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

FORM 10-Q

(Mark One)

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

For the quarterly period ended September 30, 2021
OR

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

For the transition period from _____ to _____

Commission file number 001-40497

CODEX DNA, INC.

(Exact name of registrant as specified in its charter)

Delaware	**45-1216839**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
9535 Waples Street, Suite 100, San Diego, CA	**92121-2993**
(Address of Principal Executive Offices)	(Zip Code)

(858) 228-4115
Registrant's telephone number, including area code

9535 Waples Street, Suite 100
San Diego, CA 92121-2993
(858) 228-4115

(Former name, former address and former fiscal year, if changed since last report)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, $0.0001 par value per share	DNAY	Nasdaq Global Select Market

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No ☐

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	☒
		Emerging growth company	☒

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.☐

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

APPLICABLE ONLY TO REGISTRANTS INVOLVED IN BANKRUPTCY

PROCEEDINGS DURING THE PRECEDING FIVE YEARS:

Indicate by check mark whether the registrant has filed all documents and reports required to be filed by Section 12, 13 or 15(d) of the Securities Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed by a court.☐ Yes ☒ No

APPLICABLE ONLY TO CORPORATE ISSUERS:

The registrant had outstanding 29,307,199 shares of common stock as of October 31, 2021.

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SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q (Quarterly Report) contains forward-looking statements. All statements other than statements of historical facts contained in this Quarterly Report, including statements regarding our future results of operations and financial position, business strategy, research and development costs, timing and likelihood of success, as well as plans and objectives of management for future operations, are forward-looking statements. These statements involve known and unknown risks, uncertainties and other important factors that are in some cases beyond our control and may cause our actual results, performance or achievements to be materially different from any future results, performance or achievements expressed or implied by the forward-looking statements.

In some cases, you can identify forward-looking statements by terms such as “aim,” “anticipate,” “assume,” “believe,” “contemplate,” “continue,” “could,” “due,” “estimate,” “expect,” “goal” “intend,” “may,” “objective” “plan,” “predict,” “potential,” “project,” “seek,” “should,” “target,” “will,” “would,” and other similar expressions that are predictions of or indicate future events and future trends, or the negative of these terms or other comparable terminology. Forward-looking statements contained in this Quarterly Report include, but are not limited to, statements about:

- estimates of the synthetic biology market, market growth, and new market expansion;
- our future revenue, expenses, capital requirements and our needs for additional financing;
- our expectations regarding the rate and degree of market acceptance of our BioXp system, BioXp kits and benchtop reagents;
- the ability of our products to facilitate the design-build-test paradigm of synthetic biology;
- the size and growth of the synthetic biology market and competitive companies and technologies and our industry;
- our ability to manage and grow our business;
- our ability to develop and commercialize new products;our ability to establish and maintain intellectual property protection for our products or avoid or defend claims of infringement;
- the performance of third-party manufacturers and suppliers and our ability to qualify second-source suppliers;
- the potential effects of government regulation;
- our ability to hire and retain key personnel and to manage our future growth effectively;
- our ability to obtain additional financing in this or future offerings;
- the volatility of the trading price of our common stock;
- the impact of local, regional, and national and international economic conditions and events;
- the impact of COVID-19 on our business;
- our expectations about market trends;
- our anticipated use of our existing resources; and
- other risks and uncertainties, including those listed in the section titled “Risk Factors.”

We have based these forward-looking statements largely on our current expectations and projections about our business, the industry in which we operate and financial trends that we believe may affect our business, financial condition, results of operations and prospects, and these forward-looking statements are not guarantees of future performance or development. These forward-looking statements speak only as of the date of this Quarterly Report and are subject to a number of risks, uncertainties and assumptions described in the section titled “Risk Factors” and elsewhere in this Quarterly Report. Because forward-looking statements are inherently subject to risks and uncertainties, some of which cannot be predicted or quantified, you should not rely on these forward-looking statements as predictions of future events. The events and circumstances reflected in our forward-looking statements may not be achieved or occur and actual results could differ materially from those projected in the forward-looking statements. Except as required by applicable law, we undertake no obligation to update or revise any forward-looking statements contained herein to reflect events or circumstances after the date of this Quarterly Report, whether as a result of any new information, future events or otherwise.

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

PART I - FINANCIAL INFORMATION

Item 1. Financial Statements

Codex DNA, Inc.
Condensed Consolidated Balance Sheet
(in thousands, except share and per share data)
(Unaudited)

	September 30, 2021	December 31, 2020
Assets		(See Note 2)
Current assets:		
Cash and cash equivalents	$ 109,802	$ 13,463
Accounts receivable, net of allowance for bad debts of $0 and $105 at September 30, 2021 and December 31, 2020, respectively	2,938	2,266
Inventory	1,671	601
Prepaid expenses and other current assets	2,981	851
Total current assets	117,392	17,181
Property and equipment, net	904	689
Right-of-use assets	564	3,090
Long-term deposits	149	81
Goodwill	3,497	3,497
Other intangible assets, net	1,988	2,325
Total Assets	$ 124,494	$ 26,863
Liabilities, convertible preferred stock and stockholders' equity (deficit)		
Current liabilities:		
Accounts payable	$ 2,213	$ 1,191
Accrued employee expenses	2,729	1,470
Finance lease liability, current portion	85	90
Operating lease liability, current portion	911	693
Deferred revenue, current portion	307	606
Other accrued liabilities	628	220
Notes payable, current portion	941	1,333
Other current liabilities	50	22
Total current liabilities	7,864	5,625
Finance lease liability, net of current portion	17	81
Operating lease liability, net of current portion	—	2,776
Notes payable, net of discount and current portion	13,647	3,353
Derivative liabilities	119	1,533
Deferred revenue, net of current portion	85	40
Total liabilities	$ 21,732	$ 13,408
Commitments and contingencies (Note 12)		
Convertible preferred stock		
Series Z Preferred stock, $.0001 par value; 0 and 7,500,000 shares authorized at September 30, 2021 and December 31, 2020, respectively; 0 and 2,500,000 shares issued and outstanding at September 30, 2021 and December 31, 2020, respectively	—	1
Series A Preferred stock, $.0001 par value; 0 and 22,797,830 shares authorized at September 30, 2021 and December 31, 2020, respectively; 0 and 7,599,274 shares issued and outstanding at September 30, 2021 and December 31, 2020, respectively	—	20,992
Series A1 Preferred stock, $.0001 par value; 0 and 15,402,237 shares authorized at September 30, 2021 and December 31, 2020, respectively; 0 and 4,980,055 shares issued and outstanding at September 30, 2021 and December 31, 2020, respectively	—	17,921
Stockholders' equity (deficit)		
Preferred stock, $.0001 par value; 5,000,000 and 0 shares authorized at September 30, 2021 and December 31, 2020, respectively. No shares issued and outstanding	—	—
Common stock, $.0001 par value; 100,000,000 and 72,000,000 shares authorized at September 30, 2021 and December 31, 2020, respectively; 29,307,088 and 5,023,957 shares issued and outstanding at September 30, 2021 and December 31, 2020,respectively	5	2
Additional paid-in capital	155,536	851
Accumulated deficit	(52,779)	(26,312)
Total stockholders' equity (deficit)	102,762	(25,459)
Total liabilities, convertible preferred stock and stockholders' equity (deficit)	$ 124,494	$ 26,863

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

Codex DNA, Inc.
Condensed Consolidated Statements of Operations and Comprehensive Loss
(in thousands, except share and per share data)
(Unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2021	2020	2021	2020
Revenue:				
Product sales	$ 2,180	$ 1,285	$ 6,099	$ 3,720
Royalties and other revenue	606	350	1,866	919
Total revenue	2,786	1,635	7,965	4,639
Cost of revenue	1,624	739	4,548	1,933
Gross profit	1,162	896	3,417	2,706
Operating expenses:				
Research and development	3,593	2,345	9,217	6,263
Sales and marketing	2,955	1,861	7,881	4,758
General and administrative	4,055	990	9,596	2,876
Total operating expenses	10,603	5,196	26,694	13,897
Loss from operations	(9,441)	(4,300)	(23,277)	(11,191)
Other expense, net:				
Interest expense, net	(381)	(169)	(1,001)	(502)
Change in fair value of derivative liabilities	15	12	(1,532)	(655)
Loss on extinguishment of debt	—	—	(618)	—
Other expense, net	(13)	(6)	(29)	(77)
Total other expense, net	(379)	(163)	(3,180)	(1,234)
Loss before provision for income taxes	(9,820)	(4,463)	(26,457)	(12,425)
Provision for income taxes	(4)	(2)	(10)	(2)
Net loss and comprehensive loss	$ (9,824)	$ (4,465)	$ (26,467)	$ (12,427)
Net loss attributable to common stockholders	$ (9,824)	$ (4,465)	$ (26,467)	$ (12,427)
Net loss per share attributable to common stockholders—basic and diluted	$ (0.34)	$ (0.89)	$ (1.83)	$ (2.49)
Weighted average common stock outstanding—basic and diluted	29,299,769	5,001,035	14,485,161	5,000,442

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

Codex DNA, Inc.
Condensed Consolidated Statements of Convertible Preferred Stock and Stockholders' Equity (Deficit)
(in thousands, except share data)
(Unaudited)

	Convertible Preferred Stock		Common Stock		Additional Paid-In Capital	Accumulated Deficit	Total Stockholders' Equity (Deficit)
	Shares	Amount	Shares	Amount			
Balance at December 31, 2019	15,079,329	$ 38,914	5,000,000	$ 2	$ 797	(8,302)	$ (7,503)
Stock-based compensation expense	—	—	—	—	15	—	15
Net loss	—	—	—	—	—	(3,880)	(3,880)
Balances at March 31, 2020	15,079,329	38,914	5,000,000	2	812	(12,182)	(11,368)
Stock-based compensation expense	—	—	—	—	10	—	10
Issuance of Common Stock upon exercise of stock options	—	—	329	—	—	—	—
Net loss	—	—	—	—	—	(4,082)	(4,082)
Balances at June 30, 2020	15,079,329	38,914	5,000,329	2	822	(16,264)	(15,440)
Issuance of Common Stock upon exercise of stock options	—	—	1,755	—	—	—	—
Stock-based compensation expense	—	—	—	—	9	—	9
Net loss	—	—	—	—	—	(4,465)	(4,465)
Balances at September 30, 2020	15,079,329	$ 38,914	5,002,084	$ 2	$ 831	$ (20,729)	$ (19,896)
Balances at December 31, 2020	15,079,329	$ 38,914	5,023,957	$ 2	$ 851	$ (26,312)	$ (25,459)
Issuance of Common Stock upon exercise of stock options	—	—	223,216	—	133	—	133
Stock-based compensation expense	—	—	—	—	67	—	67
Net loss	—	—	—	—	—	(7,442)	(7,442)
Balances at March 31, 2021	15,079,329	38,914	5,247,173	2	1,051	(33,754)	(32,701)
Issuance of common shares upon initial public offering, net of issuance costs of $8,587	—	—	7,666,664	1	112,483	—	112,484
Conversion of convertible preferred shares into an equivalent number of common shares	(15,079,329)	(38,914)	15,079,329	2	38,912	—	38,914
Issuance of warrant and conversion into common shares	—	—	1,252,468	—	2,770	—	2,770
Issuance of Common Stock upon exercise of stock options	—	—	45,929	—	25	—	25
Stock-based compensation expense	—	—	—	—	146	—	146
Net loss	—	—	—	—	—	(9,201)	(9,201)
Balances at June 30, 2021	—	—	29,291,563	5	155,387	(42,955)	112,437
Issuance of Common Stock upon exercise of stock options	—	—	15,525	—	10	—	10
Stock-based compensation expense	—	—	—	—	365	—	365
Payment of offering costs	—	—	—	—	(226)	—	(226)
Net loss	—	—	—	—	—	(9,824)	(9,824)
Balances at September 30, 2021	—	$ —	29,307,088	$ 5	$ 155,536	$ (52,779)	$ 102,762

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

Codex DNA, Inc.
Condensed Consolidated Statements of Cash Flows
(in thousands)
(Unaudited)

	Nine Months Ended September 30,	
	2021	**2020**
Cash Flows From Operating Activities:		
Net loss	$ (26,467)	$ (12,427)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation	283	308
Amortization of intangible assets	337	350
Amortization of debt discount	377	160
Loss on debt extinguishment	618	—
Loss on disposal of intangible asset	—	73
Stock-based compensation	578	34
Amortization of operating lease right-of-use assets	479	439
Change in fair value of derivative liabilities	1,532	655
Non-cash interest on finance leases	(8)	(14)
Changes in assets and liabilities:		
Accounts receivable	(672)	99
Inventories	(1,070)	109
Deposits, prepaid expenses and other current assets	(2,198)	(921)
Accounts payable, accrued payroll and accrued liabilities	2,717	458
Deferred revenue	(254)	192
Operating lease liabilities	(511)	(337)
Net cash used in operating activities	(24,259)	(10,822)
Cash Flows From Investing Activities:		
Purchase of property and equipment	(498)	(114)
Net cash used in investing activities	(498)	(114)
Cash Flows From Financing Activities:		
Borrowings on term loan	14,872	—
Repayment of term loan	(5,000)	—
Debt extinguishment costs	(1,141)	—
Payments on finance leases	(61)	(82)
Proceeds from the exercise of common stock options	168	—
Net proceeds from issuance of common shares in initial public offering	112,484	—
Payments of offering costs	(226)	—
Net cash provided by (used in) financing activities	121,096	(82)
Net Increase (Decrease) In Cash	96,339	(11,018)
Cash and cash equivalents at beginning of period	13,463	29,144
Cash and cash equivalents at end of period	$ 109,802	$ 18,126
Supplemental Disclosure Of Cash Flow Information:		
Cash paid for interest	$ 549	$ 350
Purchases of property and equipment included in accounts payable	$ 28	$ —
Issuance of preferred stock warrant in connection with term loan	$ 322	$ —
Extinguishment of put option derivative liability in connection with term loan	$ (51)	$ —
Issuance of put option derivative liability in connection with term loan	$ 303	$ —
Conversion of convertible preferred shares into common shares	$ 38,914	$ —
Conversion of warrant into common shares	$ 2,770	$ —
Right-of-use asset derecognized upon lease modification	$ 2,047	$ —

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

Codex DNA, Inc.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

1. ORGANIZATION AND OPERATIONS

Business

Codex DNA, Inc. (the Company) was incorporated in the state of Delaware in March 2011, as Synthetic Genomics Solution, Inc., a wholly owned subsidiary of Synthetic Genomics, Inc. (SGI). The Company changed its name to SGI-DNA, Inc. (SGI-DNA) in February 2013, and then to Codex DNA, Inc. in September 2020. SGI-DNA Limited, a United Kingdom company focused on sales and marketing activities, is a wholly owned subsidiary of Codex DNA, Inc. The Company manufactures and sells laboratory equipment, specifically synthetic biology instruments, reagents and associated products and related services, primarily to pharmaceutical and academic laboratories worldwide.

On March 8, 2019, SGI sold SGI-DNA to GATTACA Mining, LLC (Purchaser or GATTACA) by entering into a stock purchase agreement to sell all of the Company's outstanding common and preferred stock in exchange for a $10 million non-recourse promissory note. Both the Company and Purchaser are co-borrowers of the promissory note. As this transaction was a change in control transaction in accordance with generally accepted accounting principles in the United States (US GAAP), the Company elected to apply push-down accounting and recognized a step up in the basis of the assets acquired and liabilities assumed in the acquisition.

On June 10, 2021, the Company's Board of Directors and stockholders approved a 3-for-1 reverse stock split of the Company's issued and outstanding common stock and outstanding shares of convertible preferred stock, which was effected on June 11, 2021. The reverse stock split also applied to all outstanding securities or rights convertible into, or exchangeable or exercisable for, common stock or convertible preferred stock. Accordingly, all shares, stock options, warrants and per share information presented in the accompanying consolidated financial statements and notes thereto have been retroactively adjusted to reflect the reverse stock split. There was no change in the par value and authorized number of shares of the Company's common stock or preferred stock.

On June 18, 2021, the Company completed an initial public offering (IPO) of 7,666,664 shares of its common stock, including the exercise in full by the underwriters of their option to purchase up to 999,999 additional shares of common stock, for aggregate gross proceeds of $122.7 million. The Company's shares began trading on the Nasdaq Global Select Market under the ticker symbol "DNAY" on June 18, 2021. The Company received $112.5 million in net proceeds after deducting underwriting discounts and commissions and other offering expenses payable by the Company. Upon closing of the IPO, all outstanding convertible preferred stock converted into 15,079,329 shares of common stock and SGI's outstanding warrants were automatically exercised into 1,201,059 shares of common stock.

Since its inception, the Company has devoted substantially all of its efforts to raising capital, commercializing its current products, and developing new product offerings. The Company is subject to a number of risks similar to those of other companies conducting high-risk, early-stage research and development of products. Principal among these risks are a dependence on key individuals and intellectual property, competition from other products and companies, and the technical risks associated with the successful research, development and manufacturing of its products. The Company's success is dependent upon its ability to continue to raise additional capital in order to fund ongoing research and development, commercialize its products, generate revenue, meet its obligations, and, ultimately, become profitable.

Products currently under development will require significant additional research and development efforts. These efforts require significant amounts of additional capital, adequate personnel and infrastructure.

The Company has evaluated whether there are conditions and events, considered in the aggregate, that raise substantial doubt about the Company's ability to continue as a going concern within one year after the date the 2020 consolidated financial statements were issued.

Since inception, the Company has incurred cumulative operating losses and negative cash flows from operations. These operating losses and negative cash flows have been financed principally from the issuance of equity securities and debt. The Company's ability to continue as a going concern is dependent upon the ability to raise additional debt or equity capital. There can be no assurance that such capital will be available in sufficient amounts or on terms acceptable to the Company. Risks to which the Company is exposed include uncertainties related to the ability to achieve revenue-generating products; current and potential competitors with greater financial, technological, production, and marketing resources; dependence on key management personnel; and raising additional capital, as needed. Based upon the Company's current plans, management believes there currently is sufficient financial resources to fund the Company's operations for at least twelve months from the issuance date of these financial statements.

The accompanying consolidated financial statements have been prepared on a going concern basis, which contemplates the realization of assets and satisfaction of liabilities in the ordinary course of business. The condensed consolidated financial statements do not include any adjustments relating to the recoverability and classification of recorded asset amounts or the amounts and classification of liabilities that might result from the outcome of this uncertainty.

Impact of COVID-19

In December 2019, a novel strain of coronavirus, which causes the disease known as COVID-19, was reported to have surfaced in Wuhan, China. Since then, COVID-19 coronavirus has spread globally. In March 2020, the World Health Organization declared the COVID-19 outbreak a pandemic. The ongoing COVID-19 global and national health emergency has caused significant disruption in the international and United States economies and financial markets. The spread of COVID-19 has caused illness, quarantines, cancellation of events and travel, business and school shutdowns, reduction in business activity and financial transactions, labor shortages, supply chain interruptions and overall economic and financial market instability.

In response to public health directives and orders and to help minimize the risk of the virus to employees, the Company has taken precautionary measures, including implementing work-from-home policies for certain employees. The COVID-19 pandemic has the potential to significantly impact the Company's manufacturing supply chain, distribution or logistics and other services. Additionally, the Company's service providers and their operations may be disrupted, temporarily closed or experience worker or supply shortages, which could result in additional disruptions or delays in shipments of laboratory equipment or the advancement of the scientific research. To date, the Company is not aware of any such disruptions. Furthermore, to date, the Company has not experienced the pandemic's adverse impacts in any material respect. The Company is not able to estimate the duration of the pandemic or potential impact on the business if disruptions or delays in shipments of product occur. In addition, a severe prolonged economic downturn could result in a variety of risks to the business, including weakened demand for product and a decreased ability to raise additional capital when needed on acceptable terms, if at all. As the situation continues to evolve, the Company will continue to closely monitor market conditions and respond accordingly.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation and Principles of Consolidation

The accompanying unaudited condensed consolidated financial statements have been prepared in conformity with generally accepted accounting principles in the United States of America (U.S. GAAP) and included the accounts of the Company and its wholly owned subsidiary after the elimination of all significant intercompany accounts and transactions. Any reference in these notes to applicable guidance is meant to refer to the authoritative U.S. GAAP as found in the Accounting Standards Codification (ASC) and as amended by Accounting Standards Updates (ASU) of the Financial Accounting Standards Board (FASB).

The unaudited condensed consolidated financial statements have been prepared on the same basis as the audited annual consolidated financial statements as of and for the year ended December 31, 2020, and, in the opinion of management, reflect all adjustments, consisting of normal recurring adjustments, necessary for the fair presentation of the Company's condensed consolidated balance sheet as of September 30, 2021, the condensed consolidated statements of operations and comprehensive loss, condensed consolidated statements of convertible preferred stock and stockholders' equity (deficit) for the three and nine months ended September 30, 2021 and 2020, and the condensed consolidated statements of cash flows for the nine months ended September 30, 2021 and 2020.

The accompanying condensed consolidated financial statements should be read in conjunction with the Company's audited consolidated financial statements and the accompanying notes for the year ended December 31, 2020 included in the Company's final prospectus that forms part of the Company's Registration Statement on Form S-1, filed with the Securities and Exchange Commission (SEC) pursuant to Rule 424(b)(4) on June 21, 2021 (the Prospectus). The condensed consolidated balance sheet data as of December 31, 2020 presented for comparative purposes was derived from the Company's audited consolidated financial statements but does not include all disclosures required by U.S. GAAP.

The Company's significant accounting policies are disclosed in the audited consolidated financial statements for the year ended December 31, 2020 included in the Prospectus. Since the date of the audited consolidated financial statements for the year ended December 31, 2020 included in the Prospectus, there have been no changes to its significant accounting policies except as noted below.

Unaudited Interim Financial Information

The accompanying condensed consolidated balance sheet as of September 30, 2021, the condensed consolidated statements of operations and comprehensive loss, the condensed consolidated statements of convertible preferred stock and stockholders' equity (deficit) for the three and nine months ended September 30, 2021 and 2020, and the condensed consolidated statements of cash flows for the nine months ended September 30, 2021 and 2020 are unaudited. The unaudited interim consolidated financial statements have been prepared on the same basis as the audited annual consolidated financial statements and, in the opinion of management, reflect all adjustments, which include only normal recurring adjustments, necessary for the fair statement of the Company's financial position as of September 30, 2021 and the results of its operations

or the three and nine months ended September 30, 2021 and 2020, and its cash flows for the nine months ended September 30, 2021 and 2020. The financial data and other information disclosed in these notes related to the three and nine months ended September 30, 2021 and 2020 are also unaudited. The results for the three and nine months ended September 30, 2021 are not necessarily indicative of results to be expected for the year ending December 31, 2021, any other interim periods, or any future year or period.

Use of Estimates

The preparation of consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities at the date of the consolidated financial statements, and the reported amounts of revenues and expenses during the reporting periods presented. Key estimates in the consolidated financial statements include the Company's ability to continue as a going concern, revenue recognition, impairment assessment for goodwill and intangible assets, allowance for doubtful accounts, estimated useful lives of property and equipment, valuation of inventory, accrued expenses, valuation of deferred income tax assets, valuation of derivative liabilities, share-based compensation, fair value of common stock prior to the Company's initial public offering and accrued warranty are subject to significant estimation. Actual results could differ from those estimates.

Revenue Recognition

Product Revenue, Net

The Company recognizes revenue on product sales to customers when the transfer of control happens, which generally occurs upon shipment. The Company recognizes revenue on installation and training when the service has been rendered. The Company includes a standard one year warranty with its product sales.These standard warranties are accounted for at the time product revenues are recognized. The Company also offers extended warranty for an additional fee. Revenue related to extended warranty is recognized on a straight-line basis over the term. Product revenues are recorded net of variable consideration, including discounts.

Royalties and Other Revenue

Royalties and other revenue consist of fees charged for the license of non-exclusive rights of the Company's patents to third parties and grant revenue received from government entities as reimbursement of expenses related to the development and use of synthetic biology tools to develop solutions to address various areas of concern. The royalties and other revenue are recognized at the same time as the third parties record the revenue associated with the use of the license. The grant revenue from these contracts is recognized as the services are performed or ratably over the milestone period and typically require the performance of specific activities and timely reporting of results. Associated expenses are recognized when incurred. Revenue and related expenses are presented gross in the condensed consolidated statements of operations and comprehensive loss.

Warranty Obligations

The Company estimates its cost of standard product warranties, primarily from historical information, and records a charge in cost of revenues at the time product revenues are recognized. The Company's estimated warranty obligation at September 30, 2021 was $52,000 and is included in other current liabilities in our condensed consolidated balance sheet.

3. FAIR VALUE MEASUREMENT

The following table summarizes the fair values of the Company's assets and liabilities on the condensed consolidated balance sheets which comprise money market funds and the participation right liability, warrant liability, contingent put option liability, and success fee contingent liability (in thousands):

	Fair value measurements as of September 30, 2021			
	Level 1	Level 2	Level 3	Total
Assets				
Money market funds	$ 107,241	$ —	$ —	$ 107,241
Total	$ 107,241	$ —	$ —	$ 107,241
Liabilities				
Contingent put option liability	$ —	$ —	$ 119	$ 119
Total	$ —	$ —	$ 119	$ 119

	Fair value measurements as of December 31, 2020			
	Level 1	Level 2	Level 3	Total
Liabilities				
Participation right liability	$ —	$ —	$ 420	$ 420
Warrant liability	—	—	594	594
Contingent put option liability	—	—	51	51
Success fee contingent liability	—	—	468	468
Total	$ —	$ —	$ 1,533	$ 1,533

During the year ended December 31, 2020 there were no transfers between Level 1, Level 2 and Level 3.

Participation Right Liability

The quantitative elements associated with the Company's Level 3 inputs impacting the fair value measurement of the participation right liability include management's expectation of amounts to be raised and the probability of success in obtaining the funds. The fair value was determined by multiplying the amount expected to be raised versus the probability of success and the percentage right (3%). As of September 30, 2021 and December 31, 2020, the fair value of the participation right was valued at $0 due to the liability's extinguishment pursuant to the Company's IPO and $0.4 million, respectively.

Preferred Stock Warrants

The preferred stock warrant liability consists of the fair value of warrants to purchase Series A-1 Preferred Stock issued in conjunction with the Series A-1 financing in December 2019 with SGI and the 2021 Loan Agreement (See Note 8) and was based on significant inputs not observable in the market, which represent a Level 3 measurement within the fair value hierarchy. As of December 31, 2020, the fair value of the Series A-1 convertible preferred stock warrant was $3.87 per share. Upon the closing of the IPO, SGI's outstanding preferred stock warrants were automatically exercised into 119,315 shares of common stock. Subsequent to the closing of the IPO, all outstanding warrants issued pursuant to the 2021 Loan Agreement were exercised into 51,409 shares of common stock. As of September 30, 2021, there were no outstanding preferred stock warrants.

As of June 18, 2021, the SGI preferred stock warrant was valued by calculating the intrinsic value of the warrant upon the closing of the IPO. The following reflects the significant quantitative inputs used in the valuation of the SGI preferred stock warrant liability as of December 31, 2020:

	December 31, 2020
Risk-free interest rate	0.1 %
Expected term	2.0 years
Expected volatility	83.6 %
Expected dividend yield	0.0 %

The following reflects the significant quantitative inputs used in the valuation of the preferred stock warrants issued pursuant to the 2021 Loan Agreement as of June 18, 2021:

	June 18, 2021
Risk-free interest rate	1.4 %
Expected term	9.7 years
Expected volatility	56.0 %
Expected dividend yield	0.0 %

Contingent Put Option Liability

The contingent put option liability consists of the fair value of the contingent interest feature and acceleration clause (contingent put option) under the 2019 Loan Agreement and 2021 Loan Agreement (see Note 8). The fair value of the contingent put option liability was based on significant inputs not observable in the market, which represent a Level 3 measurement within the fair value hierarchy. The Company's valuation of the contingent put option liability utilized a risk-neutral valuation model wherein the fair value of the underlying debt facility is estimated, both with and without the presence of the default provisions, holding all

other assumptions constant. The Company assesses these assumptions and estimates at least annually as additional information impacting the assumptions are obtained. Changes in the fair value of the contingent put option liability are recognized in other income (expense) as part of the change in fair value of derivative liabilities in the condensed consolidated statements of operations and comprehensive loss.

Success Fee Contingent Liability

The success fee contingent liability consists of the fair value of contingent obligation to pay the lender a success fee of $0.8 million upon a Liquidity Event under the 2019 Loan Agreement (see Note 8). Due to the Company's IPO on June 18, 2021, the fair value of the success fee contingent liability was classified as a Level 1 input due to the use of an observable market quote in an active market. The success fee was paid in full during the three months ended September 30, 2021, and the liability was extinguished. As of December 31, 2020, the fair value of the success fee contingent liability was based on significant inputs not observable in the market, which represent a Level 3 measurement within the fair value hierarchy. The Company's valuation of the success fee contingent liability utilized a liquidity event scenario analysis, discounted at the Company's cost of capital. This analysis consists of both the probability adjusted fair value of the success fee based on liquidity scenarios, and the risk adjusted present value of the success fee, discounted at the Company's cost of capital on the valuation date to take into account the risk of achieving the liquidity scenarios. The Company assesses these assumptions and estimates at least annually as additional information impacting the assumptions is obtained. Changes in the fair value of the success fee contingent liability are recognized in other income (expense) as part of the change in fair value of derivative liabilities in the condensed consolidated statements of operations and comprehensive loss.

The following table provides a roll-forward of the aggregate fair value of the Company's derivative liabilities for which fair value is determined using Level 3 inputs (in thousands):

	Participation right liability	Warrant liability	Contingent put liability	Success fee contingent liability
Fair value at December 31, 2020	$ 420	$ 594	$ 51	$ 468
Extinguishment of liability	—	—	(51)	—
Issuance of liability	—	322	303	—
Change in fair value	(30)	198	—	128
Fair value at March 31, 2021	390	1,114	303	596
Change in fair value	—	1,656	(169)	154
Extinguishment of liability	(390)	(2,770)	—	—
Transfer out of Level 3 to Level 1	—	—	—	(750)
Fair value at June 30, 2021	—	—	134	—
Change in fair value	—	—	(15)	—
Fair value at September 30, 2021	$ —	$ —	$ 119	$ —

For the each of the three months ended September 30, 2021 and 2020, the Company recorded a change in fair value of derivative liabilities included in other expense of less than $0.1 million. For the nine months ended September 30, 2021 and 2020, the Company recorded a change in fair value of derivative liabilities included in other expense of $1.5 million and $0.7 million, respectively.

4. INVENTORY

Inventories include material, labor and overhead and are stated at the lower of cost (first-in and first-out method) or net realizable value. The components of inventory are as follows as of September 30, 2021 and December 31, 2020 (in thousands):

	September 30, 2021	December 31, 2020
Raw materials	$ 561	$ 299
Work in process and sub-assemblies	887	201
Finished goods	223	101
Total	$ 1,671	$ 601

5. PROPERTY AND EQUIPMENT

Property and equipment consisted of the following on September 30, 2021 and December 31, 2020 (in thousands):

	September 30, 2021	December 31, 2020
Machinery and equipment	$ 1,745	$ 1,315
Computer hardware and software	6	6
Leasehold improvements	58	32
Construction in progress	141	102
Total	1,950	1,455
Less: Accumulated depreciation and amortization	(1,046)	(766)
Total property and equipment, net	$ 904	$ 689

Depreciation expense for the each of the three months ended September 30, 2021 and 2020 was $0.1 million and depreciation expense for each of the nine months ended September 30, 2021 and 2020 was $0.3 million, and is included in operating expenses.

6. GOODWILL AND OTHER INTANGIBLE ASSETS

Goodwill

As part of the March 8, 2019 transaction (see Note 1), the Company acquired its intangible assets with resulting goodwill. The goodwill carries a fair value of approximately $3.5 million. Due to the recent decline in global economic and labor market conditions caused by the global outbreak of the COVID-19 pandemic, the Company considered the effects on its goodwill and determined that there was no material significant impact that would cause the goodwill to be impaired. There were no other events or circumstances that have changed since the last annual assessment that could reduce the fair value of the Company's reporting segments below its carrying values.

For the three and nine months ended September 30, 2021 and 2020, the Company did not record any impairment of goodwill.

Other Intangible Assets

Other intangible assets include the rights to technology and the SGI-DNA trade name. The Company engaged an independent consultant to value the intangible assets and to determine the useful lives. The technology was valued at approximately $3.2 million with a seven year useful life and the SGI-DNA trade name at approximately $0.1 million with a three year useful life. During 2020, the Company changed its name to Codex DNA, Inc. (See Note 1), the amount allocated to the trade name of $0.1 million was deemed impaired and written off in April 2020.

Amortization expense for each of the three months ended September 30, 2021 and 2020 was approximately $0.1 million and for the nine months ended September 30, 2021 and 2020 was approximately $0.3 million and $0.4 million, respectively.

The following table summarizes the estimated future amortization expense of the intangible assets as of September 30, 2021 (in thousands):

Years ending December 31:	
2021	$ 113
2022	450
2023	450
2024	450
2025	450
Thereafter	75
Total	$ 1,988

7. LEASES

As of September 30, 2021, the Company had three outstanding leases for office and laboratory space and scientific manufacturing equipment. The leases have terms between 12 and 15 months.

Corporate Headquarters

In September 2021, the Company entered into the Wateridge Pointe lease for future office and laboratory space and concurrently signed a second amendment to the operating lease agreement for its corporate headquarters located at 9535 Waples Street, San Diego, California (the Second Amendment). Under the Second Amendment, the lease at 9535 Waples Street will terminate upon the occupancy of office and laboratory space at 10421 and 10431 Wateridge Circle, San Diego, California, which will occur subsequent to the renovation and build-out of the spaces. The Wateridge Pointe lease provides for a tenant improvement (TI) allowance for the renovation and build-out of the spaces up to $185.00 per square foot, or approximately $12.3 million, with an additional allowance of up to $10.00 per square foot, or approximately $0.7 million if properly requested by the Company. The lessor is solely responsible for the management and payment of the tenant improvements and these expenses will be recorded as lessor improvements per ASC 842 guidance. Rent for the Wateridge Pointe lease will be approximately $3.9 million per year beginning upon lease commencement, subject to annual increases of 3%. The Wateridge Pointe lease provides for a 10 year and 3 month term and the Company is entitled to one option to extend the lease term for an additional five years. Occupancy of 10421 and 10431 Wateridge Circle and the corresponding termination of the lease at 9535 Waples Street are expected to occur in the second half of 2022.

Upon the execution of the Second Amendment, which was deemed to be a lease modification, the Company re-evaluated the assumptions made at the original lease commencement date. The Company determined the Second Amendment consists of a single contract under ASC 842. Accordingly, the Company bifurcated the components of the modified lease. Upon execution of the Second Amendment the Company adjusted the right-of-use asset and lease liability for the reduced term of the 9535 Waples Street lease component. In addition the Company will record a right-of-use asset and lease liability on the commencement date of the 10421 and 10431 Wateridge Circle lease components.

The components of lease cost under ASC 842 are as follows (in thousands):

	September 30, 2021	September 30, 2020
Lease costs		
Finance lease cost:		
Payment of finance lease liability	$ 61	$ 82
Interest on lease liabilities	8	14
Amortization of right-of-use asset	479	439
Variable lease cost	363	254
Total lease cost	$ 911	$ 789

Supplemental disclosure of cash flow information related to leases are as follows (in thousands):

	September 30, 2021	September 30, 2020
Cash paid for amounts included in the measurement of lease liabilities:		
Operating cash flows from operating leases	$ 723	$ 589
Operating cash flows from finance leases	$ 8	$ 14
Financing cash flows from finance leases	$ 61	$ 82

The weighted-average remaining lease term and discount rate were as follows:

	September 30, 2021	September 30, 2020
Weighted-average remaining lease term		
Finance leases	1.2 years	2.0 years
Operating leases	1.0 years	4.3 years
Weighted-average discount rate		
Finance leases	7.7 %	7.9 %
Operating leases	8.9 %	8.9 %

The following table summarizes the minimum lease payments of the Company's operating and finance lease liabilities as of September 30, 2021 (in thousands):

Year Ending December 31,	Operating	Finance
2021	$ 245	$ 22
2022	702	85
2023	—	—
2024	—	—
2025	—	—
Total future minimum lease payments	947	107
Less: imputed interest	(36)	(5)
Present value of operating lease liability	$ 911	$ 102
Less: current portion of lease liability	(911)	(85)
Non-current portion of lease liability	—	17

The table above excludes an estimated $45.1 million of legally binding minimum lease payments to be made over a period of approximately 10 years for the lease at 10421 and 10431 Wateridge Circle, San Diego, California that has been executed but not yet commenced as of September 30, 2021. Commencement of the lease at 10421 and 10431 Wateridge Circle is expected to occur in the second half of 2022.

8. NOTES PAYABLE

Loan and Security Agreement

As of September 30, 2021 and December 31, 2020, the loans payable on the condensed consolidated balance sheets pertains to the Loan and Security Agreement with Silicon Valley Bank and the Loan and Security Agreement with Oxford, respectively, and consists of the following (in thousands):

	September 30, 2021	December 31, 2020
Principal amount of loans payable	$ 15,000	$ 5,000
Less: Current portion of loans payable	(941)	(1,333)
Loans payable, net of current portion	14,059	3,667
Accrued Interest	91	90
Final debt payment liability	400	287
Debt discount and financing costs, net of accretion	(903)	(691)
Loans payable, net of discount and current portion	$ 13,647	$ 3,353

2019 Loan and Security Agreement

On September 5, 2019, we entered into a Loan and Security Agreement with Oxford Finance LLC as the lender (the 2019 Loan Agreement). Under the 2019 Loan Agreement we borrowed a total of $5.0 million in secured loans. These loans were repaid in full in March 2021 with the proceeds from the 2021 Loan Agreement. In connection with the repayment, the Company recognized a loss on debt extinguishment of $0.6 million. These loans bore interest at the greater of (i) 8.79% per annum and (ii) the sum of (a) the thirty (30) day U.S. LIBOR rate reported in The Wall Street Journal on the last Business Day of the month that immediately precedes the month in which the interest will accrue, plus (b) 6.38%. They would have matured on October 1, 2023 and were secured by substantially all of our assets, other than our intellectual property, which was subject to a negative pledge. Payments on the loans were interest-only until May 1, 2021, followed by equal monthly principal payments and accrued interest through the scheduled maturity date of October 1, 2023.

In connection with the 2019 Loan Agreement, we had a contingent obligation to pay Oxford a success fee of $0.8 million upon the completion of our IPO. We had also identified a bifurcated compound derivative liability related to a contingent interest feature and acceleration clause (contingent put option). The fair value of the success fee and the contingent put option were recorded within derivative liabilities on our consolidated balance sheets and corresponding discount to the loans under the 2019 Loan Agreement. We remeasured both liabilities to fair value at each reporting date, and we recognized changes in the fair value as a component of other income (expense) in our consolidated statements of operations and comprehensive loss. We continued to recognize changes in the fair value of the success fee contingent liability until the success fee was paid. The success fee contingent liability was paid in full during the three months ended September 30, 2021. The contingent put option liability was extinguished when the 2019 Loan Agreement was terminated in March 2021.

2021 Loan Agreement

On March 4, 2021, the Company entered into a Loan and Security Agreement with Silicon Valley Bank (SVB) as the lender (the 2021 Loan Agreement). Under the 2021 Loan Agreement, the Company borrowed a $15.0 million senior secured term loan, the proceeds of which were used to repay all existing obligations under the 2019 Loan Agreement, with the remaining proceeds available for working capital and general corporate purposes. Under the 2021 Loan Agreement, SVB may elect to make a second term loan to the Company in a principal amount up to but not exceeding $5.0 million, as SVB may determine in its sole discretion.

In connection with the 2021 Loan Agreement, the Company issued to SVB a warrant to purchase a number of shares of preferred stock (the Preferred Warrant). The Preferred Warrant was exercisable into the number of preferred shares equal to approximately $0.2 million divided by the applicable warrant price. The Preferred Warrant also provides for the grant of additional shares upon the disbursement of an advance under the 2021 Loan Agreement. Such additional shares will be equal to 1.5% of the principal amount of the advance divided by the warrant price. The Preferred Warrant was exercisable at the original purchase price of the Series A-1 convertible preferred stock. When the Series A-1 convertible preferred stock in which the warrant would have been exercisable into converted into common stock, the warrant holder gained the right to exercise the warrant for such number of shares of common stock into which the preferred shares would have converted into had they been exercised prior to the conversion. The Preferred Warrant was exercised in June 2021 in exchange for 51,409 shares of common stock.

The term loans bear interest at a per annum rate equal to the greater of (a) 4.0% above the prime rate and (b) 7.25%. The interest rate as of March 5, 2021 was 7.25% per annum. The loans are secured by substantially all of the Company's assets,

other than intellectual property. The Company has agreed not to encumber its intellectual property assets, except as permitted by the 2021 Loan Agreement. For the nine months ended September 30, 2021, the effective interest rate on outstanding borrowings was approximately 10.40%.

The term loans mature on January 1, 2024; provided, the loan maturity date will be extended by one year to January 1, 2025, if SVB is satisfied that the Company has achieved at least $4.0 million in trailing three-month instruments and reagents revenue for any three-month period occurring after March 4, 2021 but ending on or before December 31, 2021, subject to confirmatory lender calls.

Payments on the term loans are interest-only until February 1, 2022, followed by equal principal payments and monthly accrued interest payments through the scheduled maturity date; provided, the interest-only period may be extended to August 1, 2022 if SVB is satisfied that we have achieved at least $4.0 million in trailing three-month instruments and reagents revenue for any three-month period occurring after March 4, 2021, but ending on or before December 31, 2021, subject to confirmatory lender calls.

The Company may elect to prepay the term loans, in whole but not in part, at any time. If the Company elects to voluntarily prepay the term loans before the scheduled maturity date, the Company is required to pay the lender a prepayment fee, equal to 3.0% of the then outstanding principal balance if the prepayment occurs on or before March 4, 2022, 2.0% of the outstanding principal balance if the prepayment occurs after March 4, 2022, but on or before March 4, 2023, or 1.0% of the outstanding principal balance if the prepayment occurs after March 4, 2023, but on or before the scheduled maturity date. No prepayment fee is applicable to a mandatory prepayment of the loans upon an acceleration of the loans. Upon a voluntary or mandatory prepayment of the loans, the Company is also required to pay SVB's expenses and all accrued but unpaid interest on the loans through the prepayment date.

A final payment (the Final Payment) equal to $0.4 million will be due at the earlier of the maturity date, acceleration of the loans, or a voluntary or mandatory prepayment of the loans. The Final Payment is being accrued through interest expense using the effective interest method.

Under the 2021 Loan Agreement, the Company agrees to maintain as of the last day of each month, certain consolidated trailing three-month minimum revenue levels as set forth in the 2021 Loan Agreement. In August 2021, the 2021 Loan Agreement was amended to change the monthly compliance reporting to quarterly reporting. For the three months ended September 30, 2021, the Company was not in compliance with the trailing three-month minimum revenue requirement. In November 2021, the Company further amended the 2021 Loan Agreement so that the trailing three-month minimum revenue requirement begins December 31, 2021 once the Company's cash balance falls below $55 million. Additionally, the interest-only period was extended until August 1, 2022 and the maturity date was amended to January 1, 2025. The Company will assess the amendment to the 2021 Loan Agreement for debt modification or extinguishment under ASC 470 and account for the change prospectively.

The 2021 Loan Agreement includes customary representations and covenants that, subject to exceptions and qualifications, restrict the Company's ability to do the following things: engage in mergers, acquisitions, and asset sales; transact with affiliates; undergo a change in control; engage in businesses that are not related to the Company's existing business; add or change business locations; incur additional indebtedness; incur additional liens; make loans and investments; declare dividends or redeem or repurchase equity interests; and make certain amendments or payments in respect of any subordinated debt. In addition, the 2021 Loan Agreement contains customary affirmative covenants, including covenants regarding the payment of taxes and other obligations, maintenance of insurance, maintenance of our bank accounts, protection of our intellectual property, reporting requirements, compliance with applicable laws and regulations, and formation or acquisition of new subsidiaries. Except as detailed above, the Company is in compliance with its covenants as of September 30, 2021.

The 2021 Loan Agreement also includes customary indemnification obligations and customary events of default, including, among other things, payment defaults, breaches of covenants following any applicable cure period, material misrepresentations, a failure of the loans or the lender's security interest in the collateral to have the priority as required under the 2021 Loan Agreement, a material adverse change as defined in the 2021 Loan Agreement (including without limitation as a result of a government approval having been revoked, rescinded, suspended, modified or not renewed), certain material judgments and attachments, and events relating to bankruptcy or insolvency.

The 2021 Loan Agreement also contains a cross default provision under which, if a third party (under any agreement) has a right to accelerate indebtedness greater than $0.5 million, the Company would be in default of the 2021 Loan Agreement. During the continuance of an event of default, SVB may apply a default interest rate of an additional 5% to the outstanding loan balances, and SVB may declare all outstanding obligations immediately due and payable and may exercise other rights and remedies as set forth in the 2021 Loan Agreement and related loan documents. Acceleration would result in the payment of all outstanding loans, any default interest charged by the lender, all expenses of the lender and the Final Payment.

The Company bifurcated a compound derivative liability related to the contingent interest feature and acceleration clause (contingent put option) under the 2021 Loan Agreement. The contingent put option liability was valued and separately accounted for in the Company's condensed consolidated financial statements. The contingent put option liability is classified as a component of derivative liabilities on the condensed consolidated balance sheet. As of September 30, 2021, the estimated fair value of the contingent put option liability was $0.1 million, which was determined by using a risk-neutral valuation model wherein the fair value of the underlying debt facility is estimated, both with and without the presence of the default provisions, holding all other assumptions constant (see Note 3).

The estimated future principal payments due under the 2021 Loan Agreement were as follows:

	September 30, 2021
Estimated future principal payments due	
2022	$ 2,500
2023	6,000
2024	6,000
2025	500
Total	$ 15,000

9. STOCKHOLDERS' EQUITY

On June 18, 2021, the Company completed its IPO of 7,666,664 shares of its common stock, including the exercise in full by the underwriters of their option to purchase up to 999,999 additional shares of common stock, for aggregate gross proceeds of $122.7 million. The Company's common stock began trading on the Nasdaq Global Select Market under the ticker symbol "DNAY" on June 18, 2021. The Company received $112.5 million in net proceeds after deducting underwriting discounts and commissions and other offering expenses payable by the Company. Upon closing of the IPO, all outstanding convertible preferred stock converted into 15,079,329 shares of common stock and SGI's outstanding warrants were automatically exercised into 1,201,059 shares of common stock. Subsequent to the closing of the IPO, all outstanding warrants issued pursuant to the 2021 Loan Agreement were exercised into 51,409 shares of common stock.

10. STOCK-BASED COMPENSATION

For the three months ended September 30, 2021 and 2020 and the nine months ended September 30, 2021 and 2020, the Company recorded stock-based compensation expense of approximately $0.4 million, less than $0.1 million, $0.6 million, and less than $0.1 million, respectively. No income tax benefit was recognized in the accompanying condensed consolidated statements of operations and comprehensive loss for the Company's equity incentive plan.

The Company's Board of Directors approved the adoption of the SGI-DNA, Inc. 2019 Stock Plan (the 2019 Plan) in March 2019. The 2019 Plan permitted the Company to grant up to 5,544,187 shares for options and restricted stock units of the Company's common stock. On March 3, 2021, the Company's Board of Directors and stockholders approved the termination of the 2019 Plan and the adoption of the 2021 Equity Incentive Plan (the 2021 Plan). 6,000,000 shares of common stock were reserved for issuance under the 2021 Plan.

The 2021 Plan provided for the grant of incentive and non-statutory stock options to employees, non-employee directors and consultants of the Company. Options granted under the 2019 Plan and 2021 Plan generally become exercisable over a 4-year period following the date service begins and expire 10 years from the date of grant. The exercise price of incentive stock options granted under the 2019 Plan and 2021 Plan must be at least equal to 100% of the fair value of the Company's common stock at the date of the grant, except for greater than 10% stockholders for which the exercise price of incentive stock options granted under the 2019 Plan and 2021 Plan must be at least equal to 110% of the fair value of the Company's common stock at the date of the grant, as determined by the Board of Directors. The exercise price of non-statutory options granted under the 2019 Plan and 2021 Plan must be at least equal to 100% of the fair value of the Company's common stock at the date of grant, as determined by the Board of Directors. The 2019 Plan and 2021 Plan granted the Company a right of first refusal to repurchase shares issued under the plan at a price set by the optionee, which right terminated upon the IPO. As of September 30, 2021 and December 31, 2020, there were no outstanding shares subject to these repurchase rights.

Effective in connection with the IPO, the Company established the 2021 Stock Incentive Plan (the 2021 SIP), which reserved 3,500,000 shares of common stock for future issuance, and the 2021 Employee Stock Purchase Plan (the ESPP), which reserved 350,000 shares of common stock reserved for future issuance.

Stock option activity under the 2019 Plan and 2021 Plan for the nine months ended September 30, 2021 is as follows:

	Number of options	Weighted average exercise price	Weighted average remaining contractual term (in years)	Aggregate intrinsic value (in thousands)
Balances at December 31, 2020	760,159	$ 0.60	8.7	$ 2,884
Options granted	2,161,464	6.74	9.6	9,489
Options exercised	(284,670)	0.59	7.9	3,001
Options cancelled	(267,257)	2.51	8.9	2,303
Balances at September 30, 2021	2,369,696	$ 5.98	9.4	$ 12,193
Vested and expected to vest at September 30, 2021	2,369,696	$ 5.98	9.4	$ 12,193
Exercisable at September 30, 2021	114,107	$ 0.54	7.9	$ 1,208

There were 2,161,464 options granted during the nine months ended September 30, 2021. The weighted average grant date calculated fair value of options granted during the nine months ended September 30, 2021 was $3.98 per share.

The calculated value of option grants during the nine months ended September 30, 2021 was estimated using the Black-Scholes option pricing model with the following weighted average assumptions:

	September 30, 2021
Risk free interest rate	1.2 %
Expected dividend yield	— %
Expected term	6.1 years
Expected volatility	38.9 %

Stock-based compensation expense related to stock options was classified in the condensed consolidated statements of operations and comprehensive loss as follows (in thousands):

	Three months ended September 30, 2021	Nine months ended September 30, 2021
Research and development	$ 5	$ 12
Sales and marketing	22	52
General and administrative	338	514
Total	$ 365	$ 578

As of September 30, 2021, total unrecognized stock-based compensation expense related to unvested stock-based awards was $7.8 million, which is expected to be recognized over a weighted average period of 3.3 years.

11. INCOME TAXES

The Company estimates an annual effective tax rate of 0% for the year ending December 31, 2021, as the Company incurred losses for the nine months ended September 30, 2021 and is forecasting additional losses through the remainder of fiscal year ending December 31, 2021, resulting in an estimated net loss for both financial statement and tax purposes for the year ending December 31, 2021. Therefore, no federal or state income taxes are expected and none have been recorded at this time. Income taxes have been accounted for using the liability method.

Due to the Company's history of losses since inception, there is not enough evidence at this time to support that the Company will generate future income of a sufficient amount and nature to utilize the benefits of its net deferred tax assets. Accordingly, the deferred tax assets have been reduced by a full valuation allowance, since the Company does not currently believe that realization of its deferred tax assets is more likely than not.

As of September 30, 2021, the Company had no unrecognized income tax benefits that would reduce the Company's effective tax rate if recognized.

12. COMMITMENTS AND CONTINGENCIES

Litigation

The Company may become involved in various claims, suits, and legal proceedings from time to time in the ordinary course of its business. The Company accrues a liability when it believes that it is both probable and the amount of loss can be reasonably estimated. While the outcome of such claims, lawsuits or other proceedings cannot be predicted with certainty, management expects that any liability, to the extent not provided for by insurance or otherwise, will not have a material adverse effect on the Company's consolidated financial position or results of operations.

Codexis Trademark Litigation

In May 2020 Codexis, Inc. (Codexis) filed a complaint against the Company relating to its CODEX DNA name based on Codexis' rights in the CODEX and CODEXIS mark in the U.S. District Court, Northern District of California for federal and common law trademark infringement and unfair competition/false designation (the Complaint). Codexis seeks injunctive relief, including that the Company cease all use of the term CODEX and any other trademark confusingly similar to the marks CODEX and CODEXIS and not apply for registration of or register the CODEX mark or any other mark confusingly similar to the CODEX or CODEXIS marks, transfer to Codexis all domain names and social media accounts/user names that include the term "codex" and pay damages (consisting of Codexis's actual damages, a disgorgement of the Company's profits and punitive damages as permitted by California common law) as well as attorneys' fees and costs. The Company has been defending the case and recently transitioned to new counsel. The parties are scheduled to complete discovery in January 2022, and if the Company cannot resolve the matter with Codexis, then a jury trial is scheduled to begin in April 2022.

Eurofins Pharma Non-Competition/Non-Solicitation Litigation

In October 2018, Eurofins Pharma US Holdings II, Inc. (EPUSH II) and Eurofins DiscoverX Corporation (Eurofins DiscoverX) (collectively, Plaintiffs) filed a complaint against Todd R. Nelson, SGI-DNA, Inc. (SGI-DNA, which is the Company's prior name) and Synthetic Genomics, Inc. (the Company's former parent company, and together with Dr. Nelson and SGI-DNA, the Defendants) to enforce non-competition and non-solicitation provisions of an agreement.

The complaint, filed in the Superior Court of California, County of San Diego, charges Dr. Nelson with breach of contract, SGI-DNA with tortious interference, and both with unfair competition. The complaint seeks permanent injunctive relief, monetary damages and other equitable relief (including restitution) against the Defendants. The civil jury trial, initially scheduled for April 24, 2020, and rescheduled to August 27, 2021, is now a bench trial that is scheduled to begin January 7, 2022.

It is not possible at this time to assess whether the outcome of these complaints will have a material adverse effect on the Company's consolidated results of operations, cash flows or financial position. Therefore, in accordance with ASC 450, *Contingencies*, the Company has not accrued any accrual for a contingent liability associated with these legal proceedings based on its belief that a liability, while possible, is not probable nor estimable, and any range of potential contingent liability amounts cannot be reasonably estimated at this time.

Contingencies

As described in the Note 8 above, the Company had a success fee contingent liability to a creditor that will require a payment of $0.8 million. This contingent liability was recorded at its fair value of $0.5 million at December 31, 2020 and was paid in full during the three months ended September 30, 2021.

Leases

The Company's non-cancelable lease commitments are described in Note 7.

13. NET LOSS PER SHARE

Net loss per share

Basic and diluted net loss per share attributable to common stockholders was calculated as follows (in thousands, except share and per share amounts):

	Three months ended September 30,		Nine months ended September 30,	
	2021	2020	2021	2020
Numerator:				
Net loss	$ (9,824)	$ (4,465)	$ (26,467)	$ (12,427)
Net loss attributable to common stockholders	$ (9,824)	$ (4,465)	$ (26,467)	$ (12,427)
Denominator:				
Weighted average common stock outstanding - basic and diluted	29,299,769	5,001,035	14,485,161	5,000,442
Net loss per share attributable to common stockholders - basic and diluted	$ (0.34)	$ (0.89)	$ (1.83)	$ (2.49)

The Company's potential dilutive securities have been excluded from the computation of diluted net loss per share as the effect would be to reduce the net loss per share. Therefore, the weighted-average number of common shares outstanding used to calculate both basic and diluted net loss per share attributable to common stockholders is the same. The Company excluded the following potential common shares from the computation of diluted net loss per share attributable to common stockholders for the periods indicated because including them would have had an anti-dilutive effect:

	September 30,	
	2021	2020
Series Z convertible preferred stock (as converted to common stock)	—	2,500,000
Series A convertible preferred stock (as converted to common stock)	—	7,599,274
Series A-1 convertible preferred stock (as converted to common stock)	—	4,980,055
Warrants to purchase common stock	—	1,081,745
Warrants to purchase Series A-1 convertible preferred stock (as converted to common stock)	—	154,022
Stock options to purchase common stock	2,369,696	745,160
Total	2,369,696	17,060,256

14. RETIREMENT PLAN

The Company has a retirement saving plan (the 401(k) Plan) that allows participating employees to defer a portion of their annual compensation on a pretax basis. The Company made no contributions to the 401(k) Plan for the nine months ended September 30, 2021 and 2020.

15. RELATED PARTY TRANSACTIONS

During each of the nine months ended September 30, 2021 and 2020, the Company made payments to related parties of approximately $0.2 million for payments to board members and services relating to intellectual property matters, including patent filings and patent prosecution.

16. SUBSEQUENT EVENTS

On November 9, 2021, the Company entered into a Share Purchase Agreement (the Eton Share Purchase Agreement) with EtonBio, Inc. (Eton), a privately held provider of synthetic biology products and services, and the shareholders of Eton, pursuant to which the Company will acquire all of the issued and outstanding stock of Eton for $12.9 million in cash. The Company expects the transaction to close in the next 60 days.

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

Unless the context otherwise requires, all references in this section to the "Company," "we," "us, or "our" refer to the business of Codex DNA, Inc. and its subsidiaries.

You should read the following discussion and analysis of our financial condition and results of operations together with our unaudited condensed consolidated financial statements and related notes, appearing elsewhere in this Quarterly Report on Form 10-Q and the audited consolidated financial statements and related notes and management's discussion and analysis of financial condition and results of operations for the fiscal year ended December 31, 2020 included in our final prospectus for our initial public offering (IPO) dated June 18, 2021 and filed with the Securities and Exchange Commission, or SEC, pursuant to Rule 424(b)(4) under the Securities Act of 1933, as amended, or the Securities Act, on June 21, 2021, which we refer to as the Prospectus. Some of the information contained in this discussion and analysis or set forth elsewhere in this Quarterly Report on Form 10-Q, including information with respect to our plans and strategy for our business and related financing, includes forward-looking statements that involve risks and uncertainties. As a result of many factors, including those factors set forth in the "Risk Factors" section of this Quarterly Report on Form 10-Q, our actual results could differ materially from the results described in or implied by the forward-looking statements contained in the following discussion and analysis.

Overview

We are a leading synthetic biology company focused on enabling researchers to rapidly, accurately and reproducibly build or "write" high-quality synthetic DNA and mRNA that is ready to use in many downstream synthetic biology enabled markets. Our synthetic biology solution addresses the bottlenecks across the multi-step process of building DNA and mRNA, as well as the significant limitations of existing solutions that prevent the rapid building of virtually error-free DNA and mRNA at a useable scale. A key part of our solution is our BioXp system, an end-to-end automated workstation that fits on the benchtop and is broadly accessible due to its ease-of-use and hands-free automation. We believe our BioXp system can democratize synthetic biology by simplifying the process of building DNA and mRNA, thereby accelerating the discovery, development and production of novel high-value products, including antibody-based biologics, mRNA-based vaccines and therapeutics and precision medicines.

Our synthetic biology solution is comprised of our:

- *BioXp system*: which we believe is the first commercially available push-button, walkaway, end-to-end automated workstation that empowers researchers to go from a digital DNA sequence to endpoint-ready synthetic DNA in as few as 8 hours and mRNA in less than 24 hours, exclusive of shipment time;
- *BioXp portal*: a user-friendly online portal that offers an intuitive guided workflow and design tools for building new DNA sequences and assembling them into vector(s) of choice;
- *BioXp kits*: contain all the necessary building blocks and reagents, including our proprietary Gibson Assembly branded reagents, for specific synthetic biology workflow applications;
- *Cloud-based scripts*: product-specific and pre-validated scripts that optimize and simplify the use of the BioXp kits on the BioXp system;
- *Benchtop reagents*: contain all the reagents necessary to proceed with a specific synthetic biology workflow on the benchtop using products generated on the BioXp system; and
- *Biofoundry Services*: enable a customer to order and receive any of the BioXp system endpoint-ready products, such as genes, clones, cell-free amplified DNA and variant libraries.

We have developed and commercialized products that include BioXp systems, including our current BioXp 3250 system, BioXp kits for generating a wide array of synthetic DNA and mRNA, and benchtop reagents that complement the automated synthetic biology workflow applications and workflow solutions. We believe that our integrated BioXp systems and BioXp kits represent the industry's leading synthetic biology workflow automation solution and provide us with a first mover advantage in the rapidly growing synthetic biology market. As part of our continuing effort to improve the processes of synthetic biology, we are currently developing next-generation BioXp systems and BioXp kits with the goal of transforming rapid demand-response workflows in synthetic biology and consolidating supply chains and enabling global distributed manufacturing for discovery, preclinical and clinical applications. We also use our BioXp 3250 system, BioXp kits and benchtop reagents to perform services for customers.

We were incorporated in the state of Delaware in March 2011, as Synthetic Genomics Solution, Inc., a wholly owned subsidiary of Synthetic Genomics, Inc. (SGI). We changed our name to SGI-DNA, Inc. (SGI-DNA) in February 2013. On March 8, 2019, SGI sold SGI-DNA to GATTACA Mining, LLC (GATTACA) by entering into a stock purchase agreement to sell all of our outstanding common and preferred stock in exchange for a $10 million non-recourse promissory note (the Purchase Note) and a warrant to purchase common stock equal to 6% of the shares of common stock issued and outstanding as of the time of exercise, which will automatically be exercised immediately prior to the consummation of an initial public offering. This warrant and participation right were later amended in August 2019 to provide a warrant on 1,081,745 shares of common stock, a

participation right to receive property with a value equal to the net proceeds a person would receive as a holder of 1,081,745 shares of common stock in a change of control transaction, and additional warrants equal to 3% of the shares sold in future equity financings prior to an initial public offering or certain change of control transactions. In connection with our Series A-1 convertible preferred stock financing in December 2019, we issued SGI warrants in connection with the participation right described above to purchase Series A-1 convertible preferred stock. These warrants have an exercise price of $3.61 per share. The common stock warrant has an aggregate exercise price of $3.00. We were a co-borrower with GATTACA on the Purchase Note. Subsequently, we focused our efforts on launching new synthetic biology products and expanding our distribution and marketing efforts on our existing research using only products. We also changed our name to Codex DNA, Inc. in March 2020.

We commercially launched our current synthetic biology solution in September 2019, which now includes the BioXp 3250 system, BioXp kits with associated cloud-based application scripts, and benchtop reagent kits. Since the introduction of our solution through September 30, 2021, we have launched eight BioXp kits, three benchtop reagent kits, and several other synthetic biology products, including 13 SARS-CoV-2 full-length genomes and RNA controls as well as our Vmax X2 cells. We target customers in the fields of personalized medicine, biologics drug discovery, vaccine development, genome editing and cell and gene therapy. As of September 30, 2021, our customer base was composed of over 300 customers and included 15 of the 25 largest biopharmaceutical companies in the world ranked by 2020 revenue, excluding affiliates of those companies. Our customer base also includes leading academic research institutions, government institutions, CROs and synthetic biology companies.

Since our inception as a stand-alone company on March 8, 2019, we have devoted substantially all of our efforts to raising capital, organizing, and staffing our company, commercializing existing products and developing new products. On June 18, 2021, we completed our IPO of 7,666,664 shares of common stock, including the exercise in full by the underwriters of their option to purchase up to 999,999 additional shares of common stock, for aggregate gross proceeds of $122.7 million. We received $112.5 million in net proceeds after deducting underwriting discounts and commissions and other offering expenses payable by us. Prior to our IPO, we had funded our operations with proceeds from the issuance of convertible notes and convertible preferred stock, payments received from royalties and product sales, and proceeds from borrowings under our credit facilities. Prior to our IPO, we had received gross proceeds of $32.8 million from sales of our convertible preferred stock, $6.8 million from the issuance of our convertible notes and and gross proceeds of $20.0 million through borrowings under our loan and security agreements with Oxford Finance LLC (the 2019 Loan Agreement) and Silicon Valley Bank (the 2021 Loan Agreement).

We have incurred significant operating losses since our inception. During the nine months ended September 30, 2021 and 2020, our revenue was $8.0 million and $4.6 million, respectively. As of September 30, 2021, we had cash and cash equivalents of $109.8 million. Our ability to generate product revenue sufficient to achieve profitability will depend on the successful development and commercialization of our products. We reported net losses of $26.5 million and $12.4 million for the nine months ended September 30, 2021 and 2020, respectively. As of September 30, 2021, we had an accumulated deficit of $52.8 million.

Impact of COVID-19

In December 2019, a novel strain of coronavirus, which causes the disease known as COVID-19, was reported to have surfaced in Wuhan, China. Since then, COVID-19 coronavirus has spread globally. In March 2020, the World Health Organization declared the COVID-19 outbreak a pandemic. The ongoing COVID-19 global and national health emergency has caused significant disruption in the international and United States economies and financial markets. The spread of COVID-19 has caused illness, quarantines, cancellation of events and travel, business and school shutdowns, reduction in business activity and financial transactions, labor shortages, supply chain interruptions and overall economic and financial market instability.

In response to public health directives and orders and to help minimize the risk of the virus to employees, we have taken precautionary measures, including implementing work-from home policies for certain employees. The COVID-19 pandemic has the potential to significantly impact our manufacturing supply chain, distribution or logistics and other services. Additionally, our service providers and their operations may be disrupted, temporarily closed or experience worker or supply shortages, which could result in additional disruptions or delays in shipments of purchased equipment, materials or the development of new products. To date, we have not suffered material supply chain disruptions.

The COVID-19 pandemic has had a mixed impact on our revenues. We sell our products to pharmaceutical and academic laboratories. Many such laboratories temporarily closed or reduced work hours due to the pandemic which reduced sales to existing customers. Furthermore, many business and academic conferences were cancelled and travel restrictions were imposed world-wide, which impacted customer acquisition and reduced sales. However, we were able to quickly develop new COVID-19 specific products and sell these and our existing products to entities working on COVID-19 products and vaccine development, which contributed to revenue growth.

We are not able to estimate the duration of the pandemic and potential impact on the business if disruptions or delays in shipments of product occur. In addition, a severe prolonged economic downturn could result in a variety of risks to the

business, including weakened demand for product and a decreased ability to raise additional capital when needed on acceptable terms, if at all. As the situation continues to evolve, we will continue to closely monitor market conditions and respond accordingly.

Reverse Stock Split

On June 10, 2021, our Board of Directors and stockholders approved a 3-for-1 reverse stock split of our issued and outstanding common stock and outstanding shares of convertible preferred stock, which was effected on June 11, 2021. The reverse stock split also applied to all outstanding securities or rights convertible into, or exchangeable or exercisable for, common stock or convertible preferred stock. Accordingly, all shares, stock options, warrants and per share information presented in this Quarterly Report on Form 10-Q have been retroactively adjusted to reflect the reverse stock split. There was no change in the par value and authorized number of shares of the Company's common stock or preferred stock.

Initial Public Offering

On June 18, 2021, we completed our IPO of 7,666,664 shares of common stock, including the exercise in full by the underwriters of their option to purchase up to 999,999 additional shares of common stock, for aggregate gross proceeds of $122.7 million. Our shares began trading on the Nasdaq Global Select Market under the ticker symbol “DNAY” on June 18, 2021. We received $112.5 million in net proceeds after deducting underwriting discounts and commissions and other offering expenses payable by us. Upon closing of the IPO, all outstanding convertible preferred stock converted into 15,079,329 shares of common stock and SGI’s outstanding warrants were automatically exercised into 1,201,059 shares of common stock.

Components of Results of Operations

Revenue

Revenue consists of product sales and royalties and other revenue. Net product sales primarily consist of sales of our BioXp systems, BioXp kits, benchtop reagents and biofoundry services. In providing biofoundry services, we use our own instruments and reagents to create DNA products for our customers. Royalties and other revenue consist of fees charged for the license of non-exclusive rights of our patents to third parties and grant revenue received from government entities as reimbursement of expenses related to the development and use of synthetic biology tools to develop solutions to address various areas of concern. The grants typically require the performance of specific activities and timely reporting of results.

Historically, revenue growth has come from BioXp systems, BioXp kits and biofoundry services. Growth in BioXp systems sales has come from investments in direct and indirect distribution channels and new product introductions. Growth in BioXp kit sales has come from the growth of the installed base of BioXp systems and new application kits. Biofoundry services were launched late in 2019. Growth in biofoundry services has been driven by new product introductions and prospective customers using biofoundry services to validate our BioXp systems. We have also seen an increase in demand for our biofoundry services driven by COVID-19-related access problems to researchers’ labs. As we continue to expand our revenue opportunities, we launched our collaboration research program which works with government entities to develop solutions to specific areas of concern.

Cost of Revenue

Cost of revenue primarily consists of material and labor costs, freight and indirect overhead costs associated with sales of our BioXp instruments, BioXp kits, benchtop reagents, biofoundry services and collaboration research programs. Cost of revenue also includes period costs related to certain inventory adjustment charges, and unabsorbed manufacturing and overhead costs, as well as any write-offs of inventory that fail to meet specification or are otherwise no longer suitable for commercial manufacture. Cost of revenue is expected to increase as revenue increases.

Research and Development Expenses

Research and development expenses include pre-production costs related to the design, development and improvement of our products and technologies, including employee compensation, benefits and related costs of sustaining our engineering teams, project material costs, third party fees paid to consultants, prototype development expenses, legal costs related to intellectual property, patent fees, and other costs incurred in the product design and development process. We expense research and development costs as incurred. Non-refundable advance payments that we make for goods or services to be received in the future are recorded as prepaid expenses. The prepaid amounts are expensed as the related goods are delivered or the services are performed, or when it is no longer expected that the goods will be delivered or the services rendered.

We expect that our research and development expenses will increase significantly, both in the near term and subsequently, in connection with our planned product development activities. At this time, we cannot accurately estimate or know the nature, timing and costs of the efforts that will be necessary to complete the development of any of our future products. The successful

development and commercialization of our future products is highly uncertain. This is due to the numerous risks and uncertainties associated with product development and commercialization, including but not limited to the following:

- we can never be certain that we can solve any technical challenge;
- if such solution can be found, we can never be certain of the timing of such a solution;
- once we find a technical solution, we cannot be certain that the solution will be commercially feasible; and
- any solution may not be desired by our customers.

These uncertainties with respect to the development of any of our future products could significantly impact the costs and timing associated with the development of these products.

Sales and Marketing Expenses

Sales and marketing expenses include employee compensation, including compensation and benefits for sales, marketing, customer service, corporate development personnel and related administrative expenses. In addition, sales and marketing expenses also include costs for international employees and facility overhead based on headcount. We anticipate that our sales and marketing expenses will increase in the future as we increase our headcount to support increasing sales and expanding our international operations. Sales and marketing costs are expensed as incurred.

General and Administrative Expenses

General and administrative expenses consist primarily of salaries and related costs for personnel in executive, finance, and administrative functions. General and administrative expenses also include legal fees relating to corporate matters; professional fees for accounting, auditing, tax and administrative consulting services; insurance costs, administrative travel expenses, other operating costs; and facility costs not otherwise included in research and development or sales and marketing expenses.

We anticipate that our general and administrative expenses will increase in the future as we increase our administrative headcount to support our continued research, development and commercialization activities. We also anticipate that we will incur significantly increased accounting, audit, legal, regulatory, compliance and director and officer insurance costs as well as investor and public relations expenses associated with operating as a publicly traded company. General and administrative expenses are expensed as incurred.

Other Expense, Net

Interest Expense

Interest expense primarily consists of cash and non-cash interest on our term loan facilities, the Purchase Note, and our finance leases.

