

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

FORM 10-Q

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

For the quarterly period ended September 30, 2020

OR

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

For the transition period from _____ to _____

Commission File Number 0-19437

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

Delaware
(State or other jurisdiction of
incorporation or organization)

11-2962080
(I.R.S. Employer
Identification No.)

635 Davis Drive, Suite 300, Morrisville, NC 27560
(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code: (919) 765-8400

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

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

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

| | | | |
|-------------------------|--------------------------|---------------------------|-------------------------------------|
| Large accelerated filer | <input type="checkbox"/> | Accelerated Filer | <input checked="" type="checkbox"/> |
| Non-accelerated filer | <input type="checkbox"/> | Smaller reporting company | <input checked="" type="checkbox"/> |
| | | Emerging Growth Company | <input type="checkbox"/> |

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 Exchange Act) Yes No

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

| Title of each class | Trading symbol | Name of each exchange on which registered |
|---|----------------|---|
| Common Stock \$0.001 par value per share | TRXC | NYSE American |

The number of shares outstanding of the registrant's common stock, as of October 31, 2020 was 99,910,279.

TABLE OF CONTENTS FOR FORM 10-Q

| | | |
|----------|---|----|
| PART I. | FINANCIAL INFORMATION | |
| Item 1. | Financial Statements | |
| | Condensed Consolidated Statements of Operations and Comprehensive Loss (unaudited) | 2 |
| | Condensed Consolidated Balance Sheets (unaudited) | 3 |
| | Condensed Consolidated Statements of Stockholders' Equity (unaudited) | 4 |
| | Condensed Consolidated Statements of Cash Flows (unaudited) | 5 |
| | Notes to Condensed Consolidated Financial Statements (unaudited) | 6 |
| Item 2. | Management's Discussion and Analysis of Financial Condition and Results of Operations | 27 |
| Item 3. | Quantitative and Qualitative Disclosures About Market Risk | 44 |
| Item 4. | Controls and Procedures | 44 |
| PART II. | OTHER INFORMATION | 45 |
| Item 1. | Legal Proceedings | 45 |
| Item 1A. | Risk Factors | 45 |
| Item 2. | Unregistered Sales of Equity Securities and Use of Proceeds | 47 |
| Item 3. | Defaults Upon Senior Securities | 47 |
| Item 4. | Mine Safety Disclosures | 47 |
| Item 5. | Other Information | 47 |
| Item 6. | Exhibits | 48 |
| | SIGNATURES | 49 |

[Table of Contents](#)

FORWARD-LOOKING STATEMENTS

In addition to historical financial information, this report contains “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act, that concern matters that involve risks and uncertainties that could cause actual results to differ materially from those projected in the forward-looking statements. These forward-looking statements are intended to qualify for the safe harbor from liability established by the Private Securities Litigation Reform Act of 1995. All statements other than statements of historical fact contained in this report, including statements regarding future events, our future financial performance, our future business strategy and the plans and objectives of management for future operations, are forward-looking statements. We have attempted to identify forward-looking statements by terminology including “anticipates,” “believes,” “can,” “continue,” “could,” “estimates,” “expects,” “intends,” “in the event that,” “may,” “plans,” “potential,” “predicts,” “should” or “will” or the negative of these terms or other comparable terminology. Although we do not make forward-looking statements unless we believe we have a reasonable basis for doing so, we cannot guarantee their accuracy. Such forward-looking statements are subject to risks, uncertainties and other factors that could cause actual results and the timing of certain events to differ materially from future results expressed or implied by such forward-looking statements, including the impact of the coronavirus (COVID-19) pandemic on our operating results. Readers are urged to carefully review and consider the various disclosures made by us, which attempt to advise interested parties of the risks, uncertainties, and other factors that affect our business, operating results, financial condition and stock price, including without limitation the disclosures made under the captions “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” “Financial Statements,” “Notes to Consolidated Financial Statements” and “Risk Factors” in this report, as well as the disclosures made in the TransEnterix, Inc. Annual Report on Form 10-K for the year ended December 31, 2019 (the “Fiscal 2019 Form 10-K”), and other filings we make with the SEC. Furthermore, such forward-looking statements speak only as of the date of this report. We expressly disclaim any intent or obligation to update any forward-looking statements after the date hereof to conform such statements to actual results or to changes in our opinions or expectations except as required by applicable law. To the extent that our business is negatively impacted due to a variety of factors, including the impact of COVID-19 on our operating results, we may implement longer-term cost reduction efforts in order to mitigate such impact. References in this report to “we,” “our,” “us,” or the “Company” refer to TransEnterix, Inc., including its subsidiaries, TransEnterix Surgical, Inc., SafeStitch LLC, TransEnterix International Inc.; TransEnterix Italia S.r.l.; TransEnterix Europe S.à.R.L; TransEnterix Asia PTE. Ltd.; TransEnterix Taiwan Ltd; TransEnterix Japan KK; TransEnterix Israel Ltd., TransEnterix Netherlands B.V. and TransEnterix Canada, Inc.

Any disclosure in this report regarding the receipt of CE Mark or Section 510(k) clearance for any of the Company’s products does not mean or infer any endorsement of the Company’s products by any government agency including, without limitation, the U.S. Food and Drug Administration, or FDA.

[Table of Contents](#)

TransEnterix, Inc.
Condensed Consolidated Statements of Operations and Comprehensive Loss
(in thousands except per share amounts)
(Unaudited)

Three Months Ended
September 30,

Nine Months Ended
September 30,

| | 2020 | 2019 | 2020 | 2019 |
|---|--------------------|---------------------|--------------------|---------------------|
| Revenue: | | | | |
| Product | \$ 436 | \$ 1,649 | \$ 992 | \$ 6,820 |
| Service | 378 | 375 | 1,076 | 1,024 |
| Total revenue | 814 | 2,024 | 2,068 | 7,844 |
| Cost of revenue: | | | | |
| Product | 720 | 2,399 | 2,353 | 6,628 |
| Service | 703 | 1,047 | 2,220 | 3,221 |
| Total cost of revenue | 1,423 | 3,446 | 4,573 | 9,849 |
| Gross loss | (609) | (1,422) | (2,505) | (2,005) |
| Operating Expenses: | | | | |
| Research and development | 4,673 | 5,884 | 12,867 | 17,834 |
| Sales and marketing | 3,136 | 6,883 | 10,291 | 22,425 |
| General and administrative | 3,462 | 5,908 | 10,426 | 14,959 |
| Amortization of intangible assets | 2,780 | 2,558 | 7,964 | 7,754 |
| Change in fair value of contingent consideration | 502 | (11,647) | 1,770 | (9,689) |
| Restructuring and other charges | - | - | 858 | - |
| Goodwill impairment | - | 78,969 | - | 78,969 |
| Intangible assets impairment | - | 7,912 | - | 7,912 |
| Loss from sale of SurgiBot assets, net | - | - | - | 97 |
| Acquisition related costs | - | (40) | - | 5 |
| Total Operating Expenses | 14,553 | 96,427 | 44,176 | 140,266 |
| Operating Loss | (15,162) | (97,849) | (46,681) | (142,271) |
| Other Income (Expense): | | | | |
| Change in fair value of warrant liabilities | 63 | 614 | (206) | 3,036 |
| Interest income | 3 | 63 | 34 | 559 |
| Interest expense | - | (1,230) | - | (3,407) |
| Other income (expense), net | 16 | (439) | (54) | (935) |
| Total Other Income (Expense), net | 82 | (992) | (226) | (747) |
| Loss before income taxes | (15,080) | (98,841) | (46,907) | (143,018) |
| Income tax (expense) benefit | (2) | 1,070 | 1,386 | 2,549 |
| Net loss | (15,082) | (97,771) | (45,521) | (140,469) |
| Deemed dividend related to beneficial conversion feature of preferred stock | - | - | (412) | - |
| Deemed dividend related to conversion of preferred stock into common stock | - | - | (299) | - |
| Net loss attributable to common stockholders | (15,082) | (97,771) | (46,232) | (140,469) |
| Comprehensive loss: | | | | |
| Net loss | (15,082) | (97,771) | (45,521) | (140,469) |
| Foreign currency translation gain (loss) | 2,101 | (3,670) | 2,191 | (4,379) |
| Comprehensive loss | <u>\$ (12,981)</u> | <u>\$ (101,441)</u> | <u>\$ (43,330)</u> | <u>\$ (144,848)</u> |
| Net loss per common share attributable to common stockholders - basic | <u>\$ (0.15)</u> | <u>\$ (5.55)</u> | <u>\$ (0.77)</u> | <u>\$ (8.26)</u> |
| Net loss per common share attributable to common stockholders - diluted | <u>\$ (0.15)</u> | <u>\$ (5.55)</u> | <u>\$ (0.77)</u> | <u>\$ (8.34)</u> |
| Weighted average number of shares used in computing net loss per common share - basic | <u>97,538</u> | <u>17,629</u> | <u>59,737</u> | <u>17,015</u> |
| Weighted average number of shares used in computing net loss per common share - diluted | <u>97,538</u> | <u>17,741</u> | <u>59,737</u> | <u>17,208</u> |

See accompanying notes to unaudited condensed consolidated financial statements.

[Table of Contents](#)

TransEnterix, Inc.
Condensed Consolidated Balance Sheets
(in thousands, except share amounts)
(Unaudited)

| | September 30, 2020 | December 31, 2019 |
|---------------------------|-----------------------|----------------------|
| Assets | | |
| Current Assets: | | |
| Cash and cash equivalents | \$ 19,964 | \$ 9,598 |
| Accounts receivable, net | 903 | 620 |
| Inventories | 10,856 | 10,653 |
| Other current assets | 5,780 | 7,084 |
| Total Current Assets | <u>37,503</u> | <u>27,955</u> |

| | | | | | | | | | | |
|---|---------------|---------------|-------------|-------------|----------|-------------|-------------------|---------------------|-------------------|-------------------|
| Issuance of common stock, net of issuance costs | 42,857 | 43 | - | - | - | - | 13,606 | - | - | 13,649 |
| Other comprehensive income | - | - | - | - | - | - | - | 2,101 | - | 2,101 |
| Net loss | - | - | - | - | - | - | - | (15,082) | - | (15,082) |
| Balance, September 30, 2020 | 99,879 | \$ 100 | - | \$ - | - | \$ - | \$ 770,368 | \$ (709,120) | \$ 821 | \$ 62,169 |
| Balance, December 31, 2018 | 16,642 | \$ 17 | - | \$ - | - | \$ - | \$ 676,572 | \$ (509,406) | \$ 1,338 | \$ 168,521 |
| Stock-based compensation | - | - | - | - | - | - | 2,981 | - | - | 2,981 |
| Exercise of stock options and warrants | 12 | - | - | - | - | - | 236 | - | - | 236 |
| Award of restricted stock units | 47 | - | - | - | - | - | 1 | - | - | 1 |
| Return of common stock to pay withholding taxes on restricted stock | - | - | - | - | 15 | - | (499) | - | - | (499) |
| Cancellation of treasury stock | - | - | - | - | (15) | - | - | - | - | - |
| Cumulative effect of change in accounting principle | - | - | - | - | - | - | (7) | 7 | - | - |
| Other comprehensive loss | - | - | - | - | - | - | - | (1,949) | - | (1,949) |
| Net loss | - | - | - | - | - | - | - | (22,525) | - | (22,525) |
| Balance, March 31, 2019 | 16,701 | 17 | - | - | - | - | 679,284 | (531,924) | (611) | \$ 146,766 |
| Stock-based compensation | - | - | - | - | - | - | 3,355 | - | - | 3,355 |
| Exercise of stock options and warrants | 25 | - | - | - | - | - | 297 | - | - | 297 |
| Award of restricted stock units | 14 | - | - | - | - | - | - | - | - | - |
| Other comprehensive income | - | - | - | - | - | - | - | - | 1,240 | 1,240 |
| Net loss | - | - | - | - | - | - | - | (20,171) | - | (20,171) |
| Balance, June 30, 2019 | 16,740 | 17 | \$ - | - | - | - | 682,936 | (552,095) | 629 | 131,487 |
| Stock-based compensation | - | - | - | - | - | - | 3,391 | - | - | 3,391 |
| Issuance of common stock, net of issuance costs | 2,545 | 3 | - | - | - | - | 23,722 | - | - | 23,725 |
| Issuance of common stock consideration of MST | 370 | - | - | - | - | - | 6,600 | - | - | 6,600 |
| Exercise of stock options and warrants | 1 | - | - | - | - | - | 6 | - | - | 6 |
| Award of restricted stock units | 9 | - | - | - | - | - | - | - | - | - |
| Other comprehensive income | - | - | - | - | - | - | - | - | (3,670) | (3,670) |
| Net loss | - | - | - | - | - | - | - | (97,771) | - | (97,771) |
| Balance, September 30, 2019 | 19,665 | \$ 20 | - | \$ - | - | \$ - | \$ 716,655 | \$ (649,866) | \$ (3,041) | \$ 63,768 |

See accompanying notes to unaudited condensed consolidated financial statements.

[Table of Contents](#)

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

| | Nine Months Ended September 30, | |
|--|--|-----------------|
| | 2020 | 2019 |
| Operating Activities: | | |
| Net loss | \$ (45,521) | \$ (140,469) |
| Adjustments to reconcile net loss to net cash and cash equivalents used in operating activities: | | |
| Loss from sale of SurgiBot assets, net | - | 97 |
| Goodwill and intangible assets impairment | - | 86,881 |
| Depreciation | 2,015 | 1,651 |
| Amortization of intangible assets | 7,964 | 7,754 |
| Amortization of debt discount and debt issuance costs | - | 1,437 |
| Amortization of short-term investment discount | - | (328) |
| Stock-based compensation | 5,800 | 9,727 |
| Interest expense on deferred consideration - MST acquisition | - | 762 |
| Deferred tax benefit | (1,386) | (2,549) |
| Bad debt expense | - | 1,630 |
| Write down of inventory | - | 761 |
| Change in fair value of warrant liabilities | 206 | (3,036) |
| Change in fair value of contingent consideration | 1,770 | (9,689) |
| Changes in operating assets and liabilities: | | |
| Accounts receivable | (252) | 4,313 |
| Interest receivable | - | 3 |
| Inventories | (4,410) | (14,141) |
| Other current and long term assets | 2,233 | (2,313) |
| Accounts payable | (706) | (914) |
| Accrued expenses | (1,191) | (1,439) |
| Deferred revenue | (56) | (867) |
| Other long term liabilities | (376) | 1,613 |
| Net cash and cash equivalents used in operating activities | (33,910) | (59,116) |
| Investing Activities: | | |
| Purchase of short-term investments | - | (12,883) |
| Proceeds from maturities of short-term investments | - | 65,000 |
| Purchase of property and equipment | (3) | (392) |
| Net cash and cash equivalents (used in) provided by investing activities | (3) | 51,725 |
| Financing Activities: | | |
| Proceeds from issuance of common stock, preferred stock and warrants under 2020 financing, net of issuance costs | 13,525 | - |

| | | |
|---|-----------|-----------|
| Proceeds from issuance of common stock, net of issuance costs | 24,861 | 23,725 |
| Proceeds from notes payable and warrants, net of issuance costs | 2,815 | (30) |
| Payment of note payable | - | (15,000) |
| Taxes paid related to net share settlement of vesting of restricted stock units | (33) | (499) |
| Payment of contingent consideration | (74) | - |
| Proceeds from exercise of stock options and warrants | 3,340 | 539 |
| Net cash and cash equivalents provided by financing activities | 44,434 | 8,735 |
| Effect of exchange rate changes on cash and cash equivalents | 30 | (191) |
| Net increase in cash, cash equivalents and restricted cash | 10,551 | 1,153 |
| Cash, cash equivalents and restricted cash, beginning of period | 10,567 | 21,651 |
| Cash, cash equivalents and restricted cash, end of period | \$ 21,118 | \$ 22,804 |
| Supplemental Disclosure for Cash Flow Information: | | |
| Interest paid | \$ - | \$ 2,073 |
| Supplemental Schedule of Non-cash Investing and Financing Activities: | | |
| Transfer of inventories to property and equipment | \$ 5,839 | \$ 478 |
| Exchange of common stock for Series B Warrants | \$ 2,470 | \$ - |
| Transfer of in-process research and development to intellectual property | \$ 2,425 | \$ - |
| Issuance of common stock - MST acquisition | \$ - | \$ 6,600 |
| Conversion of preferred stock to common stock | \$ 79 | \$ - |

See accompanying notes to unaudited condensed consolidated financial statements.

5

[Table of Contents](#)

TransEnterix, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited)

1. Business Overview

Overview

TransEnterix, Inc. is a medical device company that is digitizing the interface between the surgeon and the patient in laparoscopy to increase control and reduce surgical variability in today's value-based healthcare environment. It is focused on the market development for and commercialization of the Senhance® Surgical System, which digitizes laparoscopic minimally invasive surgery, or MIS. The Senhance Surgical System is the first and only digital, multi-port laparoscopic platform designed to maintain laparoscopic MIS standards while providing digital benefits such as haptic feedback, robotic precision, comfortable ergonomics, advanced instrumentation including 3 millimeter microlaparoscopic instruments, eye-sensing camera control and reusable standard instruments to help maintain per-procedure costs similar to traditional laparoscopy. The Senhance System is also the first machine-vision system in robotic surgery which is powered by the new Intelligent Surgical Unit™, or ISU™, that enables augmented intelligence in surgery.

The Company believes that future outcomes of minimally invasive surgery will be enhanced through its combination of more advanced tools and robotic functionality, which are designed to empower surgeons with improved precision, ergonomics, dexterity and visualization; offer high patient satisfaction and enable a desirable post-operative recovery; and provide a cost-effective robotic system, compared to existing alternatives today, for a wide range of clinical applications and operative sites within the healthcare system.

The Senhance System is commercially available in Europe, the United States, Japan, and select other countries.

- The Senhance System has a CE Mark in Europe for adult and pediatric laparoscopic abdominal and pelvic surgery, as well as limited thoracic surgeries excluding cardiac and vascular surgery.
- In the United States, the Company has received 510(k) clearance from the FDA for use of the Senhance System in laparoscopic colorectal and gynecologic surgery in a total of 28 indicated procedures, including benign and oncologic procedures, laparoscopic inguinal hernia and laparoscopic cholecystectomy (gallbladder removal) surgery.
- In Japan, the Company has received regulatory approval and reimbursement for 98 laparoscopic procedures.

Over the past 36 months, the Company successfully obtained FDA clearance and CE Mark for its 3-millimeter diameter instruments, its Senhance ultrasonic system, its 3 millimeter and 5 millimeter hooks, and the Senhance articulating system. The 3 millimeter instruments enable the Senhance System to be used for microlaparoscopic surgeries, allowing for tiny incisions. The ultrasonic system is an advanced energy device used to deliver controlled energy to ligate and divide tissue, while minimizing thermal injury to surrounding structures. The Senhance articulating system was launched in Europe in November 2019 and the Company is evaluating its pathway forward to launch such a system in the United States with a planned submission for U.S. clearance in the first quarter of 2021.

