lynch are the Managing Members of Stonepine Capital Management, LLC and have shared voting and investment power over the shares beneficially owned by Stonepine Capital, L.P.

Included in this amount are options to purchase 4,197 shares of common stock that are exercisable within 60 days of February 7, 2017.

Based on information disclosed in a Schedule 13D/A filed on June 1, 2015 on behalf of 5AM Co-Investors II, L.P. Dr. John Diekman, Andrew J. Schwab and Dr. Scott M. Rocklage, the managing members of 5AM Partners II, LLC, have shared voting and investment power over the shares beneficially owned by 5AM Ventures II, L.P. As the managing members of 5AM Partners II, LLC, these individuals also have voting and investment power over 913,780 shares of common stock owned of record by 5AM Co-Investors II, L.P. 5AM Partners II, LLC is the general partner of both 5AM Ventures II, L.P. and 5AM Co-Investors II, L.P.

Included in this amount are (i) 885,009 shares of common stock, and (ii) options to purchase 9,601 shares of common stock that are exercisable within 60 days of February 7, 2017.

Based upon information disclosed in a Schedule 13G filed on June 24, 2016 on behalf of Laurence W. Lytton.

Based upon information disclosed in a Schedule 13G/A filed on February 9, 2016 on behalf of RTW Investments, LLC. RTW Investments, LLC is the investment manager of RTW Master Fund, Ltd. Roderick Wong is the Managing Member of RTW Investments, LLC and has sole voting and investment power over the shares beneficially owned by RTW Master Fund, Ltd.

Based upon information disclosed in a Schedule 13G/A filed on February 7, 2017 on behalf of Wexford Spectrum Investors LLC. Wexford Capital LP is a manager of Wexford Spectrum Investors LLC. Wexford GP LLC is the General Partner of Wexford Capital LP. Each of Charles E. Davidson and Joseph M. Jacobs is a controlling person of Wexford GP LLC. Each of Wexford Capital LP, Wexford GP LLC, and Mr. Davidson and Mr. Jacobs have shared voting and investment power over the shares beneficially owned by Wexford Spectrum Investors LLC.
CERTAIN RELATIONSHIPS, RELATED TRANSACTIONS AND DIRECTOR INDEPENDENCE

Commission regulations define the related person transactions that require disclosure to include any transaction, arrangement or relationship, since January 1, 2014, in which the amount involved exceeds the lesser of $120,000 or 1% of the average of our total assets at year end in which we were or are to be a participant and in which a related person had or will have a direct or indirect material interest. A related person is: (i) an executive officer, director or director nominee of the Company, (ii) a beneficial owner of more than 5% of our common stock, (iii) an immediate family member of an executive officer, director or director nominee or beneficial owner of more than 5% of our common stock, or (iv) any entity that is owned or controlled by any of the foregoing persons or in which any of the foregoing persons has a substantial ownership interest or control.

For the period from January 1, 2014, through the date of this prospectus, described below are certain transactions or series of transactions between us and certain related persons. Information relating to employment agreements entered into by the Company and its executive officers and executive officer compensation can be found in Executive Compensation.

Related Party Convertible Bridge Notes

Viveve, Inc. entered into that certain Note Purchase Agreement dated as of November 20, 2012, as amended by that certain Amendment No. 1 to the Note Purchase Agreement on February 13, 2013, pursuant to which it issued convertible promissory notes in the aggregate principal amount of $1,000,000 (the “2012 Bridge Notes”) to GBS and the 5AM Parties. The 2012 Bridge Notes accrued interest at an annual rate of 8% and matured on the earlier of (i) the date upon which the majority note holders demand repayment after May 15, 2013 or (ii) the date of the closing of a qualified financing in which Viveve, Inc. (or, in the event of a reverse merger into a public shell company, the shell company) issues equity securities for gross proceeds of not less than $5,000,000 (the “Qualified Financing”) (excluding the aggregate amount of debt securities converted into shares of equity securities upon conversion of the 2012 Bridge Notes). Upon the closing of a Qualified Financing prior to the maturity date, all outstanding principal and unpaid accrued interest under the 2012 Bridge Notes were to automatically convert into that certain number of shares of equity securities equal to the principal and unpaid accrued interest divided by the per share purchase price of the shares sold in the Qualified Financing. On September 23, 2014, in conjunction with the Merger, we issued 213,418 shares of common stock to GBS and 213,418 shares of common stock to the 5AM Parties, representing 9.5% and 9.5%, respectively, of the common stock outstanding.

On March 5, 2014, Viveve, Inc. entered into a note purchase agreement, as amended on May 9, 2014, and May 29, 2014 (the “March 2014 Note Purchase Agreement”) pursuant to which Viveve issued convertible promissory notes in the aggregate principal amount of $1,500,000 to GCP, Alpha Capital Anstalt, Sandor Capital Master Fund, Barry Honig, 5AM Ventures II, GBS, and Alta Bioequities, L.P. The notes accrued interest at 9% per annum and were exchanged for common stock in the private offering that was completed on September 23, 2014.
**Agreement for Consulting Services**

On November 11, 2014, Viveve, Inc. entered into an Independent Contractor Agreement for Rendering Consulting Services with James Atkinson (the “Consulting Agreement”), which provided that Mr. Atkinson shall provide certain consulting services related to product distribution and international sales in exchange for (i) $30,000 per month to be paid in cash, 5-year warrants to purchase the Company’s common stock at an exercise price of $4.24 per share, or a combination thereof, to be determined by the board of directors, (ii) reimbursement of any costs and expenses incurred by Mr. Atkinson for travel in connection with the performance of his services under the Consulting Agreement and (iii) compensation at a rate of 35% of the total annual cash compensation for each zone director hired by the Company as a result of a direct introduction by Mr. Atkinson, to be paid solely in equity securities of the Company. The Consulting Agreement was terminated effective as of February 3, 2015. On February 4, 2015, the Company entered into an offer letter with James Atkinson in connection with his appointment as Chief Business Officer and President of Viveve, Inc. For information on the offer letter, see Executive Compensation.

**Agreements related to the Merger**

On September 23, 2014, we completed the Merger.

As a condition to and upon the closing of the Merger, an aggregate amount of $4,875,000 in convertible promissory notes and related accrued interest of approximately $522,000 were extinguished pursuant to the terms and conditions of a Convertible Note Termination Agreement, dated May 9, 2014, by and between Viveve, Inc. and 5AM Co-Investors II, LP, a Convertible Note Termination Agreement, dated May 9, 2014 (collectively, the “5AM Note Termination Agreements”), by and between Viveve, Inc. and 5AM Ventures II, LP (together with 5AM Co-Investors II, LP, the “5AM Parties”) and a Convertible Note Exchange Agreement, dated May 9, 2014 (the “GBS Note Exchange Agreement”) by and between Viveve, Inc. and GBS Venture Partners Pty Ltd., trustee for GBS Bioventures III (“GBS”). In accordance with the terms and conditions of the 5AM Note Termination Agreements, the 5AM Parties agreed to cancel or extinguish all principal and interest underlying the notes held by such holders. Pursuant to the terms of the GBS Note Exchange Agreement, GBS agreed to cancel and extinguish all principal and interest underlying the notes held by GBS in exchange for a warrant to acquire such number of shares of common stock of the Company equal to 5% of the issued and outstanding common stock of the Company following the effective date of the Merger (the “GBS Warrant”). Upon the closing of the Merger, the Company issued an aggregate of 117,950 shares of common stock to GBS upon the automatic conversion of the warrant.

Upon the closing of the Merger, all rights, title or interest in outstanding warrants to purchase securities of Viveve, Inc. were also terminated, extinguishing approximately $572,000 in outstanding warrant liabilities, in accordance with the terms and conditions of a Warrant Termination Agreement, dated May 9, 2014, by and between Viveve, Inc. and each of the 5AM Parties, a Warrant Termination Agreement, dated May 9, 2014, by and between Viveve, Inc. and GBS, a Warrant Termination Agreement, dated May 9, 2014, by and between Viveve, Inc. and Oxford Finance LLC (“Oxford”), and a Warrant Termination Agreement, dated May 9, 2014 (collectively, the “Warrant Termination Agreements”), by and between Viveve, Inc. and SVB Financial Group (“SVB Financial”).
Private Placement

On May 14, 2015, the Company completed a private offering pursuant to which it issued 4,054,062 shares of common stock for gross proceeds of approximately $12,000,000, to 20 accredited investors pursuant to the terms of a Securities Purchase Agreement dated as of May 12, 2015 (the “May 2015 Offering”). Purchasers in the offering included Stonepine Capital, L.P., Alta Bioequities L.P., an affiliate of director Dan Janney, 5AM Ventures II, L.P., Patricia Scheller, the Company’s Chief Executive Officer, Scott Durbin, the Company’s Chief Financial Officer, Jim Robbins, the Company’s Vice President of Finance and James Atkinson, the Company’s Chief Business Officer and President.

In connection with the May 2015 Offering, the Company entered into a Registration Rights Agreement with the purchasers, dated as of May 12, 2015, pursuant to which the Company agreed to register the shares on a registration statement to be filed with the Securities and Exchange Commission within 45 days after the closing of the offering and to use its commercially reasonable efforts to cause the registration statement to be declared effective within 90 days after the filing date. If the Company (i) failed to file the registration statement by the filing date, (ii) did not obtain effectiveness of the registration statement within 90 days after the filing date or (iii) allows certain lapses in effectiveness, the Company is obligated to pay to the purchasers liquidated damages equal to 1.5% of the original subscription amount paid by the purchasers upon the occurrence of the event and for every seven days after the occurrence of an event until cured. The Company filed the registration statement within 45 days after the closing of the May 2015 Offering and the registration statement was declared effective by the SEC within 90 days after the filing date.

On November 24, 2015, the Company completed a private offering pursuant to which it issued 1,071,679 shares of common stock, no par value, at a per share purchase price of $5.60 for gross proceeds of approximately $6,000,000 (the “Private Placement”) to 12 accredited investors pursuant to the terms of a Securities Purchase Agreement, by and among the Company and the purchasers, dated as of November 20, 2015 (the “Securities Purchase Agreement”). Purchasers in the offering included Stonepine Capital, L.P., Alta BioEquities L.P., an affiliate of director Dan Janney, Patricia Scheller, the Company’s Chief Executive Officer, and James Atkinson, the Company’s Chief Business Officer and President.

In connection with the Private Placement, the Company entered into a Registration Rights Agreement with the purchasers, dated as of November 20, 2015, pursuant to which the Company agreed to register the shares on a registration statement to be filed with the Securities and Exchange Commission within 60 days after the closing of the offering and to use its commercially reasonable efforts to cause the registration statement to be declared effective within 90 days after the filing date. If the Company (i) failed to file the registration statement by the filing date, (ii) did not obtain effectiveness of the registration statement within 90 days after the filing date or (iii) allows certain lapses in effectiveness, the Company is obligated to pay to the purchasers liquidated damages equal to 1.5% of the original subscription amount paid by the purchasers upon the occurrence of the event and for every seven days after the occurrence of an event until cured. The Company filed the registration statement within 60 days after the closing of the Private Placement and the registration statement was declared effective by the SEC within 90 days after the filing date.

Participation in this Offering

Certain of our existing stockholders and their affiliated entities, including holders of more than 5% of our common stock have indicated an interest in purchasing shares of our common stock in this offering at the public offering price per share. However, because indications of interest are not binding agreements or commitments to purchase, the underwriters may determine to sell more, less or no shares in this offering to any of these entities, or any of these entities may determine to purchase more, less or no shares in this offering.

Policies and Procedures for Related Person Transactions

While our board of directors has not adopted a formal written related person transaction policy that sets forth the policies and procedures for the review and approval or ratification of related person transactions, it the Company’s practice and procedure to present all transactions arrangements, relationships, or any series of similar transactions, arrangements, or relationships, in which the Company was or is to be a participant and a related person had or will have a direct or indirect material interest, to the board of directors for approval.
Director Independence

Our determination of the independence of our directors is made using the definition of "independent" contained in the listing standards of the NASDAQ Stock Market. On the basis of information solicited from each director, the board has determined that each of Jon Plexico, Arlene Morris, Lori Bush, Debora Jorn and Daniel Janney are independent within the meaning of such rules.
MATERIAL U.S. FEDERAL INCOME TAX CONSIDERATIONS FOR NON-U.S. HOLDERS OF COMMON STOCK

The following discussion is a summary of the material U.S. federal income tax considerations applicable to non-U.S. holders (as defined below) with respect to their ownership and disposition of shares of our common stock issued pursuant to this offering. For purposes of this discussion, a non-U.S. holder means a beneficial owner of our common stock that is for U.S. federal income tax purposes:

- a non-resident alien individual;
- a foreign corporation or any other foreign organization taxable as a corporation for U.S. federal income tax purposes; or
- a foreign estate or trust, the income of which is not subject to U.S. federal income tax on a net income basis.

This discussion does not address the tax treatment of partnerships or other entities that are pass-through entities for U.S. federal income tax purposes or persons that hold their common stock through partnerships or other pass-through entities. A partner in a partnership or other pass-through entity that will hold our common stock should consult his, her or its own tax advisor regarding the tax consequences of acquiring, holding and disposing of our common stock through a partnership or other pass-through entity, as applicable.

This discussion is based on current provisions of the U.S. Internal Revenue Code of 1986, as amended, which we refer to as the Code, existing and proposed U.S. Treasury Regulations promulgated thereunder, current administrative rulings and judicial decisions, all as in effect as of the date of this prospectus and, all of which are subject to change or to differing interpretation, possibly with retroactive effect. Any such change or differing interpretation could alter the tax consequences to non-U.S. holders described in this prospectus. There can be no assurance that the Internal Revenue Service, which we refer to as the IRS, will not challenge one or more of the tax consequences described herein. We assume in this discussion that a non-U.S. holder holds shares of our common stock as a capital asset, generally property held for investment.

This discussion does not address all aspects of U.S. federal income that may be relevant to a particular non-U.S. holder in light of that non-U.S. holder’s individual circumstances nor does it address any aspects of any U.S. federal tax other than the income tax, U.S. state, local or non-U.S. taxes, the alternative minimum tax, any tax considerations resulting from a non-U.S. holder having a functional currency other than the U.S. dollar, or the Medicare tax on net investment income. This discussion also does not consider any specific facts or circumstances that may apply to a non-U.S. holder and does not address the special tax rules applicable to particular non-U.S. holders, such as:

- insurance companies;
- tax exempt or governmental organizations;
- financial institutions;
- brokers or dealers in securities;
- regulated investment companies;
- pension plans;
● “controlled foreign corporations,” “passive foreign investment companies,” and corporations that accumulate earnings to avoid U.S. federal income tax;

● “qualified foreign pension funds,” or entities wholly owned by a “qualified foreign pension fund”;

● persons deemed to sell our common stock under the constructive sale provisions of the Code;

● persons that hold our common stock as part of a straddle, hedge, conversion transaction, synthetic security or other integrated investment;

● persons who hold or receive our common stock pursuant to the exercise of any employee stock option or otherwise as compensation;

● persons for whom our stock constitutes “qualified small business stock” within the meaning of Section 1202 of the Code; and

● certain U.S. expatriates.

This discussion is for general information only and is not tax advice. Accordingly, all prospective non-U.S. holders of our common stock should consult their own tax advisors with respect to the U.S. federal, state, local and non-U.S. tax consequences of the purchase, ownership and disposition of our common stock.

Distributions on Our Common Stock

Distributions, if any, on our common stock generally will constitute dividends for U.S. federal income tax purposes to the extent paid from our current or accumulated earnings and profits, as determined under U.S. federal income tax principles. If a distribution exceeds our current and accumulated earnings and profits, the excess will be treated as a tax-free return of the non-U.S. holder’s investment, up to such holder’s tax basis in the common stock. Any remaining excess will be treated as capital gain, subject to the tax treatment described below in “Gain on sale, exchange or other disposition of our common stock.” Any such distributions will also be subject to the discussion below under the section titled “Withholding and Information Reporting Requirements—FATCA.”

Subject to the discussion in the following two paragraphs in this section, dividends paid to a non-U.S. holder generally will be subject to withholding of U.S. federal income tax at a 30% rate or such lower rate as may be specified by an applicable income tax treaty between the United States and such holder’s country of residence.

Dividends that are treated as effectively connected with a trade or business conducted by a non-U.S. holder within the United States and, if an applicable income tax treaty so provides, that are attributable to a permanent establishment or a fixed base maintained by the non-U.S. holder within the United States, are generally exempt from the 30% withholding tax if the non-U.S. holder satisfies applicable certification and disclosure requirements. However, such U.S. effectively connected income, net of specified deductions and credits, is taxed at the same graduated U.S. federal income tax rates applicable to United States persons (as defined in the Code). Any U.S. effectively connected income received by a non-U.S. holder that is a corporation may also, under certain circumstances, be subject to an additional “branch profits tax” at a 30% rate or such lower rate as may be specified by an applicable income tax treaty between the United States and such holder’s country of residence.

A non-U.S. holder of our common stock who claims the benefit of an applicable income tax treaty between the United States and such holder’s country of residence generally will be required to provide a properly executed IRS Form W-8BEN or W-8BEN-E (or successor form) and satisfy applicable certification and other requirements. Non-U.S. holders are urged to consult their tax advisors regarding their entitlement to benefits under a relevant income tax treaty. A non-U.S. holder that is eligible for a reduced rate of U.S. withholding tax under an income tax treaty may obtain a refund or credit of any excess amounts withheld by timely filing a U.S. tax return with the IRS.
Gain on Sale or Other Taxable Disposition of Our Common Stock

Subject to the discussion below under “Backup Withholding and Information Reporting” and “Withholding and Information Reporting Requirements – FATCA,” a non-U.S. holder generally will not be subject to any U.S. federal income or withholding tax on any gain realized upon such holder’s sale or other taxable disposition of shares of our common stock unless:

- the gain is effectively connected with the non-U.S. holder’s conduct of a U.S. trade or business and, if an applicable income tax treaty so provides, is attributable to a permanent establishment or a fixed-base maintained by such non-U.S. holder in the United States, in which case the non-U.S. holder generally will be taxed on a net income basis at the graduated U.S. federal income tax rates applicable to United States persons (as defined in the Code) and, if the non-U.S. holder is a foreign corporation, the branch profits tax described above in “Distributions on Our Common Stock” also may apply;

- the non-U.S. holder is a nonresident alien individual who is present in the United States for 183 days or more in the taxable year of the disposition and certain other conditions are met, in which case the non-U.S. holder will be subject to a 30% tax (or such lower rate as may be specified by an applicable income tax treaty between the United States and such holder’s country of residence) on the net gain derived from the disposition, which may be offset by certain U.S. source capital losses of the non-U.S. holder, if any (even though the individual is not considered a resident of the United States), provided that the non-U.S. holder has timely filed U.S. federal income tax returns with respect to such losses; or

- we are, or have been, at any time during the five-year period preceding such sale of other taxable disposition (or the non-U.S. holder’s holding period, if shorter) a “U.S. real property holding corporation,” unless our common stock is regularly traded on an established securities market and the non-U.S. holder holds no more than 5% of our outstanding common stock, directly or indirectly, actually or constructively, during the shorter of the 5-year period ending on the date of the disposition or the period that the non-U.S. holder held our common stock. If we are determined to be a U.S. real property holding corporation and the foregoing exception does not apply, then a purchaser may generally withhold 15% of the proceeds payable to a non-U.S. holder from a sale of our common stock and the non-U.S. holder generally will be taxed on its net gain derived from the disposition at the graduated U.S. federal income tax rates applicable to United States persons (as defined in the Code). Generally, a corporation is a U.S. real property holding corporation only if the fair market value of its U.S. real property interests equals or exceeds 50% of the sum of the fair market value of its worldwide real property interests plus its other assets used or held for use in a trade or business. Although there can be no assurance, we do not believe that we are, or have been, a U.S. real property holding corporation, or that we are likely to become one in the future. No assurance can be provided that our common stock will be regularly traded on an established securities market for purposes of the rules described above.
Backup Withholding and Information Reporting

We must report annually to the IRS and to each non-U.S. holder the gross amount of the distributions on our common stock paid to such holder and the tax withheld, if any, with respect to such distributions. Non-U.S. holders may have to comply with specific certification procedures to establish that the holder is not a United States person (as defined in the Code) in order to avoid backup withholding at the applicable rate, currently 28%, with respect to dividends on our common stock. Dividends paid to non-U.S. holders subject to withholding of U.S. federal income tax, as described above in “Distributions on Our Common Stock,” generally will be exempt from U.S. backup withholding.

Information reporting and backup withholding will generally apply to the proceeds of a disposition of our common stock by a non-U.S. holder effected by or through the U.S. office of any broker, U.S. or foreign, unless the holder certifies its status as a non-U.S. holder and satisfies certain other requirements, or otherwise establishes an exemption. Generally, information reporting and backup withholding will not apply to a payment of disposition proceeds to a non-U.S. holder where the transaction is effected outside the United States through a non-U.S. office of a broker. However, for information reporting purposes, dispositions effected through a non-U.S. office of a broker with substantial U.S. ownership or operations generally will be treated in a manner similar to dispositions effected through a U.S. office of a broker. Non-U.S. holders should consult their own tax advisors regarding the application of the information reporting and backup withholding rules to them. Copies of information returns may be made available to the tax authorities of the country in which the non-U.S. holder resides or is incorporated under the provisions of a specific treaty or agreement. Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules from a payment to a non-U.S. holder can be refunded or credited against the non-U.S. holder’s U.S. federal income tax liability, if any, provided that an appropriate claim is filed with the IRS in a timely manner.

Withholding and Information Reporting Requirements—FATCA

The Foreign Account Tax Compliance Act, or FATCA, generally imposes a U.S. federal withholding tax at a rate of 30% on payments of dividends on, or gross proceeds from the sale or other disposition of, our common stock paid to a foreign entity unless (i) if the foreign entity is a “foreign financial institution,” such foreign entity undertakes certain due diligence, reporting, withholding, and certification obligations, (ii) if the foreign entity is not a “foreign financial institution,” such foreign entity identifies certain of its U.S. investors, if any, or (iii) the foreign entity is otherwise exempt under FATCA. Under applicable U.S. Treasury regulations, withholding under FATCA currently applies to payments of dividends on our common stock, but will only apply to payments of gross proceeds from a sale or other disposition of our common stock made after December 31, 2018. Under certain circumstances, a non-U.S. holder may be eligible for refunds or credits of this withholding tax. An intergovernmental agreement between the United States and an applicable foreign country may modify the requirements described in this paragraph. Non-U.S. holders should consult their tax advisors regarding the possible implications of this legislation on their investment in our common stock and the entities through which they hold our common stock, including, without limitation, the process and deadlines for meeting the applicable requirements to prevent the imposition of the 30% withholding tax under FATCA.
UNDERWRITING

We and the underwriters for the offering named below have entered into an underwriting agreement with respect to the common stock being offered. Subject to the terms and conditions of the underwriting agreement, each underwriter has severally agreed to purchase from us the number of shares of our common stock set forth opposite its name below. Cowen and Company, LLC is the representative of the underwriters.

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<th>Underwriter</th>
<th>Number of Shares</th>
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<td>Cowen and Company, LLC</td>
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<tr>
<td>Raymond James &amp; Associates, Inc.</td>
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<tr>
<td>Ladenburg Thalmann &amp; Co.</td>
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<td>Total</td>
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The underwriting agreement provides that the obligations of the underwriters are subject to certain conditions precedent and that the underwriters have agreed, severally and not jointly, to purchase all of the shares sold under the underwriting agreement if any of these shares are purchased, other than those shares covered by the overallotment option described below. If an underwriter defaults, the underwriting agreement provides that the purchase commitments of the non-defaulting underwriters may be increased or the underwriting agreement may be terminated.

We have agreed to indemnify the underwriters against specified liabilities, including liabilities under the Securities Act of 1933, and to contribute to payments the underwriters may be required to make in respect thereof.

The underwriters are offering the shares, subject to prior sale, when, as and if issued to and accepted by them, subject to approval of legal matters by their counsel and other conditions specified in the underwriting agreement. The underwriters reserve the right to withdraw, cancel or modify offers to the public and to reject orders in whole or in part.

Certain of our existing stockholders and their affiliated entities, including holders of more than 5% of our common stock have indicated an interest in purchasing shares of our common stock in this offering at the public offering price per share. However, because indications of interest are not binding agreements or commitments to purchase, the underwriters may determine to sell more, less or no shares in this offering to any of these entities, or any of these entities may determine to purchase more, less or no shares in this offering.

Overallotment Option to Purchase Additional Shares. We have granted to the underwriters an option to purchase up to 912,408 additional shares of common stock at the public offering price, less the underwriting discount. This option is exercisable for a period of 30 days. The underwriters may exercise this option solely for the purpose of covering overallotments, if any, made in connection with the sale of common stock offered hereby. To the extent that the underwriters exercise this option, the underwriters will purchase additional shares from us in approximately the same proportion as shown in the table above.

Discounts and Commissions. The following table shows the public offering price, underwriting discount and proceeds, before expenses to us. These amounts are shown assuming both no exercise and full exercise of the underwriters’ option to purchase additional shares.
We estimate that the total expenses of the offering, excluding underwriting discount, will be approximately $331,000 and are payable by us. We have also agreed to reimburse the underwriters for certain expenses in an amount up to $300,000.

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<th>Total</th>
<th>Per Share</th>
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The underwriters propose to offer the shares of common stock to the public at the public offering price set forth on the cover of this prospectus. The underwriters may offer the shares of common stock to securities dealers at the public offering price less a concession not in excess of $ per share. If all of the shares are not sold at the public offering price, the underwriters may change the offering price and other selling terms.

_Discretionary Accounts._ The underwriters do not intend to confirm sales of the shares to any accounts over which they have discretionary authority.

_Stabilization._ In connection with this offering, the underwriters may engage in stabilizing transactions, overallotment transactions, syndicate covering transactions, penalty bids and purchases to cover positions created by short sales.

- Stabilizing transactions permit bids to purchase shares of common stock so long as the stabilizing bids do not exceed a specified maximum, and are engaged in for the purpose of preventing or retarding a decline in the market price of the common stock while the offering is in progress.

- Overallotment transactions involve sales by the underwriters of shares of common stock in excess of the number of shares the underwriters are obligated to purchase. This creates a syndicate short position which may be either a covered short position or a naked short position. In a covered short position, the number of shares over-allotted by the underwriters is not greater than the number of shares that they may purchase in the overallotment option. In a naked short position, the number of shares involved is greater than the number of shares in the overallotment option. The underwriters may close out any short position by exercising their overallotment option and/or purchasing shares in the open market.

- Syndicate covering transactions involve purchases of common stock in the open market after the distribution has been completed in order to cover syndicate short positions. In determining the source of shares to close out the short position, the underwriters will consider, among other things, the price of shares available for purchase in the open market as compared with the price at which they may purchase shares through exercise of the overallotment option. If the underwriters sell more shares than could be covered by exercise of the overallotment option and, therefore, have a naked short position, the position can be closed out only by buying shares in the open market. A naked short position is more likely to be created if the underwriters are concerned that after pricing there could be downward pressure on the price of the shares in the open market that could adversely affect investors who purchase in the offering.
Penalty bids permit the representative to reclaim a selling concession from a syndicate member when the common stock originally sold by that syndicate member is purchased in stabilizing or syndicate covering transactions to cover syndicate short positions.

These stabilizing transactions, syndicate covering transactions and penalty bids may have the effect of raising or maintaining the market price of our common stock or preventing or retarding a decline in the market price of our common stock. As a result, the price of our common stock in the open market may be higher than it would otherwise be in the absence of these transactions. Neither we nor the underwriters make any representation or prediction as to the effect that the transactions described above may have on the price of our common stock. These transactions may be effected on the Nasdaq Stock Market, in the over-the-counter market or otherwise and, if commenced, may be discontinued at any time.

Passive Market Making. In connection with this offering, underwriters and selling group members may engage in passive market making transactions in our common stock on the Nasdaq Stock Market in accordance with Rule 103 of Regulation M under the Securities Exchange Act of 1934, as amended, during a period before the commencement of offers or sales of common stock and extending through the completion of the distribution. A passive market maker must display its bid at a price not in excess of the highest independent bid of that security. However, if all independent bids are lowered below the passive market maker’s bid, such bid must then be lowered when specified purchase limits are exceeded.

Lock-Up Agreements. Pursuant to certain “lock-up” agreements, we and our executive officers, directors and certain of our other stockholders, have agreed, subject to certain exceptions, not to offer, sell, assign, transfer, pledge, contract to sell, or otherwise dispose of or announce the intention to otherwise dispose of, or enter into any swap, hedge or similar agreement or arrangement that transfers, in whole or in part, the economic consequence of ownership of, directly or indirectly, or make any demand or request or exercise any right with respect to the registration of, or file with the SEC a registration statement under the Securities Act relating to, any common stock or securities convertible into or exchangeable or exercisable for any common stock without the prior written consent of Cowen and Company, LLC, for a period of 90 days after the date of the pricing of the offering.
This lock-up provision applies to common stock and to securities convertible into or exchangeable or exercisable for common stock. It also applies to common stock owned now or acquired later by the person executing the agreement or for which the person executing the agreement later acquires the power of disposition. The exceptions permit us, among other things and subject to restrictions, to: (a) make certain gifts, (b) if the party is a corporation, partnership, limited liability company or other business entity, make transfers to any shareholders, partners, members of, or owners of similar equity interests in, the party, or to an affiliate of the party, if such transfer is not for value, (c) if the party is a corporation, partnership, limited liability company or other business entity, make transfers in connection with the sale or transfer of all of the party’s capital stock, partnership interests, membership interests or other similar equity interests, as the case may be, or all or substantially all of the party’s assets, in any such case not undertaken for the purpose of avoiding the restrictions imposed by the “lock-up” agreement, (d) enter into any trading plan providing for the sale of common stock that meets the requirements of Rule 10b5-1(c) under the Exchange Act, provided that such plan does not provide for, or permit, the sale of any common stock during the “lock-up” period, and (e) participate in tenders involving the acquisition of a majority of our stock. In addition, the lock-up provision will not restrict broker-dealers from engaging in market making and similar activities conducted in the ordinary course of their business.

Cowen and Company, LLC, in its sole discretion, may release our common stock and other securities subject to the lock-up agreements described above in whole or in part at any time. When determining whether or not to release our common stock and other securities from lock-up agreements, Cowen and Company, LLC will consider, among other factors, the holder’s reasons for requesting the release, the number of shares for which the release is being requested and market conditions at the time of the request.

Canada. The common stock may be sold only to purchasers purchasing, or deemed to be purchasing, as principal that are accredited investors, as defined in National Instrument 45-106 Prospectus Exemptions or subsection 73.3(1) of the Securities Act (Ontario), and are permitted clients, as defined in National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations. Any resale of the common stock must be made in accordance with an exemption from, or in a transaction not subject to, the prospectus requirements of applicable securities laws.

Securities legislation in certain provinces or territories of Canada may provide a purchaser with remedies for rescission or damages if this prospectus (including any amendment thereto) contains a misrepresentation, provided that the remedies for rescission or damages are exercised by the purchaser within the time limit prescribed by the securities legislation of the purchaser’s province or territory. The purchaser should refer to any applicable provisions of the securities legislation of the purchaser’s province or territory for particulars of these rights or consult with a legal advisor.

Pursuant to section 3A.3 of National Instrument 33-105 Underwriting Conflicts (NI 33-105), the underwriters are not required to comply with the disclosure requirements of NI 33-105 regarding underwriter conflicts of interest in connection with this offering.

United Kingdom. Each of the underwriters has represented and agreed that:

- it has not made or will not make an offer of the securities to the public in the United Kingdom within the meaning of section 102B of the Financial Services and Markets Act 2000 (as amended) (FSMA) except to legal entities which are authorized or regulated to operate in the financial markets or, if not so authorized or regulated, whose corporate purpose is solely to invest in securities or otherwise in circumstances which do not require the publication by us of a prospectus pursuant to the Prospectus Rules of the Financial Services Authority (FSA);
it has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of section 21 of FSMA) to persons who have professional experience in matters relating to investments falling within Article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 or in circumstances in which section 21 of FSMA does not apply to us; and

it has complied with and will comply with all applicable provisions of FSMA with respect to anything done by it in relation to the securities in, from or otherwise involving the United Kingdom.

Switzerland. The securities will not be offered, directly or indirectly, to the public in Switzerland and this prospectus does not constitute a public offering prospectus as that term is understood pursuant to article 652a or 1156 of the Swiss Federal Code of Obligations.

European Economic Area. In relation to each Member State of the European Economic Area (the “EEA”) which has implemented the European Prospectus Directive (each, a “Relevant Member State”), an offer of our shares may not be made to the public in a Relevant Member State other than:

- to any legal entity which is a qualified investor, as defined in the European Prospectus Directive;
- to fewer than 100 or, if the Relevant Member State has implemented the relevant provision of the 2010 PD Amending Directive, 150 natural or legal persons (other than qualified investors as defined in the European Prospectus Directive), subject to obtaining the prior consent of the relevant dealer or dealers nominated by us for any such offer, or;
- in any other circumstances falling within Article 3(2) of the European Prospectus Directive,

provided that no such offer of our shares shall require us or any underwriter to publish a prospectus pursuant to Article 3 of the European Prospectus Directive or supplement prospectus pursuant to Article 16 of the European Prospectus Directive.