Change in Fair Value of Derivative Liabilities

Change in fair value of derivative liabilities consists of the change in fair value of our SGI participation right liability, warrant liabilities, contingent put option liability, and success fee contingent liability. We classify derivative liabilities as a liability on our condensed consolidated balance sheets that we remeasure to fair value at each reporting date. We recognize changes in the fair value of the derivative liabilities as a component of other income (expense) in our condensed consolidated statements of operations and comprehensive loss. In connection with our IPO in June 2021, the participation right was extinguished and the warrants underlying our warrant liability were exercised. The success fee contingent liability was paid in full during the three months ended September 30, 2021. At September 30, 2021, the contingent put option liability is listed as a derivative liability on our condensed consolidated balance sheets.

Other Expense,Net

Other expense, net consists primarily of gains on the disposal of fixed assets and losses on the write off of intangible assets.

Income Taxes

Since our inception, we have not recorded any income tax benefits for the net operating losses (the NOLs) we have incurred in each year or for our earned research and development tax credits generated in each period, as we believe, based upon the weight of available evidence, that it is more likely than not that all of our NOLs and tax credit carryforwards will not be realized. As of December 31, 2019 and 2020, we had federal NOL carryforwards of $12.2 million and $28.4 million, respectively, and state NOL carryforwards of $6.7 million and $15.9 million, respectively. The federal NOL carryforwards of $1.3 million generated before January 1, 2018 will begin to expire in 2034, but can be used to offset up to 100% of taxable income. Amounts generated after December 31, 2017 will carryforward indefinitely, but will be subject to 80% taxable income limitation beginning in tax years after December 31, 2020, as provided by the CARES Act. We have recorded a full valuation allowance against our net deferred tax assets at each balance sheet date.

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act, (the CARES Act) was passed by the U.S. Congress and signed into United States law. The CARES Act, among other things, includes certain provisions for individuals and corporations; however, these benefits did not impact our income tax provisions in the period or year presented given the existence of the full valuation allowance.

Results of Operations

Comparison of the Three Months Ended September 30, 2021 and 2020

The following table summarizes our results of operations for the three months ended September 30, 2021 and 2020:

	Three Months Ended September 30,		
	2021	2020	Change
	(in thousands)		
Revenue			
Product sales	$ 2,180	$ 1,285	$ 895
Royalties and other revenue	606	350	256
Total revenue	2,786	1,635	1,151
Cost of revenue	1,624	739	885
Gross profit	1,162	896	266
Operating expenses:			
Research and development	3,593	2,345	1,248
Sales and marketing	2,955	1,861	1,094
General and administrative	4,055	990	3,065
Total operating expenses	10,603	5,196	5,407
Loss from operations	(9,441)	(4,300)	(5,141)
Other expense, net:			
Interest expense, net	(381)	(169)	(212)
Change in fair value of derivative liabilities	15	12	3
Other expense, net	(13)	(6)	(7)
Total other expense, net	(379)	(163)	(216)
Loss before provision for income taxes	(9,820)	(4,463)	(5,357)
Provision for income taxes	(4)	(2)	(2)
Net loss	$ (9,824)	$ (4,465)	$ (5,359)

Revenue

Revenue for the three months ended September 30, 2021 was $2.8 million, compared to $1.6 million for the three months ended September 30, 2020. This increase of $1.2 million was primarily driven by new product introductions. The 3250 BioXp system, which launched in late 2020, led to a $0.9 million increase in product and reagent sales, as well as increased biofoundry services. Royalties and other revenue increased by $0.3 million because of an increase in revenue related to the licensing of our products, as well as collaboration research programs which began in 2021.

Cost of Revenue

Cost of revenue for the three months ended September 30, 2021 was $1.6 million, compared to $0.7 million for the three months ended September 30, 2020. This increase of $0.9 million was primarily driven by higher raw material costs associated with sales of reagents and biofoundry services of $0.7 million, higher instrument units sold of $0.3 million and costs related to our collaboration research programs of $0.2 million. These increases were offset by a $0.3 million decrease in other costs, which are composed of overhead, indirect costs, manufacturing and pricing variances.

Research and Development Expenses

Research and development expenses for the three months ended September 30, 2021 were $3.6 million, compared to $2.3 million for the three months ended September 30, 2020. The $1.3 million increase was primarily due to increases of $0.9 million in personnel expenses and $0.4 million of research and development expenses due to our increase in headcount related

to our product development efforts, which were partially offset by allocations of research and development costs attributable to our revenue from collaborations.

Sales and Marketing Expenses

Sales and marketing expenses for the three months ended September 30, 2021 were $3.0 million, compared to $1.9 million for the three months ended September 30, 2020. This increase of $1.1 million was primarily due to an increase of $0.9 million in personnel expenses as we increased our headcount related to our sales and marketing efforts in Europe, as well as an increase of $0.2 million in facility related and other expenses due to general cost increases related to additional sales and marketing activities.

General and Administrative Expenses

General and administrative expenses for the three months ended September 30, 2021 were $4.1 million, compared to $1.0 million for the three months ended September 30, 2020. The $3.1 million increase was primarily due to an increase of $1.3 million in personnel expenses due to an increase in general and administrative headcount, a $0.9 million increase in professional services primarily due to increased costs of consulting, legal services and audit and accounting costs and an increase of $0.9 million in facility related and other costs was primarily due to insurance costs and other expenses.

Other Expense, Net

Other expense, net for the three months ended September 30, 2021 was a net expense of $0.4 million, compared to a net expense of $0.2 million for the three months ended September 30, 2020. The increase of $0.2 million was primarily due to an increase in interest expense as a result of the 2021 Loan Agreement.

Comparison of the Nine Months Ended September 30, 2021 and 2020

The following table summarizes our results of operations for the nine months ended September 30, 2021 and 2020:

	Nine Months Ended September 30,		
	2021	2020	Change
	(in thousands)		
Revenue			
Product sales	$ 6,099	$ 3,720	$ 2,379
Royalties and other revenue	1,866	919	947
Total revenue	7,965	4,639	3,326
Cost of revenue	4,548	1,933	2,615
Gross profit	3,417	2,706	711
Operating expenses:			
Research and development	9,217	6,263	2,954
Sales and marketing	7,881	4,758	3,123
General and administrative	9,596	2,876	6,720
Total operating expenses	26,694	13,897	12,797
Loss from operations	(23,277)	(11,191)	(12,086)
Other expense, net:			
Interest expense, net	(1,001)	(502)	(499)
Change in fair value of derivative liabilities	(1,532)	(655)	(877)
Loss on extinguishment of debt	(618)	—	(618)
Other expense, net	(29)	(77)	48
Total other expense, net	(3,180)	(1,234)	(1,946)
Loss before provision for income taxes	(26,457)	(12,425)	(14,032)
Provision for income taxes	(10)	(2)	(8)
Net loss	$ (26,467)	$ (12,427)	$ (14,040)

Revenue

Revenue for the nine months ended September 30, 2021 was $8.0 million, compared to $4.6 million for the nine months ended September 30, 2020. This increase of $3.4 million was primarily driven by increased product sales due to new product introductions. The 3250 BioXp system, which launched in late 2020, led to a $2.4 million increase in product and reagent sales, as well as increased biofoundry services. Royalties and other revenue increased by $1.0 million due to collaboration research programs beginning in 2021, as well as an increase in royalties from third-party customers.

Cost of Revenue

Cost of revenue for the nine months ended September 30, 2021 was $4.5 million, compared to $1.9 million for the nine months ended September 30, 2020. This increase of $2.6 million was primarily driven by higher raw material costs associated with reagents and biofoundry services of $1.4 million, higher instrument units sold of $1.1 million, and costs related to our collaboration research programs of $0.5 million. These increases were partially offset by a $0.4 million decrease in other costs, which are composed of overhead, indirect costs, manufacturing and pricing variances.

Research and Development Expenses

Research and development expenses for the nine months ended September 30, 2021 were $9.2 million, compared to $6.3 million for the nine months ended September 30, 2020. This increase of $2.9 million was due to an increase of $2.3 million in personnel expenses related to an increase in headcount related to our product development efforts, which were offset by allocations of research and development costs attributable to our revenue from collaborations, as well as an increase of $0.6 million in professional services and facility and other costs due to general increases in research and development activities and legal expenses for patent and IP expenses.

Sales and Marketing Expenses

Sales and marketing expenses for the nine months ended September 30, 2021 were $7.9 million, an increase of $3.1 million when compared to the $4.8 million for the nine months ended September 30, 2020. The increase was primarily due to increased personnel expenses of $2.8 million due to an increase in headcount related to our sales and marketing efforts in our expansion into Europe. Professional services and facility and other costs increased $0.3 million primarily due to increases in our digital marketing activities and general cost increases related to addition sales and marketing activities.

General and Administrative Expenses

General and administrative expenses for the nine months ended September 30, 2021 were $9.6 million, compared to $2.9 million for the nine months ended September 30, 2020, an increase of $6.7 million. The increase was primarily due to an increase of $2.6 million in personnel expenses due to the timing of personnel additions and employee recruiting fees related to preparation for an initial public offering in 2021, an increase of $2.7 million in professional services primarily due to increased costs of consulting, legal services and audit and accounting costs related to preparation for an initial public offering in 2021 and an increase of $1.4 million in facility related and other costs was related to increases in insurance costs, cyber security, and office equipment and supplies.

Other Expense, Net

Other expense, net for the nine months ended September 30, 2021 was a net expense of $3.2 million, compared to a net expense $1.2 million for the nine months ended September 30, 2020. The increase of $1.9 million was primarily due to the change in fair value of derivative liabilities due to the completion of the IPO, the loss on extinguishment of debt under the 2019 Loan Agreement, and an increase in interest expense as a result of the 2021 Loan Agreement.

Liquidity and Capital Resources

Sources of Liquidity

Since our inception, we have incurred significant operating losses. On June 18, 2021, we completed our IPO of 7,666,664 shares of common stock, including the exercise in full by the underwriters of their option to purchase up to 999,999 additional shares of common stock, for aggregate gross proceeds of $122.7 million. We received $112.5 million in net proceeds after deducting underwriting discounts and commissions and other offering expenses payable by us. Prior to our IPO, we had funded our operations with proceeds from the issuance of convertible notes and convertible preferred stock, payments received from royalties and product sales, and proceeds from borrowings under our credit facilities. Prior to our IPO, we had received gross proceeds of $32.8 million from sales of our convertible preferred stock, $6.8 million from the issuance of our convertible notes and gross proceeds of $20.0 million through borrowings under our loan and security agreements with Oxford Finance LLC (the 2019 Loan Agreement) and Silicon Valley Bank (the 2021 Loan Agreement). As of September 30, 2021, we had cash and cash equivalents of $109.8 million.

We will continue to incur significant expenses and expect to incur increasing operating losses for the foreseeable future. We also expect that our expenses and capital expenditures will increase substantially in connection with our ongoing activities, particularly as we:

- seek to develop new products and services and hire additional research, development and engineering personnel;
- expand our distribution and marketing infrastructure to further commercialize current and future products and support our growing customer base;
- add operational, financial, and administrative systems and personnel to support growing sales; and
- maintain, expand, enforce, defend and protect our intellectual property portfolio and provide reimbursement of third-party expenses related to our patent portfolio;

Until such time as we can generate significant revenue from product sales, if ever, we expect to finance our operations through a combination of equity offerings, debt financings, or other capital sources, including collaborations with other companies, and other strategic transactions. To the extent that we raise additional capital through the sale of equity or convertible debt securities, the ownership interest of our shareholders will be or could be diluted, and the terms of these securities may include liquidation or other preferences that adversely affect the rights of our common shareholders. Debt financing and equity offerings, if available, may involve agreements that include covenants limiting or restricting our ability to take specific actions, such as incurring additional debt, making capital expenditures or declaring dividends. If we raise funds through collaborations, or other similar arrangements with third parties, we may have to relinquish valuable rights to our technologies, future revenue streams, research programs or product candidates or grant licenses on terms that may not be favorable to us and/or may reduce the value of our common shares. If we are unable to raise additional funds through equity or debt financings when needed, we may be required to delay, limit, reduce or terminate our product development or future commercialization efforts or grant rights to develop and market our product candidates even if we would otherwise prefer to develop and market such product candidates ourselves.

The field of synthetic biology is rapidly developing and subject to numerous risks and uncertainties associated with new technologies and novel products. Consequently, we are unable to accurately predict the timing or amount of increased product sales or expenses or when, or if, we will be able to achieve or maintain profitability. Even if we are able to continue to generate significant product sales, we may not become profitable. If we fail to become profitable or are unable to sustain profitability on a continuing basis, then we may be unable to continue our operations at planned levels and be forced to reduce or terminate our operations.

Cash Flows

Comparison of the Nine Months Ended September 30, 2021 and 2020

The following table summarizes our consolidated cash flows for the nine months ended September 30, 2021 and 2020:

	Nine Months Ended September 30,	
	2021	2020
	(in thousands)	
Net cash used in operating activities	$ (24,259)	$ (10,822)
Net cash used in investing activities	(498)	(114)
Net cash provided by (used in) financing activities	121,096	(82)
Net increase (decrease) in cash	$ 96,339	$ (11,018)

Operating Activities

During the nine months ended September 30, 2021, operating activities used $24.3 million of cash, primarily resulting from our net loss of $26.5 million and changes in our operating assets and liabilities of $2.0 million, partially offset by non-cash charges of $4.2 million. Non-cash charges consisted primarily of the change in fair value of derivative liabilities of $1.5 million as a result of our IPO, loss on debt extinguishment of $0.6 million, depreciation and amortization expense of $0.6 million, $0.4 million related to amortization of our debt discount, amortization of our right-of-use operating lease asset of $0.5 million and $0.6 million in stock-based compensation. Net changes in our operating assets and liabilities for the nine months ended September 30, 2021 consisted primarily of a $2.2 million increase in deposits, prepaid expenses and other current assets, a $1.1 million increase in inventories and a $0.7 million increase in accounts receivable, partially offset by a $2.7 million increase in accounts payable, accrued payroll and accrued liabilities.

During the nine months ended September 30, 2020, we used $10.8 million of cash in operations, primarily resulting from our net loss of $12.4 million and net cash used in changes in our operating assets and liabilities of $0.4 million, partially offset by

non-cash charges of $2.0 million. Non-cash charges consisted primarily of the change in fair value of derivative liabilities of $0.7 million, depreciation and amortization expense of $0.7 million, amortization of right-of-use assets of $0.4 million, and $0.2 million related to amortization of our debt discount.

Investing Activities

During the nine months ended September 30, 2021 and 2020, net cash used in investing activities was $0.5 million and $0.1 million, respectively, consisting of purchases of property and equipment.

Financing Activities

During the nine months ended September 30, 2021, net cash provided by financing activities was $121.1 million, consisting primarily of net proceeds from our IPO of $112.5 million and from borrowings of $14.9 million from the issuance of debt under the 2021 Loan Agreement, partially offset by $6.1 million related to the repayment and extinguishment of debt from the 2019 Loan Agreement.

During the nine months ended September 30, 2020, net cash used in financing activities was $0.1 million, consisting primarily of principal payments on leased equipment.

2019 Loan and Security Agreement

On September 5, 2019, we entered into a Loan and Security Agreement with Oxford Finance LLC (Oxford) as the lender (the 2019 Loan Agreement). Under the 2019 Loan Agreement we borrowed a total of $5.0 million in secured loans. These loans were repaid in full in March 2021. These loans bore interest at the greater of (i) 8.79% per annum and (ii) the sum of (a) the thirty day U.S. LIBOR rate reported in The Wall Street Journal on the last Business Day of the month that immediately precedes the month in which the interest will accrue, plus (b) 6.38%. They would have matured on October 1, 2023 and were secured by substantially all of our assets, other than our intellectual property, which was subject to a negative pledge. In connection with the 2019 Loan Agreement, we had a contingent obligation to pay Oxford a success fee of $0.8 million upon the completion of our initial public offering. Upon the loan's inception and on December 31, 2019, the fair value of this success fee contingent liability was estimated to be $0.4 million and was recorded as a derivative liability on our consolidated balance sheets with the corresponding discount applied against the notes. Issuance costs related to the loans, inclusive of the success fee contingent liability, were $0.5 million.

Payments on the loans were interest-only until May 1, 2021, followed by equal monthly principal payments and accrued interest through the scheduled maturity date of October 1, 2023.

We had identified a contingent liability to pay a success fee to the lender as well as a bifurcated compound derivative liability related to a contingent interest feature and acceleration clause (contingent put option). The success fee contingent liability and the bifurcated embedded derivative were valued and separately accounted for in the accompanying condensed consolidated financial statements. The fair value of the success fee was recorded as a contingent liability within derivative liabilities on our condensed consolidated balance sheets and corresponding discount to the loans under the 2019 Loan Agreement. We classified the contingent put option liability within derivative liabilities on our condensed consolidated balance sheets. We remeasured both liabilities to fair value at each reporting date, and we recognized changes in the fair value as a component of other income (expense) in our condensed consolidated statements of operations and comprehensive loss. We continued to recognize changes in the fair value of the success fee contingent liability until the success fee was paid. The contingent put option liability was extinguished when the 2019 Loan Agreement was repaid in full in March 2021. The success fee contingent liability was paid in full during the three months ended September 30, 2021.

2021 Loan Agreement

On March 4, 2021, we entered into a Loan and Security Agreement with Silicon Valley Bank (SVB) as the lender (the 2021 Loan Agreement). Under the 2021 Loan Agreement, on March 5, 2021, we borrowed a $15.0 million senior secured term loan, the proceeds of which were used to repay all of our existing obligations under the 2019 Loan Agreement, with the remaining proceeds available for our working capital and general corporate purposes.

Under the 2021 Loan Agreement, SVB may elect to make a second term loan to us in a principal amount up to but not exceeding $5.0 million, as SVB may determine in its sole discretion.

In connection with the 2021 Loan Agreement, we issued to SVB a warrant to purchase a number of shares of preferred stock (the Preferred Warrant). The Preferred Warrant was exercisable into the number of preferred shares equal to approximately $0.2 million divided by the applicable warrant price. The Preferred Warrant was initially exercisable for Series A-1 convertible preferred stock at an exercise price of $3.61 per share. The Preferred Warrant also provides for the grant of additional shares upon the disbursement of an advance under the 2021 Loan Agreement. Such additional shares will be equal to 1.5% of the principal amount of the advance divided by the warrant price. The Preferred Warrant is exercisable at the original purchase price of the Series A-1 convertible preferred stock. When the Series A-1 convertible preferred stock in which the warrant would have been exercisable into converted into common stock, the warrant holder gained the right to exercise the warrant for such

number of shares of common stock into which the preferred shares would have converted into had they been exercised prior to the conversion. The Preferred Warrant may be exercised at any time, in whole or in part. Unless previously exercised, the Preferred Warrant will expire on March 4, 2031. The Preferred Warrant was exercised in June 2021 in exchange for 51,409 shares of common stock.

The term loans bear interest at a per annum rate equal to the greater of (a) 4.0% above the prime rate and (b) 7.25%. The interest rate as of March 5, 2021 was 7.25% per annum. The loans are secured by substantially all of our assets, other than our intellectual property. We have also agreed not to encumber our intellectual property assets, except as permitted by the 2021 Loan Agreement.

The term loans mature on January 1, 2024; provided, the loan maturity date will be extended by one year to January 1, 2025, if SVB is satisfied that we have achieved at least $4.0 million in trailing three-month instruments and reagents revenue for any three-month period occurring after March 4, 2021 but ending on or before December 31, 2021, subject to confirmatory lender calls.

Payments on the term loans are interest-only until February 1, 2022, followed by equal principal payments and monthly accrued interest payments through the scheduled maturity date; provided, the interest-only period may be extended to August 1, 2022 if SVB is satisfied that we have achieved at least $4.0 million in trailing three-month instruments and reagents revenue for any three-month period occurring after March 4, 2021, but ending on or before December 31, 2021, subject to confirmatory lender calls.

We may elect to prepay the term loans, in whole but not in part, at any time. If we elect to voluntarily prepay the term loans before the scheduled maturity date, we are required to pay the lender a prepayment fee, equal to 3.0% of the then outstanding principal balance if the prepayment occurs on or before March 4, 2022, 2.0% of the outstanding principal balance if the prepayment occurs after March 4, 2022, but on or before March 4, 2023, or 1.0% of the outstanding principal balance if the prepayment occurs after March 4, 2023, but on or before the scheduled maturity date. No prepayment fee is applicable to a mandatory prepayment of the loans upon an acceleration of the loans. Upon a voluntary or mandatory prepayment of the loans, we are also required to pay SVB's expenses and all accrued but unpaid interest on the loans through the prepayment date.

A final payment (the Final Payment) equal to $0.4 million will be due at the earlier of the maturity date, acceleration of the loans, or a voluntary or mandatory prepayment of the loans. The Final Payment is being accrued through interest expense using the effective interest method.

Under the 2021 Loan Agreement, we covenant to maintain as of the last day of each quarter, certain consolidated trailing three-month minimum revenue levels as set forth in the 2021 Loan Agreement. For the three months ended September 30, 2021, we were not in compliance with the trailing three-month minimum revenue requirement. In November 2021, we further amended the 2021 Loan Agreement so that the trailing three-month minimum revenue requirement begins December 31, 2021 and when our cash balance falls below $55 million. Additionally, the interest-only period was extended until August 1, 2022 and the maturity date was amended to January 1, 2025. We will assess the amendment to the 2021 Loan Agreement for debt modification or extinguishment under ASC 470 and account for the change prospectively.

The 2021 Loan Agreement includes customary representations and covenants that, subject to exceptions and qualifications, restrict our ability to do the following things: engage in mergers, acquisitions, and asset sales; transact with affiliates; undergo a change in control; engage in businesses that are not related to our existing business; add or change business locations; incur additional indebtedness; incur additional liens; make loans and investments; declare dividends or redeem or repurchase equity interests; and make certain amendments or payments in respect of any subordinated debt. In addition, the 2021 Loan Agreement contains customary affirmative covenants, including covenants regarding the payment of taxes and other obligations, maintenance of insurance, maintenance of our bank accounts, protection of our intellectual property, reporting requirements, compliance with applicable laws and regulations, and formation or acquisition of new subsidiaries.

The 2021 Loan Agreement also includes customary indemnification obligations and customary events of default, including, among other things, payment defaults, breaches of covenants following any applicable cure period, material misrepresentations, a failure of the loans or the lender's security interest in the collateral to have the priority as required under the 2021 Loan Agreement, a material adverse change as defined in the 2021 Loan Agreement (including without limitation as a result of a government approval having been revoked, rescinded, suspended, modified or not renewed), certain material judgments and attachments, and events relating to bankruptcy or insolvency. The 2021 Loan Agreement also contains a cross default provision under which, if a third party (under any agreement) has a right to accelerate indebtedness greater than $0.5 million, we would be in default of the 2021 Loan Agreement. During the continuance of an event of default, SVB may apply a default interest rate of an additional 5% to the outstanding loan balances, and SVB may declare all outstanding obligations immediately due and payable and may exercise other rights and remedies as set forth in the 2021 Loan Agreement and related loan documents. Acceleration would result in the payment of all outstanding loans, any default interest charged by the lender, all expenses of the lender and the Final Payment.

Funding Requirements

We expect our expenses to increase significantly in connection with our ongoing activities, particularly with respect to research and development efforts related to our future products and our efforts to expand sales of current products and to commercialize future products. The timing and amount of our operating and capital expenditures will depend largely on:

- the cost of developing new products that are commercially viable;
- the costs of marketing and selling our products globally; and
- the potential additional expenses attributable to adjusting our development plans (including any supply-related matters) due to the COVID-19 pandemic.

Until such time, if ever, as we can generate substantial product revenue, we expect to finance our operations through a combination of equity offerings, debt financings, collaborations, strategic alliances and marketing, distribution or licensing arrangements. If we are unable to raise additional funds through equity offerings or debt financings or other arrangements when needed, we may be required to delay, limit, reduce or terminate our research, product development or future commercialization efforts, or grant rights to develop and market products that we would otherwise prefer to develop and market ourselves.

Contractual Obligations and Commitments

The following table summarizes our commitments to settle contractual obligations at September 30, 2021:

	Payments Due by Period				
	Total	Less than 1 Year	1 to 3 Years	4 to 5 Years	More than 5 Years
	(in thousands)				
Operating lease commitments [1]	$ 947	$ 947	$ —	$ —	$ —
Finance lease commitments [2]	107	89	18	—	—
Debt obligations [3]	17,743	2,099	13,213	2,431	—
Total	$ 18,797	$ 3,135	$ 13,231	$ 2,431	$ —

(1) Consists of payments due for our lease of office space in San Diego, California that is estimated to expire in September 2022.
(2) Consists of payments due for our leases of two pieces of equipment that expire between October 2022 and December 2022.
(3) Consists of the contractually required principal and interest payable under the 2021 Loan Agreement. For purposes of this table, the interest due under the 2021 Loan Agreement was calculated using an assumed interest rate of 7.25% per annum, which was the interest rate in effect as of September 30, 2021 and assumes no borrowings under the second term loan.

Off-Balance Sheet Arrangements

We did not have during the periods presented, and we do not currently have any, off-balance sheet arrangements, as defined in the rules and regulations of the SEC.

Critical Accounting Policies and Significant Judgments and Estimates

This management's discussion and analysis is based on our unaudited condensed consolidated financial statements, which have been prepared in accordance with U.S. generally accepted accounting principles. The preparation of these unaudited condensed consolidated financial statements requires us to make judgments and estimates that affect the reported amounts of assets and liabilities,the disclosure of contingent assets and liabilities at the date of the unaudited condensed consolidated financial statements and the reported amounts of expenses during the reported periods. We base our estimates on historical experience, known trends and events, and various other factors that we believe to be reasonable under the circumstances. Actual results may differ from these estimates under different assumptions or conditions. On an ongoing basis, we evaluate our judgments and estimates in light of changes in circumstances, facts, and experience. The effects of material revisions in estimates, if any, will be reflected in the consolidated financial statements prospectively from the date of change in estimates.

There have been no significant changes to our critical accounting policies from those described in "Management's Discussion and Analysis of Financial Condition and Results of Operations" included in the Final Prospectus filed pursuant to Rule 424(b) on June 21, 2021.

Recently Issued Accounting Pronouncements

See Note 2 to our annual consolidated financial statements included in the Final Prospectus filed pursuant to Rule 424(b) on June 21, 2021 for a description of recent accounting pronouncements applicable to our financial statements.

Emerging Growth Company Status

In April 2012, the JOBS Act was enacted. Section 107 of the JOBS Act provides that an "emerging growth company," or an EGC, can take advantage of the extended transition period provided in Section 7(a)(2)(B) of the Securities Act for complying with new or revised accounting standards. Thus, an EGC can delay the adoption of certain accounting standards until those standards would otherwise apply to private companies. We have elected to use the extended transition period for new or revised accounting standards during the period in which we remain an emerging growth company; however, we may adopt certain new or revised accounting standards early.

We will remain an emerging growth company until the earliest to occur of: (i) the last day of the fiscal year in which we have more than $1.07 billion in annual revenue; (ii) the date we qualify as a "large accelerated filer," with at least $700.0 million of equity securities held by non-affiliates; (iii) the date on which we have issued more than $1.0 billion in non-convertible debt securities during the prior three-year period; and (iv) the last day of the fiscal year ending after the fifth anniversary of our initial public offering.

Item 3. Quantitative and Qualitative Disclosures about Market Risks

As of September 30, 2021, we had cash and cash equivalents of $109.8 million. Interest income is sensitive to changes in the general level of interest rates; however, due to the nature of these investments, an immediate 10% change in market interest rates would not have a material effect on the fair market value of our cash balance.

As of September 30, 2021, we had $15.0 million of borrowings outstanding under the 2021 Loan Agreement. Borrowings under the 2021 Loan Agreement bear interest at a rate equal to the greater of (a) 4.0% above the prime rate and (b) 7.25%. The prime interest rate as of September 30, 2021 was 3.25% per annum. An immediate 10% change in the 30-day prime rate would not have a material impact on our debt-related obligations, financial position or results of operations.

We are not currently exposed to significant market risk related to changes in foreign currency exchange rates. Our operations may be subject to fluctuations in foreign currency exchange rates in the future. We do not believe that inflation has had a material effect on our business, financial condition, or results of operations during the nine months ended September 30, 2021 and 2020. Our operations may be subject to inflation in the future.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Under the supervision and with the participation of our management, including our Chief Executive Officer (CEO), and Chief Financial Officer (CFO), we evaluated the effectiveness of the design and operation of our disclosure controls and procedures pursuant to Rule 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the Exchange Act) as of the end of the period covered by this report. Our disclosure controls and procedures are designed to ensure that information required to be disclosed in the reports we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to our management, including the CEO and the CFO, to allow timely decisions regarding required disclosures. Any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objective and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures. Based on that evaluation, our CEO and CFO have concluded that our disclosure controls and procedures were effective at a reasonable assurance level as of September 30, 2021.

Inherent Limitations on Effectiveness of Controls

Our management, including our CEO and CFO, does not expect that our disclosure controls and procedures or our internal control over financial reporting will prevent or detect all error and all fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the control system's objectives will be met. The design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Further, because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud, if any, within a company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty and that breakdowns can occur because of simple error or mistake. Controls can also be circumvented by the individual acts of some persons, by collusion of two or more people or by management override of the controls. The design of any system of controls is based in part on certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Projections of any evaluation of controls effectiveness to future periods are subject to risks. Over time, controls may become inadequate because of changes in conditions or deterioration in the degree of compliance with policies or procedures.

Changes in Internal Control over Financial Reporting

There were no changes in our internal control over financial reporting (as such term is defined in Rules 13a-15(f) under the Exchange Act) during the three months ended September 30, 2021 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

Part II - Other Information

Item 1. Legal Proceedings

From time to time, we are involved in claims and legal proceedings or investigations, that arise in the ordinary course of business. Such matters could have an adverse impact on our reputation, business and financial condition and divert the attention of our management from the operation of our business. These matters are subject to many uncertainties and outcomes that are not predictable.

Codexis Trademark Litigation

In May 2020 Codexis, Inc. (Codexis) filed a complaint against us relating to our CODEX DNA name based on its rights in the CODEX and CODEXIS mark in the U.S. District Court, Northern District of California for federal and common law trademark infringement and unfair competition/false designation (the Complaint). Codexis seeks injunctive relief, including that we cease all use of the term CODEX and any other trademark confusingly similar to the marks CODEX and CODEXIS and not apply for registration of or register the CODEX mark or any other mark confusingly similar to the CODEX or CODEXIS marks, transfer to Codexis all domain names and social media accounts/user names that include the term “codex” and pay damages (consisting of Codexis’s actual damages, a disgorgement of our profits and punitive damages as permitted by California common law) as well as attorneys’ fees and costs.

According to the Complaint, Codexis primarily operates in the field of protein engineering and began using the CODEXIS and CODEX marks in or before 2006 and 2007, respectively. Codexis also asserts that it owns U.S. Trademark Registrations 3177355, 3779907, 87706489, 87706494 for the marks CODEXIS, CODEX, CODEXIS & Design, and CODEXIS PROTEIN ENGINEERING EXPERTS & Design for biochemical, chemical and scientific research services and product development and chemicals and biochemicals for research and commercial applications pertaining to chemistry, pharmaceuticals and medicines, among other things.

We do not currently own a U.S. trademark registration or U.S. trademark application for CODEX or Codex DNA but we do not believe there is any material customer confusion as a result of our use of the CODEX DNA name. In April 2020, we began using the name CODEX DNA, a rebrand from our prior name SGI-DNA to empower scientific researchers in academic and commercial setting. We plan to vigorously defend ourselves. A private mediation took place on June 25, 2021, but the parties did not reach settlement. We recently transitioned to new counsel and the parties are scheduled to complete discovery in January 2022. If we cannot resolve this matter with Codexis, then a jury trial is scheduled to begin in April 2022.

Eurofins Pharma Non-Competition/Non-Solicitation Litigation

In October 2018, Eurofins Pharma US Holdings II, Inc. (EPUSH II) and Eurofins DiscoverX Corporation (Eurofins DiscoverX) (collectively, Plaintiffs) filed a complaint against Todd R. Nelson, SGI-DNA, Inc. (SGI-DNA, which is our prior name) and Synthetic Genomics, Inc. (our former parent company, and together with Dr. Nelson and SGI-DNA, the Defendants) to enforce non-competition and non-solicitation provisions of an agreement.

In September 2017, EPUSH II acquired DiscoveRx (now Eurofins DiscoverX), with Dr. Nelson as the acting Chief Executive Officer. As a condition of the closing, in July 2017, Dr. Nelson signed a Confirmation of Sales of Shares of Stock and Goodwill by Merger with Covenant Not to Compete Agreement (the Non-Compete Agreement). The Non-Compete Agreement established that Dr. Nelson would transfer stock and goodwill. In addition, the Non-Compete Agreement stipulated that for a period of three years, Dr. Nelson agreed not to hire, influence or solicit any employee of DiscoveRx or its affiliates. He also agreed to disclose the Non-Compete Agreement and its restrictions to any future employer and to notify EPUSH II of any employment with another entity during the three-year period. According to the complaint, in July 2018, Dr. Nelson became the Chief Executive Officer of SGI-DNA but failed to provide notice of the employment to EPUSH II. Subsequently, Dr. Nelson allegedly also solicited and hired two Eurofins DiscoverX employees. In August 2018, Plaintiffs sent a letter to Dr. Nelson and SGI-DNA claiming that Dr. Nelson breached the Non-Compete Agreement and seeking concessions from Defendants. Defendants have denied liability, challenged the enforceability of the Non-Compete Agreement and rejected Plaintiffs’ demands.

The complaint, filed in the Superior Court of California, County of San Diego, charges Dr. Nelson with breach of contract, SGI-DNA with tortious interference, and both with unfair competition. The complaint seeks permanent injunctive relief, monetary damages and other equitable relief (including restitution) against the Defendants.

On April 9, 2021, the Defendants filed a motion for summary judgment, or in the alternative, summary adjudication, with regard to all causes of action. A hearing on this motion was held on June 25, 2021, at which time the court granted the motion in summary judgement on behalf of SGI-DNA and Dr. Nelson on three of the four claims. The court directed the parties back to mediation on the remaining claim but there was no resolution. The civil jury trial, initially scheduled for April 24, 2020, and rescheduled to August 27, 2021, is now a bench trial that is scheduled to begin January 7, 2022.

Item 1A. Risk Factors

Investing in our common stock involves a high degree of risk. You should carefully consider the risks described below, as well as the other information in this Quarterly Report, including our unaudited condensed consolidated financial statements and the related notes and the section titled "Management's Discussion and Analysis of Financial Condition and Results of Operations" in this Quarterly Report, before deciding whether to invest in our common stock. The occurrence of any of the events or developments described below could harm our business, financial condition, results of operations and prospects. In such an event, the market price of our common stock could decline, and you may lose all or part of your investment. Additional risks and uncertainties not presently known to us or that we currently deem immaterial also may impair our business operations and the market price of our common stock.

Summary Risk Factor

Our business is subject to numerous risks and uncertainties that you should consider before investing in our company. These risks are described more fully below. These risks include, but are not limited to, the following:

- we are an early-stage synthetic biology technology company with a history of net losses, which we expect to continue, and we may not be able to generate meaningful revenues or achieve and sustain profitability in the future;
- we have a limited operating history, which may make it difficult to evaluate the prospects for our future viability and predict our future performance;
- our operating results may fluctuate significantly in the future, which makes our future operating results difficult to predict and could cause our operating results to fall below expectations or any guidance we may provide;
- we may not be able to achieve or maintain satisfactory pricing and margins for our products;
- the size of the markets for our products may be smaller than estimated, and new market opportunities may not develop as quickly as we expect, or at all, thus limiting our ability to successfully meet our anticipated revenue projections;
- we have limited experience in sales and marketing of our products;
- we may need to raise additional capital to fund our operations, which may be unavailable to us or, even if consummated, may cause dilution or place significant restrictions on our ability to operate;
- we rely on a single contract manufacturer to manufacture and supply our instruments and single source suppliers for certain components of our instruments and raw materials. If this manufacturer or these suppliers should fail or not perform satisfactorily, our ability to commercialize and supply our products would be adversely affected; and
- if we are unable to obtain and maintain sufficient intellectual property protection for our products and technology, or if the scope of the intellectual property protection obtained is not sufficiently broad, our competitors could develop and commercialize products similar or identical to ours, and our ability to successfully commercialize our products and build a strong brand identity may be impaired.

Risks Related to Our Business

We are an early-stage synthetic biology technology company with a history of net losses, which we expect to continue, and we may not be able to generate meaningful revenues or achieve and sustain profitability in the future.

We are an early-stage synthetic biology technology company, and we have incurred significant losses since separating from Synthetic Genomics, Inc. (SGI) and beginning to operate as a stand-alone entity in March 2019, and expect to continue incurring losses in the future. We incurred net losses of $8.3 million for the period from March 8, 2019 through December 31, 2019 and $18.0 million for the year ended December 31, 2020. We incurred net losses of $4.5 million and $9.8 million in the three months ended September 30, 2020 and 2021, respectively. As of September 30, 2021, we had an accumulated deficit of $52.8 million. These losses and accumulated deficit were primarily due to the substantial investments we have made to develop, commercialize and market our technology and products. Over the next several years, we expect to continue to devote a significant portion of our resources towards the continued development and commercialization of our synthetic biology products. These efforts may prove more costly than we currently anticipate. In addition, as a public company, we will incur significant legal, accounting, administrative, insurance and other expenses that we did not incur as a private company. Accordingly, we cannot assure you that we will achieve profitability in the future or that, if we do become profitable, we will remain profitable.

We have a limited operating history, which may make it difficult to evaluate the prospects for our future viability and predict our future performance.

Our prospects must be considered in light of the uncertainties, risks, expenses, and difficulties frequently encountered by companies in their early stages of operations. For example, our management team has had a limited time working together and many of our key employees are new to our company. Predictions about our future success or viability are highly uncertain and may not be as accurate as they could be if we had a longer operating history or a longer history of successfully developing and commercializing products.

In addition, as a business with a limited operating history, we may encounter unforeseen expenses, difficulties, complications, delays and other known and unknown obstacles. We have encountered in the past, and will encounter in the future, risks and uncertainties frequently experienced by growing companies with limited operating histories in emerging and rapidly changing industries. If our assumptions regarding these risks and uncertainties, which we use to plan and operate our business, are incorrect or change, or if we do not address these risks successfully, our results of operations could differ materially from our expectations, and our business, financial condition and results of operations could be adversely affected.

Our operating results may fluctuate significantly in the future, which makes our future operating results difficult to predict and could cause our operating results to fall below expectations or any guidance we may provide.

Our quarterly and annual operating results may fluctuate significantly, which makes it difficult for us to predict our future operating results. These fluctuations may occur due to a variety of factors, many of which are outside of our control, including, but not limited to:

- the level of demand for our commercialized products, which may vary significantly from period to period;
- our ability to drive adoption of our products in our target markets and our ability to expand into any future target markets, including internationally;
- the prices at which we will be able to sell our products;
- the volume and mix of our sales between our BioXp systems, BioXp kits, benchtop reagents, other products and biofoundry services, or changes in the manufacturing or sales costs related to our products;
- the length of time of the sales cycle for purchases of, or royalties on, our products, including lead time needed to procure critical raw materials from suppliers and finished goods from our third-party contract suppliers and manufacturers;
- the extent to which we succeed in developing and commercializing new products;
- potential shortages, or increases in costs, of our product components or raw materials, or other disruptions to our supply chain;
- the timing and cost of, and level of investment in, research and development and commercialization activities relating to our products, which may change from time to time;
- our ability to successfully manage relationships with customers, third-party distributors and suppliers of our products;
- the timing and amount of expenditures that we may incur to develop, commercialize or acquire additional products and technologies;
- changes in governmental funding sources;
- cyclical changes to the research and development budgets within the pharmaceutical, biotechnology and industrial segments of synthetic biology;
- seasonal spending patterns of our customers;
- the expenses needed to attract and retain skilled personnel;
- future accounting pronouncements or changes in our accounting policies;
- the outcome of any litigation or governmental investigations involving us, our industry or both;
- higher than anticipated service, replacement and warranty costs;
- the costs associated with being a public company;
- changes in the regulatory environment;
- the impact of the COVID-19 pandemic on the economy, investment in synthetic biology and research industries, our business operations, and resources and operations of our customers, suppliers, and distributors; and
- general industry, economic and market conditions and other factors, including factors unrelated to our operating performance or the operating performance of our competitors.

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

This variability and unpredictability could also result in our failing to meet the expectations of industry or financial analysts or investors for any period of time. If our operating results fall below the expectations of analysts or investors or below any guidance we may provide, or if the guidance we provide is below the expectations of analysts or investors, it could cause the market price of our common stock to decline.

We may not be able to achieve or maintain satisfactory pricing and margins for our products.

The synthetic biology industry has a history of price competition, and we can give no assurance that we will be able to achieve satisfactory prices for our products or maintain prices at the levels we have historically achieved. If we are forced to lower the price we charge for our products, our gross margins will decrease, which will adversely affect our ability to invest in and grow our business. We believe that we will continue to be subject to significant pricing pressure, which may limit our ability to maintain or increase our prices.

Our cost of goods is dependent upon the pricing we are able to negotiate with our suppliers of raw materials, instruments and components. In particular, we have experienced price increases for certain raw materials, such as oligonucleotides, and expect these raw materials to continue to be in high demand. We do not have long term supply contracts for any of our raw materials. If our costs increase and we are unable to offset such increases with a proportionate increase in our prices, our margins would erode, which would harm our business and results of operations.

We may need to raise additional capital to fund our operations, which may be unavailable to us or, even if consummated, may cause dilution or place significant restrictions on our ability to operate.

Based on our current plans, we believe that our current cash, available borrowings, the proceeds from our initial public offering and anticipated cash flow from operations will be sufficient to meet our anticipated cash requirements for at least twelve months. If our available cash resources, proceeds from our initial public offering and anticipated cash flow from operations are insufficient to satisfy our liquidity requirements, including because of lower demand for our products or the realization of other risks described herein, we may be required to raise additional capital prior to such time through issuances of equity or convertible debt securities, or seek debt financing or other form of third-party funding. We believe our cash and additional borrowings available under our Loan and Security Agreement with Silicon Valley Bank (SVB), dated as of March 4, 2021 (the 2021 Loan Agreement), will be sufficient to meet our capital requirements and fund our operations for at least the next 12 months. However, we have based these estimates on assumptions that may prove to be incorrect, and we could spend our available financial resources much faster than we currently expect.

We may seek to raise additional capital in the future to expand our business, to pursue strategic investments, to take advantage of financing opportunities or for other reasons, including:

- increasing our sales and marketing and other commercialization efforts to drive market adoption of our products;
- funding development and marketing efforts of our current or any future products;
- expanding our technologies into additional markets;
- acquiring, licensing or investing in technologies and other intellectual property rights;
- acquiring or investing in complementary businesses or assets; and
- financing capital expenditures and general and administrative expenses.

Our present and future funding requirements will depend on many factors, including:

- our rate of progress in increasing penetration of our target markets with current and new products, and the cost of the sales and marketing activities associated with establishing adoption of our products;
- our rate of progress in, and cost of research and development activities associated with, products in research and development; and
- the effect of competing technological and market developments.

If we are unable to obtain adequate financing or financing on terms satisfactory to us when needed, our ability to continue to pursue our business objectives and to respond to business opportunities, challenges, or unforeseen circumstances could be significantly limited, and could have a material adverse effect on our business, financial condition, results of operations and prospects.

The various ways we could raise additional capital carry potential risks. If we raise funds by issuing equity securities, dilution to our stockholders would result. If we raise funds by issuing debt securities, those debt securities would have rights, preferences and privileges senior to those of holders of our common stock. The terms of debt securities issued or borrowings pursuant to a credit agreement could impose significant restrictions on our operations. If we raise funds through collaborations or licensing arrangements, we might be required to relinquish significant rights to our technologies or products or grant licenses on terms that are not favorable to us.

Our Loan and Security Agreement with Silicon Valley Bank contains restrictive covenants that limit our operations.

Pursuant to the terms of the 2021 Loan Agreement, we have borrowed $15.0 million and may become eligible to borrow up to an additional $5.0 million, at SVB's sole option. If we are not in compliance with the financial covenants of the 2021 Loan Agreement, it is unlikely that SVB will offer to extend the additional $5.0 million of debt financing. The 2021 Loan Agreement contains various restrictive covenants and other restrictions, including, among other things:

- a minimum revenue covenant when our cash balance is below a certain threshold;
- on our ability to transfer all or part of our business or property, except for inventory in the ordinary course of business, surplus or obsolete equipment, permitted liens, transfers of cash permitted by the agreement or transfers involving less than $250,000 in any fiscal year;
- on our ability to change our business or move our offices;
- on our ability to liquidate or dissolve or merge or consolidate with another entity, or acquire another entity;
- on our ability to incur debt or encumber our assets; and
- on our ability to pay dividends or make investments, other than permitted investments.

These restrictions may restrict our current and future operations, particularly our ability to respond to certain changes in our business or industry or take future actions. See the section titled "Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources" for additional information.

Our ability to meet these restrictive covenants can be impacted by events beyond our control. The 2021 Loan Agreement provides that our breach or failure to satisfy certain covenants constitutes an event of default. Upon the occurrence of an event of default, our lenders could elect to declare all amounts outstanding under the 2021 Loan Agreement to be immediately due and payable. If the outstanding debt under the 2021 Loan Agreement was to be accelerated, we may not have sufficient cash on hand to repay it, which would have an immediate adverse effect on our business and operating results. This could potentially cause us to cease operations and result in a complete loss of your investment in our common stock.

We depend on our key personnel and other highly qualified personnel, and if we are unable to recruit, train and retain our personnel, we may not achieve our goals.

Our future success depends upon our ability to recruit, train, retain and motivate key personnel. Our senior management team, including Todd R. Nelson, Ph.D., our President and Chief Executive Officer; Daniel Gibson, Ph.D., our Chief Technology Officer; Jennifer I. McNealey, our Chief Financial Officer; and Laurence Warden, our Vice President of Engineering and Instrumentation, is critical to our vision, strategic direction, product development and commercialization efforts. We have entered into at-will employment agreements with each of Dr. Nelson, Dr. Gibson, Ms. McNealey, and Mr. Warden, and such agreements may be terminated by either party at any time without cause. The departure of one or more of our executives officers, senior management team members or other key employees could be disruptive to our business unless we are able to hire qualified successors. We do not maintain "key man" life insurance on our senior management team.

Our continued growth depends, in part, on attracting, retaining and motivating qualified personnel, including highly trained sales personnel with the necessary scientific background and ability to understand our systems at a technical level to effectively identify and sell to potential new customers. New hires require significant training and, in most cases, take significant time before they achieve full productivity. Our failure to successfully integrate these key personnel into our business could adversely affect our business. In addition, competition for qualified personnel is intense, particularly in the San Diego area, where our operations are headquartered. We compete for qualified scientific and information technology personnel with other life science and information technology companies as well as academic institutions and research institutions.

We do not maintain fixed-term employment contracts with any of our employees. As a result, our employees could leave our company with little or no prior notice and would be free to work for a competitor. Due to the complex and technical nature of our products and technology and the dynamic market in which we compete, any failure to attract, train, retain and motivate qualified personnel could materially harm our business, results of operations, financial condition and prospects.

If we do not sustain or successfully manage our anticipated growth, our business and prospects will be harmed.

Our anticipated growth will place significant strains on our management, operational and manufacturing systems and processes, sales and marketing team, financial systems and internal controls and other aspects of our business. As of September 30, 2021, we had 125 employees in the United States and eight full-time employees internationally. We expect that we will need to hire additional accounting, finance and other personnel in connection with our becoming, and our efforts to comply with the requirements of being, a public company. As a public company, our management and other personnel will need to devote a substantial amount of time towards maintaining compliance with these requirements and effectively manage these growth activities. We may face challenges integrating, developing and motivating our rapidly growing employee base. To effectively manage our growth, we must continue to improve our operational and manufacturing systems and processes, our

financial systems and internal controls and other aspects of our business and continue to effectively expand, train and manage our personnel. Our ability to successfully manage our expected growth is uncertain given the fact that we have only been in operation as a stand-alone company since March 2019. As our organization continues to grow, we will be required to implement more complex organizational management structures, and we may find it increasingly difficult to maintain the benefits of our corporate culture, including our ability to quickly develop and launch new and innovative products. If we do not successfully manage our anticipated growth, our business, results of operations, financial condition and prospects will be harmed.

A significant portion of our revenue in the near term will be generated from the sale of our current products.

While we anticipate that a substantial contributor to our growth will come from new product introductions, we expect that we will generate in the near term, a significant portion of our revenue from the sale of our BioXp systems and the increased sale of BioXp kits and benchtop reagents to our current customers. There can be no assurance that our current customers will increase their BioXp kit and benchtop reagent purchases. There can also be no assurance that we will be able to design other products that will meet the expectations of our customers or that any of our future products will become commercially viable. As technologies change in the future for synthetic biology research tools, we will be expected to upgrade or adapt our products in order to maintain the latest technology.

While concentrating our research and development and commercialization efforts on our synthetic biology solution, we may forego other opportunities that may provide greater revenue or be more profitable. If our research and product development efforts do not result in additional commercially viable products within the anticipated timelines, or at all, our business and results of operations will be adversely affected. Any delay or failure by us to develop and release our new products or product enhancements would have a substantial adverse effect on our business and results of operations.

If we fail to introduce compelling new products, our revenues and our prospects could be harmed.

Our ability to attract new customers and increase revenue from existing customers will depend in large part on our ability to introduce compelling new products and pursue new market opportunities that develop as a result of technological and scientific advances. The success of any enhancement to our existing commercialized products or introduction of new products depends on several factors, including timely completion and delivery, cost-effective development and manufacturing, competitive pricing, adequate quality testing, integration with existing technologies, appropriately timed and staged introduction and overall market acceptance. Any new product that we develop may not be introduced in a timely or cost-effective manner, may contain defects, errors, vulnerabilities or bugs, or may not achieve the market acceptance necessary to generate significant revenue.

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

In addition, there is extensive competition in the synthetic biology industry, which is characterized by rapid and significant technological changes, frequent new product introductions and enhancements and evolving industry demands and standards. Our future success will depend on our ability to maintain a competitive position, including technologically superior and less expensive products compared to those of our competitors. Technological development by others may result in our technologies, as well as products developed using our technologies, becoming obsolete. If we are unable to successfully develop new products, compete with alternative products, or otherwise gain and maintain market acceptance, our business, results of operations and financial condition could be harmed.

Rapidly changing technology in synthetic biology could make the products we are developing obsolete unless we continue to develop and manufacture new and improved products and pursue new market opportunities.

Our industry is characterized by rapid and significant technological changes, frequent new product introductions and enhancements and evolving industry standards. The preferences and needs of our customers may change over time. Our future success will depend on our ability to continually improve the products we are developing, to develop and introduce new products that address the evolving needs of our customers on a timely and cost-effective basis, and to pursue new market opportunities that develop as a result of technological and scientific advances. These new market opportunities may be outside the scope of our proven expertise or in areas which have unproven market demand, and the utility and value of new products developed by us may not be accepted in the markets served by the new products. Our inability to gain market acceptance of new products could harm our future operating results. Our future success also depends on our ability to manufacture these new and improved products to meet customer demand in a timely and cost-effective manner, including our ability to resolve manufacturing issues that may arise as we commence production of these complex products. Unanticipated difficulties or

delays in replacing existing products with new products we introduce or in manufacturing improved or new products in sufficient quantities to meet customer demand could diminish future demand for our products and harm our future operating results.

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

We may in the future seek to acquire or invest in businesses, applications or technologies that we believe could complement or expand our current or future products, enhance our technical capabilities or otherwise offer growth opportunities. The pursuit of potential acquisitions may divert the attention of management and cause us to incur various costs and expenses in identifying, investigating and pursuing suitable acquisitions, whether or not they are consummated. We may not be able to identify desirable acquisition targets or be successful in entering into an agreement with any particular target or obtain the expected benefits of any acquisition or investment.

To date, the growth of our operations has been organic, and we have limited experience in acquiring other businesses or technologies. We may not be able to successfully integrate acquired personnel, operations and technologies, or effectively manage the combined business following an acquisition. Acquisitions could also result in dilutive issuances of equity securities, the use of our available cash, or the incurrence of debt, which could harm our operating results. In addition, if an acquired business fails to meet our expectations, our operating results, business and financial condition may suffer.

If we experience a significant disruption in our information technology systems or breaches of data security, our business could be adversely affected.

We rely, and will continue to rely, on multiple information technology systems to operate the systems that allow our company to function, including cloud-based and on-premises information technology systems. We rely extensively on information technology systems to facilitate our principal company activities, including to operate the cloud-based platform on which the services offered to our customers rely. In addition, we also use information technology systems for a variety of key business functions, including to keep financial records, facilitate our research and development initiatives, manage our manufacturing operations, maintain quality control, fulfill customer orders, maintain corporate records, communicate with staff and external parties, and operate other critical functions.

Like all companies that rely on information technology systems, our information technology systems and those of our vendors and partners are potentially vulnerable to failures of confidentiality, integrity, and availability. Such failures could include, for example, malicious intrusion, corruption of data, and disruptive events, including but not limited to natural disasters and catastrophes. Such failures, if they occur, could compromise company, vendor or partner systems and employee, company, vendor, or partner data. A wide range of cyber attacks, including cyber intrusions, denial of service, and other malicious internet-based activity, such as social engineering and phishing scams, continue to increase. Cloud-based platform providers of services have been and are expected to continue to be targeted by a variety of threat actors, including sophisticated nation-state and nation-state-supported actors. Such threat actors use attack methods that change frequently, are increasingly complex and sophisticated, including social engineering and phishing scams, and can originate from a wide variety of sources, including insider threats or external actors. In addition to traditional computer "hackers," malicious code, such as viruses and worms, employee theft or misuse, denial-of-service attacks and sophisticated nation-state and nation-state supported actors now engage in attacks, including advanced persistent threat intrusions. In addition, we have not finalized our information technology and data security policies and procedures and therefore, our information technology systems may be more susceptible to such failures and attacks than if such security policies and procedures were finalized. Despite our efforts to create security barriers to such threats, it is virtually impossible for us to entirely mitigate these risks and there is no guarantee that our efforts are or will be adequate to safeguard against all such threats. Moreover, despite our current and future efforts, it is possible that we may not be able to anticipate, detect, appropriately react and respond to, or implement effective preventative measures against, all cybersecurity incidents. Such cybersecurity incidents can be difficult to detect and any delay in identifying such incidents may lead to increased harm and legal exposure of the type described below.

If our security measures, or those of our vendors and partners, are compromised for any reason, including negligence, error, or malfeasance, our principal company activities could cease to function, or be significantly degraded, until such cybersecurity incidents are remediated. Further, our business could be harmed, our reputation could be damaged, and we could become subject to regulatory inquiries or litigation, all of which could result in significant liability. In addition, if we were to experience a prolonged system disruption in our information technology systems or those of certain of our vendors and partners, it could negatively impact our ability to serve our customers, which could adversely impact our business, financial condition, results of operations and prospects. If operations at our facilities were disrupted and could not be promptly restored, such disruption could cause a material disruption in our business, financial condition, results of operations, and prospects. Moreover, there could be public announcements regarding any cybersecurity incidents and, if securities analysts or investors perceive these announcements to be negative, it could, among other things, have a material adverse effect on our business, reputation, financial condition, results of operations and prospects.

Our information technology systems, and those of our vendors and partners, are potentially vulnerable to cybersecurity incidents such as data security breaches, which could lead to the loss and exposure of information, including personal, sensitive, and confidential data, to unauthorized persons, resulting in a data security breach. Any such data security breaches could, among other things, lead to the loss of trade secrets or other intellectual property, or could lead to the exposure of personal information, including sensitive personal information, of our employees, customers and others, any of which could have a material adverse effect on our business, reputation, financial condition, results of operations and prospects. In addition, any such data security breaches could result in legal claims or proceedings, regulatory inquiries, investigations, or actions, and other types of liability under laws that protect the privacy and security of personal information, including federal, state and foreign data protection, privacy, data security, and consumer protection regulations, violations of which could result in significant penalties and fines. Additionally, the introduction and passage of new privacy laws, including but not limited to the California Privacy Rights Act (CPRA), which was approved by California voters in the election on November 3, 2020 and will modify the California Consumer Privacy Act (CCPA), creates further uncertainty and may require us to incur additional costs and expenses in an effort to comply. In addition, U.S. and international laws and regulations that have been applied to protect user privacy (including laws regarding unfair and deceptive practices in the U.S. and GDPR in the EU) may be subject to evolving interpretations or applications. This area of law is continuing to evolve and is subject to significant uncertainty, which may require us to incur additional costs and expenses in order to comply. Furthermore, responding to a legal claim or proceeding or a regulatory inquiry, investigation, or action, regardless of its merit, could be costly, divert management's attention and harm our reputation.

The cost of protecting against, investigating, mitigating and responding to cybersecurity incidents and data security breaches, and complying with applicable breach notification obligations to individuals, regulators, vendors, partners, and others can be significant. As threats related to cybersecurity incidents and data security breaches continue to evolve, we may be required to expend significant additional resources to continue to modify or enhance our protective measures or to detect, appropriately react to, and respond to such cybersecurity incidents and data security breaches. The inability to implement, maintain and upgrade adequate safeguards could have a material adverse effect on our business, financial condition, results of operations and prospects. Should such disruptions occur, our current insurance policies may not be adequate to compensate us for the potential costs and other losses arising from such disruptions, failures, or security breaches and it is possible that an insurer could deny coverage on any future claim. In addition, such insurance may not be available to us in the future on economically reasonable terms or at all. The successful assertion of one or more large claims against us that exceed available insurance coverage, or the occurrence of changes in our insurance policies, including premium increases or the imposition of large deductible or co-insurance requirements, could have a material adverse effect on our business, financial condition, results of operations and prospects.

A customer may unintentionally misuse our products or a bad actor may intentionally use our products with intent to create harm and, in either case, third parties may seek to hold us liable for the resulting harm.

All orders for our products that we receive are processed through a security filter. We verify that the shipping addresses of our customers are valid, screen the customer versus known agent lists and comply in all material respects with the know your customer rules. Despite these precautions it is possible that one of our customers may unintentionally misuse our products or a bad actor may attempt to misuse our products to create harm. If misuse of our products were to occur, the terms and conditions of our invoices may be insufficient to protect us from liability. Any indemnification that our customers are required to provide to us may be insufficient to cover the costs and damages resulting from the misuse of our products. Further, any product liability insurance we may obtain could specifically exclude bad acts of our customers from coverage or coverage limits may be insufficient to protect us from the amount of the liability we could incur. Any unintentional or intentional misuse of our products could result in liability or require us to expend costs to defend ourselves, may not be covered by insurance and may have a material and adverse effect on our business or results of operations.

Our recurring losses from operations have raised substantial doubt regarding our ability to continue as a going concern.

As shown in the financial statements included in our Prospectus, we have had recurring losses from operations and, as a result, our independent registered public accounting firm has expressed substantial doubt concerning our ability to continue as a going concern and has included an explanatory paragraph in its report on our financial statement as of and for the year ended December 31, 2020 with respect to this uncertainty. Future reports on our financial statements may also include an explanatory paragraph with respect to our ability to continue as a going concern. We have incurred significant losses since our inception and have never generated profit, and it is possible we will never generate profit. There is no assurance that other financing will be available when needed to allow us to continue as a going concern. The perception that we may not be able to continue as a going concern may cause others to choose not to deal with us due to concerns about our ability to meet our contractual obligations. If we are unable to continue as a going concern, you could lose all or part of your investment.

Risks Related to Supply, Manufacturing and Distribution of Our Products

We rely on a single contract manufacturer to manufacture and supply our instruments and single source suppliers for certain components of our instruments and raw materials. If this manufacturer or these suppliers should fail or not perform satisfactorily, our ability to commercialize and supply our products would be adversely affected.

We do not own or operate, and currently do not plan to own or operate, facilities for manufacturing our BioXp systems. We rely and expect to continue to rely on third parties for the production and packaging of our instruments. We rely on a single contract manufacturer, D&K Engineering, Inc. (D&K), located in San Diego, to manufacture and supply our BioXp systems. Since our contract with D&K does not commit it to carry inventory or make available any particular quantities of instruments outside of accepted purchase orders, D&K may give other customers' needs higher priority than ours, and we may not be able to obtain adequate supplies in a timely manner or on commercially reasonable terms. We do not have a long-term supply agreement with D&K. Instead, we typically issue purchase orders for our BioXp systems on a six-month rolling basis and we currently maintain less than 30 days of inventory of BioXp systems. Our purchase orders with D&K are terminable without cause upon sixty days' notice in writing to the other party.

Our reliance on a third party for the manufacture of our instruments increases the risk that we will not have sufficient quantities of our instruments or will not be able to obtain such quantities at an acceptable cost or quality, which could delay, prevent or impair commercialization of our instruments. In the event it becomes necessary to utilize a different contract manufacturer for our BioXp systems, we would experience additional costs, delays and difficulties as a result of having to identify and enter into an agreement with a new manufacturer. We would also have to prepare such new manufacturer to meet the technical and logistical requirements associated with manufacturing our instruments, and our business could suffer as a result.

In addition, certain of the components used in our instruments are sourced from limited or single-source suppliers. If we were to lose such suppliers, there can be no assurance that we will be able to identify or enter into agreements with alternative suppliers on a timely basis on acceptable terms, if at all. An interruption in our ability to sell and deliver instruments to customers could occur if we encounter delays or difficulties in securing these components, or if the quality of the components supplied do not meet our specifications, or if we cannot then obtain an acceptable substitute. If any of these events occur, our business, results of operations, financial condition and prospects could be harmed.

We also rely on third parties for certain components of our BioXp kits and benchtop reagents, including the nucleotides we use in our BioXp kits, which are primarily sourced from Integrated DNA Technologies, Inc. (IDT), a division of Danaher Corporation. Recently, supply issues with IDT have caused us to rely on an alternative supplier for these components and raw materials. We cannot guarantee that we will be able to source these materials at similar quantities and on similar terms if our preferred suppliers were to become unable or unwilling to fulfill our requirements.

Our reliance on third party manufacturers subjects us to risks associated with their businesses and operations. This dependence on others may harm our ability to develop and commercialize our products on a timely and competitive basis. Any such failure may result in decreased product sales and lower product revenue, which would harm our business. For example, even if we have agreements with third parties, they may not perform their obligations to us and they may be unable or unwilling to establish or increase production capacity commensurate with our needs. Disputes may also arise between us and our suppliers that result in the delay or termination of commercialization or that result in costly litigation or arbitration that diverts management's attention and resources. Also, third party manufacturers are subject to their own operational and financial risks that are outside of our control, and potentially their control also, that may cause them to suffer liquidity or operational problems and that could interfere with their business operations. For example, our suppliers have also been impacted by the COVID-19 pandemic and some of our raw materials and components originate in China. We have also experienced supply delays for critical hardware, instrumentation and supplies that we use for product development, as these other components and supplies are otherwise diverted to COVID-19-related testing and other uses.

We have limited experience producing and supplying our products. We may be unable to consistently manufacture or source our products to the necessary specifications or in quantities necessary to meet demand on a timely basis and at acceptable performance and cost levels.

Our BioXp systems, BioXp kits and benchtop reagents comprise an integrated solution with many different components that work together. As such, a quality defect in a single component can compromise the performance of the entire system. In order to successfully generate revenue from this product line, we need to supply our customers with products that meet their expectations for quality and functionality in accordance with established specifications on a timely basis. Our instruments are manufactured by D&K using complex processes, sophisticated equipment and strict adherence to specifications and quality systems procedures. Given the complexity of this instrumentation, individual units may occasionally require additional installation and service prior to becoming available for customer use.

As we continue to scale commercially and develop new products, and as our products incorporate increasingly sophisticated technology, it will become more difficult to ensure our products are produced in the necessary quantities while maintaining

quality. There is no assurance that we or our third-party manufacturers will be able to continue to manufacture our products so that our technology consistently achieves the product specifications and produces results with acceptable quality. In addition, our BioXp kits and benchtop reagents have a limited shelf life, after which their performance is not ensured and many of our products must be shipped and stored at controlled temperatures. Shipment of BioXp kits and benchtop reagents that exceed their shelf life or shipment of defective products to customers may result in recalls and warranty replacements, which would increase our costs and may damage our reputation, and depending upon current inventory levels and the availability and lead time for additional inventory, could lead to availability issues. Any future design issues, unforeseen manufacturing problems, such as contamination of our or our manufacturers' facilities, equipment malfunctions, aging components, quality issues with components and materials sourced from third-party suppliers, or failures to strictly follow procedures or meet specifications, may have a material adverse effect on our brand, business, reputation, results of operations and financial condition and could result in us or our third-party manufacturers losing International Organization for Standardization (ISO) or quality management certifications. If our third-party manufacturers fail to maintain ISO quality management certifications, our customers might choose not to purchase products from us.

In addition, as we scale our commercial operations, we will also need to make corresponding improvements to other operational functions, such as our customer support, service and billing systems, compliance programs and internal quality assurance programs. We cannot assure you that any increases in scale, related improvements and quality assurance will be successfully implemented or that appropriate personnel will be available. As we develop additional products, we may need to bring new equipment online, implement new systems, technology, controls and procedures and hire personnel with different qualifications.

An inability to manufacture products and components that consistently meet specifications, in necessary quantities, at commercially acceptable costs and without significant delays, may have a material adverse effect on our business, results of operations, financial condition and prospects.

We must continue to secure and maintain sufficient and stable supplies of components and raw materials.

Certain disruptions in supply of, and changes in the competitive environment for, components and raw materials integral to the manufacturing of our products may adversely affect our profitability. We use a broad range of materials and supplies in our products. A significant disruption in the supply of these materials could decrease production and shipping levels, materially increase our operating costs and materially and adversely affect our revenues and profit margins. Shortages of materials or interruptions in transportation systems, labor strikes, work stoppages, war, acts of terrorism or other interruptions to or difficulties in the employment of labor or transportation in the markets in which we purchase materials, components and supplies for the production of our products, in each case, may adversely affect our ability to maintain production of our products and achieve profitability. Unforeseen discontinuation or unavailability of certain components, such as enzymes or nucleotides, each of which we currently primarily source from single supplier, could cause backorders as we modify our product specifications to accommodate replacement components. If we were to experience a significant or prolonged shortage of critical components from any of our suppliers and could not procure the components from other sources, we would be unable to manufacture our products and ship them to our customers in a timely fashion, or at all, which would adversely affect our sales, margins and customer relations. Any supply interruption of our materials could limit our ability and the ability of our suppliers to manufacture our products and could therefore harm our business, financial condition and results of operations.

Our products could have defects or errors, giving rise to claims against us, adversely affecting market adoption and negatively impacting our business, financial condition, and results of operations.

Our products utilize novel and complex technology related to writing synthetic DNA and mRNA and may develop or contain undetected defects or errors. We cannot assure you that material performance problems, defects, or errors will not arise, and as we commercialize our products, these risks may increase. We provide warranties at the point of sale that our products will meet performance expectations and will be free from defects. We also provide extended warranties at an additional cost to the customer. The costs incurred in correcting any defects or errors may be substantial and could adversely affect our operating margins.

In manufacturing our products, we depend upon third parties for the supply of our instruments and various components, many of which require a significant degree of technical expertise to produce. If our suppliers fail to make our products or their components to specification or provide defective products to us, and our quality control tests and procedures fail to detect such errors or defects, or if we or our suppliers use defective materials or workmanship in the manufacturing process, the reliability and performance of our products will be compromised.

If our products contain defects, we may experience:

- a failure to achieve market acceptance for our products;
- loss of customer orders and delay in order fulfillment;

- damage to our reputation;
- increased warranty and customer service and support costs due to product repair or replacement;
- product recalls or replacements;
- inability to attract new customers;
- diversion of resources from our manufacturing and research and development departments into our service department; and
- legal claims against us, including product liability claims, which could be costly and time consuming to defend and result in substantial damages.

If we become subject to product liability claims, we may be required to pay damages out of our cash reserves.

Our business exposes us to potential product liability claims that are inherent in the production, marketing and sale of biotechnological and genetic products. We do not currently have product liability insurance and any product liability claim, or recall of one of our products, would have to be paid out of our cash reserves.

Shipping is a critical part of our business. Any changes in our shipping arrangements or damages or losses sustained during shipping could adversely affect our business, financial condition, results of operations and prospects.

We currently rely on commercial carriers for our shipping. If we are not able to negotiate acceptable pricing and other terms with these carriers, or if they experience performance problems or other difficulties, it could negatively impact our operating results and our customers' experience. If a product is damaged in transit, it may result in a substantial delay in the fulfillment of the customer's order, and depending on the type and extent of the damage and whether the incident is covered by insurance, it may result in a substantial financial loss to us. If our products are not delivered in a timely fashion or are damaged or lost during the delivery process, our customers could become dissatisfied and cease using our products or services, which would adversely affect our business, financial condition, results of operations and prospects.

Our business depends on our ability to quickly and reliably deliver our products and in particular, our BioXp kits and benchtop reagents, to our customers. Certain of these products are perishable and must be kept below certain temperatures and, therefore, we ship these products on dry ice and only ship such products on certain days of the week to reach customers without spoilage. Disruptions in the delivery of these products, whether due to labor disruptions, bad weather, natural disasters, terrorist acts or threats or for other reasons could result in our customers receiving products that are not fit for use, and if used, could result in inaccurate results or ruined experiments. While we work with customers to replace any products that are impacted by delivery disruptions, our reputation and our business may be adversely impacted even if we replace products free of charge. In addition, if we are unable to continue to obtain expedited delivery services on commercially reasonable terms, our operating results may be adversely affected.

In addition, should our commercial carriers encounter difficulties in delivering our products to customers, particularly at the end of any financial quarter, it could adversely impact our ability to recognize revenue for those products in that period and accordingly adversely affect our financial results for that period.

Risks Related to Our Sales, Marketing and Customer Support

We have limited experience in sales and marketing of our products.

We have limited experience in sales and marketing our products. Our ability to achieve profitability depends on our being able to attract customers for our products. To meet our sales objectives, we must expand our sales, marketing, distribution and customer service and support capabilities with personnel with the appropriate technical expertise. In undertaking expansion efforts, we will face a number of risks relating to:

- our ability to attract, retain and manage the sales, marketing and customer service and support personnel necessary to commercialize and gain market acceptance for our technology;
- the time and cost of maintaining specialized sales, marketing and customer service and support personnel; and
- the relative success of our sales, marketing and customer service and support personnel.

We currently enlist, and may in the future seek to enlist one or more third parties to assist with sales, distribution and customer service and support. There is no guarantee that we will be successful in attracting effective sales and distribution partners or that we will be able to enter into such arrangements on favorable terms. If our sales and marketing efforts, or those of any third-party sales and distribution partners, are not successful, our products may not gain market acceptance, which could materially impact our business operations.

A substantial proportion of our sales are through distributors, and we do not control their efforts to sell our products. If our relationships with these third-party distributors deteriorate, or if these third-party distributors fail to sell our products or engage in activities that harm our reputation, our financial results may be negatively affected.

Our current sales model includes direct sales in North America and parts of Europe, and relationships with third party distributors in other parts of Europe and various countries in the Middle East, Africa and Asia Pacific regions. We believe that our reliance on distributors improves the economics of our business, as we do not carry the high fixed costs of a direct sales force in many of the countries in which our products are sold. If we are unable to maintain or enter into such distribution arrangements on acceptable terms, or at all, we may not be able to successfully commercialize our products in certain countries.