In January 2020, the Company submitted an application to the FDA seeking clearance of the first machine vision system for its robotic surgery (the ISU). The Intelligent Surgical Unit was developed using the image analytics technology acquired from MST in the fourth quarter of 2018. The Company believes it is the first such FDA submission seeking clearance for machine vision technology in abdominal robotic surgery. On March 13, 2020, the Company announced that it had received FDA clearance for the ISU.

In February 2020, the Company received CE Mark for the Senhance System and related instruments for pediatric use indications in CE Mark territories. The Company continues to make additional submissions for clearance or approval for enhancements to the Senhance System and related instruments and accessories, including additional filings and approvals sought in Japan.

6

The Company is focusing on markets with high utilization of laparoscopic technique, including Japan, Western Europe and the United States. The focus is on (1) increasing the number of placements of the Senhance System, not necessarily through sales, but through leasing arrangements, (2) increasing the number of procedures conducted using the Senhance System quarter over quarter, and (3) solidifying key opinion leader support and publications related to the use of the Senhance System in laparoscopic procedures. The Company is not focusing on revenue targets, especially in the United States. As further discussed in this report, the COVID-19 pandemic has had a significant impact on the Company's operations, primarily due to the temporary cessation of elective surgical procedures in many markets, and the challenges and restrictions caused by stay-at-home orders, social distancing requirements and travel restrictions.

Soon after implementing this strategy, the Company's business and customers were negatively impacted by the COVID-19 pandemic, which suspended many elective surgical procedures globally, curtailed travel and necessarily diverted the attention of hospital customers. The Company has taken steps, and continues to take further actions, to minimize the impact of the COVID 19 pandemic on its business. A variety of travel restrictions have caused delays in product installation and training activities. Since the second quarter of 2020, the Company has seen elective surgical procedures recommence in the United States, Europe and Japan, but not, to date, to the levels seen before the COVID-19 pandemic. This has significantly impacted its ability to implement its market development activities to place its Senhance Systems, provide training, and increase the use of the Senhance Systems in place. Given the dynamic nature of this health emergency, the full impact of the COVID-19 pandemic on ongoing business, results of operations and overall financial performance cannot be reasonably estimated at this time.

The Company continues to focus on growing its business globally and enhancing the Senhance System capabilities. In September 2020, the Company announced the successful completion of the first surgical procedures using the ISU. In October 2020, the Company announced that Japan has become one of the fastest growing markets for the Senhance System in terms of placements and clinical cases with the addition of a new agreement with Toshima Hospital of the Tokyo Metropolitan Health and Hospitals Corporation to lease and utilize the Senhance Surgical System, and the September 2020 establishment of the first training center for the Senhance System in the Asia-Pacific region in Japan at the Saitama Medical University International Medical Center in the Greater Tokyo Area. In the U.S., in August 2020 the Company announced a 510(k) application to add general surgery indications to existing indications for use and is working with the FDA on such submission. Upon clearance, this is expected to add approximately 800,000 general and bariatric procedures to the Company's addressable market.

As of October 31, 2020, under this new strategy the Company has installed eight Senhance Systems in 2020 under leasing arrangements and has one Senhance System pending installation. Approximately 1,200 procedures have been conducted to date in 2020, which is tracking lower than the Company's goal as a result of the COVID-19 pandemic.

Risks and Uncertainties

The Company is subject to risks similar to other similarly sized companies in the medical device industry. These risks include, without limitation: potential negative impacts on the Company's operations caused by the COVID-19 pandemic; the Company's ability to continue as a going concern; the historical lack of profitability; the Company's ability to raise additional capital; the success of its market development efforts, the liquidity and capital resources of its partners; its ability to successfully develop, clinically test and commercialize its products; the timing and outcome of the regulatory review process for its products; changes in the health care and regulatory environments of the United States, the United Kingdom, the European Union, Japan, Taiwan and other countries in which the Company operates or intends to operate; its ability to attract and retain key management, marketing and scientific personnel; its ability to successfully prepare, file, prosecute, maintain, defend and enforce patent claims and other intellectual property rights; its ability to successfully transition from a research and development company to a marketing, sales and distribution concern; competition in the market for robotic surgical devices; and its ability to identify and pursue development of additional products.

2. Summary of Significant Accounting Policies

Basis of Presentation

The Company has prepared the accompanying unaudited interim condensed consolidated financial statements in accordance with the instructions to Form 10-Q and the standards of accounting measurement set forth in the Interim Reporting Topic of the Financial Accounting Standards Board (“FASB”) Accounting Standards Codification (“ASC”). Consequently, the Company has not necessarily included in this Form 10-Q all information and footnotes required for audited financial statements. In the opinion of the Company’s management, the accompanying unaudited condensed consolidated financial statements in this Form 10-Q contain all adjustments, consisting only of normal recurring adjustments, except as otherwise indicated, necessary for a fair statement of its financial position, results of operations, and cash flows of the Company for all periods presented. The results reported in these condensed consolidated financial statements should not be regarded as necessarily indicative of results that may be expected for any subsequent period or for the entire year. These unaudited condensed consolidated financial statements and notes thereto should be read in conjunction with the Company’s audited financial statements and the notes thereto included in the Fiscal 2019 Form 10-K. Certain information and footnote disclosures normally included in the annual financial statements prepared in accordance with generally accepted accounting principles in the U.S. (“U.S. GAAP”) have been condensed or omitted in the accompanying interim condensed consolidated financial statements. The year-end condensed consolidated balance sheet data was derived from audited financial statements but does not include all disclosures required by U.S. GAAP.

On December 11, 2019, following receipt of approval from stockholders at a special meeting of stockholders held on the same day, the Company filed an amendment to its Amended and Restated Certificate of Incorporation to effect a reverse stock split of the Company’s common stock at a ratio of one-for-thirteen, or the Reverse Stock Split. The Company’s common stock began trading on a split-adjusted basis on NYSE American on the morning of December 12, 2019. No fractional shares were issued in connection with the Reverse Stock Split. Instead, the Company rounded up each fractional share resulting from the reverse stock split to the nearest whole share. As a result of the Reverse Stock Split, the Company’s outstanding common stock decreased from approximately 261.9 million shares to approximately 20.2 million shares (without giving effect to the rounding up for each fractional share). Unless otherwise noted, all share and per share data referenced in the condensed consolidated financial statements and the notes thereto have been retroactively adjusted to reflect the Reverse Stock Split. As a result of the Reverse Stock Split, certain amounts in the condensed consolidated financial statements and the notes thereto may be slightly different than previously reported due to rounding of fractional shares, and certain amounts within the condensed consolidated balance sheets were reclassified between common stock and additional paid-in capital.

Liquidity and Going Concern

The Company’s condensed consolidated financial statements are prepared using U.S. GAAP applicable to a going concern, which contemplate the realization of assets and liquidation of liabilities in the normal course of business. The Company had an accumulated deficit of \$709.1 million as of September 30, 2020 and working capital of \$26.1 million as of September 30, 2020. The Company has not established sufficient sales revenues to cover its operating costs and requires additional capital to proceed with its operating plan.

The ability of the Company to continue as a going concern is dependent on the Company obtaining adequate capital to fund operating losses until it becomes profitable. In order to continue as a going concern, the Company will need, among other things, additional capital resources. Traditionally, the Company has raised additional capital through equity offerings, including raising net proceeds of \$13.5 million in the March 2020 public offering (see Note 10) and an additional \$13.6 million in net proceeds in the July 2020 public offering (see Note 10). Additionally, in April 2020 the Company secured a non-recourse loan in the principal amount of \$2.8 million under the Paycheck Protection Program (the “PPP”) provisions of the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”), as amended that may be forgiven under certain circumstances (see Note 8), although forgiveness is not assured. Management’s plan to obtain additional resources for the Company may include additional sales of equity, traditional financing, such as loans, entry into a strategic collaboration, entry into an out-licensing arrangement or provision of additional distribution rights in some or all of our markets. In addition, the Company may consider fundamental business combination transactions. If the Company is unable to obtain additional and adequate capital through one of these methods, or if expected capital from existing agreements is not received when due, or at all, it would need to reduce its sales and marketing and administrative expenses and delay research and development projects, including the purchase of equipment and supplies, until it is able to obtain sufficient funds. If such sufficient funds are not received on a timely basis, the Company would then need to pursue a plan to license or sell its assets, seek to be acquired by another entity, cease operations and/or seek bankruptcy protection. However, management cannot provide any assurance that the Company will be successful in accomplishing any or all of its plans. The Company believes the COVID-19 pandemic will continue to negatively impact its operations and ability to implement its market development efforts, which will have a negative effect on its financial condition.

At September 30, 2020, the Company had cash and cash equivalents, excluding restricted cash, of approximately \$20.0 million. The ability of the Company to continue to secure needed financing until it becomes profitable raises substantial doubt about the Company’s ability to continue as a going concern during the one year after the date that these financial statements are issued. The condensed consolidated financial statements of the Company do not include any adjustments that may result from the outcome of these aforementioned uncertainties.

Use of Estimates

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. Significant items subject to such estimates and assumptions include identifiable intangible assets and goodwill, contingent consideration, warrant liabilities, stock compensation expense, revenue recognition, accounts receivable reserves, excess and obsolete inventory reserves, inventory classification between current and non-current, and deferred tax asset valuation allowances.

The COVID-19 pandemic has caused significant social and economic restrictions that have been imposed in the United States and abroad, which has resulted in significant volatility in the global economy and led to reduced economic activity. In the preparation of these financial statements and related disclosures, the Company has assessed the impact that COVID-19 has had on its estimates, assumptions, forecasts, and accounting policies. The Company continues to monitor closely the COVID-19 pandemic impact on its estimates, assumptions and forecasts used in the preparation of its financial statements. As the COVID-19 situation is unprecedented and ever evolving, future events and effects related to COVID-19 cannot be determined with precision, and actual results could significantly differ from estimates or forecasts.

Principles of Consolidation and Foreign Currency Considerations

The accompanying Condensed Consolidated Financial Statements include the accounts of the Company and its direct and indirect wholly owned subsidiaries, SafeStitch LLC, TransEnterix Surgical, Inc., TransEnterix International, Inc., TransEnterix Italia S.r.l., TransEnterix Europe S.à.R.L., TransEnterix Asia PTE. Ltd., TransEnterix Taiwan Ltd., TransEnterix Japan KK, TransEnterix Israel Ltd., TransEnterix Netherlands B.V. and TransEnterix Canada, Inc. All material inter-company accounts and transactions have been eliminated in consolidation.

The functional currency of the Company's operational foreign subsidiaries is predominantly the Euro. The assets and liabilities of the Company's foreign subsidiaries are translated into U.S. dollars at exchange rates in effect at the balance sheet date. Income and expense items are translated at the average exchange rates prevailing during the period. The cumulative translation effect for a subsidiary using a functional currency other than the U.S. dollar is included in accumulated other comprehensive income or loss as a separate component of stockholders' equity.

The Company's intercompany accounts are denominated in the functional currency of the foreign subsidiary. Gains and losses resulting from the remeasurement of intercompany receivables that the Company considers to be of a long-term investment nature are recorded as a cumulative translation adjustment in accumulated other comprehensive income or loss as a separate component of stockholders' equity, while gains and losses resulting from the remeasurement of intercompany receivables from a foreign subsidiary for which the Company anticipates settlement in the foreseeable future are recorded in the condensed consolidated statements of operations and comprehensive loss. The net gains and losses included in net loss in the condensed consolidated statements of operations and comprehensive loss for the three and nine months ended September 30, 2020 and 2019 were not significant.

Concentrations and Credit Risk

The Company's principal financial instruments subject to potential concentration of credit risk are cash and cash equivalents, including amounts held in money market accounts. The Company places cash deposits with a federally insured financial institution. The Company maintains its cash at banks and financial institutions it considers to be of high credit quality; however, the Company's domestic cash deposits may at times exceed the Federal Deposit Insurance Corporation's insured limit. Balances in excess of federally insured limitations may not be insured. The Company has not experienced losses on these accounts, and management believes that the Company is not exposed to significant risks on such accounts.

The Company's accounts receivable are derived from sales to customers located throughout the world. The Company evaluates its customers' financial condition and, generally, requires no collateral from its customers. The Company provides reserves for potential credit losses and recorded a bad debt charge totaling \$1.6 million during the three and nine months ended September 30, 2019 (none during the three and nine months ended September 30, 2020). The Company had seven customers who constituted 69% of the Company's net accounts receivable as of September 30, 2020. The Company had eight customers who constituted 85% of the Company's net accounts receivable as of December 31, 2019.

The Company had nine customers who accounted for 57% of revenue for the three months ended September 30, 2020 and five customers who accounted for 83% of revenue for the three months ended September 30, 2019. The Company had nine customers who accounted for 58% of revenue for the nine months ended September 30, 2020 and five customers who accounted for 83% of revenue for the nine months ended September 30, 2019.

Cash and Cash Equivalents and Restricted Cash

The Company considers all highly liquid investments with original maturities of 90 days or less at the time of purchase to be cash equivalents.

Restricted cash at September 30, 2020 and December 31, 2019 included \$1.2 million and \$1.0 million, respectively, in cash accounts held as collateral primarily under the terms of an office operating lease, credit cards, automobile leases, and a performance guarantee required by the government of a country in which a Senhance System was sold in 2018.

Accounts Receivable

Accounts receivable are recorded at net realizable value, which includes an allowance for estimated uncollectible accounts. The allowance for uncollectible accounts was determined on a customer specific basis based on deemed collectability. The allowance for doubtful accounts was \$1.7 million as of September 30, 2020 and December 31, 2019.

Inventories

Inventories are stated at the lower of cost (determined on a first-in, first-out basis) or net realizable value. Inventory costs include direct materials, direct labor, and normal manufacturing overhead. The Company records reserves, when necessary, to reduce the carrying value of inventory to its net realizable value. Management considers forecast demand in relation to the inventory on hand, competitiveness of product offerings, market conditions and product life cycles when determining excess and obsolescence and net realizable value adjustments. At the point of loss recognition, a new, lower-cost basis for that inventory is established, and any subsequent improvements in facts and circumstances do not result in the restoration or increase in that newly established cost basis.

Any inventory on hand at the measurement date in excess of the Company's current requirements based on anticipated levels of sales is classified as long-term on the Company's condensed consolidated balance sheets. The Company's classification of long-term inventory requires it to estimate the portion of on hand inventory that can be realized over the upcoming twelve months.

Identifiable Intangible Assets and Goodwill

Definite-Lived Intangible Assets - Intellectual Property

Intellectual property consists of purchased patent rights and developed technology acquired as part of a business acquisition. Developed technology includes reclassified IPR&D assets related to (i) the Senhance System acquired in 2015 and reclassified in 2017 and (ii) MST acquired in 2018 and reclassified in 2020. Amortization of the patent rights is recorded using the straight-line method over the estimated useful life of the patents of 10 years. Amortization of the developed technology is recorded using the straight-line method over the estimated useful life of 5 to 7 years.

The Company periodically evaluates intellectual property for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. To determine the recoverability, the Company evaluates the probability that future estimated undiscounted net cash flows will be less than the carrying amount of the assets. If such estimated cash flows are less than the carrying amount of the assets, then such assets are written down to their fair value. No impairment of intellectual property was identified during the nine months ended September 30, 2020 and 2019.

Indefinite-Lived Intangible Assets – In-Process Research and Development

In-process research and development (“IPR&D”) assets represent the fair value assigned to technologies that were acquired, which at the time of acquisition have not reached technological feasibility and have no alternative future use. IPR&D assets are considered to be indefinite-lived until the completion or abandonment of the associated research and development projects. During the period that the IPR&D assets are considered indefinite-lived, they are tested for impairment on an annual basis, or more frequently if the Company becomes aware of any events occurring or changes in circumstances that indicate that the fair value of the IPR&D assets are less than their carrying amounts. To determine the recoverability, the Company evaluates the probability that future estimated discounted net cash flows will be less than the carrying amount of the assets. If such estimated cash flows are less than the carrying amount of the assets, then such assets are written down to their fair value.

The Company reclassifies IPR&D assets to intellectual property when development is complete, which generally occurs upon regulatory approval when the Company is able to commercialize products. The completed IPR&D assets are then classified as definite-lived intangible assets (developed technology) and are amortized based on their estimated useful lives at that point in time. If development is terminated or abandoned, the Company may have a full or partial impairment charge related to the IPR&D assets, calculated as the excess of carrying value of the IPR&D assets over fair value.

The Company performed an impairment test of its IPR&D at the end of the third quarter 2019 as recent events and changes in market conditions indicated that the asset might be impaired. During the third quarter of 2019, the Company concluded that the fair value determined by the market value approach was lower than the carrying value and recognized a \$7.9 million impairment charge to its IPR&D. The Company performed its annual impairment assessment at December 31, 2019 and no additional impairment was required. As of March 31, 2020, all IPR&D asset development was completed and reclassified to intellectual property.

As of September 30, 2020, there were no remaining IPR&D assets.

Goodwill

Goodwill of \$93.8 million was recorded in connection with a September 2013 merger transaction, goodwill of \$38.3 million was recorded in connection with the Senhance Acquisition and goodwill of \$9.6 million was recorded in connection with the MST Medical Surgical Technologies, Ltd. Acquisition (see Note 3). During the third quarter of 2019, the Company’s stock price declined significantly as a result of decreased sales and goodwill was deemed to be fully impaired, resulting in an impairment charge of \$79.0 million.

Property and Equipment

Property and equipment consists primarily of operating lease Senhance System assets, machinery, manufacturing equipment, demonstration equipment, computer equipment, furniture, and leasehold improvements, which are recorded at cost. Depreciation is recorded using the straight-line method over the estimated useful lives of the assets as follows:

| | |
|---|---------------------------------------|
| Operating lease assets – Senhance System leasing (in years) | 5 |
| Machinery, manufacturing and demonstration equipment (in years) | 3 - 5 |
| Computer equipment (in years) | 3 |
| Furniture (in years) | 5 |
| Leasehold improvements | Lesser of lease term or 3 to 10 years |

Upon retirement or sale, the cost of assets disposed of and the related accumulated depreciation and amortization are removed from the accounts and any resulting gain or loss is credited or charged to operations. Repairs and maintenance costs are expensed as incurred.

The Company reviews its property and equipment assets for possible impairment whenever events or changes in circumstances indicate that the carrying amount of the assets may not be fully recoverable. To determine the recoverability, the Company evaluates the probability that future estimated undiscounted net cash flows will be less than the carrying amount of the assets. If such estimated cash flows are less than the carrying amount of the assets, then such assets are written down to their fair value. The Company did not identify any impairment during the three and nine months ended September 30, 2020 and 2019.

Contingent Consideration

Contingent cash consideration arising from business combinations is recorded as a liability and is the estimate of the fair value of potential milestone payments related to those acquisitions. Contingent consideration is measured at fair value using a discounted cash flow model using significant unobservable inputs including the probability of achieving each of the potential milestones, future Euro-to-USD exchange rates, and an estimated discount rate associated with the risks of the expected cash flows attributable to the various milestones. Significant increases or decreases in any of the probabilities of success or changes in expected achievement of any of these milestones would result in a significantly higher or lower fair value of these milestones, respectively, and commensurate changes to the associated liability. The contingent consideration is revalued at each reporting period and changes in fair value are recognized in the condensed consolidated statements of operations and comprehensive loss.