For the purposes of this description, the expression an “offer to the public” in relation to the securities in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the securities to be offered so as to enable an investor to decide to purchase or subscribe for the securities, as the expression may be varied in that Relevant Member State by any measure implementing the European Prospectus Directive in that member state, and the expression “European Prospectus Directive” means Directive 2003/71/EC (and amendments hereto, including the 2010 PD Amending Directive, to the extent implemented in the Relevant Member State) and includes any relevant implementing measure in each Relevant Member State. The expression 2010 PD Amending Directive means Directive 2010/73/EU.
Israel. In the State of Israel this prospectus shall not be regarded as an offer to the public to purchase shares of common stock under the Israeli Securities Law, 5728 – 1968, which requires a prospectus to be published and authorized by the Israel Securities Authority, if it complies with certain provisions of Section 15 of the Israeli Securities Law, 5728–1968, including, inter alia, if: (i) the offer is made, distributed or directed to not more than 35 investors, subject to certain conditions (the “Addressed Investors”); or (ii) the offer is made, distributed or directed to certain qualified investors defined in the First Addendum of the Israeli Securities Law, 5728 – 1968, subject to certain conditions (the “Qualified Investors”). The Qualified Investors shall not be taken into account in the count of the Addressed Investors and may be offered to purchase securities in addition to the 35 Addressed Investors. The company has not and will not take any action that would require it to publish a prospectus in accordance with and subject to the Israeli Securities Law, 5728 – 1968. We have not and will not distribute this prospectus or make, distribute or direct an offer to subscribe for our common stock to any person within the State of Israel, other than to Qualified Investors and up to 35 Addressed Investors.

Qualified Investors may have to submit written evidence that they meet the definitions set out in of the First Addendum to the Israeli Securities Law, 5728 – 1968. In particular, we may request, as a condition to be offered common stock, that Qualified Investors will each represent, warrant and certify to us and/or to anyone acting on our behalf: (i) that it is an investor falling within one of the categories listed in the First Addendum to the Israeli Securities Law, 5728 – 1968; (ii) which of the categories listed in the First Addendum to the Israeli Securities Law, 5728 – 1968 regarding Qualified Investors is applicable to it; (iii) that it will abide by all provisions set forth in the Israeli Securities Law, 5728 – 1968 and the regulations promulgated thereunder in connection with the offer to be issued common stock; (iv) that the shares of common stock that it will be issued are, subject to exemptions available under the Israeli Securities Law, 5728 – 1968: (a) for its own account; (b) for investment purposes only; and (c) not issued with a view to resale within the State of Israel, other than in accordance with the provisions of the Israeli Securities Law, 5728 – 1968; and (v) that it is willing to provide further evidence of its Qualified Investor status. Addressed Investors may have to submit written evidence in respect of their identity and may have to sign and submit a declaration containing, inter alia, the Addressed Investor’s name, address and passport number or Israeli identification number.

We have not authorized and do not authorize the making of any offer of securities through any financial intermediary on our behalf, other than offers made by the underwriters and their respective affiliates, with a view to the final placement of the securities as contemplated in this document. Accordingly, no purchaser of the shares, other than the underwriters, is authorized to make any further offer of shares on our behalf or on behalf of the underwriters.
Electronic Offer, Sale and Distribution of Shares. A prospectus in electronic format may be made available on the websites maintained by one or more of the underwriters or selling group members, if any, participating in this offering and one or more of the underwriters participating in this offering may distribute prospectuses electronically. The representatives may agree to allocate a number of shares to underwriters and selling group members for sale to their online brokerage account holders. Internet distributions will be allocated by the underwriters and selling group members that will make internet distributions on the same basis as other allocations. Other than the prospectus in electronic format, the information on these websites is not part of this prospectus or the registration statement of which this prospectus forms a part, has not been approved or endorsed by us or any underwriter in its capacity as underwriter, and should not be relied upon by investors.

Other Relationships. Certain of the underwriters and their affiliates have provided, and may in the future provide, various investment banking, commercial banking and other financial services for us and our affiliates for which they have received, and may in the future receive, customary fees.

We have previously granted Ladenburg Thalmann & Co. Inc. a right of first refusal to act as lead or co-lead underwriter or placement agent in connection with any subsequent public or private offering of equity securities or other capital markets financing by us. This right of first refusal extends through June 2017. The terms of any such engagement of Ladenburg Thalmann & Co. Inc. will be determined by separate agreement.
DESCRIPTION OF SECURITIES

Authorized and Outstanding Capital Stock

We have authorized 75 million shares of common stock and 10 million shares of preferred stock, par value $0.0001 per share. As of February 7, 2017, we had 10,700,606 shares of common stock outstanding and held by approximately 598 stockholders of record. There are no shares of preferred stock outstanding.

Common Stock

The holders of our common stock are entitled to one vote per share. In addition, the holders of our common stock will be entitled to receive pro rata dividends, if any, declared by our board of directors out of legally available funds; however, the current policy of our board of directors is to retain earnings, if any, for operations and growth. Upon liquidation, dissolution or winding-up, the holders of our common stock are entitled to share ratably in all assets that are legally available for distribution. With the exception of Stonepine Capital, L.P., the holders of our common stock have no preemptive, subscription, redemption or conversion rights. The rights, preferences and privileges of holders of our common stock are subject to, and may be adversely affected by, the rights of the holders of any series of preferred stock, which may be designated solely by action of our board of directors and issued in the future.

Preferred Stock

Our board of directors is authorized, subject to any limitations prescribed by law, without further vote or action by our stockholders, to issue from time to time shares of preferred stock in one or more series. The directors may from time to time by resolution passed before the issue of any preferred stock of any particular series, fix the number of shares of preferred stock of any particular series, determine the designation of the shares of preferred stock of that series and create, define and attach special rights and restrictions to the shares of preferred stock of that series including, but without in any way limiting or restricting the generality of the foregoing: the rate or amount of dividends, whether cumulative, non-cumulative or partially cumulative; the dates, places and currencies of payment thereof; the consideration for, and the terms and conditions of, any purchase for cancellation or redemption thereof, including redemption after a fixed term or at a premium; conversion or exchange rights or rights of retraction (provided that any such conversion or exchange rights or rights of retraction shall be in accordance with the provisions existing at the time of creation of such series relating to conversion, exchange, or retraction as prescribed by the policies of any stock exchange on which our shares are then listed); the terms and conditions of any share purchase plan or sinking fund; and voting rights and restrictions.

Holders of preferred stock will be entitled, on the distribution of our assets or in the event of our liquidation, dissolution or winding-up, whether voluntary or involuntary, or on any other distribution of our assets among our stockholders for the purpose of winding-up our affairs, to receive before any distribution to be made to holders of common stock or any other shares of stock ranking junior to the preferred stock with respect to repayment of capital, the amount due to the holders of preferred stock in accordance with our Certificate of Incorporation with respect to each share of preferred stock held by them, together with all accrued and unpaid cumulative dividends, (if any and if preferential) thereon, and all declared and unpaid non-cumulative dividends (if any and if preferential) thereon.

Except for voting rights that may be attached to any series of the preferred stock by the directors, holders of preferred stock will not be entitled to vote at any meeting of our stockholders. Holders of preferred stock will be given notice of and be invited to attend meetings of our voting stockholders.

It is not possible to state the actual effect of the issuance of any shares of preferred stock upon the rights of holders of our common stock until the board of directors determines the specific rights of the holders of our preferred stock. However, the effects might include, among other things:

- impairing dividend rights of our common stock;
- diluting the voting power of our common stock;
- impairing the liquidation rights of our common stock; and
- delaying or preventing a change of control without further action by our stockholders.

Warrants

As of February 7, 2017, we have warrants issued and outstanding for the purchase of up to 425,274 shares of our common stock, at exercise prices ranging from $2.72 to $7.74 per share.

Options

As of February 7, 2017, we have options issued and outstanding for the purchase of up to 1,904,354 shares of our common stock, at exercise prices ranging from $2.64 to $296.00 per share.

Restricted Stock

As of February 7, 2017, we have restricted stock awards issued and outstanding for the issuance of up to 18,750 shares of our common stock.
Our transfer agent is VStock Transfer, LLC, 18 Lafayette Place, Woodmere, New York 11598.
Indemnification of Directors and Officers

Indemnification Provisions included in our Delaware Certificate of Incorporation and Bylaws

Following our change of domicile to Delaware, we were governed by a certificate of incorporation and bylaws (the “DGCL bylaws”) prepared under the Delaware General Corporation Law (the “DGCL”) and approved by our stockholders at the Annual and Special Meeting of Stockholders held on July 22, 2015.

Article X of the certificate of incorporation provides that a director shall not be personally liable to us or our stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director’s duty of loyalty to us or our stockholders; (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (iii) under Section 174 of the DGCL, or (iv) for any transaction from which the director derived an improper personal benefit. Article X also provides that if the DGCL is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director shall be eliminated or limited to the fullest extent permitted by the DGCL as so amended. Any repeal or modification of Article X by our stockholders will not adversely affect any right or protection of a director existing at the time of such repeal or modification.

The DGCL bylaws provide that each of our directors and officers shall be indemnified and held harmless by us to the fullest extent authorized by the DGCL, as the DGCL exists or may be amended (but, in the case of any such amendment, only to the extent that such amendment permits us to provide broader indemnification rights than such law permitted prior to such amendment) against any and all Expenses (as defined in the DGCL bylaws), judgments, penalties, damages, liabilities, losses, excise taxes, fines and amounts reasonably paid in settlement that are incurred by the director or officer or on the director’s or officer’s behalf in connection with any threatened, pending or completed Proceeding (as defined in the DGCL bylaws) or any claim, issue or matter therein, which the director or officer is, or is threatened to be made, a party to or participant in by reason of his or her service as our director or officer or as a director or officer of any of our subsidiaries, so long as the director or officer acted in good faith and in a manner reasonably believed to be in or not opposed to our best interests and, with respect to any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful.

However, for any action or suit by or in the right of the Company, the indemnification will be limited to Expenses actually and reasonably incurred by the director or officer. Furthermore, no indemnification under such circumstances will be made in respect of any claim, issue or matter as to which the director or officer shall have been adjudged to be liable to the Company, unless and to the extent of a determination of entitlement to indemnification by the Court of Chancery of the State of Delaware. The rights of this indemnification will continue as to a director or officer after he or she has ceased to be a director or officer and will inure to the benefit of his or her heirs, executors, administrators and personal representatives. Notwithstanding the foregoing, the Company will indemnify any director or officer seeking indemnification in connection with a Proceeding initiated by such director or officer only if such Proceeding was authorized by our board of directors, unless the Proceeding is brought to enforce an officer or director’s rights to indemnification or, in the case of directors, advancement of Expenses under the DGCL bylaws.

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The DGCL bylaws also provide that employees other than officers and directors may, in the discretion of our board of directors, be indemnified by us to the fullest extent authorized by the DGCL, as the same exists or may be amended, against any or all Expenses, judgments, penalties, fines and amounts reasonably paid in settlement that are incurred by such employee or on such employee’s behalf in connection with any threatened, pending or completed Proceeding, or any claim, issue or matter therein, which such employee is, or is threatened to be made, a party to or participant in by reason of such employee’s service, so long as such employee acted in good faith and in a manner reasonably believed to be in or not opposed to the best interests of the Company and, with respect to any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful. The rights of indemnification provided will exist as to an employee after he or she has ceased to be an employee and will inure to the benefit of his or her heirs, personal representatives, executors and administrators. Notwithstanding the foregoing, we may indemnify any employee seeking indemnification in connection with a Proceeding initiated by the employee only if the Proceeding was authorized by our board of directors.

Article V of the DGCL bylaws requires us to advance all Expenses incurred by or on behalf of any director or officer in connection with any Proceeding within 10 days after we receive a written statement from the director or officer requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding. Such statement must be preceded or accompanied by an undertaking by or on behalf of the officer or director to repay any Expenses so advanced if it shall ultimately be determined that the officer or director is not entitled to be indemnified against such Expenses. If a claim for advancement of Expenses is not paid in full within 10 days after receipt by us with the required undertaking, the director or officer may at any time thereafter bring suit against us to recover the unpaid amount of the claim and if successful in whole or in part, the director or officer will also be entitled to be paid the expenses of prosecuting such claim.

We may also, at the discretion of our board of directors, advance any or all Expenses incurred by or on behalf of any employee in connection with any Proceeding in which the employee is involved upon our receipt of a statement or statements from the employee requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding. The statement must reasonably evidence the Expenses incurred by the employee and must be preceded or accompanied by an undertaking by or on behalf of the employee to repay any Expenses so advanced if it is ultimately determined that the employee is not entitled to be indemnified against the Expenses.

If we do not pay a claim for indemnification by a director or officer in full within 60 days after we receive a written claim for indemnification, the director or officer may at any time thereafter bring suit against us to recover the unpaid amount of the claim, and if successful in whole or in part, the director or officer will also be entitled to be paid the expenses of prosecuting such claim.

The rights to indemnification and advancement of Expenses set forth in the DGCL bylaws shall not be exclusive of any other right which any director or officer may have or acquire under any statute, provision of the certificate of incorporation or the DGCL bylaws, agreement, vote of stockholders or disinterested directors or otherwise.

We are required to maintain insurance, at our expense, to protect the Company and any director or officer against any liability asserted against or incurred by the Company or any director or officer, or arising out of any such person’s service to us, whether or not we would have the power to indemnify such person against such liability under the DGCL or the provisions of Article V of the DGCL bylaws.

The provisions of Article V of the DGCL bylaws are deemed to be a contract between us and each director and officer entitled to the benefits thereof at any time while Article V is in effect, and any repeal or modification of Article V will not affect any rights or obligations then existing with respect to any state of facts then existing or any Proceeding theretofore or thereafter brought based in whole or in part upon any such state of facts.
Indemnification Provisions included in the DGCL

Section 145 of the DGCL permits a Delaware corporation to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with such action, suit or proceeding if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe the person’s conduct was unlawful.

In the case of an action by or in the right of the corporation, Section 145 of the DGCL permits a Delaware corporation to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by reason of the fact that the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys’ fees) actually and reasonably incurred by the person in connection with such action, suit or proceeding if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses that the Court of Chancery or such other court shall deem proper.

Section 145 of the DGCL also permits a Delaware corporation to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person’s status as such, whether or not the corporation would have the power to indemnify such person against such liability under Section 145 of the DGCL.

Disclosure of Commission Position on Indemnification for Securities Act Liabilities

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers or persons controlling us pursuant to the foregoing provisions, we have been informed that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than our payment of expenses incurred or paid by a director, officer or controlling person of the Company in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, we will, unless in the opinion of our counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

DGCL Provisions

Effects of authorized but unissued common stock and blank check preferred stock. Our certificate of incorporation has been prepared to allow us to issue 75 million shares of common stock and 10 million shares of preferred stock. As discussed above as it relates to our certificate of incorporation, the existence of authorized but unissued common stock and undesignated preferred stock may be to enable our board of directors to make more difficult or to discourage an attempt to obtain control of our Company by means of a merger, tender offer, proxy contest or otherwise, and thereby to protect the continuity of management. If, in the due exercise of its fiduciary obligations, the board of directors were to determine that a takeover proposal was not in our best interest, such shares could be issued by the board of directors without stockholder approval in one or more transactions that might prevent or render more difficult or costly the completion of the takeover transaction by diluting the voting or other rights of the proposed acquirer or insurgent stockholder group, by putting a substantial voting block in institutional or other hands that might undertake to support the position of the incumbent board of directors, by effecting an acquisition that might complicate or preclude the takeover, or otherwise.

Authority to call a special meeting of stockholders. Article I of the DGCL bylaws provide that special meetings of stockholders may be called at any time by the Chief Executive Officer, if one is elected, or, if there is no Chief Executive Officer, a President, or by the Board of Directors, or by any stockholder holding 25% or more of our issued and outstanding capital stock (on a fully-diluted basis). The requirement that a stockholder hold 25% or more of our issued and outstanding capital stock means that small stockholders will not have the power to call a special meeting to, for example, elect new directors.

Effect of Delaware Anti-Takeover Statute. We are subject to Section 203 of the Delaware General Corporation Law, an anti-takeover law. In general, Section 203 prohibits a Delaware corporation from engaging in any business combination (as defined below) with any interested stockholder (as defined below) for a period of three years following the date that the stockholder became an interested stockholder, unless:

- prior to that date, the board of directors of the corporation approved either the business combination or the transaction that resulted in the stockholder becoming an interested stockholder;
- upon consummation of the transaction that resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding for purposes of determining the number of shares of voting stock outstanding (but not the voting stock owned by the interested stockholder) those shares owned by persons who are directors and officers and by excluding employee stock plans in which employee participants do not have the right to determine whether shares held subject to the plan will be tendered in a tender or exchange offer; or
on or subsequent to that date, the business combination is approved by the board of directors of the corporation and authorized at an annual or special meeting of stockholders, and not by written consent, by the affirmative vote of at least 66 2/3% of the outstanding voting stock that is not owned by the interested stockholder.

Section 203 defines “business combination” to include the following:

- any merger or consolidation involving the corporation and the interested stockholder;
- any sale, transfer, pledge or other disposition of 10% or more of the assets of the corporation involving the interested stockholder;
- subject to certain exceptions, any transaction that results in the issuance or transfer by the corporation of any stock of the corporation to the interested stockholder;
- subject to limited exceptions, any transaction involving the corporation that has the effect of increasing the proportionate share of the stock of any class or series of the corporation beneficially owned by the interested stockholder; or
- the receipt by the interested stockholder of the benefit of any loans, advances, guarantees, pledges or other financial benefits provided by or through the corporation.

In general, Section 203 defines an interested stockholder as any entity or person beneficially owning 15% or more of the outstanding voting stock of the corporation, or who beneficially owns 15% or more of the outstanding voting stock of the corporation at any time within a three-year period immediately prior to the date of determining whether such person is an interested stockholder, and any entity or person affiliated with or controlling or controlled by any of these entities or persons.
LEGAL MATTERS

Goodwin Procter LLP, San Francisco, California, will pass upon the validity of the shares of common stock offered by this prospectus. Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., Boston, Massachusetts, is acting as counsel to the Representative in this offering.

EXPERTS

The consolidated financial statements of Viveve Medical, Inc. as of December 31, 2016 and 2015 and for each of the two years in the period ended December 31, 2016 included in this prospectus have been so included in reliance on the report (which contains an explanatory paragraph relating to the Company’s ability to continue as a going concern as described in Note 1 to the consolidated financial statements) of BPM LLP, an independent registered public accounting firm, given the authority of said firm as experts in auditing and accounting.
| Report of Independent Registered Public Accounting Firm                      | F-2 |
| Consolidated Balance Sheets - December 31, 2016 and 2015                    | F-3 |
| Consolidated Statements of Operations - Years Ended December 31, 2016 and 2015 | F-4 |
| Consolidated Statements of Stockholders’ Equity (Deficit) - Years Ended December 31, 2016 and 2015 | F-5 |
| Consolidated Statements of Cash Flows - Years Ended December 31, 2016 and 2015 | F-6 |
| Notes to Consolidated Financial Statements                                  | F-7 – F26 |
REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders of Viveve Medical, Inc.

We have audited the accompanying consolidated balance sheets of Viveve Medical, Inc. (a Delaware corporation) and its subsidiaries (the “Company”) as of December 31, 2016 and 2015, and the related consolidated statements of operations, stockholders’ equity (deficit) and cash flows for each of the two years in the period ended December 31, 2016. These financial statements are the responsibility of the Company’s management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. The Company is not required to have, nor have we been engaged to perform, an audit of its internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, 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. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Viveve Medical, Inc. and its subsidiaries as of December 31, 2016 and 2015, and the results of their operations and their cash flows for each of the two years in the period ended December 31, 2016 in conformity with accounting principles generally accepted in the United States of America.

The accompanying consolidated financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in Note 1 to the consolidated financial statements, the Company has incurred recurring losses and negative cash flow from operations since inception. These conditions raise substantial doubt about its ability to continue as a going concern. Management’s plans regarding those matters also are described in Note 1. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

/s/ BPM LLP
San Jose, California
February 16, 2017
## Consolidated Balance Sheets

(in thousands, except share data)

<table>
<thead>
<tr>
<th></th>
<th>December 31, 2016</th>
<th>December 31, 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ASSETS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current assets:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash and cash equivalents</td>
<td>$ 8,086</td>
<td>$ 7,360</td>
</tr>
<tr>
<td>Accounts receivable</td>
<td>2,091</td>
<td>593</td>
</tr>
<tr>
<td>Inventory</td>
<td>2,687</td>
<td>1,549</td>
</tr>
<tr>
<td>Prepaid expenses and other current assets</td>
<td>1,066</td>
<td>1,228</td>
</tr>
<tr>
<td><strong>Total current assets</strong></td>
<td>$13,930</td>
<td>$10,730</td>
</tr>
<tr>
<td>Property and equipment, net</td>
<td>483</td>
<td>239</td>
</tr>
<tr>
<td>Other assets</td>
<td>136</td>
<td>138</td>
</tr>
<tr>
<td><strong>Total assets</strong></td>
<td>$14,549</td>
<td>$11,107</td>
</tr>
</tbody>
</table>

| **LIABILITIES AND STOCKHOLDERS’ EQUITY (DEFICIT)** |                   |                   |
| Current liabilities:                                |                   |                   |
| Accounts payable                                   | $ 3,086           | $ 1,432           |
| Accrued liabilities                                | 2,186             | 1,293             |
| **Total current liabilities**                      | 1,867             | 4,446             |
| Note payable, current portion                      |                   |                   |
| **Total liabilities**                              | 7,139             | 7,171             |
| Note payable, noncurrent portion                   | 7,762             | -                 |
| Other noncurrent liabilities                       | 53                | -                 |
| **Total liabilities**                              | 14,954            | 7,171             |
| Commitments and contingences (Note 7)              |                   |                   |
| Stockholders’ equity (deficit):                    |                   |                   |
| Preferred stock, $0.0001 par value;                |                   |                   |
| 10,000,000 shares authorized as of December 31, 2016; no shares issued | - | - |
| Preferred stock, no par value;                     |                   |                   |
| unlimited shares authorized as of December 31, 2015; no shares issued | - | - |
| Common stock, $0.0001 par value;                   |                   |                   |
| 75,000,000 shares authorized as of December 31, 2016; |                   |                   |
| 10,661,201 shares issued and outstanding as of December 31, 2016 | 1 | - |
| Additional paid-in capital                         | 68,216            | -                 |
| Common stock and paid-in capital, no par value;    |                   |                   |
| unlimited shares authorized as of December 31, 2015; |                   |                   |
| 7,490,288 shares issued and outstanding as of December 31, 2015 | - | 52,447 |
| Accumulated deficit                               | (68,622)          | (48,511)          |
| **Total stockholders’ equity (deficit)**           | (405)             | 3,936             |
| **Total liabilities and stockholders’ equity (deficit)** | $14,549 | $11,107 |

Note: All share and per share data has been adjusted to reflect the 1-for-8 reverse stock split which became effective April 15, 2016, as discussed in Note 2.

The accompanying notes are an integral part of these consolidated financial statements.
## VIVEVE MEDICAL, INC.
### CONSOLIDATED STATEMENTS OF OPERATIONS
(in thousands, except share and per share data)

<table>
<thead>
<tr>
<th></th>
<th>Year Ended December 31,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2016</td>
</tr>
<tr>
<td>Revenue</td>
<td>$ 7,141</td>
</tr>
<tr>
<td>Cost of revenue</td>
<td>4,612</td>
</tr>
<tr>
<td>Gross profit</td>
<td>2,529</td>
</tr>
<tr>
<td>Operating expenses:</td>
<td></td>
</tr>
<tr>
<td>Research and development</td>
<td>8,365</td>
</tr>
<tr>
<td>Selling, general and administrative</td>
<td>12,868</td>
</tr>
<tr>
<td>Total operating expenses</td>
<td>21,233</td>
</tr>
<tr>
<td>Loss from operations</td>
<td>(18,704)</td>
</tr>
<tr>
<td>Interest expense, net</td>
<td>(1,370)</td>
</tr>
<tr>
<td>Other expense, net</td>
<td>(37)</td>
</tr>
<tr>
<td>Comprehensive and net loss</td>
<td>$ (20,111)</td>
</tr>
</tbody>
</table>

### Net loss per share:

<table>
<thead>
<tr>
<th></th>
<th>Basic and diluted</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$ (2.18)</td>
</tr>
</tbody>
</table>

### Weighted average shares used in computing net loss per common share

<table>
<thead>
<tr>
<th></th>
<th>Basic and diluted</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>9,222,348</td>
</tr>
</tbody>
</table>

**Note:** All share and per share data has been adjusted to reflect the 1-for-8 reverse stock split which became effective April 15, 2016, as discussed in Note 2.

The accompanying notes are an integral part of these consolidated financial statements.
## VIVEVE MEDICAL, INC.
### CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY (DEFICIT)
(in thousands, except share data)

<table>
<thead>
<tr>
<th>Shares</th>
<th>Amount</th>
<th>Shares</th>
<th>Amount</th>
<th>Shares</th>
<th>Amount</th>
<th>Shares</th>
<th>Amount</th>
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<th>Amount</th>
<th>Shares</th>
<th>Amount</th>
<th>Shares</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Balances as of January 1, 2015</td>
<td>-</td>
<td>$1</td>
<td>-</td>
<td>-</td>
<td>2,293,057</td>
<td>$35,244</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>(36,085)</td>
<td>$ (841)</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>May 2015 Offering, net of issuance costs</td>
<td>-</td>
<td>-</td>
<td>4,054,062</td>
<td>11,040</td>
<td>-</td>
<td>11,040</td>
<td>-</td>
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<td></td>
</tr>
<tr>
<td>November 2015 Offering, net of issuance costs</td>
<td>-</td>
<td>-</td>
<td>1,071,679</td>
<td>5,393</td>
<td>-</td>
<td>5,393</td>
<td>-</td>
<td>-</td>
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<tr>
<td>Issuance of warrants to employees for performance bonuses</td>
<td>-</td>
<td>-</td>
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<td>-</td>
<td>-</td>
<td>286</td>
<td>-</td>
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<td></td>
</tr>
<tr>
<td>Issuance of warrants to vendors and service providers</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>251</td>
<td>-</td>
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<tr>
<td>Issuance of warrant in connection with note payable</td>
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<td>10</td>
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<tr>
<td>Stock-based compensation expense</td>
<td>-</td>
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<td>-</td>
<td>-</td>
<td>220</td>
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<td>-</td>
<td>-</td>
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<td>-</td>
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<tr>
<td>Issuance of shares pursuant to rights to shares</td>
<td>-</td>
<td>-</td>
<td>70,755</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<td></td>
</tr>
<tr>
<td>Exercise of warrant</td>
<td>-</td>
<td>-</td>
<td>735</td>
<td>3</td>
<td>-</td>
<td>3</td>
<td>-</td>
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<tr>
<td>Comprehensive and net loss</td>
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<td>-</td>
<td>-</td>
<td>-</td>
<td>(12,426)</td>
<td>(12,426)</td>
<td>(12,426)</td>
</tr>
<tr>
<td>Balances as of December 31, 2015</td>
<td>-</td>
<td>-</td>
<td>7,490,288</td>
<td>52,447</td>
<td>-</td>
<td>(48,511)</td>
<td>3,936</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<td></td>
</tr>
<tr>
<td>Reverse stock split - rounding adjustment</td>
<td>-</td>
<td>-</td>
<td>2,361</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<tr>
<td>Stock-based compensation expense</td>
<td>-</td>
<td>-</td>
<td>707</td>
<td>-</td>
<td>188</td>
<td>-</td>
<td>-</td>
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<td></td>
</tr>
<tr>
<td>Issuance of restricted stock awards to employees for performance bonuses</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>246</td>
<td>-</td>
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<td>-</td>
<td>-</td>
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<td>-</td>
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<tr>
<td>Issuance of restricted stock awards to directors and consultants</td>
<td>18,792</td>
<td>-</td>
<td>125</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<td></td>
</tr>
<tr>
<td>Exercise of warrants</td>
<td>35,490</td>
<td>-</td>
<td>65</td>
<td>6,250</td>
<td>27</td>
<td>-</td>
<td>92</td>
<td>-</td>
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<td>-</td>
<td>-</td>
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<tr>
<td>Exercise of stock options</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>3,020</td>
<td>14</td>
<td>-</td>
<td>14</td>
<td>-</td>
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<td>-</td>
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<tr>
<td>Reclassification upon change in corporate domicile</td>
<td>7,501,919</td>
<td>1</td>
<td>53,063</td>
<td>(7,501,919)</td>
<td>(53,064)</td>
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<td></td>
</tr>
<tr>
<td>June 2016 Offering, net of issuance costs</td>
<td>3,105,000</td>
<td>-</td>
<td>13,886</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<td>-</td>
<td></td>
</tr>
<tr>
<td>Issuance of warrant in connection with note payable</td>
<td>-</td>
<td>-</td>
<td>350</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<td></td>
</tr>
<tr>
<td>Comprehensive and net loss</td>
<td>-</td>
<td>-</td>
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<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>(20,111)</td>
<td>(20,111)</td>
<td>(20,111)</td>
</tr>
<tr>
<td>Balances as of December 31, 2016</td>
<td>10,661,201</td>
<td>$1</td>
<td>$68,216</td>
<td>-</td>
<td>$ -</td>
<td>$ (68,622)</td>
<td>$ (405)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<td></td>
</tr>
</tbody>
</table>

Note: All share and per share data has been adjusted to reflect the 1-for-8 reverse stock split which became effective April 15, 2016, as discussed in Note 2.

The accompanying notes are an integral part of these consolidated financial statements.
VIVEVE MEDICAL, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)

<table>
<thead>
<tr>
<th>Year Ended December 31,</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash flows from operating activities:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net loss</td>
<td>$(20,111)</td>
<td>$(12,426)</td>
</tr>
<tr>
<td>Adjustments to reconcile net loss to net cash used in operating activities:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Depreciation and amortization</td>
<td>111</td>
<td>77</td>
</tr>
<tr>
<td>Stock-based compensation</td>
<td>981</td>
<td>220</td>
</tr>
<tr>
<td>Restricted stock award granted to consultant</td>
<td>39</td>
<td>-</td>
</tr>
<tr>
<td>Fair value of warrants issued</td>
<td>162</td>
<td>-</td>
</tr>
<tr>
<td>Fair value of warrants issued to employees for bonuses</td>
<td>-</td>
<td>286</td>
</tr>
<tr>
<td>Non-cash interest expense</td>
<td>456</td>
<td>197</td>
</tr>
<tr>
<td>Changes in assets and liabilities:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts receivable</td>
<td>(1,498)</td>
<td>(587)</td>
</tr>
<tr>
<td>Inventory</td>
<td>(1,237)</td>
<td>(1,438)</td>
</tr>
<tr>
<td>Prepaid expenses and other current assets</td>
<td>162</td>
<td>(879)</td>
</tr>
<tr>
<td>Other noncurrent assets</td>
<td>2</td>
<td>18</td>
</tr>
<tr>
<td>Accounts payable</td>
<td>1,654</td>
<td>1,016</td>
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<tr>
<td>Accrued liabilities</td>
<td>1,192</td>
<td>1,070</td>
</tr>
<tr>
<td>Net cash used in operating activities</td>
<td>$(18,087)</td>
<td>$(12,195)</td>
</tr>
<tr>
<td>Cash flows from investing activities:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Purchase of property and equipment</td>
<td>(256)</td>
<td>(109)</td>
</tr>
<tr>
<td>Net cash used in investing activities</td>
<td>(256)</td>
<td>(109)</td>
</tr>
<tr>
<td>Cash flows from financing activities:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proceeds from sale of common stock, net of issuance costs</td>
<td>13,886</td>
<td>16,433</td>
</tr>
<tr>
<td>Proceeds from note payable</td>
<td>9,910</td>
<td>2,500</td>
</tr>
<tr>
<td>Repayments of note payable</td>
<td>(4,833)</td>
<td>(167)</td>
</tr>
<tr>
<td>Proceeds from exercise of warrants</td>
<td>92</td>
<td>3</td>
</tr>
<tr>
<td>Proceeds from exercise of stock options</td>
<td>14</td>
<td>-</td>
</tr>
<tr>
<td>Net cash provided by financing activities</td>
<td>19,069</td>
<td>18,769</td>
</tr>
<tr>
<td>Net increase in cash and cash equivalents</td>
<td>726</td>
<td>6,465</td>
</tr>
<tr>
<td>Net decrease in cash and cash equivalents</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Cash and cash equivalents - beginning of period</td>
<td>7,360</td>
<td>895</td>
</tr>
<tr>
<td>Cash and cash equivalents - end of period</td>
<td>$8,086</td>
<td>$7,360</td>
</tr>
</tbody>
</table>

Supplemental disclosure:

<table>
<thead>
<tr>
<th></th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash paid for interest</td>
<td>$803</td>
<td>$196</td>
</tr>
<tr>
<td>Cash paid for income taxes</td>
<td>$1</td>
<td>$1</td>
</tr>
</tbody>
</table>

Supplemental disclosure of cash flow information as of end of period:

<table>
<thead>
<tr>
<th></th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Issuance of warrant in connection with note payable</td>
<td>$350</td>
<td>$10</td>
</tr>
<tr>
<td>Restricted stock awards granted to employees for 2015 accrued bonuses</td>
<td>$246</td>
<td>$-</td>
</tr>
<tr>
<td>Net transfer of equipment from inventory to property and equipment</td>
<td>$99</td>
<td>$20</td>
</tr>
</tbody>
</table>

The accompanying notes are an integral part of these consolidated financial statements.
1. The Company and Basis of Presentation

Viveve Medical, Inc. ("Viveve Medical", the "Company", "we", "our", or "us") competes in the women’s health industry by marketing Geneveve™ as a way to improve the overall sexual well-being and quality of life of women suffering from vaginal laxity.

Public Offering

On June 17, 2016, in connection with the closing of a public offering (the "June 2016 Offering"), the Company issued an aggregate of 3,105,000 shares of common stock, including the shares issued in connection with the exercise of the underwriters’ overallotment option, at a public offering price of $5.00 per share for gross proceeds of approximately $15,525,000. The net proceeds to the Company, after the deduction of underwriting discounts, commissions and other offering expenses, were approximately $13,886,000.