Furthermore, distributors can choose the level of effort that they apply to selling our products relative to others in their portfolio. The selection, training, and compensation of distributors' sales personnel are within their control rather than our own and may vary significantly in quality from distributor to distributor. They may experience their own financial difficulties, or distribution relationships may be terminated or allowed to expire, which could increase the cost of or impede commercialization of our products in applicable countries. Disputes may also arise between us and our distributors that result in the delay or termination of commercialization or that result in costly litigation or arbitration that diverts management's attention and resources. Distributors may not properly maintain or defend our intellectual property rights or may use our proprietary information in such a way as to invite litigation that could jeopardize or invalidate our proprietary information or expose us to potential litigation. Distributors could move forward with competing products developed either independently or in collaboration with others, including our competitors.

In addition, although our contract terms require our distributors to comply with all applicable laws regarding the sale of our products, including regulatory labelling, protection of personal data, U.S. export regulations and the U.S. Foreign Corrupt Practices Act (FCPA), we may not be able to ensure proper compliance. If our distributors fail to effectively market and sell our products in full compliance with applicable laws and regulations, our results of operations and business may suffer.

The size of the markets for our products may be smaller than estimated, and new market opportunities may not develop as quickly as we expect, or at all, thus limiting our ability to successfully meet our anticipated revenue projections.

The market for synthetic biology technologies and products is evolving, making it difficult to predict with any accuracy the size of the markets for our current and future products, including our BioXp systems, BioXp kits and benchtop reagents. Our estimates of the total addressable market for our current and future products are based on a number of internal and third-party estimates and assumptions. In particular, our estimates are based on our expectations that researchers in the market for certain synthetic biology research tools and technologies will view our products as competitive alternatives to, or better options than, existing tools and technologies. We also expect researchers will recognize the ability of our products to complement, enhance and enable new applications of their current tools and technologies. Underlying each of these expectations are a number of estimates and assumptions that may be incorrect, including the assumptions that government or other sources of funding will continue to be available to synthetic biology researchers at times and in amounts necessary to allow them to purchase our products and that researchers have an unmet need for performing synthetic biology applications. As a result, the sizes of the annual total addressable market for new markets and new products are even more difficult to predict. The synthetic biology market may develop more slowly or differently than we expect. While we believe our assumptions and the data underlying our estimates of the total addressable market for our products are reasonable, these assumptions and estimates may not be correct and the conditions supporting our assumptions or estimates, or those underlying the third-party data we have used, may change over time, thereby reducing the accuracy of our estimates. As a result, our estimates of the total addressable market for our products may be incorrect.

The future growth of the market for our current and future products depends on many factors beyond our control. For example, in 2020, 11% of our revenue was from products specifically targeting research and development efforts related to COVID-19 vaccines and therapeutic products. As effective COVID-19 vaccines or treatments are developed, approved and rolled out to protect against and treat the COVID-19 virus, demand for these products and biofoundry services may decline, the size of our market opportunity for such products may be impacted and our revenue may be significantly and adversely affected as a result.

We expect that our products will be subject to the market forces and adoption curves common to other new technologies. The market for synthetic biology technologies and products is in its early stages of development. Sales of new products into new market opportunities may take years to develop and mature and we cannot be certain that these market opportunities will develop as we expect. If the markets for our current and future products are smaller than estimated or do not develop as we expect, our growth may be limited and our business, financial condition and operational results of operations could be adversely affected.

Our success depends on broad scientific and market acceptance of our products, which we may fail to achieve.

Our ability to achieve and maintain scientific and commercial market acceptance of our products will depend on a number of factors. If widespread adoption of our products takes longer than anticipated, we will continue to experience operating losses.

The success of life sciences products is due, in large part, to recognition and acceptance by the scientific community, their adoption of these products in the applicable field of research and the growth, prevalence and costs of competing products. Such recognition and acceptance of our products may not occur in the near term, or at all. New synthetic biology technology, including our own, may not be adopted until the consistency and accuracy of such technology has been proven.

Other factors in achieving commercial market acceptance of our products include:

- our ability to market and increase awareness of the capabilities of our products;
- our customers' willingness to adopt new products and workflows;
- whether early adopters and key opinion leaders (KOLs) publish research involving the use of our products;
- our products' ease-of-use and whether it reliably provides advantages over alternative technologies;
- the rate of adoption of our products and services by academic institutions, laboratories, biopharmaceutical companies and others;
- the prices we charge for our products;
- our ability to develop new products and workflows;
- whether competitors commercialize products that perform similar functions as our products; and
- the impact of our investments in product innovation and commercial growth.

We cannot assure you that we will be successful in addressing each of these criteria or other criteria that might affect the market acceptance of any products we commercialize. If we are unsuccessful in achieving and maintaining scientific and market acceptance of our products, our business, financial condition and results of operations would be adversely affected.

The synthetic biology technology market is highly competitive. If we fail to compete effectively, our business and results of operation will suffer.

We face significant competition in the synthetic biology technology market. We currently compete with synthetic biology technology companies and the companies that are supplying components, products and services that serve customers engaged in synthetic biology research. These companies include Thermo Fisher Scientific Inc.; Danaher Corporation; CureVac N.V.; GENEWIZ Group, which was acquired by Brooks Automation, Inc.; GenScript Biotech Corporation; DNA Script SAS; Integrated DNA Technologies, Inc.; Molecular Assemblies, Inc.; Nuclera Nucleics Ltd; Nutcracker Therapeutics, Inc.; Twist Bioscience Corporation; Aldevron, LLC; TriLink BioTechnologies, Inc. and others.

Some of our current competitors are large, publicly-traded companies, or are divisions of large publicly-traded companies, and may enjoy a number of competitive advantages over us, including:

- greater name and brand recognition;
- greater financial and human resources;
- broader product lines;
- larger sales forces and more established distributor networks;
- substantial intellectual property portfolios;
- larger and more established customer bases and relationships; and
- better established, larger scale and lower cost manufacturing capabilities.

We cannot assure investors that our products will compete favorably or that we will be successful in the face of increasing competition from products and technologies introduced by our existing or future competitors or companies entering our markets. In addition, we cannot assure investors that our competitors do not have or will not develop products or technologies that currently or in the future will enable them to produce competitive products with greater capabilities or at lower costs than ours. Any failure to compete effectively could materially and adversely affect our business, financial condition and operating results.

Our revenue, results of operations and cash flows would be adversely affected by the loss of a significant customer.

We have derived, and we may continue to derive, a significant portion of our revenues from a limited number of large customers. We estimate that our twenty largest customers accounted for 85% and 60% of our revenue for the period March 8, 2019 through December 31, 2019 and the year ended December 31, 2020, respectively. The loss of key customers, or the

reduction in the amount of product ordered by them may adversely affect our revenue, results of operations, cash flows and reputation in the marketplace.

One customer, New England Biolabs, Inc., accounted for 21% of our revenue for the year ended December 31, 2020, based on royalties paid under a Confidential Settlement Agreement. This royalty will expire upon the earlier of the expiration of all licensed patents or the entry of a final judgment declaring the licensed patents invalid or unenforceable. Also under the terms of the Confidential Settlement Agreement, NEB has only agreed to continue to offer the royalty-bearing products for sale through September 30, 2025, after which time it may stop selling the royalty bearing products upon sixty days' notice.

We generally do not have long-term contracts with our customers requiring them to purchase any specified quantities of products from us.

We generally do not have long-term contracts with our customers requiring them to purchase any specified quantities of products from us. Without such contracts, our customers are not obligated to order our products. We cannot accurately predict our customers' decisions to reduce or cease purchasing our products. Additionally, even where we enter into contracts with our customers, there is no guarantee that such agreements will be negotiated on terms that are commercially favorable to us in the long term. If many of our customers were to substantially reduce their purchase volume or cease ordering products from us, this could materially and adversely affect our financial performance.

Our business will depend significantly on research and development spending by the pharmaceutical, biotechnology and industrial agricultural customers, as well as academic institutions and other research institutions. Any reduction in spending could limit demand for our products and adversely affect our business, results of operations, financial condition and prospects.

We expect that substantially all of our sales revenue in the near term will be generated from sales to pharmaceutical, biotechnology and industrial agricultural customers, as well as academic institutions and other research institutions. Much of these customers' funding is dependent on annual research and development budgets and in the case of academic and other research institutions will be, in turn, provided by various state, federal and international government agencies. As a result, the demand for our products will depend upon the research and development budgets of these customers, which are impacted by factors beyond our control, such as:

- research and development budgets within the pharmaceutical, biotechnology, agricultural and other industries;
- government funding of research and development;
- changes to programs that provide funding to research laboratories and institutions, including changes in the amount of funds allocated to different areas of research or changes that have the effect of increasing the length of the funding process;
- macroeconomic conditions and the political climate;
- potential changes in the regulatory environment;
- differences in budgetary cycles, especially government- or grant-funded customers, whose cycles often coincide with government fiscal year ends;
- market-driven pressures to consolidate operations and reduce costs; and
- scientific and market acceptance of relatively new synthetic biology products.

In addition, various state, federal and international agencies that provide grants and other funding may be subject to stringent budgetary constraints that could result in spending reductions, reduced grant making, reduced allocations or budget cutbacks, which could jeopardize the ability of funding organizations or the organizations to whom they provide funding, to purchase our products. For example, congressional appropriations to the National Institutes of Health (NIH), have generally increased year-over-year for the last 19 years, and reached a new high in 2020, but the NIH also experiences occasional year-over-year decreases in appropriations, including as recently as 2013. In addition, funding for life science research has increased more slowly during the past several years compared to previous years and has actually declined in some countries. There is no guarantee that NIH appropriations will not decrease in the future, and a decrease may be more likely under the current administration, whose annual budget proposals have repeatedly decreased NIH appropriations. A decrease in the amount of, or delay in the approval of, appropriations to NIH or other similar United States or international organizations, such as the Medical Research Council in the United Kingdom, could result in fewer grants benefiting synthetic biology research. These reductions or delays could also result in a decrease in the aggregate amount of grants awarded for synthetic biology research or the redirection of existing funding to other projects or priorities, any of which in turn could cause our customers and potential customers to reduce or delay purchases of our products. Our operating results may fluctuate substantially due to any such reductions and delays. Any decrease in our customers' budgets or expenditures, or in the size, scope or frequency of their capital or operating expenditures, could materially and adversely affect our business, results of operations, financial condition and prospects.

Our success depends on our ability to service and support our products directly or in collaboration with our strategic partners.

To the extent that we or our strategic partners fail to maintain a high quality level of service and support for our products, there is a risk that the perceived quality of our products will be diminished in the marketplace. Likewise, we may fail to provide the level, quantity or quality of service expected by the marketplace. This could result in slower adoption rates and lower than anticipated utilization of our products, which could have a material adverse effect on our business, financial condition and results of operations.

Risks Related to the COVID-19 Pandemic and Other Natural Disasters

The COVID-19 pandemic and efforts to reduce its spread have adversely impacted, and are expected to continue to adversely impact, our business and operations.

The COVID-19 pandemic has had, and is expected to continue to have, an adverse impact on our operations, particularly as a result of preventive and precautionary measures that we, other businesses and governments are taking. Governmental mandates related to COVID-19 have impacted, and we expect similar infectious diseases or public health crises may continue to impact, our personnel and personnel at third-party manufacturers in the United States and other countries. Such mandates have impacted and likely will continue to impact the availability and cost of materials, which disrupts or delays our receipt of components and supplies from the third parties we rely on to, among other things, manufacture our BioXp systems, BioXp kits and benchtop reagents or source and timely receive parts and components from third parties. For instance, there are standing “stay-at-home” orders in California, and specifically San Diego County where our headquarters is located, that require businesses to implement certain social distancing protocols and other health and safety measures, which may affect productivity and morale. An extended implementation of these governmental mandates could further impact our ability to operate effectively and conduct ongoing research and development or other activities. The COVID-19 pandemic has also had an adverse effect on our ability to attract, recruit, interview and hire at the pace we would typically expect to support our rapidly expanding operations. To the extent that any governmental authority imposes additional regulatory requirements or changes existing laws, regulations and policies that apply to our business and operations, such as additional workplace safety measures, our product development plans may be delayed, and we may incur further costs in bringing our business and operations into compliance with changing or new laws, regulations and policies.

Our ability to drive the adoption of our products will depend upon our ability to attend trade shows and conferences, visit customer sites, the ability of our customers to access laboratories, install our products and train their personnel on our products and conduct research in the face of the COVID-19 pandemic. Additionally, the research and development budgets of these customers, the ability of such customers to receive funding for research, and the ability of such customers to receive instrument installations and visitors to their facilities and to travel to our facilities, other laboratories and industry events, will become increasingly important to the adoption of our products. All of these considerations are impacted by factors beyond our control, such as:

- reductions in capacity or shutdowns of laboratories and other institutions as well as other impacts stemming from the COVID-19 pandemic, such as reduced or delayed spending on instruments or reagents as a result of such shutdowns and delays before re-opened laboratories and institutions resume previous levels of research activities that require new purchases of our products;
- decreases in government funding of research and development; and
- changes to programs that provide funding to research laboratories and institutions, including changes in the amount of funds allocated to different areas of research, changes that have the effect of increasing the length of the funding process or the impact of the COVID-19 pandemic on our customers and potential customers and their funding sources.

The ultimate impact of the COVID-19 pandemic is highly uncertain and subject to sudden change. This impact could have a material, adverse impact on our liquidity, capital resources, operations and business and those of the third parties on which we rely, and could worsen over time. The extent to which the COVID-19 pandemic impacts our results will depend on future developments, which are highly uncertain and cannot be predicted, including new information which may emerge concerning the severity of COVID-19 and the actions to contain COVID-19 or treat its impact, among others. While we do not yet know the full extent of potential impacts on our business, any of these occurrences could significantly harm our business, results of operations and financial condition.

Unfavorable U.S. or global economic conditions as a result of the COVID-19 pandemic, or otherwise, could adversely affect our ability to raise capital and our business, results of operations and financial condition.

While the potential economic impact brought by, and the duration of, the COVID-19 pandemic is difficult to assess or predict, the COVID-19 pandemic has resulted in, and may continue to result in, extreme volatility and disruptions in the capital and credit markets, reducing our ability to raise additional capital through equity, equity-linked or debt financings, which could negatively impact our short-term and long-term liquidity and our ability to operate in accordance with our operating plan, or at

all. Additionally, our results of operations could be adversely affected by general conditions in the global economy and financial markets. A severe or prolonged economic downturn could result in a variety of risks to our business, including weakened demand for our products and our ability to raise additional capital when needed on favorable terms, if at all. A weak or declining economy could strain our customers' budgets or cause delays in their payments to us. Any of the foregoing could harm our business. We cannot anticipate all of the ways in which the current economic climate and financial market conditions could adversely impact our ability to raise capital, business, results of operations and financial condition.

If our facilities or our third-party manufacturers' facilities become unavailable or inoperable, our research and development program and commercialization of our products could be adversely impacted and manufacturing of our products could be interrupted.

Our San Diego, California, facilities house our corporate, research and development and quality assurance teams. Our instruments are manufactured at our third-party manufacturer's facilities in San Diego, and our BioXp kits and benchtop reagents are manufactured at various locations in the United States and internationally, including our San Diego facilities. We do not have a second or back-up facility to use if our San Diego facility becomes inoperable.

Our facilities in San Diego and those of our third-party manufacturers are vulnerable to natural disasters, public health crises, including the impact of the COVID-19 pandemic, and catastrophic events. For example, our San Diego facilities are located near earthquake fault zones and are vulnerable to damage from earthquakes as well as other types of disasters, including fires, floods, power loss, communications failures and similar events. If any disaster, public health crisis or catastrophic event were to occur, our ability to operate our business would be seriously, or potentially completely, impaired. If our facilities or our third-party manufacturer's facilities become unavailable for any reason, we cannot provide assurances that we will be able to secure alternative manufacturing facilities with the necessary capabilities and equipment on acceptable terms, if at all. We may encounter particular difficulties in replacing our San Diego facilities given the specialized equipment housed within it. The inability to manufacture our products, combined with our limited inventory of finished products, may result in the loss of future customers or harm our reputation, and we may be unable to re-establish relationships with those customers in the future.

If our research and development program or commercialization program were disrupted by a disaster or catastrophe, the launch of new products, including our workflow automation and reagent solutions, and the timing of improvements to our products could be significantly delayed and could adversely impact our ability to compete with other available products and solutions. If our or our third-party manufacturer's capabilities are impaired, we may not be able to manufacture and ship our products in a timely manner, which would adversely impact our business. Although we possess insurance for damage to our property and the disruption of our business, this insurance may not be sufficient to cover all of our potential losses and may not continue to be available to us on acceptable terms, or at all.

Risks Related to Doing Business Internationally

Doing business internationally creates operational and financial risks for our business.

We estimate that during the period ended December 31, 2019 and the fiscal year ended December 31, 2020, approximately 14% and 25%, respectively, of our revenue was generated from customers located outside of the United States. In connection with our growth strategy, we intend to further expand in international markets. Conducting and launching operations on an international scale requires close coordination of activities across multiple jurisdictions and time zones and consumes significant management resources. If we fail to coordinate and manage these activities effectively, our business, financial condition or results of operations could be adversely affected. International sales entail a variety of risks, including longer payment cycles and difficulties in collecting accounts receivable outside of the United States, currency exchange fluctuations, challenges in staffing and managing foreign operations, tariffs and other trade barriers, unexpected changes in legislative or regulatory requirements of foreign countries into which we sell our products, difficulties in obtaining export licenses or in overcoming other trade barriers, laws and business practices favoring local companies, political and economic instability, difficulties protecting or procuring intellectual property rights, and restrictions resulting in delivery delays and significant taxes or other burdens of complying with a variety of foreign laws.

Changes in the value of the relevant currencies may affect the cost of certain items required in our operations. Changes in currency exchange rates may also affect the relative prices at which we are able to sell products in the same market. Our revenue from international customers may be negatively impacted as increases in the U.S. dollar relative to our international customers' local currency could make our products more expensive, impacting our ability to compete. Our costs of materials from international suppliers may increase if in order to continue doing business with us they raise their prices as the value of the U.S. dollar decreases relative to their local currency. Foreign policies and actions regarding currency valuation could result in actions by the United States and other countries to offset the effects of such fluctuations. The recent global financial downturn has led to a high level of volatility in foreign currency exchange rates and that level of volatility may continue, which could adversely affect our business, financial condition or results of operations.

Our international business could expose us to business, regulatory, political, operational, financial, and economic risks associated with doing business outside of the United States.

Engaging in international business inherently involves a number of difficulties and risks, including:

- required compliance with existing and changing foreign regulatory requirements and laws that are or may be applicable to our business in the future, such as the European Union's General Data Protection Regulation (GDPR), and other data privacy requirements, labor and employment regulations, anti-competition regulations, the U.K. Bribery Act of 2010 and other anti-corruption laws;
- required compliance with U.S. laws such as the FCPA, and other U.S. federal laws and regulations, including those established by the Office of Foreign Asset Control;
- export requirements and import or trade restrictions;
- laws and business practices favoring local companies;
- foreign currency exchange fluctuations, longer payment cycles and difficulties in enforcing agreements and collecting accounts receivables through certain foreign legal systems;
- hyperinflation or economic or political instability in foreign countries;
- changes in social, economic, and political conditions or in laws, regulations and policies governing foreign trade, manufacturing, research and development, and investment, including as a result of the separation of the United Kingdom from the European Union, commonly referred to as Brexit;
- the imposition of inconsistent laws or regulations;
- changes in or interpretations of foreign law that may adversely affect our ability to sell our products, perform services or repatriate profits to the United States;
- potentially adverse tax consequences, tariffs, customs charges, bureaucratic requirements and other trade barriers;
- difficulties and costs of staffing and managing foreign operations; and
- difficulties protecting, maintaining, enforcing or procuring intellectual property rights.

If one or more of these risks occurs, it could require us to dedicate significant resources to remedy such occurrence, and if we are unsuccessful in finding a solution, our financial results will suffer.

We could inadvertently engage in exporting or related activity that contravenes international trade restraints, or regulatory authorities could promulgate more far-reaching international trade restraints, which could give rise to one or more of substantial legal liability, impediments to our business and reputational damage.

Our international business activities must comport with U.S. export controls and other international trade restraints, including the U.S. Department of Commerce's Export Administration Regulations and economic sanctions regulations administered by the U.S. Treasury Department's Office of Foreign Assets Control.

To date our exports have not been licensable under export controls; however, we could still fail to observe export controls or sanctions requirements in a manner that leaves us in noncompliance with export controls or other international trade restraints. In addition, authorities could promulgate international trade restraints that impinge on our ability to engage in our business operations as planned. One or more of resulting legal penalties, restraints on our business or reputational damage could have material adverse effects on our business and financial condition.

We are subject to various U.S. and international anti-corruption laws and other anti-bribery and anti-money laundering laws and regulations.

We are subject to the FCPA, the U.S. domestic bribery statute contained in 18 U.S.C. § 201, the U.S. Travel Act, and other anti-corruption, anti-bribery, and anti-money laundering laws in the jurisdictions where we do business, both domestic and abroad. Anti-corruption and anti-bribery laws have been enforced aggressively in recent years and are interpreted broadly. These laws generally prohibit companies, their employees, business partners, third-party intermediaries, representatives, and agents from authorizing, offering, or providing, directly or indirectly, improper payments or benefits to government officials or commercial parties to obtain or retain business, direct business to any person, or gain any improper advantage. We sometimes leverage third parties to conduct our business abroad. We and our employees, business partners, third-party intermediaries, representatives, and agents may have direct or indirect interactions with officials and employees of government agencies or state-owned or affiliated entities and we may be held liable for their corrupt or other illegal activities even if we do not explicitly authorize those activities. We cannot assure you that our employees and agents will not take actions that violate applicable law, for which we may be ultimately held responsible. These laws also require that we keep accurate books and records and maintain internal accounting controls and compliance procedures designed to prevent any such actions. While we have policies and procedures to address compliance with these laws, we cannot assure you that our employees, business partners, third-party intermediaries, representatives, and agents will not take actions that violate our policies or applicable law, for which we

may be ultimately held responsible. Our exposure for violating these laws increases as our international presence expands and as we increase sales and operations in foreign jurisdictions.

Any violation of the FCPA or other applicable anti-bribery, anti-corruption, and anti-money laundering laws could result in whistleblower complaints, adverse media coverage, investigations, loss of export privileges, severe criminal or civil sanctions, settlements, prosecution, enforcement actions, fines, damages, or suspension or debarment from government contracts, all of which may have an adverse effect on our reputation, business, stock price, financial condition, prospects, and results of operations. In addition, responding to any investigation or action will likely result in a materially significant diversion of management's attention and resources and significant defense costs and other professional fees.

Risks Related to Our Regulatory Environment

If we elect to label and promote any of our products as clinical diagnostics tests or medical devices, we would be required to obtain prior approval or clearance by the U.S. Food and Drug Administration (FDA), which would take significant time and expense and could fail to result in FDA clearance or approval for the intended uses we believe are commercially attractive.

Our products are currently labeled and promoted, and are, and in the near-future will be, sold primarily to academic and research institutions and research companies as research use only (RUO) products. They are not currently designed, or intended to be used, for clinical diagnostic tests or as medical devices. If we elect to label and market our products for use as, or in the performance of, clinical diagnostics in the United States, thereby subjecting them to FDA regulations as medical devices, we would be required to obtain premarket 510(k) clearance or premarket approval from the FDA, unless an exception applies.

We may in the future register with the FDA as a medical device manufacturer and list some of our products with the FDA pursuant to an FDA Class I listing for general purpose laboratory equipment. While this regulatory classification is exempt from certain FDA requirements, such as the need to submit a premarket notification commonly known as a 510(k), and some of the requirements of the FDA's Quality System Regulations (QSRs), we would be subject to ongoing FDA "general controls," which include compliance with FDA regulations for labeling, inspections by the FDA, complaint evaluation, corrections and removals reporting, promotional restrictions, reporting adverse events or malfunctions for our products, and general prohibitions against misbranding and adulteration.

In addition, we may in the future submit 510(k) premarket notifications to the FDA to obtain FDA clearance of certain of our products. It is possible, in the event we elect to submit 510(k) applications for any of our products, that the FDA would take the position that a more burdensome premarket application, such as a premarket approval application or a de novo application, is required for those same products. If such applications were required, greater time and investment would be required to obtain FDA approval. Even if the FDA agreed that a 510(k) was appropriate, FDA clearance can be expensive and time consuming. Notwithstanding the effort and expense, FDA clearance or approval could be denied for some or all of our products for which we choose to market as a medical device or a clinical diagnostic device. There can be no assurance that future products for which we may seek premarket clearance or approval will be approved or cleared by FDA or a comparable foreign regulatory authority on a timely basis, if at all, nor can there be assurance that labeling claims will be consistent with our anticipated claims or adequate to support continued adoption of such products. Compliance with FDA or comparable foreign regulatory authority regulations would require substantial costs, and subject us to heightened scrutiny by regulators and substantial penalties for failure to comply with such requirements or the inability to market our products. The lengthy and unpredictable premarket clearance or approval process, as well as the unpredictability of the results of any required clinical studies, may result in our failing to obtain regulatory clearance or approval to market such products, which would significantly harm our business, results of operations, reputation, and prospects.

If we sought and received regulatory clearance or approval for any of our products, we would be subject to ongoing FDA obligations and continued regulatory oversight and review, including the general controls listed above and the FDA's QSRs for our development and manufacturing operations. We could also be subject to additional FDA post-marketing obligations for such products, any or all of which would increase our costs and divert resources away from other projects. If we sought and received regulatory clearance or approval and are not able to maintain regulatory compliance with applicable laws, we could be prohibited from marketing our products for use as, or in the performance of, clinical diagnostics and be subject to enforcement actions, including warning letters and adverse publicity, fines, injunctions, and civil penalties, recalls or seizure of products, operating restrictions and criminal prosecution.

In addition, we could decide to seek regulatory clearance or approval for certain of our products in countries outside of the United States. Sales of such products outside the United States will likely be subject to foreign regulatory requirements, which can vary greatly from country to country. As a result, the time required to obtain clearances or approvals outside the United States may differ from that required to obtain FDA clearance or approval and we may not be able to obtain foreign regulatory approvals on a timely basis or at all. In Europe, we would need to comply with the new Medical Device Regulation 2017/745 and In Vitro Diagnostic Regulation 2017/746, which became effective May 26, 2017, with application dates of May 26, 2021 (postponed from 2020) and May 26, 2022 respectively. This will increase the difficulty of regulatory approvals in Europe in the

future. In addition, the FDA regulates exports of medical devices. Failure to comply with these regulatory requirements or obtain and maintain required approvals, clearances and certifications could impair our ability to commercialize our products for diagnostic use outside of the United States.

Our products could become subject to government regulation as medical devices by the FDA and other regulatory agencies even if we do not elect to seek regulatory clearance or approval to market our products for diagnostic purposes, which would adversely impact our ability to market and sell our products and harm our business. If our products become subject to FDA regulation, the regulatory clearance or approval and the maintenance of continued and post-market regulatory compliance for such products will be expensive, time-consuming and uncertain both in timing and in outcome.

We do not currently expect our workflow automation and reagent solutions to be subject to the clearance or approval of the FDA, as it is not intended to be used for the diagnosis, treatment or prevention of disease. However, as we expand our product line and the applications and uses of our current or products into new fields, certain of our future products could become subject to regulation by the FDA, or comparable international agencies, including requirements for regulatory clearance or approval of such products before they can be marketed. Also, even if our products are labeled, promoted and intended as RUO, the FDA or comparable agencies of other countries could disagree with our conclusion that our products are intended for research use only or deem our sales, marketing and promotional efforts as being inconsistent with RUO products. For example, our customers may independently elect to use our RUO labeled products in their own laboratory developed tests (LDTs) for clinical diagnostic use, which could subject our products to government regulation, and the regulatory clearance or approval and maintenance process for such products may be uncertain, expensive, and time-consuming. Regulatory requirements related to marketing, selling and distribution of RUO products could change or be uncertain, even if clinical uses of our RUO products by our customers were done without our consent. If the FDA or other regulatory authorities assert that any of our RUO products are subject to regulatory clearance or approval, our business, financial condition, or results of operations could be adversely affected.

The FDA has historically exercised enforcement discretion in not enforcing the medical device regulations against laboratories offering LDTs. However, on October 3, 2014, the FDA issued two draft guidance documents that set forth the FDA's proposed risk-based framework for regulating LDTs, which are designed, manufactured and used within a single laboratory. The draft guidance documents provide the anticipated details through which the FDA would propose to establish an LDT oversight framework, including premarket review for higher-risk LDTs, such as those that have the same intended use as FDA-approved or cleared companion diagnostic tests currently on the market. In January 2017, the FDA announced that it would not issue final guidance on the oversight of LDTs and manufacturers of products used for LDTs, but would seek further public discussion on an appropriate oversight approach, and give Congress an opportunity to develop a legislative solution.

As manufacturers develop more complex diagnostic tests and diagnostic software, the FDA may increase its regulation of LDTs. Any future legislative or administrative rule making or oversight of LDTs, if and when finalized, may impact the sales of our products and how customers use our products, and may require us to change our business model in order to maintain compliance with these laws. We cannot predict how these various efforts will be resolved, how Congress or the FDA will regulate LDTs in the future, or how that regulatory system will impact our business. Changes to the current regulatory framework, including the imposition of additional or new regulations, including regulation of our products, could arise at any time during the development or marketing of our products, which may negatively affect our ability to obtain or maintain FDA or comparable regulatory approval of our products, if required. Further, sales of devices for diagnostic purposes may subject us to additional healthcare regulation and enforcement by the applicable government agencies. Such laws include, without limitation, state and federal anti-kickback or anti-referral laws, healthcare fraud and abuse laws, false claims laws, privacy and security laws, Physician Payments Sunshine Act and related transparency and manufacturer reporting laws, and other laws and regulations applicable to medical device manufacturers.

Additionally, on November 25, 2013, the FDA issued Final Guidance “Distribution of In Vitro Diagnostic Products Labeled for Research Use Only.” The guidance emphasizes that the FDA will review the totality of the circumstances when it comes to evaluating whether equipment and testing components are properly labeled as RUO. The final guidance states that merely including a labeling statement that the product is for research purposes only will not necessarily render the device exempt from the FDA’s clearance, approval, and other regulatory requirements if the circumstances surrounding the distribution, marketing and promotional practices indicate that the manufacturer knows its products are, or intends for its products to be, used for clinical diagnostic purposes. These circumstances may include written or verbal sales and marketing claims or links to articles regarding a product’s performance in clinical applications and a manufacturer’s provision of technical support for clinical applications.

As part of the United States’ efforts to combat COVID-19 and consistent with Executive Orders 13771 and 13924, the Department of Health and Human Services (HHS) announced rescission of guidance and other informal issuances of the FDA regarding premarket review of LDT absent notice-and-comment rulemaking, stating that, absent notice-and-comment rulemaking, those seeking approval or clearance of, or an emergency use authorization, for an LDT may nonetheless voluntarily submit a premarket approval application, premarket notification or an Emergency Use Authorization request, respectively, but

are not required to do so. However, laboratories opting to use LDTs without FDA premarket review or authorization would not be eligible for liability protection under the Public Readiness and Emergency Preparedness Act. While this action by HHS is expected to reduce the regulatory burden on clinical laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 that develop LDTs, it is unclear how this action as well as future legislation by federal and state governments and the FDA will impact the industry, including our business and that of our customers. Such HHS measure may compel the FDA to formalize earlier enforcement discretionary policies and informal guidance through notice-and-comment rulemaking and impose further restrictions on LDTs. HHS' rescission policy may change over time. Congress could also enact legislation restricting LDTs. Any restrictions on LDTs by the FDA, HHS, Congress or state regulatory authorities may decrease the demand for our products. The adoption of new restrictions on RUO products, whether by the FDA or Congress, could adversely affect demand for our products. Further, we could be required to obtain premarket clearance or approval before we can sell our products to certain customers.

Ethical, legal and social concerns surrounding the use of genetic information could reduce demand for our technology.

Our products may be used to create DNA sequences of humans, agricultural crops and other living organisms. Our products could be used in a variety of applications, which may have underlying ethical, legal and social concerns. Governmental authorities could, for safety, social or other purposes, impose limits on or implement regulation of the use of gene synthesis. Such concerns or governmental restrictions could limit the use of our DNA synthesis products, which could have a material adverse effect on our business, financial condition and results of operations. In addition, public perception about the safety and environmental hazards of, and ethical concerns over, genetically engineered products and processes could influence public acceptance of our technologies, products and processes. These concerns could result in increased expenses, regulatory scrutiny, delays or other impediments to our programs.

We use biological and hazardous materials that require considerable expertise and expense for handling, storage and disposal and may result in claims against us.

We work with materials, including chemicals, biological agents, and compounds and DNA samples that could be hazardous to human health and safety or the environment. Our operations and research and development processes also produce hazardous and biological waste products. Federal, state and local laws and regulations govern the use, generation, manufacture, storage, handling and disposal of these materials and wastes. Compliance with applicable environmental laws and regulations is expensive, and current or future environmental laws and regulations may restrict or have a material effect on our operations and research and development programs. If we do not comply with applicable regulations, we may be subject to fines and penalties.

In addition, accidental injury or contamination from these materials or wastes could interrupt our commercialization efforts, research and development programs and business operations, as well as cause environmental damage resulting in costly clean-up and liabilities under applicable laws and regulations. Furthermore, environmental laws and regulations are complex, change frequently and have tended to become more stringent. We cannot predict the impact of such changes and cannot be certain of our future compliance.

While our property insurance policy provides limited coverage in the event of contamination from hazardous and biological products and the resulting cleanup costs, we do not currently have any additional insurance coverage for legal liability for claims arising from the handling, storage or disposal of hazardous materials. Accordingly, in the event of contamination or injury, we could be liable for damages or penalized with fines in an amount exceeding our resources, and our operations could be suspended or otherwise adversely affected. We may not be able to maintain insurance on acceptable terms, if at all.

We could inadvertently develop DNA sequences or engage in other activity that contravenes biosecurity requirements, or regulatory authorities could promulgate more far reaching biosecurity requirements that our standard business practices cannot accommodate, which could give rise to substantial legal liability, impediments to our business and reputational damage.

The Federal Select Agent Program (FSAP) involves rules administered by the Centers for Disease Control and Prevention and the Animal and Plant Health Inspection Service that regulate possession, use and transfer of biological select agents and toxins that have the potential to pose a severe threat to public, animal or plant health or to animal or plant products.

We have established a biosecurity program under which we follow biosafety and biosecurity best practices and avoid DNA synthesis activities that implicate FSAP rules; however, we could inadvertently fail to comply with FSAP or other biosecurity rules. In addition, authorities could promulgate new biosecurity requirements that restrict our operations. One or more resulting legal penalties, restraints on our business or reputational damage could have material adverse effects on our business and financial condition.

We are currently subject to, and may in the future become subject to additional, U.S. federal and state laws and regulations imposing obligations on how we collect, store and process personal information. Our actual or perceived failure to comply with

such obligations could harm our business. Ensuring compliance with such laws could also impair our efforts to maintain and expand our future customer base, and thereby decrease our revenue.

In the ordinary course of our business, we currently, and in the future will, collect, store, transfer, use or process sensitive data, including personally identifiable information of employees, and intellectual property and proprietary business information owned or controlled by ourselves and other parties. The secure processing, storage, maintenance, and transmission of this critical information are vital to our operations and business strategy. We are, and may increasingly become, subject to various laws and regulations, as well as contractual obligations, relating to data privacy and security in the jurisdictions in which we operate. The regulatory environment related to data privacy and security is increasingly rigorous, with new and constantly changing requirements applicable to our business, and enforcement practices are likely to remain uncertain for the foreseeable future. These laws and regulations may be interpreted and applied differently over time and from jurisdiction to jurisdiction, and it is possible that they will be interpreted and applied in ways that may have a material adverse effect on our business, financial condition, results of operations and prospects.

We are in the process of evaluating compliance needs, but we do not currently have in place formal policies and procedures related to the storage, collection and processing of information, and have not conducted any internal or external data privacy audits, to ensure our compliance with all applicable data protection laws and regulations. Additionally, we do not currently have policies and procedures in place for assessing our third-party vendors' compliance with applicable data protection laws and regulations. All of these evolving compliance and operational requirements impose significant costs, such as costs related to organizational changes, implementing additional protection technologies, training employees and engaging consultants, which are likely to increase over time. In addition, such requirements may require us to modify our data processing practices and policies, distract management or divert resources from other initiatives and projects, all of which could have a material adverse effect on our business, financial condition, results of operations and prospects. Any failure or perceived failure by us or our third-party vendors, collaborators, contractors and consultants to comply with any applicable federal, state or similar foreign laws and regulations relating to data privacy and security, or could result in damage to our reputation, as well as proceedings or litigation by governmental agencies or other third parties, including class action privacy litigation in certain jurisdictions, which would subject us to significant fines, sanctions, awards, penalties or judgments, all of which could have a material adverse effect on our business, financial condition, results of operations and prospects.

Risks Related to Our Intellectual Property

If we are unable to obtain and maintain sufficient intellectual property protection for our products and technology, or if the scope of the intellectual property protection obtained is not sufficiently broad, our competitors could develop and commercialize products similar or identical to ours, and our ability to successfully commercialize our products and build a strong brand identity may be impaired.

We rely on patent protection as well as trademark, copyright, trade secret and other intellectual property rights protection and contractual restrictions to protect our proprietary products and technologies. Each of these types of measures provides limited protection and may not adequately protect our rights or permit us to gain or keep any competitive advantage. If we fail to obtain, maintain and protect our intellectual property, third parties may be able to compete more effectively against us. In addition, we may incur substantial litigation costs in our attempts to enforce our right in, defend against challenges to, or recover or restrict use of our intellectual property.

To the extent our intellectual property offers inadequate protection, or is found to be invalid or unenforceable, we would be exposed to a greater risk of direct competition. If our intellectual property does not adequately cover competitors' products, our competitive position could be adversely affected, as could our business, financial condition, results of operations and prospects. Both the patent application process and the process of managing patent and other intellectual property disputes can be time-consuming and expensive.

Our success depends in large part on our ability to obtain and maintain protection of the intellectual property, particularly patents we may own solely or jointly with, or license from, third parties, in the United States and in other countries of interest, with respect to our products and technologies. However, obtaining and enforcing patents is costly, time-consuming and complex. We may not be able to file and prosecute all necessary or desirable patent applications, or maintain, enforce and license any patents that may issue from such patent applications, at a reasonable cost or in a timely manner or in all jurisdictions. It is also possible that we will fail to identify patentable aspects of our research and development output before it is too late to obtain patent protection. Moreover, we may not develop additional proprietary products, methods and technologies that are patentable. We may not have the right to control the preparation, filing and prosecution of patent applications, or to maintain the rights to patents licensed from or to third parties; such patents and applications may not be prosecuted and enforced by such third parties in our best interests.

The patent position of synthetic biology technology companies is highly uncertain, involves complex legal and factual questions, and has been the subject of much litigation in recent years. Changes in either the patent laws or in interpretations of patent laws in the United States or other jurisdictions may diminish the value of our intellectual property. As a result, the issuance, scope,

validity, enforceability, and commercial value of our patent rights are highly uncertain. It is possible that none of our pending patent applications will result in issued patents in a timely fashion or at all, and even if patents are granted, they may not provide a basis for intellectual property protection of commercially viable products or services, may not provide us with any competitive advantages. We cannot predict the breadth of claims that may be granted or enforced in our patents or in third-party patents. It is possible that third parties will design around our current or future patents such that we cannot prevent such third parties from using similar technologies and commercializing similar products to compete with us. Some of our owned or licensed patents or patent applications may be challenged, and we may not be successful in defending any such challenge. Any successful third-party challenge to our patents could result in the narrowing, unenforceability or invalidity of such patents and increased competition with our business. The outcome of patent litigation or other proceeding can be uncertain, and any attempt by us to enforce our patent rights against others or to challenge the patent rights of others may not be successful, or, regardless of success, may take substantial time and result in substantial cost, and may divert our efforts and attention from other aspects of our business. Any of the foregoing events could have a material adverse effect on our business, financial condition and results of operations.

The U.S. law relating to the patentability of certain inventions in the synthetic biology technology industry is uncertain and rapidly changing, which may adversely impact our existing patents or our ability to obtain patents in the future.

Changes in either the patent laws or interpretation of the patent laws in the United States or in other jurisdictions could increase the uncertainties and costs surrounding the prosecution of patent applications and the enforcement or defense of issued patents. The U.S. Congress has recently passed legislation implementing significant changes to U.S. patent law.

Various courts including the U.S. Supreme Court have rendered decisions that impact the patentability and patent eligibility of inventions or discoveries relating to synthetic biology technology, including by narrowing the scope and strength of patent protection in some instances. In light of these developments and depending on actions by the U.S. Congress, the federal courts and the United States Patent and Trademark office (the USPTO), the laws and regulations governing patents could be interpreted and applied, or could change, in unpredictable ways that may have a material adverse effect on our ability to obtain new patents and to defend and enforce our existing patents and patents that we might obtain in the future.

We cannot assure you that our patent portfolio will not be negatively impacted by the current uncertain state of the law, new court rulings or changes in guidance or procedures issued by the USPTO or other patent offices around the world. From time to time, the U.S. Supreme Court, other federal courts, the U.S. Congress or the USPTO may change the standards of patentability, scope and validity of patents in areas including synthetic biology technology and any such changes, or any similar adverse changes in the patent laws and procedures of other jurisdictions, could have a negative impact on our business, financial condition, prospects and results of operations.

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

Filing, prosecuting and defending patents on our products in all countries throughout the world would be prohibitively expensive, and our intellectual property rights in some countries outside the United States can be less extensive than those in the United States.

The laws of some foreign countries do not protect intellectual property rights to the same extent as the laws of the United States. We may encounter difficulties in protecting and defending such rights in foreign jurisdictions. Consequently, we may not be able to prevent third parties from practicing our inventions in competition with us in some or all countries outside the United States, or from selling or importing products made using our inventions in and into the United States or other jurisdictions. Competitors and other third parties may use our technologies in jurisdictions where we have not obtained patent protection to develop their own products and technologies and may also export infringing products to territories where we do have patent protection but where enforcement may not be as strong as in the United States. Our patents or other intellectual property rights may not be effective or sufficient to prevent such third-party products from competing with our products. In addition, certain countries have compulsory licensing laws under which a patent owner may be compelled to grant licenses to other parties. Furthermore, many countries limit the enforceability of patents against certain kinds of third parties, including government agencies or government contractors. In these countries, the patent owner may have limited remedies, which could materially diminish the value of any patents.

Many companies have encountered significant problems in protecting and defending intellectual property rights in foreign jurisdictions. The legal systems of many other countries do not favor the enforcement of patents and other intellectual property protection, which could make it difficult for us to gain any meaningful competitive advantage from our patents or other intellectual property rights. The legal systems in certain countries may also favor state-sponsored or domestic companies over foreign companies, even though we may have patents and other intellectual property protection in these countries. The absence of harmonized intellectual property protection laws makes it difficult to ensure consistent treatment and enforcement of patent, trade secret, and other intellectual property rights on a worldwide basis. As a result, it is possible that we will not be able to enforce our rights against third parties that misappropriate our proprietary technology or otherwise violate our intellectual property rights in any given country around the world.

Proceedings to enforce our patent rights in foreign jurisdictions could result in substantial cost and divert our efforts and attention from other aspects of our business, could put our patents at risk of being invalidated or interpreted narrowly and our patent applications at risk of not issuing, and could provoke third parties to assert claims against us. We may not prevail in any lawsuits that we initiate, or that are initiated against us, and any damages or other remedies awarded to us may not be commercially meaningful. In addition, changes in the law and legal decisions by courts in foreign countries may affect our ability to obtain adequate protection for our products, services and other technologies and the enforcement of intellectual property. Accordingly, our efforts to enforce our intellectual property rights around the world may be inadequate to obtain a significant commercial advantage from the intellectual property that we develop or license. Any of the foregoing events could have a material adverse effect on our business, financial condition, results of operations and prospects.

Issued patents covering our products could be found invalid or unenforceable if challenged.

Our owned and licensed patents and patent applications may be subject to validity, enforceability and priority disputes. The issuance of a patent is not conclusive as to its inventorship, scope, validity or enforceability. Some of our patents or patent applications (including licensed patents and patent applications) may be challenged in opposition, interference or derivation, ex parte re-examination, inter partes review, post-grant review or other similar proceedings. Any successful third-party challenge to our patents in this or any other proceeding could result in the unenforceability or invalidity of such patents, which may lead to increased competition to our business, which could have a material adverse effect on our business, financial condition, results of operations and prospects. In addition, if we initiate legal proceedings against a third party to enforce a patent covering our products, the defendant could counterclaim that the patent we are asserting in the proceeding is invalid or unenforceable. In patent litigation in the United States, defendant counterclaims alleging invalidity or unenforceability are commonplace. There are numerous grounds upon which a third party can assert invalidity or unenforceability of a patent. Third parties may also raise similar claims before administrative bodies in the United States or abroad, outside the context of litigation per se. Such proceedings could result in revocation of or amendment to our patents in such a way that they no longer protect our products. The outcome following legal assertions of invalidity and unenforceability during patent litigation is unpredictable. If a defendant or other third party were to prevail on a legal assertion of invalidity or unenforceability, we would lose at least part, and perhaps all, of the patent protection on certain aspects of our products and technologies, which could have a material adverse effect on our business, financial condition, results of operations and prospects. In addition, if the breadth or strength of protection provided by our patents and patent applications is threatened, regardless of the outcome, it could dissuade companies from collaborating with us to license intellectual property or to develop or commercialize current or future products.

We may not be aware of all third-party intellectual property rights potentially relevant to our products, technology and services. Publications of discoveries in the scientific literature lag behind the discoveries, and patent applications in the United States and other jurisdictions are typically not published until approximately 18 months after the earliest effective filing date or, in some cases, not until such patent applications issue as patents. We might not have been the first to make the inventions claimed in each of our pending patent applications and we might not have been the first to file patent applications for these inventions. To determine the priority of these inventions, we may have to participate in interference or derivation proceedings in the U.S. or analogous proceedings in non-U.S. jurisdictions, which could result in substantial cost to us and the loss of valuable patent protection. No assurance can be given that other patent applications will not have priority over our patent applications. In addition, changes to the patent laws of the United States allow for various post-grant proceedings that have not been extensively tested, and their outcome is therefore uncertain. Furthermore, if third parties bring these proceedings against our patents, regardless of the merit of such proceedings and regardless of whether we are successful, we could experience significant costs and our management may be distracted. Any of the foregoing events could have a material adverse effect on our business, financial condition, results of operations and prospects.

If we are unable to protect the confidentiality of our trade secrets, the value of our technology could be materially adversely affected and our business could be harmed.

We rely heavily on trade secrets and confidentiality agreements to protect our unpatented know-how, technology and other proprietary information and to maintain our competitive position. However, trade secrets and know-how can be difficult to protect. In particular, we expect that with respect to our technologies, certain know how will over time be disseminated within the industry through independent development, the publication of journal articles describing the methodology, and the movement of personnel from academic to industry scientific positions.

In addition to pursuing patents on our technology, we take steps to protect our intellectual property and proprietary technology by entering into agreements, including confidentiality agreements, non-disclosure agreements and intellectual property assignment agreements, with our employees, consultants, academic institutions, corporate partners and, when needed, our advisers. However, we cannot be certain that such agreements have been entered into with all relevant parties, and we cannot be certain that our trade secrets and other confidential proprietary information will not be disclosed or that competitors or other third parties will not otherwise gain access to our trade secrets or independently develop substantially equivalent information and techniques. For example, any of the foregoing parties may breach the agreements and disclose our proprietary information, including our trade secrets, and we may not be able to obtain adequate remedies for such breaches. Such agreements may not

be enforceable or may not provide meaningful protection for our trade secrets or other proprietary information in the event of unauthorized use or disclosure or other breaches of the agreements, and we may not be able to prevent such unauthorized disclosure, which could adversely impact our ability to establish or maintain a competitive advantage in the market, business, financial condition, results of operations and prospects.

Monitoring unauthorized disclosure is difficult, and we cannot guarantee that the steps we have taken to prevent such disclosure are adequate. If we were to enforce a claim that a third party had wrongfully obtained and was using our trade secrets, it could be expensive and time-consuming, it could distract our personnel, and the outcome would be unpredictable. In addition, courts outside the United States may be less effective in protecting trade secrets.

We also seek to preserve the integrity and confidentiality of our confidential proprietary information by maintaining physical security of our premises and physical and electronic security of our information technology systems, but it is possible that these security measures could be breached. If any of our confidential proprietary information were to be lawfully obtained or independently developed by a competitor or other third party, absent patent protection, we would have no right to prevent such competitor from using that technology or information to compete with us, which could harm our competitive position. Competitors or third parties could purchase our products and attempt to replicate the competitive advantages we derive from our development efforts with their own competitive technologies that fall outside the scope of our intellectual property rights. They might also independently develop our technologies without reference to our trade secrets. If any of our trade secrets were to be disclosed to or independently discovered by a competitor or other third party, it could materially and adversely affect our business, financial condition, results of operations and prospects.

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

We may be subject to claims that former employees, collaborators or other third parties have an interest in our owned or in-licensed patents, trade secrets or other intellectual property as an inventor or co-inventor. For example, we may have inventorship or ownership disputes arising from conflicting obligations of employees, consultants or others who are involved in developing our products. In addition, counterparties to our consulting, sponsored research, software development and other agreements may assert that they have an ownership interest in intellectual property developed under such arrangements. In particular, certain software development agreements pursuant to which third parties have developed parts of our proprietary software may not include provisions that expressly assign to us ownership of all intellectual property developed for us by such third parties. Furthermore, certain of our sponsored research agreements pursuant to which we provide research services for third parties do not assign to us all intellectual property developed under such agreements. As such, we may not have the right to use all such developed intellectual property under such agreements, we may be required to obtain licenses from third parties and such licenses may not be available on commercially reasonable terms or at all, or they may be non-exclusive. If we are unable to obtain such licenses and such licenses are necessary for the development, manufacture and commercialization of our products and technologies, we may need to cease the development, manufacture and commercialization of our products and technologies. Litigation may be necessary to defend against these and other claims challenging inventorship or ownership of our owned or in-licensed patents, trade secrets or other intellectual property. If we fail in defending any such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights. In such an event, we may be required to obtain licenses from third parties and such licenses may not be available on commercially reasonable terms or at all, or they may be non-exclusive. If we are unable to obtain and maintain such licenses, we may need to cease the development, manufacture and commercialization of the relevant products and technologies. Even if we are successful in defending against such claims, litigation could result in substantial costs and be a distraction to management and other employees, and certain customers or partners may defer engaging with us until the particular dispute is resolved. Any of the foregoing could have a material adverse effect on our business, financial condition, results of operations and prospects.

We may not be able to protect and enforce our trademarks and trade names, or build name recognition in our markets of interest, thereby harming our competitive position.

The registered or unregistered trademarks or trade names that we use may be challenged, infringed, circumvented, declared generic, opposed, invalidated, cancelled or determined to be infringing on or dilutive of other marks. As a consequence, we may not be able to protect, register or maintain our rights in these trademarks and trade names.

Third parties may have prior rights in, or have filed, and may in the future file, for registration of, trademarks similar or identical to our trademarks in certain markets of interest that may block our ability to use or to register, or that may limit the scope of protection afforded to, our trademarks and trade names in such markets, thereby impeding our ability to protect, register, maintain or enforce our trademarks and trade names in all markets of interest and to build brand identity and possibly leading to litigation risks and market confusion.

If a third party succeeds in registering or developing common law rights in trademarks similar or identical to our trademarks that predate our rights, and if we are not successful in overcoming any objection from the USPTO or such third party based on or in challenging such rights and defending against challenges to our trademarks, we may not be able to use such trademarks to develop brand recognition of our technologies, products or services.

A third party with prior rights in a similar or identical trademark could challenge our use and registration of our trademarks and trade names by filing a trademark infringement court action or by seeking to block or cancel any registration for our trademarks through an opposition, cancellation, invalidity or other administrative proceeding. For example, Codexis, Inc. (Codexis), filed a complaint against us relating to our CODEX DNA name based on its rights in the CODEX and CODEXIS mark in the U.S. District Court, Northern District of California for federal and common law trademark infringement and unfair competition/false designation. Codexis seeks injunctive relief, including that we cease all use of the term CODEX and any other trademark confusingly similar to the marks CODEX and CODEXIS and not apply for registration of or register the CODEX mark or any other mark confusingly similar to the CODEX or CODEXIS marks, transfer to Codexis all domain names and social media accounts/user names that include the term “codex” and pay damages (consisting of Codexis’s actual damages, a disgorgement of our profits and punitive damages as permitted by California common law) as well as attorneys’ fees and costs.

The outcome of any such trademark litigation or other proceeding can be uncertain. If we are unable to successfully defend against any such challenge, in addition to not being able to secure or maintain a registration for our trademark, we may be required, including by court order, to cease all further use of such trademark. Moreover, in the case of a trademark infringement action, a court may require us to issue corrective advertising or to take other steps as the court may deem necessary to remove or reduce the risk of consumer confusion, including changing our company name and rebranding our products. Any of these actions could take time, would be expensive and could lead to a loss of brand recognition or customer confusion as a result. The court may also order us to pay damages (actual damages demonstrated at trial and a disgorgement of our profits), including treble damages and attorneys’ fees if the court finds that we willfully infringed such third party trademark. Regardless of success, any such litigation or other proceeding may take substantial time and effort and result in substantial cost, and may divert our efforts and attention from other aspects of our business and could have a material adverse effect on our business, financial condition and results of operations.

Further, we have and may in the future enter into agreements with owners of such third party trade names or trademarks to avoid potential trademark litigation, which may limit our ability to use, register or enforce our trade names or trademarks in certain fields of business or in certain markets or which may place certain other restrictions on the use of our trademarks and trade names that could limit our ability to build a strong brand identity. If we are unable to establish name recognition based on our trademarks and trade names, then we may not be able to compete effectively, and our business, financial condition, results of operations and prospects may be adversely affected.

Patent terms may be inadequate to protect our competitive position on our workflow automation and reagent solutions for an adequate amount of time.

Patents have a limited lifespan. In the United States, if all maintenance fees are timely paid, the basic term of a utility patent is 20 years from its earliest effective non-provisional filing date. In the United States, the basic term of a patent may be lengthened by patent term adjustment, which compensates the patentee for certain administrative delays by the USPTO in examining and granting a patent, and it may be shortened by filing a terminal disclaimer over an earlier expiring patent. Even if a patent covering our products is obtained, once the patent life has expired, we would no longer be able to use the patent to exclude others from making or selling competitive products. If one of our products requires extended development, testing or regulatory review, patent protection for the product might expire soon after or even before the product is commercialized. As a result, our owned and licensed patent portfolio may not provide us with sufficient rights to exclude others from commercializing products similar or identical to ours, which could have a material adverse effect on our business, financial condition and results of operations.

We may become involved in lawsuits to defend against third-party claims of infringement, misappropriation or other violations of intellectual property or to protect or enforce our intellectual property, any of which could be expensive, time consuming and unsuccessful, and may prevent or delay our development and commercialization efforts.

Our commercial success depends in part on our ability and the ability of future collaborators to develop, manufacture, market and sell our product and use our products and technologies without infringing, misappropriating or otherwise violating the intellectual property rights of third parties. There is a substantial amount of litigation involving patents and other intellectual property rights in the synthetic biology technology sector, as well as other proceedings for challenging patents, including interference, derivation, inter partes review, post grant review, reexamination proceedings, and pre- and post-grant oppositions. We may be exposed to, or threatened with, future litigation by third parties having patent or other intellectual property rights alleging that our products, manufacturing methods, software or technologies infringe, misappropriate or otherwise violate their intellectual property rights. Numerous issued patents and pending patent applications that are owned by third parties exist in the fields in which we are developing our products and technologies. It is not always clear to industry participants, including us, the claim scope that may issue from pending patent applications owned by third parties or which patents cover various types of products, technologies or their methods of use or manufacture. Because of the large number of patents issued and patent applications filed in our fields, there may be a risk that third parties, including our competitors, may allege that they have patent rights encompassing our products, technologies or methods and that we are employing their proprietary technology without authorization.

If third parties, including our competitors, believe that our products or technologies infringe, misappropriate or otherwise violate their intellectual property, such third parties may seek to enforce their intellectual property, including patents against us by filing an intellectual property-related lawsuit, including a patent infringement lawsuit, against us. Even if we believe third-party intellectual property claims are without merit, there is no assurance that a court would find in our favor on questions of misappropriation, infringement, validity, enforceability, or priority. If any third parties were to assert patents against us and we are unable to successfully defend against any such assertion, we may be required, including by court order, to cease the development and commercialization of the infringing products or technology and we may be required to redesign such products and technologies so they do not infringe such patents, which may not be possible or may require substantial monetary expenditures and time. We could also be required to pay damages, which could be significant, including treble damages and attorneys' fees if we are found to have willfully infringed such patents. We could also be required to obtain a license to such patents in order to continue the development and commercialization of the infringing product or technology; however such a license may not be available on commercially reasonable terms or at all, including because certain of these patents are held by or may be licensed to our competitors. Even if such license were available, it may require substantial payments or cross-licenses under our intellectual property rights, and it may only be available on a nonexclusive basis, in which case third parties, including our competitors, could use the same licensed intellectual property to compete with us. Any of the foregoing could have a material adverse effect on our business, financial condition, results of operation or prospects.

We may choose to challenge, including in connection with any allegation of patent infringement by a third party, the validity or enforceability of any third-party patent that we believe may have applicability in our field, and any other third-party patent that may be asserted against us. Such challenges may be brought either in court or by requesting that the USPTO, European Patent Office (EPO), or other patent offices review the patent claims, such as in an ex-parte reexamination, inter partes review, post-grant review proceeding or opposition proceeding. However, there can be no assurance that any such challenge by us will be successful. Even if such proceedings are successful, these proceedings are expensive and may consume our time or other resources, distract our management and technical personnel, and the costs of the proceedings could be substantial.

Third parties, including our competitors, could be infringing, misappropriating or otherwise violating our owned and in-licensed intellectual property rights. Monitoring unauthorized use of our intellectual property is difficult and costly. We may not be able to detect unauthorized use of, or take effective steps to enforce, our intellectual property rights. From time to time, we seek to analyze our competitors' products and services, and may in the future seek to enforce our rights against potential infringement, misappropriation or violation of our intellectual property. However, the steps we have taken to protect our intellectual property rights may not be effective to enforce our rights as against such infringement, misappropriation or violation of our intellectual property. Any inability to meaningfully enforce our intellectual property rights could harm our ability to compete and reduce demand for our products and technologies.

Litigation proceedings may be necessary for us to enforce our patent and other intellectual property rights. In any such proceedings, a court may refuse to stop the other party from using the technology at issue on the grounds that our owned and in-licensed patents do not cover the technology in question. Further, in such proceedings, the defendant could counterclaim that our intellectual property is invalid or unenforceable and the court may agree, in which case we could lose valuable intellectual property rights, which could allow third parties to commercialize technology or products similar to ours and compete directly with us, without payment to us, or could require us to obtain license rights from the prevailing party in order to be able to manufacture or commercialize our products without infringing such party's intellectual property rights, and if we unable to obtain such a license, we may be required to cease commercialization of our products and technologies, any of which could have a material adverse effect on our business, financial condition, results of operations and prospects. The outcome in any such proceedings is unpredictable.

Regardless of whether we are the defending party or the party seeking to enforce rights in any intellectual property-related proceeding, and regardless of outcome, such proceedings that may be necessary in the future could result in substantial costs and diversion of resources and could have a material adverse effect on our business, financial condition, results of operations and prospects. Furthermore, because of the substantial amount of discovery required in connection with intellectual property litigation, there is a risk that some of our confidential information could be compromised by disclosure during this type of litigation. In addition, there could be public announcements of the results of hearings, motions, or other interim proceedings or developments, and if securities analysts or investors perceive these results to be negative, it could have a substantial adverse effect on the price of our common stock. Some of our competitors and other third parties may be able to sustain the costs of such litigation or proceedings more effectively than we can because of their greater financial resources and more mature and developed intellectual property portfolios. We may not have sufficient financial or other resources to adequately conduct these types of litigation or proceedings. Any of the foregoing, or any uncertainties resulting from the initiation and continuation of any litigation, could have a material adverse effect on our ability to raise the funds necessary to continue our operations or could otherwise have a material adverse effect on our business, financial condition, results of operations and prospects. Claims that we have misappropriated the confidential information or trade secrets of third parties could have a similar adverse effect on our business, financial condition, results of operations and prospects.

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

Various official fees, including renewal fees, must be paid to the respective patent authorities to apply for, prosecute, and maintain patents and patent applications. The USPTO and other patent authorities also variously require compliance with a number of procedural and substantive provisions under local law and practice during and sometimes after the patent application process. In many cases, an inadvertent lapse in paying a fee or fulfilling another requirement can be cured by payment of a late fee or by other means in accordance with the applicable rules. However, there are situations in which non-compliance can result in abandonment or lapse of the patent or patent application, resulting in partial or complete loss of patent rights in the relevant jurisdiction. In such an event, our competitors may be able to enter the market without infringing our patents and this circumstance would have a material adverse effect on our business, financial condition, results of operations and prospects.

We may be subject to claims that our employees, consultants or independent contractors have wrongfully used or disclosed confidential information of third parties or that our employees have wrongfully used or disclosed alleged trade secrets of their former employers.

We have employed and expect to employ individuals who were previously employed at universities or at other companies, including our competitors or potential competitors. Although we try to ensure that our employees, consultants, advisors and independent contractors do not use the proprietary information or know-how of others in their work for us, we may be subject to claims that our employees, advisors, consultants or independent contractors have inadvertently or otherwise used or disclosed intellectual property, including trade secrets or other proprietary information, of their former employers or other third parties, or to claims that we have improperly used or obtained such trade secrets. Litigation may be necessary to defend against these claims. If we fail in defending such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights and face increased competition to our business. Any such litigation or the threat thereof may adversely affect our ability to hire employees or contract with advisors, contractors and consultants. A loss of key research personnel work product could hamper or prevent our ability to commercialize potential products, which could harm our business. Even if we are successful in defending against these claims, litigation could result in substantial costs and be a distraction to management. This type of litigation or proceeding could substantially increase our operating losses and reduce our resources available for development activities. Some of our competitors may be able to sustain the costs of this type of litigation or proceedings more effectively than we can because of their substantially greater financial resources.

In addition, while it is our policy to require our employees and contractors who may be involved in the conception or development of intellectual property to execute agreements assigning such intellectual property to us, we may be unsuccessful in executing such an agreement with each party who, in fact, conceives or develops intellectual property that we regard as our own. The assignment of intellectual property rights may not be self-executing, or the assignment agreements may be breached, and we may be forced to bring claims against third parties, or defend claims that they may bring against us, to determine the ownership of what we regard as our intellectual property. Furthermore, individuals executing agreements with us may have pre-existing or competing obligations to a third party, such as an academic institution, and thus an agreement with us may be disputed or ineffective in perfecting ownership of inventions developed by that individual, which could have a material adverse effect on our business, financial condition, results of operations, and prospects.

Furthermore, we may in the future be subject to claims by former employees, consultants or other third parties asserting an ownership right in our owned or licensed patents or patent applications. An adverse determination in any such proceeding may result in loss of exclusivity or freedom to operate or in patent claims being narrowed, invalidated or held unenforceable, in whole or in part, which could limit our ability to stop others from using or commercializing similar technology, without payment to us, or could limit the duration of the overall patent protection covering our technology and products. Such challenges may also result in our inability to develop, manufacture or commercialize our products without infringing third-party patent rights. Any of the foregoing could harm our business, financial condition, results of operations and prospects.

If we cannot license rights to use technologies on reasonable terms, we may not be able to commercialize new products in the future.

We may identify third-party technology that we may need to license or acquire in order to develop or commercialize our products or technologies, including our workflow automation and reagent solutions. However, we may be unable to secure such licenses or acquisitions. The licensing or acquisition of third-party intellectual property rights is a competitive area, and several more established companies may pursue strategies to license or acquire third-party intellectual property rights that we may consider attractive or necessary. These established companies may have a competitive advantage over us due to their size, capital resources and greater commercialization capabilities. In addition, companies that perceive us to be a competitor may be unwilling to assign or license rights to us.

We also may be unable to license or acquire third-party intellectual property rights on terms that would allow us to make an appropriate return on our investment or at all. In return for the use of a third party's technology, we may agree to pay the licensor royalties based on sales of our products or services. Royalties are a component of cost of products or technologies and affect the margins on our products. We may also need to negotiate licenses to patents or patent applications before or after introducing a commercial product. We may not be able to obtain necessary licenses to patents or patent applications, and our business may suffer if we are unable to enter into the necessary licenses on acceptable terms or at all, if any necessary licenses are subsequently terminated, if the licensor fails to abide by the terms of the license or fails to prevent infringement by third parties, or if the licensed intellectual property rights are found to be invalid or unenforceable.

Intellectual property rights do not necessarily address all potential threats.

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

- others may be able to make products that are similar to products and technologies we may develop or utilize similar technology that are not covered by the claims of the patents that we own or license now or in the future;
- we might not have been the first to make the inventions covered by the issued patent or pending patent application that we license or may own in the future;
- we might not have been the first to file patent applications covering certain of our or their inventions;
- others may independently develop similar or alternative technologies or duplicate any of our technologies without infringing, misappropriating or otherwise violating our owned or licensed intellectual property rights;
- it is possible that our pending licensed patent applications or those that we may own in the future will not lead to issued patents;
- issued patents that we hold rights to may be held invalid or unenforceable as a result of legal challenges by our competitors;
- our competitors might conduct research and development activities in countries where we do not have patent rights and then use the information learned from such activities to develop competitive products for sale in our major commercial markets;
- we may not develop additional proprietary technologies that are patentable;
- the patents of others may harm our business; and
- we may choose not to file a patent for certain trade secrets or know-how, and a third party may subsequently file a patent covering such intellectual property.

Should any of these events occur, they could materially adversely affect our business, financial condition, results of operations and prospects.

Risks Related to Ownership of Our Common Stock

Prior to June 2021, there had been no public market for shares of our common stock and an active trading market for our common stock may never develop or be sustained.

Prior to our initial public offering in June 2021, there had been no public market for shares of our common stock. Our common stock is currently listed on the Nasdaq Global Select Market under the symbol "DNAY." We cannot assure you that an active trading market for our common stock will develop or be maintained that exchange or elsewhere. If an active trading market does not develop, or develops but is not maintained, you may have difficulty selling any of our common stock that you purchase due to the limited public float. Accordingly, we cannot assure you of your ability to sell your shares of common stock when desired or the prices that you may obtain for your shares.

The market price of our common stock may be volatile, which could result in substantial losses for investors.

Some of the factors that may cause the market price of our common stock to fluctuate include, but are not limited to:

- actual or anticipated fluctuations in our operating results, including fluctuations in our quarterly and annual results;
- operating expenses being more than anticipated;
- supply chain and production disruption due to our moving primary manufacturing facilities to a new location;
- the failure or discontinuation of any of our product development and research programs;
- changes in the structure or funding of research at academic and research laboratories and institutions, including changes that would affect their ability to purchase our products;
- the success of existing or new competitive businesses or technologies;
- announcements about new research programs or products of our competitors;

- developments or disputes concerning patent applications, issued patents or other proprietary rights;
- the recruitment or departure of key personnel;
- litigation and governmental investigations involving us, our industry or both;
- regulatory or legal developments in the United States and other countries;
- variations in market conditions in the synthetic biology technology sector;
- investor perceptions of us or our industry;
- changes in estimates or recommendations by securities analysts, if any, that cover our common stock or companies that are perceived to be similar to us;
- whether our financial results meet the expectations of securities analysts or investors;
- the level of expenses related to any of our research and development programs or products;
- actual or anticipated changes in our estimates as to our financial results or development timelines;
- variations in our financial results or those of companies that are perceived to be similar to us;
- the announcement or expectation of additional financing efforts;
- sales of our common stock by us or sales of our common stock by our insiders or other stockholders;
- the expiration of market standoff or lock-up agreements;
- general economic, industry and market conditions; and
- the COVID-19 pandemic, natural disasters or major catastrophic events.

Recently, stock markets in general, and the market for life sciences technology companies in particular, have experienced significant price and volume fluctuations that have often been unrelated or disproportionate to changes in the operating performance of the companies whose stock is experiencing those price and volume fluctuations, particularly in light of the current COVID-19 pandemic. Broad market and industry factors may seriously affect the market price of our common stock, regardless of our actual operating performance. Following periods of such volatility in the market price of a company's securities, securities class action litigation has often been brought against that company. Because of the potential volatility of our stock price, we may become the target of securities litigation in the future. Securities litigation could result in substantial costs and divert management's attention and resources from our business.

If securities analysts do not publish research or reports about our business or if they publish negative evaluations of our common stock, the price of our common stock could decline.

The trading market for our common stock will rely in part on the research and reports that industry or securities analysts publish about us or our business. If no or few analysts commence or continue coverage of us, the trading price of our common stock could decrease. If one or more of the analysts covering our business downgrade their evaluations of our common stock, the price of our common stock could decline. If one or more of these analysts cease to cover our common stock, we could lose visibility in the market for our common stock, which in turn could cause the price of our common stock to decline.

Our directors, officers and principal stockholders have significant voting power and may take actions that may not be in the best interests of our other stockholders.

As of September 30, 2021, our directors, officers and stockholders holding 5% or more of our outstanding common stock and their affiliates beneficially owned 68% of our outstanding common stock in the aggregate, assuming the exercise of all options and warrants held by such persons. As a result, these stockholders, if they act together, will be able to exert significant influence over the management and affairs of our company and most matters requiring stockholder approval, including the election of directors and approval of significant corporate transactions. This concentration of ownership may have the effect of delaying or preventing a change in control, might adversely affect the market price of our common stock and may not be in the best interests of our other stockholders.

Sales of a substantial number of shares of our common stock by our existing stockholders could cause the price of our common stock to decline.

Sales of a substantial number of shares of our common stock in the public market could occur at any time following the expiration of the market standoff and lock-up agreements or the early release of these agreements or the perception in the market that the holders of a large number of shares of common stock intend to sell shares and could reduce the market price of our common stock. 73.8% of our outstanding shares of common stock are currently prohibited or otherwise restricted from being sold in the public market under securities laws, market standoff agreements entered into by our stockholders with us, or lock-up agreements entered into by our stockholders with the underwriters in our initial public offering; however, subject to applicable securities law restrictions and excluding shares of common stock issued pursuant to the early exercise of unvested stock options that will remain unvested, these shares will be able to be sold in the public market beginning on December 15, 2021. The underwriters may, in their sole discretion, release all or some portion of the shares subject to lock-up agreements at any time and for any reason. Shares issued upon the exercise of stock options outstanding under our equity incentive plans or

pursuant to future awards granted under those plans will become available for sale in the public market to the extent permitted by the provisions of applicable vesting schedules, any applicable market standoff and lock-up agreements, and Rule 144 and Rule 701 under the Securities Act.

Moreover, holders of an aggregate of 15,079,329 shares of our common stock have rights, subject to conditions, to require us to file registration statements with the SEC covering their shares or to include their shares in registration statements that we may file for ourselves or other stockholders. Sales of common stock in the public market as restrictions end or pursuant to registration rights may make it more difficult for us to sell equity securities in the future at a time and at a price that we deem appropriate. These sales also could cause the trading price of our common stock to fall and make it more difficult for you to sell shares of our common stock.

We do not expect to pay any dividends for the foreseeable future. Investors may never obtain a return on their investment.

You should not rely on an investment in our common stock to provide dividend income. We do not anticipate that we will pay any dividends to holders of our common stock in the foreseeable future. Instead, we plan to retain any earnings to maintain and expand our existing operations, fund our research and development programs and continue to invest in our commercial infrastructure. In addition, our current credit facility with SVB contains, and any future credit facility or financing we obtain may contain, terms prohibiting or limiting the amount of dividends that may be declared or paid on our common stock. Accordingly, investors must rely on sales of their common stock after price appreciation, which may never occur, as the only way to realize any return on their investment. As a result, investors seeking cash dividends should not purchase our common stock.