Warrant Liabilities

The Company's Series B Warrants (see Note 9) are measured at fair value using a simulation model which takes into account, as of the valuation date, factors including the current exercise price, the expected life of the warrant, the current price of the underlying stock, its expected volatility, holding cost and the risk-free interest rate for the term of the warrant (see Note 4). The warrant liability is revalued at each reporting period and changes in fair value are recognized in the condensed consolidated statements of operations and comprehensive loss. The selection of the appropriate valuation model and the inputs and assumptions that are required to determine the valuation requires significant judgment and requires management to make estimates and assumptions that affect the reported amount of the related liability and reported amounts of the change in fair value. Actual results could differ from those estimates, and changes in these estimates are recorded when known.

Revenue Recognition

The Company's revenue consists of product revenue resulting from the sale of Systems, System components, instruments and accessories, and service revenue. The Company accounts for a contract with a customer when there is a legally enforceable contract between the Company and the customer, the rights of the parties are identified, the contract has commercial substance, and collectability of the contract consideration is probable. The Company's revenues are measured based on consideration specified in the contract with each customer, net of any sales incentives and taxes collected from customers that are remitted to government authorities. The Company's System sale arrangements generally include a five-year service period; the first year of service is generally free and included in the System sale arrangement and the remaining four years are generally included at a stated service price.

The Company's System sale arrangements generally contain multiple products and services. For these consolidated sale arrangements, the Company accounts for individual products and services as separate performance obligations if they are distinct, which is if a product or service is separately identifiable from other items in the consolidated package, and if a customer can benefit from it on its own or with other resources that are readily available to the customer. The Company's System sale arrangements may include a combination of the following performance obligations: System(s), System components, instruments, accessories, and System service.

For arrangements that contain multiple performance obligations, revenue is allocated to each performance obligation based on its relative estimated standalone selling price. When available, standalone selling prices are based on observable prices at which the Company separately sells the products or services; however due to limited sales to date, standalone selling prices generally are not directly observable. The Company estimates the standalone selling price using the market assessment approach considering market conditions and entity-specific factors including, but not limited to, features and functionality of the products and services, geographies, type of customer, and market conditions. The Company regularly reviews estimated standalone selling prices and updates these estimates if necessary.

The Company enters into lease arrangements with certain qualified customers. Revenue related to arrangements including lease elements are allocated to lease and non-lease elements based on their relative standalone selling prices. Lease elements generally include a Senhance System, while non-lease elements generally include training and proctoring services, instruments, and accessories. For some lease arrangements, the customers are provided with the right to purchase the leased System at some point during and/or at the end of the lease term. In some arrangements lease payments are based on the usage of the System.

In determining whether a transaction should be classified as a sales-type or operating lease, the Company considers the following terms at lease commencement: (1) whether title of the Senhance System transfers automatically or for a nominal fee by the end of the lease term, (2) whether the present value of the minimum lease payments equals or exceeds substantially all of the fair value of the leased System, (3) whether the lease term is for the major part of the remaining economic life of the leased System, (4) whether the lease grants the lessee an option to purchase the leased System that the lessee is reasonably certain to exercise, and (5) whether the underlying System is of such a specialized nature that it is expected to have no alternative use to the Company at the end of the lease term. All such arrangements through September 30, 2020 are classified as operating leases.

The Company recognizes revenues as the performance obligations are satisfied by transferring control of the product or service to a customer. The Company generally recognizes revenue for the performance obligations as follows:

- System sales. For Systems and System components sold directly to end customers, revenue is recognized when the Company transfers control to the customer, which is generally at the point when acceptance occurs that indicates customer acknowledgment of delivery or installation, depending on the terms of the arrangement. For Systems sold through distributors, for which distributors are responsible for installation, revenue is recognized generally at the time of shipment. The Company's System arrangements generally do not provide a right of return. The Systems are generally covered by a one-year warranty. Warranty costs were not material for the periods presented.
- Lease arrangements. Revenue related to lease elements from operating lease arrangements is generally recognized on a straight-line basis over the lease term or based upon System usage and is presented as product revenue.
- Instruments and accessories. Revenue from sales of instruments and accessories is recognized when control is transferred to the customers, which generally occurs at the time of shipment, but also occurs at the time of delivery depending on the customer arrangement.
- Service. Service revenue is recognized ratably over the term of the service period as the customers benefit from the service throughout the service period. Revenue related to services performed on a time-and-materials basis is recognized when performed.

The following table presents revenue disaggregated by type and geography (in thousands):

| | Three Months Ended September 30, | | Nine Months Ended September 30, | |
|--------------------------------|----------------------------------|----------|---------------------------------|----------|
| | 2020 | 2019 | 2020 | 2019 |
| U.S. | | | | |
| Systems | \$ 101 | \$ - | \$ 176 | \$ - |
| Instruments and accessories | 82 | 43 | 149 | 68 |
| Services | 106 | 99 | 278 | 359 |
| Total U.S. revenue | 289 | 142 | 603 | 427 |
| Outside of U.S. ("OUS") | | | | |
| Systems | 131 | 1,276 | 257 | 5,341 |
| Instruments and accessories | 122 | 330 | 410 | 1,411 |
| Services | 272 | 276 | 798 | 665 |
| Total OUS revenue | 525 | 1,882 | 1,465 | 7,417 |
| Total | | | | |
| Systems | 232 | 1,276 | 433 | 5,341 |
| Instruments and accessories | 204 | 373 | 559 | 1,479 |
| Services | 378 | 375 | 1,076 | 1,024 |
| Total revenue | \$ 814 | \$ 2,024 | \$ 2,068 | \$ 7,844 |

The Company recognizes sales by geographic area based on the country in which the customer is based. Operating lease revenue is included as Systems in the above table and was approximately \$0.2 million and \$0 for the three months ended September 30, 2020 and 2019, respectively, and \$0.4 million and \$0 for the nine months ended September 30, 2020 and 2019, respectively.

Transaction price allocated to remaining performance obligations relates to amounts allocated to products and services for which the revenue has not yet been recognized. A significant portion of this amount relates to service obligations performed under the Company's System sales contracts that will be invoiced and recognized as revenue in future periods. Transaction price allocated to remaining performance obligations was approximately \$3.0 million and \$3.7 million as of September 30, 2020 and December 31, 2019, respectively.

The Company invoices its customers based on the billing schedules in its sales arrangements. Contract assets for the periods presented primarily represent the difference between the revenue that was recognized based on the relative selling price of the related performance obligations and the contractual billing terms in the arrangements. Contract assets are included in accounts receivable and totaled \$0.1 million and \$0.2 million as of September 30, 2020 and December 31, 2019, respectively. Deferred revenue for the periods presented was primarily related to service obligations, for which the service fees are billed up-front, generally annually. The associated deferred revenue is generally recognized ratably over the service period. The Company did not have any significant impairment losses on its contract assets for the periods presented. Revenue recognized for the three months ended September 30, 2020 and 2019, that was included in the deferred revenue balance at the beginning of each reporting period was \$0.1 million and \$0.3 million, respectively. Revenue recognized for the nine months ended September 30, 2020 and 2019, that was included in the deferred revenue balance at the beginning of each reporting period was \$0.5 million and \$1.5 million, respectively. Revenue for the nine months ended September 30, 2019 also included \$1.3 million from a System sold in 2017 for which revenue was deferred until its first clinical use, which occurred in the second quarter of 2019. The aggregate amount of transaction price allocated to performance obligations that remain unsatisfied as of September 30, 2020 was \$3.0 million, which is expected to be recognized as revenue over one to three years.

In connection with assets recognized from the costs to obtain a contract with a customer, the Company determined that the sales incentive programs for its sales team do not meet the requirements to be capitalized as the Company does not expect to generate future economic benefits from the related revenue from the initial sales transaction and such costs are expensed as incurred.

Cost of Revenue

Cost of revenue consists of contract manufacturing, materials, labor and manufacturing overhead incurred internally to produce the products. Shipping and handling costs incurred by the Company are included in cost of revenue. During the three and nine months ended September 30, 2020 and 2019, the Company recorded \$0 and \$0.8 million of expenses, respectively, for inventory obsolescence related to certain System components.

Research and Development Costs

Research and development expenses primarily consist of engineering, product development and regulatory expenses, incurred in the design, development, testing and enhancement of our products. Research and development costs are expensed as incurred.

Stock-Based Compensation

The Company follows ASC 718 "Stock Compensation", which provides guidance in accounting for share-based awards exchanged for services rendered and requires companies to expense the estimated fair value of these awards over the requisite service period. The Company recognizes as expense, the grant-date fair value of stock options and other stock-based compensation issued to employees and non-employee directors over the requisite service periods, which are typically the vesting periods. The Company uses the Black-Scholes-Merton model to estimate the fair value of our stock-based payments. The volatility assumption used in the Black-Scholes-Merton model is based on the calculated historical volatility based on an analysis of reported data for a peer group of companies as well as the Company's historical volatility. The expected term of options granted has been determined based upon the simplified method, because the Company does not have sufficient historical information regarding its options to derive the expected term. Under this approach, the expected term is the mid-point between the weighted average of vesting period and the contractual term. The risk-free interest rate is based on U.S. Treasury rates whose term is consistent with the expected life of the stock options. The Company has not paid and does not anticipate paying cash dividends on its shares of common stock; therefore, the expected dividend yield is assumed to be zero. The Company estimates forfeitures based on its historical experience and adjust the estimated forfeiture rate based upon actual experience.

The fair value of restricted stock units (“RSU’s”) is determined by the market price of the Company’s common stock on the date of grant.

Compensation expense for stock-based compensation was approximately \$1.9 million and \$3.4 million for the three months ended September 30, 2020 and 2019, respectively, and was approximately \$5.8 million and \$9.7 million for the nine months ended September 30, 2020 and 2019, respectively.

On June 8, 2020, following the 2020 annual meeting of stockholders, the Board of Directors approved and granted equity awards to the members of the Board and the executive officers of the Company. The annual equity retainer to non-employee directors consisted of quarterly equity grants of common stock, RSU’s, and stock options under the director compensation program. In the third quarter of 2020 the compensatory awards had grant date value ranging from approximately \$4,000 to \$9,000 per non-employee director. In the second quarter of 2020, one-time compensatory awards were granted for service to the Company during this critical time in the Company’s history with a grant date value ranging from approximately \$5,000 to \$10,000, per non-employee director, depending on length of Board service.

The awards to the executive officers include the 2020 annual long-term incentive grants, as well as a retention and promotion grant for our Chief Executive Officer. Thirty percent of the value of the annual long-term incentive awards to our CEO is comprised of performance-based RSUs, which will only vest if the Company’s stock price is at least \$1.00 or more for twenty consecutive trading days in a three-year performance period.

The awards were all made under the Company’s Amended and Restated Incentive Compensation Plan. An aggregate of 1,871,289 shares of common stock underlie these awards if they fully vest.

Income Taxes

The Company accounts for income taxes using the asset and liability method, which requires the recognition of deferred tax assets or liabilities for the temporary differences between financial reporting and tax basis of the Company’s assets and liabilities, and for tax carryforwards at enacted statutory rates in effect for the years in which the asset or liability is expected to be realized. The effect on deferred taxes of a change in tax rates is recognized in income during the period that includes the enactment date. In addition, valuation allowances are established when necessary to reduce deferred tax assets and liabilities to the amounts expected to be realized. The Company has elected to account for global intangible low-taxed income (“GILTI”) as a period expense in the year the tax is incurred.

The Company recognizes the financial statement benefit of an income tax position only after determining that the relevant taxing authority would more likely than not sustain the position following audit. For tax positions meeting the more likely than not threshold, the amount recognized in the financial statements is the largest benefit that has a greater than 50% likelihood of being realized upon ultimate settlement with the relevant taxing authority. The Company recognizes interest accrued related to unrecognized tax benefits and penalties in the provision for income taxes.

Tax regulations within each jurisdiction are subject to the interpretation of the related tax laws and regulations and require application of significant judgment. The Company is subject to U.S. federal and various state, local and foreign jurisdictions. Due to the Company’s net operating loss carryforwards, the Company may be subject to examination by authorities for all previously filed income tax returns.

In a referendum held on May 19, 2019, Swiss voters adopted the Federal Act on Tax Reform and AVS Financing (TRAF). TRAF introduces major changes in the Swiss tax system by abolishing certain current preferential tax regimes and replacing them with new measures that are in line with international standards. The referendum did not have a material impact on the Company for the 2020 or 2019 tax provisions. The Company will continue to evaluate the impact of these provisions in future periods as the enactment process is completed.

On March 27, 2020, the CARES Act was signed into law in response to the COVID-19 pandemic. The CARES Act, as amended on June 5, 2020 through the enactment of the Paycheck Protection Program Flexibility Act, provides numerous tax provisions and stimulus measures, including temporary changes regarding the prior and future utilization of net operating losses, temporary changes to the prior and future limitations on interest deductions, and technical corrections from prior tax legislation for tax depreciation of certain qualified improvement property. The Company continues to evaluate the provisions of the CARES Act, as amended, relating to income taxes which may result in adjustments to certain deferred tax assets and liabilities.

Segments

The Company operates in one business segment—the research, development and sale of medical device robotics to improve minimally invasive surgery. The Company’s chief operating decision maker (determined to be the Chief Executive Officer) does not manage any part of the Company separately, and the allocation of resources and assessment of performance are based on the Company’s consolidated operating results.

Approximately 30% and 19% of the Company’s total consolidated assets are located within the United States as of September 30, 2020 and December 31, 2019, respectively. The remaining assets are mostly located in Europe and are primarily related to the Company’s facility in Italy, and include intellectual property, in-process research and development, other current assets, property and equipment, cash, accounts receivable, other long-term assets and inventory of \$56.5 million and \$60.5 million as of September 30, 2020 and December 31, 2019, respectively. Total assets outside of the United States amounted to 70% and 81% of total consolidated assets at September 30, 2020 and December 31, 2019, respectively. The Company recognizes sales by geographic area based on the country in which the customer is based. For the nine months ended September 30, 2020 and 2019, 29% and 5%, respectively, of net revenue were generated in the United States; while 50% and 42%, respectively, were generated in Europe; and 21% and 53% were generated in Asia. For the three months ended September 30, 2020 and 2019, 36% and 7%, respectively, of net revenue were generated in the United States; while 46% and 20%, respectively, were generated in Europe; and 18% and 73% were generated in Asia.

Impact of Recently Issued Accounting Standards

In August 2018, the FASB issued Accounting Standards Update (“ASU”) 2018-13, *Fair Value Measurement (Topic 820): Disclosure Framework—Changes to the Disclosure Requirements for Fair Value Measurement*. This ASU eliminates, adds and modifies certain disclosure requirements for fair value measurements as part of its disclosure framework project. The Company adopted this ASU effective January 1, 2020 and the adoption did not have a material impact on the condensed consolidated financial statements.

In December 2019, the FASB issued ASU 2019-12, *Simplifying the Accounting for Income Taxes*, which is intended to simplify various aspects related to accounting for income taxes. ASU 2019-12 removes certain exceptions to the general principles in ASC 740, Income Tax and also clarifies and amends existing guidance to improve consistent application. ASU 2019-12 will be effective for public business entities for annual reporting periods beginning after December 15, 2020, and interim periods within those periods, with early adoption permitted. The guidance is not expected to have a material impact on the Company’s financial statements and related disclosures.

In June 2016, the FASB issued ASU 2016-13, *Financial Instruments—Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*, which is designed to provide financial statement users with more information about the expected credit losses on financial instruments and other commitments to extend credit held by a reporting entity at each reporting date. When determining such expected credit losses, the guidance requires companies to apply a methodology that reflects expected credit losses and requires consideration of a broader range of reasonable and supportable information to inform credit loss estimates. This guidance is effective on a modified retrospective basis for fiscal years beginning after December 15, 2022, including interim periods within those fiscal years. The guidance is not expected to have a material impact on the Company’s financial statements and related disclosures.

In August 2020, the FASB issued ASU 2020-06 *Debt – Debt with Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging – Contracts in Entity’s Own Equity (subtopic 815-40)* guidance on the accounting for convertible debt instruments and contracts in an entity’s own equity. The guidance simplifies the accounting for convertible instruments by reducing the various accounting models that can require the instrument to be separated into a debt component and equity component or derivative component. Additionally, the guidance eliminated certain settlement conditions previously required to be able to classify a derivative in equity. The new guidance is effective on a modified or full retrospective basis for fiscal years beginning after December 15, 2023, including interim periods with those fiscal years. The Company is currently evaluating the impact on the consolidated financial statements upon adoption.

The Company has evaluated all other issued and unadopted ASUs and believes the adoption of these standards will not have a material impact on its consolidated statements of operations and comprehensive loss, balance sheets, or statements of cash flows.

3. Acquisitions

MST Medical Surgery Technologies Ltd. Acquisition

On September 23, 2018, the Company entered into an Asset Purchase Agreement (the "MST Purchase Agreement") with MST Medical Surgery Technologies Ltd., an Israeli private company ("MST"), and two of the Company's wholly owned subsidiaries, as purchasers of the assets of MST (collectively, the "Buyers"). The closing of the transactions occurred on October 31, 2018, pursuant to which the Company acquired MST's assets consisting of intellectual property and tangible assets related to surgical analytics with its core image analytics technology designed to empower and automate the surgical environment, with a focus on medical robotics and computer-assisted surgery. The core technology acquired under the MST Purchase Agreement is a software-based image analytics information platform powered by advanced visualization, scene recognition, artificial intelligence, machine learning and data analytics.

Under the terms of the MST Purchase Agreement, at the closing the Buyers purchased substantially all of the assets of MST. The acquisition price consisted of two tranches. At or prior to the closing of the transaction the Buyers paid \$5.8 million in cash and the Company issued approximately 242,310 shares of the Company's common stock (the "Initial Shares"). A second tranche of \$6.6 million in additional consideration was payable in cash, stock or cash and stock, at the discretion of the Company, within one year after the closing date. On August 7, 2019, the Company notified MST that the Company would satisfy the additional consideration payment of \$6.6 million by issuing shares of TransEnterix common stock. The number of shares issued to MST was 370,423 (the "Additional Consideration Shares" and, together with the Initial Shares, the "Securities Consideration"). The Additional Consideration Shares contained certain lock-up restrictions all of which lapsed on February 7, 2020.