Change of Corporate Domicile

On May 9, 2016, the Company filed the necessary Application for Authorization to Continue into Another Jurisdiction and Statutory Declaration with the Yukon registrar. On May 10, 2016, the Company filed a Certificate of Incorporation with the Secretary of State of the State of Delaware to move its domicile from the Yukon Territory to Delaware. In connection with the incorporation in Delaware, the Company's stock now has a par value of $0.0001 per share.

Private Placements

On November 24, 2015, in connection with the closing of a private placement (the "November 2015 Offering"), Viveve Medical issued an aggregate of 1,071,679 shares of common stock at $5.60 per share for gross proceeds of approximately $6,000,000 in accordance with the terms and conditions of those certain Securities Purchase Agreements by and between the Company and certain accredited investors. The net proceeds to the Company after the deduction of placement agent commissions and other expenses were approximately $5,393,000.

On May 14, 2015, in connection with the closing of a private placement (the "May 2015 Offering"), Viveve Medical issued an aggregate of 4,054,062 shares of common stock at $2.96 per share for gross proceeds of approximately $12,000,000 in accordance with the terms and conditions of those certain Securities Purchase Agreements by and between the Company and certain accredited investors. The net proceeds to the Company after the deduction of placement agent commissions and other expenses were approximately $11,040,000.

Liquidity and Management Plans

The accompanying consolidated financial statements have been prepared on a going concern basis, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. As of December 31, 2016, the Company had cash and cash equivalents of $8,086,000 and working capital of $6,791,000. The Company has incurred operating losses since inception and has an accumulated deficit of $68,622,000 as of December 31, 2016. Management expects operating losses to continue through the foreseeable future. The Company's ability to transition to attaining profitable operations is dependent upon achieving a level of revenues adequate to support its cost structure. The Company has not generated significant revenues and has funded its operating losses through the sales of its securities, loans from related parties and bank term loans. We expect that our cash will be sufficient to fund our activities for the next six months, however, we will continue to require additional funds to fully implement our plan of operation.

Management of the Company intends to raise additional funds through the issuance of equity securities. There can be no assurance that such financing will be available or on terms which are favorable to the Company. Failure to generate sufficient cash flows from operations, raise additional capital or reduce certain discretionary spending could have a material adverse effect on the Company's ability to achieve its intended business objectives. These factors raise substantial doubt about the Company’s ability to continue as a going concern. The accompanying consolidated financial statements do not include any adjustments that might be necessary if the Company is unable to continue as a going concern.
2. Summary of Significant Accounting Policies

Basis of Presentation

The consolidated financial statements include the accounts of the Company and our wholly-owned subsidiaries, Viveve, Inc. and Viveve BV. All significant intercompany accounts and transactions have been eliminated in consolidation.

Reclassification of Prior Year Presentation

Certain prior year amounts have been reclassified for consistency with the current period presentation. These reclassifications had no effect on the reported results of operations. Accounting Standards Update (“ASU”) 2015-03 requires that debt issuance costs related to a recognized debt liability be presented in the balance sheet as a direct deduction from the carrying amount of that debt liability, consistent with debt discounts. The Company adopted this guidance on January 1, 2016. Accordingly, the Company has revised the classification in the consolidated balance sheet to report debt issuance costs as a contra debt liability as of December 31, 2015. This resulted in a decrease of $387,000 to the December 31, 2015 amounts reported as prepaid expenses and other current assets, total assets, note payable, total liabilities, and total liabilities and stockholders’ equity.

Reverse Stock Split

On April 15, 2016, the Company effected a 1-for-8 reverse stock split of its common stock. On the effective date of the reverse stock split, (i) each 8 shares of outstanding common stock were reduced to one share of common stock; (ii) the number of shares of common stock into which each outstanding warrant or option to purchase common stock is exercisable were proportionately reduced on an 8-to-1 basis; and (iii) the exercise price of each outstanding warrant or option to purchase common stock were proportionately increased on a 1-to-8 basis. All of the share numbers, share prices, and exercise prices have been adjusted, on a retroactive basis, to reflect this 1-for-8 reverse stock split.

Use of Estimates

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States of America (“US GAAP”) requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues, and expenses and the related disclosure of contingent assets and liabilities. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates. In addition, any change in these estimates or their related assumptions could have an adverse effect on our operating results.

Cash and Cash Equivalents

The Company considers all highly liquid investments purchased with an original maturity of three months or less, at the time of purchase, to be cash equivalents. The Company’s cash and cash equivalents are deposited in demand accounts primarily at one financial institution. Deposits in this institution may, from time to time, exceed the federally insured amounts.

Concentration of Credit Risk and Other Risks and Uncertainties

To achieve profitable operations, the Company must successfully develop, manufacture, and market its products. There can be no assurance that any such products can be developed or manufactured at an acceptable cost and with appropriate performance characteristics, or that such products will be successfully marketed. These factors could have a material adverse effect upon the Company’s financial results, financial position, and future cash flows.
The Company’s products may require approval from the U.S. Food and Drug Administration or other international regulatory agencies prior to commencing commercial sales. There can be no assurance that the Company’s products will receive any of these required approvals. If the Company was denied such approvals or such approvals were delayed, it would have a material adverse effect on the Company’s financial results, financial position and future cash flows.

The Company is subject to risks common to companies in the medical device industry including, but not limited to, new technological innovations, dependence on key personnel, protection of proprietary technology, compliance with government regulations, uncertainty of market acceptance of products, product liability, and the need to obtain additional financing. The Company’s ultimate success is dependent upon its ability to raise additional capital and to successfully develop and market its products.

The Company designs, develops, manufactures and markets a medical device for the non-invasive treatment of vaginal laxity that it refers to as the Geneveve™, which includes the Viveve System™, single-use treatment tips and other ancillary consumables. The Company outsources the manufacture and repair of the Viveve System to a single contract manufacturer. Also, certain other components and materials that comprise the Geneveve are currently manufactured by a single supplier or a limited number of suppliers. A significant supply interruption or disruption in the operations of the contract manufacturer or these third-party suppliers would adversely impact the production of our products for a substantial period of time, which could have a material adverse effect on our business, financial condition, operating results and cash flows.

During the year ended December 31, 2016, three customers accounted for 78% of the Company’s revenue. During the year ended December 31, 2015, four customers accounted for 87% of the Company’s revenue. As of December 31, 2016, three customers accounted for 81% of total accounts receivable. As of December 31, 2015, three customers accounted for 86% of total accounts receivable.

**Accounts Receivable and Allowance for Doubtful Accounts**

Accounts receivable are recorded at the invoiced amount and are not interest bearing. Our typical payment terms vary by region and type of customer (distributor or physician). Occasionally, payment terms of up to six months may be granted to customers with an established history of collections without concessions. Should we grant payment terms greater than six months or terms that are not in accordance with established history for similar arrangements, revenue would be recognized as payments become due and payable assuming all other criteria for revenue recognition have been met. The Company maintains an allowance for doubtful accounts for estimated losses resulting from the inability of its customers to make required payments. The Company makes ongoing assumptions relating to the collectibility of its accounts receivable in its calculation of the allowance for doubtful accounts. In determining the amount of the allowance, the Company makes judgments about the creditworthiness of customers based on ongoing credit evaluations and assesses current economic trends affecting its customers that might impact the level of credit losses in the future and result in different rates of bad debts than previously seen. The Company also considers its historical level of credit losses. As of December 31, 2016 and 2015, there was no allowance for doubtful accounts.

**Inventory**

Inventory is stated at the lower of cost or market. Inventory as of December 31, 2016 consisted of $181,000 of raw materials and $2,506,000 of finished goods. All inventory as of December 31, 2015 was finished goods. Cost is determined on an actual cost basis on a first-in, first-out method. Lower of cost or market is evaluated by considering obsolescence, excessive levels of inventory, deterioration and other factors. Adjustments to reduce the cost of inventory to its net realizable value, if required, are made for estimated excess, obsolescence or impaired inventory. Excess and obsolete inventory is charged to cost of revenue and a new lower-cost basis for that inventory is established and subsequent changes in facts and circumstances do not result in the restoration or increase in that newly established cost basis.

As part of the Company’s normal business, the Company generally utilizes various finished goods inventory as sales demos to facilitate the sale of its products to prospective customers. The Company is amortizing these demos over an estimated useful life of five years. The amortization of the demos is charged to selling, general and administrative expense and the demos are included in the medical equipment line within the property and equipment, net balance on the consolidated balance sheets as of December 31, 2016 and 2015.
Property and Equipment, net

Property and equipment are stated at cost, net of accumulated depreciation and amortization. Depreciation of property and equipment is computed using the straight line method over their estimated useful lives of three to seven years. Leasehold improvements are amortized on a straight-line basis over the lesser of their useful lives or the life of the lease. Upon sale or retirement of assets, the cost and related accumulated depreciation and amortization are removed from the balance sheet and the resulting gain or loss is reflected in operations. Maintenance and repairs are charged to operations as incurred.

Impairment of Long-Lived Assets

The Company reviews long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset might not be recoverable. When such an event occurs, management determines whether there has been an impairment by comparing the anticipated undiscounted future net cash flows to the related asset’s carrying value. If an asset is considered impaired, the asset is written down to fair value, which is determined based either on discounted cash flows or appraised value, depending on the nature of the asset. The Company has not identified any such impairment losses to date.

Revenue Recognition

The Company recognizes revenue from the sale of its products, the Viveve System, single-use treatment tips and ancillary consumables. Revenue is recognized upon shipment, provided that persuasive evidence of an arrangement exists, the price is fixed or determinable and collection of the resulting receivable is reasonably assured. Sales of our products are subject to regulatory requirements that vary from country to country. The Company has regulatory clearance, or can sell its products without a clearance, in many countries throughout the world, including countries within the following regions: North America, Latin America, Europe, the Middle East and Asia Pacific.

The Company does not provide its customers with a right of return.

Customer Advance Payments

From time to time, customers will pay for a portion of the products ordered in advance. Upon receipt of such payments, the Company records the customer advance payment as a component of accrued liabilities. The Company will remove the customer advance payment from accrued liabilities when revenue is recognized.

Product Warranty

The Company’s products are generally subject to a one-year warranty, which provides for the repair, rework or replacement of products (at the Company’s option) that fail to perform within stated specification. The Company has assessed the historical claims and, to date, product warranty claims have not been significant. The Company will continue to assess the need to record a warranty accrual at the time of sale going forward.

Shipping and Handling Costs

The Company includes amounts billed for shipping and handling in revenue and shipping and handling costs in cost of revenue.

Advertising Costs

Advertising costs are charged to selling, general and administrative expenses as incurred. Advertising expenses, which are recorded in selling, general and administrative expenses, were immaterial for the years ended December 31, 2016 and 2015.
**Research and Development**

Research and development costs are charged to operations as incurred. Research and development costs include, but are not limited to, payroll and personnel expenses, prototype materials, laboratory supplies, consulting costs, and allocated overhead, including rent, equipment depreciation, and utilities.

**Income Taxes**

The provision for income taxes is determined using the asset and liability approach of accounting for income taxes. Under this approach, deferred taxes represent the future tax consequences expected to occur when the reported amounts of assets and liabilities are recovered or paid. The provision for income taxes represents income taxes paid or payable for the current year plus the change in deferred taxes during the year. Deferred taxes result from differences between the financial and tax basis of the Company’s assets and liabilities and are adjusted for changes in tax rates and tax laws when changes are enacted. Valuation allowances are recorded to reduce deferred tax assets when it is more likely than not that a tax benefit will not be realized.

The Company must assess the likelihood that the Company’s deferred tax assets will be recovered from future taxable income, and to the extent the Company believes that recovery is not likely, the Company establishes a valuation allowance. Management judgment is required in determining the Company’s provision for income taxes, deferred tax assets and liabilities, and any valuation allowance recorded against the net deferred tax assets. The Company recorded a full valuation allowance as of December 31, 2016 and 2015. Based on the available evidence, the Company believes it is more likely than not that it will not be able to utilize its deferred tax assets in the future. The Company intends to maintain valuation allowances until sufficient evidence exists to support the reversal of such valuation allowances. The Company makes estimates and judgments about its future taxable income that are based on assumptions that are consistent with its plans. Should the actual amounts differ from the Company’s estimates, the carrying value of the Company’s deferred tax assets could be materially impacted.

The Company recognizes in the financial statements the impact of a tax position, if that position is more likely than not of being sustained on audit, based on the technical merits of the position. The Company’s policy is to recognize interest and penalties accrued on any unrecognized tax benefits as a component of income tax expense. The Company does not believe there are any tax positions for which it is reasonably possible that the total amounts of unrecognized tax benefits will significantly increase or decrease within 12 months of the reporting date.

**Accounting for Stock-Based Compensation**

Share-based compensation cost is measured at grant date, based on the fair value of the award, and is recognized as expense over the employee’s service period. The Company recognizes compensation expense on a straight-line basis over the requisite service period of the award.

We determined that the Black-Scholes option pricing model is the most appropriate method for determining the estimated fair value for stock options. The Black-Scholes option pricing model requires the use of highly subjective and complex assumptions which determine the fair value of share-based awards, including the option’s expected term and the price volatility of the underlying stock.

Equity instruments issued to nonemployees are recorded at their fair value on the measurement date and are subject to periodic adjustment as the underlying equity instruments vest.

**Comprehensive Loss**

Comprehensive loss represents the changes in equity of an enterprise, other than those resulting from stockholder transactions. Accordingly, comprehensive loss may include certain changes in equity that are excluded from net loss. For the years ended December 31, 2016 and 2015, the Company’s comprehensive loss is the same as its net loss.

**Net Loss per Share**

The Company’s basic net loss per share is calculated by dividing the net loss by the weighted average number of shares of common stock outstanding for the period. The diluted net loss per share is computed by giving effect to all potentially dilutive common stock equivalents outstanding during the period. For purposes of this calculation, stock options and warrants to purchase common stock and restricted common stock awards are considered common stock equivalents. For periods in which the Company has reported net losses, diluted net loss per share is the same as basic net loss per share, since dilutive common shares are not assumed to have been issued if their effect is anti-dilutive.
The following securities were excluded from the calculation of net loss per share because the inclusion would be anti-dilutive.

<table>
<thead>
<tr>
<th></th>
<th>December 31, 2016</th>
<th>December 31, 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stock options to purchase common stock</td>
<td>1,909,764</td>
<td>1,022,195</td>
</tr>
<tr>
<td>Warrants to purchase common stock</td>
<td>425,274</td>
<td>383,321</td>
</tr>
<tr>
<td>Restricted common stock awards</td>
<td>58,155</td>
<td>-</td>
</tr>
</tbody>
</table>

Recently Issued and Adopted Accounting Standards

In May 2014, as part of its ongoing efforts to assist in the convergence of US GAAP and International Financial Reporting Standards ("IFRS"), the Financial Accounting Standards Board ("FASB") issued ASU 2014-09, "Revenue from Contracts with Customers (Topic 606)." The new guidance sets forth a new five-step revenue recognition model which replaces the prior revenue recognition guidance in its entirety and is intended to eliminate numerous industry-specific pieces of revenue recognition guidance that have historically existed in US GAAP. The underlying principle of the new standard is that a business or other organization will recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects what it expects in exchange for the goods or services. The standard also requires more detailed disclosures and provides additional guidance for transactions that were not addressed completely in the prior accounting guidance. The ASU provides alternative methods of initial adoption and is effective for annual and interim periods beginning after December 15, 2017. The FASB has issued several updates to the standard which i) defer the original effective date from January 1, 2017 to January 1, 2018, while allowing for early adoption as of January 1, 2017 (ASU 2015-14); ii) clarify the application of the principal versus agent guidance (ASU 2016-08); iii) clarify the guidance on inconsequential and perfunctory promises and licensing (ASU 2016-10); and clarify the guidance on certain sections of the guidance providing technical corrections and improvements (ASU 2016-10). In May 2016, the FASB issued ASU 2016-12, "Revenue from Contracts with Customers (Topic 606) Narrow-Scope Improvements and Practical Expedients", to address certain narrow aspects of the guidance including collectibility criterion, collection of sales taxes from customers, noncash consideration, contract modifications and completed contracts. This issuance does not change the core principle of the guidance in the initial topic issued in May 2014. We are currently evaluating the impact that this standard will have on our consolidated financial statements.

In August 2014, the FASB issued ASU No. 2014-15, Presentation of Financial Statements—Going Concern (Subtopic 205-40): Disclosure of Uncertainties about an Entity’s Ability to Continue as a Going Concern. This guidance is effective for the Company’s annual reporting period ending December 31, 2016 and all annual and interim reporting periods thereafter. The Company adopted this standard for the year ended December 31, 2016. This guidance requires management to evaluate whether there is substantial doubt about the Company’s ability to continue as a going concern for at least 12 months from the issuance date of the consolidated financial statements and to provide related footnote disclosures.

In July 2015, the FASB issued ASU 2015-11, “Simplifying the Measurement of Inventory” (“ASU 2015-11”). ASU 2015-11 requires that an entity should measure inventory within the scope of this pronouncement at the lower of cost and net realizable value. Net realizable value is the estimated selling prices in the ordinary course of business, less reasonably predictable costs of completion, disposal, and transportation. The pronouncement does not apply to inventory that is being measured using the last-in, first-out ("LIFO") method or the retail inventory method. Subsequent measurement is unchanged for inventory measured using LIFO or the retail inventory method. We plan to adopt this guidance as of January 1, 2017 and believe the adoption of the guidance will not have a significant impact on the consolidated financial statements.
In February 2016, the FASB issued ASU 2016-02, “Leases (Topic 842)”. Under this guidance, an entity is required to recognize right-of-use assets and lease liabilities on its balance sheet and disclose key information about leasing arrangements. This guidance offers specific accounting guidance for a lessee, a lessor and sale and leaseback transactions. Lessees and lessors are required to disclose qualitative and quantitative information about leasing arrangements to enable a user of the financial statements to assess the amount, timing and uncertainty of cash flows arising from leases. This guidance is effective for annual reporting periods beginning after December 15, 2018, including interim periods within the reporting period, and requires a modified retrospective adoption, with early adoption permitted. We are currently evaluating the effect of the adoption of this guidance on our consolidated financial statements.

In March 2016, the FASB issued ASU 2016-09, “Compensation – Stock Compensation (Topic 718): Improvements to Employee Share-Based Payment Accounting”. This guidance identifies areas for simplification involving several aspects of accounting for share-based payment transactions, including the income tax consequences, classification of awards as either equity or liabilities, an option to recognize gross stock compensation expense with actual forfeitures recognized as they occur, as well as certain classifications on the statement of cash flows. We plan to adopt this guidance as of January 1, 2017 and believe the adoption of the guidance will not have a significant impact on the consolidated financial statements.

In August 2016, the FASB issued ASU No. 2016-15, Statement of Cash Flows, Classification of Certain Cash Receipts and Cash Payments (Topic 230). This guidance addresses specific cash flow issues with the objective of reducing the diversity in practice for the treatment of these issues. The areas identified include: debt prepayment or debt extinguishment costs; settlement of zero-coupon debt instruments; contingent consideration payments made after a business combination; proceeds from the settlement of insurance claims; proceeds from the settlement of corporate-owned life insurance policies; distributions received from equity method investees; beneficial interests in securitization transactions and application of the predominance principle with respect to separately identifiable cash flows. This guidance is effective for annual reporting periods beginning after December 15, 2017, including interim periods within that reporting period, with early adoption permitted. We are currently evaluating the effect of the adoption of this guidance on our consolidated financial statements.

In August 2016, the FASB issued ASU No. 2016-18, Statement of Cash Flows, Restricted Cash (Topic 230). This guidance requires that a statement of cash flows explain the total change during the period of cash, cash equivalents, and amounts generally described as restricted cash or restricted cash equivalents. Amounts described as restricted cash and restricted cash equivalents should be included with cash and cash equivalents when reconciling the beginning of period and end of period to total amounts shown on the statement of cash flows. This guidance is effective for annual reporting periods beginning after December 15, 2017, including interim periods within that reporting period, with early adoption permitted. We are currently evaluating the effect of the adoption of this guidance on our consolidated financial statements.

3. Fair Value Measurements

The Company recognizes and discloses the fair value of its assets and liabilities using a hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to valuations based upon unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurements) and the lowest priority to valuations based upon unobservable inputs that are significant to the valuation (Level 3 measurements). Each level of input has different levels of subjectivity and difficulty involved in determining fair value.

Level 1

Inputs used to measure fair value are unadjusted quoted prices that are available in active markets for the identical assets or liabilities as of the reporting date. Therefore, determining fair value for Level 1 investments generally does not require significant judgment, and the estimation is not difficult.

Level 2

Pricing is provided by third party sources of market information obtained through investment advisors. The Company does not adjust for or apply any additional assumptions or estimates to the pricing information received from its advisors.
Level 3

Inputs used to measure fair value are unobservable inputs that are supported by little or no market activity and reflect the use of significant management judgment. These values are generally determined using pricing models for which the assumptions utilize management’s estimates of market participant assumptions. The determination of fair value for Level 3 instruments involves the most management judgment and subjectivity.

Assets and liabilities measured at fair value are classified in their entirety based on the lowest level of input that is significant to the fair value measurement. The Company’s assessment of the significance of a particular input to the fair value measurement in its entirety requires management to make judgments and consider factors specific to the asset or liability.

There were no financial instruments that were measured at fair value on a recurring basis as of December 31, 2016 and 2015.

The carrying amounts of the Company’s financial assets and liabilities, including cash and cash equivalents, accounts receivable, accounts payable, and accrued expenses as of December 31, 2016 and 2015 approximate fair value because of the short maturity of these instruments. Based on borrowing rates currently available to the Company for loans with similar terms, the carrying value of the note payable approximates fair value.

There were no changes in valuation techniques from prior periods.

4. Property and Equipment, Net

Property and equipment, net, consisted of the following as of December 31, 2016 and 2015 (in thousands):

<table>
<thead>
<tr>
<th>Life (in years)</th>
<th>December 31,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2016</td>
</tr>
<tr>
<td>Medical equipment</td>
<td>5</td>
</tr>
<tr>
<td>Computer equipment</td>
<td>3</td>
</tr>
<tr>
<td>Furniture and fixtures</td>
<td>7</td>
</tr>
<tr>
<td>Less: Accumulated</td>
<td></td>
</tr>
<tr>
<td>depreciation and</td>
<td></td>
</tr>
<tr>
<td>amortization</td>
<td>(314)</td>
</tr>
</tbody>
</table>

Property and equipment, net

<table>
<thead>
<tr>
<th></th>
<th>December 31,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2016</td>
</tr>
<tr>
<td>$</td>
<td>$483</td>
</tr>
</tbody>
</table>

Depreciation and amortization expense for the years ended December 31, 2016 and 2015 was $111,000 and $77,000, respectively.

5. Accrued Liabilities

Accrued liabilities consisted of the following as of December 31, 2016 and 2015 (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>December 31,</th>
<th>December 31,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2016</td>
<td>2015</td>
</tr>
<tr>
<td>Accrued bonuses</td>
<td>$1,102</td>
<td>$613</td>
</tr>
<tr>
<td>Accrued professional fees</td>
<td>483</td>
<td>388</td>
</tr>
<tr>
<td>Accrued payroll and other related expenses</td>
<td>389</td>
<td>113</td>
</tr>
<tr>
<td>Accrued interest</td>
<td>65</td>
<td>22</td>
</tr>
<tr>
<td>Other accruals</td>
<td>147</td>
<td>157</td>
</tr>
<tr>
<td>Total accrued liabilities</td>
<td>$2,186</td>
<td>$1,293</td>
</tr>
</tbody>
</table>
6. Note Payable

On September 30, 2014, we entered into a Loan and Security Agreement, as amended on February 19, 2015, May 14, 2015, November 30, 2015 and March 18, 2016 (collectively, the “2014 Loan Agreement”), with Pacific Western Bank (as successor in interest by merger to Square 1 Bank) (the “Lender”), pursuant to which we received a term loan in the amount of $5,000,000, funded in three tranches. The first tranche of $2,500,000 was provided to us on October 1, 2014 and proceeds of $500,000 from the second tranche were received on each of February 19, 2015, March 16, 2015 and April 6, 2015 for aggregate proceeds of $1,500,000. The terms of the loan required that the Company meet certain financial covenants and milestones in connection with the Company’s randomized, blinded and sham-controlled clinical trial in Europe and Canada (the “OUS Clinical Trial”), and on July 15, 2015 we received the final $1,000,000 of the term loan with a drawdown of funds from the third tranche.

In connection with the 2014 Loan Agreement, we entered into an Intellectual Property Security Agreement, dated September 30, 2014, pursuant to which a first priority security interest was created in all of our intellectual property, and we issued a 10-year warrant to the Lender for the purchase of 58,962 shares of the Company’s common stock at an exercise price $4.24 per share, and pursuant to the first amendment to the 2014 Loan Agreement in February 2015, such number of shares to automatically increase in the event the Company fails to meet certain covenants. In connection with the second amendment to the 2014 Loan Agreement in May 2015, we issued a second 10-year warrant to the Lender to purchase a total of 3,125 shares of common stock at an exercise price of $2.96 per share. These two warrants were exercised in July and August 2016 (See Note 8).

On June 20, 2016, we entered into a Loan and Security Agreement (the “2016 Loan Agreement”) with Western Alliance Bank (“WAB”), pursuant to which WAB agreed to loan us up to an aggregate of $10,000,000 payable in two tranches of $7,500,000 and $2,500,000. The funding conditions for both tranches were satisfied as of the closing date, and therefore, the aggregate principal amount of $10,000,000 was provided to us on June 20, 2016. The proceeds received were used to repay the outstanding existing indebtedness under the 2014 Loan Agreement and the remaining balance will be used for working capital purposes and to fund general business requirements. The borrowings are repayable in interest only payments until July 1, 2017 and then 30 monthly equal installments of principal and interest. The term loan bears interest on the outstanding obligations under the loan at a floating per annum rate equal to the greater of (i) the Index Rate (i.e., the 30 day U.S. LIBOR rate reported in the Wall Street Journal) plus 6.96%, determined as of the last day of each month, and (ii) 7.40%. The interest rate for the note payable with WAB was 7.59% as of December 31, 2016.

In connection with the 2016 Loan Agreement, we issued a 10-year warrant to WAB to purchase a total of 100,402 shares of the Company’s common stock at an exercise price of $4.98 per share (See Note 8).

All borrowings under the 2016 Loan Agreement are collateralized by substantially all of the Company’s assets, including intellectual property.

The Company is also required to meet certain financial and other covenants in connection with the 2016 Loan Agreement. These covenants include actual performance to plan revenue of not less than 80% which is not required to be complied with if the Company maintains a ratio of unrestricted cash with WAB to indebtedness of at least 1.25 to 1.00. As of December 31, 2016, the Company was not in compliance with the covenants. The Company did not meet the performance to plan revenue covenant for the measuring periods ended October 31, 2016 and November 30, 2016 and the ratio of unrestricted cash with WAB to indebtedness ratio of 1.25 to 1.00. On January 13, 2017, the Company received a waiver from WAB which amended the covenant requirements from the original 2016 Loan Agreement. As a result, the Company regained compliance with all covenants (See Note 13).
As of December 31, 2016, future minimum payments under the note payable are as follows (in thousands):  

<table>
<thead>
<tr>
<th>Year Ending December 31</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>$2,719</td>
</tr>
<tr>
<td>2018</td>
<td>4,463</td>
</tr>
<tr>
<td>2019</td>
<td>4,512</td>
</tr>
</tbody>
</table>

Total payments: $11,694

Less: Amount representing interest: (1,694)

Present value of obligations: 10,000

Less: Unamortized debt discount: (371)

Present value of obligations: 9,629

Less: Note payable, noncurrent portion: 7,762

Note payable, current portion: $1,867

7. Commitments and Contingencies

Operating Lease

In January 2012, the Company entered into a lease agreement for office and laboratory facilities. The lease agreement, as amended in September 2016, commenced in March 2012 and will terminate in March 2018. Rent expense for the years ended December 31, 2016 and 2015 was $236,000 and $210,000, respectively.

As of December 31, 2016, future minimum payments under the lease are as follows (in thousands):

<table>
<thead>
<tr>
<th>Year Ending December 31</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>$303</td>
</tr>
<tr>
<td>2018</td>
<td>82</td>
</tr>
</tbody>
</table>

Total minimum lease payments: $385

Indemnification Agreements

The Company enters into standard indemnification arrangements in the ordinary course of business. Pursuant to these arrangements, the Company indemnifies, holds harmless and agrees to reimburse the indemnified parties for losses suffered or incurred by the indemnified party, in connection with performance of services within the scope of the agreement, breach of the agreement by the Company, or noncompliance of regulations or laws by the Company, in all cases provided the indemnified party has not breached the agreement and/or the loss is not attributable to the indemnified party’s negligence or willful malfeasance. The term of these indemnification agreements is generally perpetual any time after the execution of the agreement. The maximum potential amount of future payments the Company could be required to make under these arrangements is not determinable. The Company has never incurred costs to defend lawsuits or settle claims related to these indemnification agreements. As a result, the Company believes the estimated fair value of these agreements is minimal.

Loss Contingencies

The Company is or has been subject to proceedings, lawsuits and other claims arising in the ordinary course of business. The Company evaluates contingent liabilities, including threatened or pending litigation, for potential losses. If the potential loss from any claim or legal proceeding is considered probable and the amount can be estimated, the Company accrues a liability for the estimated loss. Because of uncertainties related to these matters, accruals are based upon the best information available. For potential losses for which there is a reasonable possibility (meaning the likelihood is more than remote but less than probable) that a loss exists, the Company will disclose an estimate of the potential loss or range of such potential loss or include a statement that an estimate of the potential loss cannot be made. As additional information becomes available, the Company reassesses the potential liability related to pending claims and litigation and may revise its estimates, which could materially impact the consolidated financial statements. Management does not believe that the outcome of any outstanding legal matters will have a material adverse effect on the Company's consolidated financial position, results of operations and cash flows.
8. Common Stock

On June 17, 2016, in connection with the closing of the June 2016 Offering, we issued an aggregate of 3,105,000 shares of common stock, including the exercise of the underwriters’ overallotment option, at a public offering price of $5.00 per share for gross proceeds of approximately $15,525,000. The net proceeds to the Company, after the deduction of underwriting discounts, commissions and other offering expenses, were approximately $13,886,000.

On November 24, 2015, in connection with the closing of the November 2015 Offering, we issued an aggregate of 1,071,679 shares of common stock at $5.60 per share for gross proceeds of approximately $6,000,000 in accordance with the terms and conditions of those certain Securities Purchase Agreements by and between the Company and certain accredited investors. The net proceeds to the Company after the deduction of placement agent commissions and other expenses were approximately $5,393,000.

On May 14, 2015, in connection with the closing of the May 2015 Offering, we issued an aggregate of 4,054,062 shares of common stock at $2.96 per share for gross proceeds of approximately $12,000,000 in accordance with the terms and conditions of those certain Securities Purchase Agreements by and between the Company and certain accredited investors. The net proceeds to the Company after the deduction of placement agent commissions and other expenses were approximately $11,040,000.

Warrants for Common Stock

As of December 31, 2016, outstanding warrants to purchase shares of common stock were as follows:

<table>
<thead>
<tr>
<th>Issuance Date</th>
<th>Exercise Price</th>
<th>Expiration Date</th>
<th>Number of Shares Outstanding Under Warrants</th>
</tr>
</thead>
<tbody>
<tr>
<td>September 2014</td>
<td>$4.24</td>
<td>September 23, 2019</td>
<td>91,532</td>
</tr>
<tr>
<td>October 2014</td>
<td>$4.24</td>
<td>October 13, 2019</td>
<td>29,000</td>
</tr>
<tr>
<td>November 2014</td>
<td>$4.24</td>
<td>November 12, 2019</td>
<td>12,500</td>
</tr>
<tr>
<td>February 2015</td>
<td>$4.00</td>
<td>February 17, 2025</td>
<td>75,697</td>
</tr>
<tr>
<td>March 2015</td>
<td>$2.72</td>
<td>March 26, 2025</td>
<td>1,454</td>
</tr>
<tr>
<td>May 2015</td>
<td>$4.24</td>
<td>May 12, 2025</td>
<td>36,229</td>
</tr>
<tr>
<td>May 2015</td>
<td>$4.24</td>
<td>May 17, 2020</td>
<td>21,585</td>
</tr>
<tr>
<td>December 2015</td>
<td>$5.60</td>
<td>December 16, 2025</td>
<td>26,875</td>
</tr>
<tr>
<td>April 2016</td>
<td>$6.08</td>
<td>April 1, 2026</td>
<td>25,000</td>
</tr>
<tr>
<td>May 2016</td>
<td>$7.74</td>
<td>May 11, 2021</td>
<td>5,000</td>
</tr>
<tr>
<td>June 2016</td>
<td>$4.98</td>
<td>June 20, 2026</td>
<td>100,402</td>
</tr>
</tbody>
</table>

In connection with the September 2014 Offering, the Company issued warrants to purchase a total of 117,535 shares of common stock at an exercise price of $4.24 per share. The warrants have a contractual life of five years and are exercisable immediately in whole or in part, on or before five years from the issuance date. In 2016, warrants to purchase a total of 25,268 shares were exercised (including a warrant that was exercised on a cashless basis) and 23,560 net shares of common stock were issued. In 2015, a warrant was exercised and 735 shares of common stock were issued.