Our amended and restated bylaws designate a state or federal court located within the State of Delaware as the exclusive forum for substantially all disputes between us and our stockholders, and also provide that the federal district courts will be the exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act, each of which could limit our stockholders' ability to choose the judicial forum for disputes with us or our directors, officers, stockholders, or employees.

Our amended and restated certificate of incorporation specifies that, unless we consent in writing to the selection of an alternative forum, the sole and exclusive forum for (a) any derivative action or proceeding brought on our behalf, (b) any action asserting a claim of breach of a fiduciary duty owed by any of our current or former directors, stockholders, officers, or other employees to us or our stockholders, (c) any action or proceeding asserting a claim arising pursuant to, or seeking to enforce any right, obligation or remedy under, any provision of the Delaware General Corporation Law, our amended and restated certificate of incorporation, or our amended and restated bylaws, (d) any action or proceeding as to which the Delaware General Corporation Law confers jurisdiction on the Court of Chancery of the State of Delaware, or (e) any action or proceeding asserting a claim that is governed by the internal affairs doctrine shall be the Court of Chancery of the State of Delaware (or, if the Court of Chancery does not have jurisdiction, another state court in Delaware or, if no state court in Delaware has jurisdiction, the federal district court for the District of Delaware) and any appellate court therefrom, in all cases subject to the court having jurisdiction over the claims at issue and the indispensable parties; provided that the exclusive forum provision will not apply to suits brought to enforce any liability or duty created by the Exchange Act.

Section 22 of the Securities Act creates concurrent jurisdiction for federal and state courts over all such Securities Act actions. Accordingly, both state and federal courts have jurisdiction to entertain such claims. To prevent having to litigate claims in multiple jurisdictions and the threat of inconsistent or contrary rulings by different courts, among other considerations, our amended and restated bylaws also provide that the federal district courts of the United States of America will be the exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act.

Any person or entity purchasing or otherwise acquiring or holding or owning (or continuing to hold or own) any interest in any of our securities shall be deemed to have notice of and consented to the foregoing bylaw provisions. Although we believe these exclusive forum provisions benefit us by providing increased consistency in the application of Delaware law and federal securities laws in the types of lawsuits to which each applies, the exclusive forum provisions may limit a stockholder's ability to bring a claim in a judicial forum of its choosing for disputes with us or any of our directors, officers, stockholders, or other employees, which may discourage lawsuits with respect to such claims against us and our current and former directors, officers, stockholders, or other employees. Our stockholders will not be deemed to have waived our compliance with the federal securities laws and the rules and regulations thereunder as a result of our exclusive forum provisions. Further, in the event a court finds either exclusive forum provision contained in our amended and restated bylaws to be unenforceable or inapplicable in an action, we may incur additional costs associated with resolving such action in other jurisdictions, which could harm our results of operations.

Delaware law and provisions in our amended and restated certificate of incorporation and amended and restated bylaws might discourage, delay or prevent a change in control of our company or changes in our management and, therefore, depress the trading price of our common stock.

Our status as a Delaware corporation and the anti-takeover provisions of the Delaware General Corporation Law may discourage, delay or prevent a change in control by prohibiting us from engaging in a business combination with an interested stockholder

for a period of three years after the person becomes an interested stockholder, even if a change of control would be beneficial to our existing stockholders. In addition, our restated certificate of incorporation and restated bylaws contain provisions that may make the acquisition of our company more difficult, including the following:

- our board of directors is classified into three classes of directors with staggered three-year terms and directors may only be able to be removed from office for cause by the affirmative vote of holders of at least a majority of the voting power of our then outstanding capital stock;
- certain amendments to our amended and restated certificate of incorporation require the approval of a majority of our board of directors and stockholders holding two-thirds of the voting power of our then outstanding capital stock;
- stockholder-proposed amendments to our amended and restated bylaws require the approval of a majority of the stockholders entitled to vote, except certain provisions would require the affirmative vote of stockholders holding two-thirds of the voting power of our then outstanding capital stock;
- our stockholders may only take action at a meeting of stockholders and are not able to take action by written consent for any matter;
- vacancies on our board of directors may only be filled only by our board of directors and not by stockholders;
- only the chair of the board of directors, chief executive officer, president or a majority of the board of directors are authorized to call a special meeting of stockholders;
- certain litigation against us can only be brought in Delaware;
- our restated certificate of incorporation authorizes undesignated preferred stock, the terms of which may be established and shares of which may be issued, without the approval of the holders of our capital stock; and
- advance notice procedures apply for stockholders to nominate candidates for election as directors or to bring matters before an annual meeting of stockholders.

These anti-takeover defenses could discourage, delay, or prevent a transaction involving a change in control of our company. These provisions could also discourage proxy contests and make it more difficult for stockholders to elect directors of their choosing and to cause us to take other corporate actions they desire, any of which, under certain circumstances, could limit the opportunity for our stockholders to receive a premium for their shares of our capital stock and could also affect the price that some investors are willing to pay for our common stock.

Our ability to use net operating losses to offset future taxable income may be subject to certain limitations.

As of December 31, 2020, we had U.S. federal and state net operating loss carryforwards (NOLs) of $28.4 million and $15.9 million, respectively. The federal NOLs of $1.3 million, generated before January 1, 2018, will begin to expire in 2034, but can be used to offset up to 100% of taxable income. Amounts generated after December 31, 2017 will carryforward indefinitely, but will be subject to a 80% taxable income limitation beginning in tax years after December 31, 2020, as provided by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). State NOLs, if not utilized, will begin to expire in 2036. We may use these NOLs to offset against taxable income for U.S. federal and state income tax purposes. Additionally, Section 382 of the Internal Revenue Code of 1986, as amended (the Code), may limit the NOLs we may use in any year for U.S. federal income tax purposes in the event of certain changes in ownership of our company. A Section 382 “ownership change” generally occurs if one or more stockholders or groups of stockholders who own at least 5% of a company’s stock increase their ownership by more than 50 percentage points over their lowest ownership percentage within a rolling three-year period. Similar rules may apply under state tax laws. We have not conducted a 382 study to determine whether the use of our NOLs is impaired. We may have previously undergone an “ownership change.” In addition, future issuances or sales of our stock, including certain transactions involving our stock that are outside of our control, could result in future “ownership changes.” “Ownership changes” that have occurred in the past or that may occur in the future could result in the imposition of an annual limit on the amount of pre-ownership change NOLs and other tax attributes we can use to reduce our taxable income, potentially increasing and accelerating our liability for income taxes, and also potentially causing those tax attributes to expire unused. States may impose other limitations on the use of our NOLs. Any limitation on using NOLs could, depending on the extent of such limitation and the NOLs previously used, result in our retaining less cash after payment of U.S. federal and state income taxes during any year in which we have taxable income, rather than losses, than we would be entitled to retain if such NOLs were available as an offset against such income for U.S. federal and state income tax reporting purposes, which could adversely impact our operating results.

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

We are an “emerging growth company,” as defined in the JOBS Act. For so long as we remain an emerging growth company, we are permitted by SEC rules and plan to rely on exemptions from certain disclosure requirements that are applicable to other SEC registered public companies that are not emerging growth companies. These exemptions include not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes Oxley Act, not being required to comply with

any requirement that may be adopted by the Public Company Accounting Oversight Board regarding mandatory audit firm rotation or a supplement to the auditor's report providing additional information about the audit and the financial statements, reduced disclosure obligations regarding executive compensation and exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved. As a result, the information we provide stockholders will be different than the information that is available with respect to other public companies. In our public filings, we have not included all of the executive compensation related information that would be required if we were not an emerging growth company. To the extent that we continue to qualify as a "smaller reporting company," as such term is defined in Rule 12b-2 under the Exchange Act, after we cease to qualify as an emerging growth company, we will continue to be permitted to make certain reduced disclosures in our periodic reports and other documents that we file with the SEC. We cannot predict whether investors will find our common stock less attractive if we rely on these exemptions. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock price may be more volatile.

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

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

As a public company, we will continue to incur significant legal, accounting, compliance and other expenses that we did not incur as a private company and these expenses may increase even more after we are no longer an "emerging growth company." Our management and other personnel will need to devote a substantial amount of time and incur significant expense in connection with compliance initiatives. As a public company, we will bear all of the internal and external costs of preparing and distributing periodic public reports in compliance with our obligations under the securities laws.

In addition, regulations and standards relating to corporate governance and public disclosure, including the Sarbanes Oxley Act, and the related rules and regulations implemented by the SEC and Nasdaq, have increased legal and financial compliance costs and will make some compliance activities more time-consuming. We intend to invest resources to comply with evolving laws, regulations and standards, and this investment will result in increased general and administrative expenses and may divert management's time and attention from our other business activities. If our efforts to comply with new laws, regulations and standards differ from the activities intended by regulatory or governing bodies due to ambiguities related to practice, regulatory authorities may initiate legal proceedings against us, and our business may be harmed. In the future, it may be more expensive or more difficult for us to obtain director and officer liability insurance, and we may be required to accept reduced coverage or incur substantially higher costs to obtain coverage. These factors could also make it more difficult for us to attract and retain qualified members of our board of directors, particularly to serve on our audit committee and compensation committee, and qualified executive officers.

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

The market price of our common stock may be volatile. The stock market in general, and the Nasdaq Stock Market and life sciences technology companies in particular, have experienced extreme price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of these companies. In the past, companies that have experienced volatility in the market price of their stock have been subject to securities class action litigation. We may be the target of this type of litigation in the future. Securities litigation against us could result in substantial costs and divert our management's attention from other business concerns, which could seriously harm our business.

Our actual operating results may differ significantly from any guidance that we provide.

From time to time, we may provide guidance in our quarterly earnings conference calls, quarterly earnings releases, or otherwise, regarding our future performance that represents our management's estimates as of the date of release. This guidance, which would include forward-looking statements, would be based on projections prepared by our management. Neither our registered public accountants nor any other independent expert or outside party would compile or examine the projections. Accordingly, no such person would express any opinion or any other form of assurance with respect to the projections. Projections are based upon a number of assumptions and estimates that, while presented with numerical specificity, are inherently subject to significant business, economic, and competitive uncertainties and contingencies, many of which are beyond our control and are based upon specific assumptions with respect to future business decisions, some of which will change. The principal reason that we would release guidance is to provide a basis for our management to discuss our business outlook with analysts and investors. We do not accept any responsibility for any projections or reports published by any

such third parties. Guidance is necessarily speculative in nature, and it can be expected that some or all of the assumptions underlying any guidance furnished by us will not materialize or will vary significantly from actual results. Accordingly, our guidance would be only an estimate of what management believes is realizable as of the date of release. Actual results may vary from our guidance and the variations may be material.

If we fail to maintain an effective system of internal control over financial reporting, we may not be able to accurately report our financial results in a timely manner or prevent fraud, which would adversely affect investor confidence in our company and harm our business.

Effective internal controls over financial reporting are necessary for us to provide reliable financial reports and, together with adequate disclosure controls and procedures, are designed to prevent fraud. Any failure to implement required new or improved controls, or difficulties encountered in their implementation, could cause us to fail to meet our reporting obligations in a timely manner, or at all. In addition, any testing by us conducted in connection with Section 404(a) of the Sarbanes Oxley Act or any subsequent testing by our independent registered public accounting firm in connection with Section 404(b) of the Sarbanes Oxley Act, may reveal deficiencies in our internal controls over financial reporting that are deemed to be significant deficiencies or material weaknesses or that may require prospective or retroactive changes to our financial statements or identify other areas for further attention or improvement. Ineffective internal controls could also cause investors to lose confidence in our reported financial information, which could have a negative effect on the trading price of our common stock.

In addition, as of December 31, 2020, we identified a significant deficiency in our internal controls over financial reporting that exists as a result of the technical categorization of transactions with a supplier. A significant deficiency is a deficiency, or a combination of deficiencies, in internal controls over financial reporting that is less severe than a material weakness, yet important enough to merit attention by those responsible for oversight of the company's financial reporting. We undertook steps to remedy this significant deficiency by our engagement of technical accounting consultants to assist management in determining the accounting treatment of unusual transactions and in evaluating new accounting positions and remediated this significant deficiency prior to the issuance date of our 2020 consolidated financial statements.

We will be required to disclose material changes made in our internal controls over financing reporting and procedures on a quarterly basis and our management will be required to assess the effectiveness of these controls annually. Beginning with our second Annual Report on Form 10-K, we will be required to make a formal assessment of the effectiveness of our internal control over financial reporting, and once we cease to be an emerging growth company, we will be required to include an attestation report on internal control over financial reporting issued by our independent registered public accounting firm. However, for as long as we are an “emerging growth company” under the JOBS Act, our independent registered public accounting firm will not be required to attest to the effectiveness of our internal controls over financial reporting pursuant to Section 404(b).

To achieve compliance with Section 404(a) within the prescribed period, we will be engaging in a process to document and evaluate our internal control over financial reporting, which is both costly and challenging. In this regard, we will need to continue to dedicate internal resources, potentially engage outside consultants and adopt a plan to assess and document the adequacy of our internal control over financial reporting, continue steps to improve control processes as appropriate, validate through testing that controls are designed and operating effectively and implement a continuous reporting and improvement process for internal control over financial reporting.

We could be an “emerging growth company” for up to five years. An independent assessment of the effectiveness of our internal controls could detect problems that our management’s assessment might not identify. Undetected material weaknesses in our internal controls could lead to financial statement restatements and require us to incur the expense of remediation.

If our estimates or judgments relating to our critical accounting policies are based on assumptions that change or prove to be incorrect, our results of operation could fall below our publicly announced guidance or the expectations of securities analysts and investors, resulting in a decline in the market price of our common stock.

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the amounts reported in our financial statements and accompanying notes. We base our estimates on historical experience and estimates 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, liabilities, equity, revenue and expenses that are not readily apparent from other sources. For example, in connection with the implementation of the new revenue accounting standard related to product sales, management makes judgments and assumptions based on our interpretation of the new standard. The new revenue standard is principle-based and interpretation of those principles may vary from company to company based on their unique circumstances. It is possible that interpretation, industry practice and guidance may evolve as we apply the new standard. If our assumptions underlying our estimates and judgements relating to our critical accounting policies change or if actual circumstances differ from our assumptions, estimates or judgements, our operating results may be adversely affected and could fall below our publicly announced guidance or the expectations of securities analysts and investors, resulting in a decline in the market price of our common stock.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

Unregistered Sales of Equity Securities

None during the three months ended September 30, 2021.

Use of Proceeds from Public Offering of Common Stock

On June 22, 2021, we closed our initial public offering of 7,666,664 shares of common stock (inclusive of 999,999 shares of common stock from the full exercise of the overallotment option of shares granted to the underwriters). The offer and sale of all of the shares in the initial public offering were registered under the Securities Act pursuant to a registration statement on Form S-1 (File Nos. 333-256644), which was declared effective by the SEC on June 17, 2021. Jefferies LLC, Cowen and Company, LLC and KeyBanc acted as the underwriters. The public offering price of the shares sold in the offering was $16.00 per share. The total gross proceeds from the offering were $122.7 million.

After deducting underwriting discounts and commissions of $8.6 million and offering expenses paid or payable by us of approximately $1.6 million, the net proceeds from the offering were approximately $112.5 million.

There has been no material change in the planned use of proceeds from our IPO as described in our final IPO prospectus filed with the SEC on June 17, 2021 pursuant to rule 424(b) of the Securities Act. We invested the funds received in short-term and long-term, interest-bearing investment-grade securities and government securities.

Item 3. Defaults Upon Senior Securities

Not applicable.

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

In September 2021, the Company entered into the Wateridge Pointe lease for future office and laboratory space and concurrently signed a second amendment to the operating lease agreement for its corporate headquarters located at 9535 Waples Street, San Diego, California (the Second Amendment). Under the Second Amendment, the lease at 9535 Waples Street will terminate upon the occupancy of office and laboratory space at 10421 and 10431 Wateridge Circle, San Diego, California, which will occur subsequent to the renovation and build-out of the spaces. The Wateridge Pointe lease provides for a tenant improvement (TI) allowance for the renovation and build-out of the spaces up to $185.00 per square foot, or approximately $12.3 million, with an additional allowance of up to $10.00 per square foot, or approximately $0.7 million if properly requested by the Company. The lessor is solely responsible for the management and payment of the tenant improvements and these expenses will be recorded as lessor improvements per ASC 842 guidance. Rent for the Wateridge Pointe lease will be approximately $3.9 million per year beginning upon lease commencement, subject to annual increases of 3%. The Wateridge Pointe lease provides for a 10 year and 3 month term and the Company is entitled to one option to extend the lease term for an additional five years. Occupancy of 10421 and 10431 Wateridge Circle and the corresponding termination of the lease at 9535 Waples Street are expected to occur in the second half of 2022. The aggregate lease payments over the term of the lease are estimated at $45.1 million.

Item 6. Exhibits

Exhibit Number	Description	Form	File No.	Exhibit	Filing Date
10.1	Lease by and between the Registrant and BRE-BMR Wateridge Pointe LP dated September 29, 2021				
10.2	Separation and General Release Agreement				
31.1†	Certification of Principal Executive Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.				
31.2†	Certification of Principal Financial Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.				
32.1†	Certifications of Principal Executive Officer and Principal Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.				
101.INS	XBRL Instance Document				
101.SCH	XBRL Taxonomy Extension Schema Document				
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document				
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document				
101.LAB	XBRL Taxonomy Extension Label Linkbase Document				
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document				

† The certifications attached as Exhibit 31.1, 31.2 and 32.1 that accompany this Quarterly Report on Form 10-Q, are deemed furnished and not filed with the Securities and Exchange Commission and are not to be incorporated by reference into any filing of the Registrant under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, whether made before or after the date of this Quarterly Report on Form 10-Q, irrespective of any general incorporation language contained in such filing.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

CODEX DNA, INC.

Date: November 10, 2021

By: /s/ Todd R. Nelson
Todd R. Nelson
President and Chief Executive Officer
(Principal Executive Officer)

Date: November 10, 2021

By: /s/ Jennifer I. McNealey
Jennifer I. McNealey
Chief Financial Officer
(Principal Financial Officer)

LEASE

by and between

BRE-BMR WATERIDGE POINTE LP,
a Delaware limited partnership

and

CODEX DNA, INC.,
a Delaware corporation

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LEASE

THIS LEASE (this "Lease") is entered into as of this 29th day of September, 2021 (the "Execution Date"), by and between BRE-BMR WATERIDGE POINTE LP, a Delaware limited partnership ("Landlord"), and CODEX DNA, INC., a Delaware corporation ("Tenant").

RECITALS

A. WHEREAS, Landlord owns certain real property (the "Property") and the improvements on the Property located at 10421 and 10431 Wateridge Circle, San Diego, California, including the buildings located thereon; and

B. WHEREAS, Landlord wishes to lease to Tenant, and Tenant desires to lease from Landlord, certain premises (the "Premises") known as (i) Suites 150 and 200 (the "10431 Premises") on the first (1st) and second (2nd) floors of the building located at 10431 Wateridge Circle, San Diego, California (the "10431 Building") and (ii) Suite 200 (the "10421 Premises") on the second (2nd) floor of the building located at 10421 Wateridge Circle, San Diego, California (the "10421 Building"), pursuant to the terms and conditions of this Lease, as detailed below; and

C. The term "Premises" shall mean the 10431 Premises and/or the 10421 Premises, as the context may require. The term "Building" shall mean the 10431 Building and/or the 10421 Building, as the context may require.

AGREEMENT

NOW, THEREFORE, Landlord and Tenant, in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, agree as follows:

1. Lease of Premises.

1.1. Effective on the 10431 Premises Commencement Date (as defined below) as to the 10431 Premises and on the 10421 Premises Commencement Date (as defined below) as to the 10421 Premises, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the applicable portion of the Premises, as shown on Exhibit A attached hereto, for use by Tenant in accordance with the Permitted Use (as defined below) and no other uses. The Property and all landscaping, parking facilities, private drives and other improvements and appurtenances related thereto, including the Buildings and any other buildings(s) located on the Property, are hereinafter collectively referred to as the "Project." All portions of the Building that are for the non-exclusive use of the tenants of the Building only, and not the tenants of the Project generally, such as service corridors, stairways, elevators, public restrooms and public lobbies (all to the extent located in the Building), are hereinafter referred to as "Building Common Area." All portions of the Project that are for the non-exclusive use of tenants of the Project generally, including driveways, sidewalks, parking areas, landscaped areas and public lobbies (but excluding Building Common Area), are hereinafter referred to as "Project Common Area." The Building Common Area and Project Common Area are collectively referred to herein as "Common Area."

2. Basic Lease Provisions. For convenience of the parties, certain basic provisions of this Lease are set forth herein. The provisions set forth herein are subject to the remaining terms and conditions of this Lease and are to be interpreted in light of such remaining terms and conditions.

2.1. This Lease shall take effect upon the Execution Date and, except as specifically otherwise provided within this Lease, each of the provisions hereof shall be binding upon and inure to the benefit of Landlord and Tenant from the date of execution and delivery hereof by all parties hereto.

2.2. In the definitions below, Rentable Area (as defined below) is expressed in square feet. Rentable Area and "Tenant's Pro Rata Shares" are all subject to adjustment as provided in this Lease.

Definition or Provision	**Means the Following (As of the applicable Commencement Date)**
Approximate Rentable Area of 10431 Premises	49,077 square feet
Approximate Rentable Area of 10421 Premises	17,146 square feet
Approximate Rentable Area of entire Premises	66,223 square feet
Approximate Rentable Area of 10431 Building	64,254 square feet
Approximate Rentable Area of 10421 Building	62,850 square feet
Approximate Rentable Area of Project	127,104 square feet
Tenant's Pro Rata Share of 10431 Building	76.38%
Tenant's Pro Rata Share of 10421 Building	27.28%
Tenant's Pro Rata Share of Project	52.10%

2.3. Initial monthly and annual installments of Base Rent for the Premises ("Base Rent") as of the later to occur of the 10431 Premises Commencement Date and the 10421 Premises Commencement Date, subject to adjustment under this Lease, will be as follows:

Dates	**Square Feet of Rentable Area**	**Base Rent per Square Foot of Rentable Area***	**Monthly Base Rent***	**Annual Base Rent***
Months 1** - 12	66,223	$4.75 monthly	$314,559.25	$3,774,711.00

** Note:* *Subject to (a) increase in the event that Tenant utilizes all or any portion of the Additional TI Allowance (as defined in Section 4.7 below), (b) annual escalation as*

set forth in Section 8.1 below, and (c) the Free Rent Period (as defined in Section 8.2 below).

***Note:* *In the event the 10431 Premises Commencement Date occurs prior to the 10421 Premises Commencement Date, Tenant will pay Base Rent for the 10431 Premises at a monthly Base Rent rate equal to $4.75 per square foot of Rentable Area of the 10431 Premises during the period from the 10431 Premises Commencement Date until the 10421 Premises Commencement Date. Similarly, in the event the 10421 Premises Commencement Date occurs prior to the 10431 Premises Commencement Date, Tenant will pay Base Rent for the 10421 Premises at a monthly Base Rent rate equal to $4.75 per square foot of Rentable Area of the 10421 Premises during the period from the 10421 Premises Commencement Date until the 10431 Premises Commencement Date.*

For illustrative purposes, if Tenant utilizes all of the Additional TI Allowance (as defined in Section 4.7 below), then initial monthly installments of Base Rent as of the later to occur of the 10431 Premises Commencement Date and the 10421 Premises Commencement Date, subject to further adjustment under this Lease, will be as follows:

Dates*	**Square Feet of Rentable Area**	**Base Rent per Square Foot of Rentable Area**	**Monthly Base Rent**	**Annualized Base Rent**
Months 1 - 3	66,223	$4.75 monthly	$314,559.25**	$3,774,711.00**
Months 4 - 12	66,223	$4.87 monthly	$322,506.01***	$3,870,072.12***

* *Note:* *For clarity, the Months in the chart above are measured from the later of the 10431 Premises Commencement Date and the 10421 Premises Commencement Date.*

** *Note:* *Subject to the Free Rent Period (as defined in Section 8.2 below).*

***Note:* *Subject to annual escalations as set forth in Section 8.1 below.*

2.4. Estimated 10431 Premises Commencement Date: The date that is forty-four (44) weeks after the date that the 10431 Approved Schematic Plans (as defined in the Work Letter (as defined below)) are fully and finally approved by Tenant in accordance with Section 2.1 of the Work Letter.

Estimated 10421 Premises Commencement Date: The date that is forty-six (46) weeks after the date that the 10421 Approved Schematic Plans (as defined in the Work Letter) are fully and finally approved by Tenant in accordance with Section 2.1 of the Work Letter.

2.5. Estimated Term Expiration Date: August 31, 2032

2.6. Security Deposit: $433,421.11

2.7. Permitted Use: Office and laboratory use in conformity with all federal, state, municipal and local laws, codes, ordinances, rules and regulations of Governmental Authorities

(as defined below), or other regulatory agencies or governing bodies having jurisdiction over the Premises, the Building, the Property, the Project, Landlord or Tenant, including both statutory and common law and hazardous waste rules and regulations ("Applicable Laws")

2.8. Address for Rent Payment:

BRE-BMR Wateridge Pointe LP
P.O. Box 31001-2829
Los Angeles, California 90051-7970

2.9. Address for Notices to Landlord:

BRE-BMR Wateridge Pointe LP
4570 Executive Drive, Suite 400
San Diego, California 92121
Attn: Legal Department
Email: legalreview@biomedrealty.com

2.10. Address for Notices to Tenant:

Before Commencement Date:

Codex DNA, Inc.
9535 Waples Street, Suite 100
San Diego, CA 92121
Attn: Legal

After Commencement Date:

Codex DNA, Inc.
10431 Wateridge Circle
San Diego, California 92121
Attn: Legal

2.11. Address for Invoices to Tenant:

Before Commencement Date:

Codex DNA, Inc.
9535 Waples Street, Suite 100
San Diego, CA 92121
Attn: Accounts Payable

After Commencement Date:

Codex DNA, Inc.
10431 Wateridge Circle
San Diego, California 92121

Attn: Accounts Payable

2.12. The following Exhibits are attached hereto and incorporated herein by reference:

Exhibit A	Premises
Exhibit A-1	10431 Landlord Work
Exhibit A-2	10421 Landlord Work
Exhibit B	Work Letter
Exhibit B-1	Tenant Work Insurance Schedule
Exhibit C	Acknowledgement of Term Commencement Dates and Term Expiration Date
Exhibit D	Form of Additional TI Allowance Acceptance Letter
Exhibit E	Form of Letter of Credit
Exhibit F	Rules and Regulations
Exhibit G	Waples Lease Amendment
Exhibit H	Tenant's Personal Property
Exhibit I	Form of Estoppel Certificate
Exhibit J	Available ROFO Premises

3. Term. The actual term of this Lease (as the same may be extended pursuant to Article 42 hereof, and as the same may be earlier terminated in accordance with this Lease, the "Term") shall commence (i) as to the 10431 Premises, on the actual 10431 Premises Commencement Date (as defined in Article 4) and (ii) as to 10421 Premises, on the actual 10421 Premises Commencement Date (as defined in Article 4), and as to the entire Premises, shall end on the date (the "Term Expiration Date") that is one hundred twenty-three (123) months after the later of (a) the actual 10431 Premises Commencement Date or (b) the actual 10421 Premises Commencement Date, subject to extension or earlier termination of this Lease as provided herein. TENANT HEREBY WAIVES THE REQUIREMENTS OF SECTION 1933 OF THE CALIFORNIA CIVIL CODE, AS THE SAME MAY BE AMENDED FROM TIME TO TIME.

4. Possession and Commencement Date.

4.1. Delivery.

4.1.1 10431 Premises. Landlord shall use commercially reasonable efforts to tender possession of the 10431 Premises to Tenant on the Estimated 10431 Premises Commencement Date in the condition required under Section 4.3.1 below. Tenant agrees that in the event that Landlord has not tendered possession of the 10431 Premises to Tenant in the condition required under Section 4.3.1 below on or before the Estimated 10431 Premises Commencement Date for any reason, then (a) this Lease shall not be void or voidable, and (b) Landlord shall not be liable to Tenant for any loss or damage resulting therefrom (except as otherwise set forth in Section 4.4.1 below).

4.1.2 10421 Premises. Landlord shall use commercially reasonable efforts to tender possession of the 10421 Premises to Tenant on the Estimated 10421 Premises Commencement Date in the condition required under Section 4.3.2 below. Tenant agrees that in the event that Landlord has not tendered possession of the 10431 Premises to Tenant in the

condition required under Section 4.3.2 below on or before the Estimated 10421 Premises Commencement Date for any reason, then (a) this Lease shall not be void or voidable, and (b) Landlord shall not be liable to Tenant for any loss or damage resulting therefrom (except as otherwise set forth in Section 4.4.2 below).

4.2. Tenant Improvements. The term "Tenant Improvements" means the work required of Landlord described in the Work Letter attached hereto as Exhibit B (the "Work Letter").

4.2.1 10431 Tenant Improvements. The term "10431 Tenant Improvements" means the portion of the Tenant Improvements to be constructed in the 10431 Premises. With respect to the 10431 Tenant Improvements, the term "Substantially Complete" or "Substantial Completion" means that the 10431 Tenant Improvements are substantially complete in accordance with the 10431 Approved Plans (as defined in the Work Letter), except for punch list items (which shall be conclusively established by delivery of a Certificate of Substantial Completion in the form of the American Institute of Architects document G704, executed by the project architect and the general contractor).

4.2.2 10421 Tenant Improvements. The term "10421 Tenant Improvements" means the portion of the Tenant Improvements to be constructed in the 10421 Premises. With respect to the 10421 Tenant Improvements, the term "Substantially Complete" or "Substantial Completion" means that the 10421 Tenant Improvements are substantially complete in accordance with the 10421 Approved Plans (as defined in the Work Letter), except for punch list items (which shall be conclusively established by delivery of a Certificate of Substantial Completion in the form of the American Institute of Architects document G704, executed by the project architect and the general contractor).

4.3. Commencement Date. The 10431 Premises Commencement Date (as defined below) and the 10421 Premises Commencement Date (as defined below) may each be referred to herein as a "Commencement Date."

4.3.1 10431 Premises. The "10431 Premises Commencement Date" shall be the date that Landlord tenders possession of the 10431 Premises to Tenant and the following conditions have been satisfied: (a) The 10431 Tenant Improvements are Substantially Complete; (b) The 10431 Landlord Work is Substantially Complete (as defined below); and (c) The 10431 Premises may be legally occupied pursuant to a temporary certificate of occupancy or its substantial equivalent (such as sign-off on the building permit by the Governmental Authority that issued such permit), to the extent required by Applicable Laws for legal occupancy of the 10431 Premises.

4.3.2 10421 Premises. The "10421 Premises Commencement Date" shall be the date that Landlord tenders possession of the 10421 Premises and the following conditions have been satisfied: (a) The 10421 Tenant Improvements are Substantially Complete; (b) The 10421 Landlord Work is Substantially Complete (as defined below); and (c) The 10421 Premises may be legally occupied pursuant to a temporary certificate of occupancy or its substantial equivalent (such as sign-off on the building permit by the Governmental Authority that issued such permit), to the extent required by Applicable Laws for legal occupancy of the 10421 Premises.

4.4. Outside Date.

4.4.1 10431 Premises. If the 10431 Premises Commencement Date has not occurred by the date that is ninety (90) days after the Estimated 10431 Premises Commencement Date (the "10431 Outside Date"), then Tenant shall be entitled to receive one (1) day of Base Rent abatement (for the 10431 Premises only) for each day thereafter that the 10431 Premises Commencement Date has not occurred; provided, however, that the 10431 Outside Date shall be subject to extension on a day-for-day basis as a result of (a) Force Majeure (as defined below) and (b) any Tenant Delay (as defined below). In the event that Tenant is entitled to Base Rent abatement under this Section, such Base Rent abatement shall be applied to Tenant's obligations to pay Base Rent for the 10431 Premises as such amounts become due.

4.4.2 10421 Premises. If the 10421 Premises Commencement Date has not occurred by the date that is ninety (90) days after the Estimated 10421 Premises Commencement Date (the "10421 Outside Date"), then Tenant shall be entitled to receive one (1) day of Base Rent abatement (for the 10421 Premises only) for each day thereafter that the 10421 Premises Commencement Date has not occurred; provided, however, that the 10421 Outside Date shall be subject to extension on a day-for-day basis as a result of (a) Force Majeure (as defined below) and (b) any Tenant Delay (as defined below). In the event that Tenant is entitled to Base Rent abatement under this Section, such Base Rent abatement shall be applied to Tenant's obligations to pay Base Rent for the 10421 Premises as such amounts become due.

4.5. Acknowledgement. Tenant shall execute and deliver to Landlord written acknowledgment of the actual 10431 Premises Commencement Date, the 10421 Premises Commencement Date and the Term Expiration Date within ten (10) days following Landlord's request therefor, in the form attached as Exhibit C hereto. Failure to execute and deliver such acknowledgment, however, shall not affect the 10431 Premises Commencement Date or the 10421 Premises Commencement Date or Landlord's or Tenant's liability hereunder. Failure by Tenant to obtain any governmental licensing or similar governmental approval required for the Permitted Use by Tenant (other than any certificate of occupancy or its legal equivalent, which Landlord is obligated to obtain pursuant to Section 4.3.1 and Section 4.3.2 above) shall not serve to extend the 10431 Premises Commencement Date or the 10421 Premises Commencement Date, as applicable.

4.6. Early Access. Provided that Tenant and the Tenant Parties do not interfere with Landlord's construction of the Tenant Improvements or the Landlord Work (as defined below), Landlord shall permit Tenant to enter upon (i) the 10431 Premises thirty (30) days prior to the 10431 Commencement Date and (ii) the 10421 Premises thirty (30) days prior to the 10421 Commencement Date, for the purpose of installing improvements or the placement of personal property; provided that prior to such entry Tenant shall furnish to Landlord evidence satisfactory to Landlord that insurance coverages required of Tenant under the provisions of Article 23 are in effect, and such entry shall be subject to all the terms and conditions of this Lease other than the payment of Base Rent or Tenant's Adjusted Share of Operating Expenses (as defined below) or utilities; and provided, further, that if the 10431 Premises Commencement Date or 10421 Premises Commencement Date is delayed due to a Tenant Delay caused by such early access, then the 10431 Premises Commencement Date or 10421 Premises Commencement Date, as applicable, shall be the date that the 10431 Premises Commencement Date or 10421 Premises Commencement Date, as applicable, would have occurred but for such delay. Tenant shall not be permitted to conduct

business operations (a) in the 10431 Premises prior to the 10431 Premises Commencement Date, or (b) in the 10421 Premises prior to the 10421 Premises Commencement Date.

4.7. TI Allowance. Landlord shall cause the Tenant Improvements to be constructed in the Premises pursuant to the Work Letter at a cost to Landlord not to exceed (a) Twelve Million Two Hundred Fifty-One Thousand Two Hundred Fifty-Five Dollars ($12,251,255) (based upon One Hundred Eighty-Five Dollars ($185) per square foot of Rentable Area (as defined below)) (the "Base TI Allowance"), plus (b) if properly requested by Tenant pursuant to this Section, Six Hundred Sixty-Two Thousand Two Hundred Thirty Dollars ($662,230) (based upon Ten Dollars ($10) per square foot of Rentable Area) (the "Additional TI Allowance"), for a total of Twelve Million Nine Hundred Thirteen Thousand Four Hundred Eighty-Five Dollars ($12,913,485) (based upon One Hundred Ninety Five Dollars ($195) per square foot of Rentable Area). The Base TI Allowance, together with the Additional TI Allowance (if properly requested by Tenant pursuant to this Article), shall be referred to herein as the "TI Allowance." The TI Allowance may be applied to the costs of (m) construction, (n) project management by Landlord (which fee shall equal three percent (3%) of the cost of the Tenant Improvements, including costs paid from the Base TI Allowance and, if used by Tenant, the Additional TI Allowance), (o) commissioning of mechanical, electrical and plumbing systems by a licensed, qualified commissioning agent hired by Landlord, and review of such party's commissioning report by a licensed, qualified commissioning agent hired by Tenant, (p) space planning, architect, engineering and other related services performed by third parties unaffiliated with Tenant, (q) building permits and other taxes, fees, charges and levies by Governmental Authorities (as defined below) for permits or for inspections of the Tenant Improvements, and (r) costs and expenses for labor, material, equipment and fixtures (provided, however, that Tenant shall be entitled to allocate up to a maximum amount of One Hundred Fifty Thousand Dollars ($150,000) of the TI Allowance toward furniture, fixtures and equipment for the Premises). In no event shall the TI Allowance be used for (w) payments to Tenant or any affiliates of Tenant, (x) the purchase of any furniture, personal property or other non-building system equipment (except as otherwise set forth in Section 4.7(r) above), (y) costs arising from any default by Tenant of its obligations under this Lease or (z) costs that are recovered by Tenant from a third party (e.g., insurers, warrantors, or tortfeasors). In addition, notwithstanding anything to the contrary herein, the TI Allowance will not be charged for, and Tenant shall not be responsible for, (i) legal fees incurred by Landlord in connection with the negotiation of any construction contracts for the Tenant Improvements or attorneys' fees, experts' fees and other costs incurred by Landlord in connection with disputes with contractors retained by Landlord to construct the Tenant Improvements, (ii) interest and other costs of financing the TI Allowance, (iii) penalties and late fees due to Landlord's failure to pay any contractors when due for the Tenant Improvements (provided that Tenant has not failed to pay any amounts due from Tenant on account of the Tenant Improvements), (iv) costs incurred to remove or remediate Hazardous Materials (as defined below) existing in the Premises as of the Execution Date, and (v) Common Area Legal Compliance Work Costs (as defined below) except to the extent such Common Area Legal Compliance Work Costs are triggered by, or necessitated as a result of, the unique nature of the Tenant Improvements (as opposed to Common Area Legal Compliance Work Costs that would have been incurred as a condition to the issuance or sign off on any permit at the Building).

Notwithstanding anything to the contrary in this Lease, Landlord and Tenant acknowledge and agree that Tenant shall not be permitted to allocate more than (i) Nine Million Seventy-Nine

Thousand Two Hundred Forty Five Dollars ($9,079,245) of the Base TI Allowance toward the 10431 Tenant Improvements, or (ii) Three Million One Hundred Seventy-Two Thousand and Ten Dollars ($3,172,010) of the Base TI Allowance toward the 10421 Tenant Improvements.

4.8. TI Deadline; Base Rent Increase. Landlord shall not have any obligation to fund any unused portion of the TI Allowance after the date that is twelve (12) months after the later of the 10431 Premises Commencement Date and the 10421 Premises Commencement Date (the "TI Deadline"), after which date Landlord's obligation to fund any such costs shall expire. Initial Base Rent shall be increased to include the amount of the Additional TI Allowance disbursed by Landlord in accordance with this Lease amortized over the portion of the initial Term after the scheduled expiration of the Free Rent Period (as defined below) at a rate of eight percent (8%) annually. The amount by which Base Rent shall be increased shall be determined (and Base Rent shall be increased accordingly) as of the date immediately following the scheduled expiration of the Free Rent Period and, if such determination does not reflect use by Tenant of all of the Additional TI Allowance, shall be determined again as of the TI Deadline, with Tenant paying (on the next succeeding day that Base Rent is due under this Lease (the "TI True-Up Date")) any underpayment of the further adjusted Base Rent for the period beginning on the date immediately following the scheduled expiration of the Free Rent Period and ending on the TI True-Up Date. The initial Base Rent, as adjusted to reflect the disbursement of the Additional TI Allowance in accordance with this Section, shall be subject to further annual adjustments as set forth in Section 8.1.

4.9. Additional TI Allowance Request. Landlord shall not be obligated to expend any portion of the Additional TI Allowance until Landlord shall have received from Tenant a letter in the form attached as Exhibit D hereto executed by an authorized officer of Tenant. In no event shall any unused TI Allowance entitle Tenant to a credit against Rent payable under this Lease.

4.10. Landlord Work. In addition to constructing the Tenant Improvements in accordance with the Work Letter, Landlord is in the process of repositioning the Buildings located on the Property and shall be responsible, at Landlord's sole cost and expense, to construct the work described in Section 4.10.1 and Section 4.10.2 below (collectively, the "Landlord Work"):

4.10.1 10431 Landlord Work. Landlord shall Substantially Complete the following work in the 10431 Building (collectively, the "10431 Landlord Work") prior to the 10431 Premises Commencement Date: (i) new base mechanical systems for standard lab and office use stubbed to the 10431 Premises, (ii) installation of the 10431 Generator (as defined in Section 16.9), and (iii) a new service elevator serving the 10431 Building, as such work is more particularly described and depicted on Exhibit A-1 attached hereto (the "10431 Landlord Work Plans"). With respect to the 10431 Landlord Work, the term "Substantially Complete" or "Substantial Completion" means that the 10431 Landlord Work is substantially complete in accordance with the 10431 Landlord Work Plans, except for punch list items (which shall be conclusively established by delivery of a Certificate of Substantial Completion in the form of the American Institute of Architects document G704, executed by the project architect and the general contractor).

4.10.2 10421 Landlord Work. Landlord shall Substantially Complete the following work in the 10421 Building (collectively, the "10421 Landlord Work") prior to the

10421 Premises Commencement Date: (i) new base mechanical systems for standard lab and office use stubbed to the 10421 Premises, and (ii) a new service elevator serving the 10421 Building, as such work is more particularly described and depicted on Exhibit A-2 attached hereto (the "10421 Landlord Work Plans"). With respect to the 10421 Landlord Work, the term "Substantially Complete" or "Substantial Completion" means that the 10421 Landlord Work is substantially complete in accordance with the 10421 Landlord Work Plans, except for punch list items (which shall be conclusively established by delivery of a Certificate of Substantial Completion in the form of the American Institute of Architects document G704, executed by the project architect and the general contractor).

4.11. Tenant Delay. The term "Tenant Delay" means any delay in (a) Substantial Completion of the 10431 Tenant Improvements or the 10421 Tenant Improvements, (b) Substantial Completion of the 10431 Landlord Work or the 10421 Landlord Work, and/or (c) the issuance of a temporary certificate of occupancy or its substantial equivalent for the 10431 Premises or the 10421 Premises (such as sign-off on the building permit by the Governmental Authority that issued such permit), in each case to the extent arising from any act or omission of Tenant, and subject to the notice and cure periods set forth in Section 4.11.1 below.

4.11.1 Tenant Delay Notice. Except as expressly set forth in this Lease, if there is an event which Landlord contends is a Tenant Delay, then Landlord shall give Tenant notice of such Tenant Delay (which notice may be by email to Tenant's Authorized Representative (as defined in the Work Letter)) ("Tenant Delay Notice"). If Tenant fails to remedy the Tenant Delay within one (1) business day after Tenant's receipt of a Tenant Delay Notice, then a Tenant Delay shall be deemed to have occurred. Notwithstanding anything to the contrary in this Lease, any delay arising from (a) a failure by Tenant to provide any response or approval within the express time periods set forth in the Work Letter, or (b) any Changes or Change Requests (as such terms are defined in the Work Letter) requested by Tenant, shall not require a Tenant Delay Notice to be deemed a Tenant Delay, but rather shall automatically be deemed a Tenant Delay.

4.11.2 Effect on Commencement Date. In the event of a Tenant Delay, (a) the 10431 Premises Commencement Date shall be the date that the 10431 Premises Commencement Date would have occurred but for such Tenant Delay, and (b) the 10421 Premises Commencement Date shall be the date that the 10421 Premises Commencement Date would have been but for such Tenant Delay.

5. Condition of Premises.

5.1. 10431 Premises. Tenant acknowledges that, except as expressly set forth in this Lease, neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the condition of the 10431 Premises, the 10431 Building or the Project, or with respect to the suitability of the 10431 Premises, the 10431 Building or the Project for the conduct of Tenant's business. Tenant acknowledges that (a) it is fully familiar with the condition of the 10431 Premises and agrees to take the 10431 Premises in its condition "as is" as of the 10431 Premises Commencement Date, and (b) Landlord shall have no obligation to alter, repair or otherwise prepare the 10431 Premises for Tenant's occupancy or to pay for or construct any improvements to the 10431 Premises, except for performance of the 10431 Landlord Work, the 10431 Tenant Improvements and Landlord's ongoing repair and maintenance obligations hereunder. Notwithstanding the foregoing, Landlord shall deliver the 10431 Premises to Tenant with the

heating, ventilating and air conditioning, electrical, lighting and plumbing systems serving the 10431 Premises in good working order, condition and repair (such obligation, "Landlord's Delivery Obligation"). If Landlord fails to satisfy Landlord's Delivery Obligation (a "Delivery Shortfall"), then Tenant may, as its sole and exclusive remedy, deliver notice of such failure to Landlord detailing the nature of such failure (a "Shortfall Notice"); provided, further, that any Shortfall Notice must be received by Landlord no later than the date (the "Shortfall Notice Deadline") that is sixty (60) days after the 10431 Premises Commencement Date. In the event that Landlord receives a Shortfall Notice on or before the applicable Shortfall Notice Deadline, Landlord shall, at Landlord's sole expense (and not as an Operating Expense), promptly remedy the Delivery Shortfall. Landlord shall not have any obligations or liabilities in connection with a failure to satisfy Landlord's Delivery Obligation except to the extent such failure is identified by Tenant in a Shortfall Notice delivered to Landlord on or before the applicable Shortfall Notice Deadline. To the extent assignable, upon written request by Tenant, Landlord will assign to Tenant the right to enforce all warranties obtained by Landlord in connection with the 10431 Tenant Improvements; provided, however, that, notwithstanding any such assignment, Landlord shall also retain the right to enforce such warranties against the applicable contractor, at Landlord's sole option.

5.2. 10421 Premises. Tenant acknowledges that, except as expressly set forth in this Lease, neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the condition of the 10421 Premises, the 10421 Building or the Project, or with respect to the suitability of the 10421 Premises, the 10421 Building or the Project for the conduct of Tenant's business. Tenant acknowledges that (a) it is fully familiar with the condition of the 10421 Premises and agrees to take the 10421 Premises in its condition "as is" as of the 10421 Premises Commencement Date, and (b) Landlord shall have no obligation to alter, repair or otherwise prepare the 10421 Premises for Tenant's occupancy or to pay for or construct any improvements to the 10421 Premises, except for performance of the 10421 Landlord Work, the 10421 Tenant Improvements and Landlord's ongoing repair and maintenance obligations hereunder. Notwithstanding the foregoing, Landlord shall deliver the 10421 Premises to Tenant with the heating, ventilating and air conditioning, electrical, lighting and plumbing systems serving the 10421 Premises in good working order, condition and repair (such obligation, "Landlord's Delivery Obligation"). If Landlord fails to satisfy Landlord's Delivery Obligation (a "Delivery Shortfall"), then Tenant may, as its sole and exclusive remedy, deliver notice of such failure to Landlord detailing the nature of such failure (a "Shortfall Notice"); provided, further, that any Shortfall Notice must be received by Landlord no later than the date (the "Shortfall Notice Deadline") that is sixty (60) days after the 10421 Premises Commencement Date. In the event that Landlord receives a Shortfall Notice on or before the applicable Shortfall Notice Deadline, Landlord shall, at Landlord's sole expense (and not as an Operating Expense), promptly remedy the Delivery Shortfall. Landlord shall not have any obligations or liabilities in connection with a failure to satisfy Landlord's Delivery Obligation except to the extent such failure is identified by Tenant in a Shortfall Notice delivered to Landlord on or before the applicable Shortfall Notice Deadline. To the extent assignable, upon written request by Tenant, Landlord will assign to Tenant the right to enforce all warranties obtained by Landlord in connection with the 10421 Tenant Improvements; provided, however, that, notwithstanding any such assignment, Landlord shall also retain the right to enforce such warranties against the applicable contractor, at Landlord's sole option.

6. Rentable Area.

6.1. The term "Rentable Area" shall reflect such areas as reasonably calculated by Landlord's architect, as the same may be reasonably adjusted from time to time by Landlord in consultation with Landlord's architect to reflect changes to the Premises, the Building or the Project, as applicable. Notwithstanding the foregoing or Section 6.5 below to the contrary, in no event shall the Rentable Area of the Premises, the Building or the Project, as applicable, be deemed to have increased unless due to a physical change in the same.

6.2. The Rentable Area of each Building is generally determined by making separate calculations of Rentable Area applicable to each floor within each Building and totaling the Rentable Area of all floors within the Building. The Rentable Area of a floor is computed by measuring to the outside finished surface of the permanent outer Building walls. The full area calculated as previously set forth is included as Rentable Area, without deduction for columns and projections or vertical penetrations, including stairs, elevator shafts, flues, pipe shafts, vertical ducts and the like, as well as such items' enclosing walls.

6.3. The term "Rentable Area," when applied to the Premises, is that area equal to the usable area of the Premises, plus an equitable allocation of Rentable Area within the Building that is not then utilized or expected to be utilized as usable area, including that portion of the Building devoted to corridors, equipment rooms, restrooms, elevator lobby, atrium and mailroom.

6.4. The Rentable Area of the Project is the total Rentable Area of all buildings within the Project.

6.5. Review of allocations of Rentable Areas as between tenants of each Building and the Project shall be made as frequently as Landlord deems appropriate, including in order to facilitate an equitable apportionment of Operating Expenses (as defined below). If such review is by a licensed architect and allocations are certified by such licensed architect as being correct, then Tenant shall be bound by such certifications.

7. Rent.

7.1. Tenant shall pay to Landlord as Base Rent for (i) the 10431 Premises, commencing on the 10431 Premises Commencement Date and (ii) the 10421 Premises, commencing on the 10421 Premises Commencement Date, the sums set forth in Section 2.3, subject to the rental adjustments provided in Article 8 hereof. Base Rent shall be paid in equal monthly installments as set forth in Section 2.3, subject to the rental adjustments provided in Article 8 hereof, each in advance on the first day of each and every calendar month during the Term.

7.2. In addition to Base Rent, Tenant shall pay to Landlord as additional rent ("Additional Rent") at times hereinafter specified in this Lease (a) Tenant's Adjusted Share (as defined below) of Operating Expenses (as defined below), (b) the Property Management Fee (as defined below), (c) [Intentionally omitted] and (d) any other amounts that Tenant assumes or agrees to pay under the provisions of this Lease that are owed to Landlord, including any and all other sums that may become due by reason of any default of Tenant or failure on Tenant's part to comply with the agreements, terms, covenants and conditions of this Lease to be performed by Tenant, after notice and the lapse of any applicable cure periods.

7.3. Base Rent and Additional Rent shall together be denominated "Rent." Rent shall be paid to Landlord, without abatement, deduction or offset, in lawful money of the United States of America to the address set forth in Section 2.8 or to such other person or at such other place as Landlord may from time designate in writing. In the event the Term commences or ends on a day other than the first day of a calendar month, then the Rent for such fraction of a month shall be prorated for such period on the basis of the number of days in the month and shall be paid at the then-current rate for such fractional month.

7.4. Tenant's obligation to pay Rent shall not be discharged or otherwise affected by (a) any Applicable Laws now or hereafter applicable to the Premises, (b) any other restriction on Tenant's use, (c) except as expressly provided herein, any casualty or taking or (d) any other occurrence; and Tenant waives all rights now or hereafter existing to terminate or cancel this Lease or quit or surrender the Premises or any part thereof, or to assert any defense in the nature of constructive eviction to any action seeking to recover rent. Tenant's obligation to pay Rent with respect to any period or obligations arising, existing or pertaining to the period prior to the date of the expiration or earlier termination of the Term or this Lease shall survive any such expiration or earlier termination; provided, however, that nothing in this sentence shall in any way affect Tenant's obligations with respect to any other period.

8. Rent Adjustments; Free Rent Period.

8.1. Base Rent (including any increase to Base Rent arising from any disbursement of the Additional TI Allowance by Landlord in accordance with this Lease) shall be subject to an annual upward adjustment of three percent (3%) of the then-current Base Rent. The first such adjustment shall become effective commencing on the first (1st) annual anniversary of the later to occur of the 10431 Premises Commencement Date and the 10421 Premises Commencement Date, and subsequent adjustments shall become effective on every successive annual anniversary for so long as this Lease continues in effect.

8.2. Notwithstanding anything to the contrary contained in this Lease, and so long as no Default (as defined below) by Tenant has occurred, Tenant shall not be required to pay Base Rent for the first (1st) three (3) months of the Term immediately succeeding the later of (i) the 10431 Premises Commencement Date and (ii) the 10421 Premises Commencement Date (such period, the "Free Rent Period"); provided, however, that the total amount of Base Rent abated during the Free Rent Period shall not exceed Nine Hundred Forty-Three Thousand Six Hundred Seventy-Seven and 75/100 Dollars ($943,677.75) (the "Free Rent Cap"). The Free Rent Cap shall not be increased as a result of any increase in Base Rent arising from Landlord's disbursement of any Additional TI Allowance. During the Free Rent Period, Tenant shall continue to be responsible for the payment of all of Tenant's other Rent obligations under this Lease, including all Additional Rent such as Operating Expenses, the Property Management Fee (which shall be calculated as if the Free Rent Period was not in effect), and costs of utilities for the Premises. Upon the occurrence of any Default, the Free Rent Period shall immediately expire, and Tenant shall no longer be entitled to any further abatement of Base Rent pursuant to this Section. In the event of any Default that results in termination of this Lease, then, as part of the recovery to which Landlord is entitled pursuant to this Lease, and in addition to any other rights or remedies to which Landlord may be entitled pursuant to this Lease (including Article 31), at law or in equity, Landlord shall be entitled to the immediate recovery, as of the day immediately prior to such termination of the Lease, of the

unamortized amount of Base Rent that Tenant would have paid had the Free Rent Period not been in effect.

9. Operating Expenses.

9.1 As used herein, the term "Operating Expenses" shall include:

(a) Government impositions, including property tax costs consisting of real and personal property taxes (including amounts due under any improvement bond upon the 10421 Building, the 10431 Building or the Project (including the parcel or parcels of real property upon which the 10421 Building, the 10431 Building, any other buildings in the Project and areas serving the 10421 Building and/or the 10431 Building and the Project are located)) or assessments in lieu thereof imposed by any federal, state, regional, local or municipal governmental authority, agency or subdivision (each, a "Governmental Authority"); taxes on or measured by gross rentals received from the rental of space in the Project; taxes based on the square footage of the Premises, the 10421 Building, the 10431 Building or the Project, as well as any parking charges, utilities surcharges or any other costs levied, assessed or imposed by, or at the direction of, or arising from Applicable Laws or interpretations thereof, promulgated by any Governmental Authority in connection with the use or occupancy of the Project or the parking facilities serving the Project; taxes on this transaction or any document to which Tenant is a party creating or transferring an interest in the Premises; any fee for a business license to operate an office building; and any expenses, including the reasonable cost of attorneys or experts, reasonably incurred by Landlord in seeking reduction by the taxing authority of the applicable taxes, less tax refunds obtained as a result of an application for review thereof; provided, however, Operating Expenses will not include and Tenant shall not be required to pay any tax or assessment expense (i) in excess of the amount which would be payable if such tax or assessment expense were paid in installments over the longest permitted term; (ii) imposed on land and improvements other than the Project; (iii) attributable to Landlord's gift or transfer taxes (however, in the event of a reassessment of the Property for any reason whatsoever, including a sale, refinancing, or any change in ownership, any increase in taxes arising from such reassessment will be included in Operating Expenses); or (iv) taxes that are the personal obligation of another tenant at the Project; and

(b) All other costs of any kind paid or incurred by Landlord in connection with the operation or maintenance of the 10421 Building, the 10431 Building and the Project, which shall include Project office rent at fair market rental for a commercially reasonable amount of space for Project management personnel, to the extent an office used for Project operations is maintained at the Project, plus customary expenses for such office, and costs of repairs and replacements to improvements within the Project as appropriate to maintain the Project as required hereunder; costs of utilities furnished to the Common Area; sewer fees; cable television; trash collection; cleaning, including windows; heating, ventilation and air-conditioning ("HVAC"); maintenance of landscaping and grounds; snow removal; maintenance of drives and parking areas; maintenance of the roof; security services and devices; building supplies; maintenance or replacement of equipment utilized for operation and maintenance of the Project; license, permit and inspection fees; sales, use and excise taxes on goods and services purchased by Landlord in connection with the operation, maintenance or repair of Building or Project systems and equipment; telephone, postage, stationery supplies and other expenses incurred in connection with the operation, maintenance or repair of the Project; accounting, legal and other professional fees

and expenses incurred in connection with the Project; costs of furniture, draperies, carpeting, landscaping supplies, snow removal and other customary and ordinary items of personal property provided by Landlord for use in Common Area or in the Project office; Project office rent or rental value for a commercially reasonable amount of space, to the extent an office used for Project operations is maintained at the Project, plus customary expenses for such office; capital expenditures incurred (i) in replacing obsolete equipment, (ii) for the primary purpose of reducing Operating Expenses or (iii) required by any Governmental Authority to comply with changes in Applicable Laws that take effect after the earlier of the 10431 Premises Commencement Date or the 10421 Premises Commencement Date, or to ensure continued compliance with Applicable Laws in effect as of the earlier of the 10431 Premises Commencement Date or the 10421 Premises Commencement Date, in each case amortized over the useful life thereof, as reasonably determined by Landlord, in accordance with generally accepted accounting principles ((i) – (iii) collectively, "Permitted Capital Expenditures"); costs of complying with Applicable Laws (except to the extent such costs are incurred to remedy non-compliance existing as of the earlier of the 10431 Premises Commencement Date or the 10421 Premises Commencement Date); costs to keep the Project in compliance with, or costs or fees otherwise required under any CC&Rs (as defined below); insurance premiums, including premiums for commercial general liability, property casualty, earthquake, terrorism and environmental coverages; portions of insured losses paid by Landlord as part of the deductible portion of a loss pursuant to the terms of insurance policies; service contracts; costs of services of independent contractors retained to do work of a nature referenced above; and costs of compensation (including employment taxes and fringe benefits) of all persons who perform regular and recurring duties connected with the day-to-day operation and maintenance of the Project, its equipment, the adjacent walks, landscaped areas, drives and parking areas, including janitors, floor waxers, window washers, watchmen, gardeners, sweepers, plow truck drivers, handymen, and engineering/maintenance/facilities personnel.

(c) Notwithstanding the foregoing, Operating Expenses shall not include any net income, franchise, capital stock, estate or inheritance taxes, or taxes that are the personal obligation of Tenant or of another tenant of the Project; any leasing commissions; expenses that relate to preparation of rental space for a tenant; expenses of initial development and construction, including grading, paving, landscaping and decorating (as distinguished from maintenance, repair and replacement of the foregoing); legal expenses relating to other tenants; costs of repairs to the extent reimbursed by payment of insurance proceeds received by Landlord; principal or interest upon loans to Landlord or secured by a loan agreement, mortgage, deed of trust, security instrument or other loan document covering the Project or a portion thereof (collectively, "Loan Documents") (provided that interest upon a government assessment or improvement bond payable in installments shall constitute an Operating Expense under Subsection 9.1(a)); salaries of executive officers of Landlord; depreciation claimed by Landlord for tax purposes (provided that this exclusion of depreciation is not intended to delete from Operating Expenses actual costs of repairs and replacements that are provided for in Subsection 9.1(b)); taxes that are excluded from Operating Expenses by the last sentence of Subsection 9.1(a); costs or expenses incurred in connection with the financing or sale of the Project or any portion thereof (however, in the event of a reassessment of the Property due to a sale or financing, any increase in taxes arising from such reassessment will be included in Operating Expenses); costs expressly excluded from Operating Expenses elsewhere in this Lease or that are charged to or paid by Tenant under other provisions of this Lease; professional fees and disbursements and other costs and expenses related to the ownership (as opposed to the use, occupancy, operation, maintenance or repair) of the Project;

costs occasioned by the willful violation of any Applicable Laws or the terms and conditions of any lease by Landlord; costs to correct any violation of Applicable Laws existing at the Project on the earlier of the 10431 Premises Commencement Date or the 10421 Premises Commencement Date; costs incurred in connection with negotiations or disputes with any other occupant of the Project; reserves; capital expenditures other than Permitted Capital Expenditures; costs for services not provided (or made available) to Tenant or that are paid directly by Tenant; costs incurred to remove, study, test or remediate Hazardous Materials (as defined below) to the extent (i) such Hazardous Materials existed on or about the Project in violation of Applicable Laws as of the Execution Date and did not arise from and were not caused or exacerbated by Tenant or any Tenant Party, (ii) such Hazardous Materials were brought onto the Project by Landlord or any Landlord Party (as defined below) after the Execution Date, or (iii) such costs are recovered by Landlord from any third-party (including any insurer or any other tenant at the Project); ground rental; any amounts paid to the Landlord or to subsidiaries or affiliates of the Landlord for services in the Project to the extent the same exceeds the costs of such services rendered by qualified, first-class unaffiliated third parties on a competitive basis; any item that, if included in Operating Expenses, would involve a double collection for such item by Landlord; and costs of capital expenditures for replacements required due to damage caused by fire, windstorm or other casualty (provided, however, that any amounts paid by Landlord toward insurance deductibles or self-insured retentions in connection with such capital expenditures shall not be excluded from Operating Expenses, but rather shall be expressly included in Operating Expenses and amortized in the same manner as Permitted Capital Expenditures). To the extent that Tenant uses more than Tenant's Pro Rata Share of any item of Operating Expenses, Tenant shall pay Landlord for such excess in addition to Tenant's obligation to pay Tenant's Pro Rata Share of Operating Expenses (such excess, together with Tenant's Pro Rata Share, "Tenant's Adjusted Share").

9.2 Tenant shall pay to Landlord on the first day of each calendar month of the Term, as Additional Rent, (a) the Property Management Fee (as defined below), (b) [Intentionally omitted] and (c) Landlord's estimate of Tenant's Adjusted Share of Operating Expenses with respect to the 10421 Building, the 10431 Building and the Project, as applicable, for such month.

(w) The "Property Management Fee" shall equal three percent (3%) of Base Rent due from Tenant. Tenant shall pay the Property Management Fee in accordance with Section 9.2 with respect to the entire Term, including any Free Rent Period, any extensions of the Term, or any holdover periods, regardless of whether Tenant is obligated to pay Base Rent, Operating Expenses or any other Rent with respect to any such period or portion thereof. During any Free Rent Period, the Property Management Fee shall be calculated as if Tenant were paying Base Rent in the full amount required pursuant to this Lease had the Free Rent Period not been in effect.

(x) [Intentionally omitted].

(y) Within ninety (90) days after the conclusion of each calendar year (or such longer period as may be reasonably required by Landlord), Landlord shall furnish to Tenant a statement showing in reasonable detail the actual Operating Expenses, Tenant's Adjusted Share of Operating Expenses, and the cost of providing utilities to the Premises for the previous calendar year ("Landlord's Statement"). Any additional sum due from Tenant to Landlord shall be due and payable within thirty (30) days after receipt of an invoice therefor. If the amounts paid by Tenant pursuant to this Section exceed Tenant's Adjusted Share of Operating Expenses for the previous

calendar year, then Landlord shall credit the difference against the Rent next due and owing from Tenant; provided that, if the Lease term has expired, Landlord shall accompany Landlord's Statement with payment for the amount of such difference.

(z) Any amount due under this Section for any period that is less than a full month shall be prorated for such fractional month on the basis of the number of days in the month.

9.3 Landlord or an affiliate(s) of Landlord may own other property(ies) adjacent to the Project or its neighboring properties (collectively, "Neighboring Properties"). In connection with Landlord performing services for the Project pursuant to this Lease, similar services may be performed by the same vendor(s) for Neighboring Properties. In such a case, Landlord shall reasonably allocate to the 10421 Building, the 10431 Building and the Project the costs for such services based upon the ratio that the square footage of the 10421 Building, the 10431 Building or the Project (as applicable) bears to the total square footage of all of the Neighboring Properties or buildings within the Neighboring Properties for which the services are performed, unless the scope of the services performed for any building or property (including the 10421 Building, the 10431 Building and the Project) is disproportionately more or less than for others, in which case Landlord shall equitably allocate the costs based on the scope of the services being performed for each building or property (including the 10421 Building, the 10431 Building and the Project). Since the Project consists of multiple buildings, certain Operating Expenses may pertain to a particular building(s) and other Operating Expenses to the Project as a whole. Landlord reserves the right in its reasonable discretion to allocate any such costs applicable to any particular building within the Project to such building, and other such costs applicable to the Project to each building in the Project (including the 10421 Building, the 10431 Building), with the tenants in each building being responsible for paying their respective proportionate shares of their buildings to the extent required under their leases. Landlord shall allocate such costs to the buildings (including the 10421 Building, the 10431 Building) in a reasonable, non-discriminatory manner, and such allocation shall be binding on Tenant.

9.4 Landlord's annual statement shall be final and binding upon Tenant unless Tenant, within ninety (90) days after Tenant's receipt thereof, shall contest any item therein by giving written notice to Landlord, specifying each item contested and the reasons therefor; provided that Tenant shall in all events pay the amount specified in Landlord's annual statement, pending the results of the Tenant Review and determination of the Accountant(s), as applicable and as each such term is defined below. If, during such ninety (90)-day period, Tenant reasonably and in good faith questions or contests the correctness of Landlord's statement of Tenant's Adjusted Share of Operating Expenses, Landlord shall provide Tenant with reasonable access to Landlord's books and records to the extent relevant to determination of Operating Expenses, and such information as Landlord reasonably determines to be responsive to Tenant's written inquiries. In the event that, after Tenant's review of such information, Landlord and Tenant cannot agree upon the amount of Tenant's Adjusted Share of Operating Expenses, then Tenant shall have the right to have (a) an independent public accounting firm hired by Tenant on an hourly basis and not on a contingent-fee basis (at Tenant's sole cost and expense) and approved by Landlord (which approval Landlord shall not unreasonably withhold or delay), or (b) Tenant's employees, audit and review such of Landlord's books and records for the year in question as directly relate to the determination of Operating Expenses for such year (the "Tenant Review"), but not books and records of entities other than Landlord. Landlord shall make such books and records available at the location where

Landlord maintains them in the ordinary course of its business. Landlord need not provide copies of any books or records. Tenant shall commence the Tenant Review within thirty (30) days after the date Landlord has given Tenant access to Landlord's books and records for the Tenant Review. Tenant shall complete the Tenant Review and notify Landlord in writing of Tenant's specific objections to Landlord's calculation of Operating Expenses (including Tenant's accounting firm's or Tenant's written statement of the basis, nature and amount of each proposed adjustment) no later than sixty (60) days after Landlord has first given Tenant access to Landlord's books and records for the Tenant Review. Landlord shall review the results of any such Tenant Review. The parties shall endeavor to agree promptly and reasonably upon Operating Expenses taking into account the results of such Tenant Review. If, as of the date that is sixty (60) days after Tenant has submitted the Tenant Review to Landlord, the parties have not agreed on the appropriate adjustments to Operating Expenses, then the parties shall engage a mutually agreeable independent third party accountant with at least ten (10) years' experience in commercial real estate accounting in the San Diego, California area (the "Accountant"). If the parties cannot agree on the Accountant, each shall within ten (10) days after such impasse appoint an Accountant (different from the accountant and accounting firm that conducted the Tenant Review) and, within ten (10) days after the appointment of both such Accountants, those two Accountants shall select a third (which cannot be the accountant and accounting firm that conducted the Tenant Review). If either party fails to timely appoint an Accountant, then the Accountant the other party appoints shall be the sole Accountant. Within ten (10) days after appointment of the Accountant(s), Landlord and Tenant shall each simultaneously give the Accountants (with a copy to the other party) its determination of Operating Expenses, with such supporting data or information as each submitting party determines appropriate. Within ten (10) days after such submissions, the Accountants shall by majority vote select either Landlord's or Tenant's determination of Operating Expenses. The Accountants may not select or designate any other determination of Operating Expenses. The determination of the Accountant(s) shall bind the parties. If the parties agree or the Accountant(s) determine that the Operating Expenses actually paid by Tenant for the calendar year in question exceeded Tenant's obligations for such calendar year, then Landlord shall, at Tenant's option, either (a) credit the excess to the next succeeding installments of estimated Additional Rent or (b) pay the excess to Tenant within thirty (30) days after delivery of such results. If the parties agree or the Accountant(s) determine that Tenant's payments of Operating Expenses for such calendar year were less than Tenant's obligation for the calendar year, then Tenant shall pay the deficiency to Landlord within thirty (30) days after delivery of such results. If the Landlord agrees that the Tenant Review revealed, or if the Accountant(s) determine, that the Operating Expenses billed to Tenant by Landlord and paid by Tenant to Landlord for the applicable calendar year in question exceeded by more than five percent (5%) what Tenant should have been billed during such calendar year, then Landlord shall pay (y) the reasonable out-of-pocket cost of the Tenant Review (if any), and (b) the reasonable cost of the Accountant(s). In all other cases Tenant shall pay the cost of the Tenant Review and the Accountant(s).

9.5. Tenant shall not be responsible for Operating Expenses (i) as to the 10431 Premises, with respect to any time period prior to the 10431 Premises Commencement Date and (ii) as to the 10421 Premises, with respect to any time period prior to the 10421 Premises Commencement Date; provided, however, that Landlord may annualize certain Operating Expenses incurred prior to the 10431 Premises Commencement Date or the 10421 Premises Commencement Date, as applicable, over the course of the budgeted year during which the 10431 Premises Commencement Date or the 10421 Premises Commencement Date, as applicable, occurs, and Tenant shall be responsible

for the annualized portion of such Operating Expenses corresponding to the number of days during such year, commencing with the 10431 Premises Commencement Date or the 10421 Premises Commencement Date, as applicable, for which Tenant is otherwise liable for Operating Expenses pursuant to this Lease. Tenant's responsibility for Tenant's Adjusted Share of Operating Expenses shall continue to the later of (a) the date of termination of the Lease and (b) the date Tenant has fully vacated the Premises; provided, however, in the event this Lease is terminated in connection with a Default by Tenant, the Rent that Landlord may recover pursuant to Article 31 or otherwise on account of such Default may include Tenant's obligations under this Lease with respect to Operating Expenses.

9.6. Operating Expenses for the calendar year in which Tenant's obligation to share therein commences and for the calendar year in which such obligation ceases shall be prorated on a basis reasonably determined by Landlord. Expenses such as taxes, assessments and insurance premiums that are incurred for an extended time period shall be prorated based upon the time periods to which they apply so that the amounts attributed to the Premises relate in a reasonable manner to the time period wherein Tenant has an obligation to share in Operating Expenses.

9.7. In the event that the 10421 Building, the 10431 Building or the Project is less than fully occupied during a calendar year, Tenant acknowledges that Landlord may extrapolate Operating Expenses that vary depending on the occupancy of the 10421 Building, the 10431 Building or the Project, as applicable, to equal Landlord's reasonable estimate of what such Operating Expenses would have been had the 10421 Building, the 10431 Building or the Project, as applicable, been ninety-five percent (95%) occupied during such calendar year; provided, however, that Landlord shall not recover more than one hundred percent (100%) of Operating Expenses.

10. Taxes on Tenant's Property.

10.1. Tenant shall be solely responsible for the payment of any and all taxes levied upon (a) personal property and trade fixtures located at the Premises and (b) any gross or net receipts of or sales by Tenant, and shall pay the same at least ten (10) days prior to delinquency.