On July 3, 2019, the Company entered into a System Sale Agreement with Great Belief International Limited or GBIL to sell certain assets related to the AutoLap technology. On October 15, 2019, the Company amended the prior AutoLap Sale Agreement with GBIL. Pursuant to the amended agreement the Company sold the AutoLap laparoscopic vision system, or AutoLap, and related assets to GBIL. The assets include inventory, spare parts, production equipment, testing equipment and certain intellectual property specifically related to the AutoLap. The purchase price was \$17.0 million, all of which was received in 2019 in the form of \$16 million in cash and a commitment by GBIL to pay \$1.0 million to settle certain Company obligations in China. GBIL subsequently paid the obligation. Under the amended AutoLap Agreement, the Company entered into a cross-license agreement with GBIL to retain rights to use any AutoLap-related intellectual property sold to GBIL, and to non-exclusively license additional intellectual property to GBIL. The Company recorded a \$16.0 million gain on the sale of the AutoLap assets during the year ended December 31, 2019, which represented the proceeds received in excess of the carrying value of the assets, less contract costs.

Senhance Surgical Robotic System

On September 21, 2015, the Company completed the strategic acquisition, through its wholly owned subsidiary TransEnterix International, from Sofar, of all of the assets, employees and contracts related to the advanced robotic system for minimally invasive laparoscopic surgery now known as the Senhance System. Under the terms of the Purchase Agreement, the consideration consisted of the issuance of (i) 1,195,647 shares of the Company's common stock (the "Securities Consideration") and (ii) approximately \$25.0 million U.S. Dollars and €27.5 million Euro in cash consideration (the "Cash Consideration").

On December 30, 2016, the Company and Sofar entered into an Amendment to the Purchase Agreement (the "Amendment") to restructure the terms of the second tranche of the Cash Consideration (the "Second Tranche"). The initial Securities Consideration was issued in full at the closing of the Senhance Acquisition; under the Amendment, the second tranche of the Cash Consideration was restructured, and an additional issuance of 286,360 shares of the Company's common stock with an aggregate fair market value of €5.0 million occurred in January 2017. Following the Amendment, the total Cash Consideration was \$25.0 million and approximately €22.5 million, of which all but €15.0 million has been paid as of September 30, 2020. The remaining Cash Consideration to be paid is the third tranche of the Cash Consideration (the "Third Tranche") of €15.0 million which shall be payable upon achievement of trailing revenues from sales or services contracts of the Senhance System of at least €25.0 million over a calendar quarter.

The fourth tranche of the Cash Consideration of €2.5 million was payable in installments by December 31 of each year as reimbursement for certain debt payments made by Sofar under an existing Sofar loan agreement in such year, with payments beginning as of December 31, 2017. As of September 30, 2020, the Company had paid all installments of the fourth tranche.

The Third Tranche payment will be accelerated in the event that (i) the Company or TransEnterix International is acquired, (ii) the Company significantly reduces or suspends selling efforts of the Senhance System, or (iii) the Company acquires a business that offers alternative products that are directly competitive with the Senhance System. The remaining amounts due to Sofar are included in contingent consideration as of September 30, 2020 and December 31, 2019 at their estimated fair value.

4. Fair Value

The carrying values of accounts receivable, accounts payable, and certain accrued expenses as of September 30, 2020 and December 31, 2019, approximate their fair values due to the short-term nature of these items.

The Company held certain assets and liabilities that are required to be measured at fair value on a recurring basis. These assets and liabilities include cash and cash equivalents, restricted cash, contingent consideration and warrant liabilities. ASC 820-10 ("Fair Value Measurement Disclosure") requires the valuation using a three-tiered approach, which requires that fair value measurements be classified and disclosed in one of three tiers. These tiers are:

- Level 1, defined as quoted prices in active markets for identical assets or liabilities;
- Level 2, defined as valuations based on observable inputs other than those included in Level 1, such as quoted prices for similar assets and liabilities in active markets, or other inputs that are observable or can be corroborated by observable input data; and
- Level 3, defined as valuations based on unobservable inputs reflecting the Company's own assumptions, consistent with reasonably available assumptions made by other market participants.

The determination of where an asset or liability falls in the hierarchy requires significant judgment; however, the Company expects changes in classifications between levels will be rare. The Company did not have any transfers of assets and liabilities between Level 1, Level 2, and Level 3 of the fair value hierarchy during the three and nine months ended September 30, 2020 and the year ended December 31, 2019.

For assets and liabilities recorded at fair value, it is the Company's policy to maximize the use of observable inputs and minimize the use of unobservable inputs when developing fair value measurements, in accordance with the fair value hierarchy. Fair value measurements for assets and liabilities where there exists limited or no observable market data and therefore, are based primarily upon estimates, are often calculated based on the economic and competitive environment, the characteristics of the asset or liability and other factors. Therefore, the results cannot be determined with precision and may not be realized in an actual sale or immediate settlement of the asset or liability. Additionally, there may be inherent weaknesses in any calculation technique, and changes in the underlying assumptions used, including discount rates and estimates of future cash flows, could significantly affect the results of current or future values.

The following are the major categories of assets and liabilities measured at fair value on a recurring basis using quoted prices in active markets for identical assets (Level 1); significant other observable inputs (Level 2); and significant unobservable inputs (Level 3):

| | September 30, 2020 | | | |
|---|---|--|--|------------------|
| | (in thousands) | | | |
| Description | Quoted Prices in Active Markets for Identical Assets (Level 1) | Significant Other Observable Inputs (Level 2) | Significant Unobservable Inputs (Level 3) | Total |
| Assets measured at fair value | | | | |
| Cash and cash equivalents | \$ 19,964 | \$ - | \$ - | \$ 19,964 |
| Restricted cash | 1,154 | - | - | 1,154 |
| Total assets measured at fair value | <u>\$ 21,118</u> | <u>\$ -</u> | <u>\$ -</u> | <u>\$ 21,118</u> |
| Liabilities measured at fair value | | | | |
| Contingent consideration | \$ - | \$ - | \$ 2,780 | \$ 2,780 |
| Warrant liabilities | - | - | 124 | 124 |
| Total liabilities measured at fair value | <u>\$ -</u> | <u>\$ -</u> | <u>\$ 2,904</u> | <u>\$ 2,904</u> |
| | December 31, 2019 | | | |
| | (in thousands) | | | |
| Description | Quoted Prices in Active Markets for Identical Assets (Level 1) | Significant Other Observable Inputs (Level 2) | Significant Unobservable Inputs (Level 3) | Total |
| Assets measured at fair value | | | | |
| Cash and cash equivalents | \$ 9,598 | \$ - | \$ - | \$ 9,598 |
| Restricted cash | 969 | - | - | 969 |
| Total assets measured at fair value | <u>\$ 10,567</u> | <u>\$ -</u> | <u>\$ -</u> | <u>\$ 10,567</u> |
| Liabilities measured at fair value | | | | |
| Contingent consideration | \$ - | \$ - | \$ 1,084 | \$ 1,084 |
| Warrant liabilities | - | - | 2,388 | 2,388 |
| Total liabilities measured at fair value | <u>\$ -</u> | <u>\$ -</u> | <u>\$ 3,472</u> | <u>\$ 3,472</u> |

The Company's financial liabilities consisted of contingent consideration potentially payable to Sofar related to the Senhance Acquisition in September 2015 (see Note 3). This liability is reported as Level 3 as estimated fair value of the contingent consideration related to the acquisition requires significant management judgment or estimation and is calculated using the income approach, using various revenue and cost assumptions and applying a probability to each outcome. The increase in fair value of the contingent consideration of \$0.5 million and \$1.8 million for the three and nine months ended September 30, 2020, respectively, was primarily due to the passage of time and fluctuations in Euro-to-USD exchange rates. The decrease in fair value of the contingent consideration of \$11.6 million and \$9.7 million for the three and nine months ended September 30, 2019, respectively, was primarily due to the passage of time. Adjustments associated with the change in fair value of contingent consideration are included in the Company's condensed consolidated statements of operations and comprehensive loss. The Company uses a probability-weighted income approach for estimating the fair value of the contingent consideration. The significant unobservable inputs used in this approach include estimates of amounts and timing of stated milestones and the discount rate.

On April 28, 2017, the Company sold 24.9 million units (the "Units"), each consisting of approximately 0.077 shares of the Company's common stock, a Series A warrant to purchase approximately 0.077 shares of common stock with an exercise price of \$13.00 per share (the "Series A Warrants"), and a Series B warrant to purchase approximately 0.058 shares of common stock with an exercise price of \$13.00 per share (the "Series B Warrants"), at an offering price of \$1.00 per Unit. All of the Series A Warrants were exercised prior to the expiration date of October 31, 2017. The exercise price of the Series B Warrants was subsequently adjusted as a result of the Company's reverse stock split at a ratio of one for thirteen shares effective December 11, 2019 and certain contractual price adjustment provisions (see Note 9). Each Series B Warrant may be exercised at any time beginning on the date of issuance and from time to time thereafter through and including the fifth anniversary of the issuance date. The Series B Warrants are classified as liabilities due to net cash settlement features.

The change in fair value of all outstanding Series B Warrants for the three months ended September 30, 2020 and 2019 was a decrease of \$0.1 million and a decrease of \$0.6 million, respectively, and is included in the Company's condensed consolidated statements of operations and comprehensive loss. The change in fair value of all outstanding Series B Warrants for the nine months ended September 30, 2020 and 2019 was an increase of \$0.2 million and a decrease of \$3.0 million, respectively, and is included in the Company's condensed consolidated statements of operations and comprehensive loss.

The Company uses a *monte carlo* simulation model for estimating the fair value of the Series B Warrants. The significant unobservable inputs used in the *monte carlo* model include estimates of the risk-free interest rate, volatility of the Company's common stock, and the probability of a 2020 or 2021 financing.

The following table summarizes the change in fair value, as determined by Level 3 inputs for the warrants and the contingent consideration for the nine months ended September 30, 2020:

| | Fair Value Measurement at Reporting Date (Level 3) | |
|-------------------------------------|---|--------------------------|
| | (in thousands) | |
| | Common stock warrants | Contingent consideration |
| Balance at December 31, 2019 | \$ 2,388 | \$ 1,084 |
| Exchange of warrants | (2,470) | - |
| Change in fair value | 206 | 1,770 |
| Payment of contingent consideration | - | (74) |
| Balance at September 30, 2020 | <u>\$ 124</u> | <u>\$ 2,780</u> |
| Current portion | \$ - | \$ - |
| Long-term portion | 124 | 2,780 |
| Balance at September 30, 2020 | <u>\$ 124</u> | <u>\$ 2,780</u> |

5. Inventories

The components of inventories are as follows:

| | September 30, 2020 | December 31, 2019 |
|-------------------|--------------------|-------------------|
| | (in thousands) | |
| Finished Goods | \$ 10,619 | \$ 9,737 |
| Raw Materials | 7,006 | 8,510 |
| Total Inventories | <u>\$ 17,625</u> | <u>\$ 18,247</u> |
| Current portion | \$ 10,856 | \$ 10,653 |
| Long-term portion | 6,769 | 7,594 |
| Total inventories | <u>\$ 17,625</u> | <u>\$ 18,247</u> |

The Company recorded a write-down of obsolete inventory for the year-ended December 31, 2019 totaling \$7.4 million as part of a restructuring plan and a \$1.5 million charge for inventory obsolescence related to certain System components. There were no such write-downs or charges for the three and nine months ended September 30, 2020. A \$0.8 million and \$1.6 million write-down for inventory obsolescence related to certain systems components was recognized in the three and nine months ended September 30, 2019, respectively.

6. In-Process Research and Development and Intellectual Property

In-Process Research and Development

During the third quarter of 2019, the Company concluded that the fair value determined by the market value approach was lower than the carrying value. As a result, the Company recognized a \$7.9 million impairment charge to its IPR&D asset. The Company performed its annual impairment assessment at December 31, 2019 and no additional impairment was required. On March 13, 2020, upon receipt of regulatory clearance to commercialize the products associated with the IPR&D assets in the United States, the assets were deemed definite-lived, transferred to developed technology and are amortized based on their estimated useful lives.

The carrying value of the Company's IPR&D assets and the change in the balance for the nine months ended September 30, 2020 is as follows:

| | In-Process Research and Development (in thousands) |
|-------------------------------------|--|
| Balance at December 31, 2019 | \$ 2,470 |
| Foreign currency translation impact | (45) |
| Transfer to developed technology | (2,425) |
| Balance at September 30, 2020 | <u>\$ -</u> |

Intellectual Property

The components of gross intellectual property, accumulated amortization, and net intellectual property as of September 30, 2020 and December 31, 2019 are as follows:

| | September 30, 2020 (in thousands) | | | |
|----------------------------------|---|-------------------------------------|--|--------------------------------|
| | Gross Carrying Amount | Accumulated Amortization | Foreign Currency Translation Impact | Net Carrying Amount |
| Developed technology | \$ 68,838 | \$ (46,820) | \$ 1,831 | \$ 23,849 |
| Technology and patents purchased | 400 | (150) | 40 | 290 |
| Total intellectual property | <u>\$ 69,238</u> | <u>\$ (46,970)</u> | <u>\$ 1,871</u> | <u>\$ 24,139</u> |

| | December 31, 2019 (in thousands) | | | |
|----------------------------------|--|-------------------------------------|--|--------------------------------|
| | Gross Carrying Amount | Accumulated Amortization | Foreign Currency Translation Impact | Net Carrying Amount |
| Developed technology | \$ 66,413 | \$ (36,918) | \$ (1,208) | \$ 28,287 |
| Technology and patents purchased | 400 | (112) | 21 | 309 |
| Total intellectual property | <u>\$ 66,813</u> | <u>\$ (37,030)</u> | <u>\$ (1,187)</u> | <u>\$ 28,596</u> |

The weighted average remaining useful life of the developed technology and technology and patents purchased was 2.4 years and 6.6 years, respectively, as of September 30, 2020.

7. Income Taxes

Income taxes have been accounted for using the asset and liability method in accordance with ASC 740 "Income Taxes". The Company computes its interim provision for income taxes by applying the estimated annual effective tax rate method. The Company estimates an annual effective tax rate of 2.2% for the year ending December 31, 2020. This rate does not include the impact of any discrete items. The Company's effective tax rate for the three months ended September 30, 2020 and 2019 was 0.0% and 1.1%, respectively. The Company's effective tax rate for the nine months ended September 30, 2020 and 2019 was 3.0% and 1.8%, respectively.

The Company incurred losses for the nine-month period ended September 30, 2020 and is forecasting additional losses through the year, resulting in an estimated net loss for both financial statement and tax purposes for the year ending December 31, 2020. Due to the Company's history of losses, there is not sufficient evidence to record a net deferred tax asset associated with the U.S., Europe, Canada and Asia operations. Accordingly, a full valuation allowance has been recorded related to the net deferred tax assets in those jurisdictions, including Italy.

The deferred tax benefit during the three months ended September 30, 2020 and 2019, was approximately \$0.00 million and \$1.07 million, respectively. The deferred tax benefit during the nine months ended September 30, 2020 and 2019, was approximately \$1.39 million and \$2.55 million, respectively. The Israeli jurisdiction was profitable through September 30, 2020 and is projected to be profitable for the year ending December 31, 2020. Consequently, the current tax expense during the three months ended September 30, 2020 and 2019, was approximately \$0.00 million and \$0.02 million, respectively, and the current tax expense during the nine months ended September 30, 2020 and 2019, was approximately \$0.04 million and \$0.05 million, respectively.

At September 30, 2020, the Company had no unrecognized tax benefits that would affect the Company's effective tax rate.

The FASB Staff Q&A, Topic 740, No. 5, Accounting for Global Intangible Low-Taxed Income ("GILTI"), states that an entity can make an accounting policy election to either recognize deferred taxes for temporary basis differences expected to reverse as GILTI in future years or to provide for the tax expense related to GILTI in the year the tax is incurred as a period expense only. The Company has elected to account for GILTI as a period expense in the year the tax is incurred. The Company does not expect a GILTI inclusion for 2019 or 2020; no GILTI tax has been recorded for the nine months ending September 30, 2020 or 2019.

8. Notes Payable

Paycheck Protection Program

The CARES Act was passed in the United States and signed into law on March 7, 2020 and was amended on June 5, 2020 through the enactment of the Paycheck Protection Program Flexibility Act. On April 27, 2020, TransEnterix Surgical, Inc., a wholly owned subsidiary of the Company, received funding under a promissory note dated April 18, 2020 (the "Promissory Note"), evidencing an unsecured non-recourse loan in the principal amount of \$2,815,200 under the PPP provisions of the CARES Act. The PPP is administered by the U.S. Small Business Administration (the "SBA"). The Promissory Note was made through City National Bank of Florida, a national banking association (the "Lender"). The Company elected to account for the PPP loan as debt and included the principal amount within notes payable on the condensed consolidated balance sheet.

The Promissory Note has a two-year term, maturing on April 27, 2022, and bears interest at 1.00% per annum. If the Promissory Note is not forgiven, payments can be deferred until 10 months after the end of the Company's covered period, which is the 24-week period beginning on the date the Company received the PPP loan proceeds from the Lenders (the "Covered Period"). The Promissory Note contains customary events of default relating to, among other things, payment defaults, and breach of representations and warranties, or other provisions of the Promissory Note. The Promissory Note may be forgiven partially or fully if the proceeds are used for covered payroll, rent and utility costs incurred during the Covered Period and if at least 60% of the proceeds are used for covered payroll costs. All or a portion of the Promissory Note may be forgiven by the SBA upon application by the Company and documentation of expenditures in accordance with the SBA requirements. The Company intends to use the proceeds for such covered purposes. While the Company believes, because the Covered Period was extended from the original eight weeks to 24 weeks, that it will be more likely to use the funds for covered purposes, it can provide no assurance that it will obtain forgiveness in whole.

Any forgiveness of the Promissory Note will be subject to approval by the SBA and the Lender. The Company recognizes that its restructuring activities unrelated to COVID-19 led to a decrease in the number of employees and, the Company may not be able to comply with the available safe harbor and savings provisions of the CARES Act, therefore, not all of the Promissory Note may be eligible for forgiveness.

Hercules Loan Agreement

On May 23, 2018, the Company and its domestic subsidiaries, as co-borrowers, entered into a Loan and Security Agreement (the "Hercules Loan Agreement") with several banks and other financial institutions or entities from time to time party to the Loan Agreement (collectively, the "Lender") and Hercules Capital, Inc., as administrative agent and collateral agent (the "Agent"). The Hercules Loan Agreement was modified on two separate occasions in 2019.

The term loans bore interest at a rate equal to the greater of (i) 10.05% per annum (the “Fixed Rate”) and (ii) the Fixed Rate plus the prime rate (as reported in The Wall Street Journal) minus 5.00%. On the Initial Funding Date, the Company was obligated to pay a facility fee of \$0.4 million, recorded as a debt discount. The Company also incurred other debt issuance costs totaling \$1.1 million in conjunction with its entry into the Hercules Loan Agreement. In addition, the Company was permitted to prepay the term loans in full at any time, with a prepayment fee of 3.0% of the outstanding principal amount of the loan in the first year after the Initial Funding Date, 2.0% if the prepayment occurred in the second year after the Initial Funding Date and 1.0% thereafter. Upon prepayment of the term loans in full or repayment of the term loans at the maturity date or upon acceleration, the Company was required to pay a final fee of 6.95% of the aggregate principal amount of term loans funded. The final payment fee was accreted to interest expense over the life of the term loan and included within notes payable on the condensed consolidated balance sheet.