In connection with the 2014 Loan Agreement entered into on September 30, 2014, the Company issued a warrant to the Lender to purchase a total of 58,962 shares of common stock at an exercise price of $4.24 per share. The warrant had a contractual life of ten years and was exercisable immediately in whole or in part, on or before ten years from the issuance date. The Company determined the fair value of the warrant on the date of issuance to be $622,000 using the Black-Scholes option pricing model. Assumptions used were dividend yield of 0%, volatility of 77%, risk free interest rate of 2.5% and a contractual life of ten years. The warrant had a contractual life of 10 years. The fair value of the warrant was recorded as debt issuance costs, presented in the consolidated balance sheets as a deduction from the carrying amount of the note payable, and was being amortized to interest expense over the loan term. The outstanding indebtedness was repaid in June 2016 from the proceeds of the new term loan in connection with the 2016 Loan Agreement and the remaining unamortized balance of debt issuance costs was recorded to interest expense. During the years ended December 31, 2016 and 2015, the Company recorded $387,000 and $187,000, respectively, of interest expense relating to the debt issuance costs. This warrant was exercised on a cashless basis in August 2016 and 17,295 net shares of common stock were issued.
In October and November of 2014, the Company issued common stock warrants to various vendors and nonemployee contractors to purchase a total of 47,751 shares of common stock at an exercise price of $4.24 per share. The warrants have a contractual life of five years and are exercisable in whole or in part, either immediately upon grant or in some cases upon achieving certain milestones or vesting terms. The Company determined the fair value of the warrants using the Black-Scholes option pricing model. Assumptions used were dividend yield of 0%, volatility of 61.3%, risk free interest rate of 1.55% to 1.65% and a contractual life of five years. The fair values of the warrants were recorded as professional consulting fees or clinical costs, which are included in selling, general and administrative and research and development expenses in the consolidated statements of operations for the year ended December 31, 2015, depending on the nature of the services provided. A total of 1,094 and 5,157 shares issuable pursuant to the warrants were cancelled in 2016 and 2015, respectively, as the milestones related to these shares were not achieved.

In February 2015, the Company issued common stock warrants to employees for performance bonuses to purchase a total of 75,697 shares of common stock at an exercise price of $4.00 per share. The warrants have a contractual life of ten years and are exercisable immediately in whole or in part, on or before ten years from the issuance date. The Company determined the fair value of the warrants using the Black-Scholes option pricing model. Assumptions used were dividend yield of 0%, volatility of 77.6%, risk free interest rate of 2.14% and a contractual life of ten years. The fair values of the warrants were recorded in selling, general and administrative expenses in the consolidated statements of operations, depending on the department classification of the employee.

In March 2015, the Company issued a common stock warrant to a nonemployee contractor to purchase a total of 1,454 shares of common stock at an exercise price of $2.72 per share. The warrant has a contractual life of ten years and is exercisable immediately in whole or in part, on or before ten years from the issuance date. The Company determined the fair value of the warrant using the Black-Scholes option pricing model. Assumptions used were dividend yield of 0%, volatility of 78.9%, risk free interest rate of 1.94% and a contractual life of ten years. The fair value of the warrant was recorded as professional consulting fees, which are included in selling, general and administrative expenses in the consolidated statements of operations.

In May 2015, the Company issued common stock warrants to nonemployee contractors to purchase a total of 36,229 shares of common stock at an exercise price of $4.24 per share. The warrants have a contractual life of ten years and are exercisable immediately in whole or in part, on or before ten years from the issuance date. The Company determined the fair value of the warrants using the Black-Scholes option pricing model. Assumptions used were dividend yield of 0%, volatility of 80.1%, risk free interest rate of 2.28% and a contractual life of ten years. The fair values of the warrants were recorded as professional consulting fees, which are included in selling, general and administrative expenses in the consolidated statements of operations.

In conjunction with the second amendment to the 2014 Loan Agreement in May 2015, the Company issued a warrant to the Lender to purchase a total of 3,125 shares of common stock at an exercise price of $2.96 per share. During the year ended December 31, 2015, the Company recorded $10,000 of interest expense relating to the debt issuance costs for this warrant. The debt issuance costs for this warrant were fully amortized as of September 30, 2015. This warrant was exercised on a cashless basis in July 2016 and 885 net shares of common stock were issued.

In May 2015, the Company issued a common stock warrant to a nonemployee contractor to purchase a total of 21,585 shares of common stock at an exercise price of $4.24 per share. The warrant has a contractual life of five years and is exercisable immediately in whole or in part, on or before five years from the issuance date. The Company determined the fair value of the warrant using the Black-Scholes option pricing model. Assumptions used were dividend yield of 0%, volatility of 64.4%, risk free interest rate of 1.54% and a contractual life of five years. The fair value of the warrant was recorded as professional consulting fees, which are included in selling, general and administrative expenses in the consolidated statements of operations.
In December 2015, the Company issued common stock warrants to employees and nonemployee contractors for performance bonuses to purchase a total of 26,875 shares of common stock at an exercise price of $5.60 per share. The warrants have a contractual life of ten years and are exercisable immediately in whole or in part, on or before ten years from the issuance date. The Company determined the fair value of the warrants using the Black-Scholes option pricing model. Assumptions used were dividend yield of 0%, volatility of 76.8%, risk free interest rate of 2.27% and a contractual life of ten years. The fair values of the warrants were recorded in selling, general and administrative and research and development expenses in the consolidated statements of operations, depending on the department classification of the employee or nonemployee contractor.

In April 2016, the Company issued a common stock warrant to a distributor to purchase a total of 25,000 shares of common stock at an exercise price of $6.08 per share. The warrant has a contractual life of ten years and is exercisable immediately in whole or in part, on or before ten years from the issuance date. The Company determined the fair value of the warrant using the Black-Scholes option pricing model. Assumptions used were dividend yield of 0%, volatility of 72.1%, risk free interest rate of 1.78% and a contractual life of ten years. The fair value of the warrant was recorded as sales costs, which are included in selling, general and administrative expenses in the consolidated statements of operations.

In May 2016, the Company issued common stock warrants to nonemployee contractors to purchase a total of 5,000 shares of common stock at an exercise price of $7.74 per share. The warrants have a contractual life of five years and are exercisable immediately in whole or in part, on or before five years from the issuance date. The Company determined the fair value of the warrants using the Black-Scholes option pricing model. Assumptions used were dividend yield of 0%, volatility of 61.6%, risk free interest rate of 1.20% and a contractual life of five years. The fair value of the warrants was recorded as clinical consulting costs, which are included in research and development expenses in the consolidated statements of operations.

In connection with the 2016 Loan Agreement, the Company issued a warrant to purchase a total of 100,402 shares of common stock at an exercise price of $4.98 per share. The warrant has a contractual life of ten years and is exercisable immediately in whole or in part, on or before ten years from the issuance date. The Company determined the fair value of the warrant on the date of issuance to be $350,000 using the Black-Scholes option pricing model. Assumptions used were dividend yield of 0%, volatility of 63.0%, risk free interest rate of 1.67% and a contractual life of ten years. The fair value of the warrant, along with other legal fees totaling $90,000, were recorded as debt issuance costs, presented in the consolidated balance sheet as a deduction from the carrying amount of the note payable, and are being amortized to interest expense over the loan term. During the year ended December 31, 2016, the Company recorded $69,000 of interest expense relating to the debt issuance costs. As of December 31, 2016, the unamortized debt issuance cost was $371,000.

The total stock-based compensation expense related to warrants issued was $162,000 and $537,000 for the years ended December 31, 2016 and 2015, respectively.

9. **Summary of Stock Options**

**Stock Option Plans**

The Company has issued equity awards in the form of stock options and restricted stock awards from three employee benefit plans. The plans include the Company’s 2005 Stock Incentive Plan (the “2005 Plan”), the Viveve Amended and Restated 2006 Stock Plan (the “2006 Plan”) and the Company’s Amended and Restated 2013 Stock Option and Incentive Plan (the “2013 Plan”).

The 2005 Plan was adopted by the Company’s board of directors and approved by its stockholders. As of December 31, 2016, 1,892 shares of common stock remain reserved for issuance under the 2005 Plan. The Company does not intend to grant further awards from the 2005 Plan, however, it will continue to administer the 2005 Plan until all outstanding awards are exercised, expire, terminate or are forfeited. There are currently outstanding stock option awards issued from the 2005 Plan covering a total of 1,892 shares of the Company’s common stock. The weighted average exercise price of the outstanding stock options is $116.29 per share and the weighted average remaining contractual term is 0.73 years.
The 2006 Plan was adopted by the board of directors of Viveve, Inc. and was terminated in conjunction with the merger that took place on September 23, 2014 between PLC Systems Inc., Viveve, Inc. and PLC Systems Acquisition Corp. (the “Merger”). Prior to the Merger, the board of directors voted to accelerate the vesting of all unvested options that were outstanding as of the date of the Merger such that all options would be immediately vested and exercisable by the holders. In conjunction with the Merger, the Company agreed to assume and administer the 2006 Plan and all outstanding options to purchase shares of Viveve, Inc. common stock issued from the 2006 Plan were converted into options to purchase shares of the Company's common stock (rounded down to the nearest whole share). The number of shares of the Company’s common stock into which the 2006 Plan options were converted was determined by multiplying the number of shares covered by each 2006 Plan option by the exchange ratio of 0.0080497 (or 0.0010062 on a post- reverse stock split basis). The exercise price of each 2006 Plan option was determined by dividing the exercise price of each 2006 Plan option immediately prior to the Merger by the exchange ratio of 0.0080497 (or 0.0010062 on a post- reverse stock split basis) (rounded up to the nearest cent). There are currently outstanding stock option awards issued from the 2006 Plan covering a total of 38,378 shares of the Company’s common stock and no shares are available for future awards. The weighted average exercise price of the outstanding stock options is $10.49 per share and the weighted average remaining contractual term is 5.88 years.

The 2013 Plan was also adopted by the Company’s board of directors and approved by its stockholders. The 2013 Plan is administered by the Compensation Committee of the Company’s board of directors (the “Administrator”). Under the 2013 Plan, the Company may grant equity awards to eligible participants which may take the form of stock options (both incentive stock options and non-qualified stock options), stock appreciation rights, restricted, deferred or unrestricted stock awards, performance based awards or dividend equivalent rights. Awards may be granted to officers, employees, nonemployee directors (as defined in the 2013 Plan) and other key persons (including consultants and prospective employees). The term of any stock option award may not exceed 10 years and may be subject to vesting conditions, as determined by the Administrator. Options granted generally vest over four years. Incentive stock options may be granted only to employees of the Company or any subsidiary that is a “subsidiary corporation” within the meaning of Section 424(f) of the Internal Revenue Code. The exercise price of any stock option award cannot be less than the fair market value of the Company’s common stock, provided, however, that an incentive stock option granted to an employee who owns more than 10% of the Company’s outstanding voting power must have an exercise price of no less than 110% of the fair market value of the Company’s common stock and a term that does not exceed five years.

On August 22, 2016, the Company’s stockholders approved an amendment to the 2013 Plan increasing the maximum number of shares of common stock reserved and available for awards under the 2013 Plan (the “Stock Issuable”) by 737,500 shares from 1,262,500 shares to a total of 2,000,000 shares and to add an “evergreen” provision to the 2013 Plan which will automatically increase annually, on the first day of each January, the Stock Issuable by an amount equal to the lesser of (i) the number of shares that will increase the Stock Issuable by 4% of the total number of shares of common stock outstanding (on a fully diluted basis) or (ii) an amount determined by the board of directors. On December 23, 2016, the board of directors approved the 2017 evergreen increase equal to 4% of the total number of fully diluted common shares or 523,209 shares, which is effective January 1, 2017.

As of December 31, 2016, there are outstanding stock option awards issued from the 2013 Plan covering a total of 1,869,494 shares of the Company’s common stock and there remain reserved for future awards 10,236 shares of the Company’s common stock. The weighted average exercise price of the outstanding stock options is $5.99 per share, and the remaining contractual term is 9.19 years.
Activity under the 2005 Plan, the 2006 Plan and the 2013 Plan is as follows:

<table>
<thead>
<tr>
<th>Year Ended December 31, 2016</th>
<th>Weighted Average Exercise Price</th>
<th>Weighted Average Remaining Contractual Term (years)</th>
<th>Aggregate Intrinsic Value (in thousands)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Options outstanding, beginning of period</td>
<td>$6.47</td>
<td>9.37</td>
<td>$1,194,180</td>
</tr>
<tr>
<td>Options granted</td>
<td>$6.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Options exercised</td>
<td>$4.80</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Options canceled</td>
<td>$7.41</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Options outstanding, end of period</td>
<td>$6.19</td>
<td>9.12</td>
<td>$211,396</td>
</tr>
</tbody>
</table>

Vested and exercisable and expected to vest, end of period

Vested and exercisable, end of period

The aggregate intrinsic value reflects the difference between the exercise price of the underlying stock options and the Company’s closing share price as of December 31, 2016.

The options outstanding and exercisable as of December 31, 2016 are as follows:

**Options Outstanding**

<table>
<thead>
<tr>
<th>Range of Exercise Prices</th>
<th>Number Outstanding as of December 31, 2016</th>
<th>Weighted Average Exercise Price</th>
<th>Weighted Average Remaining Contractual Term (Years)</th>
<th>Number Exercisable as of December 31, 2016</th>
<th>Weighted Average Exercise Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>$2.64</td>
<td>12,500</td>
<td>$2.64</td>
<td>8.37</td>
<td>5,209</td>
<td>$2.64</td>
</tr>
<tr>
<td>$3.68 - $3.76</td>
<td>79,376</td>
<td>$3.75</td>
<td>8.10</td>
<td>36,382</td>
<td>$3.75</td>
</tr>
<tr>
<td>$4.80 - $4.92</td>
<td>197,969</td>
<td>$4.80</td>
<td>7.80</td>
<td>109,150</td>
<td>$4.80</td>
</tr>
<tr>
<td>$5.22</td>
<td>595,034</td>
<td>$5.22</td>
<td>9.98</td>
<td>7,250</td>
<td>$5.22</td>
</tr>
<tr>
<td>$6.00</td>
<td>565,628</td>
<td>$6.00</td>
<td>8.96</td>
<td>141,412</td>
<td>$6.00</td>
</tr>
<tr>
<td>$6.24 - $6.40</td>
<td>129,267</td>
<td>$6.35</td>
<td>9.15</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>$7.00 - $7.92</td>
<td>284,075</td>
<td>$7.71</td>
<td>9.49</td>
<td>23,363</td>
<td>$7.72</td>
</tr>
<tr>
<td>$9.92</td>
<td>38,135</td>
<td>$9.92</td>
<td>5.89</td>
<td>38,135</td>
<td>$9.92</td>
</tr>
<tr>
<td>$56.00 - $296.00</td>
<td>7,780</td>
<td>$83.66</td>
<td>0.83</td>
<td>7,780</td>
<td>$83.66</td>
</tr>
<tr>
<td></td>
<td>1,909,764</td>
<td>$6.19</td>
<td>9.12</td>
<td>368,681</td>
<td>$7.51</td>
</tr>
</tbody>
</table>

**Restricted Stock Awards**

In January 2016, the Company granted restricted stock awards ("RSAs") for 39,494 shares of common stock under the 2013 Plan to employees for 2015 accrued bonuses with a weighted average grant date fair value of $6.24 per share, based on the market price of the Company’s common stock on the award date. The RSAs vest on the one-year anniversary of the award date. As of December 31, 2016, none of these RSAs were vested.

In August 2016, the Company granted RSAs for 5,998 shares of common stock under the 2013 Plan to board members as director compensation with a weighted average grant date fair value of $7.89 per share, based on the market price of the Company’s common stock on the award date. The RSAs were fully vested on the date of grant.
In September 2016, the Company granted 25,000 shares to a consultant with a weighted average grant date fair value of $7.58 per share, based on the market price of the Company’s common stock on the award date. The RSA vests over one year at a rate of 1/4th per quarter beginning as of the award date. As of December 31, 2016, 6,250 shares were vested.

In November 2016, the Company granted RSAs for 6,544 shares of common stock under the 2013 Plan to board members as director compensation with a weighted average grant date fair value of $5.91 per share, based on the market price of the Company’s common stock on the award date. The RSAs were fully vested on the date of grant.

A total of 89 shares pursuant to a RSA granted in January 2016 were cancelled in September 2016.

The total number of shares pursuant to outstanding RSAs as of December 31, 2016 were 58,155 shares of common stock.

**Stock-Based Compensation**

During the years ended December 31, 2016 and 2015, the Company granted stock options to employees to purchase 919,841 and 753,880 shares of common stock with a weighted average grant date fair value of $2.63 and $3.13 per share, respectively. The aggregate intrinsic value of options exercised during the year ended December 31, 2016 was $5,000. There were no options exercised during the year ended December 31, 2015.

The Company estimated the fair value of stock options using the Black-Scholes option pricing model. The fair value of employee stock options is being amortized on a straight-line basis over the requisite service period of the awards. The fair value of employee stock options granted was estimated using the following weighted average assumptions:

<table>
<thead>
<tr>
<th></th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expected term (in years)</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Average volatility</td>
<td>49%</td>
<td>63%</td>
</tr>
<tr>
<td>Risk-free interest rate</td>
<td>1.78%</td>
<td>1.70%</td>
</tr>
<tr>
<td>Dividend yield</td>
<td>0%</td>
<td>0%</td>
</tr>
</tbody>
</table>

During the year ended December 31, 2016, the Company granted stock options to nonemployees to purchase 59,125 shares of common stock with a weighted average grant date fair value of $4.60 per share. There were no options granted to nonemployees during the year ended December 31, 2015. There were no options exercised by nonemployees during the years ended December 31, 2016 and 2015.

The fair value of nonemployee stock options granted was estimated using the following weighted average assumptions:

<table>
<thead>
<tr>
<th></th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expected term (in years)</td>
<td>10</td>
</tr>
<tr>
<td>Average volatility</td>
<td>51%</td>
</tr>
<tr>
<td>Risk-free interest rate</td>
<td>2.43%</td>
</tr>
<tr>
<td>Dividend yield</td>
<td>0%</td>
</tr>
</tbody>
</table>
Option-pricing models require the input of various subjective assumptions, including the option’s expected life and the price volatility of the underlying stock. The expected stock price volatility is based on analysis of the Company’s stock price history over a period commensurate with the expected term of the options, trading volume of comparable companies’ stock, look-back volatilities and Company specific events that affected volatility in a prior period. The expected term of employee stock options represents the weighted average period the stock options are expected to remain outstanding and is based on the history of exercises and cancellations on all past option grants made by the Company, the contractual term, the vesting period and the expected remaining term of the outstanding options. The risk-free interest rate is based on the U.S. Treasury interest rates whose term is consistent with the expected life of the stock options. No dividend yield is included as the Company has not issued any dividends and does not anticipate issuing any dividends in the future.

The following table shows stock-based compensation expense included in the consolidated statements of operations for the years ended December 31, 2016 and 2015 (in thousands):

<table>
<thead>
<tr>
<th>Year Ended December 31,</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Research and development</td>
<td>$114</td>
<td>$18</td>
</tr>
<tr>
<td>Selling, general and administrative</td>
<td>867</td>
<td>202</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$981</strong></td>
<td><strong>$220</strong></td>
</tr>
</tbody>
</table>

As of December 31, 2016, the total unrecognized compensation cost in connection with unvested stock options was approximately $3,757,000. These costs are expected to be recognized over a period of approximately 3.27 years.

10. Income Taxes

No provision for income taxes has been recorded due to the net operating losses incurred from inception to date, for which no benefit has been recorded.

A reconciliation of the U.S. statutory income tax rate to the Company’s effective tax rate is as follows:

<table>
<thead>
<tr>
<th>Year Ended December 31,</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income tax provision (benefit) at statutory rate</td>
<td>(34)%</td>
<td>(34)%</td>
</tr>
<tr>
<td>State income taxes, net of federal benefit</td>
<td>(2)%</td>
<td>(6)%</td>
</tr>
<tr>
<td>Change in valuation allowance</td>
<td>33%</td>
<td>39%</td>
</tr>
<tr>
<td>Other</td>
<td>3%</td>
<td>1%</td>
</tr>
<tr>
<td><strong>Effective tax rate</strong></td>
<td><strong>-%</strong></td>
<td><strong>-%</strong></td>
</tr>
</tbody>
</table>
The components of the Company’s net deferred tax assets and liabilities are as follows (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>December 31,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2016</td>
</tr>
<tr>
<td>Deferred tax assets:</td>
<td></td>
</tr>
<tr>
<td>Net operating loss carryforwards</td>
<td>$16,888</td>
</tr>
<tr>
<td>Capitalized start up costs</td>
<td>5,944</td>
</tr>
<tr>
<td>Research and development credits</td>
<td>518</td>
</tr>
<tr>
<td>Accruals and reserves</td>
<td>1,095</td>
</tr>
<tr>
<td>Total deferred tax assets</td>
<td>24,445</td>
</tr>
<tr>
<td>Deferred tax liabilities:</td>
<td></td>
</tr>
<tr>
<td>Fixed assets and depreciation</td>
<td>(7)</td>
</tr>
<tr>
<td>Valuation allowance</td>
<td>(24,438)</td>
</tr>
<tr>
<td>Net deferred tax assets</td>
<td>$-</td>
</tr>
</tbody>
</table>

The Company has recorded a full valuation allowance for its deferred tax assets based on it past losses and the uncertainty regarding the ability to project future taxable income. The valuation allowance increased by approximately $5,750,000 and $4,822,000 during the years ended December 31, 2016 and 2015, respectively.

As of December 31, 2016, the Company has net operating loss ("NOL") carryforwards for federal and state income tax purposes of approximately $45,468,000 and $24,498,000, respectively, which expire beginning in the year 2017.

The Company also has federal and California research and development tax credits of approximately $440,000 and $454,000, respectively. The federal research credits will begin to expire in 2027 and the California research and development credits have no expiration date.

Utilization of the NOL and research and development credit carryforwards may be subject to a substantial annual limitation due to ownership changes that have occurred previously or that could occur in the future, as provided by Section 382 of the Internal Revenue Code of 1986, as well as similar state provisions. Ownership changes may limit the amount of NOL and tax credit carryforwards that can be utilized to offset future taxable income and tax, respectively. In general, an ownership change, as defined by Section 382, results from transactions increasing the ownership of certain shareholders or public groups in the stock of a corporation by more than 50 percentage points over a three-year period. If the Company has experienced a change of control, utilization of its NOL or tax credits carryforwards would be subject to an annual limitation under Section 382. Any limitation may result in expiration of a portion of the NOL or research and development credit carryforwards before utilization. Subsequent ownership changes could further impact the limitation in future years. Until a Section 382 study is completed and any limitation known, no amounts are being presented as an uncertain tax position. A full valuation allowance has been provided against the Company’s NOL carryforwards and research and development credit carryforwards and, if an adjustment is required, this adjustment would be offset by an adjustment to the valuation allowance. Thus, there would be no net impact to the balance sheet or statement of operations if an adjustment were required.

As of December 31, 2016, the Company had not accrued any interest or penalties related to uncertain tax positions.

A reconciliation of the beginning and ending amount of unrecognized tax benefits is as follows (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Year Ended December 31,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2016</td>
</tr>
<tr>
<td>Balance at the beginning of the year</td>
<td>$128</td>
</tr>
<tr>
<td>Additions based upon tax positions related to the current year</td>
<td>140</td>
</tr>
<tr>
<td>Balance at the end of the year</td>
<td>$268</td>
</tr>
</tbody>
</table>

If the ending balance of $268,000 of unrecognized tax benefits as of December 31, 2016 were recognized, none of the recognition would affect the income tax rate. The Company does not anticipate any material change in its unrecognized tax benefits over the next twelve months. The unrecognized tax benefits may change during the next year for items that arise in the ordinary course of business.
The Company files U.S. federal and state income tax returns with varying statutes of limitations. All tax years since inception remain open to examination due to the carryover of unused net operating losses and tax credits.

11. Related Party Transactions

In June 2006, the Company entered into a Development and Manufacturing Agreement (the “Agreement”) with Stellartech Research Corporation ("Stellartech"). The Agreement was amended on October 4, 2007. Under the Agreement, the Company agreed to purchase 300 generators manufactured by Stellartech. As of December 31, 2016, the Company has purchased 345 units. The price per unit is variable and dependent on the volume and timing of units ordered. In conjunction with the Agreement, Stellartech purchased 37,500 shares of Viveve, Inc.’s common stock. Under the Agreement, the Company paid Stellartech $6,485,000 and $3,446,000 for goods and services during the years ended December 31, 2016 and 2015, respectively.

12. Segments and Geographic Information

The Company has determined that it operates as a single operating and reportable segment. Revenue from unaffiliated customers by geographic area was as follows (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Year Ended December 31,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2016</td>
</tr>
<tr>
<td>Asia</td>
<td>$ 4,946</td>
</tr>
<tr>
<td>Europe and Middle East</td>
<td>1,489</td>
</tr>
<tr>
<td>Latin America</td>
<td>382</td>
</tr>
<tr>
<td>United States</td>
<td>315</td>
</tr>
<tr>
<td>Canada</td>
<td>9</td>
</tr>
<tr>
<td>Other</td>
<td>-</td>
</tr>
<tr>
<td>Total</td>
<td>$ 7,141</td>
</tr>
</tbody>
</table>

The Company determines geographic location of its revenue based upon the destination of shipments of its products.

The Company’s long-lived assets by geographic area were as follows (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Year Ended December 31,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2016</td>
</tr>
<tr>
<td>United States</td>
<td>$ 370</td>
</tr>
<tr>
<td>Europe</td>
<td>72</td>
</tr>
<tr>
<td>Asia</td>
<td>39</td>
</tr>
<tr>
<td>Canada</td>
<td>2</td>
</tr>
<tr>
<td>Total</td>
<td>$ 483</td>
</tr>
</tbody>
</table>

Long-lived assets, comprised of property and equipment, are reported based on the location of the assets at each balance sheet date.

13. Subsequent Events

Amendment to Loan Agreement

On January 13, 2017, we entered into a waiver and amendment (the “First Amendment”) to the 2016 Loan Agreement with WAB. Pursuant to the First Amendment, WAB agreed to waive the default resulting from the failure to comply with the performance to plan revenue covenants described in the 2016 Loan Agreement for the measuring periods ending October 31, 2016 and November 30, 2016. In addition, the First Amendment added a financial covenant that until the Company maintains a ratio of minimum unrestricted cash in accounts with WAB to indebtedness of at least 1.25 to 1.00, the Company must at all times maintain unrestricted cash in accounts with WAB in an amount equal to or greater than $2,000,000, which financial covenant shall no longer apply at such time that the Company achieves a ratio of minimum unrestricted cash in accounts with WAB to indebtedness of at least 1.25 to 1.00.
Sublease Agreement and Relocation of Corporate Headquarters to Englewood, Colorado

On February 1, 2017, the Company entered into a sublease agreement (the “Sublease”) for approximately 12,400 square feet of building space for the relocation of the Company’s corporate headquarters to Englewood, Colorado (the “Sublease Premises”), which was effective as of January 26, 2017. Physical relocation is planned toward the end of the first quarter of 2017 pending completion of the build-out of all office and warehouse facilities.

The term of the Sublease will commence on the later of (i) 120 days after the date sublandlord delivers possession of the Sublease Premises to the Company or (ii) upon substantial completion of the tenant improvements pursuant to the Sublease (the “Commencement Date”), and will expire 36 months after the Commencement Date, or such earlier date as the Master Lease may be terminated pursuant to the terms thereof.

The monthly base rent under the Sublease will be equal to $20.50 per rentable square foot of the Sublease Premises during the first year. The monthly base rent will be equal to $21.12 and $21.75 per rentable square foot during the second and third years, respectively. In connection with the execution of the Sublease, the Company also agreed to pay a security deposit of approximately $22,000. The Company is entitled to an allowance of approximately $88,000 for certain tenant improvements relating to the engineering, design and construction of the Sublease Premises.
Common Stock

PRELIMINARY PROSPECTUS

Cowen and Company

Joint Book-Running Managers

Raymond James

Co-Manager
Ladenburg Thalmann

, 2017

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PART II
INFORMATION NOT REQUIRED IN PROSPECTUS

ITEM 13. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION.

The following table sets forth the costs and expenses payable by us in connection with the issuance and distribution of the securities being registered. All of the amounts shown are estimates, except for the SEC registration fee and FINRA filing fee.

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<th>Description</th>
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ITEM 14. INDEMNIFICATION OF DIRECTORS AND OFFICERS.

Indemnification Provisions included in our Delaware Certificate of Incorporation and Bylaws

Following our change of domicile to Delaware, we are governed by a Certificate of Incorporation and bylaws (the “DGCL bylaws”) prepared under the Delaware General Corporation Law (the “DGCL”) and approved by our stockholders at the Annual and Special Meeting of Stockholders held on July 22, 2015.

Article X of the Certificate of Incorporation provides that a director shall not be personally liable to us or our stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director’s duty of loyalty to us or our stockholders; (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (iii) under Section 174 of the DGCL, or (iv) for any transaction from which the director derived an improper personal benefit. Article X also provides that if the DGCL is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director shall be eliminated or limited to the fullest extent permitted by the DGCL as so amended. Any repeal or modification of Article X by our stockholders will not adversely affect any right or protection of a director existing at the time of such repeal or modification.

The DGCL bylaws provide that each of our directors and officers shall be indemnified and held harmless by us to the fullest extent authorized by the DGCL, as the DGCL exists or may be amended (but, in the case of any such amendment, only to the extent that such amendment permits us to provide broader indemnification rights than such law permitted prior to such amendment) against any and all Expenses (as defined in the DGCL bylaws), judgments, penalties, damages, liabilities, losses, excise taxes, fines and amounts reasonably paid in settlement that are incurred by the director or officer or on the director’s or officer’s behalf in connection with any threatened, pending or completed Proceeding (as defined in the DGCL bylaws) or any claim, issue or matter therein, which the director or officer is, or is threatened to be made, a party to or participant in by reason of his or her service as our director or officer or as a director or officer of any of our subsidiaries, so long as the director or officer acted in good faith and in a manner reasonably believed to be in or not opposed to our best interests and, with respect to any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful.
However, for any action or suit by or in the right of the Company, the indemnification will be limited to Expenses actually and reasonably incurred by the director or officer. Furthermore, no indemnification under such circumstances will be made in respect of any claim, issue or matter as to which the director or officer shall have been adjudged to be liable to the Company, unless and to the extent of a determination of entitlement to indemnification by the Court of Chancery of the State of Delaware. The rights of this indemnification will continue as to a director or officer after he or she has ceased to be a director or officer and will inure to the benefit of his or her heirs, executors, administrators and personal representatives. Notwithstanding the foregoing, the Company will indemnify any director or officer seeking indemnification in connection with a Proceeding initiated by such director or officer only if such Proceeding was authorized by our board of directors, unless the Proceeding is brought to enforce an officer or director’s rights to indemnification or, in the case of directors, advancement of Expenses under the DGCL bylaws.

The DGCL bylaws also provide that employees other than officers and directors may, in the discretion of our board of directors, be indemnified by us to the fullest extent authorized by the DGCL, as the same exists or may be amended, against any or all Expenses, judgments, penalties, fines and amounts reasonably paid in settlement that are incurred by such employee or on such employee’s behalf in connection with any threatened, pending or completed Proceeding, or any claim, issue or matter therein, which such employee is, or is threatened to be made, a party to or participant in by reason of such employee’s service, so long as such employee acted in good faith and in a manner reasonably believed to be in or not opposed to the best interests of the Company and, with respect to any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful. The rights of indemnification provided will exist as to an employee after he or she has ceased to be an employee and will inure to the benefit of his or her heirs, personal representatives, executors and administrators. Notwithstanding the foregoing, we may indemnify any employee seeking indemnification in connection with a Proceeding initiated by the employee only if the Proceeding was authorized by our board of directors.

Article V of the DGCL bylaws requires us to advance all Expenses incurred by or on behalf of any director or officer in connection with any Proceeding within 10 days after we receive a written statement from the director or officer requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding. Such statement must be preceded or accompanied by an undertaking by or on behalf of the officer or director to repay any Expenses so advanced if it shall ultimately be determined that the officer or director is not entitled to be indemnified against such Expenses. If a claim for advancement of Expenses is not paid in full within 10 days after receipt by us with the required undertaking, the director or officer may at any time thereafter bring suit against us to recover the unpaid amount of the claim and if successful in whole or in part, the director or officer will also be entitled to be paid the expenses of prosecuting such claim.

We may also, at the discretion of our board of directors, advance any or all Expenses incurred by or on behalf of any employee in connection with any Proceeding in which the employee is involved upon our receipt of a statement or statements from the employee requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding. The statement must reasonably evidence the Expenses incurred by the employee and must be preceded or accompanied by an undertaking by or on behalf of the employee to repay any Expenses so advanced if it is ultimately determined that the employee is not entitled to be indemnified against the Expenses.
If we do not pay a claim for indemnification by a director or officer in full within 60 days after we receive a written claim for indemnification, the director or officer may at any time thereafter bring suit against us to recover the unpaid amount of the claim, and if successful in whole or in part, the director or officer will also be entitled to be paid the expenses of prosecuting such claim.

The rights to indemnification and advancement of Expenses set forth in the DGCL bylaws shall not be exclusive of any other right which any director or officer may have or acquire under any statute, provision of the Certificate of Incorporation or the DGCL bylaws, agreement, vote of stockholders or disinterested directors or otherwise.

We are required to maintain insurance, at our expense, to protect the Company and any director or officer against any liability asserted against or incurred by the Company or any director or officer, or arising out of any such person’s service to us, whether or not we would have the power to indemnify such person against such liability under the DGCL or the provisions of Article V of the DGCL bylaws.

The provisions of Article V of the DGCL bylaws are deemed to be a contract between us and each director and officer entitled to the benefits thereof at any time while Article V is in effect, and any repeal or modification of Article V will not affect any rights or obligations then existing with respect to any state of facts then existing or any Proceeding theretofore or thereafter brought based in whole or in part upon any such state of facts.

Indemnification Provisions included in the DGCL

Section 145 of the DGCL permits a Delaware corporation to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with such action, suit or proceeding if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe the person’s conduct was unlawful.
In the case of an action by or in the right of the corporation, Section 145 of the DGCL permits a Delaware corporation to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by reason of the fact that the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys’ fees) actually and reasonably incurred by the person in connection with such action, suit or proceeding if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses that the Court of Chancery or such other court shall deem proper.