10.2. If any such taxes on Tenant's personal property or trade fixtures are levied against Landlord or Landlord's property or, if the assessed valuation of the Building, the Property or the Project is increased by inclusion therein of a value attributable to Tenant's personal property or trade fixtures, and if Landlord, after written notice to Tenant, pays the taxes based upon any such increase in the assessed value of the Building, the Property or the Project, then Tenant shall, upon demand, repay to Landlord the taxes so paid by Landlord.

10.3. If any improvements in or alterations to the Premises installed by or for Tenant (other than the Landlord Work and Tenant Improvements), whether owned by Landlord or Tenant and whether or not affixed to the real property so as to become a part thereof, are assessed for real property tax purposes at a valuation higher than the valuation at which improvements conforming to Landlord's building standards (the "Building Standard") in other spaces in the Building are assessed, then the real property taxes and assessments levied against Landlord or the Building, the Property or the Project by reason of such excess assessed valuation shall be deemed to be taxes levied against personal property of Tenant and shall be governed by the provisions of Section 10.2.

Any such excess assessed valuation due to improvements in or alterations to space in the Project leased by other tenants at the Project shall not be included in Operating Expenses. If the records of the applicable governmental assessor's office are available and sufficiently detailed to serve as a basis for determining whether such Tenant improvements or alterations are assessed at a higher valuation than the Building Standard, then such records shall be binding on both Landlord and Tenant.

11. Security Deposit.

11.1. Tenant shall deposit with Landlord on or before the Execution Date the sum set forth in Section 2.6 (the "Security Deposit"), which sum shall be held by Landlord as security for the faithful performance by Tenant of all of the terms, covenants and conditions of this Lease to be kept and performed by Tenant. If Tenant Defaults (as defined below) with respect to any provision of this Lease, including any provision relating to the payment of Rent, then Landlord may (but shall not be required to) use, apply or retain all or any part of the Security Deposit for the payment of any Rent or any other sum in default, or to compensate Landlord for any other loss or damage that Landlord may suffer by reason of Tenant's default. If any portion of the Security Deposit is so used or applied, then Tenant shall, within ten (10) days following demand therefor, deposit cash with Landlord in an amount sufficient to restore the Security Deposit to its original amount, and Tenant's failure to do so shall be a material breach of this Lease. The provisions of this Article shall survive the expiration or earlier termination of this Lease. TENANT HEREBY WAIVES THE REQUIREMENTS OF SECTION 1950.7 OF THE CALIFORNIA CIVIL CODE, AS THE SAME MAY BE AMENDED FROM TIME TO TIME.

11.2. In the event of bankruptcy or other debtor-creditor proceedings against Tenant, the Security Deposit shall be deemed to be applied first to the payment of Rent and other charges due Landlord for all periods prior to the filing of such proceedings.

11.3. Landlord may deliver to any purchaser of Landlord's interest in the Premises the funds deposited hereunder by Tenant, and thereupon Landlord shall be discharged from any further liability with respect to such deposit. This provision shall also apply to any subsequent transfers.

11.4. Subject to Landlord's right to draw on the Security Deposit under the terms, conditions and provisions of this Article 11, the Security Deposit, or any balance thereof, shall be returned to Tenant (or, at Landlord's option, to the last assignee of Tenant's interest hereunder) within sixty (60) days after the expiration or earlier termination of this Lease.

11.5. If the Security Deposit shall be in cash, Landlord shall hold the Security Deposit in an account at a banking organization selected by Landlord; provided, however, that Landlord shall not be required to maintain a separate account for the Security Deposit, but may intermingle it with other funds of Landlord. Landlord shall be entitled to all interest and/or dividends, if any, accruing on the Security Deposit. Landlord shall not be required to credit Tenant with any interest for any period during which Landlord does not receive interest on the Security Deposit.

11.6. The Security Deposit may be in the form of cash, a letter of credit or any other security instrument acceptable to Landlord in its sole discretion. Tenant may at any time, except when Tenant is in Default (as defined below), deliver a letter of credit (the "L/C Security") as the entire Security Deposit, as follows:

(a) If Tenant elects to deliver L/C Security, then Tenant shall provide Landlord, and maintain in full force and effect throughout the Term and until the date that is four (4) months after the then-current Term Expiration Date, a letter of credit in the form of Exhibit E issued by an issuer reasonably satisfactory to Landlord, in the amount of the Security Deposit, with an initial term of at least one year. Landlord hereby approves of Silicon Valley Bank as the issuing bank. Landlord may require the L/C Security to be re-issued by a different issuer at any time during the Term if Landlord reasonably believes that the issuing bank of the L/C Security is or may soon become insolvent; provided, however, Landlord shall return the existing L/C Security to Tenant immediately upon receipt of the substitute L/C Security. If any issuer of the L/C Security shall become insolvent or placed into FDIC receivership, then Tenant shall immediately deliver to Landlord (without the requirement of notice from Landlord) cash or a substitute L/C Security issued by an issuer reasonably satisfactory to Landlord, and otherwise conforming to the requirements set forth in this Article 11. As used herein with respect to the issuer of the L/C Security, "insolvent" means the determination of insolvency as made by such issuer's primary bank regulator (*i.e.*, the state bank supervisor for state chartered banks; the OCC or OTS, respectively, for federally chartered banks or thrifts; or the Federal Reserve for its member banks). Tenant shall reimburse Landlord's reasonable out-of-pocket legal costs (as estimated by Landlord's counsel) in handling Landlord's acceptance of L/C Security or its replacement or extension (other than the initial L/C Security). Tenant may at any time substitute cash for the L/C Security, and upon deposit of the cash security deposit, Landlord will return the L/C Security to Tenant. If Landlord draws upon the L/C Security, Tenant shall at any time thereafter be entitled to provide Landlord with a replacement L/C Security that satisfies the requirements hereunder, at which time Landlord shall return the unapplied cash proceeds of the original L/C Security drawn by Landlord.

(b) If Tenant delivers to Landlord satisfactory L/C Security in place of the entire Security Deposit, Landlord shall remit to Tenant any cash Security Deposit Landlord previously held.

(c) Landlord may draw upon the L/C Security, and hold and apply the proceeds in the same manner and for the same purposes as the Security Deposit, if (i) an uncured Default (as defined below) exists, (ii) as of the date that is thirty (30) days before any L/C Security expires (even if such scheduled expiry date is after the Term Expiration Date) Tenant has not delivered to Landlord an amendment or replacement for such L/C Security, reasonably satisfactory to Landlord, extending the expiry date to the earlier of (1) four (4) months after the then-current Term Expiration Date or (2) the date that is one year after the then-current expiry date of the L/C Security, (iii) the L/C Security provides for automatic renewals, Landlord asks the issuer to confirm the current L/C Security expiry date, and the issuer fails to do so within ten (10) business days; provided, that, Landlord shall provide notice to Tenant concurrently with any such request, (iv) Tenant fails to pay (when and as the issuer reasonably requires) any bank charges for Landlord's transfer of the L/C Security or (v) the issuer of the L/C Security ceases, or announces that it will cease, to maintain an office in the city where Landlord may present drafts under the L/C Security (and fails to permit drawing upon the L/C Security by overnight courier or facsimile). This Section does not limit any other provisions of this Lease allowing Landlord to draw the L/C Security under specified circumstances.

(d) Tenant shall not seek to enjoin, prevent, or otherwise interfere with Landlord's draw under L/C Security, even if it violates this Lease. Tenant acknowledges that the only effect of a wrongful draw would be to substitute a cash Security Deposit for L/C Security, causing Tenant no legally recognizable damage. Landlord shall hold the proceeds of any draw in the same manner and for the same purposes as a cash Security Deposit. In the event of a wrongful draw, the parties shall cooperate to allow Tenant to post replacement L/C Security simultaneously with the return to Tenant of the wrongfully drawn sums, and Landlord shall upon request confirm in writing to the issuer of the L/C Security that Landlord's draw was erroneous.

(e) If Landlord transfers its interest in the Premises, then Tenant shall at Tenant's expense, within five (5) business days after receiving a request from Landlord, deliver (and, if the issuer requires, Landlord shall consent to) an amendment to the L/C Security naming Landlord's grantee as substitute beneficiary. If the required Security Deposit changes while L/C Security is in force, then Tenant shall deliver (and, if the issuer requires, Landlord shall consent to) a corresponding amendment to the L/C Security.

12. Use.

12.1. Tenant shall use the Premises for the Permitted Use, and shall not use the Premises, or permit or suffer the Premises to be used, for any other purpose without Landlord's prior written consent, which consent Landlord may withhold in its sole and absolute discretion. Tenant shall be prohibited from using the Premises or any portion of the Property for the sale, distribution or production of marijuana.

12.2. Tenant shall not use or occupy the Premises in violation of Applicable Laws; zoning ordinances; or the certificate of occupancy (or its legal equivalent) issued for the Building or the Project, and shall, upon five (5) days' written notice from Landlord, discontinue any use of the Premises that is declared or claimed by any Governmental Authority having jurisdiction to be a violation of any of the above, or that in Landlord's reasonable opinion violates any of the above. Tenant shall take such further actions and execute such further documents in connection with this Lease as are necessary to comply with Applicable Laws relating to privacy, personal information and data security, including the California Consumer Privacy Act. Tenant acknowledges that Landlord may collect certain personal information (e.g., names, email addresses and contact information) of Tenant's and its affiliates' employees (and, if applicable, subcontractors and consultants), and use such information in connection with performing Landlord's duties and obligations, and exercising its rights under this Lease. Neither Landlord nor Tenant shall retain, use or disclose any personal information received from the other party pursuant to this Lease for any purpose other than to perform its duties and obligations, and exercise its rights under this Lease or as required by Applicable Law. In the event of a conflict between this Section and Article 38, this Section shall govern. Tenant shall comply with any direction of any Governmental Authority having jurisdiction that shall, by reason of the nature of Tenant's use or occupancy of the Premises, impose any duty upon Tenant or Landlord with respect to the Premises or with respect to the use or occupation thereof, and shall indemnify, defend (at the option of and with counsel reasonably acceptable to the indemnified party(ies)), save, reimburse and hold harmless (collectively, "Indemnify," "Indemnity" or "Indemnification," as the case may require) Landlord and its affiliates, employees, agents and contractors; and any lender, mortgagee, ground lessor or beneficiary (each, a "Lender" and, collectively with Landlord and its affiliates, employees, agents

and contractors, the "Landlord Indemnitees") harmless from and against any and all demands, claims, liabilities, losses, costs, expenses, actions, causes of action, damages, suits or judgments, and all reasonable expenses (including reasonable attorneys' fees, charges and disbursements, regardless of whether the applicable demand, claim, action, cause of action or suit is voluntarily withdrawn or dismissed) incurred in investigating or resisting the same (collectively, "Claims") of any kind or nature that arise before, during or after the Term as a result of Tenant's breach of this Section. In the event that any Governmental Authority requires legal compliance work to be completed in the Common Area (any such work, "Common Area Legal Compliance Work"), Landlord shall be responsible for performing such Common Area Legal Compliance Work and all costs incurred by Landlord in connection with such Common Area Legal Compliance Work (any such costs, "Common Area Legal Compliance Work Costs") shall be included in Operating Expenses to the extent permitted under Article 9; provided, however, that if any Common Area Legal Compliance Work is triggered by, or necessitated as a result of, (a) the unique nature of the Tenant Improvements (as opposed to Common Area Legal Compliance Work that would have been required as a condition to the issuance or sign off on any permit at the Building), (b) any Alterations (as defined below) performed by or on behalf of Tenant (other than the Tenant Improvements), or (c) Tenant's particular use of the Premises (as opposed to general office and laboratory use), then Tenant shall be solely responsible, and shall reimburse Landlord within thirty (30) days of receiving an invoice, for all Common Area Legal Compliance Work Costs incurred by Landlord in connection with such Common Area Legal Compliance Work.

12.3. Tenant shall not do or permit to be done anything that will invalidate or increase the cost of any fire, environmental, extended coverage or any other insurance policy covering the Buildings or the Project, and shall comply with all rules, orders, regulations and requirements of the insurers of the Buildings and the Project, and Tenant shall promptly, upon demand, reimburse Landlord for any additional premium charged for such policy by reason of Tenant's failure to comply with the provisions of this Article.

12.4. Tenant shall keep all doors opening onto public corridors closed, except when in use for ingress and egress.

12.5. No additional locks or bolts of any kind shall be placed upon any of the doors or windows by Tenant, nor shall any changes be made to existing locks or the mechanisms thereof without Landlord's prior written consent. Tenant shall, upon termination of this Lease, return to Landlord all keys to offices and restrooms either furnished to or otherwise procured by Tenant. In the event any key so furnished to Tenant is lost, Tenant shall pay to Landlord the cost of replacing the same or of changing the lock or locks opened by such lost key if Landlord shall deem it necessary to make such change.

12.6. No awnings or other projections shall be attached to any outside wall of the 10421 Building or the 10431 Building. No curtains, blinds, shades or screens shall be attached to or hung in, or used in connection with, any window or door of the Premises other than Landlord's standard window coverings. Neither the interior nor exterior of any windows shall be coated or otherwise sunscreened without Landlord's prior written consent, nor shall any bottles, parcels or other articles be placed on the windowsills or items attached to windows that are visible from outside the Premises. No equipment, furniture or other items of personal property shall be placed on any exterior balcony without Landlord's prior written consent.

12.7. No sign, advertisement or notice ("Signage") shall be exhibited, painted or affixed by Tenant on any part of the Premises or the 10421 Building or the 10431 Building without Landlord's prior written consent. Signage shall conform to Landlord's design criteria established from time to time. For any Signage, Tenant shall, at Tenant's own cost and expense, (a) acquire all permits for such Signage in compliance with Applicable Laws and (b) design, fabricate, install and maintain such Signage in a first-class condition. Tenant shall be responsible for reimbursing Landlord for costs incurred by Landlord in removing any of Tenant's Signage upon the expiration or earlier termination of the Lease. Interior signs on entry doors to the Premises and the directory tablet shall be inscribed, painted or affixed for Tenant by Landlord at Tenant's sole cost and expense, and shall be of a size, color and type and be located in a place acceptable to Landlord. The directory tablet shall be provided exclusively for the display of the name and location of tenants only. Tenant shall not place anything on the exterior of the corridor walls or corridor doors other than Landlord's standard lettering. At Landlord's option, Landlord may install any Tenant Signage, and Tenant shall pay all costs associated with such installation within thirty (30) days after demand therefor.

12.7.1 Subject to the terms, conditions and provisions of this Subsection 12.7.1, Tenant shall be entitled to install, at its sole cost and expense, one (1) building top sign in a location reasonably designated by Landlord on the 10431 Building (the "Building Top Sign"). The graphics, materials, size, color, design, lettering, lighting (if any), specifications and exact location of the Building Top Sign (collectively, the "Signage Specifications") shall be subject to the prior written approval of Landlord, which approval shall not be unreasonably withheld, conditioned or delayed. In addition, the Building Top Sign and all Signage Specifications therefore shall be subject to Tenant's receipt of all required governmental permits and approvals, and shall be subject to all Applicable Laws affecting the Project. In the event Tenant does not receive the necessary permits and approvals for the Building Top Sign, Tenant's and Landlord's rights and obligations under the remaining provisions of this Lease shall not be affected. All costs associated with Tenant's Signage (including the Building Top Sign) including, without limitation, costs of installation, design, construction, permits, maintenance and repair, shall be the sole responsibility of Tenant. At Landlord's option, Landlord may install the Building Top Sign, and Tenant shall pay all costs associated with such installation within thirty (30) days after demand therefor. Should Tenant's Signage (including the Building Top Sign) require maintenance or repairs as determined in Landlord's reasonable judgment, Landlord shall have the right to provide written notice thereof to Tenant and Tenant shall cause such repairs and/or maintenance to be performed within thirty (30) days after receipt of such notice from Landlord at Tenant's sole cost and expense. Should Tenant fail to perform such maintenance and repairs within the period described in the immediately preceding sentence, Landlord shall have the right to cause such work to be performed and to charge Tenant, as Additional Rent, for the cost of such work. Upon the expiration or earlier termination of this Lease, Tenant shall, at Tenant's sole cost and expense, cause the Building Top Sign to be removed from the 10431 Building and shall cause exterior façade of the 10431 Building to be restored to the condition existing prior to the placement of the Building Top Sign. If Tenant fails to remove the Building Top Sign and to restore the exterior façade of the 10431 Building as provided in the immediately preceding sentence within thirty (30) days following the expiration or earlier termination of this Lease, then Landlord may perform such work, and all costs and expenses incurred by Landlord in so performing such work shall be reimbursed by Tenant to Landlord within thirty (30) days after Tenant's receipt of invoice therefore. The immediately preceding sentence shall survive the expiration or earlier termination of this Lease. Should the

name of the original Tenant change, then the Signage may be modified at Tenant's sole cost and expense to reflect the new name, but only if the new name does not (i) relate to an entity that is of a character, reputation, or associated with a political orientation or a faction, that is inconsistent with the quality of the Building or would otherwise reasonably offend an institutional landlord of a project comparable to the Building, taking into consideration the level and visibility of such signage or (ii) cause Landlord or its affiliate(s) to be in default under any lease or license with another tenant of the Project.

12.8. Tenant may only place equipment within the Premises with floor loading consistent with the Building's structural design unless Tenant obtains Landlord's prior written approval. Tenant may place such equipment only in a location designed to carry the weight of such equipment.

12.9. Tenant shall cause any equipment or machinery to be installed in the Premises so as to reasonably prevent sounds or vibrations therefrom from extending into the Common Area or other offices in the Project.

12.10. Tenant shall not (a) do or permit anything to be done in or about the Premises that shall in any way obstruct or interfere with the rights of other tenants or occupants of the Project, or injure or annoy them, (b) use or allow the Premises to be used for immoral or unlawful purposes (measured based on uses which would be immoral to an institutional quality landlord of life sciences projects comparable to the Project in the San Diego, California area), (c) cause, maintain or permit any nuisance or waste in, on or about the Project or (d) take any other action that would in Landlord's reasonable determination in any manner adversely affect other tenants' quiet use and enjoyment of their space or adversely impact their ability to conduct business in a professional and suitable work environment. Notwithstanding any other provision herein to the contrary, but subject to the last sentence of Section 12.2 above, Tenant shall be responsible for all liabilities, costs and expenses arising from or in connection with the compliance of the Premises with the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq., and any state and local accessibility laws, codes, ordinances and rules (collectively, and together with regulations promulgated pursuant thereto, the "ADA"), and Tenant shall Indemnify the Landlord Indemnitees from and against any Claims arising from any such failure of the Premises to comply with the ADA. For clarity, nothing in this Section 12.10 will require Tenant to perform legal compliance upgrades to the Premises which are not required by any applicable Governmental Authorities (e.g., due to "grandfathering" or similar provisions) unless failure to comply would result in a risk of personal injury or property damage. The Premises have not undergone inspection by a Certified Access Specialist ("CASp," as defined in California Civil Code Section 55.52). Even if not required by California law, the Premises may be inspected by a CASp to determine whether the Premises comply with the ADA, and Landlord may not prohibit a CASp performing such an inspection. If Tenant requests that such an inspection take place, Landlord and Tenant shall agree on the time and manner of the inspection, as well as which party will pay the cost of the inspection and the cost to remedy any defects identified by the CASp. A Certified Access Specialist can inspect the Premises and determine whether the Premises comply with all of the applicable construction-related accessibility standards under State law. Although State law does not require a Certified Access Specialist inspection of the Premises, Landlord may not prohibit Tenant from obtaining a Certified Access Specialist inspection of the Premises for the occupancy or potential occupancy of Tenant, if requested by Tenant. Landlord and Tenant shall agree on the arrangements for the

time and manner of the Certified Access Specialist inspection, the payment of the fee for the Certified Access Specialist inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the Premises. For the avoidance of doubt, "Lenders" shall also include historic tax credit investors and new market tax credit investors. The provisions of this Section shall survive the expiration or earlier termination of this Lease.

13. Rules and Regulations, CC&Rs, Parking Facilities and Common Area.

13.1. Tenant shall have the non-exclusive right, in common with others, to use the Common Area in conjunction with Tenant's use of the Premises for the Permitted Use, and such use of the Common Area and Tenant's use of the Premises shall be subject to the rules and regulations adopted by Landlord and attached hereto as Exhibit F, together with such other reasonable and nondiscriminatory rules and regulations as are hereafter promulgated by Landlord in its sole and absolute discretion (the "Rules and Regulations"). Tenant shall and shall ensure that its contractors, subcontractors, employees, subtenants and invitees faithfully observe and comply with the Rules and Regulations. Landlord shall not be responsible to Tenant for the violation or non-performance by any other tenant or any agent, employee or invitee thereof of any of the Rules and Regulations.

13.2. This Lease is subject to any recorded covenants, conditions or restrictions on the Project or Property as of the date hereof, or added after the date hereof provided Tenant is notified thereof, as the same may be amended, amended and restated, supplemented or otherwise modified from time to time (the "CC&Rs"); provided that Landlord agrees not to voluntarily execute any further amendments, restatements, supplements or modifications of the CC&Rs that would materially and adversely affect Tenant's material rights under this Lease. Tenant shall, at its sole cost and expense, comply with the CC&Rs.

13.3. Notwithstanding anything in this Lease to the contrary, Tenant may not install any security systems (including cameras) outside the Premises or that record sounds or images outside the Premises without Landlord's prior written consent, which Landlord may withhold in its sole and absolute discretion.

13.4. Tenant shall have a non-exclusive, irrevocable license to use Tenant's Pro Rata Share of parking facilities serving the Project in common on an unreserved basis with other tenants of the Project during the Term at no additional cost. As of the Execution Date, Tenant's Pro Rata Share of parking facilities is equal to three (3) parking spaces per one thousand (1,000) square feet of Rentable Area of the Premises. Landlord shall, at Landlord's sole cost and expense, install eight (8) EV charging stations in the parking facilities serving the Project for non-exclusive use of tenants at the Project.

13.5. Tenant agrees not to unreasonably overburden the parking facilities and agrees to cooperate with Landlord and other tenants in the use of the parking facilities. Landlord reserves the right to determine that parking facilities are becoming overcrowded and to limit Tenant's use thereof (but not to fewer parking spaces than the ratio allocated to Tenant pursuant to Section 13.4 above). Upon such determination, Landlord may reasonably allocate parking spaces among Tenant and other tenants of a Building or the Project (consistent with Section 13.4 above). Nothing

in this Section, however, is intended to create an affirmative duty on Landlord's part to monitor parking.

13.6. Subject to the terms of this Lease including the Rules and Regulations and the rights of other tenants of the 10431 Building, Tenant shall have (i) the exclusive right to access the freight loading dock serving the 10431 Premises, at no additional cost and (ii) the non-exclusive right to access the freight loading dock serving the 10421 Building, at no additional cost.

13.7. Notwithstanding the foregoing, Tenant may, at Tenant's sole cost and expense as an Alteration (as defined below), install its own security system in the Premises (the "Tenant Security System"); provided, however, that (a) Tenant's installation of the Tenant Security System shall be subject to all of the terms, conditions and provisions of this Lease governing Alterations (including, without limitation, Article 17), and (b) Tenant shall coordinate the installation and operation of the Tenant Security System with Landlord to assure that the Tenant Security System does not interfere with (y) any Landlord security system in place as of the as of the 10431 Premises Commencement Date or the 10421 Premises Commencement Date, as applicable (for which security system Landlord makes no warranties of any kind whatsoever), and (z) the 10421 Building's or the 10431 Building's, as applicable, systems and equipment. Tenant shall be solely responsible, at Tenant's sole cost and expense, for monitoring and operating the Tenant Security System. Landlord may require Tenant, at Tenant's sole cost, to remove the Tenant Security System and restore each Building to its condition prior to the installation of the Tenant Security System upon the expiration or earlier termination of this Lease.

14. Project Control by Landlord.

14.1. Landlord reserves full control over the 10421 Building, the 10431 Building and the Project to the extent not inconsistent with Tenant's enjoyment of the Premises as provided by this Lease. This reservation includes Landlord's right to subdivide the Project; convert the 10421 Building, the 10431 Building and other buildings within the Project to condominium units; change the size of the Project by selling all or a portion of the Project or adding real property and any improvements thereon to the Project; grant easements and licenses to third parties; maintain or establish ownership of the Building separate from fee title to the Property; make additions to or reconstruct portions of the Building and the Project; install, use, maintain, repair, replace and relocate for service to the Premises and other parts of the Building or the Project pipes, ducts, conduits, wires and appurtenant fixtures, wherever located in the Premises, the Building or elsewhere at the Project; and alter or relocate any other Common Area or facility, including private drives, lobbies, entrances and landscaping; provided, however, that such rights shall be exercised in a way that does not materially adversely affect Tenant's rights or obligations under this Lease including, without limitation, Tenant's beneficial use and occupancy of the Premises, including the Permitted Use and Tenant's access to the Premises. Tenant acknowledges that Landlord specifically reserves the right to allow the exclusive use of corridors and restroom facilities located on specific floors to one or more tenants occupying such floors; provided, however, that Tenant shall not be deprived of the use of the corridors reasonably required to serve the Premises or of restroom facilities serving the floor upon which the Premises are located.

14.2. Possession of areas of the Premises necessary for utilities, services, safety and operation of the 10421 Building and/or the 10431 Building is reserved to Landlord. In exercising

its rights pursuant to this Section 14.2, Landlord will use commercially reasonable efforts to minimize interference with Tenant's use and occupancy of the Premises.

14.3. Tenant shall, at Landlord's request, promptly execute such further documents as may be reasonably appropriate to assist Landlord in the performance of its obligations hereunder; provided that Tenant need not execute any document that materially and adversely affects Tenant's rights or obligations under this Lease, creates additional liability for Tenant or that deprives Tenant of the quiet enjoyment and use of the Premises or materially decreases Tenant's parking allocation as provided for in this Lease.

14.4. Landlord may, at any and all reasonable times during business hours (or during non-business hours, if (a) with respect to Subsections 14.4(u) through 14.4(y), Tenant so requests, and (b) with respect to Subsection 14.4(z), if Landlord so requests), and upon twenty-four (24) hours' prior notice (which may be by email to the Tenant-designated individual at the Premises (as of the Execution Date, the Tenant designated email for purposes of this provision shall be finance@codexdna.com); but provided that no time restrictions shall apply or advance notice be required if an emergency necessitates immediate entry), enter the Premises to (u) inspect the same and to determine whether Tenant is in compliance with its obligations hereunder, (v) supply any service Landlord is required to provide hereunder, (w) alter, improve or repair any portion of the 10421 Building or the 10431 Building other than the Premises for which access to the Premises is reasonably necessary, (x) post notices of nonresponsibility, (y) access the telephone equipment, electrical substation and fire risers and (z) show the Premises to prospective tenants, or permit a future tenant of the Premises to inspect and measure the Premises in anticipation of such tenant's future occupancy of the Premises during the final nine (9) months of the Term and show the Premises to current and prospective purchasers and lenders at any time. In connection with any such alteration, improvement or repair as described in Subsection 14.4(w), Landlord may erect in the Premises or elsewhere in the Project scaffolding and other structures reasonably required for the alteration, improvement or repair work to be performed. In no event shall Tenant's Rent abate as a result of Landlord's activities pursuant to this Section; provided, however, that all such activities shall be conducted in such a manner so as to cause as little interference to Tenant as is reasonably possible. Landlord shall at all times retain a key with which to unlock all of the doors in the Premises. If an emergency necessitates immediate access to the Premises, Landlord may use whatever force is necessary to enter the Premises, and any such entry to the Premises shall not constitute a forcible or unlawful entry to the Premises, a detainer of the Premises, or an eviction of Tenant from the Premises or any portion thereof. Except in case of an emergency or in connection with the provision of services performed by Landlord under this Lease, Tenant shall have a reasonable opportunity to have a representative of Tenant accompany Landlord during any entry into the Premises pursuant to this Section; provided, however, if Tenant's representative is not available or does not elect to accompany Landlord at the times that Landlord has requested access, then such unavailability shall not prohibit or otherwise restrict Landlord's access, and Landlord may access the Premises with or without Tenant's representative present.

14.5. During the Term, Tenant shall, subject to Force Majeure, casualty and all of the other terms, conditions and provisions of this Lease, have access to the Premises twenty-four (24) hours per day, seven (7) days per week.

14.6. Landlord and Tenant acknowledge that it is Landlord's current intention to cause the ownership of the 10431 Building and 10421 Building to be held by the same entity. If, however, at any time during the Term of this Lease or any Option Term, Landlord determines to separate ownership of the 10431 Building and 10421 Building or to separately finance the 10431 Building and 10421 Building (where the lender requires separate documentation), Tenant agrees to promptly after request from Landlord, execute commercially reasonable documents in order to separate Tenant's lease of the Premises in the 10431 Building from the Premises in the 10421 Building. Any such documentation shall be on the exact same terms as specified in this Lease but as applicable to the relevant portion of the Premises and Landlord shall reimburse Tenant for all actual, reasonable, out-of-pocket costs incurred by Tenant in connection therewith.

15. Quiet Enjoyment. Landlord covenants that Tenant, upon paying the Rent and performing its obligations contained in this Lease, may peacefully and quietly have, hold and enjoy the Premises, free from any claim by Landlord or persons claiming under Landlord, but subject to all of the terms and provisions hereof, provisions of Applicable Laws and rights of record to which this Lease is or may become subordinate. This covenant is in lieu of any other quiet enjoyment covenant, either express or implied.

16. Utilities and Services.

16.1 Tenant shall pay for all water (including the cost to service, repair and replace reverse osmosis, de-ionized and other treated water), gas, heat, light, power, telephone, internet service, cable television, other telecommunications and other utilities supplied to the Premises, together with any fees, surcharges and taxes thereon. If any such utility is not separately metered to Tenant, Tenant shall pay Tenant's Adjusted Share of all charges of such utility jointly metered with other premises as Additional Rent or, in the alternative, Landlord may, at its option, monitor the usage of such utilities by Tenant and (if the decision to meter or submeter is due to Tenant's overstandard use of such utilities) charge Tenant with the cost of purchasing, installing and monitoring such metering equipment, which cost shall be paid by Tenant as Additional Rent. Tenant shall maintain temperature and humidity in the Premises in accordance with ASHRAE standards at all times. Landlord shall cause electricity to be separately metered as of (i) the 10431 Premises Commencement Date for the 10431 Premises and (iii) the 10421 Premises Commencement Date for the 10421 Premises. If Tenant desires to install equipment to separately meter water to the 10431 Premises and/or the 10421 Premises, Landlord will not unreasonably withhold its consent to such installation, provided that such installation shall be completed as an Alteration in accordance with the terms, conditions and provisions of Article 17 below.

16.2 Landlord may base its bills for utilities on reasonable estimates; provided that Landlord adjusts such billings promptly thereafter or as part of the next Landlord's Statement to reflect the actual cost of providing utilities to the Premises. To the extent that Tenant uses more than Tenant's Pro Rata Share of any utilities, then Tenant shall pay Landlord for Tenant's Adjusted Share of such utilities to reflect such excess. In the event that the 10421 Building, the 10431 Building or the Project is less than fully occupied during a calendar year, Tenant acknowledges that Landlord may extrapolate utility usage that varies depending on the occupancy of the 10421 Building, the 10431Building or the Project (as applicable) to equal Landlord's reasonable estimate of what such utility usage would have been had the 10421 Building, the 10431Building or the Project, as applicable, been ninety-five percent (95%) occupied during such calendar year;

provided, however, that Landlord shall not recover more than one hundred percent (100%) of the cost of such utilities. Tenant shall not be liable for the cost of utilities supplied to the Premises attributable to the time period prior to the 10431 Premises Commencement Date or the 10421 Premises Commencement Date, as applicable; provided, however, that, if Landlord shall permit Tenant to have possession of the 10431 Premises prior to the 10431 Premises Commencement Date or the 10421 Premises prior to the 10421 Premises Commencement Date, as applicable, and Tenant uses the applicable portion of the Premises for any purpose other than placement of personal property as set forth in Section 4.6, then Tenant shall be responsible for the cost of utilities supplied to the 10431 Premises or 10421 Premises, as applicable, from such earlier date of possession.

16.3 Landlord shall not be liable for, nor shall any eviction of Tenant result from, the failure to furnish any utility or service, whether or not such failure is caused by Force Majeure (as defined below). In the event of such failure, Tenant shall not be entitled to termination of this Lease or any abatement or reduction of Rent, nor shall Tenant be relieved from the operation of any covenant or agreement of this Lease. Notwithstanding anything to the contrary in this Lease, if, for more than five (5) consecutive business days following written notice to Landlord and as a direct result of Landlord's gross negligence or willful misconduct (and except to the extent that such failure arises from any other factor, including any action or inaction of a Tenant Party (as defined below)), the provision of HVAC or other utilities to all or a material portion of the Premises that Landlord must provide pursuant to this Lease is interrupted (a "Material Services Failure"), then Base Rent (or, to the extent that less than all of the Premises are affected, a proportionate amount (based on the Rentable Area of the Premises that is rendered unusable) of Base Rent) shall thereafter be abated until the Premises are again usable by Tenant for the Permitted Use; provided, however, that, if Landlord is diligently pursuing the restoration of such HVAC and other utilities and Landlord provides substitute HVAC and other utilities reasonably suitable for Tenant's continued use and occupancy of the Premises for the Permitted Use (e.g., supplying potable water or portable air conditioning equipment), then Base Rent shall not be abated. During any Material Services Failure, Tenant will cooperate with Landlord to arrange for the provision of any interrupted utility services on an interim basis via temporary measures until final corrective measures can be accomplished, and Tenant will permit Landlord the necessary access to the Premises to remedy such Material Service Failure. In the event of any interruption of HVAC or other utilities that Landlord must provide pursuant to this Lease, regardless of the cause, Landlord shall diligently pursue the restoration of such HVAC and other utilities. Notwithstanding anything in this Lease to the contrary, but subject to Article 24 (which shall govern in the event of a casualty), the provisions of this Section shall be Tenant's sole recourse and remedy in the event of an interruption of HVAC or other utilities to the Premises, including related to Section 16.8.

16.4 Tenant shall pay for, prior to delinquency of payment therefor, any utilities and services that may be furnished to the Premises during or, if Tenant occupies the Premises after the expiration or earlier termination of the Term, after the Term, beyond those utilities provided by Landlord, including telephone, internet service, cable television and other telecommunications, together with any fees, surcharges and taxes thereon. Upon Landlord's demand, utilities and services provided to the Premises that are separately metered shall be paid by Tenant directly to the supplier of such utilities or services.

16.5 Tenant shall not, without Landlord's prior written consent, use any device in the Premises (including data processing machines) that will in any way (a) increase the amount of ventilation, air exchange, gas, steam, electricity or water required or consumed in the Premises based upon Tenant's Pro Rata Share of the Building or Project (as applicable) beyond the existing capacity of the Building or the Project usually furnished or supplied for the Permitted Use or (b) exceed Tenant's Pro Rata Share of the Building's or Project's (as applicable) capacity to provide such utilities or services.

16.6. If Tenant shall require utilities or services in excess of those usually furnished or supplied for tenants in similar spaces in the Building or the Project by reason of Tenant's equipment or extended hours of business operations, then Tenant shall first procure Landlord's consent for the use thereof, which consent Landlord may condition upon the availability of such excess utilities or services, and Tenant shall pay as Additional Rent an amount equal to the cost of providing such excess utilities and services.

16.7. Landlord shall provide water in the Common Area for lavatory and landscaping purposes only, which water shall be from the local municipal or similar source; provided, however, that if Landlord determines that Tenant requires, uses or consumes water provided to the Common Area for any purpose other than ordinary lavatory purposes, Landlord may install a water meter ("Tenant Water Meter") and thereby measure Tenant's water consumption for all purposes. Tenant shall pay Landlord for the costs of any Tenant Water Meter and the installation and maintenance thereof during the Term. If Landlord installs a Tenant Water Meter, Tenant shall pay for water consumed, as shown on such meter, as and when bills are rendered. If Tenant fails to timely make such payments, Landlord may pay such charges and collect the same from Tenant. Any such costs or expenses incurred or payments made by Landlord for any of the reasons or purposes stated in this Section shall be deemed to be Additional Rent payable by Tenant and collectible by Landlord as such. For the avoidance of doubt, this Section 16.7 shall not apply to Tenant's use of water in the Premises.

16.8. Landlord reserves the right to stop service of the elevator, plumbing, ventilation, air conditioning and utility systems ("Service Stoppage"), when Landlord deems necessary or desirable, due to accident, emergency or the need to make repairs, alterations or improvements, until such repairs, alterations or improvements shall have been completed, and, except as provided in Section 16.3, Landlord shall further have no responsibility or liability for failure to supply elevator facilities, plumbing, ventilation, air conditioning or utility service when prevented from doing so by Force Majeure (as defined below). Without limiting the foregoing, it is expressly understood and agreed that any covenants on Landlord's part to furnish any service pursuant to any of the terms, covenants, conditions, provisions or agreements of this Lease, or to perform any act or thing for the benefit of Tenant, shall not be deemed breached if Landlord is unable to furnish or perform the same by virtue of Force Majeure. Except in case of emergencies (in which event no notice shall be required), Landlord shall provide Tenant with three (3) business days' written notice prior to any Service Stoppage (which notice may be by email to the Tenant-designated individual at the Premises (as of the Execution Date, the Tenant designated email for purposes of this provision shall be finance@codexdna.com).

16.9. Generators.

16.9.1 10431 Premises Generator. As part of the 10431 Landlord Work, Landlord will install a back-up generator for the 10431 Building and connect the Generator to the 10431 Premises' emergency electrical panel (the "10431 Generator"). Tenant shall be entitled to use up to its proportionate share (after deducting any power from the 10431 Generator required for the Common Area) of power from the 10431 Generator on a non-exclusive basis with other tenants in the 10431 Building. The cost of maintaining, repairing and replacing the 10431 Generator shall constitute Operating Expenses. Landlord expressly disclaims any warranties with regard to the 10431 Generator or the installation thereof, including any warranty of merchantability or fitness for a particular purpose. Landlord shall maintain the 10431 Generator and any equipment connecting the 10431 Generator to Tenant's automatic transfer switch in good working condition, provided, however, that Tenant shall be solely responsible, at Tenant's sole cost and expense, (and Landlord shall not be liable) for maintaining and operating Tenant's automatic transfer switch and the distribution of power from Tenant's automatic transfer switch throughout the 10431 Premises, and provided further that Landlord shall not be liable for any failure to make any repairs or to perform any maintenance of the 10431 Generator that is an obligation of Landlord unless and except to the extent that Landlord willfully fails to make such repairs or perform such maintenance and such failure persists for an unreasonable time after Tenant provides Landlord with written notice of the need for such repairs or maintenance. Upon receipt of such written notice, Landlord shall promptly commence to cure such failure and shall diligently prosecute the same to completion in accordance with Section 31.13. The provisions of Section 16.3 shall apply to the 10431 Generator.

16.9.2 10421 Premises Generator. Landlord has installed a back-up generator serving the 10421 Building (the "10421 Generator"). Tenant shall be entitled to use up to its proportionate share (after deducting any power from the 10421 Generator required for the Common Area) of power from the 10421 Generator on a non-exclusive basis with other tenants in the 10421 Building. The cost of maintaining, repairing and replacing the 10421 Generator shall constitute Operating Expenses. Landlord expressly disclaims any warranties with regard to the 10421 Generator or the installation thereof, including any warranty of merchantability or fitness for a particular purpose. Landlord shall maintain the 10421 Generator and any equipment connecting the 10421 Generator to Tenant's automatic transfer switch in good working condition, provided, however, that Tenant shall be solely responsible, at Tenant's sole cost and expense, (and Landlord shall not be liable) for maintaining and operating Tenant's automatic transfer switch and the distribution of power from Tenant's automatic transfer switch throughout the 10421 Premises, and provided further that Landlord shall not be liable for any failure to make any repairs or to perform any maintenance of the 10421 Generator that is an obligation of Landlord unless and except to the extent that Landlord willfully fails to make such repairs or perform such maintenance and such failure persists for an unreasonable time after Tenant provides Landlord with written notice of the need for such repairs or maintenance. Upon receipt of such written notice, Landlord shall promptly commence to cure such failure and shall diligently prosecute the same to completion in accordance with Section 31.13. The provisions of Section 16.3 shall apply to the 10421 Generator

16.10. For the Premises, Landlord shall (a) maintain and operate the HVAC systems used for the Permitted Use only ("Base HVAC"), and (b) subject to Subsection 16.10(a), furnish HVAC as reasonably required (except as this Lease otherwise provides) for reasonably comfortable occupancy of the Premises twenty-four (24) hours a day, every day during the Term, subject to casualty, eminent domain or as otherwise specified in this Article. Notwithstanding anything to

the contrary in this Section, Landlord shall have no liability, and Tenant shall have no right or remedy, on account of any interruption or impairment in HVAC services.

16.11. For any utilities serving the Premises for which Tenant is billed directly by such utility provider, Tenant agrees to furnish to Landlord (a) any invoices or statements for such utilities within thirty (30) days after Landlord's request, (b) within thirty (30) days after Landlord's request, any other utility usage information reasonably requested by Landlord, and (c) within thirty (30) days after Landlord's request, authorization in a commercially reasonable form to allow Landlord to access Tenant's usage information necessary for Landlord to complete an ENERGY STAR® Statement of Performance (or similar comprehensive utility usage report (e.g., related to Labs 21), if requested by Landlord) and any other information reasonably requested by Landlord for the immediately preceding year; and Tenant shall comply with any other energy usage or consumption requirements required by Applicable Laws. Tenant shall retain records of utility usage at the Premises, including invoices and statements from the utility provider, for at least sixty (60) months, or such other period of time as may be requested by Landlord. Tenant acknowledges that any utility information for the Premises, the Buildings and the Project may be shared with third parties, including Landlord's consultants and Governmental Authorities. In the event that Tenant fails to comply with this Section after written notice from Landlord, Tenant hereby authorizes Landlord to collect utility usage information directly from the applicable utility providers. In addition to the foregoing, Tenant shall comply with all Applicable Laws related to the disclosure and tracking of energy consumption at the Premises. The provisions of this Section shall survive the expiration or earlier termination of this Lease.

17. Alterations.

17.1. Tenant shall make no alterations, additions or improvements in or to the Premises or engage in any construction, demolition, reconstruction, renovation or other work (whether major or minor) of any kind in, at or serving the Premises ("Alterations") without Landlord's prior written approval, which approval Landlord shall not otherwise unreasonably withhold; provided, however, that, in the event any proposed Alteration affects (a) any structural portions of a Building, including exterior walls, the roof, the foundation or slab, foundation or slab systems (including barriers and subslab systems) or the core of a Building, (b) the exterior of a Building or (c) any Building systems, including elevator, plumbing, HVAC, electrical, security, life safety and power in an adverse manner (as reasonably determined by Landlord), then Landlord may withhold its approval in its sole and absolute discretion. Tenant shall, in making any Alterations, use only those architects, contractors, suppliers and mechanics of which Landlord has given prior written approval, which approval shall not be unreasonably withheld, conditioned or delayed. In seeking Landlord's approval, Tenant shall provide Landlord, at least thirty (30) days in advance of the desired commencement date of any proposed construction, with plans, specifications, bid proposals, certified stamped engineering drawings (if applicable, as reasonably determined by Landlord) and calculations by Tenant's engineer of record or architect of record (including connections to a Building's structural system, modifications to the Building's envelope, non-structural penetrations in slabs or walls, and modifications or tie-ins to life safety systems), work contracts, requests for laydown areas and such other information concerning the nature and cost of the Alterations as Landlord may reasonably request, provided that Tenant shall not commence any such Alterations that require Landlord's consent unless and until Tenant has received the written approval of Landlord. In no event shall Tenant use or Landlord be required to approve any

architects, consultants, contractors, subcontractors or material suppliers that may not have sufficient experience, in Landlord's reasonable opinion, to perform work in an occupied Class "A" laboratory research building and in tenant-occupied lab areas. Notwithstanding the foregoing, Tenant may make cosmetic changes to the Premises that do not require any demolition, permits or more than three (3) total contractors and subcontractors ("Cosmetic Alterations") without Landlord's consent; provided that (y) the cost of any Cosmetic Alterations does not exceed One Hundred Thousand Dollars ($100,000) in any one instance or Two Hundred Fifty Thousand Dollars ($250,000) annually, (z) such Cosmetic Alterations are not reasonably expected to have any material adverse effect on the Project and do not (i) require any structural modifications to the Premises, (ii) require any material changes to or adversely affect any Building systems, (iii) affect any portion of a Building or the Project that is exterior to the Premises or (iv) trigger any requirement under Applicable Laws that would require Landlord to make any alteration or improvement to the Premises, a Building or the Project.

17.2. Tenant shall not construct or permit to be constructed partitions or other obstructions that might interfere with free access to mechanical installation or service facilities of a Building or with other tenants' components located within a Building, or interfere with the moving of Landlord's equipment to or from the enclosures containing such installations or facilities.

17.3. Tenant shall accomplish any work performed on the Premises or a Building in such a manner as to permit any life safety systems to remain fully operable at all times.

17.4. Any work performed on the Premises, a Building or the Project by Tenant or Tenant's contractors shall be done at such times and in such manner as Landlord may from time to time designate. Tenant covenants and agrees that all work done by Tenant or Tenant's contractors shall be performed in full compliance with Applicable Laws. Within thirty (30) days after completion of any Alterations, Tenant shall provide Landlord with complete "as built" drawing print sets and electronic CADD files on disc (or files in such other current format in common use as Landlord reasonably approves or requires) showing any changes in the Premises, as well as a commissioning report prepared by a licensed, qualified commissioning agent hired by Tenant and approved by Landlord for all new or affected mechanical, electrical and plumbing systems (if reasonably requested by Landlord, given the scope of the Alterations). Any such "as built" plans shall show the applicable Alterations as an overlay on the Building as-built plans; provided that Landlord provides the Building "as built" plans to Tenant.

17.5. Before commencing any Alterations, Tenant shall (a) give Landlord at least thirty (30) days' prior written notice of the proposed commencement of such work and the names and addresses of the persons supply labor or materials therefor so that Landlord may enter the Premises to post and keep posted thereon and therein notices or to take any further action that Landlord may reasonably deem proper for the protection of Landlord's interest in the Project and (b) shall, if required by Landlord, secure, at Tenant's own cost and expense, a completion and lien indemnity bond satisfactory to Landlord for such work (provided that no bond will be required for alterations costing less than Two Hundred Fifty Thousand Dollars ($250,000)).

17.6. Tenant shall repair any damage to the Premises arising from Tenant's removal of any property from the Premises. During any such restoration period, Tenant shall pay Rent to

Landlord as provided herein as if such space were otherwise occupied by Tenant. The provisions of this Section shall survive the expiration or earlier termination of this Lease.

17.7. The Premises plus any Alterations; Signage; Tenant Improvements; attached equipment, attached fixtures and attached trade fixtures; movable laboratory casework and related appliances; and other additions and improvements attached to or built into the Premises made by either of the parties (including all floor and wall coverings; paneling; sinks and related plumbing fixtures; attached laboratory benches; exterior venting fume hoods; walk-in freezers and refrigerators; ductwork; conduits; electrical panels and circuits; attached machinery and equipment; and built-in furniture and cabinets, in each case, together with all additions and accessories thereto, but expressly excluding Tenant's Property (as defined below)), shall (unless, prior to such construction or installation, Landlord elects otherwise in writing) at all times remain the property of Landlord, shall remain in the Premises and shall (unless, prior to construction or installation thereof, Landlord elects otherwise in writing) be surrendered to Landlord upon the expiration or earlier termination of this Lease. However, all unattached trade fixtures, moveable laboratory benches, moveable furniture, moveable equipment, and other unattached personal property placed in the Premises by Tenant shall remain the Property of Tenant, and may be removed by Tenant. For the avoidance of doubt, the items listed on Exhibit H attached hereto (which Exhibit H may be updated by Tenant during the Term, subject to Landlord's reasonable written consent) constitute Tenant's property (the "Tenant's Property") and shall be removed by Tenant upon the expiration or earlier termination of the Lease. Tenant may remove the Tenant's Property from the Premises at any time, provided that Tenant repairs all damage caused by such removal.

17.8. Notwithstanding any other provision of this Article to the contrary, in no event shall Tenant remove any improvement from the Premises as to which Landlord contributed payment, including the Tenant Improvements, without Landlord's prior written consent, which consent Landlord may withhold in its sole and absolute discretion.

17.9. If Tenant shall fail to remove any of its property from the Premises prior to the expiration or earlier termination of this Lease, then Landlord may, at its option, remove the same in any manner that Landlord shall choose and store such effects without liability to Tenant for loss thereof or damage thereto, and Tenant shall pay Landlord, upon demand, any costs and expenses incurred due to such removal and storage or Landlord may, at its sole option and without notice to Tenant, sell such property or any portion thereof at private sale and without legal process for such price as Landlord may obtain and apply the proceeds of such sale against any (a) amounts due by Tenant to Landlord under this Lease and (b) any expenses incident to the removal, storage and sale of such personal property.

17.10. Tenant shall pay to Landlord an amount equal to three percent (3%) of the cost to Tenant of all Alterations to cover Landlord's overhead and expenses for plan review, engineering review, coordination, scheduling and supervision thereof or obtaining any required Lender consent (provided, however, that the total amount of such fee payable by Tenant to Landlord with respect to any particular Alteration project shall not exceed the greater of (a) an amount equal to Ten Thousand Dollars ($10,000), or (b) an amount equal to Landlord's actual out-of-pocket costs incurred in connection with the plan review, engineering review, coordination, scheduling and supervision of such Alteration project). For purposes of payment of such sum, Tenant shall submit

to Landlord copies of all bills, invoices and statements covering the costs of such charges, accompanied by payment to Landlord of the fee set forth in this Section. Tenant shall reimburse Landlord for any extra expenses incurred by Landlord by reason of faulty work done by Tenant or its contractors, or by reason of delays arising from such faulty work, or by reason of inadequate clean-up.

17.11. If requested by Landlord, within sixty (60) days after final completion of any Alterations performed by Tenant with respect to the Premises, Tenant shall submit to Landlord documentation showing the amounts expended by Tenant with respect to such Alterations, together with supporting documentation reasonably acceptable to Landlord.

17.12. Tenant shall take, and shall cause its contractors to take, commercially reasonable steps to protect the Premises during the performance of any Alterations, including covering or temporarily removing any window coverings so as to guard against dust, debris or damage.

17.13. Tenant shall require its contractors and subcontractors performing work on the Premises to name Landlord, BioMed Realty, L.P., and their respective officers, employees, directors, representatives, agents, general partners, members, subsidiaries, affiliates and Lenders (collectively with Landlord, the "Landlord Parties") as additional insureds on their respective insurance policies.

18. Repairs and Maintenance.

18.1. Landlord shall repair and maintain the structural and exterior portions and Common Area of the Buildings and the Project, including roofing and covering materials; foundations (excluding any architectural slabs, but including any structural slabs); exterior walls; base Building plumbing systems serving the Common Area and/or more than one tenant of the Building (for purposes of clarity, any portion of the Building plumbing systems exclusively serving the Premises shall not be part of the base Building plumbing systems and shall be Tenant's obligation to maintain and repair pursuant to Section 18.2 below); base Building fire sprinkler systems serving the Common Area and/or more than one tenant of the Building (if any) (for purposes of clarity, any portion of the Building fire sprinkler systems exclusively serving the Premises shall not be part of the base Building plumbing systems and shall be Tenant's obligation to maintain and repair pursuant to Section 18.2 below); base Building HVAC systems up to the first damper or isolation valve that serves the Premises (for purposes of clarity, the portion of the HVAC system that includes such first damper or isolation valve and extends into and through the Premises, and any supplemental HVAC serving the Premises shall not be part of the base Building HVAC and shall be Tenant's obligation to maintain and repair pursuant to Section 18.2 below); elevators; and base Building electrical systems installed or furnished by Landlord.

18.2. Except for services of Landlord, if any, required by Section 18.1, Tenant shall at Tenant's sole cost and expense maintain and keep the Premises (including but not limited to (i) the portion of the HVAC system that includes the first damper or isolation valve and extends into and through the Premises and any supplemental HVAC serving the Premises, (ii) the portion of the Building plumbing system exclusively serving the Premises (e.g., pipes serving only the Premises (including those pipes that lead to shared pipes maintained by Landlord), sinks located within the Premises, and garbage disposals located within the Premises), (iii) the portion of the Building fire sprinkler system exclusively serving the Premises (e.g., sprinkler heads, horizontal pipe runs), and

(iv) and any other systems or equipment exclusively serving the Premises) and every part thereof in good condition and repair, ordinary wear and tear excepted, and shall, within ten (10) days after receipt of written notice from Landlord, provide to Landlord any maintenance records that Landlord reasonably requests. Notwithstanding the foregoing, in no event shall Tenant have any obligation to repair, maintain, or replace any portion of any base Building system serving the Premises that is located underground. Tenant shall, upon the expiration or sooner termination of the Term, surrender the Premises to Landlord in as good a condition as when received, ordinary wear and tear and repairs which are not Tenant's responsibility hereunder excepted; and shall, at Landlord's request and Tenant's sole cost and expense, remove all telephone and data systems, wiring and equipment from the Premises, and repair any damage to the Premises caused thereby. Landlord shall have no obligation to alter, remodel, improve, repair, decorate or paint the Premises or any part thereof, other than pursuant to the terms and provisions of this Lease and the Work Letter.

18.3. Landlord shall not be liable for any failure to make any repairs or to perform any maintenance that is Landlord's obligation pursuant to this Lease unless such failure shall persist for an unreasonable time after Tenant provides Landlord with written notice of the need of such repairs or maintenance. Tenant waives its rights under Applicable Laws now or hereafter in effect to make repairs at Landlord's expense.

18.4. If any excavation shall be made upon land adjacent to or under a Building, or shall be authorized to be made, Tenant shall afford to the person causing or authorized to cause such excavation, license to enter the Premises for the purpose of performing such work as such person shall deem necessary or desirable to preserve and protect the Building from injury or damage and to support the same by proper foundations, without any claim for damages or liability against Landlord and without reducing or otherwise affecting Tenant's obligations under this Lease; provided that during any non-emergency entry by such third persons, such persons will use commercially reasonable efforts to perform such work in a manner which minimizes disruption to Tenant's operations in the Premises and comply with Section 14.4 above.

18.5. This Article relates to repairs and maintenance arising in the ordinary course of operation of the Buildings and the Project. In the event of a casualty described in Article 24, Article 24 shall apply in lieu of this Article. In the event of eminent domain, Article 25 shall apply in lieu of this Article.

18.6. Costs incurred by Landlord pursuant to this Article shall constitute Operating Expenses to the extent permitted by the terms of Article 9.

19. Liens.

19.1. Subject to the immediately succeeding sentence, Tenant shall keep the Premises, the Buildings and the Project free from any liens arising from work or services performed, materials furnished to or obligations incurred by Tenant. Tenant further covenants and agrees that any mechanic's or materialman's lien filed against the Premises, a Building or the Project for work or services claimed to have been done for, or materials claimed to have been furnished to, or obligations incurred by Tenant shall be discharged or bonded by Tenant within ten (10) days after Tenant's receipt of notice of the filing thereof, at Tenant's sole cost and expense.

19.2. Should Tenant fail to discharge or bond against any lien of the nature described in Section 19.1, Landlord may, at Landlord's election, pay such claim or post a statutory lien bond or otherwise provide security to eliminate the lien as a claim against title, and Tenant shall immediately reimburse Landlord for the costs thereof as Additional Rent. Tenant shall Indemnify the Landlord Indemnitees from and against any Claims arising from any such liens, including any administrative, court or other legal proceedings related to such liens.

19.3. In the event that Tenant leases or finances the acquisition of office equipment, furnishings or other personal property of a removable nature utilized by Tenant in the operation of Tenant's business, Tenant warrants that any Uniform Commercial Code financing statement shall, upon its face or by exhibit thereto, indicate that such financing statement is applicable only to removable personal property of Tenant located within the Premises. In no event shall the address of the Premises, any Building or the Project be furnished on a financing statement without qualifying language as to applicability of the lien only to removable personal property located in an identified suite leased by Tenant. Should any holder of a financing statement record or place of record a financing statement that appears to constitute a lien against any interest of Landlord or against equipment that may be located other than within an identified suite leased by Tenant, Tenant shall, within ten (10) days after Tenant receives notice of the filing of such financing statement, cause (a) a copy of the lender security agreement or other documents to which the financing statement pertains to be furnished to Landlord to facilitate Landlord's ability to demonstrate that the lien of such financing statement is not applicable to Landlord's interest and (b) Tenant's lender to amend such financing statement and any other documents of record to clarify that any liens imposed thereby are not applicable to any interest of Landlord in the Premises, any Building or the Project.

20. Estoppel Certificate. Tenant shall, within ten (10) business days after receipt of written notice from Landlord, execute, acknowledge and deliver a statement in writing substantially in the form attached to this Lease as Exhibit I, or on any other form reasonably requested by a current or proposed Lender or encumbrancer or proposed purchaser, (a) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease as so modified is in full force and effect) and the dates to which rental and other charges are paid in advance, if any, (b) acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord hereunder, or specifying such defaults if any are claimed, and (c) setting forth such further information with respect to this Lease or the Premises as may be requested thereon. Any such statements may be relied upon by any prospective purchaser or encumbrancer of all or any portion of the Property. Tenant's failure to deliver any such statement within the prescribed time shall, at Landlord's option, constitute a Default (as defined below) under this Lease after the expiration of any applicable notice and cure period, and, in any event, shall be binding upon Tenant that the Lease is in full force and effect and without modification except as may be represented by Landlord in any certificate prepared by Landlord and delivered to Tenant for execution.

21. Hazardous Materials.

21.1. Tenant shall not cause or permit any Hazardous Materials (as defined below) to be brought upon, kept or used in or about the Premises, any Building or the Project in violation of Applicable Laws by Tenant or any of its employees, agents, contractors or invitees (collectively

with Tenant, each a "Tenant Party" and collectively, the "Tenant Parties"). If (a) Tenant breaches such obligation, (b) the presence of Hazardous Materials as a result of such a breach results in contamination of the Project, any portion thereof, or any adjacent property, (c) contamination of the Premises otherwise occurs during the Term or any extension or renewal hereof or holding over hereunder (other than (i) if such contamination results from migration of Hazardous Materials from outside the Premises (including Hazardous Materials originating from Landlord, another tenant at the Project or any other third-party that is not a Tenant Party), and not arising from the acts or omissions of a Tenant Party or coming from property owned or leased by a Tenant Party or (ii) to the extent such contamination arises directly from Landlord's negligence or willful misconduct) or (d) contamination of the Project occurs as a result of Hazardous Materials that are placed on or under or are released into the Project by a Tenant Party, then Tenant shall Indemnify the Landlord Indemnitees from and against any and all Claims of any kind or nature arising therefrom, including (w) diminution in value of the Project or any portion thereof, (x) damages for the loss or restriction on use of rentable or usable space or of any amenity of the Project, (y) damages arising from any adverse impact on marketing of space in the Project or any portion thereof and (z) sums paid in settlement of Claims that arise before, during or after the Term as a result of such breach or contamination. This Indemnification by Tenant includes costs incurred in connection with any investigation of site conditions or any clean-up, remedial, removal or restoration work required by any Governmental Authority because of Hazardous Materials present in the air, soil or groundwater above, on, under or about the Project for which Tenant is responsible hereunder. Without limiting the foregoing, if the presence of any Hazardous Materials in, on, under or about the Project, any portion thereof or any adjacent property caused or permitted by any Tenant Party results in any contamination of the Project, any portion thereof or any adjacent property, then Tenant shall promptly take all actions at its sole cost and expense as are necessary to return the Project, any portion thereof or any adjacent property to its respective condition existing prior to the time of such contamination; provided that Landlord's written approval of such action shall first be obtained, which approval Landlord shall not unreasonably withhold; and provided, further, that it shall be reasonable for Landlord to withhold its consent if such actions could have a material adverse long-term or short-term effect on the Project, any portion thereof or any adjacent property. Tenant's obligations under this Section shall not be affected, reduced or limited by any limitation on the amount or type of damages, compensation or benefits payable by or for Tenant under workers' compensation acts, disability benefit acts, employee benefit acts or similar legislation. Notwithstanding the foregoing, Landlord shall Indemnify the Tenant Parties from and against any and all Claims arising from the presence of Hazardous Materials at the Project in violation of Applicable Laws as of the Execution Date, unless placed at the Project by a Tenant Party.

21.2. Landlord acknowledges that it is not the intent of this Article to prohibit Tenant from operating its business for the Permitted Use. Tenant may operate its business according to the custom of Tenant's industry so long as the use or presence of Hazardous Materials is strictly and properly monitored in accordance with Applicable Laws. As a material inducement to Landlord to allow Tenant to use Hazardous Materials in connection with its business, Tenant agrees to deliver to Landlord (a) a list identifying each type of Hazardous Material to be present at the Premises that is subject to regulation under any environmental Applicable Laws in the form of a Tier II form pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act of 1986 (or any successor statute) or any other form reasonably approved by Landlord, (b) a list of any and all approvals or permits from Governmental Authorities required in connection with the presence of such Hazardous Material at the Premises and (c) correct and complete copies

of (i) notices of violations of Applicable Laws related to Hazardous Materials and (ii) plans relating to the installation of any storage tanks to be installed in, on, under or about the Project (provided that installation of storage tanks shall only be permitted after Landlord has given Tenant its written consent to do so, which consent Landlord may withhold in its sole and absolute discretion) and closure plans or any other documents required by any and all Governmental Authorities for any storage tanks installed in, on, under or about the Project for the closure of any such storage tanks (collectively, "Hazardous Materials Documents"). Tenant shall deliver to Landlord updated Hazardous Materials Documents, within fourteen (14) days after receipt of a written request therefor from Landlord, not more often than once per year, unless (m) there are any changes to the Hazardous Materials Documents or (n) Tenant initiates any Alterations or changes its business, in either case in a way that involves any material increase in the types or amounts of Hazardous Materials, in which case Tenant shall deliver updated Hazardous Materials documents (without Landlord having to request them) before or, if not practicable to do so before, as soon as reasonably practicable after the occurrence of the events in Subsection 21.2(m) or (n). For each type of Hazardous Material listed, the Hazardous Materials Documents shall include (t) the chemical name, (u) the material state (e.g., solid, liquid, gas or cryogen), (v) the concentration, (w) the storage amount and storage condition (e.g., in cabinets or not in cabinets), (x) the use amount and use condition (e.g., open use or closed use), (y) the location (e.g., room number or other identification) and (z) if known, the chemical abstract service number. Notwithstanding anything in this Section to the contrary, Tenant shall not be required to provide Landlord with any documents containing information of a proprietary nature, unless such documents contain a reference to Hazardous Materials or activities related to Hazardous Materials and such disclosure is permitted by Applicable Law. If Tenant provides Landlord with Hazardous Materials Documents containing information of a proprietary nature (and Tenant notifies Landlord that such Hazardous Materials Documents contain information of a proprietary nature), Landlord shall keep the same confidential and shall not disclose them to any third-party except to Landlord's consultants and attorneys or as may be required by Applicable Laws. Landlord may, at Landlord's expense, cause the Hazardous Materials Documents to be reviewed by a person or firm qualified to analyze Hazardous Materials to confirm compliance with the provisions of this Lease and with Applicable Laws. In the event that a review of the Hazardous Materials Documents indicates non-compliance with this Lease or Applicable Laws, Tenant shall, at its expense, diligently take steps to bring its storage and use of Hazardous Materials into compliance. Notwithstanding anything in this Lease to the contrary or Landlord's review into Tenant's Hazardous Materials Documents or use or disposal of hazardous materials, however, Landlord shall not have and expressly disclaims any liability related to Tenant's or other tenants' use or disposal of Hazardous Materials, it being acknowledged by Tenant that Tenant is best suited to evaluate the safety and efficacy of its Hazardous Materials usage and procedures.

21.3. Tenant represents and warrants to Landlord that it is not nor has it been, in connection with the use, disposal or storage of Hazardous Materials, (a) subject to a material enforcement order issued by any Governmental Authority or (b) required to take any remedial action by any Governmental Authority.

21.4. At any time, and from time to time, prior to the expiration of the Term, Landlord shall have the right to conduct appropriate tests of the Project or any portion thereof to demonstrate that Hazardous Materials are present or that contamination has occurred due to the acts or

omissions of a Tenant Party. Tenant shall pay all reasonable costs of such tests if such tests reveal that Hazardous Materials exist at the Project in violation of Tenant's obligations under this Lease.

21.5. If underground or other storage tanks storing Hazardous Materials installed or utilized by Tenant are located on the Premises, or are hereafter placed on the Premises by Tenant (or by any other party, if such storage tanks are utilized by Tenant), then Tenant shall monitor the storage tanks, maintain appropriate records, implement reporting procedures, properly close any underground storage tanks, and take or cause to be taken all other steps necessary or required under the Applicable Laws. Tenant shall have no responsibility or liability for underground or other storage tanks installed by anyone other than Tenant unless Tenant utilizes such tanks, in which case Tenant's responsibility for such tanks shall be as set forth in this Section.

21.6. Tenant shall promptly report to Landlord any actual or suspected presence of mold or water intrusion at the Premises.

21.7. Tenant's obligations under this Article shall survive the expiration or earlier termination of the Lease. During any period of time needed by Tenant or Landlord after the termination of this Lease to complete the removal from the Premises of any Hazardous Materials which Tenant is responsible for hereunder, Tenant shall be deemed a holdover tenant and subject to the provisions of Article 27.

21.8. As used herein, the term "Hazardous Material" means any toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic or otherwise hazardous substance, material or waste that is or becomes regulated by Applicable Laws or any Governmental Authority.

21.9. Notwithstanding anything to the contrary in this Lease, Landlord shall have sole control over the equitable allocation of fire control areas (as defined in the Uniform Building Code as adopted by the city or municipality(ies) in which the Project is located (the "UBC")) within the Project for the storage of Hazardous Materials. Notwithstanding anything to the contrary in this Lease, the quantity of Hazardous Materials allowed by this Section is specific to Tenant and shall not run with the Lease in the event of a Transfer (as defined in Article 29). In the event of a Transfer, if the use of Hazardous Materials by such new tenant ("New Tenant") is such that New Tenant utilizes fire control areas in the Project in excess of New Tenant's Pro Rata Share of the Building or the Project, as applicable, then New Tenant shall, at its sole cost and expense and upon Landlord's written request, establish and maintain a separate area of the Premises classified by the UBC as an "H" occupancy area for the use and storage of Hazardous Materials, or take such other action as is necessary to ensure that its share of the fire control areas of the Building and the Project is not greater than New Tenant's Pro Rata Share of the Building or the Project, as applicable. Notwithstanding anything in this Lease to the contrary, Landlord shall not have and expressly disclaims any liability related to Tenant's or other tenants' use or disposal of fire control areas, it being acknowledged by Tenant that Tenant and other tenants are best suited to evaluate the safety and efficacy of its Hazardous Materials usage and procedures.

22. Odors and Exhaust. Tenant acknowledges that Landlord would not enter into this Lease with Tenant unless Tenant assured Landlord that under no circumstances will any other occupants of any Building or the Project (including persons legally present in any outdoor areas of the

Project) be subjected to odors or fumes (whether or not noxious), and that neither Building nor the Project will not be damaged by any exhaust, in each case from Tenant's operations. Landlord and Tenant therefore agree as follows:

22.1. Tenant shall not cause or permit (or conduct any activities that would cause) any release of any odors or fumes of any kind from the Premises.

22.2. If a Building has a ventilation system that, in Landlord's judgment, is adequate, suitable, and appropriate to vent the Premises in a manner that does not release odors affecting any indoor or outdoor part of the Project, Tenant shall vent the Premises through such system. If Landlord at any time determines that any existing ventilation system is inadequate, or if no ventilation system exists, Tenant shall in compliance with Applicable Laws vent all fumes and odors from the Premises (and remove odors from Tenant's exhaust stream) as Landlord requires. The placement and configuration of all ventilation exhaust pipes, louvers and other equipment shall be subject to Landlord's approval. Tenant acknowledges Landlord's legitimate desire to maintain the Project (indoor and outdoor areas) in an odor-free manner, and Landlord may require Tenant to abate and remove all odors in a manner that goes beyond the requirements of Applicable Laws.

22.3. Tenant shall, at Tenant's sole cost and expense, provide odor eliminators and other devices (such as filters, air cleaners, scrubbers and whatever other equipment may in Landlord's judgment be necessary or appropriate from time to time) to completely remove, eliminate and abate any odors, fumes or other substances in Tenant's exhaust stream that, in Landlord's judgment, emanate from Tenant's Premises. Any work Tenant performs under this Section shall constitute Alterations.

22.4. Tenant's responsibility to remove, eliminate and abate odors, fumes and exhaust shall continue throughout the Term. Landlord's construction of the Tenant Improvements shall not preclude Landlord from requiring additional measures to eliminate odors, fumes and other adverse impacts of Tenant's exhaust stream (as Landlord may designate in Landlord's discretion). Tenant shall install additional equipment as Landlord requires from time to time under the preceding sentence. Such installations shall constitute Alterations.

22.5. If Tenant fails to install satisfactory odor control equipment within ten (10) business days after Landlord's demand made at any time, then Landlord may, without limiting Landlord's other rights and remedies, require Tenant to cease and suspend any operations in the Premises that, in Landlord's determination, cause odors, fumes or exhaust. For example, if Landlord determines that Tenant's production of a certain type of product causes odors, fumes or exhaust, and Tenant does not install satisfactory odor control equipment within ten (10) business days after Landlord's request, then Landlord may require Tenant to stop producing such type of product in the Premises unless and until Tenant has installed odor control equipment satisfactory to Landlord.

22.6. Without limiting the terms and conditions of this Article 22, Landlord acknowledges that the use of fume hoods for the Permitted Use and in accordance with all Applicable Laws will not, in and of itself, result in a violation of this Article 22. The foregoing does not relieve Tenant of its obligation to control odors or fumes which emanate from any fume hoods used in the Premises in accordance with this Article.

23. Insurance.

23.1. Landlord shall maintain all risk property insurance (subject to standard policy terms, conditions, limitations and exclusions) on a full replacement cost basis with limits, sub-limits and deductibles as are customary for similar properties in the region, which Landlord shall determine in its reasonable discretion. Landlord, subject to availability thereof, shall further insure, if Landlord deems it appropriate, coverage against flood, environmental hazard, earthquake, loss or failure of building equipment, and rental loss during the period of repairs or rebuilding, in each case with limits, sub-limits and deductibles as are customary for similar properties in the region, which Landlord shall determine in its sole and absolute discretion. Notwithstanding the foregoing, Landlord will insure permanently affixed improvements installed by Tenant in the Premises which are of a type typically found in general office and laboratory buildings (i.e., excluding specialized improvements which are unique to Tenant's use as opposed to typical lab and office improvements); provided that the replacement cost value is provided to Landlord in writing promptly upon completion of the installation of such permanently affixed improvements. For clarity, if Tenant fails to provide Landlord with the replacement cost value of any permanently affixed improvements installed by Tenant, Tenant will be deemed to have elected to insure such items as specialized improvements.

23.2. In addition, Landlord shall carry Commercial General Liability insurance with limits of not less than One Million Dollars ($1,000,000) per occurrence/general aggregate for bodily injury (including death), or property damage with respect to the Project.

23.3. Tenant shall, at its own cost and expense, procure and maintain during the Term the following insurance for the benefit of Tenant and Landlord (as their interests may appear) with insurers financially acceptable and lawfully authorized to do business in the state where the Premises are located:

(a) Commercial General Liability insurance on a broad-based occurrence coverage form, with coverages including but not limited to bodily injury (including death), property damage (including loss of use resulting therefrom), premises/operations, personal & advertising injury, and contractual liability with limits of liability of not less than $2,000,000 for bodily injury and property damage per occurrence, $2,000,000 general aggregate, which limits may be met by use of excess and/or umbrella liability insurance; provided that such coverage is at least as broad as the primary coverages required herein.