The Company’s obligations under the Hercules Loan Agreement were guaranteed by all current and future material foreign subsidiaries of the Company and were secured by a security interest in all of the assets of the Company and their current and future domestic subsidiaries and all of the assets of their current and future material foreign subsidiaries, including a security interest in the intellectual property. The Hercules Loan Agreement contained customary representations and covenants that, subject to exceptions, restricted the Company’s and its subsidiaries’ ability to do the following, among other things: declare dividends or redeem or repurchase equity interests; incur additional indebtedness and liens; make loans and investments; engage in mergers, acquisitions, and asset sales; transact with affiliates; undergo a change in control; add or change business locations; and engage in businesses that were not related to its existing business. Under the terms of the Hercules Loan Agreement, the Company was required to maintain cash and/or investment property in accounts which perfected the Agent’s first priority security interest in such accounts in an amount equal to the lesser of (i) (x) 120% of the then-outstanding principal balance of the term loans, including accrued interest and any other fees payable under the agreement to the extent accrued and payable plus (y) an amount equal to the then-outstanding accounts payable of the Company on a consolidated basis that were more than 90 days past due and (ii) 80% of the aggregate cash of the Company and its consolidated subsidiaries. The Agent was granted the option to invest up to \$2.0 million in any future equity offering broadly marketed by the Company to investors on the same terms as the offering to other investors.

On November 4, 2019, the Company entered into a payoff letter with the Agent pursuant to which the Company terminated the Hercules Loan Agreement, as amended. The Company determined it was in the best interests of the Company to pay down the debt and terminate the Hercules Agreement to simplify the Company’s balance sheet and provide additional flexibility as the Board of Directors continues to explore strategic and financial alternatives for the Company. Under the payoff letter, the Company repaid all amounts owed under the Hercules Loan Agreement totaling approximately \$16.4 million, which included end of term fees of \$1.4 million, and Hercules released all security interests held on the assets of the Company and its subsidiaries, including, without limitation, on the intellectual property assets of the Company. The Company recognized a loss of \$1.0 million on the extinguishment of notes payable, which is included in interest expense on the condensed consolidated statement of operations and comprehensive loss for the year ended December 31, 2019.

9. Warrants

The exercise prices and the number of shares issuable upon exercise of each of the outstanding Series B Warrants are subject to adjustment upon the occurrence of certain events, including, but not limited to, stock splits or dividends, business combinations, sale of assets, similar recapitalization transactions, or other similar transactions. The Series B warrants contain provisions, often referred to as “down-round protection,” that leads to adjustment of the exercise price and number of underlying warrant shares if the Company issues securities, including its common stock or convertible securities or debt securities, in the future at sale prices below the then-current exercise price. The Series B Warrants are liability classified.

On February 24, 2020, the Company entered into a Series B Warrants Exchange Agreement (the “Exchange Agreement”) with holders of its Series B Warrants. Under the terms of the Exchange Agreement, each Series B Warrant was canceled in exchange for 0.61 shares of common stock. The Warrant holders participating in the exchange held 3,373,900 of the 3,638,780 Series B Warrants then outstanding and received an aggregate of 2,040,757 shares of common stock. As a result, the warrant liability decreased by \$2.5 million and the additional paid in capital increased by the same amount.

As a result of the exercise price adjustment feature the exercise price of all outstanding Series B Warrants has been adjusted to \$0.35 per share and the number of shares of common stock reserved for and issuable upon the exercise of outstanding Series B Warrants has been adjusted to 567,660 as of September 30, 2020.

On March 10, 2020, the Company closed an underwritten public offering under which it issued, as part of units and the exercise of an over-allotment option, 25,367,646 Series C Warrants, each to acquire one share of common stock at an exercise price of \$0.68 per share, and 25,367,646 Series D Warrants, each to acquire one share of common stock at an exercise price of \$0.68 per share. See Note 10 for a description of the public offering.

The Series C Warrants and Series D Warrants are equity classified. The fair value of the Series C Warrants and Series D Warrants on the issuance date was determined using a Black-Scholes Merton model. The unit proceeds were then allocated to the Common Stock, Series A Preferred Stock, Series C Warrants, and Series D Warrants, respectively, based on their relative fair values. As a result, the Company determined that a beneficial conversion feature was created by the difference between the effective conversion price of the preferred stock and the fair value of the Company's Common Stock as of the issuance date. The Company therefore recorded a beneficial conversion feature of \$0.4 million as a deemed dividend included in additional paid-in capital and an immediate charge to earnings available to common stockholders for the three months ended March 31, 2020.

The following table summarizes the Company's outstanding warrants, including the Series B Warrants, the Series C Warrants, and the Series D Warrants as of September 30, 2020:

| <u>Range of Exercise Prices</u> | <u>Number of Warrants Outstanding</u> | <u>Range of Expiration Dates</u> |
|---------------------------------|---------------------------------------|----------------------------------|
| \$0.35 | 567,660 | May 2022 |
| \$0.68 | 45,823,528 | March 2021 - March 2025 |
| \$13.00 - \$52.20 | 107,721 | September 2021 - September 2027 |
| | <u>46,498,909</u> | |

10. Equity Offerings

On August 12, 2019, the Company entered into a Controlled Equity Offering Sales Agreement (the "2019 Sales Agreement") with Cantor Fitzgerald & Co. ("Cantor") pursuant to which the Company may sell from time to time, at its option, up to an aggregate of \$25.0 million, shares of the Company's common stock, through Cantor, as sales agent (the "2019 ATM Offering"). Pursuant to the Sales Agreement, sales of the common stock were made under the Company's previously filed Registration Statement on Form S-3, which registration statement expired in May 2020. The aggregate compensation payable to Cantor was 3.0% of the aggregate gross proceeds from each sale of the Company's common stock.

The following table summarizes the total sales under the 2019 ATM Offering for the period indicated (in thousands except for share and per share amounts):

| | For the Nine Months Ended September 30, 2020 |
|-----------------------------------|---|
| Total shares of common stock sold | 6,687,846 |
| Average price per share | \$ 1.73 |
| Gross proceeds | \$ 11,558 |
| Commissions earned by Cantor | 346 |
| Net proceeds | <u>\$ 11,212</u> |

Public Offerings of Securities

On March 10, 2020, the Company closed the March 2020 Public Offering with Ladenburg Thalmann & Co. Inc. as underwriter and sold an aggregate of 14,121,766 Class A Units at a public offering price of \$0.68 per Class A Unit and 7,937,057 Class B Units at a public offering price of \$0.68 per Class B Unit. Each Class A Unit consists of one share of the Company's common stock, one warrant to purchase one share of common stock that expires on the first anniversary of the date of issuance (collectively, the "Series C Warrants"), and one warrant to purchase one share of common stock that expires on the fifth anniversary of the date of issuance (collectively, the "Series D Warrants"). Each Class B Unit consists of one share of Series A Convertible Preferred Stock, par value \$0.01 per share (the "Series A Preferred Stock"), convertible into one share of common stock, a Series C Warrant to purchase one share of common stock and a Series D Warrant to purchase one share of common stock. The Class A Units and Class B Units have no stand-alone rights and were not certificated or issued as stand-alone securities. The shares of common stock, Series A Preferred Stock, Series C Warrants and Series D Warrants are immediately separable. In addition, the underwriter for the public offering exercised an overallotment option and purchased 3,308,823 Series C Warrants and 3,308,823 Series D Warrants.

The shares of Series A Preferred Stock rank on par with the shares of the common stock, in each case, as to dividend rights and distributions of assets upon liquidation, dissolution or winding up of the Company. With certain statutory exceptions, as described in the Series A Preferred Stock Certificate of Designation, the shares of Series A Preferred Stock have no voting rights. Each share of Series A Preferred Stock is convertible at any time at the holder's option into one share of common stock, which conversion ratio will be subject to adjustment for stock splits, stock dividends, distributions, subdivisions and combinations and other similar transactions as specified in the Series A Preferred Stock Certificate of Designation.

The net proceeds to the Company from the March 2020 Public Offering were approximately \$13.5 million, after deducting underwriting discounts and commissions and estimated offering expenses payable by the Company. All shares of Series A Preferred Stock were converted into 7.9 million shares of common stock prior to June 30, 2020. Approximately 4.9 million Series C Warrants were exercised during the nine months ended September 30, 2020, generating net proceeds of \$3.3 million. The Class A Units, the Class B Units, the Series A Preferred Stock, the Series C Warrants and the Series D Warrants (together with the shares of common stock underlying the shares of Series A Preferred Stock and such warrants) were offered under the Company's previously filed Registration Statement on Form S-3, which registration statement expired in May 2020. The Company filed a new registration statement on Form S-1 covering the exercise of the outstanding Series C Warrants and Series D Warrants, which was declared effective by the SEC on May 27, 2020.

On July 6, 2020, the Company completed an underwritten public offering of 42,857,142 shares of its common stock, including the underwriter's full exercise of an over-allotment option, at the public offering price per share of \$0.35 per share, generating net proceeds of approximately \$13.6 million. Following the offering, the exercise price of the outstanding Series B Warrants was adjusted to \$0.35 per share and the number of shares of common stock underlying such warrants increased to 567,660 shares (see Note 9).

11. Restructuring

During the fourth quarter of 2019, the Company announced the implementation of a restructuring plan to reduce operating expenses as the Company continues the global market development of the Senhance platform. Under the restructuring plan, the Company reduced headcount primarily in the sales and marketing functions and determined that the carrying value of its inventory exceeded the net realizable value due to a decrease in expected sales. The restructuring charges amounted to \$8.8 million, of which \$7.4 million was an inventory write down and was included in cost of product revenue and \$1.4 million related to employee severance costs and was included as restructuring and other charges in the condensed consolidated statements of operations and comprehensive loss, for the year ended December 31, 2019. During the nine months ended September 30, 2020, the Company continued the restructuring efforts with additional headcount reductions which resulted in \$0.9 million related to severance costs. These 2020 severance costs are primarily expected to be paid in 2020.

Future payments under the restructuring plan are expected to conclude in 2020 and total \$0.6 million. During the nine months ended September 30, 2020, the activity related to the Company's restructuring liability, which is included in accrued expenses in the condensed consolidated balance sheet, was as follows:

| | Restructuring Liability |
|--------------------------------------|------------------------------------|
| | (in thousands) |
| Balance at December 31, 2019 | \$ 882 |
| Amount charged to operating expenses | 858 |
| Cash payments | (1,156) |
| Balance at September 30, 2020 | <u>\$ 584</u> |

12. Basic and Diluted Net Loss per Share

Basic net loss per common share is computed by dividing net loss attributable to common stockholders by the weighted average number of common shares outstanding during the period. Diluted net loss per common share is computed giving effect to all potential dilutive common shares that were outstanding during the period when the effect is dilutive. Potential dilutive common shares consist of incremental shares issuable upon exercise of stock options, restricted stock units, warrants and preferred stock. For the nine months ended September 30, 2020, the effects of the Series A Preferred Stock beneficial conversion charge and conversion are included in the calculation of net loss attributable to common stockholders.

For the three- and nine-month periods ended September 30, 2020 diluted net loss per common share was calculated similarly to basic net loss per common share since all potential dilutive securities were anti-dilutive.

For the three- and nine- month periods ended September 30, 2019, the effect of outstanding warrants is reflected in diluted net loss per common share by applying the treasury stock method, resulting in approximately 112,000 and 193,000, respectively, of incremental shares being included in the weighted average number of commons shares used in the diluted net loss per common share calculation. Additionally, the gain on the fair value of warrant liabilities of \$0.6 million and \$3.0 million for the three- and nine-month periods ended September 30, 2019, respectively, increased the net loss attributable to common stockholders in calculating diluted net loss per common share.

As of September 30, 2020, there were 4,285,880 outstanding options, 46,498,909 outstanding warrants, and 2,915,041 unvested restricted stock units that were excluded from the calculation of diluted net loss per common share as the effect of including these instruments would have been anti-dilutive. As of September 30, 2019, there were 1,965,204 outstanding options, 107,719 outstanding warrants, and 469,980 unvested restricted stock units that were excluded from the calculation of diluted net loss per common share as the effect of including these instruments would have been anti-dilutive.

13. Commitments and Contingencies

Contingent Consideration

As discussed in Note 3, in September 2015, the Company completed the Senhance Acquisition using a combination of cash, stock and potential post-acquisition milestone payments. These milestone payments may be payable in the future, depending on the achievement of certain commercial milestones. On December 30, 2016, the Company entered into an Amendment to restructure the terms of the Second Tranche of the Cash Consideration. Under the Amendment, the Second Tranche was restructured to reduce the contingent cash consideration by €5.0 million in exchange for the issuance of 286,360 shares of the Company's common stock with an aggregate fair market value of €5.0 million. The fair value of the contingent consideration was \$2.8 million and \$1.1 million as of September 30, 2020 and December 31, 2019, respectively.

Leases

In July 2020, a subsidiary of the Company, TransEnterix Surgical, Inc., entered into a lease agreement for new office, lab and warehouse space in Durham, North Carolina. The lease is expected to commence in the first quarter of 2021, has an initial lease term of 125 months following commencement, and includes tenant options to extend the lease term for up to two additional five-year periods. Monthly base rent payments begin five months after the commencement date and are subject to annual escalations. Total base rent payments over the initial 125-month term shall be approximately \$5.0 million. A proportionate share of building operating costs and ad valorem property taxes are also due monthly. In conjunction with entering into the lease, TransEnterix Surgical, Inc. obtained a standby letter of credit issued by Silicon Valley Bank for approximately \$0.5 million for the benefit of the landlord and has been required to increase restricted cash held with Silicon Valley Bank by \$0.5 million. The Company has executed a guaranty for the payment and performance of obligations incurred under the lease. The Company's current North Carolina lease was extended for three months and expires on March 31, 2021.

Legal Proceedings

No liability or related charge was recorded to earnings in the Company's condensed consolidated financial statements for legal contingencies for the three and nine months ended September 30, 2020 and 2019.

14. Subsequent Events

On October 9, 2020, the Company filed a prospectus supplement relating to an "at the market" offering with Cantor pursuant to which the Company may sell from time to time, at its option, up to an aggregate of \$40.0 million of shares of the Company's common stock, through Cantor as sales agent, pursuant to the 2019 Sales Agreement (the "2020 ATM Offering"). Pursuant to the 2019 Sales Agreement, sales of the common stock will be made on the Company's currently effective Registration Statement on Form S-3, which was declared effective on February 10, 2020. The aggregate compensation payable to Cantor is 3.0% of the aggregate gross proceeds from each sale of the Company's common stock. No sales have been made under the 2020 ATM Offering as of the date of this report.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion of our financial condition and results of operations should be read in conjunction with our condensed consolidated financial statements and the related notes to our condensed consolidated financial statements included in this report. The following discussion contains forward-looking statements. See cautionary note regarding "Forward-Looking Statements" at the beginning of this report.

Overview

TransEnterix, Inc. is a medical device company that is digitizing the interface between the surgeon and the patient in laparoscopy to increase control and reduce surgical variability in today's value-based healthcare environment. The Company is focused on the market development for and commercialization of the Senhance® Surgical System, which digitizes laparoscopic minimally invasive surgery, or MIS. The Senhance System is the first and only digital, multi-port laparoscopic platform designed to maintain laparoscopic MIS standards while providing digital benefits such as haptic feedback, robotic precision, comfortable ergonomics, advanced instrumentation including 3 millimeter microlaparoscopic instruments, eye-sensing camera control and reusable standard instruments to help maintain per-procedure costs similar to traditional laparoscopy. The Senhance System is also the first machine-vision system in robotic surgery which is powered by the new Intelligent Surgical Unit™ (ISU™) that enables augmented intelligence in surgery.

The Senhance System is commercially available in Europe, the United States, Japan, and select other countries.

- The Senhance System has a CE Mark in Europe for adult and pediatric laparoscopic abdominal and pelvic surgery, as well as limited thoracic surgeries excluding cardiac and vascular surgery.
- In the United States, the Company has received 510(k) clearance from the FDA for use of the Senhance System in laparoscopic colorectal and gynecologic surgery in a total of 28 indicated procedures, including benign and oncologic procedures, laparoscopic inguinal hernia and laparoscopic cholecystectomy (gallbladder removal) surgery.
- In Japan, the Company has received regulatory approval and reimbursement for 98 laparoscopic procedures.

Over the past 36 months, we successfully obtained FDA clearance and CE Mark for our 3 millimeter diameter instruments, our Senhance ultrasonic system, our 3 millimeter and 5 millimeter hooks, and the Senhance articulating system. The 3 millimeter instruments enable the Senhance System to be used for microlaparoscopic surgeries, allowing for tiny incisions. The ultrasonic system is an advanced energy device used to deliver controlled energy to ligate and divide tissue, while minimizing thermal injury to surrounding structures. The Senhance articulating system was launched in Europe in November 2019 and we are evaluating our pathway forward to launch such a system in the United States with a planned submission for US clearance in the first quarter of 2021.

In January 2020, we submitted an application to the FDA seeking clearance of the first machine vision system for robotic surgery (Intelligent Surgical Unit). The Company believes it is the first such FDA submission seeking clearance for machine vision technology in abdominal robotic surgery. On March 13, 2020, the Company announced that it had received FDA clearance for the Intelligent Surgical Unit.

In February 2020, we received CE Mark for the Senhance System and related instruments for pediatric use indications in CE Mark territories. We continue to make additional submissions for clearance or approval for enhancements to the Senhance System and related instruments and accessories, including additional filings and approvals sought in Japan.

As of October 31, 2020, the Company has installed eight Senhance Systems in 2020 under leasing arrangements and has one Senhance System pending installation. Approximately 1,200 procedures have been conducted to date in 2020, which is less than our goal as a result of the COVID-19 pandemic.

From our inception, we devoted a substantial percentage of our resources to research and development and start-up activities, consisting primarily of product design and development, clinical studies, manufacturing, recruiting qualified personnel and raising capital. We expect to continue to invest in research and development and market development as we implement our strategy.

Since inception, we have been unprofitable. As of September 30, 2020, we had an accumulated deficit of \$709.1 million.

Due to a decline in market conditions and changes in our forecast, the Company tested its goodwill and in-process research & development ("IPR&D") for potential impairment as of September 30, 2019. During the third quarter of 2019, the Company determined that the carrying value of both its goodwill and IPR&D were impaired, and recorded impairment charges of \$79.0 million and \$7.9 million, respectively. During the first quarter of 2020, upon receipt of regulatory clearance to commercialize the products associated with the IPR&D assets in the United States, the assets were deemed definite-lived, transferred to developed technology and are amortized based on their estimated useful lives.

We operate in one business segment.