Section 145 of the DGCL also permits a Delaware corporation to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in such capacity, or arising out of such person’s status as such, whether or not the corporation would have the power to indemnify such person against such liability under Section 145 of the DGCL.

ITEM 15. RECENT SALES OF UNREGISTERED SECURITIES.

The securities transactions described below that were entered into prior to September 23, 2014 have been retroactively adjusted to take into account the 1-for-100 reverse stock split effective September 23, 2014 and the 1-for-8 stock split effective April 15, 2016.

On April 14, 2014 we sold to GCP (i) a 5% Senior Secured Convertible Debenture with a principal amount of $250,000 and (ii) a five-year warrant to purchase up to 5,209 shares of our common stock at an exercise price of $72 per share, for a total purchase price of $250,000. The debenture is convertible, at GCP’s option, into shares of common stock at an initial conversion price of $48 per share. The securities were issued in a transaction that was exempt from the registration requirements of the Securities Act pursuant to Section 4(a)(2) of the Securities Act inasmuch as the securities were offered and sold to a single accredited investor and we did not engage in any form of general solicitation or general advertising in making the offering.

On May 9, 2014, we issued to GBS Venture Partners Pty Ltd. (“GBS Venture”), a convertible debenture holder and stockholder of Viveve, Inc., a warrant to purchase shares of common stock equal to 5% of the outstanding shares of our common stock on a post-Merger basis in consideration for the cancellation of Convertible Promissory Notes issued by Viveve, Inc. in the aggregate principal amount of $1,750,000 held by GBS Venture. At the effective time of the Merger, the warrant issued to GBS Venture automatically converted into 117,950 shares of common stock. The securities were issued in a transaction that was exempt from the registration requirements of the Securities Act pursuant to Section 4(a)(2) of the Securities Act inasmuch as the securities were offered and sold to a single accredited investor and we did not engage in any form of general solicitation or general advertising in making the offering.

Also on May 9, 2014, we and the holders of certain outstanding warrants to purchase shares of our common stock entered into a Warrant-Equity Exchange Agreement pursuant to which the warrant holders agreed to exchange warrants for shares of our common stock equal to two-thirds the number of shares of common stock underlying the warrants, or an aggregate of 111,497 shares of common stock (the “Exchange Shares”), as soon as practicable following the date of the agreement.
In conjunction with the Warrant-Equity Exchange Agreement, we entered into a Right to Shares Agreement with GCP dated May 9, 2014. Pursuant to the Right to Shares Agreement, in lieu of issuing 54,060 shares of common stock to GCP under the Warrant-Equity Exchange Agreement, we granted a right to GCP to receive up to 54,060 shares of our common stock, subject to the beneficial ownership limitation of 4.99% of the outstanding shares of our common stock. In December 2014, GCP executed an Assignment Form to assign its right to receive 42,193 shares of common stock to be allocated among 16 accredited investors who exercised their rights and to whom 42,193 shares of common stock were issued as of December 31, 2014. GCP exercised its right to receive the remaining 11,868 shares and such shares were issued to GCP as of December 31, 2014. No additional consideration was paid by GCP or its assignees upon its exercise of this right. The shares were issued in a transaction that was exempt from the registration requirements of the Securities Act pursuant to Section 4(a)(2) of the Securities Act inasmuch as the shares were offered and sold solely to accredited investors and we did not engage in any form of general solicitation or general advertising in making the offering.

On May 9, 2014, we and certain accredited investors entered into Securities Purchase Agreements pursuant to which the investors agreed to purchase an aggregate of approximately 1,415,095 shares of our common stock at a price of $4.24 per share to the investors and five-year warrants to purchase up to 117,524 shares of common stock to certain of the investors, at an exercise price of $4.24 per share for aggregate gross proceeds of approximately $6 million, consisting of $4,500,000 in cash payments and the conversion of approximately $1,500,000 outstanding amount of principal and interest of certain Viveve, Inc. promissory notes. This offering closed on September 23, 2014, the effective date of the Merger. Palladium Capital Advisors, LLC and Middlebury Securities acted as placement agents in connection with this offering. The securities were issued in a transaction that was exempt from the registration requirements of the Securities Act pursuant to Section 4(a)(2) of the Securities Act and Regulation D promulgated thereunder inasmuch as the securities were offered and sold solely to accredited investors and we did not engage in any form of general solicitation or general advertising in making the offering.

On May 27, 2014, we sold to GCP (i) a 5% Senior Secured Convertible Debenture with a principal amount of $250,000, and (ii) a five-year warrant to purchase up to 5,209 shares of our common stock at an exercise price of $72 per share for a total purchase price of $250,000. The debenture was convertible into shares of common stock at a conversion price of $48 per share. The securities were issued in a transaction that was exempt from the registration requirements of the Securities Act pursuant to Section 4(a)(2) of the Securities Act inasmuch as the securities were offered and sold to a single accredited investor and we did not engage in any form of general solicitation or general advertising in making the offering.

On July 15, 2014, we sold to GCP (i) a 5% Senior Secured Convertible Debenture with a principal amount of $125,000 and (ii) a five-year common stock purchase warrant to purchase up to 2,605 shares of our common stock at an exercise price of $72 per share for a total purchase price of $125,000. The debenture was convertible, at GCP’s option, into shares of common stock at an initial conversion price of $48 per share. The securities were issued in a transaction that was exempt from the registration requirements of the Securities Act pursuant to Section 4(a)(2) of the Securities Act inasmuch as the securities were offered and sold to a single accredited investor and we did not engage in any form of general solicitation or general advertising in making the offering.
On August 6, 2014, we sold to GCP (i) a 5% Senior Secured Convertible Debenture with a principal amount of $125,000, and (ii) a five-year common stock purchase warrant to purchase up to 2,605 shares of our common stock at an initial exercise price of $72 per share for a total purchase price of $125,000. The debenture was convertible, at GCP’s option, into shares of our common stock at a conversion price of $48 per share. The securities were issued in a transaction that was exempt from the registration requirements of the Securities Act pursuant to Section 4(a)(2) of the Securities Act inasmuch as the securities were offered and sold to a single accredited investor and we did not engage in any form of general solicitation or general advertising in making the offering.

On September 23, 2014, we completed the Merger with Viveve, Inc. Pursuant to the Merger Agreement:

- each share of Viveve, Inc. common stock issued and outstanding immediately prior to the effective time of the Merger was converted into the right to receive either (i) 0.0080497 (or .0010062 on a post-reverse stock split basis) (the “Exchange Ratio”) shares of our common stock, if held by an accredited investor, as defined in Rule 501 of Regulation D as promulgated under the Securities Act of 1933, as amended, or (ii) a cash payment in an amount equal to the product of the Exchange Ratio and $4.24, if held by a non-accredited investor; and

- each outstanding option to purchase a share of Viveve, Inc.’s common stock, whether vested or unvested, immediately prior to the effective time, was converted into an option to purchase a number of shares of common stock (rounded down to the nearest whole share) equal to (i) the number of shares of Viveve, Inc.’s common stock for which such option was exercisable immediately prior to the effective time of the Merger multiplied by (ii) the Exchange Ratio, at an exercise price equal to (y) the exercise price of the Viveve, Inc. option immediately prior to the effective time divided by (z) the Exchange Ratio (rounded up to the nearest cent).

At the effective time of the Merger, the former stockholders of Viveve, Inc. who qualified as accredited investors were issued 467,911 shares of our common stock. The issuance of the securities in the Merger qualified for an exemption under 4(a)(2) of the Securities Act of 1933 (the “Securities Act”) and Rule 506(b) of Regulation D because the stockholders of Viveve, Inc. (i) who received the merger consideration were accredited investors, as defined in Rule 501 of Regulation D promulgated under the Securities Act and (ii) had access to information about the Company that was generally the same as information required to be delivered in a registered offering. In addition, the merger consideration was offered to less than 35 non-accredited stockholders and the Company did not use any form of general solicitation or advertising to offer the securities issued.

As a condition to the Merger, pursuant to an Agreement of Reorganization, dated September 23, 2014, we transferred certain of the assets and liabilities and all of the outstanding shares of RenalGuard Solutions, Inc., our former subsidiary, which became the owner of the RenalGuard business through its holdings of 100% of the outstanding equity in PLC Medical Systems, Inc. and PLC Systemas Medicos Internacionales, to GCP in exchange for the cancellation of all of the 5% Senior Secured Convertible Debentures held by GCP, and a release of liens on substantially all of our assets.

Immediately prior to the Merger, the remaining holders of our debentures converted the principal and interest owed pursuant to the debentures into an aggregate of 5,092 shares of common stock, cancelling the debentures in full.
On September 26, 2014, the Company granted stock options to various employees, directors and consultants to purchase 237,685 shares of common stock with a weighted average grant date fair value of $2.56 per share pursuant to the Company’s 2013 Stock Option and Incentive Plan, as amended.

In conjunction with the receipt of a $5 million term loan from Square 1 Bank, on September 30, 2014 we issued a ten-year warrant to Square 1 Bank (the “Square 1 Warrant”) for the purchase of 58,962 shares of our common stock at an exercise price of $4.24 per share, subject to an automatic increase to a number equal to the quotient derived by dividing (i) 1.0% of the principal balance outstanding under the Loan Agreement by (ii) the exercise price of $4.24, in the event of our failure to perform certain obligations as provided in the First Amendment to the Loan Agreement. The securities were issued in a transaction that was exempt from the registration requirements of the Securities Act pursuant to Section 4(a)(2) of the Securities Act inasmuch as the securities were offered and sold to a single accredited investor and we did not engage in any form of general solicitation or general advertising in making the offering.

On October 13, 2014, the Company issued a 5-year warrant for the purchase of 25,250 shares of common stock at a price of $4.24 to David Stefansky, a consultant to the Company, and 5-year warrants for the purchase of an aggregate 7,500 shares of common stock at a price of $4.24 to Stellartech Research Corporation, the manufacturer of our products. Due to the failure by Stellartech Research Corporation to meet certain milestones, the right to purchase 3,750 shares of common stock covered by the warrants lapsed. The warrants were issued in transactions that were exempt from the registration requirements of the Securities Act pursuant to Section 4(a)(2) of the Securities Act.

On October 31, 2014, the Company issued 5-year warrants for the purchase of an aggregate 2,501 shares of common stock at a price of $4.24 to Sachio Okamura, a consultant. Due to the failure by Mr. Okamura to achieve certain milestones, the right to purchase 2,501 shares of common stock covered by the warrants lapsed. The warrants were issued in a transaction that was exempt from the registration requirements of the Securities Act pursuant to Section 4(a)(2) of the Securities Act.

On November 8, 2014, a former consultant of the Company exercised her option to purchase 20 shares of common stock at an exercise price of $0.96 per share for an aggregate purchase price of $19.20.

On November 12, 2014, the Company granted a five-year warrant to purchase up to 12,500 shares of common stock to Gerald Amato, a designee of Booke and Company, at an exercise price of $4.24 per share, in exchange for certain consulting services rendered. One-twelfth (1/12) of the shares underlying the warrant shall be exercisable on each one month anniversary of the date of issuance such that all of the shares of common stock underlying the warrant shall be exercisable on the twelve month anniversary of the issuance thereof. The warrant was issued in a transaction that was exempt from the registration requirements of the Securities Act pursuant to Section 4(a)(2) of the Securities Act.

In December 2014, certain accredited investors exercised their rights under a Rights to Shares Agreement dated September 2014. As a result of this exercise, the Company issued 48,790 shares of common stock, The shares were issued in a transaction that was exempt from the registration requirements of the Securities Act pursuant to Section 4(a)(2) of the Securities Act insamuch as the shares were offered and sold solely to accredited investors and we did not engage in any form of general solicitation or general advertising in making the offering.
On February 17, 2015, as performance-based compensation for the 2014 calendar year, the Company issued ten-year warrants to purchase up to an aggregate of 75,697 shares of common stock to certain of its employees. The per share exercise price of the warrants was $4.00. The warrants were issued in a transaction that was exempt from the registration requirements of the Securities Act pursuant to Section 4(a)(2) of the Securities Act and Regulation D promulgated thereunder inasmuch as the securities were offered and sold solely to our employees and we did not engage in any form of general solicitation or general advertising in making the offering.

On May 14, 2015, the Company issued an aggregate of 4,054,062 shares of common stock at $2.96 per share for gross proceeds of approximately $12,000,000 in accordance with the terms and conditions of certain Securities Purchase Agreements entered into by and between the Company and certain accredited investors. The net proceeds to the Company after the deduction of placement agent commissions and other expenses were approximately $11,040,000. The common stock was issued in reliance upon an exemption from registration afforded by Section 4(a)(2) of the Securities Act and Rule 506 of Regulation D promulgated thereunder. In determining that the issuance of the securities qualified for an exemption under Rule 506 of Regulation D, the Company relied on the following facts: (i) all of the purchasers represented that they were accredited investors, as defined in Rule 501 of Regulation D promulgated under the Securities Act and (ii) the Company did not use any form of general solicitation or advertising to offer the common stock.

On November 24, 2015, the Company issued 1,071,679 shares of common stock at a per share purchase price of $5.60 for gross proceeds of approximately $6,000,000 to 12 accredited investors in connection with the closing of a private placement pursuant to the terms of a Securities Purchase Agreement dated as of November 20, 2015. The co-placement agents, Sterne Agee CRT and Maxim Group LLC, received aggregate cash commissions equal to approximately $480,000, representing 8% of the gross proceeds. The net proceeds to the Company after the deduction of the placement agent commissions and other expenses were $5,393,000. The purchasers in the offering included Stonepine Capital, L.P., Alta Bioequities L.P., an affiliate of director Dan Janney, Patricia Scheller, the Company’s Chief Executive Officer, and James Atkinson, the Company’s Chief Business Officer and President.

The securities were issued in reliance upon an exemption from registration provided by Section 4(a)(2) of the Securities Act and Rule 506 of Regulation D promulgated thereunder. In determining that the issuance of the securities qualified for an exemption under Rule 506 of Regulation D, the Company relied on the following facts: (i) all of the purchasers represented that they were accredited investors, as defined in Rule 501 of Regulation D promulgated under the Securities Act and (ii) the Company did not use any form of general solicitation or advertising to offer the common stock.

On December 16, 2015, as performance-based compensation for the 2015 calendar year, the Company issued ten-year warrants to purchase up to an aggregate of 26,875 shares of common stock to certain of its employees. The per share exercise price of the warrants was $5.60. The warrants were issued in a transaction that was exempt from the registration requirements of the Securities Act pursuant to Section 4(a)(2) of the Securities Act and Regulation D promulgated thereunder inasmuch as the securities were offered and sold solely to our employees and we did not engage in any form of general solicitation or general advertising in making the offering.
On March 10, 2016 the holder of a warrant for the purchase of 21,742 shares of common stock at an exercise price of $4.24 per share exercised his right to purchase 6,250 warrant shares. The Company relied on Section 4(a)(2) of the Securities Act of 1933, as amended, to issue the warrant shares inasmuch as the holder of the warrant is an accredited investor and there was no form of general solicitation or general advertising employed in the offering.

In March 2016, the Company's board of directors authorized the issuance of a warrant to Dynamic Medical Technologies (Hong Kong) Limited for the purchase of 25,000 shares of common stock at an exercise price of $6.08 per share. The warrant has a term of 10 years. The warrant was issued in conjunction with an agreement made with Dynamic Medical Technologies (Hong Kong) Limited to distribute the Company’s product. The Company relied on Section 4(a)(2) of the Securities Act of 1933, as amended, to issue the warrant shares inasmuch as the holder of the warrant is an accredited investor and there was no form of general solicitation or general advertising employed in the offering.

ITEM 16. EXHIBITS

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<tr>
<td>1.1</td>
<td>Form of Underwriting Agreement</td>
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<td>2.1</td>
<td>Agreement and Plan of Merger dated May 9, 2014 by and among Viveve, Inc., PLC Systems, Inc. and PLC Systems Acquisition Corporation (1)**</td>
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<td>2.1.1</td>
<td>Amendment to Agreement and Plan of Merger (1)**</td>
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<tr>
<td>2.2</td>
<td>RenalGuard Reorganization Agreement (2)**</td>
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<tr>
<td>3.1</td>
<td>Certificate of Conversion for Delaware (3)**</td>
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<td>3.2</td>
<td>Certificate of Incorporation (3)**</td>
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<td>Articles of Amendment to the Articles of Continuance of Viveve Medical, Inc. (4)**</td>
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<td>3.4</td>
<td>Bylaws (3)**</td>
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<td>Common Stock Purchase Warrant issued on February 17, 2015 to Scott Durbin (5)**</td>
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<td>Common Stock Purchase Warrant issued on February 17, 2015 to Jim Robbins (5)**</td>
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<td>Common Stock Purchase Warrant issued on February 17, 2015 to Patricia Scheller (5)**</td>
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<td>Common Stock Purchase Warrant issued on May 12, 2015 to James Atkinson (5)**</td>
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<td>Common Stock Purchase Warrant issued on December 16, 2015 to James Atkinson (5)**</td>
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<td>Warrant to Purchase Common Stock issued on April 1, 2016 to Dynamic Medical Technologies (Hong Kong) Limited (3)**</td>
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<td>Warrant to Purchase Common Stock issued on May 11, 2016 to Theresa Stern (6)**</td>
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<td>Warrant to Purchase Common Stock issued on June 20, 2016 to Western Alliance Bank (7)**</td>
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<td>Opinion of Goodwin Procter LLP</td>
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<td>Form of Securities Purchase Agreement dated May 9, 2014 (8)**</td>
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<tr>
<td>10.2</td>
<td>Securities Purchase Agreement, dated May 9, 2014, by and among the Registrant and GBS Venture Partners as trustee for GBS BioVentures III Trust (8)**</td>
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<tr>
<td>Document Description</td>
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<tr>
<td>10.3 Escrow Deposit Agreement, dated May 9, 2014 by and among the Registrant, Palladium Capital Advisors LLC, Middlebury Securities and Signature Bank, as escrow agent (8)**</td>
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</tr>
<tr>
<td>10.4 Registration Rights Agreement, dated May 9, 2014 (8)**</td>
<td></td>
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<tr>
<td>10.5 First Amendment to Registration Rights Agreement, dated February 19, 2015 (9)**</td>
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</tr>
<tr>
<td>10.6 Right to Shares Letter Agreement dated May 9, 2014 between the Registrant and GCP IV LLC (8)**</td>
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<tr>
<td>10.9 PLC Systems Inc. 2013 Stock Option and Incentive Plan, as amended (11)**</td>
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<tr>
<td>10.10 Offer of Employment dated May 14, 2012 from Viveve, Inc. to Patricia K. Scheller (12)**</td>
<td></td>
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<tr>
<td>10.11 Offer of Employment dated January 23, 2013 from Viveve, Inc. to Scott C. Durbin (12)**</td>
<td></td>
</tr>
<tr>
<td>10.12 Loan and Security Agreement dated September 30, 2014 between Viveve, Inc. and Square 1 Bank (13)**</td>
<td></td>
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<tr>
<td>10.13 First Amendment to Loan and Security Agreement dated February 19, 2015 between Viveve, Inc. and Square 1 Bank (9)**</td>
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<tr>
<td>10.15 Unconditional Guaranty issued by the Registrant in favor of Square 1 Bank (13)**</td>
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<tr>
<td>10.17 Development and Manufacturing Agreement dated June 12, 2006 between TivaMed, Inc. and Stellartech Research Corporation (11)**</td>
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<tr>
<td>10.18 Amended and Restated Development and Manufacturing Agreement dated October 4, 2007 between TivaMed, Inc. and Stellartech Research Corporation (11)**</td>
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<tr>
<td>10.19 Right to Shares Letter Agreement, dated as of September 23, 2014 by and between the Registrant and GCP IV LLC (11)**</td>
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<tr>
<td>10.20 Right to Shares Letter Agreement, dated as of September 23, 2014 by and between the Registrant and G-Ten Partners LLC (11)**</td>
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<tr>
<td>10.21Convertible Note Termination Agreement, dated May 9, 2014 by and between Viveve, Inc. and 5AM Ventures II, LP (14)**</td>
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<tr>
<td>10.22Convertible Note Termination Agreement, dated May 9, 2014 by and between Viveve, Inc. and 5AM Co-Investors II, LP (14)**</td>
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<tr>
<td>10.23Convertible Note Exchange Agreement, dated May 9, 2014 by and between Viveve, Inc. and GBS Venture Partners Limited, trustee for GBS BioVentures III (14)**</td>
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<tr>
<td>10.24Warrant Termination Agreement, dated as of May 9, 2014, by and between the Viveve, Inc. and 5AM Ventures II, LP (14)**</td>
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<tr>
<td>10.25Warrant Termination Agreement, dated as of May 9, 2014, by and between the Viveve, Inc. and 5AM Co-Investors II, LP (14)**</td>
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</tr>
<tr>
<td>10.26Warrant Termination Agreement, dated as of May 9, 2014, by and between the Viveve, Inc. and GBS Venture Partners Limited, trustee for GBS BioVentures III (14)**</td>
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<tr>
<td>10.28First Amendment to Lease dated January 15, 2015 between The Castine Group and Viveve, Inc. (16)**</td>
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<tr>
<td>10.29Second Amendment to Loan and Security Agreement dated May 14, 2015 between Viveve, Inc. and Square 1 Bank (16)**</td>
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<tr>
<td>10.30Form of Securities Purchase Agreement dated May 12, 2015 (16)**</td>
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<tr>
<td>10.31Form of Registration Rights Agreement dated May 12, 2015 (16)**</td>
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<tr>
<td>10.32Letter Agreement with Stonepine Capital dated May 12, 2015 (16)**</td>
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<tr>
<td>10.33Form of Securities Purchase Agreement dated November 20, 2015 (17)**</td>
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<tr>
<td>10.34Form of Registration Rights Agreement dated November 20, 2015 (17)**</td>
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<tr>
<td><strong>10.35</strong></td>
<td>Third Amendment to Loan and Security Agreement dated November 30, 2015 between Pacific Western Bank, as successor in interest by merger to Square 1 Bank, and Viveve, Inc. (18)**</td>
</tr>
<tr>
<td><strong>10.36</strong></td>
<td>Fourth Amendment to Loan and Security Agreement dated March 18, 2016 between Pacific Western Bank, as successor in interest by merger to Square 1 Bank, and Viveve, Inc. (5)**</td>
</tr>
<tr>
<td><strong>10.37</strong></td>
<td>Independent Director Compensation Policy (19)**</td>
</tr>
<tr>
<td><strong>10.38</strong></td>
<td>Viveve Medical, Inc. Amended and Restated 2013 Stock Option and Incentive Plan (20)**</td>
</tr>
<tr>
<td><strong>10.39</strong></td>
<td>Second Amendment to Standard Industrial/Commercial Multi-Tenant Lease-Gross, dated September 12, 2016 between Viveve, Inc. and Commercial Street Properties, LLC (21)**</td>
</tr>
<tr>
<td><strong>10.40</strong></td>
<td>Loan and Security Agreement dated as of June 20, 2016 by and among Viveve Medical, Inc., Viveve, Inc. and Western Alliance Bank (7)**</td>
</tr>
<tr>
<td><strong>10.41</strong></td>
<td>Intellectual Property Security Agreement dated as of June 20, 2016 between Viveve Medical, Inc. and Western Alliance Bank (7)**</td>
</tr>
<tr>
<td><strong>10.42</strong></td>
<td>Sublease Agreement, entered into on February 1, 2017 and effective as of January 26, 2017, between Viveve Medical, Inc. and Ingredion Incorporated (22)**</td>
</tr>
<tr>
<td><strong>14.1</strong></td>
<td>Code of Conduct, adopted September 23, 2014 (23)**</td>
</tr>
<tr>
<td><strong>21.1</strong></td>
<td>List of the Registrant’s Subsidiaries (24)**</td>
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<tr>
<td><strong>23.1</strong></td>
<td>Consent of BPM LLP</td>
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<td><strong>23.2</strong></td>
<td>Consent of Goodwin Procter LLP (included in Exhibit 5.1)</td>
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<tr>
<td><strong>24.1</strong></td>
<td>Power of Attorney**</td>
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<tr>
<td><strong>101.INS</strong></td>
<td>XBRL Instance Document**</td>
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<tr>
<td><strong>101.SCH</strong></td>
<td>XBRL Taxonomy Extension Schema Document**</td>
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<tr>
<td><strong>101.CAL</strong></td>
<td>XBRL Taxonomy Extension Calculation Linkbase Document**</td>
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<td><strong>101.DEF</strong></td>
<td>XBRL Taxonomy Extension Definition Linkbase Document**</td>
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<tr>
<td><strong>101.LAB</strong></td>
<td>XBRL Taxonomy Extension Label Linkbase Document**</td>
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<tr>
<td><strong>101.PRE</strong></td>
<td>XBRL Taxonomy Extension Presentation Linkbase Document**</td>
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** Previously filed.

11. Incorporated by reference to the registrant’s Registration Statement on Form S-1 filed with the Securities and Exchange Commission on November 21, 2014.
ITEM 17. UNDERTAKINGS.

(a) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

(b) The undersigned registrant hereby undertakes that:

1. For purposes of determining any liability under the Securities Act of 1933, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.

2. For the purpose of determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant has caused this Amendment No. 1 to registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Sunnyvale, State of California on the 13th day of March, 2017.

VIVEVE MEDICAL, INC.

By:/s/ Patricia Scheller
Patricia Scheller, Chief Executive Officer

By:/s/ Scott Durbin
Scott Durbin, Chief Financial Officer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<table>
<thead>
<tr>
<th>Signature</th>
<th>Title</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>/s/ Patricia Scheller</td>
<td>Chief Executive Officer and Director (Principal Executive Officer)</td>
<td>March 13, 2017</td>
</tr>
<tr>
<td>Patricia Scheller</td>
<td></td>
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</tr>
<tr>
<td>/s/ Scott Durbin</td>
<td>Chief Financial Officer (Principal Financial and Accounting Officer)</td>
<td>March 13, 2017</td>
</tr>
<tr>
<td>Scott Durbin</td>
<td></td>
<td></td>
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<tr>
<td>*</td>
<td>Director</td>
<td>March 13, 2017</td>
</tr>
<tr>
<td>Debora Jorn</td>
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</tr>
</tbody>
</table>

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Lori Bush  
Director  
March 13, 2017

Arlene Morris  
Director  
March 13, 2017

Daniel Janney  
Director  
March 13, 2017

Jon Plexico  
Director  
March 13, 2017

By: /s/ Scott Durbin  
Scott Durbin  
Attorney-in-Fact

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COWEN AND COMPANY, LLC
As Representative of the several Underwriters
c/o Cowen and Company, LLC
599 Lexington Avenue
New York, New York 10022

Dear Sir or Madam:

1. **Introductory.** Viveve Medical, Inc., a Delaware corporation (the "Company") proposes to sell, pursuant to the terms of this Underwriting Agreement (this "Agreement"), to the several underwriters named in Schedule A hereto (the "Underwriters," or, each, an "Underwriter"), an aggregate of [______] shares of Common Stock, $0.0001 par value (the "Common Stock") of the Company. The aggregate of [______] shares so proposed to be sold is hereinafter referred to as the "Firm Stock." The Company also proposes to sell to the Underwriters, upon the terms and conditions set forth in Section 3 hereof, up to an additional [______] shares of Common Stock (the "Optional Stock"). The Firm Stock and the Optional Stock are hereinafter collectively referred to as the "Stock." Cowen and Company, LLC ("Cowen") is acting as representative of the several Underwriters and in such capacity is hereinafter referred to as the "Representative.”

2. **Representations and Warranties of the Company.** The Company represents and warrants to the several Underwriters as of the date hereof and as of each Closing Date (as defined below), and agrees with the several Underwriters, that:

   (a) **Registration Statement.** A registration statement of the Company on Form S-1 (File No. 333-216187) (including all pre-effective amendments thereto, and all post-effective amendments thereto filed before the execution of this Agreement, the "Initial Registration Statement") in respect of the Stock has been filed with the Securities and Exchange Commission (the "Commission"). The Initial Registration Statement and any post-effective amendment thereto, each in the form heretofore delivered to you, and, excluding exhibits thereto, to you for each of the other Underwriters, have been declared effective by the Commission in such form and meet the requirements of the Securities Act of 1933, as amended (the "Securities Act"), and the rules and regulations of the Commission thereunder (the "Rules and Regulations"). Other than (i) the Initial Registration Statement, (ii) a registration statement, if any, increasing the size of the offering filed pursuant to Rule 462(b) under the Securities Act and the Rules and Regulations (a "Rule 462(b) Registration Statement"), (iii) any Preliminary Prospectus (as defined below), (iv) the Prospectus (as defined below) contemplated by this Agreement to be filed pursuant to Rule 424(b) of the Rules and Regulations in accordance with Section 4(i)(a) hereof and (v) any Issuer Free Writing Prospectus (as defined below), no other document with respect to the offer and sale of the Stock has heretofore been filed with the Commission. No stop order suspending the effectiveness of the Initial Registration Statement, any post-effective amendment thereto or the Rule 462(b) Registration Statement, if any, has been issued and no proceeding for that purpose or pursuant to Section 8A of the Securities Act has been initiated or, to the Company’s knowledge, threatened by the Commission (any preliminary prospectus included in the Initial Registration Statement or filed with the Commission pursuant to Rule 424 of the Rules and Regulations is hereinafter called a "Preliminary Prospectus"). The Initial Registration Statement and the Rule 462(b) Registration Statement, if any, in each case including all exhibits thereto and including the information contained in the Prospectus filed with the Commission pursuant to Rule 424(b) of the Rules and Regulations and deemed by virtue of Rule 430A under the Securities Act to be part of the Initial Registration Statement at the time it became effective is hereinafter collectively called the "Registration Statement." The prospectus included in the Initial Registration Statement at the time of effectiveness thereof, as supplemented by the final prospectus supplement relating to the offer and sale of the Stock, in the form filed pursuant to and within the time limits described in Rule 424(b) under the Rules and Regulations, is hereinafter called the "Prospectus."
Any reference herein to the Registration Statement, Preliminary Prospectus or the Prospectus shall be deemed to refer to and include the documents incorporated by reference therein. Any reference to any amendment or supplement to any Preliminary Prospectus or the Prospectus shall be deemed to refer to and include any documents filed after the date of such Preliminary Prospectus or the Prospectus under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), and incorporated by reference in such Preliminary Prospectus or Prospectus, as the case may be. Any reference to any amendment to the Registration Statement shall be deemed to refer to and include any annual report of the Company filed pursuant to Section 13(a) or 15(d) of the Exchange Act after the date of this Agreement that is incorporated by reference in the Registration Statement.

(b) **General Disclosure Package.** As of the Applicable Time (as defined below) and as of the Closing Date or the Option Closing Date (as defined below), as the case may be, neither (i) the General Use Free Writing Prospectus (as defined below) issued at or prior to the Applicable Time, and the Pricing Prospectus (as defined below) and the information included on Schedule B hereto, all considered together (collectively, the "**General Disclosure Package**"), (ii) any individual Limited Use Free Writing Prospectus (as defined below), nor (iii) the bona fide electronic roadshow (as defined in Rule 433(h)(5) of the Rules and Regulations, when considered together with the General Disclosure Package, included or will include any untrue statement of a material fact or omitted or will omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; *provided, however*, that the Company makes no representations or warranties as to information contained in or omitted from the Pricing Prospectus or any Issuer Free Writing Prospectus (as defined below), in reliance upon, and in conformity with, written information furnished to the Company through the Representative by or on behalf of any Underwriter specifically for inclusion therein, which information the parties hereto agree is limited to the Underwriter’s Information (as defined in Section 17). As used in this paragraph (b) and elsewhere in this Agreement:

- "**Applicable Time**" means [_____] [A/P].M., New York time, on the date of this Agreement or such other time as agreed to by the Company and the Representative.

- "**Pricing Prospectus**" means the Preliminary Prospectus relating to the Stock that is included in the Registration Statement immediately prior to the Applicable Time, including any document incorporated by reference therein.

- "**Issuer Free Writing Prospectus**" means any “issuer free writing prospectus,” as defined in Rule 433 of the Rules and Regulations relating to the Stock in the form filed or required to be filed with the Commission or, if not required to be filed, in the form retained in the Company’s records pursuant to Rule 433(g) of the Rules and Regulations.

- "**General Use Free Writing Prospectus**" means any Issuer Free Writing Prospectus that is identified on Schedule C to this Agreement.
"Limited Use Free Writing Prospectuses" means any Issuer Free Writing Prospectus that is not a General Use Free Writing Prospectus.

(c) No Stop Orders; No Material Misstatements. No order preventing or suspending the use of any Preliminary Prospectus, any Issuer Free Writing Prospectus or the Prospectus relating to the proposed offering of the Stock has been issued by the Commission, and no proceeding for that purpose or pursuant to Section 8A of the Securities Act has been instituted or, to the Company’s knowledge, threatened by the Commission, and each Preliminary Prospectus, at the time of filing thereof, conformed in all material respects to the requirements of the Securities Act and the Rules and Regulations, and did not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that the Company makes no representations or warranties as to information contained in or omitted from any Preliminary Prospectus, in reliance upon, and in conformity with, written information furnished to the Company through the Representative by or on behalf of any Underwriter specifically for inclusion therein, which information the parties hereto agree is limited to the Underwriter’s Information.

(d) Registration Statement and Prospectus Contents. At the respective times the Registration Statement and any amendments thereto became or become effective as to the Underwriters and at each Closing Date, the Registration Statement and any amendments thereto conformed and will conform in all material respects to the requirements of the Securities Act and the Rules and Regulations and did not and will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading; and the Prospectus and any amendments or supplements thereto, at the time the Prospectus or any amendment or supplement thereto was issued and at each Closing Date, conformed and will conform in all material respects to the requirements of the Securities Act and the Rules and Regulations and did not and will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading; provided, however, that the foregoing representations and warranties in this paragraph (d) shall not apply to information contained in or omitted from the Registration Statement or the Prospectus, or any amendment or supplement thereto, in reliance upon, and in conformity with, written information furnished to the Company through the Representative by or on behalf of any Underwriter specifically for inclusion therein, which information the parties hereto agree is limited to the Underwriter’s Information.