(b) Commercial Automobile Liability insurance covering liability arising from the use or operation of any auto on behalf of Tenant or invited by Tenant (including those owned, hired, rented, leased, borrowed, scheduled or non-owned). Coverage shall be on a broad-based occurrence form in an amount not less than $1,000,000 combined single limit per accident for bodily injury and property damage. Such coverage shall apply to all vehicles and persons, whether accessing the property with active or passive consent.

(c) Commercial Property insurance covering property damage to the full replacement cost value and business interruption. Covered property shall include all tenant improvements in the Premises to the extent not insured by Landlord pursuant to Section 23.1 (i.e., non-affixed improvements and any affixed improvements which are unique to Tenant's use, not typical lab or office improvements, or installed by Tenant and not reported to Landlord as required

herein) and Tenant's Property including personal property, furniture, fixtures, machinery, equipment, stock, and inventory, which may be owned by Tenant or Landlord and required to be insured hereunder, or which may be leased, rented, borrowed or in the care custody or control of Tenant, or Tenant's agents, employees or subcontractors. Such insurance, with respect only to any affixed Tenant Improvements, Alterations or other work performed on the Premises by Tenant which is not insured by Landlord pursuant to Section 23.1 above (collectively, "Tenant Work"), shall name Landlord and Landlord's current and future mortgagees as loss payees as their interests may appear. Such insurance shall be written on an "all risk" of physical loss or damage basis including the perils of fire, extended coverage, windstorm, vandalism, malicious mischief, sprinkler leakage, flood, earthquake, and such other risks Landlord may from time to time designate, for the full replacement cost value of the covered items with an agreed amount endorsement with no co-insurance. Business interruption coverage shall have limits sufficient to cover Tenant's lost profits and necessary continuing expenses, including rents due Landlord under the Lease. The minimum period of indemnity for business interruption coverage shall be twelve (12) months plus twelve (12) months' extended period of indemnity.

(d) Workers' Compensation in compliance with all Applicable Laws or as may be available on a voluntary basis. Employer's Liability must be at least in the amount of $500,000 for bodily injury by accident for each employee, $1,000,000 for bodily injury by disease for each employee, and $500,000 bodily injury by disease for policy limit.

(e) Medical malpractice insurance at limits of not less than $1,000,000 each claim during such periods, if any, that Tenant engages in the practice of medicine or clinical trials involving human beings at the Premises.

(f) Pollution Legal Liability insurance is required if Tenant stores, handles, generates or treats Hazardous Materials, as determined solely by Landlord, on or about the Premises. Such coverage shall include bodily injury, sickness, disease, death or mental anguish or shock sustained by any person; property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, clean-up costs, and the loss of use of tangible property that has not been physically injured or destroyed; and defense costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages. Coverage shall apply to both sudden and non-sudden pollution conditions including the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water. Claims-made coverage is permitted, provided the policy retroactive date is continuously maintained prior to the commencement date of this agreement, and coverage is continuously maintained during all periods in which Tenant occupies the Premises. Coverage shall be maintained with limits of not less than $1,000,000 per incident with a $2,000,000 policy aggregate and for a period of three (3) years thereafter.

(g) During all construction by Tenant at the Premises, with respect to tenant improvements being constructed (including any Alterations, insurance required in Exhibit B-1 must be in place.

23.4. The insurance required of Tenant by this Article shall be with companies at all times having a current rating of not less than A- and financial category rating of at least Class VII in "A.M. Best's Insurance Guide" current edition. Tenant shall obtain for Landlord from the insurance companies/broker or cause the insurance companies/broker to furnish certificates of insurance evidencing all coverages required herein to Landlord. Landlord reserves the right to require complete, certified copies of all required insurance policies including any endorsements. Tenant shall not cause such policy to be cancelable except after twenty (20) days' prior written notice to Landlord from Tenant or its insurers (except in the event of non-payment of premium, in which case five (5) days' written notice shall be given). All such policies shall be written as primary policies, not contributing with and not in excess of the coverage that Landlord may carry. Tenant's required policies shall contain severability of interests clauses stating that, except with respect to limits of insurance, coverage shall apply separately to each insured or additional insured. Tenant shall, on the date of expiration of such policies, furnish Landlord with renewal certificates of insurance or binders. Tenant agrees that if Tenant does not take out and maintain such insurance, Landlord may (but shall not be required to) procure such insurance on Tenant's behalf and at its cost to be paid by Tenant as Additional Rent. Commercial General Liability, Commercial Automobile Liability, Umbrella Liability and Pollution Legal Liability insurance as required above shall name the Landlord Parties as additional insureds as respects liability arising from work or operations performed by or on behalf of Tenant, Tenant's use or occupancy of Premises, and ownership, maintenance or use of vehicles by or on behalf of Tenant. Tenant must disclose any self-insurance, including self-insurance retentions, to Landlord in writing in advance, which shall be subject to Landlord's prior written approval in its sole discretion. If Tenant self-insures with Landlord's prior written approval, Tenant is itself acting as though it were providing the insurance required under the provisions of this Lease, and Tenant shall pay those amounts due in lieu of insurance proceeds that would have been covered and payable if the insurance policies had been carried for such self-insured coverages, which amounts shall be treated as insurance proceeds for all purposes under this Lease.

23.5. In each instance where insurance is to name the Landlord Parties as additional insureds, Tenant shall, upon Landlord's written request, also designate and furnish certificates evidencing the Landlord Parties as additional insureds to (a) any Lender of Landlord holding a security interest in any Building or the Project, (b) the landlord under any lease whereunder Landlord is a tenant of the real property upon which the Building is located if the interest of Landlord is or shall become that of a tenant under a ground lease rather than that of a fee owner and (c) any management company retained by Landlord to manage the Project.

23.6. Tenant assumes the risk of damage to any of Tenant's fixtures, goods, inventory, merchandise, and equipment, and Landlord shall not be liable for injury to Tenant's business or any loss of income therefrom, relative to such damage, all as more particularly set forth within this Lease. Tenant shall, at Tenant's sole cost and expense, carry such insurance as Tenant desires for Tenant's protection with respect to personal property of Tenant or business interruption.

23.7. Tenant, on behalf of itself and its insurers, hereby waives any and all rights of recovery against the Landlord Parties with respect to any loss, damage, claims, suits or demands, howsoever caused, that are covered, or required to be covered, by valid and collectible workers' compensation, employer's liability insurance and other liability insurance required to be obtained and carried by Tenant pursuant to this Article, including any deductibles or self-insurance

maintained thereunder. Tenant agrees that the required workers' compensation, employer's liability and other liability insurance policies shall permit waivers of subrogation as required hereunder and hold harmless and indemnify the Landlord Parties for any loss or expense incurred as a result of a failure to obtain policies that permit waivers of subrogation. Tenant, upon obtaining the policies of workers' compensation, employer's liability and other liability insurance required or permitted under this Lease, shall give notice to its insurance carriers that the foregoing waiver of subrogation is contained in this Lease. If such policies shall not be obtainable with such waiver or shall be so obtainable only at a premium over that chargeable without such waiver, then Tenant shall notify Landlord of such conditions. In addition, notwithstanding anything to the contrary herein, each of Landlord and Tenant, on behalf of itself and its insurers, hereby waives and releases all rights of subrogation and recovery against the other party or such other party's insurers with respect to any Claims covered by property insurance policies required to be obtained and maintained by the non-waiving party pursuant to this Lease, or that would have been covered had the non-waiving party obtained and maintained such policies, except to the extent of the non-waiving party's gross negligence or willful misconduct.

23.8. Landlord may require insurance policy limits required under this Lease to be raised to conform with requirements of Landlord's Lender or to bring coverage limits to levels then being required of new tenants within the Project, if such limits are then customarily being required of tenants of comparable premises in the vicinity of the Project.

23.9. In addition to other insurance required by this Lease to be carried by Tenant, if Tenant sells or merchandises alcoholic beverages in, upon or from any part of the Premises, then Tenant shall, at Tenant's sole cost and expense, purchase and maintain in full force and effect during the Term liquor liability insurance in form and substance satisfactory to Landlord, with total limits of liability for bodily injury, loss of means of support and property damage for each occurrence in an amount and with a carrier reasonably acceptable to Landlord, and otherwise in compliance with the general provisions of this Article governing the provision of insurance by Tenant. Such policy shall name the Landlord Parties as additional insureds against any liability by virtue of Applicable Laws concerning the use, sale or giving away of alcoholic beverages. If at any time such insurance is for any reason not in force, then during all and any such times no selling or merchandising of alcoholic beverages shall be conducted by Tenant in, upon or from any part of the Premises.

23.10. Any costs incurred by Landlord pursuant to this Article shall constitute a portion of Operating Expenses, subject to Article 9.

23.11. The provisions of this Article shall survive the expiration or earlier termination of this Lease.

24. Damage or Destruction.

24.1. In the event of a partial destruction of (a) the Premises, (b) a Building, (c) the Common Area or (d) the Project ((a)-(d) collectively, the "Affected Areas") by fire or other perils covered by extended coverage insurance not exceeding twenty-five percent (25%) of the full insurable value thereof, and provided that (w) the damage thereto is such that the Affected Areas may be repaired, reconstructed or restored within a period of nine (9) months from the date of the happening of such casualty, (x) Landlord shall receive insurance proceeds sufficient to cover the

cost of such repairs, reconstruction and restoration (except for any deductible amount provided by Landlord's policy, which deductible amount, if paid by Landlord, shall constitute an Operating Expense to the extent permitted by the terms of Article 9), and (y) such casualty was not intentionally caused by a Tenant Party, then Landlord shall commence and proceed diligently with the work of repair, reconstruction and restoration of the Affected Areas and this Lease shall continue in full force and effect.

24.2. In the event of any damage to or destruction of a Building or the Project other than as described in Section 24.1, Landlord may elect to repair, reconstruct and restore the Building or the Project, as applicable, in which case this Lease shall continue in full force and effect. If Landlord elects not to repair, reconstruct and restore the Building or the Project, as applicable, then this Lease shall terminate as of the date of such damage or destruction. In the event of any damage or destruction (regardless of whether such damage is governed by Section 24.1 or this Section), if (a) in Landlord's determination as set forth in the Damage Repair Estimate (as defined below), the Affected Areas cannot be repaired, reconstructed or restored within twelve (12) months after the date of the Damage Repair Estimate, (b) subject to Section 24.6, the Affected Areas are not actually repaired, reconstructed and restored within sixteen (16) months after the date of the Damage Repair Estimate, or (c) the damage and destruction occurs within the last twelve (12) months of the then-current Term and will take over one month to repair, then Tenant shall have the right to terminate this Lease, effective as of the date of such damage or destruction, by delivering to Landlord its written notice of termination (a "Termination Notice") (y) with respect to Subsections 24.2(a) and (c), no later than fifteen (15) days after Landlord delivers to Tenant Landlord's Damage Repair Estimate and (z) with respect to Subsection 24.2(b), no later than fifteen (15) days after such sixteen (16) month period (as the same may be extended pursuant to Section 24.6) expires. If Tenant provides Landlord with a Termination Notice pursuant to Subsection 24.2(z), Landlord shall have an additional thirty (30) days after receipt of such Termination Notice to complete the repair, reconstruction and restoration. If Landlord does not complete such repair, reconstruction and restoration within such thirty (30) day period, then Tenant may terminate this Lease by giving Landlord written notice within five (5) business days after the expiration of such thirty (30) day period. If Landlord does complete such repair, reconstruction and restoration within such thirty (30) day period, then this Lease shall continue in full force and effect.

In the event that (i) damage or destruction of a Building provides Landlord and/or Tenant the right to terminate this Lease pursuant to Section 24.2 above, and (ii) such damage or destruction was limited to only one (1) Building (and not any other Building), then both Landlord's and Tenant's rights to terminate this Lease pursuant to Section 24.2 above shall only apply to the portion of the Premises located in the Building that was damaged or destroyed (i.e., if either party exercises its option to terminate pursuant to Section 24.2 above, then this Lease shall be terminated in accordance therewith only with respect to the portion of the Premises located in the Building that was damaged or destroyed, and this Lease shall not be terminated with respect to the portion of the Premises located in any other Building).

24.3. As soon as reasonably practicable, but in any event within sixty (60) days following the date of damage or destruction, Landlord shall notify Tenant of Landlord's good faith estimate of the period of time in which the repairs, reconstruction and restoration will be completed (the "Damage Repair Estimate"), which estimate shall be based upon the opinion of a contractor

reasonably selected by Landlord and experienced in comparable repair, reconstruction and restoration of similar buildings. Additionally, Landlord shall give written notice to Tenant within sixty (60) days following the date of damage or destruction of its election not to repair, reconstruct or restore the Building or the Project, as applicable.

24.4. Upon any termination of this Lease under any of the provisions of this Article, the parties shall be released thereby without further obligation to the other from the date possession of the Premises is surrendered to Landlord, except with regard to (a) items occurring prior to the damage or destruction and (b) provisions of this Lease that, by their express terms, survive the expiration or earlier termination hereof.

24.5. In the event of repair, reconstruction and restoration as provided in this Article, all Rent to be paid by Tenant under this Lease shall be abated proportionately based on the extent to which Tenant's use of the Premises is impaired during the period of such repair, reconstruction or restoration; provided, however, that the amount of such abatement shall be reduced by the amount of Rent that is received by Tenant as part of the business interruption or loss of rental income with respect to the Premises from the proceeds of business interruption or loss of rental income insurance.

24.6. Notwithstanding anything to the contrary contained in this Article, should Landlord be delayed or prevented from completing the repair, reconstruction or restoration of the damage or destruction to the Premises after the occurrence of such damage or destruction by Force Majeure (as defined below) or delays caused by a Lender or Tenant Party, then the time for Landlord to commence or complete repairs, reconstruction and restoration shall be extended on a day-for-day basis.

24.7. If Landlord is obligated to or elects to repair, reconstruct or restore as herein provided, then Landlord shall be obligated to make such repairs, reconstruction or restoration only with regard to (a) those portions of the Premises that were originally provided at Landlord's expense or that Landlord is required to insure pursuant to this Lease and (b) the Common Area portion of the Affected Areas. The repairs, reconstruction or restoration of improvements in the Premises (or outside the Premises and exclusively serving the Premises) not originally provided by Landlord or at Landlord's expense or required to be insured by Landlord pursuant to this Lease shall be the obligation of Tenant. In the event Tenant has elected to install specialized improvements which are unique to Tenant's use as opposed to typical lab and office improvements, Landlord shall, upon the need for replacement due to an insured loss, provide only the Building Standard, unless Tenant again elects to install such specialized improvements and pay any incremental costs related thereto, except to the extent that excess insurance proceeds, if received, are adequate to provide such specialized improvements, in addition to providing for basic repairs, reconstruction and restoration of the Premises, the Building and the Project.

24.8. Notwithstanding anything to the contrary contained in this Article, Landlord shall not have any obligation whatsoever to repair, reconstruct or restore the Premises if the damage resulting from any casualty covered under this Article occurs during the last twelve (12) months of the Term or any extension thereof (and the Damage Repair Estimate indicates that more than sixty (60) days will be required for such repair, reconstruction or restoration).

24.9. Landlord's obligation, should it elect or be obligated to repair, reconstruct or restore, shall be limited to the Affected Areas, and shall be conditioned upon Landlord receiving any permits or authorizations required by Applicable Laws. Tenant shall, at its expense, replace or fully repair any Alterations installed by Tenant which Tenant is required to insure and which are existing at the time of such damage or destruction and all of Tenant's personal property. If Affected Areas are to be repaired, reconstructed or restored in accordance with the foregoing, Landlord shall make available to Tenant any portion of insurance proceeds it receives that are allocable to the Alterations constructed by Tenant pursuant to this Lease which are not being restored by Landlord; provided Tenant is not then in Default under this Lease, and subject to the requirements of any Lender of Landlord.

24.10. This Article sets forth the terms and conditions upon which this Lease may terminate in the event of any damage or destruction. Accordingly, the parties hereby waive the provisions of California Civil Code Sections 1932(2) and 1933(4) (and any successor statutes) permitting the parties to terminate this Lease as a result of any damage or destruction.

25. Eminent Domain.

25.1. In the event (a) the whole of all Affected Areas or (b) such part thereof as shall substantially interfere with Tenant's use and occupancy of the Premises for the Permitted Use shall be taken for any public or quasi-public purpose by any lawful power or authority by exercise of the right of appropriation, condemnation or eminent domain, or sold to prevent such taking, Tenant or Landlord may terminate this Lease effective as of the date possession is required to be surrendered to such authority, except with regard to (y) items occurring prior to the taking and (z) provisions of this Lease that, by their express terms, survive the expiration or earlier termination hereof.

25.2. In the event of a partial taking of (a) the Building or the Project or (b) drives, walkways or parking areas serving the Building or the Project for any public or quasi-public purpose by any lawful power or authority by exercise of right of appropriation, condemnation, or eminent domain, or sold to prevent such taking, then, without regard to whether any portion of the Premises occupied by Tenant was so taken, Landlord may elect to terminate this Lease (except with regard to (a) items occurring prior to the taking and (b) provisions of this Lease that, by their express terms, survive the expiration or earlier termination hereof) as of such taking if such taking is, in Landlord's reasonable opinion, of a material nature such as to make it uneconomical to continue use of the unappropriated portion for purposes of renting office or laboratory space.

25.3. Tenant shall be entitled to any award that is specifically awarded as compensation for (a) the taking of Tenant's personal property that was installed at Tenant's expense and (b) the costs of Tenant moving to a new location. Except as set forth in the previous sentence, any award for such taking shall be the property of Landlord.

25.4. If, upon any taking of the nature described in this Article, this Lease continues in effect, then Landlord shall promptly proceed to restore the Affected Areas to substantially their same condition prior to such partial taking. To the extent such restoration is infeasible, as determined by Landlord in its sole and absolute discretion, the Rent shall be decreased proportionately to reflect the loss of any portion of the Premises no longer available to Tenant.

25.5. This Article sets forth the terms and conditions upon which this Lease may terminate in the event of any taking. Accordingly, the parties hereby waive the provisions of California Code of Civil Procedure Section 1265.130 (and any successor statutes) permitting the parties to terminate this Lease as a result of any taking.

26. Surrender.

26.1. At least fifteen (15) days prior to Tenant's surrender of possession of any part of the Premises, Tenant shall provide Landlord with a facility decommissioning and Hazardous Materials closure plan for the Premises ("Exit Survey") prepared by an independent third party state-certified professional with appropriate expertise, which Exit Survey must be reasonably acceptable to Landlord. The Exit Survey shall comply with the American National Standards Institute's Laboratory Decommissioning guidelines (ANSI/AIHA Z9.11-2008) or any successor standards published by ANSI or any successor organization (or, if ANSI and its successors no longer exist, a similar entity publishing similar standards). In addition, at least ten (10) days prior to Tenant's surrender of possession of any part of the Premises, Tenant shall (a) provide Landlord with written evidence of all appropriate governmental releases obtained by Tenant in accordance with Applicable Laws, including laws pertaining to the surrender of the Premises, (b) place Laboratory Equipment Decontamination Forms on all decommissioned equipment to assure safe occupancy by future users and (c) conduct a site inspection with Landlord. In addition, Tenant agrees to remain responsible after the surrender of the Premises for the remediation of any recognized environmental conditions set forth in the Exit Survey and comply with any recommendations set forth in the Exit Survey, in each case to the extent the same are Tenant's responsibility under this Lease. Tenant's obligations under this Section shall survive the expiration or earlier termination of the Lease.

26.2. No surrender of possession of any part of the Premises shall release Tenant from any of its obligations hereunder, unless such surrender is accepted in writing by Landlord.

26.3. The voluntary or other surrender of this Lease by Tenant shall not effect a merger with Landlord's fee title or leasehold interest in the Premises, the Building, the Property or the Project, unless Landlord consents in writing, and shall, at Landlord's option, operate as an assignment to Landlord of any or all subleases.

26.4. The voluntary or other surrender of any ground or other underlying lease that now exists or may hereafter be executed affecting the Building or the Project, or a mutual cancellation thereof or of Landlord's interest therein by Landlord and its lessor shall not effect a merger with Landlord's fee title or leasehold interest in the Premises, the Building or the Property and shall, at the option of the successor to Landlord's interest in the Building or the Project, as applicable, operate as an assignment of this Lease.

27. Holding Over.

27.1. If, with Landlord's prior written consent, Tenant holds possession of all or any part of the Premises after the Term, Tenant shall become a tenant from month to month after the expiration or earlier termination of the Term, and in such case Tenant shall continue to pay (a) Base Rent in accordance with Article 7, as adjusted in accordance with Article 8, and (b) any amounts for which Tenant would otherwise be liable under this Lease if the Lease were still in

effect, including payments for Tenant's Adjusted Share of Operating Expenses, and all other Additional Rent. Any such month-to-month tenancy shall be subject to every other term, covenant and agreement contained herein.

27.2. Notwithstanding the foregoing, if Tenant remains in possession of the Premises after the expiration or earlier termination of the Term without Landlord's prior written consent, (a) Tenant shall become a tenant at sufferance subject to the terms and conditions of this Lease, except that the monthly rent shall be equal to one hundred fifty percent (150%) of the Base Rent in effect during the last thirty (30) days of the Term, plus any amounts for which Tenant would otherwise be liable under this Lease if the Lease were still in effect (i.e., Additional Rent), and (b) Tenant shall be liable to Landlord for any and all damages suffered by Landlord as a result of such holdover, including any lost rent or consequential, special and indirect damages (in each case, regardless of whether such damages are foreseeable).

27.3. Acceptance by Landlord of Rent after the expiration or earlier termination of the Term shall not result in an extension, renewal or reinstatement of this Lease.

27.4. The foregoing provisions of this Article are in addition to and do not affect Landlord's right of reentry or any other rights of Landlord hereunder or as otherwise provided by Applicable Laws.

27.5. The provisions of this Article shall survive the expiration or earlier termination of this Lease.

28. Indemnification and Exculpation.

28.1. Tenant agrees to Indemnify the Landlord Indemnitees from and against any and all Claims of any kind or nature, real or alleged, arising from (a) injury to or death of any person or damage to any property occurring within or about the Premises, any Building, the Property or the Project, arising directly or indirectly out of (i) the presence at or use or occupancy of the Premises or Project by a Tenant Party or (ii) an act or omission on the part of any Tenant Party, (b) a breach or default by Tenant in the performance of any of its obligations hereunder or (c) injury to or death of persons or damage to or loss of any property, real or alleged, arising from the serving of alcoholic beverages at the Premises or Project, including liability under any dram shop law, host liquor law or similar Applicable Law, except to the extent arising directly from Landlord's or the Landlord Parties' negligence or willful misconduct. Tenant's obligations under this Section shall not be affected, reduced or limited by any limitation on the amount or type of damages, compensation or benefits payable by or for Tenant under workers' compensation acts, disability benefit acts, employee benefit acts or similar legislation. Tenant's obligations under this Section shall survive the expiration or earlier termination of this Lease. Subject to Sections 28.2 and 31.13, Landlord agrees to Indemnify the Tenant Parties from and against any and all Claims arising from injury to or death of any person or damage to or loss of any physical property occurring within or about the Premises, the Buildings, the Property or the Project to the extent arising directly from Landlord's or Landlord's Parties' gross negligence or willful misconduct.

28.2. Notwithstanding anything in this Lease to the contrary, Landlord shall not be liable to Tenant for and Tenant assumes all risk of (a) damage or losses arising from fire, electrical malfunction, gas explosion or water damage of any type (including broken water lines,

malfunctioning fire sprinkler systems, roof leaks or stoppages of lines), unless any such loss is due to Landlord's willful disregard of written notice by Tenant of need for a repair that Landlord is responsible to make for an unreasonable period of time, and (b) damage to personal property; products manufactured, produced of stored by Tenant; or scientific research, including loss of records kept by Tenant within the Premises (in each case, regardless of whether such damages are foreseeable). Tenant further waives any claim for injury to Tenant's business or loss of income relating to any such damage or destruction of personal property; products manufactured, produced of stored by Tenant; or scientific research as described in this Section. Notwithstanding anything in the foregoing or this Lease to the contrary, except (x) as otherwise provided herein (including Section 27.2), (y) as may be provided by Applicable Laws or (z) in the event of Tenant's breach of Article 21 or Section 26.1, in no event shall Landlord or Tenant be liable to the other for any consequential, special or indirect damages arising from this Lease, including lost profits (provided that this Subsection 28.2(z) shall not limit Tenant's liability for Base Rent or Additional Rent pursuant to this Lease).

28.3. Landlord shall not be liable for any damages arising from any act, omission or neglect of any other tenant in any Building or the Project, or of any other third party.

28.4. Tenant acknowledges that security devices and services, if any, while intended to deter crime, may not in given instances prevent theft or other criminal acts. Landlord shall not be liable for injuries or losses arising from criminal acts of third parties, and Tenant assumes the risk that any security device or service may malfunction or otherwise be circumvented by a criminal, or that Landlord may decide (in its sole and absolute discretion) not to monitor any installed security devices. If Tenant desires protection against such criminal acts, then Tenant shall, at Tenant's sole cost and expense, obtain appropriate insurance coverage. Tenant's security programs and equipment for the Premises shall be coordinated with Landlord and subject to Landlord's reasonable approval.

28.5. The provisions of this Article shall survive the expiration or earlier termination of this Lease.

29. Assignment or Subletting.

29.1. Except as hereinafter expressly permitted, none of the following (each, a "Transfer"), either voluntarily or by operation of Applicable Laws, shall be directly or indirectly performed without Landlord's prior written consent, which shall not be unreasonably withheld, conditioned or delayed: (a) Tenant selling, hypothecating, assigning, pledging, encumbering or otherwise transferring its interest in this Lease or subletting all or a portion of the Premises, (b) a controlling interest in Tenant being sold, assigned or otherwise transferred (other than as a result of shares in Tenant being sold on a public stock exchange) or (c) the sale of all or substantially of Tenant's assets (both (b) and (c), a "Change of Control"). For purposes of the preceding sentence, "control" means (f) owning (directly or indirectly) more than fifty percent (50%) of the stock or other equity interests of another person or (g) possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of such person. Notwithstanding the foregoing, Tenant shall have the right to, without Landlord's prior written consent, and without being subject to Landlord's profit sharing or recapture rights below, (A) undergo a Change of Control, or (B) Transfer Tenant's interest in this Lease or the Premises or any part thereof to any person that (i) acquires all or substantially all of the assets or stock of Tenant, (ii) is a successor to

Tenant by merger, consolidation or reorganization, or (iii) as of the date of determination and at all times thereafter directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with Tenant (any person described in (i), (ii), or (iii), a "Tenant's Affiliate"); provided that Tenant shall notify Landlord in writing at least thirty (30) days prior to the effectiveness of such Transfer (an "Exempt Transfer") and otherwise comply with the requirements of this Lease regarding such Transfer; and provided, further, that the person that will be the tenant under this Lease after the Exempt Transfer has a net worth (as of both the day immediately prior to and the day immediately after the Exempt Transfer) that is equal to or greater than the net worth (as of both the Execution Date and the date of the Exempt Transfer) of the transferring Tenant. For purposes of the immediately preceding sentence, "control" requires both (m) owning (directly or indirectly) more than fifty percent (50%) of the stock or other equity interests of another person and (n) possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of such person.

29.2. In the event Tenant desires to effect a Transfer, then, at least thirty (30) but not more than one hundred eighty (180) days prior to the date when Tenant desires the Transfer to be effective (the "Transfer Date"), Tenant shall provide written notice to Landlord (the "Transfer Notice") containing information (including references) concerning the character of the proposed transferee, assignee or sublessee; the Transfer Date; the most recent unconsolidated financial statements of Tenant (if Tenant is no longer publicly traded) and of the proposed transferee, assignee or sublessee satisfying the requirements of Section 40.2 ("Required Financials"); any ownership or commercial relationship between Tenant and the proposed transferee, assignee or sublessee; copies of Hazardous Materials Documents for the proposed transferee, assignee or sublessee; and the consideration and all other material terms and conditions of the proposed Transfer, all in such detail as Landlord shall reasonably require.

29.3. Landlord, in determining whether consent should be given to a proposed Transfer, may give consideration to such factors as Landlord reasonably deems material, including (a) the financial strength of Tenant and of such transferee, assignee or sublessee (notwithstanding Tenant remaining liable for Tenant's performance), (b) any change in use that such transferee, assignee or sublessee proposes to make in the use of the Premises and (c) Landlord's desire to exercise its rights under Section 29.7 to recapture the Premises. In no event shall Landlord be deemed to be unreasonable for declining to consent to a Transfer if the Transfer is to a transferee, assignee or sublessee of poor reputation, lacking financial qualifications or seeking a change in the Permitted Use, or jeopardizing directly or indirectly the status of Landlord or any of Landlord's affiliates as a Real Estate Investment Trust under the Internal Revenue Code of 1986 (as the same may be amended from time to time, the "Revenue Code"). Notwithstanding anything contained in this Lease to the contrary, (w) no Transfer shall be consummated on any basis such that the rental or other amounts to be paid by the occupant, assignee, manager or other transferee thereunder would be based, in whole or in part, on the income or profits derived by the business activities of such occupant, assignee, manager or other transferee; (x) Tenant shall not furnish or render any services to an occupant, assignee, manager or other transferee with respect to whom transfer consideration is required to be paid, or manage or operate the Premises or any capital additions so transferred, with respect to which transfer consideration is being paid; (y) Tenant shall not consummate a Transfer with any person in which Landlord owns an interest, directly or indirectly (by applying constructive ownership rules set forth in Section 856(d)(5) of the Revenue Code); and (z) Tenant shall not consummate a Transfer with any person or in any manner that could cause any portion of

the amounts received by Landlord pursuant to this Lease or any sublease, license or other arrangement for the right to use, occupy or possess any portion of the Premises to fail to qualify as "rents from real property" within the meaning of Section 856(d) of the Revenue Code, or any similar or successor provision thereto or which could cause any other income of Landlord to fail to qualify as income described in Section 856(c)(2) of the Revenue Code. Notwithstanding anything in this Lease to the contrary, if (a) Tenant or any proposed transferee, assignee or sublessee of Tenant has been required by any prior landlord, Lender or Governmental Authority to take material remedial action in connection with Hazardous Materials contaminating a property if the contamination resulted from such party's action or omission or use of the property in question or (b) Tenant or any proposed transferee, assignee or sublessee is subject to a material enforcement order issued by any Governmental Authority in connection with the use, disposal or storage of Hazardous Materials, then Landlord shall have the right to terminate this Lease in Landlord's sole and absolute discretion (with respect to any such matter involving Tenant), and it shall not be unreasonable for Landlord to withhold its consent to any proposed transfer, assignment or subletting (with respect to any such matter involving a proposed transferee, assignee or sublessee).

29.4. The following are conditions precedent to a Transfer or to Landlord considering a request by Tenant to a Transfer:

(a) Tenant shall remain fully liable under this Lease. Tenant agrees that it shall not be (and shall not be deemed to be) a guarantor or surety of this Lease, however, and waives its right to claim that is it is a guarantor or surety or to raise in any legal proceeding any guarantor or surety defenses permitted by this Lease or by Applicable Laws;

(b) If Tenant or the proposed transferee, assignee or sublessee does not or cannot deliver the Required Financials, then Landlord may elect, as a condition to its consent (which condition is hereby agreed by the parties to be reasonable), to have either Tenant's ultimate parent company or the proposed transferee's, assignee's or sublessee's ultimate parent company provide a guaranty of the applicable entity's obligations under this Lease, in a form acceptable to Landlord, which guaranty shall be executed and delivered to Landlord by the applicable guarantor prior to the Transfer Date;

(c) In the case of an Exempt Transfer, Tenant shall provide Landlord with evidence reasonably satisfactory to Landlord that the Transfer qualifies as an Exempt Transfer;

(d) Tenant shall deliver evidence respecting the relevant business experience and financial responsibility and status of the proposed transferee, assignee or sublessee;

(e) Tenant shall reimburse Landlord for Landlord's actual and reasonable costs and expenses, including reasonable attorneys' fees, charges and disbursements incurred in connection with the review, processing and documentation of such request (not to exceed $5,000 in the aggregate for any particular Transfer);

(f) Except with respect to an Exempt Transfer, if Tenant's transfer of rights or sharing of the Premises provides for the receipt by, on behalf of or on account of Tenant of any consideration of any kind whatsoever (including a premium rental for a sublease or lump sum payment for an assignment, but excluding Tenant's reasonable costs in marketing and subleasing

the Premises, and to the extent the same do not exceed fair market value, amounts payable for the use or conveyance of personal property or equipment to such transferee) in excess of the rental and other charges due to Landlord under this Lease, Tenant shall (unless Landlord directs in writing otherwise) pay fifty percent (50%) of all of such excess actually received by Tenant to Landlord, after making deductions for any reasonable marketing expenses, tenant improvement funds expended by Tenant, alterations, cash concessions, brokerage commissions, attorneys' fees and free rent actually paid by Tenant. If such consideration consists of cash paid to Tenant, payment to Landlord shall be made upon receipt by Tenant of such cash payment;

(g) The proposed transferee, assignee or sublessee shall agree that, in the event Landlord gives such proposed transferee, assignee or sublessee notice that Tenant is in default under this Lease, such proposed transferee, assignee or sublessee shall thereafter make all payments otherwise due Tenant directly to Landlord, which payments shall be received by Landlord without any liability being incurred by Landlord, except to credit such payment against those due by Tenant under this Lease, and any such proposed transferee, assignee or sublessee shall agree to attorn to Landlord or its successors and assigns should this Lease be terminated for any reason; provided, however, that in no event shall Landlord or its Lenders, successors or assigns be obligated to accept such attornment;

(h) Landlord's consent to any such Transfer shall be effected on Landlord's commercially reasonable forms;

(i) Tenant shall not then be in default hereunder in any respect;

(j) Such proposed transferee, assignee or sublessee's use of the Premises shall be the same as the Permitted Use;

(k) Landlord shall not be bound by any provision of any agreement pertaining to the Transfer, except for Landlord's written consent to the same;

(l) Tenant shall pay all transfer and other taxes (including interest and penalties) assessed or payable for any Transfer;

(m) Landlord's consent (or waiver of its rights) for any Transfer shall not waive Landlord's right to consent or refuse consent to any later Transfer;

(n) Tenant shall deliver to Landlord one executed copy of any and all written instruments evidencing or relating to the Transfer; and

(o) Tenant shall deliver to Landlord a list of Hazardous Materials (as defined below), certified by the proposed transferee, assignee or sublessee to be true and correct, that the proposed transferee, assignee or sublessee intends to use or store in the Premises. Additionally, Tenant shall deliver to Landlord, on or before the date any proposed transferee, assignee or sublessee takes occupancy of the Premises, all of the items relating to Hazardous Materials of such proposed transferee, assignee or sublessee as described in Section 21.2.

29.5. Any Transfer that is not in compliance with the provisions of this Article or with respect to which Tenant does not fulfill its obligations pursuant to this Article shall (a) constitute

a Default, (b) be voidable by Landlord and (c), at Landlord's option, terminate this Lease, except for those provisions that, by their express terms, survive the expiration or earlier termination hereof.

29.6. Notwithstanding any Transfer, Tenant shall remain fully and primarily liable for the payment of all Rent and other sums due or to become due hereunder, and for the full performance of all other terms, conditions and covenants to be kept and performed by Tenant. The acceptance of Rent or any other sum due hereunder, or the acceptance of performance of any other term, covenant or condition thereof, from any person or entity other than Tenant shall not be deemed a waiver of any of the provisions of this Lease or a consent to any Transfer.

29.7. If Tenant delivers to Landlord a Transfer Notice indicating a desire to assign this Lease (or sublease more than seventy-five percent (75%) of the Rentable Area of the Premises) to a proposed transferee, assignee or sublessee (other than pursuant to an Exempt Transfer), then Landlord shall have the option, exercisable by giving notice to Tenant at any time within thirty (30) days after Landlord's receipt of such Transfer Notice, to terminate this Lease as of the date specified in the Transfer Notice as the Transfer Date, except for those provisions that, by their express terms, survive the expiration or earlier termination hereof. If Landlord exercises such option, then Tenant shall have the right to withdraw such Transfer Notice by delivering to Landlord written notice of such election within five (5) days after Landlord's delivery of notice electing to exercise Landlord's option to terminate this Lease. In the event Tenant withdraws the Transfer Notice as provided in this Section, this Lease shall continue in full force and effect. No failure of Landlord to exercise its option to terminate this Lease shall be deemed to be Landlord's consent to a proposed Transfer.

29.8. If Tenant sublets the Premises or any portion thereof, Tenant hereby immediately and irrevocably assigns to Landlord, as security for Tenant's obligations under this Lease, all rent from any such subletting, and appoints Landlord as assignee and attorney-in-fact for Tenant, and Landlord (or a receiver for Tenant appointed on Landlord's application) may collect such rent and apply it toward Tenant's obligations under this Lease; provided that, until the occurrence of a Default (as defined below) by Tenant, Tenant shall have the right to collect such rent.

29.9. In the event that Tenant enters into a sublease for the entire Premises in accordance with this Article that expires within two (2) days of the Term Expiration Date, the term expiration date of such sublease shall, notwithstanding anything in this Lease, the sublease or any consent to the sublease to the contrary, be deemed to be the date that is two (2) days prior to the Term Expiration Date.

30. Subordination and Attornment.

30.1. This Lease shall be subject and subordinate to the lien of any mortgage, deed of trust, or lease in which Landlord is tenant now or hereafter in force against any Building or the Project and to all advances made or hereafter to be made upon the security thereof without the necessity of the execution and delivery of any further instruments on the part of Tenant to effectuate such subordination; provided, however, that the automatic subordination to any future mortgage, deed of trust or lease provided for in this Section is expressly conditioned upon the holder of such mortgage, deed of trust or lease executing a subordination, non-disturbance and attornment agreement on such party's standard form.

30.2. Notwithstanding the foregoing, Tenant shall execute and deliver upon demand such further instrument or instruments evidencing such subordination of this Lease to the lien of any such mortgage or mortgages or deeds of trust or lease in which Landlord is tenant as may be reasonably required by Landlord. If any Lender so elects, however, this Lease shall be deemed prior in lien to any such lease, mortgage, or deed of trust upon or including the Premises regardless of date and Tenant shall execute a statement in writing to such effect at Landlord's request. If Tenant fails to execute any document required from Tenant under this Section within ten (10) days after written request therefor, Tenant hereby constitutes and appoints Landlord or its special attorney-in-fact to execute and deliver any such document or documents in the name of Tenant. Such power is coupled with an interest and is irrevocable. For the avoidance of doubt, "Lenders" shall also include historic tax credit investors and new market tax credit investors. Landlord shall request a subordination and non-disturbance agreement from the current lender on the Project; provided, however, that (a) Landlord shall have no obligation to obtain such subordination and non-disturbance agreement (and Tenant shall have no right or remedy in the event that such lender refuses to provide such subordination and non-disturbance agreement), and (b) Tenant shall pay all fees and expenses of any kind (including, without limitation, attorneys' fees) imposed or required by such lender in connection with such subordination and non-disturbance agreement.

30.3. Upon written request of Landlord and opportunity for Tenant to review, Tenant agrees to execute any reasonable Lease amendments not materially altering the terms of this Lease or materially increasing Tenant's liability or materially and adversely decreasing Tenant's rights under this Lease, if required by a Lender incident to the financing of the real property of which the Premises constitute a part.

30.4. In the event any proceedings are brought for foreclosure, or in the event of the exercise of the power of sale under any mortgage or deed of trust made by Landlord covering the Premises, Tenant shall at the election of the purchaser at such foreclosure or sale attorn to the purchaser upon any such foreclosure or sale and recognize such purchaser as Landlord under this Lease.

31. Defaults and Remedies.

31.1. Late payment by Tenant to Landlord of Rent and other sums due shall cause Landlord to incur costs not contemplated by this Lease, the exact amount of which shall be extremely difficult and impracticable to ascertain. Such costs include processing and accounting charges and late charges that may be imposed on Landlord by the terms of any mortgage or trust deed covering the Premises. Therefore, if any installment of Rent due from Tenant is not received by Landlord within three (3) business days after the date such payment is due, Tenant shall pay to Landlord (a) an additional sum of five percent (5%) of the overdue Rent as a late charge plus (b) interest at an annual rate (the "Default Rate") equal to the lesser of (a) twelve percent (12%) and (b) the highest rate permitted by Applicable Laws. The parties agree that this late charge represents a fair and reasonable estimate of the costs that Landlord shall incur by reason of late payment by Tenant and shall be payable as Additional Rent to Landlord due with the next installment of Rent or within five (5) business days after Landlord's demand, whichever is earlier. Landlord's acceptance of any Additional Rent (including a late charge or any other amount hereunder) shall not be deemed an extension of the date that Rent is due or prevent Landlord from pursuing any other rights or remedies under this Lease, at law or in equity. Notwithstanding anything to the

contrary in this Section, Tenant shall not be obligated to pay a late charge or interest pursuant to this Section for the first (1st) late payment of Rent during any twelve (12) month period during the Term, unless Tenant fails to make such payment within five (5) days after Tenant's receipt of notice from Landlord regarding such late payment (in which case Tenant will be responsible for late fees and interest).

31.2. No payment by Tenant or receipt by Landlord of a lesser amount than the Rent payment herein stipulated shall be deemed to be other than on account of the Rent, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as Rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or pursue any other remedy provided in this Lease or in equity or at law. If a dispute shall arise as to any amount or sum of money to be paid by Tenant to Landlord hereunder, Tenant shall have the right to make payment "under protest," such payment shall not be regarded as a voluntary payment, and there shall survive the right on the part of Tenant to institute suit for recovery of the payment paid under protest.

31.3. If Tenant fails to pay any sum of money required to be paid by it hereunder or perform any other act on its part to be performed hereunder, in each case within the applicable cure period (if any) described in Section 31.4, then Landlord may (but shall not be obligated to), without waiving or releasing Tenant from any obligations of Tenant, make such payment or perform such act; provided that such failure by Tenant unreasonably interfered with the use of the Building or the Project by any other tenant or with the efficient operation of the Building or the Project, or resulted or could have resulted in a violation of Applicable Laws or the cancellation of an insurance policy maintained by Landlord. Notwithstanding the foregoing, in the event of an emergency, Landlord shall have the right to enter the Premises and act in accordance with its rights as provided elsewhere in this Lease. In addition to the late charge described in Section 31.1, Tenant shall pay to Landlord as Additional Rent all sums so paid or incurred by Landlord, together with interest at the Default Rate, computed from the date such sums were paid or incurred.

31.4. The occurrence of any one or more of the following events shall constitute a "Default" hereunder by Tenant:

(a) Tenant vacates the Premises and makes a statement in writing (which shall include e-mail) or issues a public statement that Tenant will not continue to satisfy all other terms and conditions of this Lease or Tenant abandons the Premises;

(b) Tenant fails to make any payment of Rent, as and when due, or to satisfy its obligations under Article 19, where such failure shall continue for a period of three (3) business days after written notice thereof from Landlord to Tenant;

(c) Tenant fails to observe or perform any obligation or covenant contained herein (other than described in Sections 31.4(a) and 31.4(b)) to be performed by Tenant, where such failure continues for a period of thirty (30) days after written notice thereof from Landlord to Tenant; provided that, if the nature of Tenant's default is such that it reasonably requires more than thirty (30) days to cure, Tenant shall not be deemed to be in Default if Tenant commences such cure within such thirty (30) day period and thereafter diligently prosecutes the same to completion;

and provided, further, that such cure is completed no later than sixty (60) days after Tenant's receipt of written notice from Landlord;

(d) Tenant makes an assignment for the benefit of creditors;

(e) A receiver, trustee or custodian is appointed to or does take title, possession or control of all or substantially all of Tenant's assets;

(f) Tenant files a voluntary petition under the United States Bankruptcy Code or any successor statute (as the same may be amended from time to time, the "Bankruptcy Code") or an order for relief is entered against Tenant pursuant to a voluntary or involuntary proceeding commenced under any chapter of the Bankruptcy Code;

(g) Any involuntary petition is filed against Tenant under any chapter of the Bankruptcy Code and is not dismissed within one hundred twenty (120) days;

(h) Tenant fails to deliver an estoppel certificate in accordance with Article 20 and such failure continues for three (3) business days after written notice from Landlord to Tenant; or

(i) Tenant's interest in this Lease is attached, executed upon or otherwise judicially seized and such action is not released within one hundred twenty (120) days of the action.

Notices given under this Section shall specify the alleged default and shall demand that Tenant perform the provisions of this Lease or pay the Rent that is in arrears, as the case may be, within the applicable period of time, or quit the Premises. No such notice shall be deemed a forfeiture or a termination of this Lease unless Landlord elects otherwise in such notice.

31.5. Intentionally Omitted.

31.6. In the event of a Default by Tenant, and at any time thereafter, with or without notice or demand and without limiting Landlord in the exercise of any right or remedy that Landlord may have, Landlord has the right to do any or all of the following:

(a) Halt any Tenant Improvements and Alterations and order Tenant's contractors, subcontractors, consultants, designers and material suppliers to stop work;

(b) Terminate Tenant's right to possession of the Premises by written notice to Tenant or by any lawful means, in which case Tenant shall immediately surrender possession of the Premises to Landlord. In such event, Landlord shall have the immediate right to re-enter and remove all persons and property, and such property may be removed and stored in a public warehouse or elsewhere at the cost and for the account of Tenant, all without service of notice or resort to legal process and without being deemed guilty of trespass or becoming liable for any loss or damage that may be occasioned thereby; and

(c) Terminate this Lease, in which event Tenant shall immediately surrender possession of the Premises to Landlord. In such event, Landlord shall have the immediate right to re-enter and remove all persons and property, and such property may be removed and stored in a

public warehouse or elsewhere at the cost and for the account of Tenant, all without service of notice or resort to legal process and without being deemed guilty of trespass or becoming liable for any loss or damage that may be occasioned thereby. In the event that Landlord shall elect to so terminate this Lease, then Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default, including:

(i) The sum of:

A. The worth at the time of award of any unpaid Rent that had accrued at the time of such termination; plus

B. The worth at the time of award of the amount by which the unpaid Rent that would have accrued during the period commencing with termination of the Lease and ending at the time of award exceeds that portion of the loss of Landlord's rental income from the Premises that Tenant proves to Landlord's reasonable satisfaction could have been reasonably avoided; plus

C. The worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds that portion of the loss of Landlord's rental income from the Premises that Tenant proves to Landlord's reasonable satisfaction could have been reasonably avoided; plus

D. Any other amount necessary to compensate Landlord for all the detriment arising from Tenant's failure to perform its obligations under this Lease or that in the ordinary course of things would be likely to result therefrom, including the cost of restoring the Premises to the condition required under the terms of this Lease; plus

E. At Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by Applicable Laws; or

(ii) Intentionally omitted.

As used in Sections 31.6(c)(i)(A) and (B), "worth at the time of award" shall be computed by allowing interest at the Default Rate. As used in Section 31.6(c)(i)(C), the "worth at the time of the award" shall be computed by taking the present value of such amount, using the discount rate of the Federal Reserve Bank of San Francisco at the time of the award plus one (1) percentage point.

31.7. In addition to any other remedies available to Landlord at law or in equity and under this Lease, Landlord shall have the remedy described in California Civil Code Section 1951.4 and may continue this Lease in effect after Tenant's Default or abandonment and recover Rent as it becomes due, provided Tenant has the right to sublet or assign, subject only to reasonable limitations. In addition, Landlord shall not be liable in any way whatsoever for its failure or refusal to relet the Premises. For purposes of this Section, the following acts by Landlord will not constitute the termination of Tenant's right to possession of the Premises:

(a) Acts of maintenance or preservation or efforts to relet the Premises, including alterations, remodeling, redecorating, repairs, replacements or painting as Landlord shall consider advisable for the purpose of reletting the Premises or any part thereof; or

(b) The appointment of a receiver upon the initiative of Landlord to protect Landlord's interest under this Lease or in the Premises.

Notwithstanding the foregoing, in the event of a Default by Tenant, Landlord may elect at any time to terminate this Lease and to recover damages to which Landlord is entitled.

31.8. If Landlord does not elect to terminate this Lease as provided in Section 31.6, then Landlord may, from time to time, recover all Rent as it becomes due under this Lease. At any time thereafter, Landlord may elect to terminate this Lease and to recover damages to which Landlord is entitled.

31.9. In the event Landlord elects to terminate this Lease and relet the Premises, Landlord may execute any new lease in its own name. Tenant shall have no right or authority whatsoever to collect any Rent from such tenant. The proceeds of any such reletting shall be applied as follows:

(a) First, to the payment of any indebtedness other than Rent due hereunder from Tenant to Landlord, including storage charges or brokerage commissions owing from Tenant to Landlord as the result of such reletting;

(b) Second, to the payment of the costs and expenses of reletting the Premises, including (i) alterations and repairs that Landlord deems reasonably necessary and advisable and (ii) reasonable attorneys' fees, charges and disbursements incurred by Landlord in connection with the retaking of the Premises and such reletting;

(c) Third, to the payment of Rent and other charges due and unpaid hereunder; and

(d) Fourth, to the payment of future Rent and other damages payable by Tenant under this Lease.

31.10. All of Landlord's rights, options and remedies hereunder shall be construed and held to be nonexclusive and cumulative. Landlord shall have the right to pursue any one or all of such remedies, or any other remedy or relief that may be provided by Applicable Laws, whether or not stated in this Lease. No waiver of any default of Tenant hereunder shall be implied from any acceptance by Landlord of any Rent or other payments due hereunder or any omission by Landlord to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect defaults other than as specified in such waiver. Notwithstanding any provision of this Lease to the contrary, in no event shall Landlord be required to mitigate its damages with respect to any default by Tenant, except as required by Applicable Laws. Any such obligation imposed by Applicable Laws upon Landlord to relet the Premises after any termination of this Lease shall be subject to the reasonable requirements of Landlord to (a) lease to high quality tenants on such terms as Landlord may from time to time deem appropriate in its discretion and (b) develop the Project in a harmonious manner with a mix of uses, tenants, floor areas, terms of

tenancies, etc., as determined by Landlord. Landlord shall not be obligated to relet the Premises to (y) any Tenant's Affiliate or (z) any party (i) unacceptable to a Lender, (ii) that requires Landlord to make improvements to or re-demise the Premises, (iii) that desires to change the Permitted Use, (iv) that desires to lease the Premises for more or less than the remaining Term or (v) to whom Landlord or an affiliate of Landlord may desire to lease other available space in the Project or at another property owned by Landlord or an affiliate of Landlord.

31.11. Landlord's termination of (a) this Lease or (b) Tenant's right to possession of the Premises shall not relieve Tenant of any liability to Landlord that has previously accrued or that shall arise based upon events that occurred prior to the later to occur of (y) the date of Lease termination and (z) the date Tenant surrenders possession of the Premises.

31.12. To the extent permitted by Applicable Laws, Tenant waives any and all rights of redemption granted by or under any present or future Applicable Laws if Tenant is evicted or dispossessed for any cause, or if Landlord obtains possession of the Premises due to Tenant's default hereunder or otherwise.

31.13. Landlord shall not be in default or liable for damages under this Lease unless Landlord fails to perform obligations required of Landlord within a reasonable time, but in no event shall such failure continue for more than thirty (30) days after written notice from Tenant specifying the nature of Landlord's failure; provided, however, that if the nature of Landlord's obligation is such that more than thirty (30) days are required for its performance, then Landlord shall not be in default if Landlord commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion. In no event shall Tenant have the right to terminate or cancel this Lease or to withhold or abate rent or to set off any Claims against Rent as a result of any default or breach by Landlord of any of its covenants, obligations, representations, warranties or promises hereunder, except as may otherwise be expressly set forth in this Lease.

31.14. In the event of any default by Landlord, Tenant shall give notice by registered or certified mail to any (a) beneficiary of a deed of trust or (b) mortgagee under a mortgage covering the Premises, the Building or the Project and to any landlord of any lease of land upon or within which the Premises, the Building or the Project is located (provided Tenant has been informed of the existence and address of such mortgagee or landlord), and shall offer such beneficiary, mortgagee or landlord a reasonable opportunity to cure the default, including time to obtain possession of the Building or the Project by power of sale or a judicial action if such should prove necessary to effect a cure; provided that Landlord shall furnish to Tenant in writing, upon written request by Tenant, the names and addresses of all such persons who are to receive such notices.

32. Bankruptcy . In the event a debtor, trustee or debtor in possession under the Bankruptcy Code, or another person with similar rights, duties and powers under any other Applicable Laws, proposes to cure any default under this Lease or to assume or assign this Lease and is obliged to provide adequate assurance to Landlord that (a) a default shall be cured, (b) Landlord shall be compensated for its damages arising from any breach of this Lease and (c) future performance of

Tenant's obligations under this Lease shall occur, then such adequate assurances shall include any or all of the following, as designated by Landlord in its sole and absolute discretion:

32.1. Those acts specified in the Bankruptcy Code or other Applicable Laws as included within the meaning of "adequate assurance," even if this Lease does not concern a shopping center or other facility described in such Applicable Laws;

32.2. A prompt cash payment to compensate Landlord for any monetary defaults or actual damages arising directly from a breach of this Lease;

32.3. A cash deposit in an amount at least equal to the then-current amount of the Security Deposit; or

32.4. The assumption or assignment of all of Tenant's interest and obligations under this Lease.

33. Brokers.

33.1 Tenant represents and warrants that it has had no dealings with any real estate broker or agent in connection with the negotiation of this Lease other than Kidder Mathews ("Broker"), and that it knows of no other real estate broker or agent that is or might be entitled to a commission in connection with this Lease. Landlord shall compensate Broker in relation to this Lease pursuant to a separate agreement between Landlord and Broker.

33.2 Tenant represents and warrants that no broker or agent has made any representation or warranty relied upon by Tenant in Tenant's decision to enter into this Lease, other than as contained in this Lease.

33.3 Tenant acknowledges and agrees that the employment of brokers by Landlord is for the purpose of solicitation of offers of leases from prospective tenants and that no authority is granted to any broker to furnish any representation (written or oral) or warranty from Landlord unless expressly contained within this Lease. Landlord is executing this Lease in reliance upon Tenant's representations, warranties and agreements contained within Sections 33.1 and 33.2.

33.4 Tenant agrees to Indemnify the Landlord Indemnitees from any and all cost or liability for compensation claimed by any broker or agent, other than Broker, employed or engaged by Tenant or claiming to have been employed or engaged by Tenant. Landlord agrees to Indemnify the Tenant Parties from any and all cost or liability for compensation claimed by any broker or agent, other than Broker, employed or engaged by Landlord or claiming to have been employed or engaged by Landlord.

34. Definition of Landlord. With regard to obligations imposed upon Landlord pursuant to this Lease, the term "Landlord," as used in this Lease, shall refer only to Landlord or Landlord's then-current successor-in-interest. In the event of any transfer, assignment or conveyance of Landlord's interest in this Lease or in Landlord's fee title to or leasehold interest in the Property, as applicable, Landlord herein named (and in case of any subsequent transfers or conveyances, the subsequent Landlord) shall be automatically freed and relieved, from and after the date of such transfer, assignment or conveyance, from all liability for the performance of any covenants or

obligations contained in this Lease thereafter to be performed by Landlord and, without further agreement, the transferee, assignee or conveyee of Landlord's in this Lease or in Landlord's fee title to or leasehold interest in the Property, as applicable, shall be deemed to have assumed and agreed to observe and perform any and all covenants and obligations of Landlord hereunder during the tenure of its interest in the Lease or the Property. Landlord or any subsequent Landlord may transfer its interest in the Premises or this Lease without Tenant's consent.

35. Limitation of Landlord's Liability.

35.1 If Landlord is in default under this Lease and, as a consequence, Tenant recovers a monetary judgment against Landlord, the judgment shall be satisfied only out of (a) the proceeds of sale received on execution of the judgment and levy against the right, title and interest of Landlord in the Building and the Project, (b) rent or other income from such real property receivable by Landlord or (c) the consideration received by Landlord from the sale, financing, refinancing or other disposition of all or any part of Landlord's right, title or interest in the Building or the Project.

35.2 Neither Landlord nor any of its affiliates, nor any of their respective partners, shareholders, directors, officers, employees, members or agents shall be personally liable for Landlord's obligations or any deficiency under this Lease, and service of process shall not be made against any shareholder, director, officer, employee or agent of Landlord or any of Landlord's affiliates. No partner, shareholder, director, officer, employee, member or agent of Landlord or any of its affiliates shall be sued or named as a party in any suit or action, and service of process shall not be made against any partner or member of Landlord except as may be necessary to secure jurisdiction of the partnership, joint venture or limited liability company, as applicable. No partner, shareholder, director, officer, employee, member or agent of Landlord or any of its affiliates shall be required to answer or otherwise plead to any service of process, and no judgment shall be taken or writ of execution levied against any partner, shareholder, director, officer, employee, member or agent of Landlord or any of its affiliates.

35.3 Each of the covenants and agreements of this Article shall be applicable to any covenant or agreement either expressly contained in this Lease or imposed by Applicable Laws and shall survive the expiration or earlier termination of this Lease.

36. Joint and Several Obligations. If more than one person or entity executes this Lease as Tenant, then:

36.1. Each of them is jointly and severally liable for the keeping, observing and performing of all of the terms, covenants, conditions, provisions and agreements of this Lease to be kept, observed or performed by Tenant, and such terms, covenants, conditions, provisions and agreements shall be binding with the same force and effect upon each and all of the persons executing this Agreement as Tenant; and

36.2. The term "Tenant," as used in this Lease, means and includes each of them, jointly and severally. The act of, notice from, notice to, refund to, or signature of any one or more of them with respect to the tenancy under this Lease, including any renewal, extension, expiration, termination or modification of this Lease, shall be binding upon each and all of the persons

executing this Lease as Tenant with the same force and effect as if each and all of them had so acted, so given or received such notice or refund, or so signed.

37. Representations. Tenant guarantees, warrants and represents that (a) Tenant is duly incorporated or otherwise established or formed and validly existing under the laws of its state of incorporation, establishment or formation, (b) Tenant has and is duly qualified to do business in the state in which the Property is located, (c) Tenant has full corporate, partnership, trust, association or other appropriate power and authority to enter into this Lease and to perform all Tenant's obligations hereunder, (d) each person (and all of the persons if more than one signs) signing this Lease on behalf of Tenant is duly and validly authorized to do so and (e) neither (i) the execution, delivery or performance of this Lease nor (ii) the consummation of the transactions contemplated hereby will violate or conflict with any provision of documents or instruments under which Tenant is constituted or to which Tenant is a party. In addition, Tenant guarantees, warrants and represents that none of (x) it, (y) its affiliates or partners nor (z) to its knowledge, its members, or any of their respective employees, officers, directors, representatives or agents is a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism) or other similar governmental action.

38. Confidentiality. Tenant shall keep the terms and conditions of this Lease and any information provided to Tenant or its employees, agents or contractors pursuant to Article 9 confidential and shall not (a) disclose to any third party any terms or conditions of this Lease or any other Lease-related document (including subleases, assignments, work letters, construction contracts, letters of credit, subordination agreements, non-disturbance agreements, brokerage agreements or estoppels) or the contents of any documents, reports, surveys or evaluations related to the Project or any portion thereof or (b) provide to any third party an original or copy of this Lease (or any Lease-related document or other document referenced in Subsection 38(a)). Landlord shall not release to any third party any non-public information that Tenant gives Landlord and is clearly marked or designated by Tenant as "Confidential." Notwithstanding the foregoing, confidential information under this Section may be released by Landlord or Tenant under the following circumstances: (w) if required by Applicable Laws or in any judicial proceeding; provided that the releasing party has given the other party reasonable notice of such requirement, if feasible, (x) to a party's attorneys, accountants, brokers, lenders, potential lenders, investors, potential investors, purchasers, potential purchasers and other bona fide consultants or advisers (with respect to this Lease and any Lease-related document only); provided such third parties agree to be bound by this Section, (y) to a party's lenders for purposes of financial reporting or (z) to bona fide prospective assignees or subtenants of this Lease; provided they agree in writing to be bound by this Section.

39. Notices. Except as otherwise stated in this Lease, any notice, consent, demand, invoice, statement or other communication required or permitted to be given hereunder shall be in writing and shall be given by (a) personal delivery, (b) overnight delivery with a reputable international overnight delivery service, such as FedEx, or (c) email transmission to an email address designated by Tenant (as of the Execution Date, the Tenant designated email for purposes of this provision

shall be finance@codexdna.com), so long as such transmission is followed within one (1) business day by delivery utilizing one of the methods described in Subsection 39(a) or (b), provided that, for purposes of this Subsection 39(c), if delivery utilizing one of the other methods described in Subsection 39(a) or (b) is not reasonably practicable due to an event of Force Majeure (as defined below), then such requirement shall be waived for deliveries by email transmission so long as either the receiving party responds to the sending party confirming receipt of the applicable email transmission, or the sending party receives other electronic confirmation that the email transmission was received and read by the receiving party, such as a "read receipt" notice. Any such notice, consent, demand, invoice, statement or other communication shall be deemed delivered (x) upon receipt, if given in accordance with Subsection 39(a); (y) one (1) business day after deposit with a reputable international overnight delivery service, if given in accordance with Subsection 39(b); or (z) upon transmission, if given in accordance with Subsection 39(c). Except as otherwise stated in this Lease, any notice, consent, demand, invoice, statement or other communication required or permitted to be given pursuant to this Lease shall be addressed to Tenant at the Premises, or to Landlord or Tenant at the addresses shown in Sections 2.9 and 2.10 or 2.11, respectively. Either party may, by notice to the other given pursuant to this Section, specify additional or different addresses for notice purposes.

40. Miscellaneous.

40.1. Landlord reserves the right to change the name of a Building or the Project in its sole discretion.

40.2. To induce Landlord to enter into this Lease, Tenant agrees that it shall furnish to Landlord, from time to time, within ten (10) business days after receipt of Landlord's written request, the most recent year-end unconsolidated financial statements reflecting Tenant's current financial condition audited by a nationally recognized accounting firm (and if unconsolidated financial statements are not prepared by Tenant, then Tenant may provide consolidated financial statements together with a certified statement from Tenant's Chief Financial Officer or another financial officer of Tenant identifying which portions of the consolidated financial statements reflect Tenant's financial condition in sufficient detail that Landlord can determine Tenant's financial condition). Tenant shall, from time to time upon request from Landlord, furnish Landlord with a certified copy of Tenant's year-end unconsolidated financial statements for the previous year audited by a nationally recognized accounting firm (and if unconsolidated financial statements are not prepared by Tenant, then Tenant may provide consolidated financial statements together with a certified statement from Tenant's Chief Financial Officer or another financial officer of Tenant identifying which portions of the consolidated financial statements reflect Tenant's financial condition in sufficient detail that Landlord can determine Tenant's financial condition). Tenant represents and warrants that all financial statements, records and information furnished by Tenant to Landlord in connection with this Lease are true, correct and complete in all respects as of the date provided. Notwithstanding the foregoing, if audited financials are not otherwise prepared, unaudited financials complying with generally accepted accounting principles and certified by the chief financial officer or chief executive officer of Tenant as true, correct and complete in all respects shall suffice for purposes of this Section. The provisions of this Section shall not apply at any time while Tenant is a corporation whose shares are traded on any nationally recognized stock exchange.

40.3. Submission of this instrument for examination or signature by Tenant does not constitute a reservation of or option for a lease, and shall not be effective as a lease or otherwise until execution by and delivery to both Landlord and Tenant.

40.4. The terms of this Lease are intended by the parties as a final, complete and exclusive expression of their agreement with respect to the terms that are included herein, and may not be contradicted or supplemented by evidence of any other prior or contemporaneous agreement.

40.5. Landlord may, but shall not be obligated to, record a short form or memorandum hereof without Tenant's consent. Within ten (10) days after receipt of written request from Landlord, Tenant shall execute a termination of any short form or memorandum of lease recorded with respect hereto. Landlord shall be responsible for the cost of recording any short form or memorandum of this Lease requested by Landlord, including any transfer or other taxes incurred in connection with such recordation. Neither party shall record this Lease.

40.6. Where applicable in this Lease, the singular includes the plural and the masculine or neuter includes the masculine, feminine and neuter. The words "include," "includes," "included" and "including" mean "'include,' etc., without limitation." The word "shall" is mandatory and the word "may" is permissive. The word "business day" means a calendar day other than any national or local holiday on which federal government agencies in the County of San Diego are closed for business, or any weekend. The section headings of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part of this Lease. Landlord and Tenant have each participated in the drafting and negotiation of this Lease, and the language in all parts of this Lease shall be in all cases construed as a whole according to its fair meaning and not strictly for or against either Landlord or Tenant.

40.7. Except as otherwise expressly set forth in this Lease, each party shall pay its own costs and expenses incurred in connection with this Lease and such party's performance under this Lease; provided that, if either party commences an action, proceeding, demand, claim, action, cause of action or suit against the other party arising from or in connection with this Lease, then the substantially prevailing party shall be reimbursed by the other party for all reasonable costs and expenses, including reasonable attorneys' fees and expenses, incurred by the substantially prevailing party in such action, proceeding, demand, claim, action, cause of action or suit, and in any appeal in connection therewith (regardless of whether the applicable action, proceeding, demand, claim, action, cause of action, suit or appeal is voluntarily withdrawn or dismissed). In addition, Landlord shall, upon demand, be entitled to all reasonable attorneys' fees and all other reasonable costs incurred in the preparation and service of any notice of default or demand for performance hereunder, regardless of whether a legal action is subsequently commenced, or incurred in connection with any contested matter or other proceeding in bankruptcy court concerning this Lease.

40.8. Time is of the essence with respect to the performance of every provision of this Lease.

40.9. Each provision of this Lease performable by Tenant shall be deemed both a covenant and a condition.

40.10. Notwithstanding anything to the contrary contained in this Lease, Tenant's obligations under this Lease are independent and shall not be conditioned upon performance by Landlord.

40.11. Any provision of this Lease that shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision hereof, and all other provisions of this Lease shall remain in full force and effect and shall be interpreted as if the invalid, void or illegal provision did not exist.

40.12. Each of the covenants, conditions and agreements herein contained shall inure to the benefit of and shall apply to and be binding upon the parties hereto and their respective heirs; legatees; devisees; executors; administrators; and permitted successors and assigns. This Lease is for the sole benefit of the parties and their respective heirs, legatees, devisees, executors, administrators and permitted successors and assigns, and nothing in this Lease shall give or be construed to give any other person or entity any legal or equitable rights. Nothing in this Section shall in any way alter the provisions of this Lease restricting assignment or subletting.

40.13. This Lease shall be governed by, construed and enforced in accordance with the laws of the state in which the Premises are located, without regard to such state's conflict of law principles.

40.14. Tenant guarantees, warrants and represents that the individual or individuals signing this Lease on its behalf have the power, authority and legal capacity to sign this Lease on behalf of and to bind all entities, corporations, partnerships, limited liability companies, joint venturers or other organizations and entities on whose behalf such individual or individuals have signed.

40.15. This Lease may be executed in one or more counterparts, each of which, when taken together, shall constitute one and the same document.

40.16. No provision of this Lease may be modified, amended or supplemented except by an agreement in writing signed by Landlord and Tenant.

40.17. No waiver of any term, covenant or condition of this Lease shall be binding upon Landlord unless executed in writing by Landlord. The waiver by Landlord of any breach or default of any term, covenant or condition contained in this Lease shall not be deemed to be a waiver of any preceding or subsequent breach or default of such term, covenant or condition or any other term, covenant or condition of this Lease.

40.18. To the extent permitted by Applicable Laws, the parties waive trial by jury in any action, proceeding or counterclaim brought by the other party hereto related to matters arising from or in any way connected with this Lease; the relationship between Landlord and Tenant; Tenant's use or occupancy of the Premises; or any claim of injury or damage related to this Lease or the Premises.

40.19. A facsimile, electronic or portable document format (PDF) signature on this Lease or any other document required or permitted by this Lease to be delivered by Landlord or Tenant shall be equivalent to, and have the same force and effect as, an original signature.

40.20. For purposes of this Lease, "Force Majeure" means accidents; breakage; casualties (to the extent not caused by the party claiming Force Majeure); Severe Weather Conditions (as defined below); physical natural disasters (but excluding weather conditions that are not Severe Weather Conditions); strikes, lockouts or other labor disturbances or labor disputes (other than labor disturbances and labor disputes resulting solely from the acts or omissions of the party claiming Force Majeure); acts of terrorism; riots or civil disturbances; wars or insurrections; shortages of materials (which shortages are not unique to the party claiming Force Majeure); regulations, moratoria or other actions, inactions or delays by Governmental Authorities; failures by third parties to deliver gas, oil or another suitable fuel supply, or inability of the party claiming Force Majeure, by exercise of reasonable diligence, to obtain gas, oil or another suitable fuel; or other causes beyond the reasonable control of the party claiming that Force Majeure has occurred. "Severe Weather Conditions" means weather conditions that are materially worse than those that would be reasonably anticipated for the Property at the applicable time based on historic meteorological records.

40.21. Whenever consent or approval of either party is required, that party shall not unreasonably withhold, condition or delay such consent or approval, except as may be expressly set forth to the contrary.

41. Waples Lease. Landlord's affiliate, BMR Waples LP ("BMR-Waples"), and Tenant are parties to that certain Lease dated as of April 2, 2019 (as amended, the "Waples Lease"). On or about the Execution Date, BMR-Waples and Tenant shall enter into an amendment to the Waples Lease in the form attached hereto as Exhibit G.

42. Option to Extend Term. Tenant shall have the option ("Option") to extend the Term by five (5) years as to the entire Premises (and no less than the entire Premises) upon the following terms and conditions. Any extension of the Term pursuant to the Option shall be on all the same terms and conditions as this Lease, except as follows:

42.1. Base Rent during the Option term shall equal the then-current fair market value for comparable office and laboratory space in the Sorrento Mesa submarket of comparable age, quality, level of finish and proximity to amenities and public transit, and containing the systems and improvements present in the Premises as of the date that Tenant gives Landlord written notice of Tenant's election to exercise the Option ("FMV"). For purposes of clarity, FMV will include a starting Base Rent for the Option term and annual increases in Base Rent throughout the Option term (both of which shall be determined as part of FMV in accordance with the provisions of Article 42). Tenant may, no more than nine (9) months prior to the date the Term is then scheduled to expire, request Landlord's estimate of the FMV for the Option term. Landlord shall, within fifteen (15) days after receipt of such request, give Tenant a written proposal of such FMV. If Tenant gives written notice to exercise the Option, such notice shall specify whether Tenant accepts Landlord's proposed estimate of FMV. If Tenant does not accept the FMV, then the parties shall endeavor to agree upon the FMV, taking into account all relevant factors, including (a) the size of the Premises, (b) the length of the Option term, (c) rent in comparable buildings in the relevant submarket, including concessions offered to new tenants (as compared to those offered to Tenant), such as free rent, tenant improvement allowances and moving allowances, (d) Tenant's creditworthiness and (e) the quality and location of the Building and the Project. In the event that the parties are unable to agree upon the FMV within thirty (30) days after Tenant notifies Landlord

that Tenant is exercising the Option, then either party may request that the same be determined as follows: a senior officer of a nationally recognized leasing brokerage firm with local knowledge of the Sorrento Mesa laboratory/research and development leasing submarket (the "Baseball Arbitrator") shall be selected and paid for jointly by Landlord and Tenant. If Landlord and Tenant are unable to agree upon the Baseball Arbitrator, then the same shall be designated by the local chapter of the Judicial Arbitration and Mediation Services or any successor organization thereto (the "JAMS"). The Baseball Arbitrator selected by the parties or designated by JAMS shall (y) have at least ten (10) years' experience in the leasing of laboratory/research and development space in the Sorrento Mesa submarket and (z) not have been employed or retained by either Landlord or Tenant or any affiliate of either for a period of at least ten (10) years prior to appointment pursuant hereto. Each of Landlord and Tenant shall submit to the Baseball Arbitrator and to the other party its determination of the FMV. The Baseball Arbitrator shall grant to Landlord and Tenant a hearing and the right to submit evidence. The Baseball Arbitrator shall determine which of the two (2) FMV determinations more closely represents the actual FMV. The arbitrator may not select any other FMV for the Premises other than one submitted by Landlord or Tenant. The FMV selected by the Baseball Arbitrator shall be binding upon Landlord and Tenant and shall serve as the basis for determination of Base Rent payable for the Option term. If, as of the commencement date of the Option term, the amount of Base Rent payable during the Option term shall not have been determined, then, pending such determination, Tenant shall pay Base Rent equal to the Base Rent payable with respect to the last year of the then-current Term. After the final determination of Base Rent payable for the Option term, the parties shall promptly execute a written amendment to this Lease specifying the amount of Base Rent to be paid during the Option term. Any failure of the parties to execute such amendment shall not affect the validity of the FMV determined pursuant to this Section.