On December 11, 2019, following receipt of approval from stockholders at a special meeting of stockholders held on the same day, the Company filed an amendment to our Amended and Restated Certificate of Incorporation to effect a reverse stock split of the Company's common stock at a ratio of one-for-thirteen, or the Reverse Stock Split. The Company's common stock began trading on a split-adjusted basis on NYSE American on the morning of December 12, 2019. No fractional shares were issued in connection with the Reverse Stock Split. Instead, the Company rounded up each fractional share resulting from the reverse stock split to the nearest whole share. As a result of the Reverse Stock Split, the Company's outstanding common stock decreased from approximately 261.9 million shares to approximately 20.2 million shares (without giving effect to the rounding up for each fractional share). Unless otherwise noted, all share and per share data referenced in this report have been retroactively adjusted to reflect the Reverse Stock Split. Certain amounts in the financial statements, the notes thereto, and elsewhere in this report, may be slightly different than previously reported due to rounding of fractional shares as a result of the Reverse Stock Split.

[Table of Contents](#)

Risks and Uncertainties

We are subject to risks similar to other similarly sized companies in the medical device industry. These risks include, without limitation: potential negative impacts on our operations caused by the COVID-19 pandemic; our ability to continue as a going concern; the historical lack of profitability; our ability to raise additional capital; the liquidity and capital resources of our customers; our ability to successfully develop, clinically test and commercialize our products; the timing and outcome of the regulatory review process for our products; changes in the health care and regulatory environments of the United States, the United Kingdom, the European Union, Japan, Taiwan and other countries in which we operate or intend to operate; our ability to attract and retain key management, marketing and scientific personnel; our ability to successfully prepare, file, prosecute, maintain, defend and enforce patent claims and other intellectual property rights; our ability to successfully transition from a research and development company to a marketing, sales and distribution concern; competition in the market for robotic surgical devices; and our ability to identify and pursue development of additional products.

Despite the number of advances and regulatory clearances received in 2018 and 2019, the Company's Senhance System sales in 2019 were disappointing. Adoption of new technologies, particularly for capital intensive devices such as the Senhance System can be slow and uneven as market development and commercial development is time-consuming and expensive. The Company has determined to refocus its resources and efforts in 2020 on market development activities to increase awareness of:

- the benefits of the use of the Senhance System in laparoscopic surgery;
- the digitization of high volume procedures using the Senhance System;
- the indications for use, including pediatric indications of use in CE Mark territories;
- the overall cost efficiency of the Senhance System

We intend to focus on markets with high utilization of laparoscopic technique, including Japan, Western Europe and the United States. Our focus will be on (1) increasing the number of placements of the Senhance System, not necessarily through sales, but through leasing arrangements, (2) increasing the number of procedures conducted using the Senhance System quarter over quarter, and (3) solidifying key opinion leader support and publications related to the use of the Senhance System in laparoscopic procedures. During this period we will not focus on revenue targets, especially in the United States.

Since we have implemented our new focus on market development, even with the impact of COVID-19 on our business, we have placed an additional eight Senhance Systems in 2020 and have one Senhance System pending installation. Approximately 1,200 procedures have been conducted to date in 2020, which is less than our goal as a result of the COVID-19 pandemic. We are seeing the slow return of elective surgeries in all of the jurisdictions where we offer the Senhance System and believe we may be able to continue to pursue our goal of increasing the number of procedures conducted using the Senhance System.

[Table of Contents](#)

With respect to the COVID-19 pandemic, the Company has taken steps, and will continue to take further actions, in its approach to minimizing the impact of the COVID-19 pandemic on its business. In March 2020, to ensure the health and well-being of its employees, the Company implemented work from

home at all its facilities, which restrictions were lifted in part in June 2020. The Company has also implemented cost containment strategies across all areas of the organization, including continued curtailment of Company travel, canceling of trade shows for 2020 and temporary salary reductions for its senior management and certain groups of its field-based employees. The Senhance Systems are manufactured at a contract manufacturing facility in Milan. The assembly of new units was disrupted in the first quarter of 2020 due to the quarantine in Northern Italy but returned to normal operating levels by the third quarter of 2020. A variety of travel restrictions have caused a delay in our product installation and training activities. During the second quarter of 2020, the Company has seen elective surgical procedures recommence in the United States, Europe and Japan, but not, to date, to the levels seen before the COVID-19 pandemic. This has significantly impacted our ability to implement our market development activities to place our Senhance Systems, provide training, and increase the use of the Senhance Systems in place. Given the dynamic nature of this health emergency, the full impact of the COVID-19 pandemic on the Company's ongoing business, results of operations and overall financial performance cannot be reasonably estimated at this time.

The Coronavirus Aid, Relief, and Economic Security Act was passed in the United States and signed into law on March 7, 2020, and was subsequently amended on June 5, 2020 through the enactment of the Paycheck Protection Program Flexibility Act (as amended, the "CARES Act"). On April 27, 2020, TransEnterix Surgical, Inc., a wholly owned subsidiary of the Company, received funding under a promissory note dated April 18, 2020 (the "Promissory Note") evidencing an unsecured non-recourse loan in the principal amount of \$2,815,200 under the Paycheck Protection Program (the "PPP") provisions of the CARES Act. The PPP is administered by the U.S. Small Business Administration (the "SBA"). The Promissory Note was made through City National Bank of Florida, a national banking association (the "Lender").

The Promissory Note has a two-year term, maturing on April 27, 2022, and bears interest at 1.00% per annum. If the Promissory Note is not forgiven, payments can be deferred until 10 months after the end of the Company's covered period, which is the 24-week period beginning on the date the Company received the PPP loan proceeds from the Lender (the "Covered Period"). The Promissory Note contains customary events of default relating to, among other things, payment defaults, and breach of representations and warranties, or other provisions of the Promissory Note. The Promissory Note may be forgiven partially or fully if the proceeds are used for covered payroll, rent and utility costs incurred during the Covered Period and if at least 60% of the proceeds are used for covered payroll costs. All or a portion of the Promissory Note may be forgiven by the SBA upon application by the Company and documentation of expenditures in accordance with the SBA requirements. The Company intends to use the proceeds for such covered purposes. While the Company believes, because the Covered Period was extended from the original eight weeks to 24 weeks, that it will be more likely to use the funds for covered purposes, it can provide no assurance that it will obtain forgiveness in whole.

Any forgiveness of the Promissory Note will be subject to approval by the SBA and the Lender. We recognize that our restructuring activities unrelated to COVID-19 led to a decrease in the number of employees and that the Company may not be able to comply with the available safe harbor and savings provisions of the CARES Act, and, therefore, not all of the Promissory Note may be eligible for forgiveness.

We continue to review the CARES Act, as amended, and other applicable government-related legislation aimed at assisting businesses during the COVID-19 pandemic. Given the dynamic nature of this health emergency, the full impact of the COVID-19 pandemic on our ongoing business, results of operations and overall financial performance cannot be reasonably estimated at this time.

Recent Financing Transactions

See "Liquidity and Capital Resources" for a description of the Company's financing activities in 2019 and 2020.

[Table of Contents](#)

Series B Warrants Exchange

On December 15, 2017, we filed a registration statement on Form S-3 (File No. 333-222103) to register shares of common stock underlying outstanding Series B Warrants previously issued as part of the Company's May 3, 2017 public offering. This registration statement replaced the registration statement on Form S-3 that expired on December 19, 2017 with respect to these securities. On January 26, 2018, we filed an Amendment No. 1 to such registration statement on Form S-3 to update the information in the registration statement, which was declared effective on January 29, 2018. The amended registration statement covers up to 736,914 shares of common stock underlying the then-outstanding Series B Warrants. On February 7, 2020, we filed a new registration statement on Form S-3 to register 2,500,000 additional shares of common stock to cover the "down-round protection" adjustments made to the Series B Warrant Shares pursuant to sale prices below the then-current exercise price. This new registration statement on Form S-3 was declared effective on February 13, 2020.

On February 24, 2020, the Company entered into a Series B Warrants Exchange Agreement, or the Exchange Agreement, with holders of Series B Warrants. Under the terms of the Exchange Agreement, each Series B Warrant was canceled in exchange for 0.61 of a share of common stock. The Warrant holders participating in the exchange held 3,373,900 of the 3,638,780 Series B Warrants then outstanding, and received an aggregate of 2,040,757 shares of common stock, leaving 264,880 Series B Warrants outstanding to acquire 530,381 shares of common stock at an exercise price of \$0.3746 per share. As of September 30, 2020, Series B Warrants to acquire 567,660 shares of common stock at an exercise price of \$0.35 per share were outstanding.

Notable Acquisitions and Asset Sale

Senhance Acquisition

On September 21, 2015, the Company announced that it had entered into a Membership Interest Purchase Agreement, dated September 18, 2015, or the Purchase Agreement, with Sofar S.p.A., or Sofar, as the Seller, Vulcanos S.r.l., as the acquired company, and TransEnterix International, Inc., a wholly owned subsidiary of the Company as the Buyer. The closing of the transactions contemplated by the Purchase Agreement occurred on September 21, 2015. The Buyer acquired all of the membership interests of the acquired company from Sofar, and changed the name of the acquired company to TransEnterix Italia S.r.l. On the closing date, pursuant to the Purchase Agreement, the Company completed the strategic acquisition from Sofar of all of the assets, employees and contracts related to the advanced robotic system for minimally invasive laparoscopic surgery now known as the Senhance System, or the Senhance Acquisition.

Under the terms of the Purchase Agreement, the consideration consisted of the issuance of 1,195,647 shares of the Company's common stock, or the Sofar Consideration, and approximately \$25.0 million U.S. Dollars and €27.5 million Euro in cash consideration, or the Cash Consideration. The Sofar Consideration was issued in full at closing of the acquisition; the Cash Consideration was or will be paid in four tranches, with U.S. \$25.0 million paid at closing and the remaining Cash Consideration of €27.5 million to be paid in three additional tranches based on achievement of negotiated milestones.

As of September 30, 2020, the Company has paid all Cash Consideration due under the second and fourth tranches. The third tranche, consisting of €15.0 million, has not yet been paid and is subject to certain sales revenue milestones.

MST Acquisition

On October 31, 2018, the Company acquired the assets, intellectual property and highly experienced multidisciplinary personnel of MST Medical Surgical Technologies, Inc., or MST, an Israeli-based medical device company. Through this acquisition, the Company acquired MST's AutoLap™ technology, one of the only image-guided robotic scope positioning systems with FDA clearance and CE Mark. The Company believes MST's image analytics technology will accelerate and drive meaningful Senhance System developments, and allow it to expand the Senhance System to add augmented, intelligent vision capability.

[Table of Contents](#)

Sale of AutoLap Assets

On July 3, 2019 the Company entered into a System Sale Agreement with GBIL to sell certain assets related to the AutoLap technology. On October 15, 2019, the Company amended the prior AutoLap Sale Agreement with GBIL. Pursuant to the amended agreement the Company sold the AutoLap laparoscopic vision system, or AutoLap, and related assets to GBIL. The assets include inventory, spare parts, production equipment, testing equipment and certain intellectual property specifically related to the AutoLap. The purchase price was \$17.0 million, all of which was received in 2019 in the form of \$16 million in cash and a commitment by GBIL to pay \$1.0 million to settle certain Company obligations in China. GBIL subsequently paid the obligation. Under the amended AutoLap Agreement, the Company entered into a cross-license agreement with GBIL to retain rights to use any AutoLap-related intellectual property sold to GBIL, and to non-exclusively license additional intellectual property to GBIL. The Company recorded a \$16.0 million gain on the sale of the AutoLap assets during the year ended December 31, 2019, which represented the proceeds received in excess of the carrying value of the assets, less contract costs.

Results of Operations

Comparison of Three Months Ended September 30, 2020 and 2019

Revenue

In the third quarter of 2020, our revenue consisted of System leasing, instruments, accessories and services for Systems sold in Europe, Asia and the U.S. in prior periods.

Product revenue for the three months ended September 30, 2020 decreased to \$0.4 million compared to \$1.6 million for the three months ended September 30, 2019. The \$1.2 million decrease was the result of no System sales during the three months ended September 30, 2020 as compared to one System sold during the three months ended September 30, 2019. The revenue for the three months ended September 30, 2020 consisted primarily of leasing arrangement revenues as well as instrument and accessory sales for previously installed Senhance Systems.

Service revenue was \$0.4 million for the three months ended September 30, 2020 and September 30, 2019.

Cost of Revenue

Cost of revenue consists primarily of costs related to contract manufacturing, materials, and manufacturing overhead. We expense all inventory obsolescence provisions as cost of revenue. The manufacturing overhead costs include the cost of quality assurance, material procurement, inventory control, facilities, equipment depreciation and operations supervision and management. We expect overhead costs as a percentage of revenues to become less significant as our production volume increases. We expect cost of revenue to increase in absolute dollars to the extent our revenues grow and as we continue to invest in our operational infrastructure to support anticipated growth.

Product cost for the three months ended September 30, 2020 decreased to \$0.7 million as compared to \$2.4 million for the three months ended September 30, 2019. Changes year-over-year primarily include \$1.1 million in lower product costs driven by lower System sales, \$0.6 million in reduced personnel costs and \$0.1 million in reduced other costs offset by \$0.1 million in increased freight costs.

Service cost for the three months ended September 30, 2020 decreased to \$0.7 million as compared to \$1.0 million for the three months ended September 30, 2019. This \$0.3 million decrease primarily relates to \$0.3 million in reduced supplies costs. Cost of revenue exceeds revenue primarily due to part replacements under maintenance plans, which are expensed when incurred, along with salaries for the field service teams.

Research and Development

Research and development, or R&D, expenses primarily consist of engineering, product development and regulatory expenses incurred in the design, development, testing and enhancement of our products and legal services associated with our efforts to obtain and maintain broad protection for the intellectual property related to our products. In future periods, we expect R&D expenses to increase moderately as we continue to invest in additional regulatory approvals as well as new products, instruments and accessories to be offered with the Senhance System. R&D expenses are expensed as incurred.

[Table of Contents](#)

R&D expenses for the three months ended September 30, 2020 decreased 20% to \$4.7 million as compared to \$5.9 million for the three months ended September 30, 2019. The \$1.2 million decrease primarily relates to decreased personnel related costs of \$1.1 million, decreased supplies expense of \$0.2 million, decreased travel costs of \$0.1 million, decreased consulting costs of \$0.2 million and decreased other costs of \$0.1 million, offset by increased

testing costs of \$0.2 million, increased technology fees of \$0.2 million, and increased facilities costs of \$0.1 million. These decreases were primarily the result of the restructuring plan implemented in the fourth quarter of 2019.

Sales and Marketing

Sales and marketing expenses include costs for sales and marketing personnel, travel, demonstration product, market development, physician training, tradeshows, marketing clinical studies and consulting expenses. We expect sales and marketing expenses to remain lower compared to prior years as we refocus our resources and efforts on market development activities pursuant to our restructuring plan.

Sales and marketing expenses for the three months ended September 30, 2020 decreased 55% to \$3.1 million compared to \$6.9 million for the three months ended September 30, 2019. The \$3.8 million decrease was primarily related to decreased personnel costs of \$2.2 million, decreased travel related costs of \$0.8 million, decreased consulting costs of \$0.5 million, decreased supplies expense of \$0.2 million and decreased other costs of \$0.1 million. These decreases were primarily the result of the restructuring plan implemented in the fourth quarter of 2019 together with reductions in travel and cancellation of tradeshows beginning in the first quarter of 2020 in response to the COVID-19 pandemic.

General and Administrative

General and administrative expenses consist of personnel costs related to the executive, finance, legal and human resource functions, as well as professional service fees, legal fees, accounting fees, insurance costs, and general corporate expenses. We expect general and administrative costs to remain flat in future periods.

General and administrative expenses for the three months ended September 30, 2020 decreased 41% to \$3.5 million compared to \$5.9 million for the three months ended September 30, 2019. The \$2.4 million decrease was primarily due to decreased bad debt expense of \$1.6 million, decreased personnel costs of \$0.6 million, decreased facilities costs of \$0.1 million and decreased consulting costs of \$0.1 million.

Amortization of Intangible Assets

Amortization of intangible assets for the three months ended September 30, 2020 increased 8% to \$2.8 million compared to \$2.6 million for the three months ended September 30, 2019, primarily due to the transfer in the first quarter of 2020 of IPR&D to definite-lived intangible assets.

Change in Fair Value of Contingent Consideration

The change in fair value of contingent consideration in connection with the Senhance Acquisition was a \$0.5 million increase for the three months ended September 30, 2020 compared to an \$11.6 million decrease for the three months ended September 30, 2019. The \$12.1 million increase was due to changes in the Company's fair value measurement of a discounted cash flow model using significant unobservable inputs including the probability of achieving the potential milestone, future Euro-to-USD exchange rates, and an estimated discount rate associated with the risks of the expected cash flows attributable to the milestone.

Change in Fair Value of Warrant Liabilities

The change in fair value of Series B Warrants issued in April 2017 was a decrease of \$0.1 million for the three months ended September 30, 2020 compared to a decrease of \$0.6 million for the three months ended September 30, 2019. The net \$0.5 million decrease in the fair value of warrant liabilities as of September 30, 2020 was primarily the result of a decrease in the stock price as of September 30, 2020 as compared to June 30, 2020. The decrease in the fair value of warrant liabilities as of September 30, 2019 was primarily the result of a decrease in the stock price at September 30, 2019 as compared to June 30, 2019.

[Table of Contents](#)

Interest Income

There was no material interest income for the three months ended September 30, 2020 compared to \$0.1 million for the three months ended September 30, 2019. The decrease of \$0.1 million was due to less cash and no short-term investments on hand as of September 30, 2020 earning less interest.

Interest Expense

There was no interest expense for the three months ended September 30, 2020, compared to \$1.2 million for the three months ended September 30, 2019. The decrease in interest expense relates to the payoff of the Hercules Capital debt in the fourth quarter of 2019.

Income Tax Benefit

Income tax benefit consists primarily of taxes related to the amortization of purchase accounting intangibles in connection with the Italian taxing jurisdiction for TransEnterix Italia as a result of the acquisition of the Senhance System. We recognized approximately \$0 income tax benefit for the three months ended September 30, 2020 compared to \$1.1 million for the three months ended September 30, 2019.

Comparison of Nine Months Ended September 30, 2020 and 2019

Revenue

In the nine months ended September 30, 2020, our revenue consisted of System leasing, instruments, accessories and services for Systems sold in Europe, Asia and the U.S. in prior periods. The COVID-19 pandemic contributed to a decrease in demand for instruments, leases, accessories and services during the latter part of the quarter ended March 31, 2020 and throughout the nine months ended September 30, 2020 as elective surgeries were canceled globally.

Product revenue for the nine months ended September 30, 2020 decreased to \$1.0 million compared to \$6.8 million for the nine months ended September 30, 2020. The \$5.8 million decrease was the result of no System sales during the nine months ended September 30, 2020 as compared to three Systems sold

during the nine months ended September 30, 2019. Revenue for the nine months ended September 30, 2019 included \$1.3 million from a prior year System sale that had deferred proceeds related to uncompleted performance obligations. The Company completed these performance obligations during the nine months ended September 30, 2019. The revenue for the nine months ended September 30, 2020 consisted primarily of leasing arrangement revenues as well as instrument and accessory sales for previously installed Senhance Systems.