(e) Issuer Free Writing Prospectus. Each Issuer Free Writing Prospectus, as of its issue date and at all subsequent times through the completion of the public offer and sale of the Stock or until any earlier date that the Company notified or notifies the Representative as described in Section 4(f), did not, does not and will not include any information that conflicted, conflicts or will conflict with the information contained in the Registration Statement, Pricing Prospectus or the Prospectus, or included or would include an untrue statement of a material fact or omitted or would omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, provided, however, that the foregoing representations and warranties in this paragraph (e) shall not apply to information contained in or omitted from the Registration Statement or the Prospectus, or any amendment or supplement thereto, in reliance upon, and in conformity with, written information furnished to the Company through the Representative by or on behalf of any Underwriter specifically for inclusion therein, which information the parties hereto agree is limited to the Underwriter’s Information.

(f) Reserved.
(g) **Distribution of Offering Materials**. The Company has not, directly or indirectly, distributed and will not distribute any offering material in connection with the offering and sale of the Stock other than any Preliminary Prospectus, the Prospectus and other materials, if any, permitted under the Securities Act and consistent with Section 4(1)(b) below. The Company will file with the Commission all Issuer Free Writing Prospectuses (other than a “road show” as described in Rule 433(d)(8) of the Rules and Regulations) in the time and manner required under Rules 163(b)(2) and 433(d) of the Rules and Regulations.

(h) **Not an Ineligible Issuer**. At the time of filing the Initial Registration Statement, any Rule 462(b) Registration Statement and any post-effective amendments thereto, and at the date hereof, the Company was not, and the Company currently is not, an “ineligible issuer,” as defined in Rule 405 of the Rules and Regulations.

(i) **Organization and Good Standing**. The Company and each of its subsidiaries (as defined in Section 15) have been duly organized and are validly existing as corporations or other legal entities in good standing (or the foreign equivalent thereof) under the laws of their respective jurisdictions of organization. The Company and each of its subsidiaries are duly qualified to do business and are in good standing as foreign corporations or other legal entities in each jurisdiction in which their respective ownership or lease of property or the conduct of their respective businesses requires such qualification and have all power and authority (corporate or other) necessary to own or hold their respective properties and to conduct the businesses in which they are engaged, except where the failure to so qualify or have such power or authority would not (i) have, singularly or in the aggregate, a material adverse effect on the business, properties, management, financial position, stockholders’ equity, results of operations or prospects of the Company and its subsidiaries taken as a whole, or (ii) impair in any material respect the ability of the Company to perform its obligations under this Agreement or to consummate any transactions contemplated by this Agreement, the General Disclosure Package or the Prospectus (any such effect as described in clauses (i) or (ii), a “Material Adverse Effect”). The Company does not own or control, directly or indirectly, any corporation, association or other entity other than the subsidiaries listed in Exhibit 21 to the Registration Statement.

(j) **Underwriting Agreement**. This Agreement has been duly authorized, executed and delivered by the Company.

(k) **The Stock**. The Stock to be issued and sold by the Company to the Underwriters hereunder has been duly and validly authorized and, when issued and delivered against payment therefor as provided herein, will be duly and validly issued, fully paid and non-assessable and will conform to the descriptions thereof in the Registration Statement, the General Disclosure Package and the Prospectus; and the issuance of the Stock is not subject to any preemptive or similar rights.

(l) **Capitalization**. The Company has an authorized capitalization as set forth under the heading “Capitalization” in the Pricing Prospectus, and all of the issued shares of capital stock of the Company, have been duly and validly authorized and issued, are fully paid and non-assessable, have been issued in compliance with federal and state securities laws, and conform to the description thereof contained in the General Disclosure Package and the Prospectus under the heading “Description of Securities”. All of the Company’s options, warrants and other rights to purchase or exchange any securities for shares of the Company’s capital stock have been duly authorized and validly issued and were issued in compliance with federal and state securities laws other than those which have been waived or satisfied. None of the outstanding shares of Common Stock was issued in violation of any preemptive rights, rights of first refusal or other similar rights to subscribe for or purchase securities of the Company. As of the date set forth in the General Disclosure Package, there were no authorized or outstanding shares of capital stock, options, warrants, preemptive rights, rights of first refusal or other rights to purchase, or equity or debt securities convertible into or exchangeable or exercisable for, any capital stock of the Company or any of its subsidiaries other than those described above or accurately described in the General Disclosure Package. Since such date, the Company has not issued any securities other than Common Stock issued pursuant to the exercise of warrants or upon the exercise of stock options or other awards outstanding under the Company’s stock option plans, options or other securities granted or issued pursuant to the Company’s existing equity compensation plans or other plans, and the issuance of Common Stock pursuant to employee stock purchase plans. The description of the Company’s stock option, stock bonus and other stock plans or arrangements, and the options or other rights granted thereunder, as described in the General Disclosure Package and the Prospectus, accurately and fairly present the information required to be shown with respect to such plans, arrangements, options and rights.
(m) **Capitalization of Subsidiaries.** All the outstanding shares of capital stock (if any) of each subsidiary of the Company have been duly authorized and validly issued, are fully paid and nonassessable and, except to the extent set forth in the General Disclosure Package or the Prospectus, are owned by the Company directly or indirectly through one or more wholly-owned subsidiaries, free and clear of any claim, lien, encumbrance, security interest, restriction upon voting or transfer or any other claim of any third party.

(n) **No Conflicts.** The execution, delivery and performance of this Agreement by the Company, the issue and sale of the Stock by the Company, and the consummation of the transactions contemplated hereby will not (with or without notice or lapse of time or both) (i) conflict with or result in a breach or violation of any of the terms or provisions of, constitute a default or a Debt Repayment Triggering Event (as defined below) under, or result in the creation or imposition of any lien, encumbrance, security interest, claim or charge upon any property or assets of the Company or any subsidiary pursuant to, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound or to which any of the property or assets of the Company or any of its subsidiaries is subject, (ii) result in any violation of the provisions of the charter or by-laws (or analogous governing instruments, as applicable) of the Company or any of its subsidiaries or (iii) result in the violation of any law, statute, rule, regulation, judgment, order or decree of any court or governmental or regulatory agency or body, domestic or foreign, having jurisdiction over the Company or any of its subsidiaries or any of their properties or assets except, in the case of clauses (i) and (iii) above, for any such conflict, breach, violation or default that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. A "Debt Repayment Triggering Event" means any event or condition that gives, or with the giving of notice or lapse of time would give the holder of any note, debenture or other evidence of indebtedness (or any person acting on such holder’s behalf) the right to require the repurchase, redemption or repayment of all or a portion of such indebtedness by the Company or any of its subsidiaries.

(o) **No Consents Required.** Except for the registration of the Stock under the Securities Act and applicable state securities laws, and such consents, approvals, authorizations, orders and registrations or qualifications as may be required by the Financial Industry Regulatory Authority ("FINRA") and the Nasdaq Capital Market in connection with the purchase and distribution of the Stock by the Underwriters and the listing of the Stock on the Nasdaq Capital Market, no consent, approval, authorization or order of, or filing, qualification or registration (each an "Authorization") with, any court, governmental or regulatory agency or body, foreign or domestic, which has not been made, obtained or taken and is not in full force and effect, is required for the execution, delivery and performance of this Agreement by the Company, the issuance and sale of the Stock or the consummation of the transactions contemplated hereby; and no event has occurred that allows or results in, or after notice or lapse of time or both would allow or result in, revocation, suspension, termination or invalidation of any such Authorization or any other impairment of the rights of the holder or maker of any such Authorization.
Independent Auditors. BPM LLP, who have certified certain financial statements and related schedules of the Company and its subsidiaries included or incorporated by reference in the Registration Statement, the General Disclosure Package and the Prospectus, and have audited the Company’s internal control over financial reporting and management’s assessment thereof, is an independent registered public accounting firm with respect to the Company and its subsidiaries within the meaning of Article 2-01 of Regulation S-X and the Public Company Accounting Oversight Board (United States) (the “PCAOB”).

Financial Statements. The financial statements, together with the related notes and schedules, included in the General Disclosure Package, the Prospectus and in the Registration Statement fairly, in all material respects, present the financial position and the results of operations and changes in financial position of the Company and its consolidated subsidiaries at the respective dates or for the respective periods therein specified. Such statements and related notes and schedules have been prepared in accordance with the generally accepted accounting principles in the United States (“GAAP”) applied on a consistent basis throughout the periods involved except as may be set forth in the related notes included in the General Disclosure Package. The financial statements, together with the related notes and schedules, included in the General Disclosure Package and the Prospectus comply in all material respects with Regulation S-X. No other financial statements or supporting schedules or exhibits are required by Regulation S-X to be described or included in the Registration Statement, the General Disclosure Package or the Prospectus. The pro forma and pro forma as adjusted financial information and the related notes included in the Registration Statement, the General Disclosure Package and the Prospectus have been properly compiled and prepared in accordance with the applicable requirements of Rule 11-02 of Regulation S-X and present fairly, in all material respects, the information shown therein, and the assumptions used in the preparation thereof are reasonable and the adjustments used therein are appropriate to give effect to the transactions and circumstances referred to therein. The summary and selected financial data included in the General Disclosure Package, the Prospectus and the Registration Statement fairly present, in all material respects, the information shown therein as at the respective dates and for the respective periods specified and are derived from the consolidated financial statements set forth in the Registration Statement, the Pricing Prospectus and the Prospectus and other financial information. All information contained in the Registration Statement, the General Disclosure Package and the Prospectus regarding “non-GAAP financial measures” (as defined in Regulation G) complies with Regulation G and Item 10 of Regulation S-K, to the extent applicable.

eXtensible Business Reporting Language. The interactive data in eXtensible Business Reporting Language included or incorporated by reference in the Registration Statement fairly presents the interactive data in eXtensible Business Reporting Language required in all material respects, in the Registration Statement and has been prepared in accordance with the Commission’s rules and guidelines applicable thereto.

No Material Adverse Change. Neither the Company nor any of its subsidiaries has sustained, since the date of the latest audited financial statements included in the General Disclosure Package, (i) any material loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or action, order or decree of any court or governmental or regulatory authority, otherwise than as set forth or contemplated in the General Disclosure Package; (ii) any change in the capital stock (other than the issuance of shares of Common Stock upon exercise of stock options and warrants described as outstanding in, and the grant of options and awards under existing equity incentive plans described in, the Registration Statement, the General Disclosure Package and the Prospectus) or long-term debt of the Company or any of its subsidiaries, or any dividend or distribution of any kind declared, set aside for payment, paid or made by the Company on any class of capital stock, or any material adverse changes, or any development involving a prospective material adverse change, in or affecting the business, properties, assets, general affairs, management, financial position, prospects, stockholders’ equity or results of operations of the Company and its subsidiaries taken as a whole, otherwise than as set forth or contemplated in the General Disclosure Package.
Legal Proceedings. Except as set forth in the General Disclosure Package, there is no legal or governmental proceeding to which the Company or any of its subsidiaries is a party or of which any property or assets of the Company or any of its subsidiaries is the subject, including any proceeding before the United States Food and Drug Administration of the U.S. Department of Health and Human Services ("FDA") or comparable federal, state, local or foreign governmental bodies (it being understood that the interaction between the Company and the FDA and such comparable governmental bodies relating to the clinical development and product approval process shall not be deemed proceedings for purposes of this representation), which is required to be described in the Registration Statement, the General Disclosure Package or the Prospectus and is not described therein, or which, singularly or in the aggregate, if determined adversely to the Company or any of its subsidiaries, would reasonably be expected to have a Material Adverse Effect; and to the Company's knowledge after reasonable investigation and due diligence inquiry of the employees of the Company responsible for such matter ("Knowledge"), no such proceedings are threatened or, contemplated by governmental or regulatory authorities or threatened by others. The Company is in compliance with all applicable federal, state, local and foreign laws, regulations, orders and decrees governing its business as prescribed by the FDA, or any other federal, state or foreign agencies or bodies engaged in the regulation of pharmaceuticals or biohazardous substances or materials, except where noncompliance would not, singly or in the aggregate, have a Material Adverse Effect. All preclinical and clinical studies conducted by or on behalf of the Company to support approval for commercialization of the Company's products have been conducted by the Company, or to the Company's Knowledge by third parties, in compliance with all applicable federal, state or foreign laws, rules, orders and regulations, except for such failure or failures to be in compliance which would not reasonably be expected to have, singly or in the aggregate, a Material Adverse Effect.

No Violation or Default. Neither the Company nor any of its subsidiaries is (i) in violation of its charter or by-laws (or analogous governing instrument, as applicable), (ii) in default in any respect, and no event has occurred which, with notice or lapse of time or both, would constitute such a default, in the due performance or observance of any term, covenant or condition contained in any indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which it is a party or by which it is bound or to which any of its property or assets is subject or (iii) in violation in any respect of any law, ordinance, governmental rule, regulation or court order, decree or judgment to which it or its property or assets may be subject (including, without limitation, those administered by the FDA or by any foreign, federal, state or local governmental or regulatory authority performing functions similar to those performed by the FDA) except, in the case of clauses (ii) and (iii) above, for any such violation or default that would not, singly or in the aggregate, have a Material Adverse Effect.

Licenses or Permits. The Company possesses all required licenses, certificates, authorizations and permits and has registered as a medical device establishment with the U.S. Food and Drug Administration ("FDA") and other governmental or regulatory authorities performing functions similar to those performed by the FDA and have made all declarations and filings with, the appropriate local, state, federal or foreign governmental or regulatory agencies or bodies (including, without limitation, those administered by the FDA or by any foreign, federal, state or local governmental or regulatory authority performing functions similar to those performed by the FDA) that are necessary for the ownership or lease of their respective properties or the conduct of their respective businesses as described in the General Disclosure Package and the Prospectus (collectively, the "Governmental Permits") except where any failures to possess or make the same would not, singly or in the aggregate, have a Material Adverse Effect. The Company and its subsidiaries are in compliance with all such Governmental Permits, including with all conditions and limitations on the commercial rights granted by such Governmental Permits; all such Governmental Permits are valid and in full force and effect, except where the invalidity or failure to be in full force and effect would not, singly or in the aggregate, have a Material Adverse Effect. Neither the Company nor any subsidiary has received notification of any revocation, modification, suspension, termination or invalidation (or proceedings related thereto) of any such Governmental Permit and the Company has no reason to believe that any such Governmental Permit will not be renewed.
Regulatory Matters. The nonclinical studies and clinical trials conducted by or on behalf of the Company and its subsidiaries that are described in the General Disclosure Package and the Prospectus (the “Company Studies and Trials”) were and, if still pending, are being, conducted in all material respects in accordance with experimental protocols, procedures and controls pursuant to, where applicable, accepted professional scientific standards; the descriptions of the results of the Company Studies and Trials contained in the General Disclosure Package and Prospectus are accurate in all material respects; the Company has no Knowledge of any other studies or clinical trials not described in the General Disclosure Package and the Prospectus, the results of which are inconsistent with or call in question the results described or referred to in the General Disclosure Package and the Prospectus; and the Company has not received any notices, communications or correspondence from the FDA or any foreign, state or local governmental body exercising comparable authority requiring the termination, suspension or material modification of any Company Studies or Trials that termination, suspension or material modification would reasonably be expected to have a Material Adverse Effect and, to the Company’s Knowledge, there are no reasonable grounds for the same. The Company has obtained (or caused to be obtained) informed consent by or on behalf of each human subject who participated in the Company Studies and Trials and all such clinical trials have been performed in compliance with generally accepted good clinical practices. To the Company’s Knowledge, the Company and each of its subsidiaries, and each of their respective directors, officers, employees and agents, is and has been in material compliance with applicable health care laws, including, to the extent applicable, without limitation, the Federal Food, Drug and Cosmetic Act (21 U.S.C. § 301 et seq.), the federal Anti-kickback Statute (42 U.S.C. § 1320a-7b(b)), the civil False Claims Act (31 U.S.C. § 3729 et seq.), the criminal False Claims Law (42 U.S.C. § 1320a-7b(a)), the Civil Monetary Penalties Law (42 U.S.C. § 1320a-7a), the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. § 1320d et seq.), as amended by the Health Information Technology for Economic and Clinical Health Act of 2009 (42 U.S.C. § 17921 et seq.), the exclusion laws (42 U.S.C. § 1320a-7), Medicare (Title XVIII of the Social Security Act), Medicaid (Title XIX of the Social Security Act), and the Patient Protection and Affordable Care Act of 2010, as amended by the Health Care and Education Affordability Reconciliation Act of 2010, including without limitation the Physician Payments Sunshine Act (42 U.S.C. § 1320a-7h), and the regulations promulgated pursuant to such laws, comparable state laws, and comparable foreign laws and regulations in all foreign jurisdictions in which the Company does business (collectively, “Health Care Laws”). Neither the Company nor any of its subsidiaries has received notice of any ongoing claim, action, suit, proceeding, hearing, enforcement, investigation, arbitration or other action from the FDA or any foreign, state or local governmental body exercising comparable authority alleging that any product operation or activity is in material violation of any Health Care Laws. The Company and each of its subsidiaries has filed, obtained, maintained or submitted all reports, documents, forms, notices, applications, records, claims, submissions and supplements or amendments thereto as required by any Health Care Laws or Authorizations and that all such reports, documents, forms, notices, applications, records, claims, submissions and supplements or amendments were complete, correct and not misleading on the date filed (or were corrected or supplemented by a subsequent submission). To the Company’s Knowledge, none of the Company Studies and Trials involved any investigator who has been disqualified as a clinical investigator or has been found by the FDA to have engaged in scientific misconduct. To the Company’s Knowledge, no employee, consultant or agent is engaged in practices that are prohibited by the Foreign Corrupt Practices Act or similar foreign laws such as the U.K. Bribery Act, nor has any employee, consultant or agent violated such prohibitions in the past five (5) years. To the Company’s Knowledge, the manufacturing facilities and operations of its suppliers are in compliance in all material respects with all applicable statutes, rules, and regulations of the FDA and comparable regulatory agencies outside of the United States to which the Company or its contractors and suppliers are subject. To the Company’s Knowledge, neither the Company nor any subsidiary is distributing or promoting any product in a way that would violate the advertising and promotional requirements of the FDA or any other federal, state or foreign regulatory authority, including the FDA’s current regulations and policies related to “off-label” marketing and promotion of medical devices to health care practitioners, meaning promotion of the device for uses that are not consistent with the current scope of its marketing authorization and product labeling.
(x) **Investment Company Act**. Neither the Company nor any of its subsidiaries is or, after giving effect to the offering of the Stock and the application of the proceeds thereof as described in the General Disclosure Package and the Prospectus, will be required to register as an "investment company" or an entity "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940, as amended, and the rules and regulations of the Commission thereunder.

(y) **No Stabilization.** Neither the Company nor, to the Company’s Knowledge, any of its officers, directors or affiliates has taken or will take, directly or indirectly, any action designed or intended to stabilize or manipulate the price of any security of the Company, or which caused or resulted in, or which might in the future reasonably be expected to cause or result in, stabilization or manipulation of the price of any security of the Company.

(z) **Intellectual Property.** The Company and its subsidiaries own or possess the right to (i) valid and enforceable patents, patent applications, trademarks, trademark registrations, service marks, service mark registrations, Internet domain name registrations, copyrights, copyright registrations, licenses, trade secret rights ("Intellectual Property Rights") and (ii) inventions, software, works of authorships, service marks, trade names, databases, formulae, know how, Internet domain names and other intellectual property (including trade secrets and other unpatented and/or unpatentable proprietary confidential information, systems, or procedures) (collectively, "Intellectual Property Assets") necessary to conduct their respective businesses as currently conducted, and as proposed to be conducted to the extent described in the General Disclosure Package and the Prospectus. The Company and its subsidiaries have not received written advice from their legal counsel concluding that any activities necessary to conduct their respective businesses as currently conducted infringe, misappropriate, or otherwise violate, valid and enforceable Intellectual Property Rights of any other person, and have not received written notice of any challenge, which is to their Knowledge still pending, by any other person to the rights of the Company and its subsidiaries with respect to any Intellectual Property Rights or Intellectual Property Assets owned or used by the Company or its subsidiaries. To the Company’s Knowledge, the Company and its subsidiaries’ respective businesses as now conducted do not give rise to any infringement of, or misappropriation of, or other violation of, any valid and enforceable Intellectual Property Rights of any other person. To the Company’s Knowledge, all licenses for the use of the Intellectual Property Rights material to its business as currently conducted described in the General Disclosure Package and the Prospectus are valid, binding upon, and enforceable by or against the parties thereto in accordance with its terms. The Company has complied in all material respects with, and has not received a written claim of breach of any Intellectual Property license, and the Company has no knowledge of any breach or anticipated breach by any other person to any Intellectual Property license. Except as described in the General Disclosure Package and the Prospectus, no written claim has been made against the Company alleging the infringement by the Company of any patent, trademark, service mark, trade name, copyright, or trade secret of any person. The Company has taken all reasonable steps to protect and maintain its Intellectual Property Rights. The consummation of the transactions contemplated by this Agreement will not result in the loss or impairment of or payment of any additional amounts with respect to, nor require the consent of any other person under any written agreement in respect of, the Company’s right to own, use, or hold for use any of the Intellectual Property Rights as owned, used or held for use in the conduct of the business as currently conducted. With respect to the use of the software in the Company’s business as it is currently conducted, the Company has not experienced any material defects in such software including any material error or omission in the processing of any transactions other than defects which have been corrected, and to the Company’s Knowledge, no such software contains any device or feature designed to disrupt, disable, or otherwise impair the functioning of any software or is subject to the terms of any “open source” or other similar license that provides for the source code of the software to be publicly distributed or dedicated to the public. To the Company’s Knowledge, the Company has at all times complied with all applicable laws relating to privacy, data protection, and the collection and use of personal information collected, used, or held for use by the Company in the conduct of the Company’s business. No written claims have been asserted against the Company alleging a violation of any person’s privacy or personal information or data rights and the consummation of the transactions contemplated hereby will not breach or otherwise cause any violation of any law related to privacy, data protection, or the collection and use of personal information collected, used, or held for use by the Company in the conduct of the Company’s business. The Company takes reasonable measures to ensure that such information is protected against unauthorized access, use, or modification. The Company has taken reasonable actions to seek confirmation of ownership of all works of authorship and inventions made by its employees and consultants which relate to the Company’s business. All founders and key employees have signed confidentiality and invention assignment agreements with the Company.
(aa) **Title to Real and Personal Property.** The Company and each of its subsidiaries have good and marketable title in and (in the case of real property) to, or have valid and marketable rights to lease or otherwise use, all items of real or personal property which are material to the business of the Company and its subsidiaries taken as a whole, in each case free and clear of all liens, encumbrances, security interests, claims and defects that (i) do not, singularly or in the aggregate, materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company or any of its subsidiaries or (ii) could not reasonably be expected, singularly or in the aggregate, to have a Material Adverse Effect.

(bb) **No Labor Dispute.** There is (A) no significant unfair labor practice complaint pending against the Company, or any of its subsidiaries, nor to the Company’s Knowledge, threatened against it or any of its subsidiaries, before the National Labor Relations Board, any state or local labor relations board or any foreign labor relations board, and no significant grievance or significant arbitration proceeding arising out of or under any collective bargaining agreement is so pending against the Company or any of its subsidiaries, or, to the Company’s Knowledge, threatened against it and (B) no labor disturbance by or dispute with, employees of the Company or any of its subsidiaries exists or, to the Company’s Knowledge, is contemplated or threatened, and the Company is not aware of any existing or imminent labor disturbance by the employees of any of its or its subsidiaries' principal suppliers, manufacturers, customers or contractors, that could reasonably be expected, singularly or in the aggregate, to have a Material Adverse Effect. The Company is not aware that any key employee or significant group of employees of the Company or any subsidiary plans to terminate employment with the Company or any such subsidiary.
(cc) **Compliance with ERISA.** No “prohibited transaction” (as defined in Section 406 of the Employee Retirement Income Security Act of 1974, as amended, including the regulations and published interpretations thereunder (“ERISA”), or Section 4975 of the Internal Revenue Code of 1986, as amended from time to time (the “Code”)) or “accumulated funding deficiency” (as defined in Section 302 of ERISA) or any of the events set forth in Section 4043(b) of ERISA (other than events with respect to which the thirty (30)-day notice requirement under Section 4043 of ERISA has been waived) has occurred or could reasonably be expected to occur with respect to any employee benefit plan of the Company or any of its subsidiaries which could, singularly or in the aggregate, reasonably be expected to have a Material Adverse Effect. Each employee benefit plan of the Company or any of its subsidiaries is in compliance in all material respects with applicable law, including ERISA and the Code. The Company and its subsidiaries have not incurred and could not reasonably be expected to incur liability under Title IV of ERISA with respect to the termination of, or withdrawal from, any pension plan (as defined in ERISA). Each pension plan for which the Company or any of its subsidiaries would have any liability that is intended to be qualified under Section 401(a) of the Code is so qualified, and nothing has occurred, whether by action or by failure to act, which could, singularly or in the aggregate, reasonably be expected to cause the loss of such qualification.

(dd) **Environmental Laws and Hazardous Materials.** The Company and its subsidiaries are in compliance with all foreign, federal, state and local rules, laws and regulations relating to the use, treatment, storage and disposal of hazardous or toxic substances or waste and protection of health and safety or the environment which are applicable to their businesses (“Environmental Laws”). There has been no storage, generation, transportation, handling, treatment, disposal, discharge, emission, or other release of any kind of toxic or other wastes or other hazardous substances by, due to, or caused by the Company or any of its subsidiaries (or, to the Company’s Knowledge, any other entity for whose acts or omissions the Company or any of its subsidiaries is or may otherwise be liable) upon any of the property now or previously owned or leased by the Company or any of its subsidiaries, or upon any other property, in violation of any law, statute, ordinance, rule, regulation, order, judgment, decree or permit or which would, under any law, statute, ordinance, rule (including rule of common law), regulation, order, judgment, decree or permit, give rise to any liability; and there has been no disposal, discharge, emission or other release of any kind onto such property or into the environment surrounding such property of any toxic or other wastes or other hazardous substances with respect to which the Company or any of its subsidiaries has knowledge.

(ee) **Taxes.** The Company and its subsidiaries each (i) have timely filed all necessary federal, state, local and foreign tax returns, and all such returns were true, complete and correct, (ii) have paid all federal, state, local and foreign taxes, for which it is liable, including, without limitation, all sales and use taxes and all taxes which the Company or any of its subsidiaries is obligated to withhold from amounts owing to employees, creditors and third parties, and (iii) do not have any tax deficiency or claims outstanding or assessed or, to its Knowledge, proposed against any of them, except those, in each of the cases described in clauses (i), (ii) and (iii) above, that would not, singularly or in the aggregate, have a Material Adverse Effect.

(ff) **Insurance.** The Company and each of its subsidiaries carry, or are covered by, insurance in such amounts and covering such risks as is adequate for the conduct of their respective businesses and the value of their respective properties. Neither the Company nor any of its subsidiaries has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not reasonably be expected to have a Material Adverse Effect. Neither the Company nor any of its subsidiaries has received written notice from any insurer, agent of such insurer or the broker of the Company or any of its subsidiaries that any material capital improvements or any other material expenditures (other than premium payments) are required or necessary to be made in order to continue such insurance.
Accounting Controls. The Company and each of its subsidiaries maintains a system of “internal control over financial reporting” (as such term is defined in Rule 13a-15(f) of the General Rules and Regulations under the Exchange Act (the “Exchange Act Rules”)) that complies with the requirements of the Exchange Act and has been designed by their respective principal executive and principal financial officers, or under their supervision, to provide reasonable assurances that (i) transactions are executed in accordance with management’s general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain accountability for assets; (iii) access to assets is permitted only in accordance with management’s general or specific authorization; (iv) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences and (v) interactive data in eXtensible Business Reporting Language included or incorporated by reference in the Registration Statement fairly presents the Commission’s rules and guidelines applicable thereto. The Company’s internal control over financial reporting is effective. Except as described in the General Disclosure Package, since the end of the Company’s most recent audited fiscal year, there has been (A) no material weakness in the Company’s internal control over financial reporting (whether or not remediated) and (B) no change in the Company’s internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company’s internal control over financial reporting.

Disclosure Controls. The Company and its subsidiaries maintain disclosure controls and procedures (as such term is defined in Rule 13a-15(e) of the Exchange Act Rules) that comply with the requirements of the Exchange Act; such disclosure controls and procedures have been designed to ensure that information required to be disclosed by the Company and its subsidiaries in reports that they file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the Commission’s rules and forms, including controls and procedures designed to ensure that such information is accumulated and communicated to the Company’s management to allow timely decisions regarding disclosures. The Company and its subsidiaries have conducted evaluations of the effectiveness of their disclosure controls as required by Rule 13a-15 of the Exchange Act.

Minute Books. The minute books of the Company and each of its subsidiaries have been made available to counsel for the Underwriters, and such books (i) contain a complete summary of all meetings and written actions of the board of directors of the Company (the “Board”) (including each Board committee) and stockholders of the Company (or analogous governing bodies and interest holders, as applicable), and each of its subsidiaries since the time of its respective incorporation or organization through the date of the latest meeting and action, and (ii) accurately in all material respects reflect all transactions referred to in such minutes or written consents.

No Undisclosed Relationships. No relationship, direct or indirect, exists between or among the Company or any of its subsidiaries on the one hand, and the directors, officers, stockholders (or analogous interest holders), customers or suppliers of the Company or any of its affiliates on the other hand, which is required to be described in the General Disclosure Package and the Prospectus and which is not so described.

No Registration Rights. No person or entity has the right to require registration of shares of Common Stock or other securities of the Company or any of its subsidiaries because of the filing or effectiveness of the Registration Statement or otherwise, except for persons and entities who have expressly waived such right in writing or who have been given timely and proper written notice and have failed to exercise such right within the time or times required under the terms and conditions of such right. Except as described in the General Disclosure Package, there are no persons with registration rights or similar rights to have any securities registered by the Company or any of its subsidiaries under the Securities Act.
(II) Margin Rules. The application of the proceeds received by the Company from the issuance, sale and delivery of the Stock as described in the General Disclosure Package and the Prospectus will not violate Regulation T, U or X of the Board of Governors of the Federal Reserve system or any other regulation of such Board of Governors.

(mm) No Broker’s Fees. Neither the Company nor any of its subsidiaries is a party to any contract, agreement or understanding with any person (other than this Agreement) that would give rise to a valid claim against the Company or any of its subsidiaries or the Underwriters for a brokerage commission, finder’s fee or like payment in connection with the offering and sale of the Stock or any transaction contemplated by this Agreement, the Registration Statement, the General Disclosure Package or the Prospectus.

(nn) No Restrictions on Subsidiaries. Except as described in the General Disclosure Package and the Prospectus, no subsidiary of the Company is currently prohibited, directly or indirectly, under any agreement or other instrument to which it is a party or is subject, from paying any dividends to the Company, from making any other distribution on such subsidiary’s capital stock, from repaying to the Company any loans or advances to such subsidiary from the Company or from transferring any of such subsidiary’s properties or assets to the Company or any other subsidiary of the Company.

(oo) PFIC. The Company is not a Passive Foreign Investment Company (“PFIC”) within the meaning of Section 1296 of the United States Internal Revenue Code of 1966, and the Company is not likely to become a PFIC.

(pp) Forward-Looking Statements. No forward-looking statement (within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act) contained in either the General Disclosure Package or the Prospectus has been made or reaffirmed without a reasonable basis or has been disclosed other than in good faith.

(qq) Listing. The Company is subject to and in compliance in all material respects with the reporting requirements of Section 13 or Section 15(d) of the Exchange Act. The Common Stock is registered pursuant to Section 12(b) or 12(g) of the Exchange Act and is listed on the NASDAQ Capital Market (the “Exchange”), and the Company has taken no action designed to, or reasonably likely to have the effect of, terminating the registration of the Common Stock under the Exchange Act or delisting the Common Stock from the Exchange, nor has the Company received any notification that the Commission or the Financial Industry Regulatory Authority (“FINRA”) is contemplating terminating such registration or listing.

(rr) Sarbanes-Oxley Act. There is and has been no failure on the part of the company or, to the Company’s Knowledge, any of the Company’s officers or directors, in their capacities as such, to comply with any provision of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith (the “Sarbanes-Oxley Act”), including Section 402 related to loans and Sections 302 and 906 related to certifications.

(ss) No Unlawful Payments. Neither the Company nor any of its subsidiaries nor, to the Company’s Knowledge, any employee or agent of the Company or any subsidiary, has (i) used any corporate funds for unlawful contributions, gifts, entertainment or other unlawful expenses relating to political activity, (ii) made any unlawful payment to foreign or domestic government officials or employees or to foreign or domestic political parties or campaigns from corporate funds, (iii) violated any provision of the Foreign Corrupt Practices Act of 1977, as amended or (iv) made any other unlawful payment.
Statistical and Market Data. The statistical and market related data included in the Registration Statement, the General Disclosure Package and the Prospectus are based on or derived from sources that the Company believes to be reliable and accurate, and such data agree with the sources from which they are derived.

Compliance with Money Laundering Laws. The operations of the Company and its subsidiaries are and have been conducted at all times in material compliance with all applicable financial recordkeeping and reporting requirements, including those of the Bank Secrecy Act, as amended by Title III of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 ("USA PATRIOT Act"), and the applicable anti-money laundering statutes of jurisdictions where the Company and its subsidiaries conduct business, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the "Anti-Money Laundering Laws"), and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Anti-Money Laundering Laws is pending or, to the Company's knowledge, threatened.

Compliance with OFAC.