42.2. The Option is not assignable separate and apart from this Lease.

42.3. The Option is conditional upon Tenant giving Landlord written notice of its election to exercise the Option at six (6) months prior to the end of the expiration of the then-current Term. Time shall be of the essence as to Tenant's exercise of the Option. Tenant assumes full responsibility for maintaining a record of the deadlines to exercise the Option. Tenant acknowledges that it would be inequitable to require Landlord to accept any exercise of the Option after the date provided for in this Section.

42.4. Notwithstanding anything contained in this Article to the contrary, Tenant shall not have the right to exercise the Option:

(a) During the time commencing from the date Landlord delivers to Tenant a written notice that Tenant is in default under any provisions of this Lease and continuing until Tenant has cured the specified default to Landlord's reasonable satisfaction; or

(b) At any time after any Default as described in Article 31 of the Lease and continuing until Tenant cures any such Default, if such Default is susceptible to being cured; or

(c) In the event that Tenant has Defaulted in the performance of its monetary or material non-monetary obligations under this Lease three (3) or more times during the twelve

(12)-month period immediately prior to the date that Tenant intends to exercise the Option, whether or not Tenant has cured such Defaults.

42.5. The period of time within which Tenant may exercise the Option shall not be extended or enlarged by reason of Tenant's inability to exercise such Option because of the provisions of Section 42.4.

42.6. All of Tenant's rights under the provisions of the Option shall terminate and be of no further force or effect even after Tenant's due and timely exercise of the Option if, after such exercise, but prior to the commencement date of the new term, (a) Tenant fails to pay to Landlord a monetary obligation of Tenant for a period of twenty (20) days after written notice from Landlord to Tenant, (b) Tenant fails to commence to cure a default (other than a monetary default) within thirty (30) days after the date Landlord gives notice to Tenant of such default or (c) Tenant has Defaulted under this Lease three (3) or more times and a service or late charge under Section 31.1 has become payable for any such Default, whether or not Tenant has cured such Defaults.

43. Right of First Offer. For so long as Tenant leases and personally occupies the entire Premises, and subject to any other parties' pre-existing rights with respect to Available ROFO Premises (as defined below), Tenant shall have a right of first offer ("ROFO") as to any rentable premises in the 10431 Building depicted and described on Exhibit J attached hereto, in each case for which Landlord is seeking a tenant ("Available ROFO Premises"); provided, however, that in no event shall Landlord be required to lease any Available ROFO Premises to Tenant for any period past the date on which this Lease expires or is terminated pursuant to its terms. To the extent that Landlord renews or extends a then-existing lease with any then-existing tenant or subtenant of any space, or enters into a new lease with such then-existing tenant or subtenant for the same premises, the affected space shall not be deemed to be Available ROFO Premises. In the event Landlord intends to market Available ROFO Premises, Landlord shall provide written notice thereof to Tenant (the "Notice of Marketing"), which shall include the following information: (a) the suite number of the Available ROFO Premises, (b) the Rentable Area of the Available ROFO Premises, (c) the estimated date that Landlord anticipates receiving possession of the Available ROFO Premises, and (d) Landlord's proposed economics for a lease of the Available ROFO Premises (including base rent, tenant improvement allowance and term), which shall be based upon Landlord's determination of market rent for the Available ROFO Premises.

43.1. Within five (5) business days following its receipt of a Notice of Marketing, Tenant shall either (i) advise Landlord in writing that Tenant elects to lease all (not just a portion) of the Available ROFO Premises on the terms and conditions set forth in the Notice of Marketing, (ii) submit a "Tenant's Offer" as set forth in Section 43.2 below with regard to all (not just a portion) of the Available ROFO Premises or (iii) elect not to lease the Available ROFO Premises. If Tenant fails to notify Landlord of Tenant's election within such five (5) business day period, then Tenant shall be deemed to have elected not to lease the Available ROFO Premises. If Tenant notifies Landlord that it elects to lease all of the Available ROFO Premises on the terms and conditions set forth in the Notice of Marketing, Landlord shall prepare an amendment adding such Available ROFO Premises to the Premises on the terms and conditions in the Notice of Marketing and otherwise on the non-economic terms and conditions of this Lease. Tenant will execute such amendment within five (5) business days of Tenant's receipt of such amendment; provided that

execution of such amendment will not be a condition to the effectiveness of Tenant's lease of the Available ROFO Premises.

43.2. If Tenant timely notifies Landlord that Tenant desires to lease all of the Available ROFO Premises, but specifies terms and conditions other than as set forth in the Notice of Marketing ("Tenant's Offer") (provided that Tenant shall be required to lease the Available ROFO Premises for at least the remainder of the then-current Term), then Landlord shall have five (5) business days after receipt of Tenant's Offer to respond to Tenant in writing whether Landlord elects to lease the Available ROFO Premises to Tenant on the terms and conditions set forth in Tenant's Offer. If Tenant timely delivers Tenant's Offer and Landlord elects to lease the Available ROFO Premises to Tenant on the terms and conditions set forth in Tenant's Offer, then Landlord shall lease the Available ROFO Premises to Tenant upon the terms and conditions set forth in Tenant's Offer.

43.3. If (a) Tenant notifies Landlord that Tenant elects not to lease the Available ROFO Premises, (b) Tenant fails to notify Landlord of Tenant's election within the five (5) business day period described above or (c) Landlord declines to lease the Available ROFO Premises to Tenant on the terms and conditions set forth in Tenant's Offer, then Tenant's ROFO with respect to such Available ROFO Premises shall be extinguished, void and of no further force or effect, and Landlord shall have the right to consummate a lease of such Available ROFO Premises with any other third party on any terms that Landlord desires.

43.4. Notwithstanding anything in this Article to the contrary, Tenant shall not exercise the ROFO during such period of time that Tenant is in default under any provision of this Lease. Any attempted exercise of the ROFO during a period of time in which Tenant is so in default shall be void and of no effect. In addition, Tenant shall not be entitled to exercise the ROFO if Landlord has given Tenant three (3) or more notices of default under this Lease, whether or not the defaults are cured, during the twelve (12) month period prior to the date on which Tenant seeks to exercise the ROFO.

43.5. Notwithstanding anything in this Lease to the contrary, Tenant shall not assign or transfer the ROFO (other than in connection with an assignment of the entire interest of the original Tenant named herein pursuant to an Exempt Transfer), either separately or in conjunction with an assignment or transfer of Tenant's interest in the Lease, without Landlord's prior written consent, which consent Landlord may withhold in its sole and absolute discretion.

43.6. If Tenant exercises the ROFO, Landlord does not guarantee that the Available ROFO Premises will be available on the anticipated commencement date for the Lease as to such Premises due to a holdover by the then-existing occupants of the Available ROFO Premises or for any other reason beyond Landlord's reasonable control.

43.7. Notwithstanding anything in this Lease to the contrary, the ROFO shall expire on the date that is one hundred seventeen (117) months following the date which is the later of the 10431 Premises Commencement Date or the 10421 Premises Commencement Date.

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IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date first above written.

LANDLORD:

BRE-BMR WATERIDGE POINTE LP,
a Delaware limited partnership

By: Marie Lewis
Name: Marie Lewis
Title: Senior Vice President, Legal and Assistant Secretary

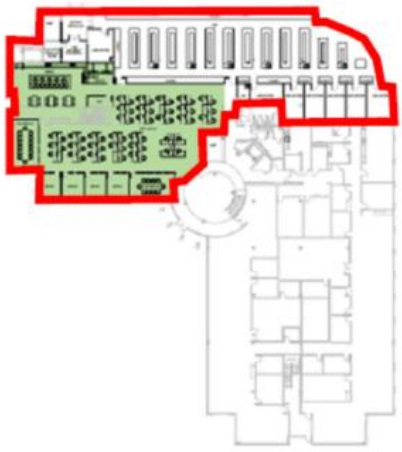
TENANT:

CODEX DNA, INC.,
a Delaware corporation

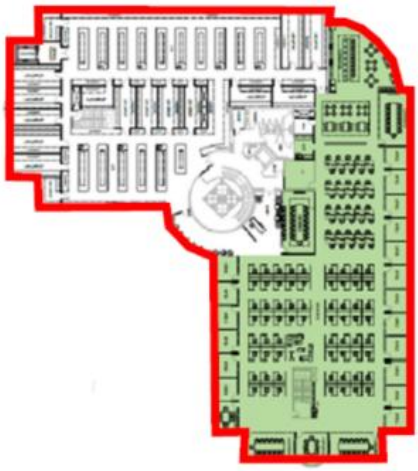
By: Jennifer McNeely
Name: Jennifer McNeely
Title: CFO

EXHIBIT A

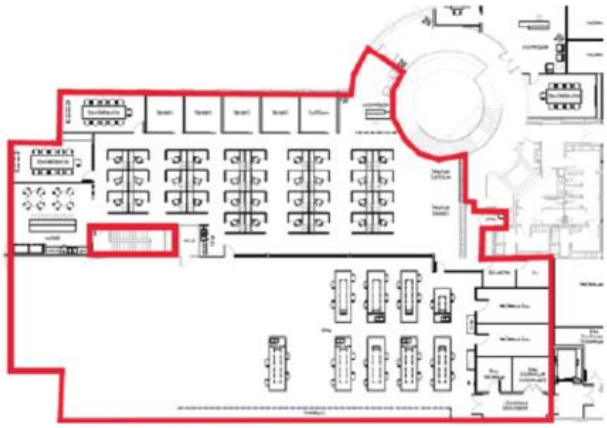
PREMISES



Suite 150 of 10431 Building
*Depicted improvements are conceptual and not included



Suite 200 of 10431 Building
*Depicted improvements are conceptual and not included



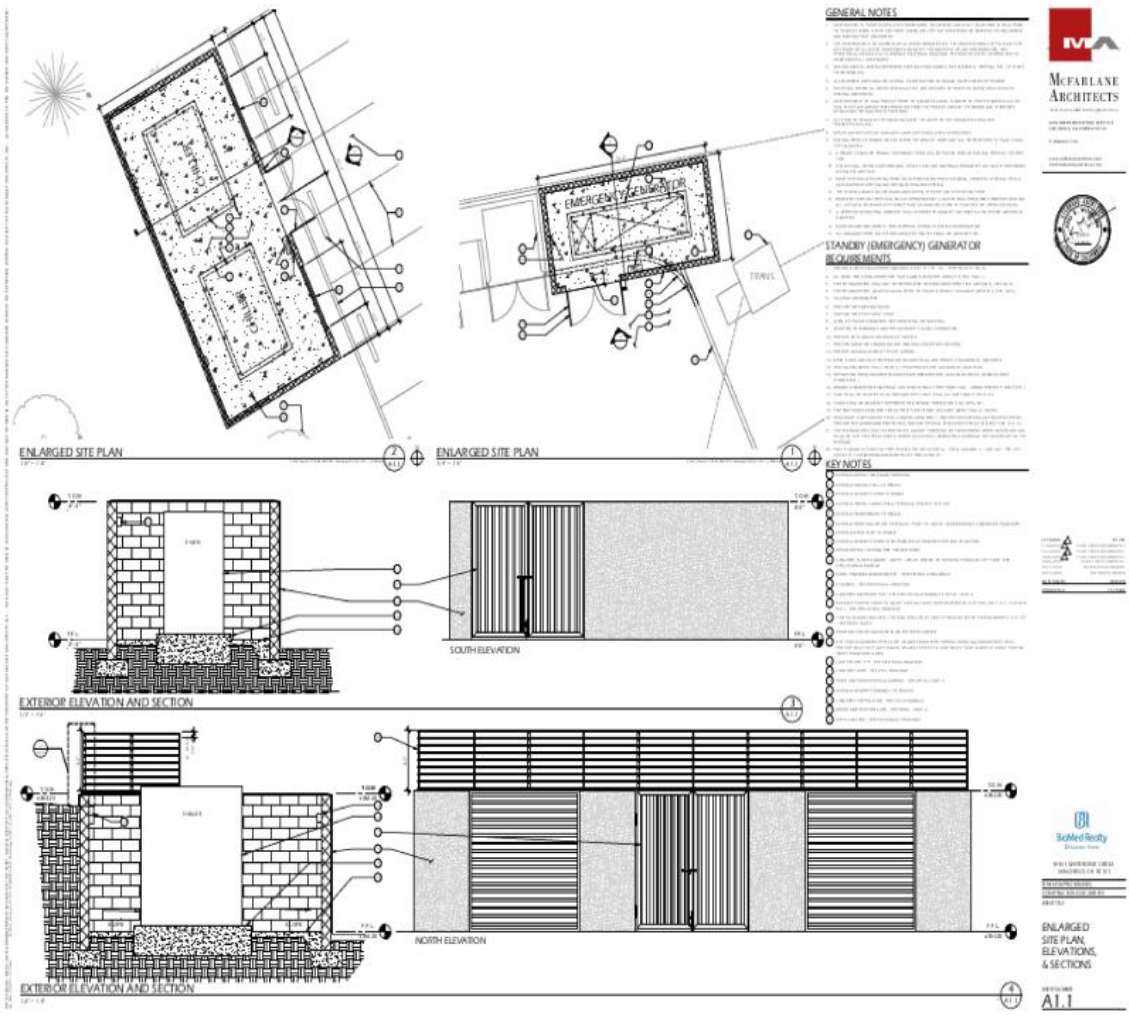
Suite 200 of 10421 Building
*Depicted improvements are conceptual and not included

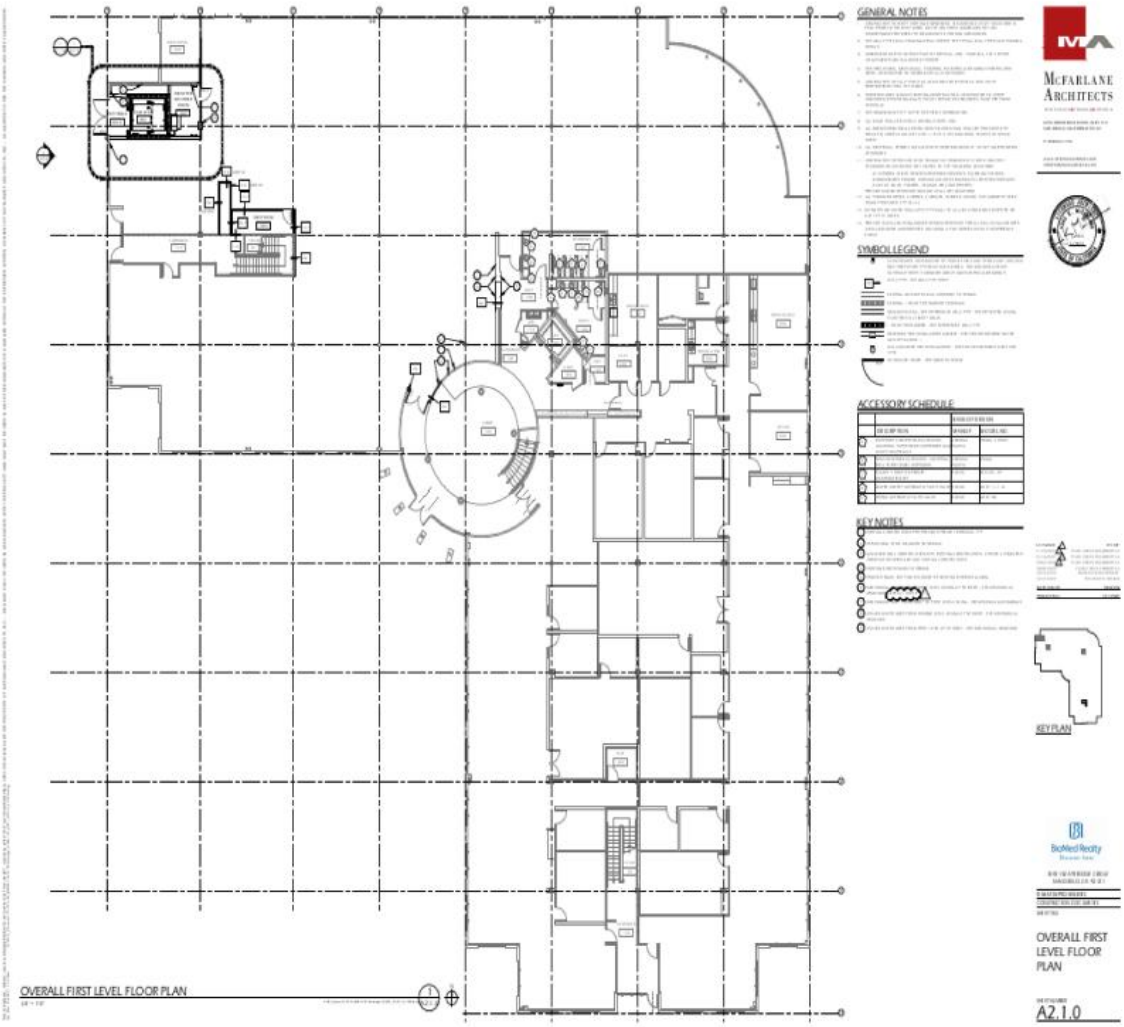
=Premises

EXHIBIT A-1

10431 LANDLORD WORK

10431 Building:

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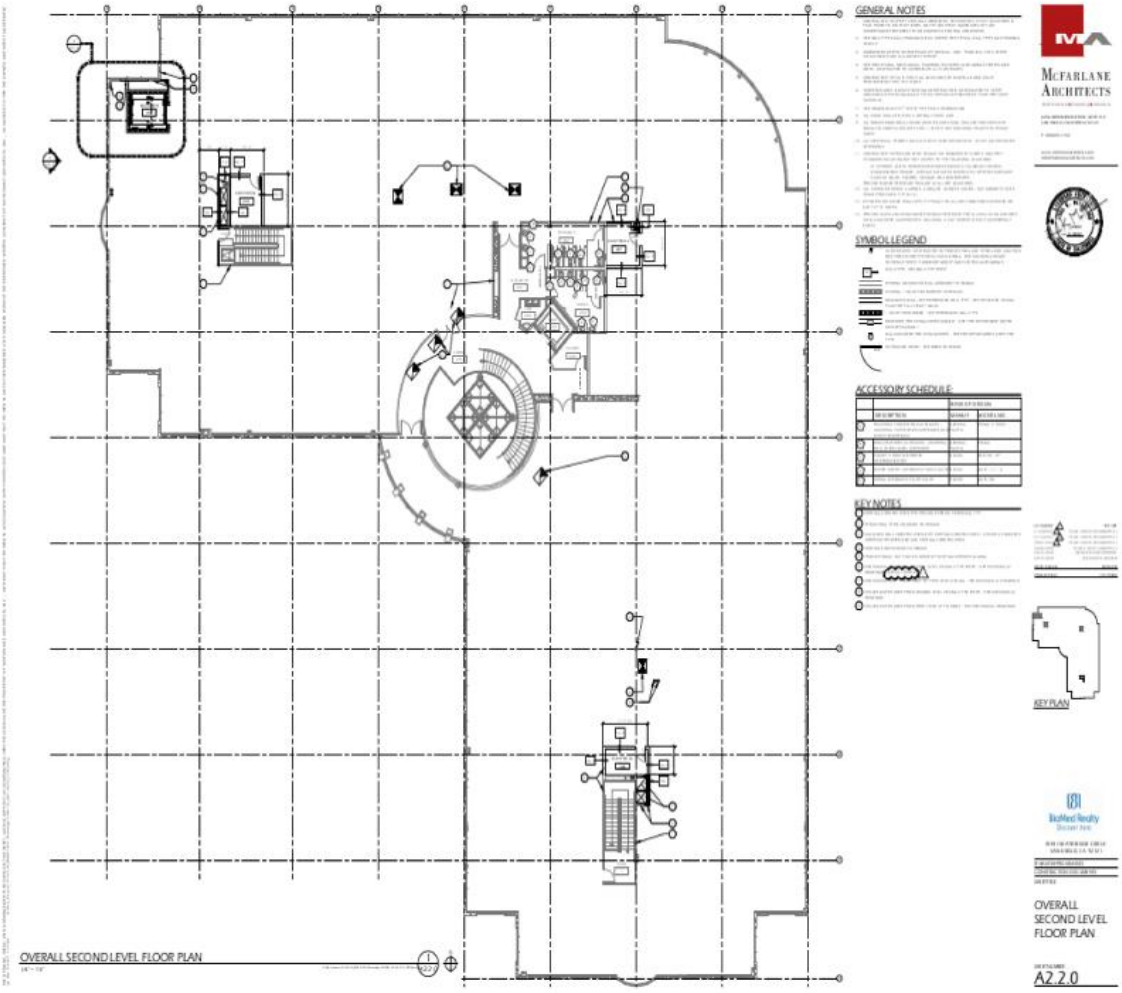
ACCESSORY SCHEDULE
KEY NOTES
KEY PLAN
OVERALL FIRST LEVEL FLOOR PLAN
McFARLANE ARCHITECTS
BioMed Realty
OVERALL FIRST LEVEL FLOOR PLAN
A2.1.0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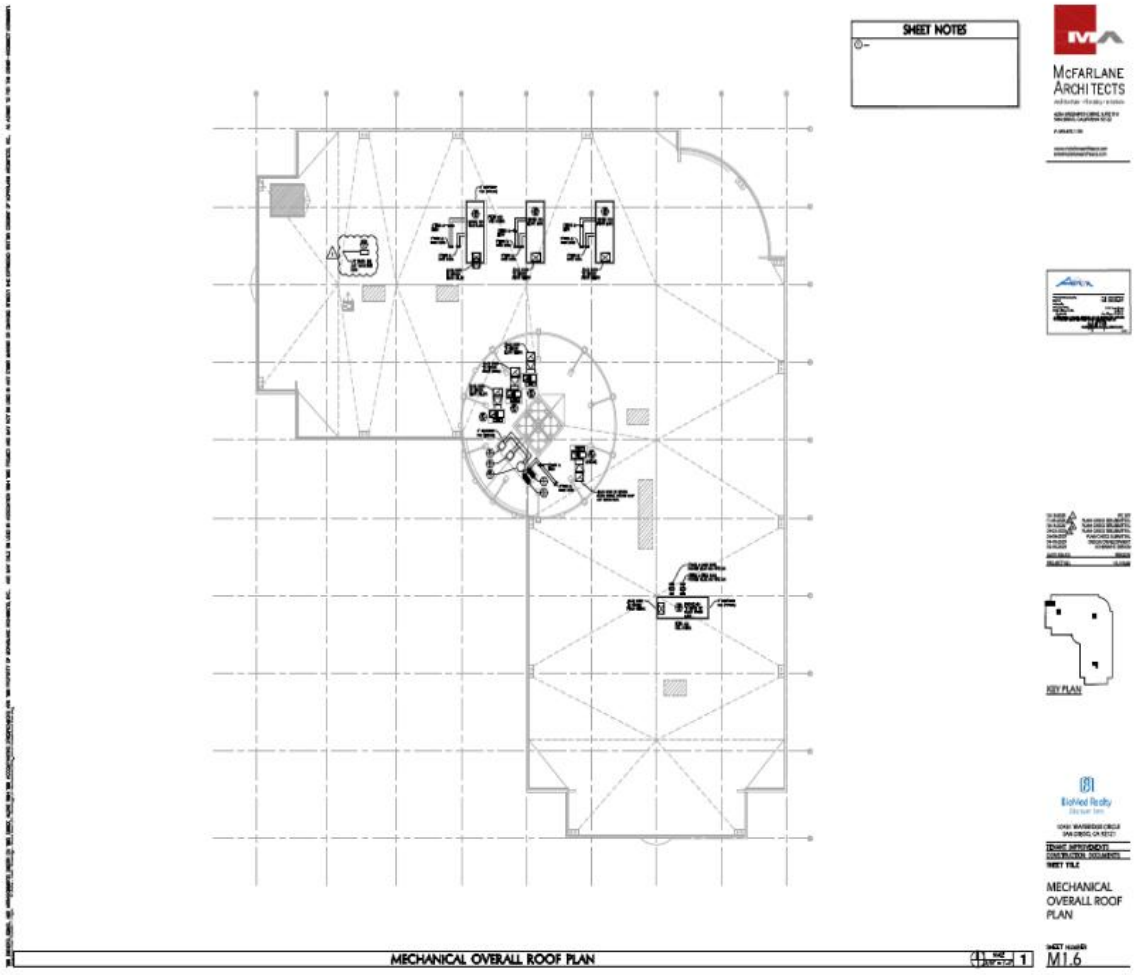
A2.2.0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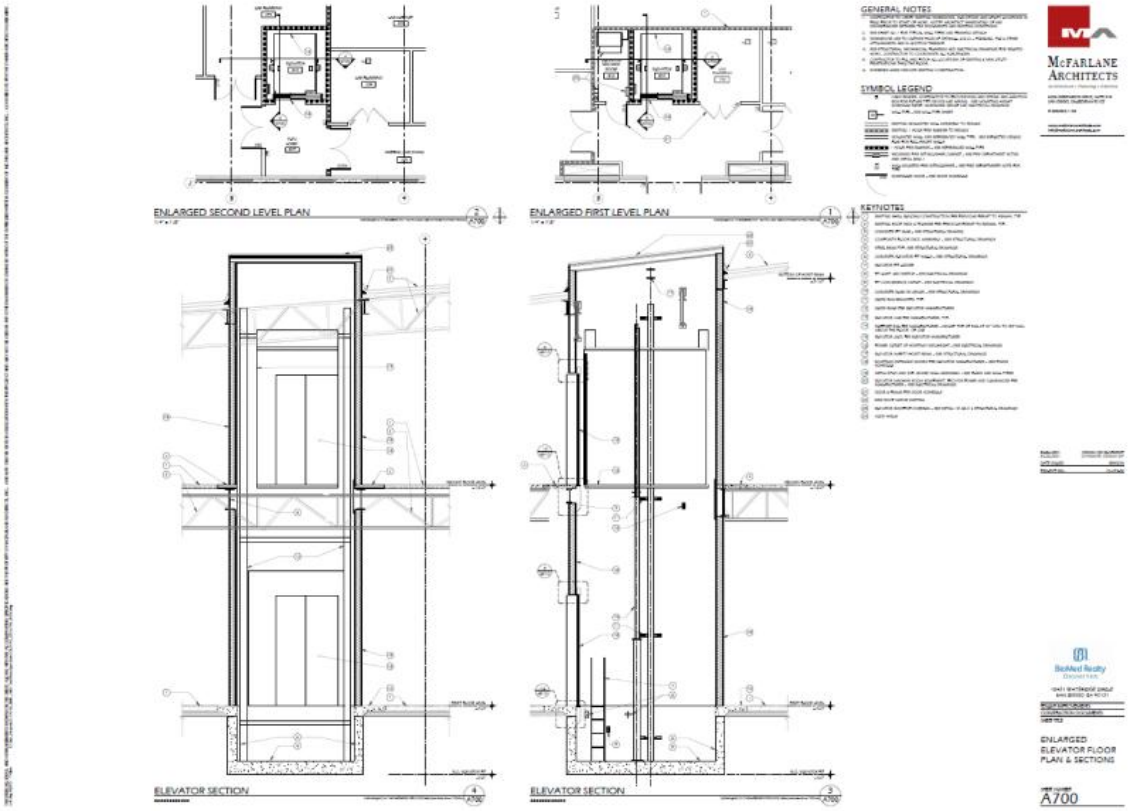
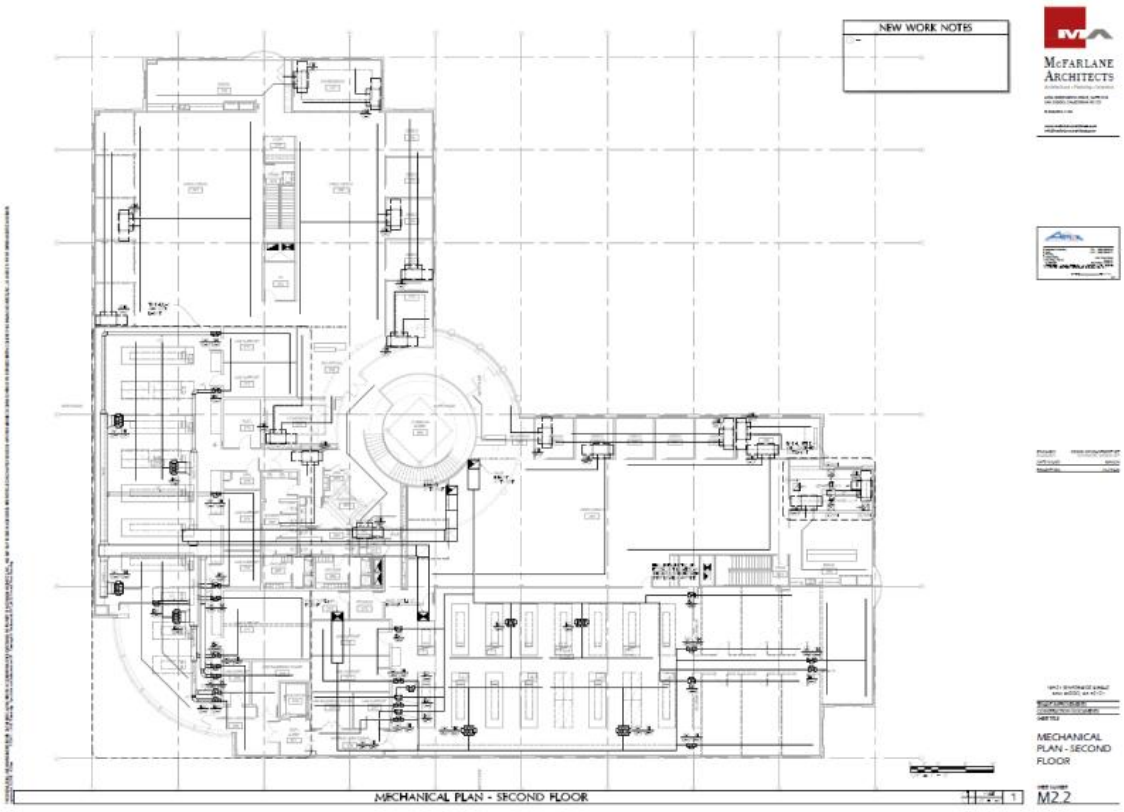
MCFARLANE ARCHITECTS
KEY PLAN
MECHANICAL OVERALL ROOF PLAN
MECHANICAL OVERALL ROOF PLAN
M1.6

EXHIBIT A-2

10421 LANDLORD WORK

10421 Building:

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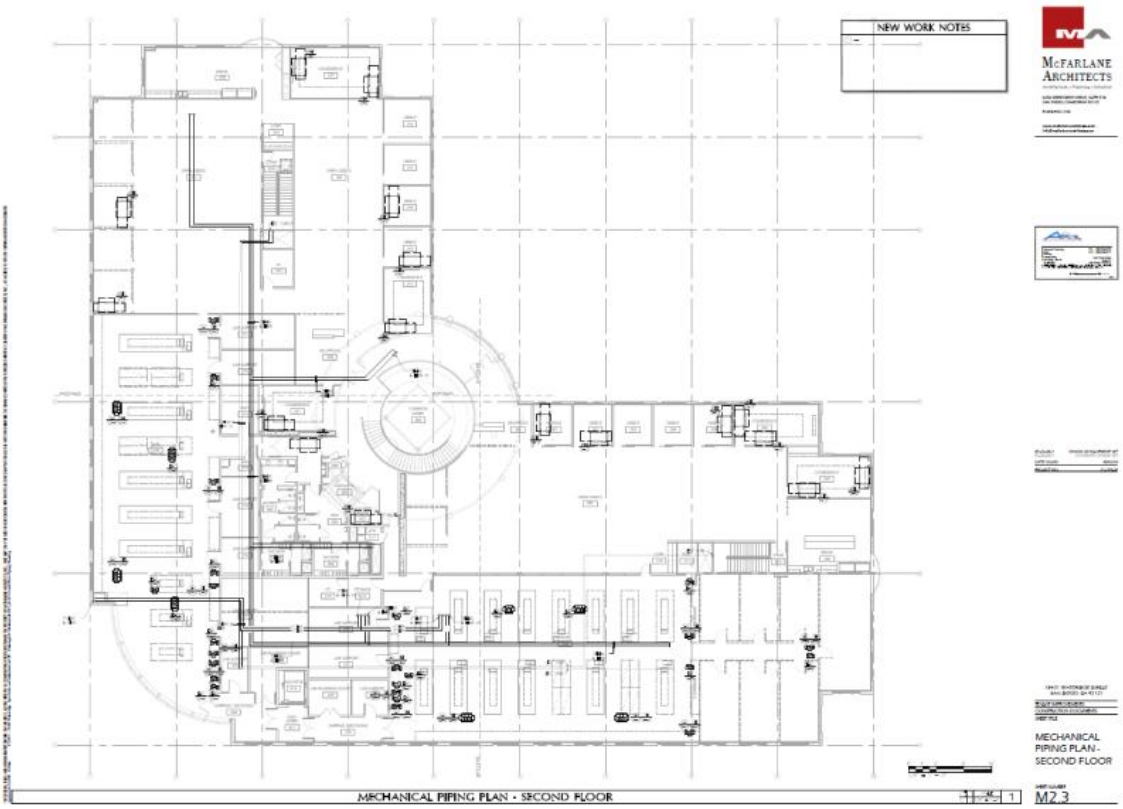
MECHANICAL PLAN - SECOND FLOOR
M2.2
MECHANICAL PLAN - SECOND FLOOR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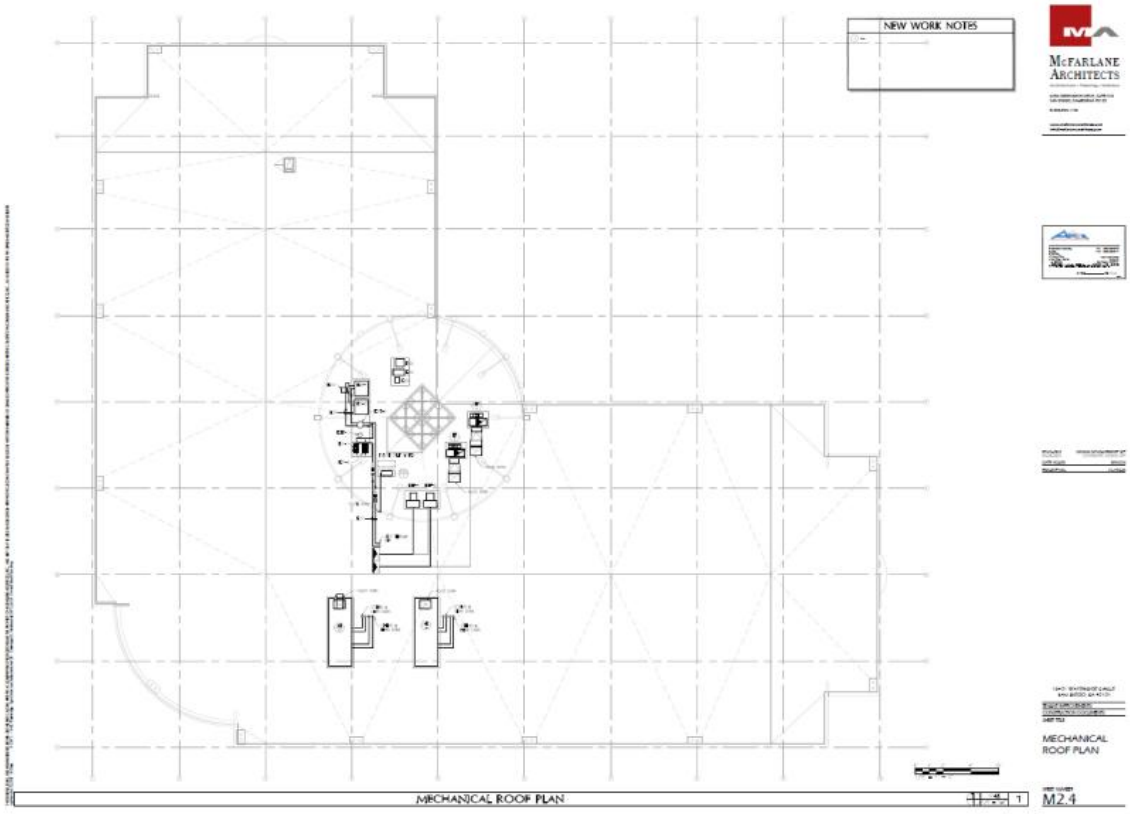
M2.3
MECHANICAL PIPING PLAN - SECOND FLOOR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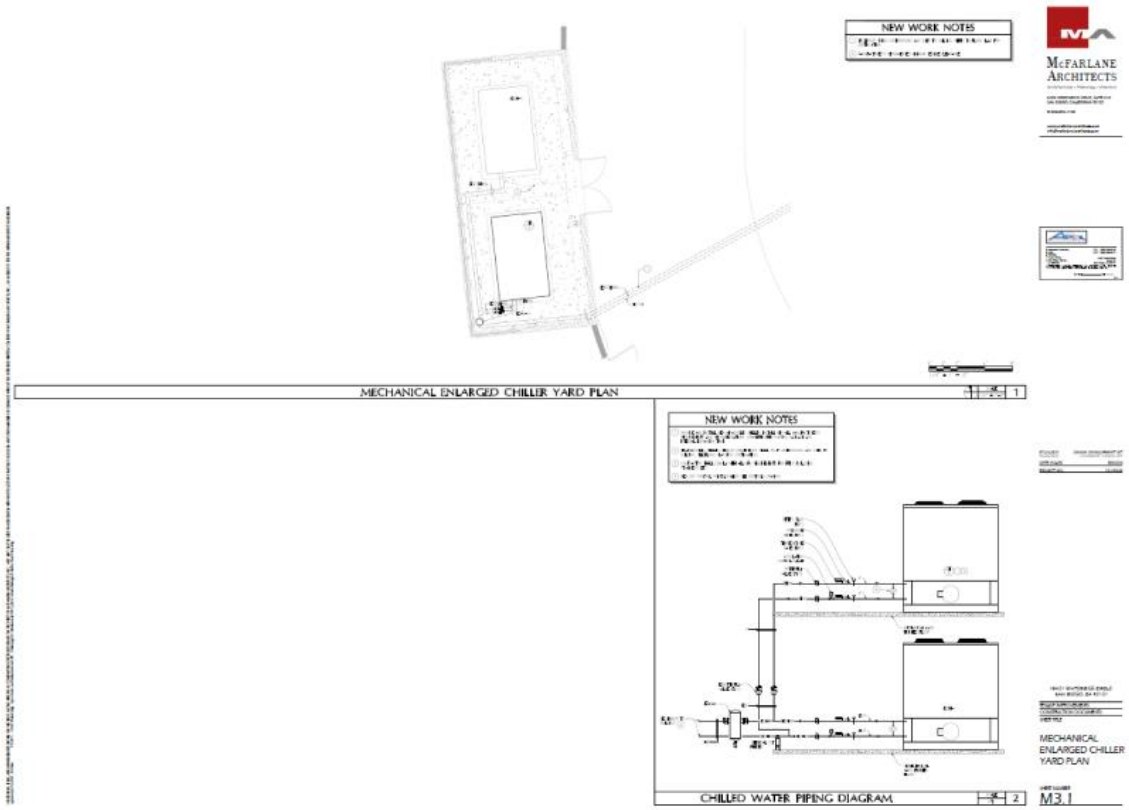
MECHANICAL ROOF PLAN
M2.4
MECHANICAL ROOF PLAN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MCFARLANE ARCHITECTS
MECHANICAL ENLARGED CHILLER YARD PLAN
1
NEW WORK NOTES
CHILLED WATER PIPING DIAGRAM
2
MECHANICAL ENLARGED CHILLER YARD PLAN
M3.1

EXHIBIT B

WORK LETTER

This Work Letter (this "Work Letter") is made and entered into as of the 29th day of September, 2021, by and between BRE-BMR WATERIDGE POINTE LP, a Delaware limited partnership ("Landlord"), and CODEX DNA, INC., a Delaware corporation ("Tenant"), and is attached to and made a part of that certain Lease dated as of even date herewith (as the same may be amended, amended and restated, supplemented or otherwise modified from time to time, the "Lease"), by and between Landlord and Tenant for the Premises located at 10421 and 10431 Wateridge Circle, San Diego, California. All capitalized terms used but not otherwise defined herein shall have the meanings given them in the Lease.

Landlord and Tenant hereby acknowledge that the Tenant Improvements may be constructed in phases, with one phase being the 10431 Tenant Improvements and the other phase being the 10421 Tenant Improvements. The two phases of the Tenant Improvements may be Substantially Completed at different times. Notwithstanding the phasing of the Tenant Improvements, the terms and conditions of this Work Letter will apply to all of the Tenant Improvements in the entire Premises.

1. General Requirements.

1.1. Authorized Representatives.

(a) Landlord designates, as Landlord's authorized representative ("Landlord's Authorized Representative"), (i) Chris Burrus as the person authorized to initial plans, drawings, approvals and to sign change orders pursuant to this Work Letter and (ii) an officer of Landlord as the person authorized to sign any amendments to this Work Letter or the Lease. Tenant shall not be obligated to respond to or act upon any such item until such item has been initialed or signed (as applicable) by the appropriate Landlord's Authorized Representative. Landlord may change either Landlord's Authorized Representative upon one (1) business day's prior written notice to Tenant.

(b) Tenant designates Tom Braden ("Tenant's Authorized Representative") as the person authorized to initial and sign all plans, drawings, change orders and approvals pursuant to this Work Letter. Landlord shall not be obligated to respond to or act upon any such item until such item has been initialed or signed (as applicable) by Tenant's Authorized Representative. Tenant may change Tenant's Authorized Representative upon one (1) business day's prior written notice to Landlord.

1.2. Schedule. The schedule for design and development of the Tenant Improvements, including the time periods for preparation and review of construction documents, approvals and performance, shall be in accordance with a schedule to be prepared by Landlord (the "Schedule"). The Schedule shall be subject to adjustment as mutually agreed upon in writing by the parties, or as otherwise provided in this Work Letter.

1.3. Landlord's Architects, Contractors and Consultants. The architect, engineering consultants, design team, general contractor and subcontractors responsible for the construction of the Tenant Improvements shall be selected by Landlord.

2. Tenant Improvements. All Tenant Improvements shall be performed by Landlord's contractor, at Tenant's sole cost and expense (subject to Landlord's obligations with respect to any portion of the Base TI Allowance and, if properly requested by Tenant pursuant to the terms of the Lease, the Additional TI Allowance used by Landlord in completing the Tenant Improvements, but subject to the last sentence of Section 4.7 of the Lease) and in substantial accordance with the Approved Plans (as defined below), the Lease and this Work Letter. To the extent that the total projected cost of the Tenant Improvements (as projected by Landlord) exceeds the TI Allowance (such excess, the "Excess TI Costs"), Tenant shall pay the costs of the Tenant Improvements on a pari passu basis with Landlord as such costs become due, in the proportion of Excess TI Costs payable by Tenant to the Base TI Allowance (and, if properly requested by Tenant pursuant to the Lease, the Additional TI Allowance) payable by Landlord. If the cost of the Tenant Improvements (as projected by Landlord) increases over Landlord's initial projection, then Landlord's and Tenant's respective pari passu shares shall be adjusted accordingly. If Tenant fails to pay, or is late in paying, any sum due to Landlord under this Work Letter, then Landlord shall have all of the rights and remedies set forth in the Lease for nonpayment of Rent (including the right to interest and the right to assess a late charge), and for purposes of any litigation instituted with regard to such amounts the same shall be considered Rent. All material and equipment furnished by Landlord or its contractors as the Tenant Improvements shall be new or "like new," and the Tenant Improvements shall be performed in a first-class, workmanlike manner and in compliance with Applicable Laws to the extent required by applicable Governmental Authorities as a condition to the issuance of a certificate of occupancy or its substantial equivalent (i.e., a final sign off on permits for the Tenant Improvements).

2.1. Work Plans. Landlord shall prepare and submit to Tenant for approval schematics covering the Tenant Improvements prepared in conformity with the applicable provisions of this Work Letter (the "Draft Schematic Plans"). The Draft Schematic Plans shall contain sufficient information and detail to accurately describe the proposed design to Tenant. Tenant shall notify Landlord in writing within five (5) business days after receipt of the Draft Schematic Plans whether Tenant approves or objects to the Draft Schematic Plans and of the manner, if any, in which the Draft Schematic Plans are unacceptable. Tenant's failure to respond within such five (5) business day period shall be deemed approval by Tenant. If Tenant reasonably objects to the Draft Schematic Plans, then Landlord shall revise the Draft Schematic Plans and cause Tenant's objections to be remedied in the revised Draft Schematic Plans. Landlord shall then resubmit the revised Draft Schematic Plans to Tenant for approval, such approval not to be unreasonably withheld, conditioned or delayed. Tenant's approval of or objection to revised Draft Schematic Plans and Landlord's correction of the same shall be in accordance with this Section until Tenant has approved the Draft Schematic Plans in writing or been deemed to have approved them. The iteration of the Draft Schematic Plans that is approved or deemed approved by Tenant without objection shall be referred to herein as the "Approved Schematic Plans." All references in the Lease to the "Approved Schematic Plans" shall mean (x) with respect to the 10431 Tenant Improvements, the portions of the Approved Schematic Plans related solely to the 10431 Tenant Improvements (also referred to in the Lease as, the "10431 Approved Schematic Plans"), and (z) with respect to the 10421 Tenant Improvements, the portions of the Approved Schematic Plans

related solely to the 10421 Tenant Improvements (also referred to in the Lease as, the "10421 Approved Schematic Plans").

2.2. Construction Plans. Landlord shall prepare final plans and specifications for the Tenant Improvements that (a) are consistent with and are logical evolutions of the Approved Schematic Plans and (b) incorporate any other Tenant-requested (and Landlord-approved) Changes (as defined below). As soon as such final plans and specifications ("Construction Plans") are completed, Landlord shall deliver the same to Tenant for Tenant's approval, which approval shall not be unreasonably withheld, conditioned or delayed. Such Construction Plans shall be approved or disapproved by Tenant within five (5) business days after delivery to Tenant. Tenant's failure to respond within such five (5) business day period shall be deemed approval by Tenant. If the Construction Plans are disapproved by Tenant, then Tenant shall notify Landlord in writing of its reasonable objections to such Construction Plans, and the parties shall confer and negotiate in good faith to reach agreement on the Construction Plans. Promptly after the Construction Plans are approved by Landlord and Tenant, two (2) copies of such Construction Plans shall be initialed and dated by Landlord and Tenant, and Landlord shall promptly submit such Construction Plans to all appropriate Governmental Authorities for approval. The Construction Plans so approved, and all change orders specifically permitted by this Work Letter, are referred to herein as the "Approved Plans." All references in the Lease to the "Approved Plans" shall mean (x) with respect to the 10431 Tenant Improvements, the portions of the Approved Plans related solely to the 10431 Tenant Improvements (also referred to in the Lease as, the "10431 Approved Plans"), and (z) with respect to the 10421 Tenant Improvements, the portions of the Approved Plans related solely to the 10421 Tenant Improvements (also referred to in the Lease as, the "10421 Approved Plans").

2.3. Changes to the Tenant Improvements. Any changes to the Approved Plans (each, a "Change") shall be requested and instituted in accordance with the provisions of this Article 2 and shall be subject to the written approval of the non-requesting party in accordance with this Work Letter.

(a) Change Request. Either Landlord or Tenant may request Changes after Tenant approves the Approved Plans by notifying the other party thereof in writing in substantially the same form as the AIA standard change order form (a "Change Request"), which Change Request shall detail the nature and extent of any requested Changes, including (a) the Change, (b) the party required to perform the Change and (c) any modification of the Approved Plans and the Schedule, as applicable, necessitated by the Change. If the nature of a Change requires revisions to the Approved Plans, then the requesting party shall be solely responsible for the cost and expense of such revisions and any increases in the cost of the Tenant Improvements as a result of such Change (subject to application of any available TI Allowance). Change Requests shall be signed by the requesting party's Authorized Representative.

(b) Approval of Changes. All Change Requests shall be subject to the other party's prior written approval, which approval shall not be unreasonably withheld, conditioned or delayed. The non-requesting party shall have five (5) business days after receipt of a Change Request to notify the requesting party in writing of the non-requesting party's decision either to approve or object to the Change Request. The non-requesting party's failure to respond within such five (5) business day period shall be deemed approval by the non-requesting party.

3. Requests for Consent. Except as otherwise provided in this Work Letter, Tenant shall respond to all requests for consents, approvals or directions made by Landlord pursuant to this Work Letter within five (5) business days following Tenant's receipt of such request. Tenant's failure to respond within such five (5) business day period shall be deemed approval by Tenant.

4. TI Allowance.

4.1. Application of TI Allowance. Landlord shall contribute the Base TI Allowance and, if properly requested by Tenant pursuant to the terms of the Lease, the Additional TI Allowance and any Excess TI Costs advanced by Tenant to Landlord toward the costs and expenses incurred in connection with the performance of the Tenant Improvements, in accordance with Article 4 of the Lease. If the entire TI Allowance is not applied toward or reserved for the costs of the Tenant Improvements, then Tenant shall not be entitled to a credit of such unused portion of the TI Allowance. If the entire Excess TI Costs advanced by Tenant to Landlord are not applied toward the costs of the Tenant Improvements, then Landlord shall promptly return such excess to Tenant following completion of the Tenant Improvements. Tenant may apply the Base TI Allowance and, if properly requested by Tenant pursuant to the terms of the Lease, the Additional TI Allowance for the payment of construction and other costs in accordance with the terms and provisions of the Lease.

4.2. Approval of Budget for the Tenant Improvements. Notwithstanding anything to the contrary set forth elsewhere in this Work Letter or the Lease, Landlord shall not have any obligation to expend any portion of the TI Allowance until Landlord and Tenant shall have approved in writing the budget for the Tenant Improvements (the "Approved Budget"). Prior to Landlord's approval of the Approved Budget, Tenant shall pay all of the costs and expenses incurred in connection with the Tenant Improvements as they become due. Tenant shall promptly reimburse Landlord for costs or expenses relating to the Tenant Improvements that exceed the amount of the TI Allowance, subject to the terms of the Lease and this Work Letter.

5. Miscellaneous.

5.1. Incorporation of Lease Provisions. Sections 40.6 through 40.19 of the Lease are incorporated into this Work Letter by reference, and shall apply to this Work Letter in the same way that they apply to the Lease.

5.2. General. Except as otherwise set forth in the Lease or this Work Letter, this Work Letter shall not apply to improvements performed in any additional premises added to the Premises at any time or from time to time, whether by any options under the Lease or otherwise; or to any portion of the Premises or any additions to the Premises in the event of a renewal or extension of the original Term, whether by any options under the Lease or otherwise, unless the Lease or any amendment or supplement to the Lease expressly provides that such additional premises are to be delivered to Tenant in the same condition as the initial Premises.

5.3. Progress Meetings. Upon Tenant's written request, Landlord's Authorized Representative shall conduct regular construction meetings with Tenant's Authorized Representative to keep Tenant updated on progress with respect to construction, timing and budget.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Work Letter to be effective on the date first above written.

LANDLORD:

BRE-BMR WATERIDGE POINTE LP,
a Delaware limited partnership

By: Marie Lewis
Name: Marie Lewis
Title: ~~Senior Vice President, Legal and Assistant Se~~cretary

TENANT:

CODEX DNA, INC.,
a Delaware corporation

By:
Name: Jennifer McNally
Title: CFO

EXHIBIT B-1

TENANT WORK INSURANCE SCHEDULE

1. Types of Coverage. Tenant shall maintain or cause Tenant's contractors performing construction or renovation work to maintain such insurance as shall protect it from the claims set forth below that may arise out of or result from any Tenant Work, whether such Tenant Work is completed by Tenant or by any Tenant contractors or by any person directly or indirectly employed by Tenant or any Tenant contractors, or by any person for whose acts Tenant or any Tenant contractors may be liable:

a. Commercial General Liability. Commercial general liability insurance written on the ISO form CG 00 01 or equivalent, including products and completed operations, on an occurrence basis. Such coverage shall apply to all Tenant Work done by Tenant's contractors and subcontractors of all tiers and provide insurance against personal injury, wrongful death, and property damage (other than to the Tenant Work itself). The policy shall include contractual liability coverage sufficient to address the obligations of the Lease and the Tenant Work. This insurance policy shall include Landlord Parties as additional insureds with endorsements equivalent to ISO CG 20 10 04/13 for ongoing operations, and to ISO CG 20 37 04/13 for completed operations. This policy shall be primary and noncontributory with respect to any other insurance available to an additional insured. The policy shall include endorsement ISO CG 24 04 or its equivalent, a waiver of subrogation in favor of the Landlord Parties. Tenant contractors' Commercial General Liability Insurance shall include premises/operations (including explosion, collapse and underground coverage if such Tenant Work involves any underground work), elevators, independent contractors, products and completed operations, and blanket contractual liability on all written contracts, all including broad form property damage coverage. Coverage for completed operations must be maintained through the applicable statue of repose period following completion of the Tenant Work.

b. Business Automobile Liability Insurance. Business Automobile Liability Insurance on an "occurrence" form covering any or all autos (including owned, hired, leased and non-owned vehicles) used by or on behalf of the insured, and providing insurance for bodily injury and property damage. The policy shall include coverage for loading and unloading activities. This policy shall include the Landlord Parties as additional insureds, with endorsements.

c. Workers' Compensation and Employer's Liability Insurance. For all operations, Workers' Compensation insurance in compliance with statutory limits for the Workers' Compensation Laws of the state in which the Premises are located, and an Employer's Liability limit of not less than $1,000,000 each accident.

d. Contractors' Pollution Liability. Contractors and subcontractors handling, removing or treating Hazardous Materials shall maintain pollution liability insurance. Such coverage shall include bodily injury, sickness, disease, death or mental anguish or shock sustained by any person; property damage or environmental damage, including physical injury to or destruction of tangible property (including the resulting loss of use thereof), contractual liability coverage to cover liability arising out of cleanup, removal, storage or handling of hazardous or toxic chemicals, materials or substances, or any other pollutants (including mold, asbestos or

asbestos-containing materials); and defense costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such damages. Claims-made coverage is permitted, provided that the policy retroactive date is continuously maintained prior to the commencement of the Tenant Work. This policy shall include the Landlord Parties as additional insureds, with endorsements.

e. Professional Liability (Errors and Omissions). Contractors and subcontractors of any tier performing Tenant Work that includes any professional services, including design, architecture, engineering, testing, surveying or design/build services shall provide and maintain professional liability insurance. Coverage shall be maintained following completion of the Tenant Work through the applicable statute of repose of the state in which the Premises are located.

2. Minimum Limits of Insurance. All coverage types as defined above to be procured by Tenant's general contractor and designer for any Tenant Work shall be written for limits of insurance not less than:

Coverage	Cost of Work	Minimum Limits of Insurance
a. Commercial General Liability * Limits may be met by use of excess and/or umbrella liability insurance, provided that such coverage is at least as broad as the primary coverages required herein	<$200 million	$100 million per occurrence, general aggregate, and products and completed operations aggregate
	<$100 million	$50 million per occurrence, general aggregate, and products and completed operations aggregate
	<$50 million	$25 million per occurrence, general aggregate, and products and completed operations aggregate
	<$25 million	$10 million per occurrence, general aggregate, and products and completed operations aggregate
	<$10 million	$5 million per occurrence, general aggregate, and products and completed operations aggregate
	<$5 million	$2 million per occurrence, general aggregate, and products and completed operations aggregate
b. Commercial Automobile Liability	≥$25 million	$25 million combined single limit
	<$25 million	$10 million combined single limit
	<$10 million	$5 million combined single limit

Coverage	Cost of Work	Minimum Limits of Insurance
* Limits may be met by use of excess and/or umbrella liability insurance, provided that such coverage is at least as broad as the primary coverages required herein	<$5 million	$2 million combined single limit
c. Workers' Compensation	At all times	As required by Applicable Laws
d. Contractor's Pollution Liability	At all times	$2 million per location and $4 million aggregate
e. Professional Liability (Errors and Omissions)	<$200 million	$10 million per project and in the aggregate
	<$75 million	$5 million per project and in the aggregate
	<$25 million	$2 million per project and $4 million aggregate
	<$10 million	$1 million per project and $2 million aggregate

3. Notice of Cancelation. The foregoing policies shall contain a provision that coverages afforded under the policies shall not be canceled or not renewed until at least thirty (30) days' prior written notice has been given to the Landlord.

4. Evidence of Insurance. Certificates of insurance, including required endorsements showing such coverages to be in force, shall be provided to Landlord prior to the commencement of any Tenant Work and prior to each renewal.

5. Insurer Ratings. The minimum A.M. Best's rating of each insurer shall be A-VII.

6. Additional Insureds. The policies shall name Landlord Parties as additional insureds to the extent required by the Lease, the Work Letter or this Exhibit.

7. Waiver of Subrogation. Tenant, contractors and subcontractors, and each of their respective insurers shall provide waivers of subrogation in favor of the Landlord Parties with respect to all insurance required by the Lease, the Work Letter or this Exhibit.

8. Tenant's Contractors. Tenant shall require all other persons, firms and corporations engaged or employed by Tenant in connection with the performance of Tenant Work to carry and maintain coverages with limits not less than those required by this Exhibit. Tenant's contractors' and subcontractors' insurance compliance, including any coverage exceptions, shall be Tenant's responsibility. Tenant shall incorporate these insurance requirements by reference within any contract executed by Tenant and its contractors. Tenant shall obtain and verify the accuracy of certificates of insurance evidencing required coverage prior to permitting its contractors,

subcontractors (of any tier), suppliers and agents from performing any Tenant Work or services at the Premises. Tenant shall furnish original certificates of insurance with additional insured endorsements from Tenant's contractors, subcontractors (of any tier), suppliers and agents as evidence thereof, as Landlord may reasonably request.

9. No Limit of Liability. It is expressly acknowledged and agreed that the insurance policies and limits required hereunder shall not limit the liability of Tenant or its contractors or subcontractors, and that Landlord makes no representation that these types or amounts of insurance are sufficient or adequate to protect Tenant or its contractors' or subcontractors' interests or liabilities, but are merely minimums. Any insurance carried by Landlord shall be secondary and non-contributory to that carried by Tenant and/or its contractors or subcontractors.

EXHIBIT C

ACKNOWLEDGEMENT OF TERM COMMENCEMENT DATE
AND TERM EXPIRATION DATE

[Note to Preparer: In the notice relating to the first to occur of the commencement dates, delete references to the Term Expiration Date, as that date will not be determined until the second to occur of the commencement dates]

10431 Premises:

THIS ACKNOWLEDGEMENT OF TERM COMMENCEMENT DATE [AND TERM EXPIRATION DATE] is entered into as of [_____], 20[__], with reference to that certain Lease (the "Lease") dated as of [_____], 20[__], by CODEX DNA, INC., a Delaware corporation ("Tenant"), in favor of BRE-BMR WATERIDGE POINTE LP, a Delaware limited partnership ("Landlord"). All capitalized terms used herein without definition shall have the meanings ascribed to them in the Lease.

Tenant hereby confirms the following:

1. Tenant accepted possession of the 10431 Premises for use in accordance with the Permitted Use on [_____], 20[__]. Tenant first occupied the 10431 Premises for the Permitted Use on [_____], 20[__].

2. To Tenant's current actual knowledge, all conditions of the Lease to be performed by Landlord as a condition to the full effectiveness of the Lease have been satisfied, and Landlord has fulfilled all of its duties in the nature of inducements offered to Tenant to lease the 10431 Premises.

3. In accordance with the provisions of Article 4 of the Lease, the 10431 Premises Commencement Date is [_____], 20[__][, and, unless the Lease is terminated prior to the Term Expiration Date pursuant to its terms, the Term Expiration Date shall be [_____], 20[__].]

4. The Lease is in full force and effect, and the same represents the entire agreement between Landlord and Tenant concerning the Premises[, except [_____]].

5. To Tenant's current actual knowledge, Tenant has no existing defenses against the enforcement of the Lease by Landlord, and there exist no offsets or credits against Rent owed or to be owed by Tenant.

6. The obligation to pay Rent is presently in effect and all Rent obligations on the part of Tenant under the Lease commenced to accrue on [_____], 20[__], with Base Rent payable on the dates and amounts set forth in the chart below:

Dates	**Approximate Square Feet of Rentable Area**	**Base Rent per Square Foot of Rentable Area**	**Monthly Base Rent**	**Annual Base Rent**
[__]/[__]/[__]-[__]/[__]/[__]	[ ]	$[_____] [monthly][OR][annually]	[ ]	[ ]

7. The undersigned Tenant has not made any prior assignment, transfer, hypothecation or pledge of the Lease or of the rents thereunder or sublease of the Premises or any portion thereof.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Tenant has executed this Acknowledgment of Term Commencement Date and Term Expiration Date as of the date first written above.

TENANT:

CODEX DNA, INC.,
a Delaware corporation

By: _____
Name: _____
Title: _____

10421 Premises:

THIS ACKNOWLEDGEMENT OF TERM COMMENCEMENT DATE [AND TERM EXPIRATION DATE] is entered into as of [_____], 20[__], with reference to that certain Lease (the "Lease") dated as of [_____], 20[__], by CODEX DNA, INC., a Delaware corporation ("Tenant"), in favor of BRE-BMR WATERIDGE POINTE LP, a Delaware limited partnership ("Landlord"). All capitalized terms used herein without definition shall have the meanings ascribed to them in the Lease.

Tenant hereby confirms the following:

1. Tenant accepted possession of the 10421 Premises for use in accordance with the Permitted Use on [_____], 20[__]. Tenant first occupied the 10421 Premises for the Permitted Use on [_____], 20[__].

2. To Tenant's current actual knowledge, all conditions of the Lease to be performed by Landlord as a condition to the full effectiveness of the Lease have been satisfied, and Landlord has fulfilled all of its duties in the nature of inducements offered to Tenant to lease the Premises.

3. In accordance with the provisions of Article 4 of the Lease, the 10421 Premises Commencement Date is [_____], 20[__][, and, unless the Lease is terminated prior to the Term Expiration Date pursuant to its terms, the Term Expiration Date shall be [_____], 20[__].]

4. The Lease is in full force and effect, and the same represents the entire agreement between Landlord and Tenant concerning the Premises[, except [_____]].

5. To Tenant's current actual knowledge, Tenant has no existing defenses against the enforcement of the Lease by Landlord, and there exist no offsets or credits against Rent owed or to be owed by Tenant.

6. The obligation to pay Rent is presently in effect and all Rent obligations on the part of Tenant under the Lease commenced to accrue on [_____], 20[__], with Base Rent payable on the dates and amounts set forth in the chart below:

Dates	**Approximate Square Feet of Rentable Area**	**Base Rent per Square Foot of Rentable Area**	**Monthly Base Rent**	**Annual Base Rent**
[__]/[__]/[__]-[__]/[__]/[__]	[ ]	$[_____] [monthly][OR][annually]	[ ]	[ ]

7. The undersigned Tenant has not made any prior assignment, transfer, hypothecation or pledge of the Lease or of the rents thereunder or sublease of the Premises or any portion thereof.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Tenant has executed this Acknowledgment of Term Commencement Date and Term Expiration Date as of the date first written above.

TENANT:

CODEX DNA, INC.,
a Delaware corporation

By: _____
Name: _____
Title: _____

EXHIBIT D

FORM OF ADDITIONAL TI ALLOWANCE[S] ACCEPTANCE LETTER

[TENANT LETTERHEAD]

BRE-BMR Wateridge Pointe LP
4570 Executive Drive, Suite 400
San Diego, California 92121
Attn: Legal Department

[Date]

Re: [Additional TI Allowance[s]]

To Whom It May Concern:

This letter concerns that certain Lease dated as of [_____], 20[__] (the "Lease"), between [Landlord] ("Landlord") and [Tenant] ("Tenant"). Capitalized terms not otherwise defined herein shall have the meanings given them in the Lease.

Tenant hereby notifies Landlord that it wishes to exercise its right to utilize the [Additional TI Allowance[s]] pursuant to Article 4 of the Lease.

If you have any questions, please do not hesitate to call [_____] at ([___]) [___]-[____].

Sincerely,

[Name]
[Title of Authorized Signatory]

cc: Karen Sztraicher
Jon Bergschneider
John Lu
Kevin Simonsen

EXHIBIT E

FORM OF LETTER OF CREDIT

[On letterhead or L/C letterhead of Issuer]

IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER _____

ISSUE DATE: _____

ISSUING BANK:
SILICON VALLEY BANK
3003 TASMAN DRIVE
2ND FLOOR, MAIL SORT HF210
SANTA CLARA, CALIFORNIA 95054

BENEFICIARY:
BRE-BMR WATERIDGE POINTE LP
4570 EXECUTIVE DRIVE, SUITE 400
SAN DIEGO, CALIFORNIA 92121
ATTN: LEGAL DEPARTMENT

APPLICANT:
CODEX DNA, INC.
9535 WAPLES ST., SUITE 100
SAN DIEGO, 92121

AMOUNT:	US$_____ (_____ AND XX/100 U.S. DOLLARS)
EXPIRATION DATE:	ONE YEAR FROM ISSUE DATE
PLACE OF EXPIRATION:	ISSUING BANK'S COUNTERS AT ITS ABOVE ADDRESS

DEAR SIR/MADAM:

WE HEREBY ESTABLISH OUR IRREVOCABLE STANDBY LETTER OF CREDIT NO. SVBSF_____ IN YOUR FAVOR AVAILABLE BY PAYMENT AGAINST YOUR PRESENTATION TO US OF THE FOLLOWING DOCUMENT:

1.BENEFICIARY'S SIGNED AND DATED STATEMENT STATING AS FOLLOWS (AND NO OTHER EVIDENCE OF AUTHORITY, CERTIFICATE OR DOCUMENTATION IS REQUIRED):

"AN EVENT OF DEFAULT (AS DEFINED IN THE LEASE) HAS OCCURRED UNDER THAT CERTAIN LEASE AGREEMENT BETWEEN CODEX DNA, INC, AS TENANT, AND BRE-BMR WATERIDGE POINTE LP AS LANDLORD, AS AMENDED, SUPPLEMENTED OR OTHERWISE MODIFIED TO DATE. THE UNDERSIGNED HEREBY CERTIFIES

THAT: (I) THE UNDERSIGNED IS AN AUTHORIZED REPRESENTATIVE OF LANDLORD AND (II) LANDLORD IS THE BENEFICIARY OF LETTER OF CREDIT NO. SVBSF _____ ISSUED BY SILICON VALLEY BANK. THE AMOUNT HEREBY DRAWN UNDER THE LETTER OF CREDIT IS US$_____, WITH PAYMENT TO BE MADE TO THE FOLLOWING ACCOUNT: [INSERT WIRE INSTRUCTIONS (TO INCLUDE NAME AND ACCOUNT NUMBER OF THE BENEFICIARY)]."

PARTIAL DRAWS AND MULTIPLE PRESENTATIONS ARE ALLOWED. THIS LETTER OF CREDIT SHALL SURVIVE ANY PARTIAL DRAWINGS.

THIS LETTER OF CREDIT SHALL BE AUTOMATICALLY EXTENDED FOR ADDITIONAL PERIODS OF ONE YEAR, WITHOUT AMENDMENT, FROM THE PRESENT OR EACH FUTURE EXPIRATION DATE UNLESS AT LEAST 90 DAYS PRIOR TO THE THEN CURRENT EXPIRATION DATE WE SEND TO YOU A NOTICE BY REGISTERED OR CERTIFIED MAIL OR OVERNIGHT COURIER SERVICE AT THE ABOVE ADDRESS THAT THIS LETTER OF CREDIT WILL NOT BE EXTENDED BEYOND THE THEN CURRENT EXPIRATION DATE. IN NO EVENT SHALL THIS LETTER OF CREDIT BE AUTOMATICALLY EXTENDED BEYOND _____. IN THE EVENT WE SEND SUCH NOTICE OF NON-EXTENSION, YOU MAY DRAW HEREUNDER BY YOUR PRESENTATION TO US OF YOUR SIGNED AND DATED STATEMENT STATING THAT YOU HAVE RECEIVED A NON-EXTENSION NOTICE FROM SILICON VALLEY BANK IN RESPECT OF LETTER OF CREDIT NO. SVBSF _____, YOU ARE DRAWING ON SUCH LETTER OF CREDIT FOR US$_____, AND YOU HAVE NOT RECEIVED A REPLACEMENT LETTER OF CREDIT ACCEPTABLE TO YOU.

ALL DEMANDS FOR PAYMENT SHALL BE MADE BY PRESENTATION (WHICH MAY BE BY OVERNIGHT COURIER SERVICE) OF THE REQUIRED DOCUMENTS ON A BUSINESS DAY AT OUR OFFICE (THE "BANK'S OFFICE") AT: SILICON VALLEY BANK, 3003 TASMAN DRIVE, MAIL SORT HF 210, SANTA CLARA, CA 95054, ATTENTION: GLOBAL TRADE FINANCE. AS USED IN THIS LETTER OF CREDIT, "BUSINESS DAY" SHALL MEAN ANY DAY OTHER THAN A SATURDAY, SUNDAY OR A DAY ON WHICH BANKING INSTITUTIONS IN THE STATE OF CALIFORNIA ARE AUTHORIZED OR REQUIRED BY LAW TO CLOSE.

FACSIMILE PRESENTATIONS ARE ALSO PERMITTED. SHOULD BENEFICIARY WISH TO MAKE A PRESENTATION UNDER THIS LETTER OF CREDIT ENTIRELY BY FACSIMILE TRANSMISSION IT NEED NOT TRANSMIT THE ORIGINAL OF THIS LETTER OF CREDIT AND AMENDMENTS, IF ANY. EACH FACSIMILE TRANSMISSION SHALL BE MADE AT: (408) 496-2418 OR (408) 969-6510; AND UNDER CONTEMPORANEOUS TELEPHONE ADVICE TO: (408) 450-5001 OR (408) 654-7176, ATTENTION: GLOBAL TRADE FINANCE. ABSENCE OF THE AFORESAID TELEPHONE ADVICE SHALL NOT AFFECT OUR OBLIGATION TO HONOR ANY DRAW REQUEST.