Service revenue for the nine months ended September 30, 2020 increased to \$1.1 million compared to \$1.0 million for the nine months ended September 30, 2019. The \$0.1 million increase was due to the year-over-year increase in the installed base of Senhance Systems.

Cost of Revenue

Product cost for the nine months ended September 30, 2020 decreased to \$2.4 million as compared to \$6.6 million for the nine months ended September 30, 2019. Changes year-over-year include \$1.4 million in reduced personnel costs, \$2.1 million in reduced product costs driven by lower System sales, \$0.2 million in reduced facilities costs, \$0.1 million in reduced travel costs, \$0.1 million in reduced supplies costs, and \$0.4 million in reduced other costs offset by \$0.1 million in increased freight costs.

Service cost for the nine months ended September 30, 2020 decreased to \$2.2 million as compared to \$3.2 million for the nine months ended September 30, 2019. This \$1.0 million decrease primarily relates to \$0.7 million in reduced supplies costs, \$0.2 million in reduced travel expenses for field service engineers driven by the COVID-19 pandemic, and \$0.1 million in reduced other costs. Cost of revenue exceeds revenue primarily due to part replacements under maintenance plans, which are expensed when incurred, along with salaries for the field service teams.

[Table of Contents](#)

Research and Development

R&D expenses for the nine months ended September 30, 2020 decreased 28% to \$12.9 million as compared to \$17.8 million for the nine months ended September 30, 2019. The \$4.9 million decrease primarily relates to decreased personnel related costs of \$2.7 million, decreased technology fees of \$0.6 million, decreased consulting fees of \$0.5 million, decreased supplies expense of \$0.6 million, decreased travel costs of \$0.4 million and decreased other costs of \$0.2 million, offset by increased testing expense of \$0.1 million. These decreases were primarily the result of the restructuring plan implemented in the fourth quarter of 2019.

Sales and Marketing

Sales and marketing expenses for the nine months ended September 30, 2020 decreased 54% to \$10.3 million compared to \$22.4 million for the nine months ended September 30, 2019. The \$12.1 million decrease was primarily related to decreased personnel costs of \$6.3 million, decreased travel related costs of \$2.7 million, decreased consulting costs of \$1.9 million, decreased supplies expense of \$0.6 million, decreased facilities costs of \$0.2 million, decreased depreciation expense of \$0.2 million, and decreased other costs of \$0.2 million. These decreases were primarily the result of the restructuring plan implemented in the fourth quarter of 2019 together with reductions in travel and cancellation of tradeshow beginning in the first quarter of 2020 in response to the COVID-19 pandemic.

General and Administrative

General and administrative expenses for the nine months ended September 30, 2020 decreased 31% to \$10.4 million compared to \$15.0 million for the nine months ended September 30, 2019. The \$4.6 million decrease was primarily due to decreased personnel costs of \$3.0 million, decreased bad debt expense of \$1.6 million, decreased supplies expense of \$0.2 million, decreased travel costs of \$0.2 million, and decreased other expenses of \$0.2 million, offset by increased facilities costs of \$0.3 million and increased consulting and outside services costs of \$0.3 million.

Loss from Sale of SurgiBot Assets, Net

The loss from the sale of SurgiBot assets to GBIL of \$0.1 million for the nine months ended September 30, 2019 was primarily due to additional outside service costs to transfer the assets.

Amortization of Intangible Assets

Amortization of intangible assets for the nine months ended September 30, 2020 increased 3% to \$8.0 million compared to \$7.8 million for the nine months ended September 30, 2019, primarily due to the transfer in the first quarter of 2020 of IPR&D to definite-lived intangible assets.

Change in Fair Value of Contingent Consideration

The change in fair value of contingent consideration in connection with the Senhance Acquisition was a \$1.8 million increase for the nine months ended September 30, 2020 compared to a \$9.7 decrease increase for the nine months ended September 30, 2019. The \$11.5 million increase was due to changes in the Company's fair value measurement of a discounted cash flow model using significant unobservable inputs including the probability of achieving the potential milestone, future Euro-to-USD exchange rates, and an estimated discount rate associated with the risks of the expected cash flows attributable to the milestone.

[Table of Contents](#)

Restructuring Charge

During the fourth quarter of 2019, we announced the implementation of a restructuring plan to reduce operating expenses as we continue the global market development of the Senhance platform. Under the restructuring plan, we reduced headcount primarily in the sales and marketing functions and determined that the carrying value of our inventory exceeded the net realizable value due to a decrease in expected sales. The restructuring charges amounted to \$8.8 million, of which \$7.4 million was an inventory write down and was included in cost of product revenue and \$1.4 million related to employee severance

costs and was included as restructuring and other charges in the consolidated statements of operations and comprehensive loss, during the fourth quarter of 2019.

During March 2020, we continued our restructuring with additional headcount reductions which resulted in \$0.9 million related to severance costs which are expected to be paid in 2020.

Change in Fair Value of Warrant Liabilities

The change in fair value of Series B Warrants issued in April 2017 was an increase of \$0.2 million for the nine months ended September 30, 2020 compared to a decrease of \$3.0 million for the nine months ended September 30, 2019. The increase in the fair value of warrant liabilities as of September 30, 2020 was primarily the result of a decrease in the exercise price of the Series B warrants due to their “down-round protection” relative to the stock price as of September 30, 2020. The decrease in the fair value of warrant liabilities as of September 30, 2019 was primarily the result of a decrease in the stock price as of September 30, 2019 as compared to December 31, 2018.

Interest Income

There was no material interest income for the nine months ended September 30, 2020 compared to \$0.6 million for the nine months ended September 30, 2019. The decrease of \$0.6 million was due to less cash and no short-term investments on hand as of September 30, 2020 earning less interest.

Interest Expense

There was no interest expense for the nine months ended September 30, 2020, compared to \$3.4 million for the nine months ended September 30, 2019. The decrease in interest expense relates to the payoff of the Hercules Capital debt in the fourth quarter of 2019.

Income Tax Benefit

Income tax benefit consists primarily of taxes related to the amortization of purchase accounting intangibles in connection with the Italian taxing jurisdiction for TransEnterix Italia as a result of the acquisition of the Senhance System. We recognized \$1.4 million and \$2.5 million of income tax benefit for the nine months ended September 30, 2020 and 2019, respectively.

Liquidity and Capital Resources

Going Concern

The Company's condensed consolidated financial statements are prepared using U.S. GAAP applicable to a going concern, which contemplate the realization of assets and liquidation of liabilities in the normal course of business. The Company had an accumulated deficit of \$709.1 million as of September 30, 2020 and working capital of \$26.1 million as of September 30, 2020. The Company has not established sufficient sales revenues to cover its operating costs and requires additional capital to proceed with its operating plan.

[Table of Contents](#)

The ability of the Company to continue as a going concern is dependent on the Company obtaining adequate capital to fund operating losses until it becomes profitable. In order to continue as a going concern, the Company will need, among other things, additional capital resources. Traditionally, the Company has raised additional capital through equity offerings, including raising net proceeds of \$13.5 million in the March 2020 public offering and an additional net proceeds of \$13.6 million in the July 2020 public offering. Additionally, in April 2020 the Company secured a non-recourse loan in the principal amount of \$2.8 million under the PPP provisions of the CARES Act that may be forgiven under certain circumstances. Management's plan to obtain additional resources for the Company may include additional sales of equity, traditional financing, such as loans, entry into a strategic collaboration, entry into an out-licensing arrangement or provision of additional distribution rights in some or all of our markets. In addition, the Company may consider fundamental business combination transactions. If the Company is unable to obtain additional and adequate capital through one of these methods, or if expected capital from existing agreements is not received when due, or at all, it would need to reduce its sales and marketing and administrative expenses and delay research and development projects, including the purchase of equipment and supplies, until it is able to obtain sufficient funds. If such sufficient funds are not received on a timely basis, the Company would then need to pursue a plan to license or sell its assets, seek to be acquired by another entity, cease operations and/or seek bankruptcy protection. However, management cannot provide any assurance that the Company will be successful in accomplishing any or all of its plans. The Company believes the COVID-19 pandemic will continue to negatively impact its operations and ability to implement its market development efforts, which will have a negative effect on its financial condition.

At September 30, 2020, we had cash and cash equivalents, excluding restricted cash, of approximately \$20.0 million. The Company believes that its existing cash and cash equivalents together with cash to be received from operating activities and realization of other current assets, will be sufficient to meet its anticipated cash needs into the second quarter of 2021. The ability of the Company to continue to secure needed financing until it becomes profitable raises substantial doubt about the Company's ability to continue as a going concern during the one year after the date that these financial statements are issued.

Sources of Liquidity

Our principal sources of cash to date have been proceeds from public offerings of common stock, incurrence of debt, the sale of equity securities held as investments and asset sales. We have financed our operations from these financing transactions, most notably the following in 2019 and 2020 to date:

2019 Offerings

On August 12, 2019, the Company entered into a Controlled Equity Offering Sales Agreement (the “2019 Sales Agreement”) with Cantor Fitzgerald & Co. (“Cantor”) pursuant to which the Company may sell from time to time, at its option, up to an aggregate of \$25.0 million shares of the Company's common stock, through Cantor, as sales agent (the “2019 ATM Offering”). Pursuant to the 2019 Sales Agreement, sales of the common stock were made under the Company's previously filed Registration Statement on Form S-3, which registration statement expired in May 2020. The aggregate compensation payable to Cantor was 3.0% of the aggregate gross proceeds from each sale of the Company's common stock. The Company raised gross proceeds of \$7.2 million

under the 2019 ATM Offering and net proceeds of \$7.0 million during the year ended December 31, 2019, and an additional \$11.6 million of gross proceeds and \$11.2 million of net proceeds as of May 2020. The 2019 ATM Offering terminated upon expiration of the shelf registration statement in May 2020.

On September 4, 2019, the Company entered into an Underwriting Agreement (the "2019 Underwriting Agreement") with Cantor. Subject to the terms and conditions of the 2019 Underwriting Agreement, the Company sold to Cantor, in a firm commitment underwritten offering, 2,153,846 shares of the Company's common stock, or the Firm Commitment Offering. The Company raised \$18.8 million in gross proceeds under this offering. The shares were offered and sold under the 2019 Underwriting Agreement pursuant to the Company's previously filed Registration Statement on Form S-3.

[Table of Contents](#)

2020 Public Offerings

On March 10, 2020, the Company closed an underwritten public offering (the "March 2020 Public Offering") with Ladenburg Thalmann & Co. Inc. ("Ladenburg") as underwriter and sold an aggregate of 14,121,766 Class A Units at a public offering price of \$0.68 per Class A Unit and 7,937,057 Class B Units at a public offering price of \$0.68 per Class B Unit. Each Class A Unit consists of one share of the Company's common stock, one warrant to purchase one share of common stock that expires on the first anniversary of the date of issuance (the "Series C Warrants"), and one warrant to purchase one share of common stock that expires on the fifth anniversary of the date of issuance (the "Series D Warrants"). Each Class B Unit consists of one share of Series A Convertible Preferred Stock, par value \$0.01 per share (the "Series A Preferred Stock"), convertible into one share of common stock, a Series C Warrant to purchase one share of common stock and a Series D Warrant to purchase one share of common stock. The Class A Units and Class B Units have no stand-alone rights and were not certificated or issued as stand-alone securities. The shares of common stock, Series A Preferred Stock, Series C Warrants and Series D Warrants are immediately separable. In addition, the underwriter for the public offering exercised an overallotment option and purchased 3,308,823 additional Series C Warrants and 3,308,823 additional Series D Warrants at the closing.

Each Series C Warrant included in the Class A Units has an exercise price of \$0.68 per share, and each Series D Warrant included in the Class B Units has an exercise price of \$0.68 per share. The Series C Warrants and the Series D Warrants are exercisable at any time on or after the date of issuance until their respective expiration dates.

The exercise prices and the number of shares issuable upon exercise of each of the Series C Warrants and Series D Warrants are subject to adjustment upon the occurrence of stock splits or dividends, business combinations, similar recapitalization transactions, or other similar transactions. The exercisability of the Series C Warrants and Series D Warrants may be limited if, upon exercise, the holder or any of its affiliates would beneficially own more than 4.99% of the common stock. If, at any time Series C Warrants or Series D Warrants are outstanding, any fundamental transaction occurs, as described in the warrants and generally including any consolidation or merger into another corporation, the consummation of a transaction whereby another entity acquires more than 50% of the Company's outstanding voting stock, or the sale of all or substantially all of its assets, the successor entity must assume in writing all of the obligations to the holders of the Series C Warrants and Series D Warrants. Additionally, in the event of a fundamental transaction that is within the Company's control, each holder of the Series C Warrants and Series D Warrants will have the right to require the Company, or its successor, to repurchase the Series C Warrants and Series D Warrants it holds for an amount of cash equal to the Black-Scholes value of the remaining unexercised portion of such Series C Warrants or Series D Warrants, as applicable.

All shares of Series A Preferred Stock were converted into 7.9 million shares of common stock prior to June 30, 2020. Approximately 4.9 million Series C Warrants were exercised during the nine months ended September 30, 2020, generating net proceeds of \$3.3 million.

The net proceeds to the Company from the March 2020 Public Offering were approximately \$13.5 million, after deducting underwriting discounts and commissions and estimated offering expenses payable by the Company. The Class A Units, the Class B Units, the Series A Preferred Stock, the Series C Warrants and the Series D Warrants (together with the shares of common stock underlying the shares of Series A Preferred Stock and such warrants) were offered under the Company's previously filed Registration Statement on Form S-3, which registration statement expired in May 2020. The Company filed a new registration statement on Form S-1 covering the exercise of the outstanding Series C Warrants and Series D Warrants, which was declared effective by the SEC on May 27, 2020.

On July 6, 2020, the Company completed an underwritten public offering with Ladenburg as underwriter and sold an aggregate of 42,857,142 shares of its common stock, including the underwriter's full exercise of an over-allotment option, at the public offering price per of \$0.35 per share, generating net proceeds of approximately \$13.6 million after deducting underwriter discounts, commissions and expenses (the "July 2020 Public Offering"). The offer and sale of shares of common stock under the July 2020 Public Offering was made under the Company's currently effective shelf Registration Statement on Form S-3.

Paycheck Protection Program

The Company received a \$2.8 million PPP loan under the CARES Act in April 2020 and is currently using the loan proceeds during the 24-month covered period. The Company intends to apply for loan forgiveness as allowed under the CARES Act, but is not certain that the entire loan will be subject to forgiveness. Any unforgiven portion will be repaid over two years at 1.0% interest rate. For more information regarding our PPP loan, see "Management's Discussion and Analysis and Results of Operations – Risk and Uncertainties" above.

[Table of Contents](#)

Shelf Registration Statements

We currently have an effective shelf Registration Statement on file with the SEC. The shelf Registration Statement was declared effective by the SEC on February 10, 2020 and registers up to \$150.0 million of debt securities, common stock, preferred stock, or warrants, or any combination thereof for future financing transactions. As of the date of this report, the Company has approximately \$95 million available for future financings under the shelf Registration Statement.

Consolidated Cash Flow Data

| (in millions) | Nine months Ended September 30, | |
|--|---------------------------------|-----------|
| | 2020 | 2019 |
| Net cash provided by (used in) | | |
| Operating activities | \$ (33.9) | \$ (59.1) |
| Investing activities | (0.0) | 51.7 |
| Financing activities | 44.4 | 8.7 |
| Effect of exchange rate changes on cash and cash equivalents | 0.0 | (0.1) |
| Net increase in cash, cash equivalents and restricted cash | \$ 10.5 | \$ 1.2 |

Operating Activities

For the nine months ended September 30, 2020, cash used in operating activities of \$33.9 million consisted of a net loss of \$45.5 million and cash used for working capital of \$4.8 million, offset by non-cash items of \$16.4 million. The non-cash items primarily consisted of \$5.8 million of stock-based compensation expense, \$8.0 million of amortization, \$1.8 million change in fair value of contingent consideration, \$0.2 million change in fair value of warrant liabilities, and \$2.0 million of depreciation offset by a deferred tax benefit of \$1.4 million. The decrease in cash from changes in working capital primarily relates to \$4.4 million in increased inventory net of transfers to property, plant and equipment, a \$0.4 million decrease in other long term liabilities, a \$1.4 million decrease in accrued expenses, a \$0.7 million decrease in accounts payable, and a \$0.3 million increase in accounts receivable, offset by a \$2.4 million decrease in other current and long-term assets.

Investing Activities

For the nine months ended September 30, 2020, net cash used in investing activities was \$0.0 million.

Financing Activities

For the nine months ended September 30, 2020, net cash provided by financing activities was \$44.4 million. The net change primarily related to \$13.5 million in proceeds from the issuance of common stock, preferred stock, and warrants under the March 2020 Public Offering, \$13.6 million in proceeds from the issuance of common stock under a July 2020 underwritten public offering, \$11.2 million in proceeds from additional issuances of common stock, \$3.3 million from the exercise of warrants, and \$2.8 million from the receipt of funding under a Promissory Note under the PPP provisions of the CARES Act.

Operating Capital and Capital Expenditure Requirements

We intend to spend substantial amounts on market development and commercial activities, on research and development activities, including continued product development, regulatory and compliance, clinical studies in support of our future product offerings, and the enhancement and protection of our intellectual property. We will need to obtain additional financing to pursue our business strategy, to respond to new competitive pressures or to take advantage of opportunities that may arise. To meet our capital needs, we are considering multiple alternatives, including, but not limited to, additional equity financings, debt financings, strategic collaborations, other funding transactions or a fundamental business combination transaction. There can be no assurance that we will be able to complete any such transaction on acceptable terms or otherwise. If we are unable to obtain the necessary capital, we will need to pursue a plan to license or sell our assets, seek to be acquired by another entity, cease operations and/or seek bankruptcy protection.

[Table of Contents](#)

Cash and cash equivalents held by our foreign subsidiaries totaled \$1.3 million as of September 30, 2020, including restricted cash. We do not intend or currently foresee a need to repatriate cash and cash equivalents held by our foreign subsidiaries. If these funds are needed in the United States, we believe that the potential U.S. tax impact to repatriate these funds would be immaterial.

Off-Balance Sheet Arrangements

As of September 30, 2020, we did not have any off-balance sheet arrangements.

Critical Accounting Policies and Estimates

The discussion and analysis of our financial condition and results of operations set forth above under the headings “Results of Operations” and “Liquidity and Capital Resources” have been prepared in accordance with U.S. GAAP and should be read in conjunction with our financial statements and notes thereto appearing in this Form 10-Q and in the Fiscal 2019 Form 10-K. The preparation of these financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses, and related disclosure of contingent assets and liabilities. On an ongoing basis, we evaluate our critical accounting policies and estimates, including identifiable intangible assets, contingent consideration, warrant liabilities, stock-based compensation, inventory, revenue recognition and income taxes. We base our estimates on historical experience and on various other assumptions that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. A more detailed discussion on the application of these and other accounting policies can be found in Note 2 in the Notes to the Financial Statements in this Form 10-Q. Actual results may differ from these estimates under different assumptions and conditions.