(A) Neither the Company nor any of its subsidiaries, nor, to the Company's Knowledge, any director, officer, agent, employee or affiliate or representative of the Company or any of its subsidiaries, is an individual or entity ("Person") that is, or is owned or controlled by a Person that is: (i) the subject of any sanctions administered or enforced by the U.S. Department of Treasury's Office of Foreign Assets Control ("OFAC"), the United Nations Security Council ("UNSC"), the European Union ("EU"), Her Majesty's Treasury ("HMT"), or other relevant sanctions authority (collectively, "Sanctions"), nor (ii) located, organized or resident in a country or territory that is the subject of Sanctions (including, without limitation, Cuba, Iran, North Korea, Sudan and Syria).

(B) The Company will not, directly or indirectly, use the proceeds of the offering, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other Person: (i) to fund or facilitate any activities or business of or with any Person or in any country or territory that, at the time of such funding or facilitation, is the subject of Sanctions; or in any other manner that will result in a violation of Sanctions by any Person (including any Person participating in the offering, whether as underwriter, advisor, investor or otherwise).

(C) For the past five (5) years, the Company and its subsidiaries have not knowingly engaged in, are not now knowingly engaged in, and will not engage in, any dealings or transactions with any Person, or in any country or territory, that at the time of the dealing or transaction is or was the subject of Sanctions.

No Associated Persons; FINRA Matters. Neither the Company nor, to the Company's knowledge, any of its affiliates (within the meaning of FINRA Rule 5121(f)(1)) directly or indirectly controls, is controlled by, or is under common control with, or is an associated person (within the meaning of Article I, Section 1(ee) of the By-laws of FINRA) of, any member firm of FINRA.

Any certificate signed by or on behalf of the Company and delivered to the Representative or to counsel for the Underwriters shall be deemed to be a representation and warranty by the Company to each Underwriter as to the matters covered thereby.
3. Purchase, Sale and Delivery of Offered Securities: On the basis of the representations, warranties and agreements herein contained, but subject to the terms and conditions herein set forth, the Company agrees to sell to the Underwriters, and the Underwriters agree, severally and not jointly, to purchase from the Company the respective number of shares of Firm Stock set forth opposite the names of the Underwriters in Schedule A hereto.

The purchase price per share to be paid by the Underwriters to the Company for the Stock will be $[_____] per share (the “Purchase Price”).

The Company will deliver the Firm Stock to the Representative for the respective accounts of the several Underwriters, through the facilities of The Depository Trust Company, in each such case, issued in such names and in such denominations as the Representative may direct by notice in writing to the Company given at or prior to 12:00 Noon, New York time, on the second (2nd) full business day preceding the Closing Date against payment of the aggregate Purchase Price therefor by wire transfer in federal (same day) funds to an account at a bank specified by the Company payable to the order of the Company for the Firm Stock sold by them all at the offices of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., One Financial Center, Boston, Massachusetts 02111. Time shall be of the essence, and delivery at the time and place specified pursuant to this Agreement is a further condition of the obligations of each Underwriter hereunder. The time and date of the delivery and closing shall be at 10:00 A.M., New York time, on [______], 2017, in accordance with Rule 15c6-1 of the Exchange Act. The time and date of such payment and delivery are herein referred to as the “Closing Date”. The Closing Date and the location of delivery of, and the form of payment for, the Firm Stock may be varied by agreement between the Company and the Representative.

For the purpose of covering any over-allotments in connection with the distribution and sale of the Firm Stock as contemplated by the Prospectus, the Underwriters may purchase all or less than all of the Optional Stock. The price per share to be paid for the Optional Stock shall be the Purchase Price. The Company agrees to sell to the Underwriters the number of shares of Optional Stock specified in the written notice delivered by the Representative to the Company described below and the Underwriters agree, severally and not jointly, to purchase such shares of Optional Stock. The option granted hereby may be exercised as to all or any part of the Optional Stock at any time, and from time to time, provided however, that notice of such exercise must be delivered not more than thirty (30) days subsequent to the date of this Agreement. No Optional Stock shall be sold and delivered unless the Firm Stock previously has been, or simultaneously is, sold and delivered. The right to purchase the Optional Stock or any portion thereof may be surrendered and terminated at any time upon notice by the Representative to the Company.

The option granted hereby shall be exercised by written notice being given to the Company by the Representative setting forth the number of shares of the Optional Stock to be purchased by the Underwriters and the date and time for delivery of and payment for the Optional Stock. Each date and time for delivery of and payment for the Optional Stock (which may be the Closing Date, but not earlier) is herein called the “Option Closing Date” and shall in no event be earlier than two (2) business days nor later than five (5) business days after written notice is given. The Option Closing Date and the Closing Date are herein called the “Closing Dates.”

The Company will deliver the Optional Stock to the Representative for the respective accounts of the several Underwriters through the facilities of The Depository Trust Company, issued in such names and in such denominations as the Representative may direct by notice in writing to the Company given at or prior to 12:00 Noon, New York time, on the second (2nd) full business day preceding the Option Closing Date against payment of the aggregate Purchase Price therefor by wire transfer in federal (same day) funds to an account at a bank acceptable to the Representative payable to the order of the Company for the Optional Stock sold by it, all at the offices of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., One Financial Center, Boston, Massachusetts 02111. Time shall be of the essence, and delivery at the time and place specified pursuant to this Agreement is a further condition of the obligations of each Underwriter hereunder. The Option Closing Date and the location of delivery of, and the form of payment for, the Optional Stock may be varied by agreement between the Company and the Representative.
The several Underwriters propose to offer the Stock for sale upon the terms and conditions set forth in the Prospectus.

4. **Further Agreements Of The Company**

   (l) **Further Agreements of the Company.** The Company agrees with the several Underwriters:

   (a) **Required Filings; Amendments or Supplements; Notice to the Representative.** To prepare the Rule 462(b) Registration Statement, if necessary, in a form approved by the Representative and file such Rule 462(b) Registration Statement with the Commission by 10:00 P.M., New York time, on the date hereof, and the Company shall at the time of filing either pay to the Commission the filing fee for the Rule 462(b) Registration Statement or give irrevocable instructions for the payment of such fee pursuant to Rule 111(b) under the Rules and Regulations; to prepare the Prospectus in a form approved by the Representative containing information previously omitted at the time of effectiveness of the Registration Statement in reliance on Rules 430A, 430B or 430C of the Rules and Regulations and to file such Prospectus pursuant to Rule 424(b) of the Rules and Regulations not later than the second (2nd) business day following the execution and delivery of this Agreement or, if applicable, such earlier time as may be required by the Securities Act; to notify the Representative immediately of the Company’s intention to file or prepare any supplement or amendment to the Registration Statement or to the Prospectus and to make no amendment or supplement to the Registration Statement, the General Disclosure Package or to the Prospectus to which the Representative shall reasonably object by notice to the Company after a reasonable period to review; to advise the Representative, promptly after it receives notice thereof, of the time when any amendment to the Registration Statement has been filed or becomes effective or any supplement to the General Disclosure Package or the Prospectus or any amended Prospectus or any Issuer Free Writing Prospectus has been filed and to furnish the Underwriters with copies thereof; to file promptly all material required to be filed by the Company with the Commission pursuant to Rules 433(d) or 163(b)(2) of the Rules and Regulations, as the case may be; to file promptly all reports and any definitive proxy or information statements required to be filed by the Company with the Commission pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act subsequent to the date of the Prospectus and for so long as the delivery of a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) of the Rules and Regulations) is required in connection with the offering or sale of the Stock; to advise the Representative, promptly after it receives notice thereof, of the issuance by the Commission of any stop order or of any order preventing or suspending the use of any Preliminary Prospectus, any Issuer Free Writing Prospectus, or the Prospectus, of the suspension of the qualification of the Stock for offering or sale in any jurisdiction, of the initiation or threatening of any proceeding for any such purpose, or of any request by the Commission for the amending or supplementing of the Registration Statement, the General Disclosure Package or the Prospectus for additional information; and, in the event of the issuance of any stop order or of any order preventing or suspending the use of any Preliminary Prospectus, any Issuer Free Writing Prospectus or the Prospectus or suspending any such qualification, and promptly to use its best efforts to obtain the withdrawal of such order.

   (b) **Reserved.**

   (c) **Permitted Free Writing Prospectus.** The Company represents and agrees that, unless it obtains the prior consent of the Representative, and each Underwriter represents and agrees that, unless it obtains the prior consent of the Company and the Representative, it has not made and will not, make any offer relating to the Stock that would constitute a “free writing prospectus” as defined in Rule 405 of the Rules and Regulations (each, a “Permitted Free Writing Prospectus”); provided that the prior written consent of the Representative hereto shall be deemed to have been given in respect of the Issuer Free Writing Prospectuses included in Schedule C hereto. The Company represents that it has treated and agrees that it will treat each Permitted Free Writing Prospectus as an Issuer Free Writing Prospectus, comply with the requirements of Rules 164 and 433 of the Rules and Regulations applicable to any Issuer Free Writing Prospectus, including the requirements relating to timely filing with the Commission, legending and record keeping and will not take any action that would result in an Underwriter or the Company being required to file with the Commission pursuant to Rule 433(d) of the Rules and Regulations a free writing prospectus prepared by or on behalf of such Underwriter that such Underwriter otherwise would not have been required to file thereunder.
(d) **Ongoing Compliance.** If at any time prior to the date when a prospectus relating to the Stock is required to be delivered (or in lieu thereof, the notice referred to in Rule 173(a) under the Securities Act) any event occurs or condition exists as a result of which the Prospectus as then amended or supplemented would include any untrue statement of a material fact, or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made when the Prospectus is delivered (or in lieu thereof, the notice referred to in Rule 173(a) of the Rules and Regulations), not misleading, or if it is necessary at any time to amend or supplement the Registration Statement or the Prospectus or to file under the Exchange Act any document incorporated by reference in the Prospectus to comply with the Securities Act or the Exchange Act, that the Company will promptly notify the Representative thereof and upon their request will prepare an appropriate amendment or supplement or upon their request make an appropriate filing pursuant to Section 13 or 14 of the Exchange Act in form and substance satisfactory to the Representative which will correct such statement or omission or effect such compliance and will use its reasonable best efforts to have any amendment to the Registration Statement declared effective as soon as possible. The Company will furnish without charge to each Underwriter and to any dealer in securities electronic copies of such amendment or supplement. In case any Underwriter is required to deliver a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) of the Rules and Regulations) relating to the Stock, the Company upon the request of the Representative will prepare promptly an amended or supplemented Prospectus as may be necessary to permit compliance with the requirements of Section 10(a)(3) of the Securities Act and deliver to such Underwriter as many copies as such Underwriter may request of such amended or supplemented Prospectus complying with Section 10(a)(3) of the Securities Act.

(e) **Amendment to General Disclosure Package.** If the General Disclosure Package is being used to solicit offers to buy the Stock at a time when the Prospectus is not yet available to prospective purchasers and any event shall occur as a result of which, in the judgment of the Company or in the reasonable opinion of the Underwriters, it becomes necessary to amend or supplement the General Disclosure Package in order to make the statements therein, in the light of the circumstances then prevailing, not misleading, or to make the statements therein not conflict with the information contained in the Registration Statement then on file and not superseded or modified, or if it is necessary at any time to amend or supplement the General Disclosure Package to comply with any law, the Company promptly will either (i) prepare, file with the Commission (if required) and furnish to the Underwriters and any dealers an appropriate amendment or supplement to the General Disclosure Package or (ii) prepare and file with the Commission an appropriate filing under the Exchange Act which shall be incorporated by reference in the General Disclosure Package so that the General Disclosure Package as so amended or supplemented will not, in the light of the circumstances then prevailing, be misleading or conflict with the Registration Statement then on file, or so that the General Disclosure Package will comply with law.
Amendment to Issuer Free Writing Prospectus. If at any time following issuance of an Issuer Free Writing Prospectus there occurred or occurs an event or development as a result of which such Issuer Free Writing Prospectus conflicted or will conflict with the information contained in the Registration Statement, Pricing Prospectus or Prospectus, including any document incorporated by reference therein, and not superseded or modified or included or would include an untrue statement of a material fact or omitted or would omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances prevailing at the subsequent time, not misleading, the Company has promptly notified or will promptly notify the Representative so that any use of the Issuer Free Writing Prospectus may cease until it is amended or supplemented and has promptly amended or will promptly amend or supplement, at its own expense, such Issuer Free Writing Prospectus to eliminate or correct such conflict, untrue statement or omission. The foregoing sentence does not apply to statements in or omissions from any Issuer Free Writing Prospectus in reliance upon, and in conformity with, written information furnished to the Company through the Representative by or on behalf of any Underwriter specifically for inclusion therein, which information the parties hereto agree is limited to the Underwriter’s Information.

Delivery of Registration Statement. To the extent not available on the Commission’s Electronic Data Gathering, Analysis and Retrieval system or any successor system (“EDGAR”), upon the request of the Representative, to furnish promptly to the Representative and to counsel for the Underwriters a signed copy of the Registration Statement as originally filed with the Commission, and of each amendment thereto filed with the Commission, including all consents and exhibits filed therewith.

Delivery of Copies. Upon request of the Representative, to the extent not available on EDGAR, to deliver promptly to the Representative in New York City such number of the following documents as the Representative shall reasonably request: (i) conformed copies of the Registration Statement as originally filed with the Commission (in each case excluding exhibits), (ii) each Preliminary Prospectus, (iii) any Issuer Free Writing Prospectus, (iv) the Prospectus (the delivery of the documents referred to in clauses (i), (ii), (iii) and (iv) of this paragraph (h) to be made not later than 10:00 A.M., New York time, on the business day following the execution and delivery of this Agreement), (v) conformed copies of any amendment to the Registration Statement (excluding exhibits), and (vi) any amendment or supplement to the General Disclosure Package or the Prospectus (the delivery of the documents referred to in clauses (v) and (vi) of this paragraph (h) to be made not later than 10:00 A.M., New York City time, on the business day following the date of such amendment or supplement).

Earnings Statement. To make generally available to its stockholders as soon as practicable, but in any event not later than sixteen (16) months after the effective date of the Registration Statement (as defined in Rule 158(c) of the Rules and Regulations), an earnings statement of the Company and its subsidiaries (which need not be audited) complying with Section 11(a) of the Securities Act (including, at the option of the Company, Rule 158).

Blue Sky Compliance. To take promptly from time to time such actions as the Representative may reasonably request to qualify the Stock for offering and sale under the securities or Blue Sky laws of such jurisdictions (domestic or foreign) as the Representative may reasonably designate and to continue such qualifications in effect, and to comply with such laws, for so long as required to permit the offer and sale of Stock in such jurisdictions; provided that the Company and its subsidiaries shall not be obligated to (i) qualify as foreign corporations in any jurisdiction in which they are not so qualified, (ii) file a general consent to service of process in any jurisdiction or (iii) subject itself to taxation in any such jurisdiction if it is not otherwise so subject.

Reports. Upon request, during the period of five (5) years from the date hereof, to deliver to each of the Underwriters, (i) as soon as they are available, copies of all reports or other communications (financial or other) furnished to stockholders, and (ii) as soon as they are available, copies of any reports and financial statements furnished or filed with the Commission or any national securities exchange on which the Stock is listed. However, so long as the Company is subject to the reporting requirements of either Section 13 or Section 15(d) of the Exchange Act and is timely filing reports on EDGAR, it is not required to furnish such reports or statements to the Underwriters.
(l) **Lock-Up.** During the period commencing on and including the date hereof and ending on and including the 90th day following the date of this Agreement, (the "Lock-Up Period") the Company will not, without the prior written consent of the Representative (which consent may be withheld at the sole discretion of the Representative), directly or indirectly offer, sell (including, without limitation, any short sale), assign, transfer, pledge, contract to sell, establish an open "put equivalent position" within the meaning of Rule 16a-1(h) under the Exchange Act, or otherwise dispose of, or announce the offering of, or file any registration statement under the Securities Act in respect of, any Common Stock, options, rights or warrants to acquire Common Stock or securities exchangeable or exercisable for or convertible into Common Stock (other than as contemplated by this Agreement with respect to the Stock) or publicly announce any intention to do any of the foregoing; provided, however, that the Company may (i) issue Common Stock and options to purchase Common Stock, shares of Common Stock under options granted and other securities, each pursuant to any director or employee stock option plan, stock ownership plan or dividend reinvestment plan of the Company in effect on the date hereof and described in the General Disclosure Package; (ii) issue Common Stock pursuant to the conversion of securities or the exercise of warrants, which securities or warrants are outstanding on the date hereof and described in the General Disclosure Package; (iii) adopt a new equity incentive plan, and file a registration statement on Form S-8 under the Securities Act to register the offer and sale of securities to be issued pursuant to such new equity incentive plan, and issue securities pursuant to such new equity incentive plan (including, without limitation, the issuance of shares of Common Stock upon the exercise of options or other securities issued pursuant to such new equity incentive plan), provided that (1) such new equity incentive plan satisfies the transaction requirements of General Instruction A.1 of Form S-8 under the Securities Act and (2) this clause (iii) shall not be available unless each recipient of shares of Common Stock, or securities exchangeable or exercisable for or convertible into Common Stock, pursuant to such new equity incentive plan shall be contractually prohibited from selling, offering, disposing of or otherwise transferring any such shares or securities during the remainder of the Lock-Up Period. The Company will cause each person and entity listed in Schedule D to furnish to the Representative, prior to the Closing Date, a "lock-up" agreement, substantially in the form of Exhibit A hereto. In addition, the Company will direct the transfer agent to place stop transfer restrictions upon any such securities of the Company that are bound by such "lock-up" agreements.

(m) **Delivery of SEC Correspondence.** To supply the Underwriters with copies of all correspondence to and from, and all documents issued to and by, the Commission in connection with the registration of the Stock under the Securities Act or any of the Registration Statement, any Preliminary Prospectus or the Prospectus, or any amendment or supplement thereto.

(n) **Press Releases.** Prior to the Closing Date, not to issue any press release or other communication directly or indirectly or hold any press conference with respect to the Company, its condition, financial or otherwise, or earnings, business affairs or business prospects (except for routine oral marketing communications in the ordinary course of business and consistent with the past practices of the Company and of which the Representative is notified), without the prior consent of the Representative, unless in the judgment of the Company and its counsel, and after notification to the Representative, such press release or communication is required by law.

(o) **Compliance with Regulation M.** Until the Underwriters shall have notified the Company of the completion of the resale of the Stock, that the Company will not, and will use its reasonable best efforts to cause its affiliated purchasers (as defined in Regulation M under the Exchange Act) not to, either alone or with one or more other persons, bid for or purchase, for any account in which it or any of its affiliated purchasers has a beneficial interest, any Stock, or attempt to induce any person to purchase any Stock; and not to, and to use its reasonable best efforts to cause its affiliated purchasers not to, make bids or purchase for the purpose of creating actual, or apparent, active trading in or of raising the price of the Stock.
(p) **Registrar and Transfer Agent.** To continue to maintain, at its expense, a registrar and transfer agent for the Stock.

(q) **Use of Proceeds.** To apply the net proceeds from the sale of the Stock as set forth in the Registration Statement, the General Disclosure Package and the Prospectus under the heading "Use of Proceeds," and except as disclosed in the General Disclosure Package, the Company does not intend to use any of the proceeds from the sale of the Stock hereunder to repay any outstanding debt owed to any affiliate of any Underwriter.

(r) **Exchange Listing.** To use its reasonable best efforts to list for quotation the Stock on the Exchange.

(s) **Performance of Covenants and Satisfaction of Conditions.** To use its reasonable best efforts to do and perform all things required to be done or performed under this Agreement by the Company prior to each Closing Date and to satisfy all conditions precedent to the delivery of the Firm Stock and the Optional Stock.

5. **Payment of Expenses.** The Company agrees to pay, or reimburse if paid by any Underwriter, whether or not the transactions contemplated hereby are consummated or this Agreement is terminated: (a) the costs incident to the authorization, issuance, sale, preparation and delivery of the Stock and any taxes payable in that connection; (b) the costs incident to the registration of the Stock under the Securities Act; (c) the costs incident to the preparation, printing and distribution of the Registration Statement, any Preliminary Prospectus, any Issuer Free Writing Prospectus, the General Disclosure Package, the Prospectus, any amendments, supplements and exhibits thereto and the costs of printing, reproducing and distributing, this Agreement and any closing documents by mail, telex or other means of communications; (d) the fees and expenses (including related fees and expenses of counsel for the Underwriters) incurred in connection with securing any required review by FINRA of the terms of the sale of the Stock and any filings made with FINRA; (e) any applicable listing or other fees; (f) the fees and expenses (including related fees and expenses of counsel to the Underwriters) of qualifying the Stock under the securities laws of the several jurisdictions as provided in Section 4(i)(j)); and of preparing, printing and distributing wrappers, Blue Sky Memoranda and Legal Investment Surveys; (g) the cost of preparing and printing stock certificates; (h) all fees and expenses of the registrar and transfer agent of the Stock; (i) the fees, disbursements and expenses of counsel to the Underwriters up to an aggregate of $250,000 and all other expenses to the Underwriters up to an aggregate of $50,000; and (j) the costs and expenses of the Company relating to investor presentations on any “road show” undertaken in connection with the marketing of the offering of the Stock, including, without limitation, expenses associated with the preparation or dissemination of any electronic road show, expenses associated with the production of road show slides and graphics, fees and expenses of any consultants engaged in connection with the road show presentations with the prior approval of the Company, travel and lodging expenses of the officers of the Company and such consultants, including the cost of any aircraft chartered in connection with the road show; provided that, except to the extent otherwise provided in this Section 5 and in Sections 9 and 10, the Underwriters shall pay their own costs and expenses, including the fees and expenses of their counsel not contemplated herein, any transfer taxes on the resale of any Stock by them and the expenses of advertising any offering of the Stock made by the Underwriters.
6. **Conditions of Underwriters’ Obligations.** The respective obligations of the several Underwriters hereunder are subject to the accuracy, when made and as of the Applicable Time and on the Closing Date, of the representations and warranties of the Company contained herein, to the accuracy of the statements of the Company made in any certificates pursuant to the provisions hereof, to the performance by the Company of its obligations hereunder, and to each of the following additional terms and conditions:

(t) **Registration Compliance; No Stop Orders.** The Registration Statement has become effective under the Securities Act, and no stop order suspending the effectiveness of the Registration Statement or any part thereof, preventing or suspending the use of any Preliminary Prospectus, the Prospectus or any Permitted Free Writing Prospectus or any part thereof shall have been issued and no proceedings for that purpose or pursuant to Section 8A under the Securities Act shall have been initiated or threatened by the Commission, and all requests for additional information on the part of the Commission (to be included in the Registration Statement or the Prospectus or otherwise) shall have been complied with to the reasonable satisfaction of the Representative; the Rule 462(b) Registration Statement, if any, each Issuer Free Writing Prospectus and the Prospectus shall have been filed with, the Commission within the applicable time period prescribed for such filing by, and in compliance with, the Rules and Regulations and in accordance with Section 4(i)(a), and the Rule 462(b) Registration Statement, if any, shall have become effective immediately upon its filing with the Commission; and FINRA shall have raised no unresolved objection to the fairness and reasonableness of the terms of this Agreement or the transactions contemplated hereby.

(u) **No Material Misstatements.** None of the Underwriters shall have discovered and disclosed to the Company on or prior to such Closing Date that the Registration Statement or any amendment or supplement thereto contains an untrue statement of a fact which, in the opinion of counsel for the Underwriters, is material or omits to state any fact which, in the opinion of such counsel, is material and is required to be stated therein or is necessary to make the statements therein not misleading, or that the General Disclosure Package, any Issuer Free Writing Prospectus or the Prospectus or any amendment or supplement thereto contains an untrue statement of fact which, in the opinion of such counsel, is material or omits to state any fact which, in the opinion of such counsel, is material and is necessary in order to make the statements, in the light of the circumstances in which they were made, not misleading.

(v) **Corporate Proceedings.** All corporate proceedings incident to the authorization, form and validity of each of this Agreement, the Stock, the Registration Statement, the General Disclosure Package, each Issuer Free Writing Prospectus and the Prospectus and the transactions contemplated hereby shall be reasonably satisfactory in all material respects to counsel for the Underwriters, and the Company shall have furnished to such counsel all documents and information that they may reasonably request to enable them to pass upon such matters.

(w) **Opinion and 10b-5 Statement of Counsel for the Company.** Goodwin Procter LLP shall have furnished to the Representative such counsel’s written opinion and 10b-5 Statement, as counsel to the Company, addressed to the Underwriters and dated such Closing Date, in form and substance reasonably satisfactory to the Representative.

(x) **Opinion and 10b-5 Statement of Intellectual Property Counsel for the Company.** Venable LLP shall have furnished to the Representative such counsel’s written opinion, as intellectual property counsel to the Company, addressed to the Underwriters and dated such Closing Date, in form and substance reasonably satisfactory to the Representative.

(y) **Opinion and 10b-5 Statement of Counsel for the Underwriters.** The Representative shall have received from Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., counsel for the Underwriters, such opinion or opinions and 10b-5 Statement, dated such Closing Date, with respect to such matters as the Underwriters may reasonably require, and the Company shall have furnished to such counsel such documents as they request for enabling them to pass upon such matters.
(2) **Comfort Letter.** At the time of the execution of this Agreement, the Representative shall have received from BPM LLP, a letter, addressed to the Underwriters, executed and dated such date, in form and substance satisfactory to the Representative (i) confirming that they are an independent registered accounting firm with respect to the Company and its subsidiaries within the meaning of the Securities Act and the Rules and Regulations and PCAOB and (ii) stating the conclusions and findings of such firm, of the type ordinarily included in accountants’ “comfort letters” to underwriters, with respect to the financial statements and certain financial information contained or incorporated by reference in the Registration Statement, the General Disclosure Package and the Prospectus.

(aa) **Bring Down Comfort.** On the effective date of any post-effective amendment to the Registration Statement and on such Closing Date, the Representative shall have received a letter (the “bring-down letter”) from BPM LLP, addressed to the Underwriters and dated such Closing Date confirming, as of the date of the bring-down letter (or, with respect to matters involving changes or developments since the respective dates as of which specified financial information is given in the General Disclosure Package and the Prospectus, as the case may be, as of a date not more than three (3) business days prior to the date of the bring-down letter), the conclusions and findings of such firm, of the type ordinarily included in accountants’ “comfort letters” to underwriters, with respect to the financial information and other matters covered by its letter delivered to the Representative concurrently with the execution of this Agreement pursuant to paragraph (g) of this Section 6.

(bb) **Officer’s Certificate.** The Company shall have furnished to the Representative a certificate, dated such Closing Date, of its Chief Executive Officer and its Chief Financial Officer stating in their respective capacities as officers of the Company on behalf of the Company that (i) no stop order suspending the effect of the Registration Statement (including, for avoidance of doubt, any Rule 462(b) Registration Statement), or any post-effective amendment thereto, shall be in effect and no proceedings for such purpose shall have been instituted or, to their knowledge, threatened by the Commission, (ii) for the period from and including the date of this Agreement through and including such Closing Date, there has not occurred any Material Adverse Effect, (iii) to their knowledge, after reasonable investigation, as of such Closing Date, the representations and warranties of the Company in this Agreement are true and correct and the Company has complied with all agreements and satisfied all conditions on its part to be performed or satisfied hereunder at or prior to such Closing Date, and (iv) there has not been, subsequent to the date of the most recent audited financial statements included or incorporated by reference in the General Disclosure Package, any Material Adverse Effect in the financial position or results of operations of the Company, or any change or development that, singularly or in the aggregate, would reasonably be expected to involve a Material Adverse Effect, except as set forth in the General Disclosure Package and the Prospectus.

(cc) **No Material Adverse Effect.** Since the date of the latest audited financial statements included in the General Disclosure Package, (i) neither the Company nor any of its subsidiaries shall have sustained any loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, otherwise than as set forth in the General Disclosure Package, and (ii) there shall not have been any change in the capital stock (other than stock option and warrant exercise and stock repurchases in the ordinary course of business) or long-term debt of the Company or any of its subsidiaries, or any change, or any development involving a prospective change, in or affecting the business, general affairs, management, financial position, stockholders’ equity or results of operations of the Company and its subsidiaries, otherwise than as set forth in the General Disclosure Package, the effect of which, in any such case described in clause (i) or (ii) of this paragraph (j), is, in the judgment of the Representative, so material and adverse as to make it impracticable or inadvisable to proceed with the sale or delivery of the Stock on the terms and in the manner contemplated in the General Disclosure Package.
(dd) No Legal Impediment to Issuance. No action shall have been taken and no law, statute, rule, regulation or order shall have been enacted, adopted or issued by any governmental or regulatory agency or body which would prevent the issuance or sale of the Stock; and no injunction, restraining order or order of any other nature by any federal or state court of competent jurisdiction shall have been issued which would prevent the issuance or sale of the Stock or materially and adversely affect or potentially materially and adversely affect the business or operations of the Company.

(ee) No Downgrade. Subsequent to the execution and delivery of this Agreement (i) no downgrading shall have occurred in the Company’s corporate credit rating or the rating accorded the Company’s debt securities by any “nationally recognized statistical rating organization,” as that term is defined by the Commission for purposes of Rule 436(g)(2) of the Rules and Regulations and (ii) no such organization shall have publicly announced that it has under surveillance or review (other than an announcement with positive implications of a possible upgrading), the Company’s corporate credit rating or the rating of any of the Company’s debt securities.

(ff) Market Conditions. Subsequent to the execution and delivery of this Agreement there shall not have occurred any of the following: (i) trading in any of the Company’s securities shall have been suspended or materially limited by the Commission or the Exchange, or trading in securities generally on the New York Stock Exchange, NASDAQ Global Select Market, NASDAQ Global Market, NASDAQ Capital Market or the NYSE MKT LLC or in the over-the-counter market, or trading in any securities of the Company on any exchange or in the over-the-counter market, shall have been suspended or materially limited, or minimum or maximum prices or maximum range for prices shall have been established on any such exchange or such market by the Commission, by such exchange or market or by any other regulatory body or governmental authority having jurisdiction, (ii) a banking moratorium shall have been declared by Federal or state authorities or a material disruption has occurred in commercial banking or securities settlement or clearance services in the United States, (iii) the United States shall have become engaged in hostilities, or the subject of an act of terrorism, or there shall have been an outbreak of or escalation in hostilities involving the United States, or there shall have been a declaration of a national emergency or war by the United States or (iv) there shall have occurred such a material adverse change in general economic, political or financial conditions (or the effect of international conditions on the financial markets in the United States shall be such) as to make it, in the judgment of the Representative, impracticable or inadvisable to proceed with the sale or delivery of the Stock on the terms and in the manner contemplated in the General Disclosure Package and the Prospectus.

(gg) Exchange Listing. The Company shall have filed a Notification: Listing of Additional Shares form with the Exchange and shall have received no objection thereto from the Exchange.

(hh) Good Standing. The Representative shall have received on and as of such Closing Date satisfactory evidence of the good standing of the Company and its subsidiaries in their respective jurisdictions of organization and their good standing as foreign entities in such other jurisdictions as the Representative may reasonably request, in each case in writing or any standard form of telecommunication from the appropriate Governmental Authorities of such jurisdictions.

(ii) Lock Up Agreements. The Representative shall have received the written agreements, substantially in the form of Exhibit I hereto, of the officers, directors, stockholders, optionholders and warrant holders of the Company listed in Schedule D to this Agreement.

(jj) Secretary’s Certificate. The Company shall have furnished to the Representative a Secretary’s Certificate of the Company, in form and substance reasonably satisfactory to counsel for the Underwriters and customary for the type of offering contemplated by this Agreement.
Chief Financial Officer Certificate. The Company shall have furnished to the Representative a certificate, dated such Closing Date, of its Chief Financial Officer, in form and substance reasonably satisfactory to counsel for the Underwriters.

Additional Document. On or prior to such Closing Date, the Company shall have furnished to the Representative such further certificates and documents as the Representative may reasonably request.

All opinions, letters, evidence and certificates mentioned above or elsewhere in this Agreement shall be deemed to be in compliance with the provisions hereof only if they are in form and substance reasonably satisfactory to counsel for the Underwriters.


Indemnification of Underwriters by the Company. The Company shall indemnify and hold harmless:

each Underwriter, its affiliates, directors, officers, managers, members, employees, representatives and agents and each person, if any, who controls any Underwriter within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act (collectively the “Underwriter Indemnified Parties,” and each an “Underwriter Indemnified Party”) against any loss, claim, damage, expense or liability whatsoever (or any action, investigation or proceeding in respect thereof), joint or several, to which such Underwriter Indemnified Party may become subject, under the Securities Act or otherwise, insofar as such loss, claim, damage, expense, liability, action, investigation or proceeding arises out of or is based upon (A) any untrue statement or alleged untrue statement of a material fact contained in any Preliminary Prospectus, any Issuer Free Writing Prospectus, the Registration Statement, the Prospectus, or in any amendment or supplement thereto or in any materials or information provided to investors by, or with the approval of, the Company in connection with the marketing of the offering of the Common Stock, including any roadshow or investor presentations made to investors by the Company (whether in person or electronically) (“Marketing Materials”) or (B) the omission or alleged omission to state in any Preliminary Prospectus, any Issuer Free Writing Prospectus, the Registration Statement or the Prospectus, or in any amendment or supplement thereto or in any Marketing Materials, a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading, and shall reimburse each Underwriter Indemnified Party promptly upon demand for any legal fees or other expenses reasonably incurred by that Underwriter Indemnified Party in connection with investigating, or preparing to defend, or defending against, or appearing as a third party witness in respect of, or otherwise incurred in connection with, any such loss, claim, damage, expense, liability, action, investigation or proceeding, as such fees and expenses are incurred; provided, however, that the Company shall not be liable in any such case to the extent that any such loss, claim, damage, expense or liability arises out of or is based upon an untrue statement or alleged untrue statement in, or omission or alleged omission from any Preliminary Prospectus, the Registration Statement or the Prospectus, or any such amendment or supplement thereto, any Issuer Free Writing Prospectus or any Marketing Materials made in reliance upon and in conformity with written information furnished to the Company through the Representative by or on behalf of any Underwriter specifically for use therein, which information the parties hereto agree is limited to the Underwriter’s Information.