THIS LETTER OF CREDIT IS TRANSFERABLE IN WHOLE BUT NOT IN PART ONE OR MORE TIMES, BUT IN EACH INSTANCE ONLY TO A SINGLE BENEFICIARY AS TRANSFEREE AND FOR THE THEN AVAILABLE AMOUNT, ASSUMING SUCH TRANSFER TO SUCH TRANSFEREE WOULD BE IN COMPLIANCE WITH THEN

APPLICABLE LAW AND REGULATION, INCLUDING BUT NOT LIMITED TO THE REGULATIONS OF THE U.S. DEPARTMENT OF TREASURY AND U.S. DEPARTMENT OF COMMERCE. AT THE TIME OF TRANSFER, THE ORIGINAL LETTER OF CREDIT AND ORIGINALS OR COPIES OF ALL AMENDMENTS, IF ANY, TO THIS LETTER OF CREDIT MUST BE SURRENDERED TO US AT OUR ADDRESS INDICATED IN THIS LETTER OF CREDIT TOGETHER WITH OUR TRANSFER FORM ATTACHED HERETO AS EXHIBIT A DULY EXECUTED. THE CORRECTNESS OF THE SIGNATURE AND TITLE OF THE PERSON SIGNING THE TRANSFER FORM MUST BE VERIFIED BY BENEFICIARY'S BANK. APPLICANT SHALL PAY OUR TRANSFER FEE OF ¼ OF 1% OF THE TRANSFER AMOUNT (MINIMUM US$250.00) UNDER THIS LETTER OF CREDIT. EACH TRANSFER SHALL BE EVIDENCED BY EITHER (1) OUR ENDORSEMENT ON THE REVERSE OF THE LETTER OF CREDIT AND WE SHALL FORWARD THE ORIGINAL OF THE LETTER OF CREDIT SO ENDORSED TO THE TRANSFEREE OR (2) OUR ISSUING A REPLACEMENT LETTER OF CREDIT TO THE TRANSFEREE ON SUBSTANTIALLY THE SAME TERMS AND CONDITIONS AS THE TRANSFERRED LETTER OF CREDIT (IN WHICH EVENT THE TRANSFERRED LETTER OF CREDIT SHALL HAVE NO FURTHER EFFECT).

NO AMENDMENT THAT ADVERSELY AFFECTS BENEFICIARY SHALL BE EFFECTIVE WITHOUT BENEFICIARY'S PRIOR WRITTEN CONSENT.

IF ANY INSTRUCTIONS ACCOMPANYING A DRAWING UNDER THIS LETTER OF CREDIT REQUEST THAT PAYMENT IS TO BE MADE BY TRANSFER TO YOUR ACCOUNT WITH ANOTHER BANK, WE WILL ONLY EFFECT SUCH PAYMENT BY FED WIRE TO A U.S. REGULATED BANK, AND WE AND/OR SUCH OTHER BANK MAY RELY ON AN ACCOUNT NUMBER SPECIFIED IN SUCH INSTRUCTIONS EVEN IF THE NUMBER IDENTIFIES A PERSON OR ENTITY DIFFERENT FROM THE INTENDED PAYEE.

THIS LETTER OF CREDIT IS SUBJECT TO THE INTERNATIONAL STANDBY PRACTICES (ISP98), INTERNATIONAL CHAMBER OF COMMERCE, PUBLICATION NO. 590.

SILICON VALLEY BANK

_____

AUTHORIZED SIGNATURE

IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER _____

EXHIBIT "A"

FORM OF TRANSFER

DATE: _____

TO: SILICON VALLEY BANK

3003 TASMAN DRIVE

SANTA CLARA, CA 95054

ATTN: GLOBAL TRADE FINANCE

STANDBY LETTERS OF CREDIT

RE: IRREVOCABLE STANDBY LETTER OF CREDIT

NO. _____ ISSUED BY

SILICON VALLEY BANK, SANTA CLARA

L/C AMOUNT: _____

GENTLEMEN:

FOR VALUE RECEIVED, THE UNDERSIGNED BENEFICIARY HEREBY IRREVOCABLY TRANSFERS TO:

_____

(NAME OF TRANSFEREE)

_____

(ADDRESS)

ALL RIGHTS OF THE UNDERSIGNED BENEFICIARY TO DRAW UNDER THE ABOVE LETTER OF CREDIT UP TO ITS AVAILABLE AMOUNT AS SHOWN ABOVE AS OF THE DATE OF THIS TRANSFER.

BY THIS TRANSFER, ALL RIGHTS OF THE UNDERSIGNED BENEFICIARY IN SUCH LETTER OF CREDIT ARE TRANSFERRED TO THE TRANSFEREE. TRANSFEREE SHALL HAVE THE SOLE RIGHTS AS BENEFICIARY THEREOF, INCLUDING SOLE RIGHTS RELATING TO ANY AMENDMENTS, WHETHER INCREASES OR EXTENSIONS OR OTHER AMENDMENTS, AND WHETHER NOW EXISTING OR HEREAFTER MADE. ALL AMENDMENTS ARE TO BE ADVISED DIRECTLY TO THE TRANSFEREE WITHOUT NECESSITY OF ANY CONSENT OF OR NOTICE TO THE UNDERSIGNED BENEFICIARY.

THE ORIGINAL OF SUCH LETTER OF CREDIT IS RETURNED HEREWITH, AND WE ASK YOU TO EITHER (1) ENDORSE THE TRANSFER ON THE REVERSE THEREOF, AND FORWARD IT DIRECTLY TO THE TRANSFEREE WITH YOUR CUSTOMARY NOTICE OF TRANSFER, OR (2) ISSUE A REPLACEMENT LETTER OF CREDIT TO THE

TRANSFEREE ON SUBSTANTIALLY THE SAME TERMS AND CONDITIONS AS THE TRANSFERRED LETTER OF CREDIT (IN WHICH EVENT THE TRANSFERRED LETTER OF CREDIT SHALL HAVE NO FURTHER EFFECT).

SINCERELY,

_____

(BENEFICIARY'S NAME)

_____

(SIGNATURE OF BENEFICIARY)

_____

(NAME AND TITLE)

EXHIBIT F

RULES AND REGULATIONS

NOTHING IN THESE RULES AND REGULATIONS ("RULES AND REGULATIONS") SHALL SUPPLANT ANY PROVISION OF THE LEASE. IN THE EVENT OF A CONFLICT OR INCONSISTENCY BETWEEN THESE RULES AND REGULATIONS AND THE LEASE, THE LEASE SHALL PREVAIL.

1. No Tenant Party shall encumber or obstruct the common entrances, lobbies, elevators, sidewalks and stairways of the Building(s) or the Project or use them for any purposes other than ingress or egress to and from the Building(s) or the Project.

2. Except as specifically provided in the Lease, no sign, placard, picture, advertisement, name or notice shall be installed or displayed on any part of the outside of the Premises or the Building(s) without Landlord's prior written consent. Landlord shall have the right to remove, at Tenant's sole cost and expense and without notice, any sign installed or displayed in violation of this rule.

3. If Landlord objects in writing to any curtains, blinds, shades, screens, hanging plants or other similar objects attached to or used in connection with any window or door of the Premises or placed on any windowsill, and (a) such window, door or windowsill is visible from the exterior of the Premises and (b) such curtain, blind, shade, screen, hanging plant or other object is not included in plans approved by Landlord, then Tenant shall promptly remove such curtains, blinds, shades, screens, hanging plants or other similar objects at its sole cost and expense.

4. No deliveries shall be made that impede or interfere with other tenants in or the operation of the Project. Movement of furniture, office equipment or any other large or bulky material(s) through the Common Area shall be restricted to such hours as Landlord may designate and shall be subject to reasonable restrictions that Landlord may impose.

5. Tenant shall not place a load upon any floor of the Premises that exceeds the load per square foot that (a) such floor was designed to carry or (b) is allowed by Applicable Laws. Fixtures and equipment that cause noises or vibrations that may be transmitted to the structure of the Building(s) to such a degree as to be objectionable to other tenants shall be placed and maintained by Tenant, at Tenant's sole cost and expense, on vibration eliminators or other devices sufficient to eliminate such noises and vibrations to levels reasonably acceptable to Landlord and the affected tenants of the Project.

6. Tenant shall not use any method of HVAC other than that shown in the Tenant Improvement plans or present at the Project and serving the Premises as of the 10431 Premises Commencement Date or the 10421 Premises Commencement Date, as applicable.

7. Tenant shall not install any radio, television or other antennae; cell or other communications equipment; or other devices on the roof or exterior walls of the Premises except in accordance with the Lease. Tenant shall not interfere with radio, television or other digital or electronic communications at the Project or elsewhere.

8. Canvassing, peddling, soliciting and distributing handbills or any other written material within, on or around the Project (other than within the Premises) are prohibited. Tenant shall cooperate with Landlord to prevent such activities by any Tenant Party.

9. Tenant shall store all of its trash, garbage and Hazardous Materials in receptacles within its Premises or in receptacles designated by Landlord outside of the Premises. Tenant shall not place in any such receptacle any material that cannot be disposed of in the ordinary and customary manner of trash, garbage and Hazardous Materials disposal. Any Hazardous Materials transported through Common Area shall be held in secondary containment devices. Tenant shall be responsible, at its sole cost and expense, for Tenant's removal of its trash, garbage and Hazardous Materials. Tenant is encouraged to participate in the waste removal and recycling program in place at the Project.

10. The Premises shall not be used for lodging or for any improper, immoral or objectionable purpose. No cooking shall be done or permitted in the Premises; provided, however, that Tenant may use (a) equipment approved in accordance with the requirements of insurance policies that Landlord or Tenant is required to purchase and maintain pursuant to the Lease for brewing coffee, tea, hot chocolate and similar beverages, (b) microwave ovens for employees' use and (c) equipment shown on Tenant Improvement plans approved by Landlord; provided, further, that any such equipment and microwave ovens are used in accordance with Applicable Laws.

11. Tenant shall not, without Landlord's prior written consent, use the name of the Project, if any, in connection with or in promoting or advertising Tenant's business except as Tenant's address.

12. Tenant shall comply with all safety, fire protection and evacuation procedures and regulations established by Landlord or any Governmental Authority.

13. Tenant assumes any and all responsibility for protecting the Premises from theft, robbery and pilferage, which responsibility includes keeping doors locked and other means of entry to the Premises closed.

14. Tenant shall not modify any locks to the Premises without Landlord's prior written consent, which consent Landlord shall not unreasonably withhold, condition or delay. Tenant shall furnish Landlord with copies of keys, pass cards or similar devices for locks to the Premises.

15. Tenant shall cooperate and participate in all reasonable security programs affecting the Premises.

16. Tenant shall not permit any animals in the Project, other than for service animals or for use in laboratory experiments.

17. Bicycles shall not be taken into the Building(s) (including the elevators and stairways of the Building) except into areas designated by Landlord.

18. The water and wash closets and other plumbing fixtures shall not be used for any purposes other than those for which they were constructed, and no sweepings, rubbish, rags or other substances shall be deposited therein.

19. Discharge of industrial sewage shall only be permitted if Tenant, at its sole expense, first obtains all necessary permits and licenses therefor from all applicable Governmental Authorities.

20. Smoking and the use of smokeless tobacco products, electronic smoking devices (e.g., e-cigarettes) and nicotine products is prohibited at the Project.

21. The Project's hours of operation are currently 24 hours a day seven days a week.

22. Tenant shall comply with all orders, requirements and conditions now or hereafter imposed by Applicable Laws or Landlord ("Waste Regulations") regarding the collection, sorting, separation and recycling of waste products, garbage, refuse and trash generated by Tenant (collectively, "Waste Products"), including (without limitation) the separation of Waste Products into receptacles reasonably approved by Landlord and the removal of such receptacles in accordance with any collection schedules prescribed by Waste Regulations.

23. Tenant, at Tenant's sole cost and expense, shall cause the Premises to be exterminated on a monthly basis to Landlord's reasonable satisfaction and shall cause all portions of the Premises used for the storage, preparation, service or consumption of food or beverages to be cleaned daily in a manner reasonably satisfactory to Landlord, and to be treated against infestation by insects, rodents and other vermin and pests whenever there is evidence of any infestation. Tenant shall not permit any person to enter the Premises or the Project for the purpose of providing such extermination services, unless such persons have been approved by Landlord. If requested by Landlord, Tenant shall, at Tenant's sole cost and expense, store any refuse generated in the Premises by the consumption of food or beverages in a cold box or similar facility.

24. Electric vehicles may be charged using only electric vehicle charging stations installed for that purpose, and no other electrical outlets or connections at the Project may be used for charging vehicles of any kind.

25. If Tenant desires to use any portion of the Common Area for a Tenant-related event, Tenant must notify Landlord in writing at least thirty (30) days prior to such event on the form attached as Attachment 1 to this Exhibit, which use shall be subject to Landlord's prior written consent, not to be unreasonably withheld, conditioned or delayed. Notwithstanding anything in this Lease or the completed and executed Attachment to the contrary, Tenant shall be solely responsible for setting up and taking down any equipment or other materials required for the event, and shall promptly pick up any litter and report any property damage to Landlord related to the event. Any use of the Common Area pursuant to this Section shall be subject to the provisions of Article 28 of the Lease.

26. Firearms and any other items intended for use as weapons are not permitted in the Building(s) or at the Project.

27. Parking lots/parking garages may not be used for overnight parking or storage of vehicles or other miscellaneous items without Landlord's prior written approval. Vehicles and other miscellaneous items left unattended by a Tenant Party in Landlord's parking lots/parking garages for 24 hours or longer may be towed/removed at Tenant's expense.

28. Common shower facilities are intended for use by tenants of the Building(s) or Project after exercising or commuting. Common shower facilities are not to be used to treat exposure to potential hazards or contaminants. Tenants are required to provide separate shower facilities for employee use within individual premises when required for the health and safety of their employees.

COVID-19 RULES AND REGULATIONS

To help minimize the spread of the COVID-19 virus and maintain a safe and healthy work environment, Landlord is temporarily amending the Rules and Regulations as outlined below. We thank you in advance for your cooperation in enforcing the new set of rules and regulations with your employees, visitors and vendors. IN THE EVENT OF A CONFLICT BETWEEN THESE RULES AND REGULATIONS AND THE LEASE, THE TERMS OF THE LEASE SHALL PREVAIL.

1. Tenant must not permit its employees, vendors, contractors or invitees to enter the Building/Property/Project if they are sick or experiencing flu-like symptoms.

2. Tenant shall cause its employees, vendors, contractors and invitees who have been ill or have displayed flu-like symptoms to follow all recommendations of the Centers for Disease Control ("CDC") for symptomatic individuals prior to returning to the Building/Property/Project.

3. Tenant shall cause its employees, vendors, contractors and invitees who have been exposed to a known COVID-19-infected individual not to return to the Building/Property/Project until 10 days after their most recent exposure to that infected individual, or as otherwise directed by the CDC or federal, state or local Governmental Authorities.

4. In Common Areas, including elevators and parking garages, Tenant shall cause its unvaccinated employees, vendors, contractors and invitees to continue to wear face coverings or masks, practice social distancing, and maintain six feet of separation from others while in public.

5. Tenant shall cause its employees, vendors, contractors and invitees to clean up after themselves, wash hands frequently, and not leave trash or other personal items in Common Areas.

6. Tenant must develop a COVID-19 remediation response plan for their Premises and share that plan with Landlord. Additionally, Tenant must share its re-emergence plan with Landlord and continue to provide Landlord with updates as its plan evolves.

7. Tenant must monitor evolving CDC, state and local Governmental Authorities' guidelines, and educate its employees about new guidance and information, as needed.

8. Tenant must promptly report known COVID-19 cases that have occurred at the Building/Property/Project to Landlord, but shall not be obligated to identify the name of the infected individual due to privacy concerns or Applicable Laws.

Landlord may waive any one or more of these Rules and Regulations for the benefit of Tenant or any other tenant, but no such waiver by Landlord shall be construed as a waiver of such Rules and Regulations in favor of Tenant or any other tenant, nor prevent Landlord from thereafter

enforcing any such Rules and Regulations against any or all of the tenants of the Project, including Tenant. These Rules and Regulations are in addition to, and shall not be construed to in any way modify or amend, in whole or in part, the terms covenants, agreements and conditions of the Lease. Landlord reserves the right to make such other and reasonable additional rules and regulations as, in its judgment, may from time to time be needed for safety and security, the care and cleanliness of the Project, or the preservation of good order therein; provided, however, that Tenant shall not be obligated to adhere to such additional rules or regulations until Landlord has provided Tenant with written notice thereof. Tenant agrees to abide by these Rules and Regulations and any such additional rules and regulations issued or adopted by Landlord. Tenant shall be responsible for the observance of these Rules and Regulations by all Tenant Parties.

ATTACHMENT 1 TO EXHIBIT F

REQUEST FOR USE OF COMMON AREA

REQUEST FOR USE OF COMMON AREA

Date of Request: _____

Landlord/Owner: _____

Tenant/Requestor: _____

Property Location: _____

Event Description: _____

_____

_____

Proposed Plan for Security & Cleaning: _____

_____

_____

Date of Event: _____

Hours of Event: (to include set-up and take down): _____

Location at Property (see attached map): _____

Number of Attendees: _____

Open to the Public? [___] YES [___] NO

Food and/or Beverages? [___] YES [___] NO

If YES:

- Will food be prepared on site? [___] YES [___] NO
- Please describe: _____
- Will alcohol be served? [___] YES [___] NO
- Please describe: _____
- Will attendees be charged for alcohol? [___] YES [___] NO

- Is alcohol license or permit required? [___] YES [___] NO
- Does caterer have alcohol license or permit: [___] YES [___] NO [___] N/A

Other Amenities (tent, booths, band, food trucks, bounce house, etc.):_____

_____

_____

Other Event Details or Special Circumstances:_____

_____

_____

_____

_____

The undersigned Tenant certifies that the foregoing is true, accurate and complete and that the individual executing on its behalf is duly authorized to sign and submit this request on behalf of the Tenant/Requestor named above.

[*INSERT NAME OF TENANT/REQUESTOR*]

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT G

WAPLES LEASE AMENDMENT

SECOND AMENDMENT TO LEASE

THIS SECOND AMENDMENT TO LEASE (this "Amendment") is entered into as of this ____ day of September, 2021, by and between BMR-WAPLES LP, a Delaware limited partnership ("Landlord") and CODEX DNA, INC., a Delaware corporation ("Tenant").

RECITALS

A. WHEREAS, Landlord and Tenant (formerly known as SGI-DNA, Inc.) are parties to that certain Lease dated as of April 4, 2019 (the "Original Lease"), as amended by that certain First Amendment to Lease dated as of May 31, 2019 (the "First Amendment") (collectively, and as the same may have been further amended, amended and restated, supplemented or modified from time to time, the "Existing Lease"), whereby Tenant leases certain premises (the "Premises") from Landlord in the building at 9535 Waples Street, San Diego, California (the "Building");

B. WHEREAS, Landlord and Tenant wish to modify the Term Expiration Date of the Existing Lease; and

C. WHEREAS, Landlord and Tenant desire to modify and amend the Existing Lease only in the respects and on the conditions hereinafter stated.

AGREEMENT

NOW, THEREFORE, Landlord and Tenant, in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, agree as follows:

1. Definitions. For purposes of this Amendment, capitalized terms shall have the meanings ascribed to them in the Existing Lease unless otherwise defined herein. The Existing Lease, as amended by this Amendment, is referred to collectively herein as the "Lease." From and after the date hereof, the term "Lease," as used in the Existing Lease, shall mean the Existing Lease, as amended by this Amendment.

2. Term Expiration Date. The Term Expiration Date is hereby amended to mean the date (the "New Termination Date") that is fifteen (15) days after the actual "10431 Premises Commencement Date" (as such term is defined in that certain Lease dated as of September __, 2021 by and between BRE-BMR Wateridge Pointe LP, a Delaware limited partnership and Tenant relating to certain premises located at 10421 and 10431 Wateridge Circle, San Diego, California).

3. Surrender. On or before the New Termination Date, Tenant shall vacate, quit, surrender and deliver exclusive possession of the Premises to Landlord in broom clean condition and otherwise in the condition required under the Existing Lease, including (without limitation) having delivered to Landlord the Exit Survey (as defined in Section 26.1 of the Original Lease). Tenant will surrender the FF&E (as defined in Section 4.8 of the Original Lease) on the New Termination Date in accordance with Section 4.8 of the Original Lease. Tenant's surrender obligations under this Section shall survive the expiration or earlier termination of the Lease.

4. Option to Extend. Article 42 of the Original Lease is hereby deleted in its entirety and shall no longer be of any further force or effect.

5. Rent. Tenant shall continue to remain fully responsible for the payment of all Rent required under the Existing Lease for the periods prior to (and including) the New Termination Date, including (without limitation) all Base Rent and Additional Rent.

6. Representations of Tenant. Tenant represents and warrants to Landlord that (a) Tenant is the sole tenant under the Existing Lease and no other person, firm or entity has any right, title or interest in the Existing Lease, (b) Tenant has not Transferred any interest in the Existing Lease or to the Premises, (c) Tenant has the full right, legal power and actual authority to bind Tenant to the terms and conditions hereof and (d) to Tenant's current actual knowledge, there are no Claims against Tenant in any way arising from or in connection with the Existing Lease or to the Premises, and that there is no Claim, agreement or other matter that Tenant is a party to that would preclude or restrict the modification of the Existing Lease provided for hereunder or otherwise adversely affect this Amendment or the enforceability thereof. In addition, Tenant hereby agrees to protect, defend, indemnify and hold Landlord and the Landlord Indemnitees harmless from and against any and all Claims in any way arising from or in connection with or related to any breach of Tenant's representations and warranties contained in this Article.

7. Broker. Tenant represents and warrants that it has not dealt with any broker or agent in the negotiation for or the obtaining of this Amendment other than Kidder Matthews (who is not being paid any commission by Landlord in connection with this Amendment) and agrees to reimburse, indemnify, save, defend (at Landlord's option and with counsel reasonably acceptable to Landlord, at Tenant's sole cost and expense) and hold harmless the Landlord Indemnitees for, from and against any and all cost or liability for compensation claimed by any such broker or agent (including, without limitation, Kidder Matthews) employed or engaged by it or claiming to have been employed or engaged by it.

8. No Default. Tenant represents, warrants and covenants that, to Tenant's current actual knowledge, Landlord and Tenant are not in default of any of their respective obligations under the Existing Lease and no event has occurred that, with the passage of time or the giving of notice (or both) would constitute a default by either Landlord or Tenant thereunder.

9. Effect of Amendment. Except as modified by this Amendment, the Existing Lease and all the covenants, agreements, terms, provisions and conditions thereof shall remain in full

force and effect and are hereby ratified and affirmed. In the event of any conflict between the terms contained in this Amendment and the Existing Lease, the terms herein contained shall supersede and control the obligations and liabilities of the parties.

10. Successors and Assigns. Each of the covenants, conditions and agreements contained in this Amendment shall inure to the benefit of and shall apply to and be binding upon the parties hereto and their respective heirs, legatees, devisees, executors, administrators and permitted successors and assigns and sublessees. Nothing in this section shall in any way alter the provisions of the Lease restricting assignment or subletting.

11. Miscellaneous. This Amendment becomes effective only upon execution and delivery hereof by Landlord and Tenant. The captions of the paragraphs and subparagraphs in this Amendment are inserted and included solely for convenience and shall not be considered or given any effect in construing the provisions hereof. All exhibits hereto are incorporated herein by reference. Submission of this instrument for examination or signature by Tenant does not constitute a reservation of or option for a lease, and shall not be effective as a lease, lease amendment or otherwise until execution by and delivery to both Landlord and Tenant.

12. Authority. Tenant guarantees, warrants and represents that the individual or individuals signing this Amendment have the power, authority and legal capacity to sign this Amendment on behalf of and to bind all entities, corporations, partnerships, limited liability companies, joint venturers or other organizations and entities on whose behalf such individual or individuals have signed. Landlord represents and warrants that it has obtained all consents and approvals required to be obtained by Landlord in connection with this Amendment including, without limitation, any required consent from any lender holding a loan secured by the Building.

13. Counterparts; Facsimile and PDF Signatures. This Amendment may be executed in one or more counterparts, each of which, when taken together, shall constitute one and the same document. A facsimile or portable document format (PDF) signature on this Amendment shall be equivalent to, and have the same force and effect as, an original signature.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Amendment as of the date and year first above written.

LANDLORD:

BMR-WAPLES LP,
a Delaware limited partnership

By: _____

Name: _____

Title: _____

TENANT:

CODEX DNA, INC.,

a Delaware corporation

By: _____

Name: _____

Title: _____

EXHIBIT H

TENANT'S PROPERTY

9535 Waples - Fixed Assets Listing as of 8.31.21

Location = 9535 Waples - In Use, 9535 Waples - in Storage

Subclass Code = Exclude Comp Software, LH Improv

Location	xed Asset Numb	Description	Subclass Code	Acquisition Date
9535 Waples - In Use	FA000134	Biomek NXp span-8 w/gr	Machinery & Equipment	7/1/2015
9535 Waples - In Use	FA000152	-80 Ultra Low Freezer VWR 414005-089	Machinery & Equipment	7/1/2015
9535 Waples - In Use	FA000153	Labconco BSL A2 Hood	Machinery & Equipment	7/1/2015
9535 Waples - In Use	FA000154	Refrigerated Centrifuge - American Lab	Machinery & Equipment	9/1/2015
9535 Waples - In Use	FA000155	Thermofisher Refrigerated Centrifuge	Machinery & Equipment	7/1/2015
9535 Waples - In Use	FA000184	VWR FREEZER MANUAL DEFROST	Machinery & Equipment	5/31/2014
9535 Waples - In Use	FA000185	Lab Bench in Reagent Production lab	Machinery & Equipment	3/31/2014
9535 Waples - In Use	FA000186	C1000 TOUCH CYCLER w/48W	Machinery & Equipment	3/31/2014
9535 Waples - In Use	FA000188	Thermo Scientific Finnpipette Novus	Machinery & Equipment	3/31/2014
9535 Waples - In Use	FA000189	Multichannel Pipettes	Machinery & Equipment	3/31/2014
9535 Waples - In Use	FA000190	Neo Prep Library Prep System	Machinery & Equipment	5/1/2015
9535 Waples - In Use	FA000191	GELDOC-IT2 310 Imager M-26XV	Machinery & Equipment	8/1/2015
9535 Waples - In Use	FA000192	Agilent 2100 Electrophoresis Bioanalyzer	Machinery & Equipment	9/1/2015
9535 Waples - In Use	FA000194	-80 Freezer with Rack Storage System	Machinery & Equipment	1/1/2016
9535 Waples - In Use	FA000195	Heat Sealer Simi-automated	Machinery & Equipment	4/30/2014
9535 Waples - In Use	FA000196	Heat Sealer	Machinery & Equipment	1/1/2016
9535 Waples - In Use	FA000197	CFX Connect Real-Time PCR Detect System	Machinery & Equipment	1/1/2016
9535 Waples - In Use	FA000198	Injection Mold, Metrick Class 102	Machinery & Equipment	6/30/2014
9535 Waples - In Use	FA000199	Lease: Agena MassARRAY	Leased Assets	3/1/2016
9535 Waples - In Use	FA000200	QS3 0.2ML QPCR System	Machinery & Equipment	3/1/2016
9535 Waples - In Use	FA000201	INJECTION MOLD FOR PART 00150-01	Machinery & Equipment	10/1/2014
9535 Waples - In Use	FA000202	Mold Tooling for Genbot Door	Machinery & Equipment	10/1/2014
9535 Waples - In Use	FA000203	Light Engine LUXBEAM LRS-UV	Machinery & Equipment	4/1/2016
9535 Waples - In Use	FA000204	S1000 w/96W Deep Well Reaction Module	Machinery & Equipment	4/1/2016
9535 Waples - In Use	FA000206	S1000 w/96W Deep Well Reaction Module	Machinery & Equipment	4/1/2016
9535 Waples - In Use	FA000208	Verder Mixer Mill MM 400	Machinery & Equipment	5/23/2016
9535 Waples - In Use	FA000209	C1000 Touch w/ 96 Deep W Rxn Module	Machinery & Equipment	4/7/2016
9535 Waples - In Use	FA000210	Injection Molds - Richen	Machinery & Equipment	12/1/2014
9535 Waples - In Use	FA000211	S1000 w/ 96W Deep Well Rxn Module	Machinery & Equipment	4/7/2016
9535 Waples - In Use	FA000212	CO2 Incubator Air Jacket TC	Machinery & Equipment	6/30/2016
9535 Waples - In Use	FA000213	Gas Generator (GNVSPT)	Machinery & Equipment	4/1/2015
9535 Waples - In Use	FA000214	High Res Camera for NGSP	Machinery & Equipment	6/30/2016
9535 Waples - In Use	FA000215	Agilent TapeStation 2200	Machinery & Equipment	8/18/2016
9535 Waples - In Use	FA000216	Nanodrop 8000 Fisher	Machinery & Equipment	8/8/2016
9535 Waples - In Use	FA000217	QPCR System 384-Well Block Upgrade	Machinery & Equipment	9/2/2016
9535 Waples - In Use	FA000218	Heated Pressure Chamber, 1 Gallon	Machinery & Equipment	8/26/2016
9535 Waples - In Use	FA000219	Light Engine LUXBEAM w/Projection Lens	Machinery & Equipment	9/23/2016
9535 Waples - In Use	FA000220	Agilent TapeStation 2200	Machinery & Equipment	3/2/2017

9535 Waples - In Use	FA000221	PacBio Sequel System	Machinery & Equipment	3/1/2017
9535 Waples - In Use	FA000222	Biomex NXP Span-8 with Gripper	Machinery & Equipment	8/8/2017
9535 Waples - In Use	FA000226	DPSS Samurai Laser System	Machinery & Equipment	1/1/2017
9535 Waples - In Use	FA000227	ABI 3730xl CCD Camera Replacement	Machinery & Equipment	7/7/2017
9535 Waples - In Use	FA000228	Echo 525 Sequencing Machine	Leased Assets	12/7/2017
9535 Waples - In Use	FA000230	Echo 525 Sequencing Machine - Workstatio	Leased Assets	12/7/2017
9535 Waples - In Use	FA000231	Ultra-Compact Weight Module	Machinery & Equipment	11/15/2017
9535 Waples - In Use	FA000232	NIMBUS/Ranger Workstation	Machinery & Equipment	4/1/2018
9535 Waples - In Use	FA000233	Replacement - 80 Freezer	Machinery & Equipment	7/1/2018
9535 Waples - In Use	FA000234	BioTek UV Vis Plate Reader	Machinery & Equipment	7/10/2018
9535 Waples - In Use	FA000235	Bio-safety Cabinet for GMP	Machinery & Equipment	6/22/2018
9535 Waples - In Use	FA000236	Heat Seater for GMP Services Group	Machinery & Equipment	9/14/2018
9535 Waples - In Use	FA000237	Integra Assist Plus	Machinery & Equipment	7/13/2018
9535 Waples - In Use	FA000238	BioXP Unit 101	BioXp Demo Instruments	5/1/2015
9535 Waples - In Use	FA000239	BIOXP Unit 106	BioXp Demo Instruments	10/1/2015
9535 Waples - In Use	FA000240	BioXP Unit #112	BioXp Demo Instruments	5/31/2016
9535 Waples - In Use	FA000241	BioXP Unit 113	BioXp Demo Instruments	8/1/2015
9535 Waples - In Use	FA000242	BioXP Unit #115	BioXp Demo Instruments	10/1/2015
9535 Waples - In Use	FA000243	BioXP Unit #121	BioXp Demo Instruments	12/1/2015
9535 Waples - In Use	FA000244	BioXP Unit #129	BioXp Demo Instruments	3/1/2016
9535 Waples - In Use	FA000269	Freezer UXF600D Thermo	Machinery & Equipment	3/1/2016
9535 Waples - In Use	FA000289	Enhanced Multichannel Selective Tip Pipe	Machinery & Equipment	3/31/2014
9535 Waples - In Use	FA000290	VWR Incubator Con 3.7CF120	Machinery & Equipment	5/31/2014
9535 Waples - In Use	FA000291	ABI 3730xl: S/N 17120-016(Sequencer)	Leased Assets	7/1/2015
9535 Waples - In Use	FA000292	Gene Pulser Xcell Microbial System	Machinery & Equipment	5/1/2015
9535 Waples - In Use	FA000293	Super Sealer Auto Cap	Machinery & Equipment	8/1/2015
9535 Waples - In Use	FA000294	Sorvall Lynx 6000 & Bioflex Swinging Rot	Machinery & Equipment	10/1/2015
9535 Waples - In Use	FA000336	Family Tool and Mold	Machinery & Equipment	11/1/2015
9535 Waples - In Use	FA000350	Tempest V3	Machinery & Equipment	3/1/2019
9535 Waples - In Use	FA000352	BioXp Unit 137	Machinery & Equipment	10/1/2019
9535 Waples - In Use	FA000353	BioXP Unit 200	Machinery & Equipment	10/1/2019
9535 Waples - In Use	FA000354	BioXP Unit 209	Machinery & Equipment	10/1/2019
9535 Waples - In Use	FA000355	BioXP Unit 212	Machinery & Equipment	10/1/2019
9535 Waples - In Use	FA000364	Freezer w/ 3 steel shelves	Machinery & Equipment	02/21/20
9535 Waples - In Use	FA000365	Tooling for 00544-01	Machinery & Equipment	06/09/20
9535 Waples - In Use	FA000366	BioXP SN 250	BioXp Demo Instruments	10/01/20
9535 Waples - In Use	FA000367	BioXp 3200 Unit #250	BioXp Demo Instruments	10/01/20
9535 Waples - In Use	FA000369	Fisher Scientific Heat Sealer	Machinery & Equipment	04/01/21
9535 Waples - In Use	FA000370	BioXp 3250 #2001	BioXp Demo Instruments	03/01/21
9535 Waples - In Use	FA000371	BioXp 3250 #2002	BioXp Demo Instruments	03/01/21
9535 Waples - In Use	FA000372	BioXp 3250 #2003	BioXp Demo Instruments	03/01/21
9535 Waples - In Use	FA000373	BioXp 3250 Unit #2011	BioXp Demo Instruments	04/01/21
9535 Waples - In Use	FA000374	BioXp 3200 Unit #238	BioXp Demo Instruments	04/01/21
9535 Waples - In Use	FA000375	BioXP 3250 Unit# 2040	BioXp Demo Instruments	04/01/21

9535 Waples - In Use	FA000376	V&P Scientific Inv	Machinery & Equipment	04/01/21
9535 Waples - In Use	FA000378	Thomas Scientific Heat Sealer Inv# 2194012	Machinery & Equipment	06/01/21
9535 Waples - In Use	FA000379	Tecan Plate Reader	Machinery & Equipment	06/01/21
9535 Waples - In Use	Ready-move to	Integra Biosciences - Assist Plus Base Unit	Machinery & Equipment	9/1/2021
9535 Waples - In Use	Ready-move to	Formulatrix - Mantis V3.3	Machinery & Equipment	9/1/2021
9535 Waples - In Use	Ready-move to	Agilent Technologies Inv 121758112 Tape Station	Machinery & Equipment	9/1/2021
9535 Waples - In Use	FA000101	S1000 THERM CYCLER W/96W DP RM	Equipment	3/31/2013
9535 Waples - In Use	FA000102	S1000 THERMO CYCLER W/96W DP RM	Equipment	3/31/2013
9535 Waples - In Use	FA000103	S1000 THERMO CYCLER W/96W DP RM	Equipment	3/31/2013
9535 Waples - In Use	FA000104	S1000 THERMO CYCLER W/96W DP RM	Equipment	3/31/2013
9535 Waples - In Use	FA000105	S1000 THERMO CYCLER W/96W DP RM	Equipment	3/31/2013
9535 Waples - In Use	FA000106	S1000 THERMO CYCLER W/96W DP RM	Equipment	3/31/2013
9535 Waples - In Use	FA000107	S1000 THERM CYCLER W/96 W DP RM	Equipment	3/31/2013
9535 Waples - In Use	FA000108	S1000 THERM CYCLER W/96W DP RM	Equipment	3/31/2013
9535 Waples - In Use	FA000109	S1000 THERM CYCLER W/96W DP RM	Equipment	3/31/2013
9535 Waples - In Use	FA000110	S1000 THERM CYCLER W/96 DP RM	Equipment	3/31/2013
9535 Waples - In Use	FA000112	S1000 THERM CYCLER W/96W DP RM	Equipment	3/31/2013
9535 Waples - In Use	FA000113	S1000 THERM CYCLER W/96W DP RM	Equipment	3/31/2013
9535 Waples - In Use	FA000114	S1000 THERM CYCLER W/96W DP RM	Equipment	3/31/2013
9535 Waples - In Use	FA000115	S1000 THERM CYCLER W/96W DP RM	Equipment	3/31/2013
9535 Waples - In Use	FA000116	S1000 THERM CYCLER W/96W DP RM	Equipment	3/31/2013
9535 Waples - In Use	FA000118	C1000TOUCH CYCLER W/96W DP RM	Equipment	3/31/2013
9535 Waples - In Use	FA000119	C1000 TOUCH CYCLER W/96W DP RM	Equipment	3/31/2013
9535 Waples - In Use	FA000120	C1000 TOUCH CYCLER W/96W DP RM	Equipment	3/31/2013
9535 Waples - In Use	FA000121	S1000 THERM CYCLER W/96W DP RM	Equipment	3/31/2013
9535 Waples - In Use	FA000122	S1000 THERM CYCLER W/96W DP RM	Equipment	3/31/2013
9535 Waples - In Use	FA000123	S1000 THERM CYCLER W/P6W DP RM	Equipment	3/31/2013
9535 Waples - In Use	FA000133	MAXQ 400 Ref Digital Promo Package	Equipment	10/31/2011
9535 Waples - In Use	FA000135	AJ103 Multitron II NC 3 mm 115V 60Hz	Equipment	2/29/2012
9535 Waples - In Use	FA000139	S1000 Therm Cycler w/ 96W DP RM	Equipment	3/31/2012
9535 Waples - In Use	FA000140	S1000 Therm Cycler w/96W DP R	Equipment	2/28/2013
9535 Waples - In Use	FA000141	S1000 Therm Cycler w/p6W DP R	Equipment	2/28/2013
9535 Waples - In Use	FA000142	S1000 Therm Cycler w/ 96W DP RM	Equipment	3/31/2012
9535 Waples - In Use	FA000143	S1000 Therm Cycler w/96W DP R	Equipment	2/18/2013
9535 Waples - In Use	FA000147	ALPS 3000 Automatic Microplate Reader	Equipment	7/31/2013
9535 Waples - In Use	FA000148	Biotek Microplate Reader	Equipment	7/31/2013
9535 Waples - In Use	FA000149	ALLEGRA X-14R REFRIGERATOR	Equipment	4/30/2013
9535 Waples - In Use	FA000156	Refrigerator Lab 47cuft	Equipment	3/31/2013
9535 Waples - In Use	FA000157	Instrument Cart	Equipment	2/28/2013
9535 Waples - In Use	FA000158	Refrigerator Lab 47cuft	Equipment	2/28/2013
9535 Waples - In Use	FA000159	Refrigerator Lab 47Cuft	Equipment	2/28/2013
9535 Waples - In Use	FA000160	REVCO ULT FREEZER	Equipment	2/28/2013
9535 Waples - In Use	FA000161	REVCO ULT FREEZER	Equipment	2/28/2013
9535 Waples - In Use	FA000162	ICE MAKER FLAKED SELFCONTAINED	Equipment	2/28/2013

9535 Waples - In Use	FA000163	Laminar Flow Enclosure, PCR, Labconco,	Equipment	3/31/2013
9535 Waples - In Use	FA000164	ALLEGRA X-14R 120V MICROPLATE	Equipment	2/28/2013
9535 Waples - In Use	FA000165	ALLEGRA X-14R 120V MICROPLATE	Equipment	2/28/2013
9535 Waples - In Use	FA000166	Allegra X-14 Centrifuge	Equipment	2/28/2013
9535 Waples - In Use	FA000167	VWR SYM INCUBATOR CON 3.7CF120	Equipment	2/28/2013
9535 Waples - In Use	FA000168	VWR SYM INCUBATOR CON 3.7CF120	Equipment	2/28/2013
9535 Waples - In Use	FA000170	Printer Mach4300B	Equipment	3/31/2013
9535 Waples - In Use	FA000171	Printer Mach4300B	Equipment	3/31/2013
9535 Waples - In Use	FA000173	LEASE: MiSeq System M01680	Equipment	3/31/2013
9535 Waples - In Use	FA000175	PIPET-LITE XLS LTS 12-CH 100-1200UL	Equipment	2/28/2013
9535 Waples - In Use	FA000176	GENE PULSER XCELL MICROBIAL S	Equipment	2/28/2013
9535 Waples - In Use	FA000177	Instrument Cart, gray phen top	Equipment	3/31/2013
9535 Waples - In Use	FA000181	5430 Knob W/2XMTP Rotor Centrifuge	Equipment	1/31/2013
9535 Waples - In Use	FA000182	5430 Knob w/6X15/50ML Rotor Centrifuge	Equipment	1/31/2013
9535 Waples - In Use	FA000187	MATRIX EQUALIZER 12CH 30UL	Equipment	12/31/2013
9535 Waples - In Use	FA000245	PIPET-LITE XLS LTS 12-CH 100-1200UL	Equipment	2/28/2013
9535 Waples - In Use	FA000246	VWR Freezer Manual -20C Upright	Equipment	3/31/2013
9535 Waples - In Use	FA000247	Multitron II, 3mm, Plate Tray, HC110 Hum	Equipment	3/31/2013
9535 Waples - In Use	FA000248	VWR Freezer Manual -20C Upright	Equipment	3/31/2013
9535 Waples - In Use	FA000249	Refrigerator Lab 47CUFT	Equipment	4/30/2013
9535 Waples - In Use	FA000251	LEASE: Illumina MiSeq System	Equipment	2/28/2013
9535 Waples - In Use	FA000259	Ranin Pipettor 12CH 100-1200UL	Equipment	4/30/2013
9535 Waples - In Use	FA000260	Safe Imager 2.0 Blue Light	Equipment	6/30/2013
9535 Waples - In Use	FA000261	VWR Flam 60GL Self Close	Equipment	2/28/2013
9535 Waples - In Use	FA000264	GelDoc-It2 Imager	Equipment	6/30/2013
9535 Waples - In Use	FA000268	Freezer Pharm Auto 49CuFt	Equipment	9/30/2013
9535 Waples - In Use	FA000277	S1000 Thermal Cycler w/96W DR RM	Equipment	8/31/2013
9535 Waples - In Use	FA000278	S1000 Thermal Cycler w/96W DR RM	Equipment	8/31/2013
9535 Waples - In Use	FA000279	S1000 Thermal Cycler w/96W DR RM	Equipment	8/31/2013
9535 Waples - In Use	FA000280	S1000 Thermal Cycler w/96W DR RM	Equipment	8/31/2013
9535 Waples - In Use	FA000281	S1000 Thermal Cycler w/96W DR RM	Equipment	8/31/2013
9535 Waples - In Use	FA000282	S1000 Thermal cycler w/96W DR RM	Equipment	8/31/2013
9535 Waples - In Use	FA000283	C1000 Touch Cycler w/96W DP RM	Equipment	8/31/2013
9535 Waples - In Use	FA000284	C1000 Touch Cycler w/96W DP RM	Equipment	8/31/2013
9535 Waples - In Use	FA000285	Multitron II, 3mm	Equipment	9/30/2013
9535 Waples - In Use	FA000288	Fisher Scientific Isotemp Refrigerator	Equipment	1/31/2014

Equipment in Storage at 9535 Waples:

Location	xed Asset Numb	Description	Subclass Code	Acquisition Date
9535 Waples - Storage	FA000126	CENTRIFUGE 5424 W/ROTOR 120V	Equipment	5/1/2011
9535 Waples - Storage	FA000127	CENTRIFUGE 5424 W/ROTOR 120V	Equipment	5/1/2011

9535 Waples - Storage	FA000144	MATRIX EQUALIZER 8CH 250UL	Equipment	6/30/2012
9535 Waples - Storage	FA000145	Hudson Basix 108Wx 36D x 48H, 3730 bench	Equipment	7/31/2012
9535 Waples - Storage	FA000146	MerMade 192 E DNA/RNA Synthesizer	Equipment	6/30/2012
9535 Waples - Storage	FA000178	FEBIT	Equipment	9/30/2013
9535 Waples - Storage	FA000183	Oligo Synthesizer MERMADE-192R	Equipment	5/31/2013
9535 Waples - Storage	FA000286	Lab Label Printer Zebra	Equipment	6/30/2013

EXHIBIT I

FORM OF ESTOPPEL CERTIFICATE

To: BRE-BMR Wateridge Pointe LP
4570 Executive Drive, Suite 400
San Diego, California 92121
Attention: Legal Department

BioMed Realty, L.P.
4570 Executive Drive, Suite 400
San Diego, California 92121

Re: [PREMISES ADDRESS] (the "Premises") at [STREET ADDRESS], [CITY AND STATE] (the "Property")

The undersigned tenant ("Tenant") hereby certifies to you as follows:

1. Tenant is a tenant at the Property under a lease (the "Lease") for the Premises dated as of [_____], 20[__]. The Lease has not been cancelled, modified, assigned, extended or amended [except as follows: [_____]], and there are no other agreements, written or oral, affecting or relating to Tenant's lease of the Premises or any other space at the Property. The lease term expires on [_____], 20[__].

2. Tenant took possession of the Premises, currently consisting of [_____] square feet, on [_____], 20[__], and commenced to pay rent on [_____], 20[__]. Tenant has full possession of the Premises, has not assigned the Lease or sublet any part of the Premises, and does not hold the Premises under an assignment or sublease[, except as follows: [_____]].

3. All base rent, rent escalations and additional rent under the Lease have been paid through [_____], 20[__]. There is no prepaid rent[, except $[_____]][, and the amount of security deposit is $[_____] [in cash][OR][in the form of a letter of credit]]. Tenant currently has no right to any future rent abatement under the Lease.

4. Base rent is currently payable in the amount of $[_____] per month.

5. Tenant is currently paying estimated payments of additional rent of $[_____] per month on account of real estate taxes, insurance, management fees and Common Area maintenance expenses.

6. To Tenant's current actual knowledge, all work to be performed for Tenant under the Lease has been performed as required under the Lease and has been accepted by Tenant[, except [_____]], and all allowances to be paid to Tenant, including allowances for tenant improvements, moving expenses or other items, have been paid.

7. To Tenant's current actual knowledge, the Lease is in full force and effect, free from default and free from any event that could become a default under the Lease, and Tenant has no claims against the landlord or offsets or defenses against rent, and there are no disputes with the landlord.

The undersigned Tenant has not made any prior assignment, transfer, hypothecation or pledge of the Lease or of the rents thereunder or sublease of the Premises or any portion thereof.

8. [Tenant has the following expansion rights or options for leasing additional space at the Property: [_____].][OR][Tenant has no rights or options to purchase the Property.]

9. To Tenant's current actual knowledge, no hazardous wastes have been generated, treated, stored or disposed of by or on behalf of Tenant in, on or around the Premises or the Project in violation of any environmental laws.

10. The undersigned has executed this Estoppel Certificate with the knowledge and understanding that [INSERT NAME OF LANDLORD, PURCHASER OR LENDER, AS APPROPRIATE] or its assignee is [acquiring the Property/making a loan secured by the Property] in reliance on this certificate and that the undersigned shall be bound by this certificate. The statements contained herein may be relied upon by [INSERT NAME OF PURCHASER OR LENDER, AS APPROPRIATE], [LANDLORD], [BioMed Realty, L.P.][OR][BioMed Realty II LP], [BRE Edison L.P.][OR][BRE Edison II LP], and any [other]mortgagee of the Property and their respective successors and assigns.

Any capitalized terms not defined herein shall have the respective meanings given in the Lease.

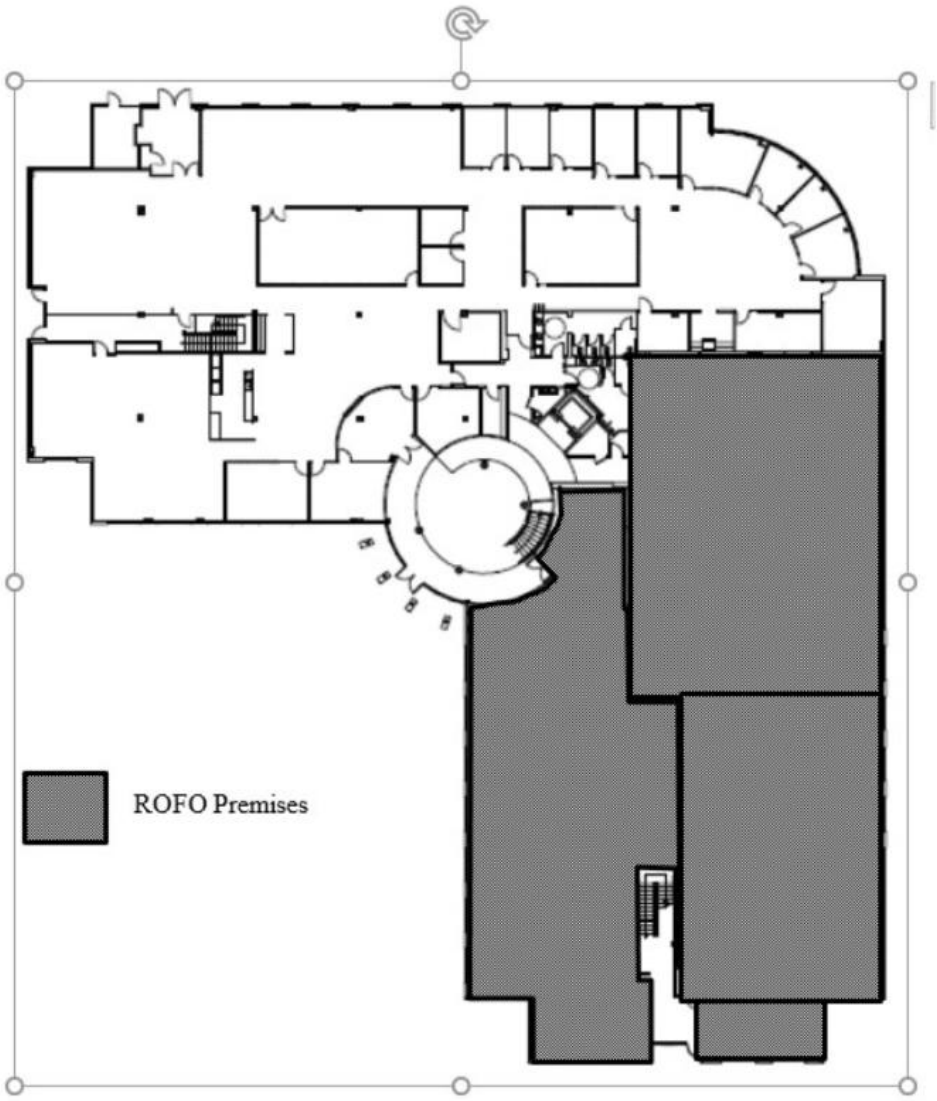
Dated this [____] day of [_____], 20[__].

[_____],
a [_____]

By: _____
Name: _____
Title: _____

EXHIBIT J

AVAILABLE ROFO PREMISES



1st floor of 10431 Building

Codex DNA - Lease - Execution Version (CGS3 Draft 9-20-21)

Final Audit Report 2021-09-30

Created:	2021-09-30
By:	Serina Roth (serina.roth@biomedrealty.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAgDaNKthd1pBb-ZsWrCgLezbjhWAg2ChY

"Codex DNA - Lease - Execution Version (CGS3 Draft 9-20-21)" History

Document created by Serina Roth (serina.roth@biomedrealty.com)
2021-09-30 - 7:08:04 PM GMT- IP address: 12.46.199.194

Document emailed to Marie Lewis (marie.lewis@biomedrealty.com) for signature
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Document e-signed by Marie Lewis (marie.lewis@biomedrealty.com)
Signature Date: 2021-09-30 - 7:39:56 PM GMT - Time Source: server- IP address: 12.46.199.194

Agreement completed.
2021-09-30 - 7:39:56 PM GMT

CODEX DNA

9535 Waples Street, Suite 100
San Diego, CA 92121

September 12, 2021

Timothy Cloutier

Re: Terms of Separation and General Release

Dear Tim,

This letter confirms the agreement (this "***Agreement***") between you and Codex DNA, Inc. ("***CODEX DNA***") concerning the terms of your separation and offers you the Separation Payment, as defined below, in exchange for your general release of known and unknown claims as of the Effective Date of this Agreement.

1. Termination Date. Your at-will employment with Codex DNA terminated effective September 17, 2021 (the "***Termination Date***"). You will be paid through this date.

2. Acknowledgment of Payment of Wages. You agree that on the Termination Date, Codex DNA provided you a final paycheck in the total amount due to you for all wages, salary, bonuses, reimbursable expenses, accrued paid time off and any similar payments due you from Codex DNA as of the Termination Date, less all applicable withholdings and deductions. You acknowledge that you have otherwise been paid all wages, salary, bonuses, and benefits owed to you, and that these amounts are in no way consideration for this Agreement.

3. Benefits. You agree that on the Termination Date, all benefits provided to you by Codex DNA will terminate, except for (a) your right to continue your health insurance under COBRA, and you will be notified in a separate writing of that right, and (b) rights to vested benefits such as under Codex DNA's 401(k) plan, which rights are governed by the terms of the applicable plan documents and agreements.

4. Separation Payment. Within ten (10) business days after the Effective Date of this Agreement, Codex DNA will pay you the following amounts less applicable payroll withholdings and deductions: a one-time separation amount equal to $150,000 which is equivalent to 6 months of pay and $6,590.46 which is the equivalent of 6 months of COBRA individual coverage grossed up for taxes (the "***Severance Payment***"). You agree that you are receiving the consideration outlined in this Section 4 in consideration for waiving your right to claims as setforth in Section 8, and that you would not otherwise be entitled to the payments set forth above.

5. Termination of Stock Options. You agree that the unvested stock options previously granted to you by Codex DNA are terminated and you have no right to any payment in connection with those stock options. It is agreed and understood that, as of September 15, 2021, you have vested in 25% of the 30,000 incentive stock options granted to you on October 22, 2020, and you may exercise those options within 90 days of September 17, 2021. Nothing in this Agreement undermines your entitlement or ability to exercise those stock options.

6. Return of Codex DNA Property. You represent and warrant to Codex DNA that you have returned to Codex DNA all real or intangible property and data of Codex DNA of any type whatsoever that has been in

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9535 Waples Street, Suite 100
San Diego, CA 92121

your possession or control.

7. Confidential Information. You agree that you are, and shall continue to be, bound by the Nondisclosure and Invention Assignment Agreement between you and Codex DNA (the "***Employee Invention Agreement***"), attached as Exhibit 1, and that as a result of your employment with Codex DNA you have had access to Codex DNA's Proprietary Information (as defined in the Employee Invention Agreement), and you represent and warrant that you have held and will hold all Proprietary Information in strictest confidence and that you have not made and will not make use of such Proprietary Information on behalf of anyone. You further represent and warrant that you have delivered to Codex DNA all documents and data of any nature containing or pertaining to such Proprietary Information and that you have not taken with you any such documents or data or any reproduction thereof.

8. Waiver of Claims. You, on behalf of yourself and your spouse, successors, heirs, and assigns, hereby forever irrevocably release and discharge Codex DNA, Inc. and its affiliates, and subsidiaries, and the officers, shareholders, employees, directors, contractors, attorneys, and agents of each of them, and the successors, heirs and assigns of all of the foregoing (collectively "***Releasees***"), from all claims, demands, complaints. rights, actions, defenses, counterclaims, proceedings, liability, damages, losses, expenses and other amounts and remedies that you have ever had, have now or may in the future have, of any kind whatsoever that can be released ("***Claims***"), whether known or not known, and whether or not matured or liquidated, including, without limitation, and by way of example only, claims under any employment laws, including, but not limited to, claims of unlawful discharge, breach of contract, breach of the covenant of good faith and fair dealing, fraud, violation of public policy, defamation, personal injury, emotional distress, claims for additional compensation or benefits arising out of your employment or your separation of employment, claims under Title VII of the 1964 Civil Rights Act, as amended, the Civil Rights Act of 1866, the Civil Rights Act of 1871, the Fair Labor Standards Act, the Americans with Disabilities Act, the Family Medical Leave Act, the Equal Pay Act, the Employee Retirement Income Security Act of 1974, the National Labor Relations Act, the California Fair Employment and Housing Act, the California Unruh Act, the California Constitution, the California Labor Code, the California Business & Professions Code, the California Government Code, the California Civil Code and any other laws and/or regulations relating to employment or employment discrimination, including, without limitation, claims based on age or under the Age Discrimination in Employment Act or Older Workers Benefit Protection Act, and any claims relating to or arising from any equity in or rights relating to equity in Codex DNA, Inc.. You covenant and agree not to sue or otherwise institute or cause to be instituted, or assist any other person or entity in instituting or causing to be instituted any Claims against any Releasee except as set forth below, and except for your compliance with a valid court order or subpoena, provided that you give Codex DNA reasonable advance written notice of such court order or subpoena and cooperate with Codex DNA's efforts to quash or otherwise terminate or limit such court order or subpoena.

This general release, discharge and waiver of claims excludes, and you do not waive, release, or discharge: (a) any right to file an administrative charge or complaint with the Equal Employment Opportunity Commissicn, or other similar federal or state administrative agencies, although you waive any right to monetary relief related to such a charge or administrative complaint; and (b) any other claims which cannot be waived by law; (c) indemnification rights you have from Codex DNA; and (d) any rights to vested benefits, such as 401(k) plan benefits, the rights to which are governed by the terms of the applicable plan documents and agreements.

By signing below, you represent and warrant that you have not been denied any request for leave to which you believe you were legally entitled, and you were not otherwise deprived of any of your rights under the

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9535 Waples Street, Suite 100
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Family and Medical Leave Act or any similar state or local statute; and you have not assigned or transferred, or purported to assign or transfer, to any person, entity, or individual whatsoever, any of the claims released in the foregoing general release and waiver.

By signing below, you expressly waive all rights afforded to you by Section 1542 of the Civil Code of the State of California, which provides as follows:

> **A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.**

You represent and agree that you are fully informed of your rights under Section 1542 and knowingly and intentionally waive such rights. The release in this Section is final and irrevocable, and an independent covenant binding notwithstanding any breach of this Agreement by Codex DNA.

9. Nondisparagement. You represent and warrant that you have not and will not take any action or make any statement (oral or written) that disparages or criticizes Codex DNA, its affiliates, parent companies, subsidiaries, and related entities, or its officers, directors, or employees, or that harms Codex DNA or any of Codex DNA affiliates', parent companies', subsidiaries', and related entities', or Codex DNA's officers', directors', or employees' respective reputations, or that disrupts or impairs Codex DNA's normal, ongoing business operations. This provision applies to all of your interactions through any medium, either orally or in writing, including but not limited to electronic mail, television, radio, computer networks or Internet bulletin boards, blogs, social media (e.g. Facebook, LinkedIn, Twitter), employee rating sites (e.g., Glassdoor), or any other form of communication with third parties, anonymous or not, including without limitation any conversations or correspondence that you might have with organizations, governmental entities, and persons with whom Codex DNA engages in business, as well as with employees of Codex DNA. You further agree to provide Codex DNA with information confirming your social media and Internet identity, username, or handle for purposes of determining whether you have breached this Section. You further agree to promptly comply with all reasonable requests by Codex DNA to remove all of your social media and/or Internet postings or publications that are reasonably determined by Codex DNA to be in breach of this Section within three (3)days upon receipt of such request. Nothing in this provision is intended to impair your or any other employee's rights under the National Labor Relations Act. You understand that this provision does not apply on occasions when you are subpoenaed or ordered by a court or other governmental authority to testify orgive evidence and must respond truthfully. You further agree not to otherwise interfere with Codex DNA's business operations, including, without limitation, Codex DNA's efforts to develop, market and sell its products and services. You agree that for the proven breach of the obligations of this Section, Codex DNA will be entitled to recover, in addition to and without limiting any other remedy or right (other than a claim for damages) that it may have at law or in equity, liquidated damages in the sum of One Thousand Dollars ($1000) for each breach of this Section, which sum represents the Parties' reasonable and fair estimate of the loss Codex DNA would likely sustain for each such breach.

You should direct all reference checks for prospective employers to Codex DNA's Human Resources Department at hr@codexdna.com. In response to any requests for information about your employment with Codex DNA, Codex DNA's Human Resources Department shall only provide the following information: (1) confirmation of your dates of employment; (2) your position titles; and (3) your rates of pay. In no event will Codex DNA provide any reasons for or description of your separation or the circumstances surrounding the same, nor any assessment of your qualifications, competencies, or character.

10. Tax Treatment. You understand and agree that Codex DNA is not providing tax, legal advice, nor any

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CODEX DNA

9535 Waples Street, Suite 100
San Diego, CA 92121

representations regarding tax obligations or consequences, if any, related to this Agreement. You further agree that you will assume any such tax obligations or consequences owed by you that may arise from this Agreement,and that you shall not seek any indemnification from Codex DNA in this regard. In the event that any taxingbody determines that additional taxes are due from you, you agree that you shall assume all responsibil tyfor the payment of any such taxes, and agree to indemnify, defend, and hold Codex DNA harmless from the payment of such taxes, and any judgments, penalties, taxes, costs, and attorneys' fees incurred by Codex DNA as a consequence of your failure to withhold taxes.

11. Legal and Equitable Remedies. You agree that any breach by you or on your behalf of this Agreement will cause Releasees irreparable harm for which monetary damages are an inadequate remedy, and that therefore, in addition to any other remedy available to them, for any breach of this Agreement by you or on your behalf, Releasees have the right to obtain injunction, specific performance or other equitable relief without the posting of bond or security, or if required, then the minimum bond or security required, and you agree that $500 is a reasonable amount of bond or security. In the event that any party to this Agreement brings a claim for breach of this Agreement, or to enforce the terms of this Agreement, the prevailing party shall be entitled to his/its reasonable attorneys' fees and costs.

12. Confidentiality. You represent and warrant that you have maintained and will maintain in confidence the contents, terms and conditions of this Agreement and the negotiations and facts leading to and comprising the negotiations resulting in this Agreement and that you have not disclosed and will not disclose any of the foregoing except to your spouse/fiancé, accountant or attorneys or pursuant to valid court order or subpoena, provided that you give Codex DNA reasonable advance written notice of such court order or subpoena andcooperate with Codex DNA's efforts to quash or otherwise terminate or limit such court order or subpoena. You agree that if you are asked for information concerning this Agreement or the settlement contained herein, or the facts leading to or comprising the negotiations that led to this Agreement and settlement, youwill state only that you and Codex DNA reached an amicable resolution of any disputes concerning your separation from Codex DNA. Any breach of this confidentiality provision shall be deemed a material breachof this Agreement. You further agree that if you breach any of the promises contained in this Section or itssubparts, Codex DNA shall be entitled to recover its reasonable attorneys' fees and other costs in the event that Codex DNA prevails in a proceeding to enforce any provision of this Section or its subparts. You furtheragree that for the proven breach of the non-disclosure obligations of this Section and its subparts, Codex DNA will be entitled to recover, in addition to and without limiting any other remedy or right (other than a claim for damages) that it may have at law or in equity, liquidated damages in the sum of One Thousand Dollars ($1,000) for each non-permissible disclosure, which sum represents the Parties' reasonable and fair estimate of the loss Codex DNA would likely sustain for each such breach.

13. No Admission of Liability. This Agreement is not and shall not be construed or contended by you to be an admission or evidence of any wrongdoing or liability on the part of Releasees, their representatives, heirs, executors, attorneys, agents, partners, officers, shareholders, directors, employees, subsidiaries, affiliates, divisions, successors or assigns. This Agreement shall be afforded the maximum protection allowable under California Evidence Code Section 1152 and/or any other state or Federal provisions of similar effect.

14. No Knowledge of Wrongdoing. You represent that you have no knowledge of any wrongdoing involving improper or false claims against a federal or state governmental agency, or any other wrongdoing that involves you or other present or former Codex DNA employees.

15. Contingent Obligation. Codex DNA's obligations under this Agreement are contingent upon your

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9535 Waples Street, Suite 100
San Diego, CA 92121

compliance with all terms and conditions provided for herein. You expressly agree that if you are found by a Court or arbitrator to be in material breach any of your obligations under this Agreement, Codex DNA may cease making any payments due under this Agreement, and recover all payments already made under this Agreement, in addition to all other availablelegal remedies.

16. Negotiated Terms. The provisions of this Agreement are the result of negotiations between the parties, and each party represents that it has had such legal and other advice as it determined appropriate, and that the terms herein are fair and reasonable. This Agreement will not be construed in favor of or against either party by reason of the extent to which it participated in the preparation of this Agreement.

17. Entire Agreement. This Agreement constitutes the entire agreement between you and Releasees with respect to the subject matter hereof and supersedes all prior negotiations and agreements, whether written or oral, relating to such subject matter other than the Employee Invention Agreement. You acknowledge that neithe- Releasees nor their agents or attorneys have made any promise, representation or warranty whatsoever, either express or implied, written or oral, which is not contained in this Agreement for the purpose of inducing you to execute this Agreement, and you acknowledge that you have executed this Agreement in reliance only upon the express provisions of this Agreement.

18. Modification. This Agreement may not be modified in any respect except by another written agreement that specifically states the intention to modify this Agreement that is executed by authorized representatives of each party. A party will only waive its rights under this Agreement to the extent it provides written notice stating the intention to waive such rights, and such waiver is only effective to the extent set forth in such written notice and not thereafter for the same or any other rights herein.

19. ADEA Waiver / Review of Terms of Agreement. By your signature below, you acknowledge, agree and understand that:

a. Under the general release detailed above, you are waiving and releasing, among other claims, any rights and claims that may exist under the Age Discrimination in Employment Act ("ADEA"); the waiver and release of claims set forth in the release above does not apply to any rights or claims that may arise under the ADEA after the date of execution of this Agreement; the payments and other consideration that are being provided to you are of significant value and are in addition to what you otherwise would be entitled; you have been advised to consult with your own attorney concerning the terms of this Agreement.

b. You understand that you may take up to twenty-one (21) days to consider this Agreement and, by signing below, affirm that you were advised to consult with an attorney prior to signing this Agreement. If you do not return a signed copy of this Agreement within such twenty-one (21) day period, it expires without having had any force or effect.

c. You also understand you may revoke this Agreement within seven (7) days of signing below and that the Severance Payment to be paid to you pursuant to Section 4 will be paid only after the end of that seven (7) day revocation period ("***Effective Date***"), provided that you have not revoked this Agreement during such time. Revocation must be made by delivering a written notice of revocation to Laura Puga, Vice President, People & Culture, Codex DNA Inc., 9535 Waples, Ste. 100, San Diego California, 92121, and which must be received by Codex DNA no later than the close of business on the seventh (7th) calendar day after execution (or the next business day thereafter, if the seventh (7th) calendarday is not a business day). Notice shall be effective if and only if it is delivered within the revocation periodset forth above by one or more of the following means: (a) personally delivered; (b) overnight courier; or (c)registered or certified mail.

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20. Counterparts. This Agreement may be executed in counterparts, and all counterparts in hardcopy or electronic form will together comprise this Agreement. This Agreement may be signed electronically, and by provision of an electronic copy containing a party's signature, and such electronic signature or copy is effective to bind the party to this Agreement.

21. Severability. If any provision of this Agreement is determined to be invalid or unenforceable, it will be deemed to be modified to the minimum extent necessary to be valid and enforceable, and if it cannot be so modified, then the invalid or unenforceable provision will be replaced with a provision that is valid and enforceable and most closely accomplishes the intention of the invalid or unenforceable provision while complying with applicable law.

22. Choice of Law and Arbitration. This Agreement will be governed by and construed in accordance with the laws of the State of California, excluding choice of law principles. Any dispute arising under or relating in any way to this Agreement will be resolved exclusively by arbitration. The Parties agree to arbitrate through Judicial Arbitration and Mediation Services (JAMS) or an agreed upon dispute resolution service, any and all disputes or claims arising out of or related to the validity, enforceability, interpretation, performance or breach of this Agreement, whether sounding in tort, contract, statutory violation orotherwise, or involving the construction or application or any of the terms, provisions, or conditions of this Agreement. Any arbitration may be initiated by a written demand to the other Party. The arbitrator's decision shall be final, binding, and conclusive. The Parties further agree that this Agreement is intended to be strictly construed to provide for arbitration as the sole and exclusive means for resolution of all disputes hereunder to the fullest extent permitted by law and that the Parties will follows JAMS Rules of Arbitration applicable to employment disputes. The Parties expressly waive any entitlement to have such controversies decided by acourt or a jury.

YOU UNDERSTAND THAT YOU ARE VOLUNTARILY AGREEING TO ARBITRATE DISPUTES ARISING UNDER THIS AGREEMENT AND THAT YOU ARE GIVING UP YOUR RIGHT TO A TRIAL BY JURY.

If you agree to this Agreement, please sign and return one copy of this Agreement to me within the twenty-one (21) day period described above. Codex DNA wishes you the best in your future endeavors.

DocuSigned by:
By: Laura Puga _____ Date: 9/12/2021
C672828267CA4FC...
Laura B. Puga
Vice President, People & Culture
Codex DNA, Inc.

CONSULT WITH AN ATTORNEY PRIOR TO SIGNING THIS AGREEMENT. BY SIGNING THIS AGREEMENT YOU GIVE UP AND WAIVE IMPORTANT LEGAL RIGHTS.

I have read, understand and of my own free will agree to the terms set forth above:

DocuSigned by:
Tim Cloutier _____ Date: 9/17/2021
0EDC7F075405480...
Employee

Exhibit 1 Nondisclosure and Invention Assignment Agreement

CODEX DNA

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San Diego, CA 92121

EXHIBIT 1
Nondisclosure and Invention Assignment Agreement

See Attached.

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CERTIFICATION OF CHIEF EXECUTIVE OFFICER
Pursuant to
Securities Exchange Act Rules 13a-14(a) and 15d-14(a),
As Adopted Pursuant to
Section 302 of the Sarbanes-Oxley Act of 2002

I, Todd Nelson, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Codex DNA, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a–15(f) and 15d–15(f)) for the registrant and have:
   a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
   b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
   c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
   d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
   a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
   b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ Todd Nelson

Todd Nelson
President, Chief Executive Officer and Director
(Principal Executive Officer)

Date: November 10, 2021

CERTIFICATION OF CHIEF FINANCIAL OFFICER
Pursuant to
Securities Exchange Act Rules 13a-14(a) and 15d-14(a),
As Adopted Pursuant to
Section 302 of the Sarbanes-Oxley Act of 2002

I, Jennifer McNealey, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Codex DNA, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a–15(f) and 15d–15(f)) for the registrant and have:
   a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
   b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
   c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
   d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
   a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
   b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ Jennifer McNealey

Jennifer McNealey
Chief Financial Officer
(Principal Financial Officer)

Date: November 10, 2021

CERTIFICATIONS OF CHIEF EXECUTIVE OFFICER AND CHIEF FINANCIAL OFFICER
PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of Codex DNA, Inc. (the "Company") on Form 10-Q for the period ended September 30, 2021, as filed with the Securities and Exchange Commission (the "Report"), Todd Nelson, as Chief Executive Officer of the Company, and Jennifer McNealey, as Chief Financial Officer of the Company, each hereby certifies, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. Section 1350), to his or her knowledge:

1. The Report, fully complies with the requirements of Section 13(a) or Section 15(d) of the Exchange Act of 1934, as amended; and

2. The information contained in the Periodic Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Todd Nelson

Todd Nelson
President, Chief Executive Officer and Director
(Principal Executive Officer)

Date: November 10, 2021

/s/ Jennifer McNealey

Jennifer McNealey
Chief Financial Officer
(Principal Financial Officer)

Date: November 10, 2021