The indemnity agreement in this Section 7(a) is not exclusive and is in addition to each other indemnity agreement in this Section 7(a) and each other liability which the Company might have under this Agreement or otherwise, and shall not limit any rights or remedies which may otherwise be available under this Agreement, at law or in equity to any Underwriter Indemnified Party.
Indemnification of Company by the Underwriters. Each Underwriter, severally and not jointly, shall indemnify and hold harmless the Company and its directors, its officers who signed the Registration Statement and each person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act (collectively the "Company Indemnified Parties" and each a "Company Indemnified Party") against any loss, claim, damage, expense or liability whatsoever (or any action, investigation or proceeding in respect thereof), joint or several, to which such Company Indemnified Party may become subject, under the Securities Act or otherwise, insofar as such loss, claim, damage, expense, liability, action, investigation or proceeding arises out of or is based upon (i) any untrue statement or alleged untrue statement of a material fact contained in any Preliminary Prospectus, any Issuer Free Writing Prospectus, the Registration Statement or the Prospectus, or in any amendment or supplement thereto, or (ii) the omission or alleged omission to state in any Preliminary Prospectus, any Issuer Free Writing Prospectus, the Registration Statement or the Prospectus, or in any amendment or supplement thereto, a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading, but in each case only to the extent that the untrue statement or alleged untrue statement or omission or alleged omission was made in reliance upon and in conformity with written information furnished to the Company through the Representative by or on behalf of that Underwriter specifically for use therein, which information the parties hereto agree is limited to the Underwriter's Information, and shall reimburse the Company Indemnified Parties for any legal or other expenses reasonably incurred by such party in connection with investigating or preparing to defend or defending against or appearing as third party witness in connection with any such loss, claim, damage, liability, action, investigation or proceeding, as such fees and expenses are incurred. This indemnity agreement is not exclusive and will be in addition to any liability which the Underwriters might otherwise have and shall not limit any rights or remedies which may otherwise be available under this Agreement, at law or in equity to the Company Indemnified Parties.
Promptly after receipt by an indemnified party under this Section 7 of notice of the commencement of any action, the indemnified party shall, if a claim in respect thereof is to be made against an indemnifying party under this Section 7, notify such indemnifying party in writing of the commencement of such action; provided, however, that the failure to notify the indemnifying party shall not relieve it from any liability which it may have under this Section 7 except to the extent it has been materially prejudiced by such failure; and, provided, further, that the failure to notify an indemnifying party shall not relieve it from any liability which it may have to an indemnified party otherwise than under this Section 7. If any such action shall be brought against an indemnified party, and it shall notify the indemnifying party thereof, the indemnifying party shall be entitled to participate therein and, to the extent that it wishes, jointly with any other similarly notified indemnifying party, to assume the defense of such action with counsel reasonably satisfactory to the indemnified party (which counsel shall not, except with the written consent of the indemnified party, be counsel to the indemnifying party). After notice from the indemnifying party to the indemnified party of its election to assume the defense of such action, except as provided herein, the indemnifying party shall not be liable to the indemnified party under Section 7 for any legal or other expenses subsequently incurred by the indemnified party in connection with the defense of such action other than reasonable costs of investigation; provided, however, that any indemnified party shall have the right to employ separate counsel in any such action and to participate in the defense of such action but the fees and expenses of such counsel (other than reasonable costs of investigation) shall be at the expense of such indemnified party unless (i) the employment thereof has been specifically authorized in writing by the Company in the case of a claim for indemnification under Section 7(a) or the Representative in the case of a claim for indemnification under Section 7(b), (ii) such indemnified party shall have been advised by its counsel that there may be one or more legal defenses available to it which are different from or additional to those available to the indemnifying party, or (iii) the indemnifying party has failed to assume the defense of such action and employ counsel reasonably satisfactory to the indemnified party within a reasonable period of time after notice of the commencement of the action or the indemnifying party does not diligently defend the action after assumption of the defense, in which case, if such indemnified party notifies the indemnifying party in writing that it elects to employ separate counsel at the expense of the indemnifying party, the indemnifying party shall not have the right to assume the defense of (or, in the case of a failure to diligently defend the action after assumption of the defense, to continue to defend) such action on behalf of such indemnified party and the indemnifying party shall be responsible for legal or other expenses subsequently incurred by such indemnified party in connection with the defense of such action; provided, however, that the indemnifying party shall not, in connection with any one such action or separate but substantially similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances, be liable for the reasonable fees and expenses of more than one separate firm of attorneys at any time for all such indemnified parties (in addition to any local counsel), which firm shall be designated in writing by the Company if the indemnified parties under this Section 7 consist of any Underwriter Indemnified Parties or by the Company if the indemnified parties under this Section 7 consist of any Company Indemnified Parties. Subject to this Section 7(c), the amount payable by an indemnifying party under Section 7 shall include, but not be limited to, (x) reasonable and documented legal fees and expenses of counsel to the indemnified party and any other expenses in investigating, or preparing to defend or defending against, or appearing as a third party witness in respect of, or otherwise incurred in connection with, any action, investigation, proceeding or claim, and (y) all amounts paid in settlement of any of the foregoing. No indemnifying party shall, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of judgment with respect to any pending or threatened action or any claim whatsoever, in respect of which indemnification or contribution could be sought under this Section 7 (whether or not the indemnified parties are actual or potential parties thereto), unless such settlement, compromise or consent (i) includes an unconditional release of each indemnified party in form and substance reasonably satisfactory to such indemnified party from all liability arising out of such action or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party. Subject to the provisions of the following sentence, no indemnifying party shall be liable for settlement of any pending or threatened action or any claim whatsoever that is effected without its written consent (which consent shall not be unreasonably withheld or delayed), but if settled with its written consent, if its consent has been unreasonably withheld or delayed or if there be a judgment for the plaintiff in any such matter, the indemnifying party agrees to indemnify and hold harmless any indemnified party from and against any loss or liability by reason of such settlement or judgment. In addition, if at any time an indemnifying party shall have requested that an indemnifying party reimburse the indemnified party for fees and expenses of counsel, such indemnifying party agrees that it shall be liable for any settlement of the nature contemplated by Section 7(a) effected without its written consent if (i) such settlement is entered into more than forty-five (45) days after receipt by such indemnifying party of the request for reimbursement, (ii) such indemnifying party shall have received notice of the terms of such settlement at least thirty (30) days prior to such settlement being entered into and (iii) such indemnifying party shall not have reimbursed such indemnified party in accordance with such request prior to the date of such settlement.
(pp) If the indemnification provided for in this Section 7 is unavailable or insufficient to hold harmless an indemnified party under Section 7(a) or 7(b), then each indemnifying party shall, in lieu of indemnifying such indemnified party, contribute to the amount paid, payable or otherwise incurred by such indemnified party as a result of such loss, claim, damage, expense or liability (or any action, investigation or proceeding in respect thereof), as incurred, (i) in such proportion as shall be appropriate to reflect the relative benefits received by the Company on the one hand and the Underwriters on the other from the offering of the Stock, or (ii) if the allocation provided by clause (i) of this Section 7(d) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) of this Section 7(d) but also the relative fault of the Company on the one hand and the Underwriters on the other with respect to the statements, omissions, acts or failures to act which resulted in such loss, claim, damage, expense or liability (or any action, investigation or proceeding in respect thereof) as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Underwriters on the other with respect to such offering shall be deemed to be in the same proportion as the total net proceeds from the offering of the Stock purchased under this Agreement (before deducting expenses) received by the Company bear to the total underwriting discounts and commissions received by the Underwriters with respect to the Stock purchased under this Agreement, in each case as set forth in the table on the cover page of the Prospectus. The relative fault of the Company on the one hand and the Underwriters on the other shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company on the one hand or the Underwriters on the other, the intent of the parties and their relative knowledge, access to information and opportunity to correct or prevent such untrue statement, omission, act or failure to act; provided that the parties hereto agree that the written information furnished to the Company through the Representative by or on behalf of the Underwriters for use in the Preliminary Prospectus, the Registration Statement or the Prospectus, or in any amendment or supplement thereto, consists solely of the Underwriter’s Information.

(qq) The Company and the Underwriters agree that it would not be just and equitable if contributions pursuant to Section 7(d) above were to be determined by pro rata allocation or by any other method of allocation which does not take into account the equitable considerations referred to Section 7(d) above. The amount paid or payable by an indemnified party as a result of the loss, claim, damage, expense, liability, action, investigation or proceeding referred to in Section 7(d) above shall be deemed to include, subject to the limitations set forth above, any legal or other expenses reasonably incurred by such indemnified party in connection with investigating, preparing to defend or defending against or appearing as a third party witness in respect of, or otherwise incurred in connection with, any such loss, claim, damage, expense, liability, action, investigation or proceeding. Notwithstanding the provisions of this Section 7, no Underwriters shall be required to contribute any amount in excess of the amount by which the total underwriting discounts and commissions received by such Underwriter with respect to the offering of the Stock exceeds the amount of any damages which the Underwriter has otherwise paid or become liable to pay by reason of any untrue or alleged untrue statement, omission or alleged omission, act or alleged act or failure to act or alleged failure to act. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters’ obligations to contribute as provided in this Section 7 are several in proportion to their respective underwriting obligations and not joint.

8. **Termination**. The obligations of the Underwriters hereunder may be terminated by the Representative, in its absolute discretion by notice given to the Company prior to delivery of and payment for the Firm Stock if, prior to that time, any of the events described in Sections 6(j), 6(l) or 6(m) have occurred or if the Underwriters shall decline to purchase the Stock for any reason permitted under this Agreement.
9. **Reimbursement of Underwriters’ Expenses.** Notwithstanding anything to the contrary in this Agreement, if (a) this Agreement shall have been terminated pursuant to Section 8 or 10, (b) the Company shall fail to tender the Stock for delivery to the Underwriters for any reason not permitted under this Agreement, (c) the Underwriters shall decline to purchase the Stock for any reason permitted under this Agreement or (d) the sale of the Stock is not consummated because any condition to the obligations of the Underwriters set forth herein is not satisfied or because of the refusal, inability or failure on the part of the Company to perform any agreement herein or to satisfy any condition or to comply with the provisions hereof, then in addition to the payment of amounts in accordance with Section 5, the Company shall reimburse the Underwriters for the reasonable fees and expenses of Underwriters’ counsel and for such other out-of-pocket expenses as shall have been reasonably incurred by them in connection with this Agreement and the proposed purchase of the Stock, including, without limitation, travel and lodging expenses of the Underwriters, and upon demand the Company shall pay the full amount thereof to the Representative; provided that if this Agreement is terminated pursuant to Section 10 by reason of the default of one or more Underwriters, the Company shall not be obligated to reimburse any defaulting Underwriter on account of expenses to the extent incurred by such defaulting Underwriter provided further that the foregoing shall not limit any reimbursement obligation of the Company to any non-defaulting Underwriter under this Section 9.

10. **Substitution of Underwriters.** If any Underwriter or Underwriters shall default in its or their obligations to purchase shares of Stock hereunder on any Closing Date and the aggregate number of shares which such defaulting Underwriter or Underwriters agreed but failed to purchase does not exceed ten percent (10%) of the total number of shares to be purchased by all Underwriters on such Closing Date, the other Underwriters shall be obligated severally, in proportion to their respective commitments hereunder, to purchase the shares which such defaulting Underwriter or Underwriters agreed but failed to purchase on such Closing Date. If any Underwriter or Underwriters shall so default and the aggregate number of shares with respect to which such default or defaults occur is more than ten percent (10%) of the total number of shares to be purchased by all Underwriters on such Closing Date and arrangements satisfactory to the Representative and the Company for the purchase of such shares by other persons are not made within forty-eight (48) hours after such default, this Agreement shall terminate.

If the remaining Underwriters or substituted Underwriters are required hereby or agree to take up all or part of the shares of Stock of a defaulting Underwriter or Underwriters on such Closing Date as provided in this Section 10, (i) the Company shall have the right to postpone such Closing Date for a period of not more than five (5) full business days in order that the Company may effect whatever changes may thereby be made necessary in the Registration Statement or the Prospectus, or in any other documents or arrangements, and the Company agrees promptly to file any amendments to the Registration Statement or supplements to the Prospectus which may thereby be made necessary, and (ii) the respective numbers of shares to be purchased by the remaining Underwriters or substituted Underwriters shall be taken as the basis of their underwriting obligation for all purposes of this Agreement. Nothing herein contained shall relieve any defaulting Underwriter of its liability to the Company or the other Underwriters for damages occasioned by its default hereunder. Any termination of this Agreement pursuant to this Section 10 shall be without liability on the part of any non-defaulting Underwriter or the Company, except that the representations, warranties, covenants, indemnities, agreements and other statements set forth in Section 2, the obligations with respect to expenses to be paid or reimbursed pursuant to Sections 5 and 9 and the provisions of Section 7 and Sections 11 through 21, inclusive, shall not terminate and shall remain in full force and effect.

11. **Absence of Fiduciary Relationship.** The Company acknowledges and agrees that:

(a) each Underwriter’s responsibility to the Company is solely contractual in nature, the Representative has been retained solely to act as underwriter in connection with the sale of the Stock and no fiduciary, advisory or agency relationship between the Company and the Representative has been created in respect of any of the transactions contemplated by this Agreement, irrespective of whether the Representative has advised or is advising the Company on other matters;
(b) the price of the Stock set forth in this Agreement was established by the Company following discussions and arms-length negotiations with the Representative, and the Company is capable of evaluating and understanding, and understands and accepts, the terms, risks and conditions of the transactions contemplated by this Agreement;

(c) it has been advised that the Representative and its affiliates are engaged in a broad range of transactions which may involve interests that differ from those of the Company and that the Representative has no obligation to disclose such interests and transactions to the Company by virtue of any fiduciary, advisory or agency relationship; and

(d) it waives, to the fullest extent permitted by law, any claims it may have against the Representative for breach of fiduciary duty or alleged breach of fiduciary duty and agrees that the Representative shall have no liability (whether direct or indirect) to the Company in respect of such a fiduciary duty claim or to any person asserting a fiduciary duty claim on behalf of or in right of the Company, including stockholders, employees or creditors of the Company.

12. **Successors; Persons Entitled to Benefit of Agreement**. This Agreement shall inure to the benefit of and be binding upon the several Underwriters, the Company and their respective successors and assigns. Nothing expressed or mentioned in this Agreement is intended or shall be construed to give any person, other than the persons mentioned in the preceding sentence, any legal or equitable right, remedy or claim under or in respect of this Agreement, or any provisions herein contained, this Agreement and all conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of such persons and for the benefit of no other person; except that the representations, warranties, covenants, agreements and indemnities of the Company contained in this Agreement shall also be for the benefit of the Underwriter Indemnified Parties, and the indemnities of the several Underwriters shall be for the benefit of the Company Indemnified Parties. It is understood that each Underwriter’s responsibility to the Company is solely contractual in nature and the Underwriters do not owe the Company, or any other party, any fiduciary duty as a result of this Agreement. No purchaser of any of the Stock from any Underwriter shall be deemed to be a successor or assign by reason merely of such purchase.

13. **Survival of Indemnities, Representations, Warranties, etc.** The respective indemnities, covenants, agreements, representations, warranties and other statements of the Company and the several Underwriters, as set forth in this Agreement or made by them respectively, pursuant to this Agreement, shall remain in full force and effect, regardless of any investigation made by or on behalf of any Underwriter, the Company or any person controlling any of them and shall survive delivery of and payment for the Stock. Notwithstanding any termination of this Agreement, including without limitation any termination pursuant to Section 8 or Section 10, the indemnities, covenants, agreements, representations, warranties and other statements forth in Sections 2, 5, 7 and 9 and Sections 11 through 21, inclusive, of this Agreement shall not terminate and shall remain in full force and effect at all times.

14. **Notices**. All statements, requests, notices and agreements hereunder shall be in writing, and:

(rr) if to the Underwriters, shall be delivered or sent by mail, telex, facsimile transmission or email to Cowen and Company, LLC, Attention: Head of Equity Capital Markets, Fax: 646-562-1249 with a copy to the General Counsel, Fax: 646-562-1124;

(ss) if to the Company shall be delivered or sent by mail, telex, facsimile transmission or email to Viveve Medical, Inc., 150 Commercial Street, Sunnyvale, CA 94086, Attention: Scott Durbin, Fax: 408-530-1919, email: sdurbin@viveve.com, with a copy to Goodwin Procter LLP, Three Embarcadero Center, 28th Floor, San Francisco, California 94111, Attention: Mitchell S. Bloom, Esq.; Bradley A. Bugdanowitz, Esq., Fax: 415-677-9041, email: mbloom@goodwinlaw.com; bbudganowitz@goodwinlaw.com;

provided, however, that any notice to an Underwriter pursuant to Section 7 shall be delivered or sent by mail, or facsimile transmission to such Underwriter at its address set forth in its acceptance telex to the Representative, which address will be supplied to any other party hereto by the Representative upon request. Any such statements, requests, notices or agreements shall take effect at the time of receipt thereof.
15. **Definition of Certain Terms.** For purposes of this Agreement, (a) "affiliate" has the meaning set forth in Rule 405 under the Securities Act, (b) "business day" means any day on which the New York Stock Exchange, Inc. is open for trading and (c) "subsidiary" has the meaning set forth in Rule 405 of the Rules and Regulations.

16. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York, including without limitation Section 5-1401 of the New York General Obligations. The Company irrevocably (a) submits to the non-exclusive jurisdiction of the Federal and state courts in the Borough of Manhattan in The City of New York for the purpose of any suit, action or other proceeding arising out of this Agreement or the transactions contemplated by this Agreement, the Registration Statement and any Preliminary Prospectus or the Prospectus, (b) agrees that all claims in respect of any such suit, action or proceeding may be heard and determined by any such court, (c) waives to the fullest extent permitted by applicable law, any immunity from the jurisdiction of any such court or from any legal process, (d) agrees not to commence any such suit, action or proceeding other than in such courts, and (e) waives, to the fullest extent permitted by applicable law, any claim that any such suit, action or proceeding is brought in an inconvenient forum.

17. **Underwriters’ Information.** The parties hereto acknowledge and agree that, for all purposes of this Agreement, the Underwriters’ Information consists solely of the following information in the Prospectus: (i) the last paragraph on the front cover page concerning the terms of the offering by the Underwriters; and (ii) the statements concerning the Underwriters contained in the ninth, tenth, eleventh and thirteenth under the heading “Underwriting.”

18. **Authority of the Representative.** In connection with this Agreement, the Representative will act for and on behalf of the several Underwriters, and any action taken under this Agreement by the Representative, will be binding on all the Underwriters.

19. **Partial Unenforceability.** The invalidity or unenforceability of any section, paragraph, clause or provision of this Agreement shall not affect the validity or enforceability of any other section, paragraph, clause or provision hereof. If any section, paragraph, clause or provision of this Agreement is for any reason determined to be invalid or unenforceable, there shall be deemed to be made such minor changes (and only such minor changes) as are necessary to make it valid and enforceable.

20. **General.** This Agreement constitutes the entire agreement of the parties to this Agreement and supersedes all prior written or oral and all contemporaneous oral agreements, understandings and negotiations with respect to the subject matter hereof. In this Agreement, the masculine, feminine and neuter genders and the singular and the plural include one another. The section headings in this Agreement are for the convenience of the parties only and will not affect the construction or interpretation of this Agreement. This Agreement may be amended or modified, and the observance of any term of this Agreement may be waived, only by a writing signed by the Company and the Representative.

21. **Counterparts.** This Agreement may be signed in any number of counterparts, including by facsimile or other electronic transmission, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.
If the foregoing is in accordance with your understanding please indicate your acceptance of this Agreement by signing in the space provided for that purpose below.

Very truly yours,
VIVEVE MEDICAL, INC.

By: ________________________________
Name: Patricia Scheller
Title: Chief Executive Officer

Accepted as of the date first above written:

COWEN AND COMPANY, LLC

Acting on its own behalf and as Representative of several Underwriters listed on Schedule A to this Agreement.

By: COWEN AND COMPANY, LLC

By: ________________________________
Name:
Title:
<table>
<thead>
<tr>
<th>Name</th>
<th>Number of Shares of Firm Stock to be Purchased</th>
<th>Number of Shares of Optional Stock to be Purchased</th>
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<tr>
<td>Raymond James &amp; Associates, Inc.</td>
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<td>Ladenburg Thalmann &amp; Co. Inc.</td>
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<td>Total</td>
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</table>
SCHEDULE B
Pricing Information

Firm Stock to be Sold: [ ] shares

Offering Price: $[ ] per share

Underwriting Discounts and Commissions: [ ]%

Estimated Net Proceeds to the Company (after underwriting discounts and commissions, but before transaction expenses): $[ ]
SCHEDULE C

[General Use Free Writing Prospectuses]

[None]
SCHEDULE D

List of officers, directors, stockholders, optionholders and warrant holders subject to Section (I)

Patricia Scheller
Scott Durbin
James Atkinson
Lori H. Bush
Daniel Janney
Debora Jorn
Arlene M. Morris
Jon Plexico
Stonepine Capital, L.P.
Alta BioEquities, L.P.
Re: Viveve Medical, Inc. – Registration Statement on Form S-1 for Shares of Common Stock

Dear Sir or Madam:

This Letter Agreement (this “Agreement”) is being delivered to you in connection with the proposed Underwriting Agreement (the “Underwriting Agreement”) among Viveve Medical, Inc., a Delaware corporation (the “Company”) and Cowen and Company, LLC (“Cowen”) as representative (the “Representative”) of a group of underwriters (collectively, the “Underwriters”), to be named therein, and the other parties thereto (if any), relating to the proposed public offering of shares of the common stock (the “Offering”), par value $0.0001 per share (the “Common Stock”) of the Company.

In order to induce you and the other Underwriters to enter into the Underwriting Agreement, and in light of the benefits that the offering of the Common Stock will confer upon the undersigned in its capacity as a securityholder and/or an officer, director or employee of the Company, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned agrees with each Underwriter that, during the period beginning on the date hereof through and including the date that is the 90th day after the date of the Underwriting Agreement (the “Lock-Up Period”), the undersigned will not, without the prior written consent of Cowen directly or indirectly, (i) offer, sell, assign, transfer, pledge, contract to sell, or otherwise dispose of, or announce the intention to otherwise dispose of, any shares of Common Stock (including, without limitation, Common Stock which may be deemed to be beneficially owned by the undersigned in accordance with the rules and regulations promulgated under the Securities Act of 1933, as amended (such shares, the “Beneficially Owned Shares,” and such act, the “Securities Act”)) or securities convertible into or exercisable for Common Stock, (ii) enter into any swap, hedge or similar agreement or arrangement that transfers in whole or in part, the economic risk of ownership of the Beneficially Owned Shares or securities convertible into or exercisable for Common Stock, whether now owned or hereafter acquired by the undersigned or with respect to which the undersigned has or hereafter acquires the power of disposition, or (iii) engage in any short selling of the Common Stock or securities convertible into or exercisable for Common Stock.

The restrictions set forth in the preceding paragraphs shall not apply to:

1) securities acquired in the Offering or acquired pursuant to open market transactions subsequent to the date of this Agreement: provided that, the undersigned shall not be required by law (including without limitation the Securities Act or the Exchange Act) to make, and shall agree to not voluntarily make, any filing or public announcement of the disposition prior to the expiration of the Lock-Up Period, other than filings on any required Form 4, Form 5, Schedule 13G (or 13G/A) or 13F filings,
(2) if the undersigned is a natural person, any transfers made by the undersigned (a) as a bona fide gift to any member of the immediate family (as defined below) of the undersigned or to a trust the beneficiaries of which are exclusively the undersigned or members of the undersigned's immediate family, (b) by will or intestate succession upon the death of the undersigned or (c) as a bona fide gift to a charity or educational institution,

(3) if the undersigned is a corporation, partnership, limited liability company or other business entity, any transfers to any stockholder, partner or member of, or owner of a similar equity interest in, the undersigned, as the case may be, if, in any such case, such transfer is not for value,

(4) if the undersigned is a trust, distributions of shares of Common Stock or any security directly or indirectly convertible into Common Stock to its beneficiaries in a transaction not involving a disposition of value, provided that no filing by the transferor or transferee under the Exchange Act, or other public announcement shall be required or shall be made voluntarily in connection with such distribution until after the expiration of the Lock-Up Period,

(5) if the undersigned is a corporation, partnership, limited liability company or other business entity, any transfer made by the undersigned (a) in connection with the sale or other bona fide transfer in a single transaction of all or substantially all of the undersigned’s capital stock, partnership interests, membership interests or other similar equity interests, as the case may be, or all or substantially all of the undersigned’s assets, in any such case not undertaken for the purpose of avoiding the restrictions imposed by this Agreement or (b) to another corporation, partnership, limited liability company or other business entity so long as the transferee is an affiliate (as defined below) of the undersigned and such transfer is not for value,

(6) transfers to the Company pursuant to agreements that are in effect as of the date hereof under which the Company has the option to repurchase such shares or securities upon termination of the undersigned; provided that if the undersigned is required to file a report under the Exchange Act, or any other public announcement, reporting such repurchase, the undersigned shall include a statement in such report to the effect that such repurchase was made under terms of the Company’s repurchase rights upon termination of the undersigned,

(7) to any transfers of Common Stock solely in connection with (a) the exercise of any equity awards outstanding on the date of the Underwriting Agreement granted pursuant to the Company’s equity plans, including any “cashless” exercise thereof, provided that any shares of Common Stock received upon such exercise shall be subject to the restrictions provided for in this Agreement, or (b) the surrender or forfeiture to the Company of shares of Common Stock to the Company in partial or full settlement of any withholding tax obligation of the undersigned accruing upon the exercise or vesting of any equity award outstanding on the date of the Underwriting Agreement granted pursuant to the Company’s equity plans,

(8) the establishment of a trading plan that satisfies the requirements of Rule 10b5-1 under the Exchange Act for the transfer of shares of Common Stock, provided that there will be no transfer of shares of the undersigned's Common Stock during the Lock-Up Period referred to above and such a plan may only be established if no public announcement of the establishment or existence thereof and no filing with the Securities and Exchange Commission (the “SEC”) or other regulatory authority in respect thereof or transactions thereunder or contemplated thereby, by the undersigned, the Company or any other person, shall be required, and no such announcement or filing is made voluntarily, by the undersigned, the Company or any other person during the Lock-Up Period,
(9) the transfer of Common Stock (or any security convertible into or exercisable or exchangeable for Common Stock) pursuant to a bona fide third-party tender offer, merger, consolidation or other similar transaction made to all holders of Common Stock involving a change of control of the Company (including, without limitation, the entry into any lock-up, voting or similar agreement pursuant to which the undersigned may agree to transfer, sell, tender or otherwise dispose of Common Stock or other such securities in favor of any such transaction, or vote any securities in favor of such transaction): provided that in the event that the tender offer, merger, consolidation or other such transaction is not completed, the Common Stock owned by the undersigned shall remain subject to the restrictions contained in this Agreement. For purposes of this Agreement, “change of control” shall mean the consummation of (1) any bona fide third-party tender offer approved by the board of directors of the Company, for any and all of the Company’s outstanding voting securities or (2) any merger, consolidation or other similar transaction, in one transaction or a series of related transactions, in each case, approved by the board of directors of the Company and the result of which is that any “person” (as defined in Section 13(d)(3) of the Exchange Act), or group of persons, other than the Company, becomes the beneficial owner (as defined in Rules 13d-3 and 13d-5 of the Exchange Act) of 90% of the outstanding voting securities of the Company, or

(10) transfers to an underwriter pursuant to the Underwriting Agreement:

provided, however, that in the case of any transfer described in clause (2), (3), (4), (5) or (9) above, it shall be a condition to the transfer that (A) the transferee executes and delivers to the Representative acting on behalf of the Underwriters, not later than one business day prior to such transfer, a written agreement, in substantially the form of this Agreement (it being understood that any references to “immediate family” in the agreement executed by such transferee shall expressly refer only to the immediate family of the undersigned and not to the immediate family of the transferee) and otherwise satisfactory in form and substance to the Representative, and (B) in the case of any transfer described in clause (2), (3), (4) or (5) above, if the undersigned is required to file a report under Section 16(a) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), reporting a reduction in beneficial ownership of shares of Common Stock or Beneficially Owned Shares or any securities convertible into or exercisable or exchangeable for Common Stock or Beneficially Owned Shares during the Lock-Up Period, the undersigned shall include a statement in such report to the effect that, (A) in the case of any transfer pursuant to clause (2) above, such transfer is being made as a gift or by will or intestate succession, (B) in the case of any transfer pursuant to clause (3) above, such transfer is being made to a stockholder, partner or member of, or owner of a similar equity interest in, the undersigned and is not a transfer for value and (C) in the case of any transfer pursuant to clause (5) above, such transfer is being made either (a) in connection with the sale or other bona fide transfer in a single transaction of all or substantially all of the undersigned's capital stock, partnership interests, membership interests or other similar equity interests, as the case may be, or all or substantially all of the undersigned's assets or (b) to another corporation, partnership, limited liability company or other business entity that is an affiliate of the undersigned and such transfer is not for value. For purposes of this paragraph, “immediate family” shall mean a spouse, former spouse, child, grandchild or other lineal descendant (including by adoption), father, mother, brother or sister of the undersigned; and “affiliate” shall have the meaning set forth in Rule 405 under the Securities Act.
For the avoidance of doubt, nothing in this Agreement prohibits the undersigned from exercising any options or warrants to purchase Common Stock (which exercises may be effected on a cashless basis to the extent the instruments representing such options or warrants permit exercises on a cashless basis), it being understood that any Common Stock issued upon any such exercise will be subject to the restrictions of this Agreement.

In order to enable this covenant to be enforced, the undersigned hereby consents to the placing of legends or stop transfer instructions with the Company’s transfer agent with respect to any Common Stock or securities convertible into or exercisable or exchangeable for Common Stock.

The undersigned further agrees that it will not, during the Lock-Up Period, make any demand or request for or exercise any right with respect to the registration under the Securities Act of any shares of Common Stock or other Beneficially Owned Shares or any securities convertible into or exercisable or exchangeable for Common Stock or other Beneficially Owned Shares.

This Agreement and all authority herein conferred are irrevocable and shall survive the death or incapacity of the undersigned and shall be binding upon the heirs, personal representatives, successors and assigns of the undersigned.

The undersigned hereby represents and warrants that the undersigned has full power and authority to enter into this Agreement and that this Agreement has been duly authorized (if the undersigned is not a natural person), executed and delivered by the undersigned and is a valid and binding agreement of the undersigned (if a natural person) and shall be binding upon the heirs, personal representatives, successors and assigns of the undersigned.

This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York applicable to agreements made and to be performed in such state.

If (i) the Company notifies Cowen or Cowen notifies the Company, in writing that it does not intend to proceed with the Offering, (ii) the Underwriting Agreement is not executed by May 31, 2017, (iii) the Underwriting Agreement (other than the provisions thereof which survive termination) shall terminate or be terminated for any reason prior to payment for and delivery of any Common Stock to be sold thereunder or (iv) the registration statement filed with the SEC with respect to the Offering is withdrawn, then this Agreement shall immediately be terminated and the undersigned shall automatically be released from all of his or her obligations under this Agreement. The undersigned acknowledges and agrees that whether or not any public offering of Common Stock actually occurs depends on a number of factors, including market conditions.

[Signature page follows]
Very truly yours,

(Name of Stockholder - Please Print)

(Signature)

(Name of Signatory if Stockholder is an entity - Please Print)

(Title of Signatory if Stockholder is an entity - Please Print)

Address: ________________________________

_______________________________

_______________________________
March 13, 2017

Viveve Medical, Inc.
150 Commercial Street
Sunnyvale, California 94086

Re: Securities Registered under Registration Statement on Form S-1

Ladies and Gentlemen:

We have acted as counsel to you in connection with your filing of a Registration Statement on Form S-1 (File No. 333-216187) (as amended or supplemented, the “Registration Statement”) pursuant to the Securities Act of 1933, as amended (the “Securities Act”), relating to the registration of the offering by Viveve Medical, Inc., a Delaware corporation (the “Company”) of up to 6,995,133 shares (the “Shares”) of the Company’s Common Stock, $0.0001 par value per share, including Shares purchasable by the underwriters upon their exercise of an over-allotment option granted to the underwriters by the Company. The Shares are being sold to the several underwriters named in, and pursuant to, an underwriting agreement among the Company and such underwriters (the “Underwriting Agreement”).

We have reviewed such documents and made such examination of law as we have deemed appropriate to give the opinions set forth below. We have relied, without independent verification, on certificates of public officials and, as to matters of fact material to the opinions set forth below, on certificates of officers of the Company.

The opinion set forth below is limited to the Delaware General Corporation Law.

Based on the foregoing, we are of the opinion that the Shares have been duly authorized and, upon issuance and delivery against payment therefor in accordance with the terms of the Underwriting Agreement, the Shares will be validly issued, fully paid and non-assessable.

We hereby consent to the inclusion of this opinion as Exhibit 5.1 to the Registration Statement and to the references to our firm under the caption “Legal Matters” in the Registration Statement. In giving our consent, we do not admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations thereunder.

Very truly yours,

/s/ GOODWIN PROCTER LLP

GOODWIN PROCTER LLP
CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the use in this Amendment No. 1 to the Registration Statement on Form S-1 of our report (which contains an explanatory paragraph relating to the Company's ability to continue as a going concern as described in Note 1 to the consolidated financial statements) dated February 16, 2017, relating to the consolidated financial statements of Viveve Medical, Inc., which appears in such Registration Statement. We also consent to the reference to us under the heading “Experts” in such Registration Statement.

/s/ BPM LLP

San Jose, California
March 10, 2017