While all accounting policies impact the financial statements, certain policies may be viewed as critical. Critical accounting policies are those that are both most important to the portrayal of financial condition and results of operations and that require management’s most subjective or complex judgments and estimates.

Identifiable Intangible Assets

Definite-Lived Intangible Assets - Intellectual Property

Intellectual property consists of purchased patent rights and developed technology acquired as part of a business acquisition. Developed technology includes reclassified IPR&D assets related to (i) the Senhance System acquired in 2015 and reclassified in 2017 and (ii) MST acquired in 2018 and

reclassified in 2020. We amortize patent rights using the straight-line method over the estimated useful life of the patents of 10 years. Amortization of the developed technology is recorded using the straight-line method over the estimated useful life of 5 to 7 years.

We periodically evaluate intellectual property for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. To determine the recoverability, we evaluate the probability that future estimated undiscounted net cash flows will be less than the carrying amount of the assets. If such estimated cash flows are less than the carrying amount of the assets, then such assets are written down to their fair value. No impairment of intellectual property was identified during the nine months ended September 30, 2020 and 2019.

Indefinite-Lived Intangible Assets – In-Process Research and Development

In-process research and development (“IPR&D”) assets represent the fair value assigned to technologies that were acquired, which at the time of acquisition have not reached technological feasibility and have no alternative future use. IPR&D assets are considered to be indefinite-lived until the completion or abandonment of the associated research and development projects. During the period that the IPR&D assets are considered indefinite-lived, they are tested for impairment on an annual basis, or more frequently if we become aware of any events occurring or changes in circumstances that indicate that the fair value of the IPR&D assets are less than their carrying amounts. To determine the recoverability, we evaluate the probability that future estimated discounted net cash flows will be less than the carrying amount of the assets. If such estimated cash flows are less than the carrying amount of the assets, then such assets are written down to their fair value.

[Table of Contents](#)

We performed an impairment test of our IPR&D at the end of the third quarter 2019 as recent events and changes in market conditions indicated that the asset might be impaired. During the third quarter of 2019, we concluded that the fair value determined by the market value approach was lower than the carrying value and recognized a \$7.9 million impairment charge to our IPR&D. We performed our annual impairment assessment at December 31, 2019 and no additional impairment was required.

We reclassify IPR&D assets to intellectual property when development is complete, which generally occurs upon regulatory approval and we are able to commercialize products. The completed IPR&D assets are then classified as definite-lived intangible assets (developed technology) and are amortized based on their estimated useful lives at that point in time. If development is terminated or abandoned, we may have a full or partial impairment charge related to the IPR&D assets, calculated as the excess of carrying value of the IPR&D assets over fair value.

Contingent Consideration

Contingent cash consideration arising from business combinations is recorded as a liability and is the estimate of the fair value of potential milestone payments related to those acquisitions. Contingent consideration is measured at fair value using a discounted cash flow model using significant unobservable inputs including the probability of achieving each of the potential milestones, future Euro-to-USD exchange rates, and an estimated discount rate associated with the risks of the expected cash flows attributable to the various milestones. Significant increases or decreases in any of the probabilities of success or changes in expected achievement of any of these milestones would result in a significantly higher or lower fair value of these milestones, respectively, and commensurate changes to the associated liability. The contingent consideration is revalued at each reporting period and changes in fair value are recognized in the consolidated statements of operations and comprehensive loss.

Warrant Liabilities

Our Series B Warrants (see Note 9 of the Notes to the Condensed Consolidated Financial Statements (the “Notes”)) are measured at fair value using a simulation model which takes into account, as of the valuation date, factors including the current exercise price, the expected life of the warrant, the current price of the underlying stock, its expected volatility, holding cost and the risk-free interest rate for the term of the warrant (see Note 4). The warrant liability is revalued at each reporting period and changes in fair value are recognized in the consolidated statements of operations and comprehensive loss. The selection of the appropriate valuation model and the inputs and assumptions that are required to determine the valuation requires significant judgment and requires management to make estimates and assumptions that affect the reported amount of the related liability and reported amounts of the change in fair value. Actual results could differ from those estimates, and changes in these estimates are recorded when known.

Stock-Based Compensation

We recognize as expense, the grant-date fair value of stock options and other stock-based compensation issued to employees and non-employee directors over the requisite service periods, which are typically the vesting periods. We use the Black-Scholes-Merton model to estimate the fair value of our stock-based payments. The volatility assumption used in the Black-Scholes-Merton model is based on the calculated historical volatility based on an analysis of reported data for a peer group of companies as well as the Company’s historical volatility. The expected term of options granted by us has been determined based upon the simplified method, because we do not have sufficient historical information regarding our options to derive the expected term. Under this approach, the expected term is the mid-point between the weighted average of vesting period and the contractual term. The risk-free interest rate is based on U.S. Treasury rates whose term is consistent with the expected life of the stock options. We have not paid and do not anticipate paying cash dividends on our shares of common stock; therefore, the expected dividend yield is assumed to be zero. We estimate forfeitures based on our historical experience and adjust the estimated forfeiture rate based upon actual experience. The fair value of restricted stock units is determined by the market price of the Company’s common stock on the date of grant.

[Table of Contents](#)

Inventory

Inventory, which includes material, labor and overhead costs, is stated at the lower of cost, determined on a first-in, first-out basis, or net realizable value. We record reserves, when necessary, to reduce the carrying value of inventory to its net realizable value. At the point of loss recognition, a new, lower-cost basis for that inventory is established, and any subsequent improvements in facts and circumstances do not result in the restoration or increase in that newly established cost basis.

Any inventory on hand at the measurement date in excess of the Company's current requirements based on anticipated levels of sales is classified as long-term on the Company's consolidated balance sheets. The Company's classification of long-term inventory requires us to estimate the portion of on hand inventory that can be realized over the upcoming twelve months.

Revenue Recognition

Our revenue consists of product revenue resulting from the sale of Systems, System components, instruments and accessories, and service revenue. We account for a contract with a customer when there is a legally enforceable contract between the Company and the customer, the rights of the parties are identified, the contract has commercial substance, and collectability of the contract consideration is probable. Our revenues are measured based on consideration specified in the contract with each customer, net of any sales incentives and taxes collected from customers that are remitted to government authorities. Our System sale arrangements generally include a five-year service period; the first year of service is generally free and included in the System sale arrangement and the remaining four years are generally included at a stated service price.

Our System sale arrangements generally contain multiple products and services. For these consolidated sale arrangements, we account for individual products and services as separate performance obligations if they are distinct, which is if a product or service is separately identifiable from other items in the consolidated package, and if a customer can benefit from it on its own or with other resources that are readily available to the customer. Our System sale arrangements may include a combination of the following performance obligations: System(s), System components, instruments, accessories, and System service.

For arrangements that contain multiple performance obligations, revenue is allocated to each performance obligation based on its relative estimated standalone selling price. When available, standalone selling prices are based on observable prices at which the Company separately sells the products or services; however, due to limited sales to date, standalone selling prices are not directly observable. We estimate the standalone selling price using the market assessment approach considering market conditions and entity-specific factors including, but not limited to, features and functionality of the products and services, geographies, type of customer, and market conditions. We regularly review estimated standalone selling prices and updates these estimates if necessary.

We enter into lease arrangements with certain qualified customers. Revenue related to arrangements including lease elements are allocated to lease and non-lease elements based on their relative standalone selling prices. Lease elements generally include a System, while non-lease elements generally include service, instruments, and accessories. For some lease arrangements, the customers are provided with the right to purchase the leased System at some point during or at the end of the lease term. In some arrangements lease payments are based on the usage of the System.

In determining whether a transaction should be classified as a sales-type or operating lease, we consider the following terms at lease commencement: (1) whether title of the System transfers automatically or for a nominal fee by the end of the lease term, (2) whether the present value of the minimum lease payments equals or exceeds substantially all of the fair value of the leased System, (3) whether the lease term is for the major part of the remaining economic life of the leased System, (4) whether the lease grants the lessee an option to purchase the leased System that the lessee is reasonably certain to exercise, and (5) whether the underlying System is of such a specialized nature that it is expected to have no alternative use to the Company at the end of the lease term. As of September 30, 2020, all such arrangements have been classified as operating leases.

[Table of Contents](#)

We recognize revenues as the performance obligations are satisfied by transferring control of the product or service to a customer. We generally recognize revenue for the performance obligations as follows:

- System sales. For Systems and System components sold directly to end customers, revenue is recognized when the Company transfers control to the customer, which is generally at the point when acceptance occurs that indicates customer acknowledgment of delivery or installation, depending on the terms of the arrangement. For Systems sold through distributors, for which distributors are responsible for installation, revenue is recognized generally at the time of shipment. The Company's System arrangements generally do not provide a right of return. The Systems are generally covered by a one-year warranty. Warranty costs were not material for the periods presented.
- Lease arrangements. Revenue related to lease elements from operating lease arrangements is generally recognized on a straight-line basis over the lease term or based upon System usage and is presented as product revenue.
- Instruments and accessories. Revenue from sales of instruments and accessories is recognized when control is transferred to the customers, which generally occurs at the time of shipment, but also occurs at the time of delivery depending on the customer arrangement.
- Service. Service revenue is recognized ratably over the term of the service period as the customers benefit from the service throughout the service period. Revenue related to services performed on a time-and-materials basis is recognized when performed.

We invoice our customers based on the billing schedules in our sales arrangements. Contract assets for the periods presented primarily represent the difference between the revenue that was recognized based on the relative selling price of the related performance obligations and the contractual billing terms in the arrangements. Deferred revenue for the periods presented was primarily related to service obligations, for which the service fees are billed up-front, generally annually. The associated deferred revenue is generally recognized ratably over the service period.

In connection with assets recognized from the costs to obtain a contract with a customer, we have determined that sales incentive programs for our sales team do not meet the requirements to be capitalized as we do not expect to generate future economic benefits from the related revenue from the initial sales transaction.

Income Taxes

We account for income taxes using the asset and liability method, which requires the recognition of deferred tax assets or liabilities for the temporary differences between financial reporting and tax basis of our assets and liabilities, and for tax carryforwards at enacted statutory rates in effect for the years in which the asset or liability is expected to be realized. The effect on deferred taxes of a change in tax rates is recognized in income during the period that includes the enactment date. In addition, valuation allowances are established when necessary to reduce deferred tax assets and liabilities to the amounts expected to be realized.

U.S. shareholders are subject to tax on global intangible low-taxed income (GILTI) earned by certain foreign subsidiaries. The FASB Staff Q&A, Topic 740, No. 5, *Accounting for Global Intangible Low-Taxed Income*, states that an entity can make an accounting policy election to either recognize deferred

taxes for temporary basis differences expected to reverse as GILTI in future years or to provide for the tax expense related to GILTI in the year the tax is incurred as a period expense only. The Company has elected to account for GILTI in the year the tax is incurred.

In a referendum held on May 19, 2019, Swiss voters adopted the Federal Act on Tax Reform and AVS Financing (TRAF). TRAF introduces major changes in the Swiss tax system by abolishing certain current preferential tax regimes and replacing them with new measures that are in line with international standards. The referendum did not have a material impact on the Company's 2019 or 2020 tax provisions. The Company will continue to evaluate the impact of these provisions in future periods as the enactment process is completed.

We recognize the financial statement benefit of an income tax position only after determining that the relevant taxing authority would more-likely-than-not sustain the position following audit. For tax positions meeting the more likely than not threshold, the amount recognized in the financial statements is the largest benefit that has a greater than 50% likelihood of being realized upon ultimate settlement with the relevant taxing authority. We recognize interest accrued related to unrecognized tax benefits and penalties in the provision for income taxes.

[Table of Contents](#)

Tax regulations within each jurisdiction are subject to the interpretation of the related tax laws and regulations and require application of significant judgment. We are subject to U.S. federal and various state and local jurisdictions. Due to our net operating loss carryforwards, we may be subject to examination by authorities for all previously filed income tax returns.

On March 27, 2020, the CARES Act was signed into law in response to the COVID-19 pandemic. The CARES Act, as amended on June 5, 2020 through the enactment of the Paycheck Protection Program Flexibility Act, provides numerous tax provisions and stimulus measures, including temporary changes regarding the prior and future utilization of net operating losses, temporary changes to the prior and future limitations on interest deductions, and technical corrections from prior tax legislation for tax depreciation of certain qualified improvement property. The Company continues to evaluate the provisions of the CARES Act relating to income taxes which may result in adjustments to certain deferred tax assets and liabilities.

Recent Accounting Pronouncements

See "Note 2. Summary of Significant Accounting Policies" of the Notes to Consolidated Financial Statements in the Company's Fiscal 2019 Form 10-K, as well as the notes to the consolidated financial statements above in this Form 10-Q, for a full description of recent accounting pronouncements including the respective expected dates of adoption and effects on our Consolidated Balance Sheets and Consolidated Statements of Operations and Comprehensive Loss.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We are a smaller reporting company as defined by Rule 12b-2 of the Exchange Act and are not required to provide the information under this item.

ITEM 4. CONTROLS AND PROCEDURES

Disclosure Controls and Procedures

Our management, with the participation of our principal executive officer and principal financial officer, evaluated the effectiveness of our disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) as of September 30, 2020. We maintain disclosure controls and procedures that are designed to provide reasonable assurance that information required to be disclosed in our reports filed or submitted 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 our principal executive officer and principal financial officer, as appropriate, to allow for timely decisions regarding required disclosure. Our management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures. Based on such evaluation, our Chief Executive Officer and Executive Vice President and Chief Financial Officer concluded that, as of September 30, 2020, our disclosure controls and procedures were effective.

Changes in Internal Controls Over Financial Reporting

There were no changes in our internal control over financial reporting that occurred during the quarter ended September 30, 2020, that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting. We have not experienced any material impact to our internal controls over financial reporting despite the fact that most of our employees are working remotely due to the COVID-19 pandemic. We are continually monitoring and assessing the COVID-19 situation on our internal controls to minimize the impact on their design and operating effectiveness.

[Table of Contents](#)

PART II. OTHER INFORMATION

Item 1 Legal Proceedings

None.

Item 1A Risk Factors.

Reference is made to the Risk Factors included in our Fiscal 2019 Form 10-K and in our Quarterly Reports on Form 10-Q for the quarters ended March 31, 2020 and June 30, 2020 as supplemented by the following:

We have a history of operating losses, and we may not be able to achieve or sustain profitability. In addition, we may be unable to continue as a going concern.

We have a limited operating history. We are not profitable and have incurred losses since our inception. Management concluded that substantial doubt exists about our ability to continue as a going concern as a result of anticipated capital needs as well as past recurring losses and an accumulated deficit. Our independent registered public accounting firm also included an explanatory paragraph in its report on our consolidated financial statements as of and for the year ended December 31, 2019 with respect to this uncertainty. Our accumulated deficit was \$709.1 million as of September 30, 2020. At September 30, 2020, we had cash and cash equivalents, excluding restricted cash, of approximately \$20.0 million. The Company believes that its existing cash and cash equivalents together with cash to be received from operating activities and realization of other current assets will be sufficient to meet its anticipated cash needs into the second quarter of 2021.

We expect to continue to incur losses for the foreseeable future, and these losses will likely increase as we continue to develop and commercialize our products. We will continue to incur research and development and general and administrative expenses related to our operations, and sales and marketing expenses to support our commercial activities, as restructured. Even if we are successful in reducing our expenses or achieving profitability in the future, we may not be able to sustain profitability in subsequent periods. The ability of the Company to continue to secure needed financing until it becomes profitable raises substantial doubt about the Company's ability to continue as a going concern during the one year after the date that these financial statements are issued.

We will require substantial additional funding in the future, which may not be available to us on acceptable terms, or at all.

We do not anticipate that the net proceeds of prior equity financings will be sufficient to support development of our products and product candidates and provide us with the necessary resources to continue our market development efforts and commercialize the Senhance System and other products. We intend to advance multiple additional products through clinical and pre-clinical development in the future. We believe we will need to raise substantial additional capital in order to continue our operations and achieve our business objectives.

We have an effective shelf registration statement that was declared effective on February 10, 2020 registering up to \$150 million of our securities. As of the date of this report, \$95 million is available for future financings. We cannot assure you that we will be successful in obtaining such additional financing on terms acceptable to the Company or at all.

Our future funding requirements will depend on many factors, including, but not limited to:

- the costs of our Senhance System market development, commercialization and development activities;

[Table of Contents](#)

- the costs and timing of seeking and obtaining FDA and other non-U.S. regulatory clearances and approvals for our products in development;
- the costs associated with our manufacturing capabilities;
- our need to expand our research and development activities;
- the costs of acquiring, licensing or investing in businesses, products and technologies;
- the economic and other terms and timing of our existing licensing arrangement and any collaboration, licensing or other arrangements into which we may enter in the future;
- the effect of competing technological and market developments;
- our need to implement additional internal systems and infrastructure, including financial and reporting systems, quality systems and information technology systems; and
- our ability to maintain, expand and defend the scope of our intellectual property portfolio.

Until we generate a sufficient amount of revenue to finance our cash requirements, which may never occur, we expect to finance future cash needs primarily through public or private equity offerings, debt financings or strategic collaborations. We do not know whether additional funding will be available on acceptable terms, or at all. If we are not able to secure additional funding when needed, we may have to delay, reduce the scope of or eliminate one or more of our research and development programs. To the extent that we raise additional funds by issuing equity securities, our stockholders may experience significant dilution; and debt financing, if available, may involve restrictive covenants that limit our operations. To the extent that we raise additional funds through collaboration and licensing arrangements, it may be necessary to relinquish some rights to our products or grant licenses on terms that may not be favorable to us.

The coronavirus (COVID-19) pandemic has negatively impacted our operations.

We have facilities located in the United States, Israel, Japan, and Italy. All of our facilities are in locations that are subject to, or have been subject to, stay-at-home or shelter-in-place orders. Our Senhance Systems are manufactured at a contract manufacturing facility in Milan. With the quarantines in Northern Italy, the assembly of new units was disrupted earlier in 2020. A variety of travel restrictions, caused delays in our product installation and training activities in 2020 to date, particularly in April and May, and are expected to continue. Elective surgeries were halted in the United States and Europe and only limited procedures were being done in Japan at the height of stay-at-home requirements in these jurisdictions. Although such procedures have commenced in some locations, the limited procedures have significantly impacted our ability to place our Senhance Systems, provide training, and increase the use of the Senhance Systems in place. It is uncertain whether elective surgeries will be negatively impacted or halted again in the future by a resurgence of COVID-19 cases in any of these jurisdictions.

In addition, we are aware that the FDA clearance process has been impacted by the COVID-19 pandemic, resulting in delays in the clearance process. We anticipate such delays may continue.

The global spread of COVID-19 and the various attempts to contain it continue to create significant volatility, uncertainty and economic disruption. The full extent to which the COVID-19 pandemic and the various responses to it impacts our business, operations and financial results continues to depend on numerous factors that we may not be able to accurately predict, including: the duration and scope of the pandemic; governmental, business and individuals' actions that have been and continue to be taken in response to the pandemic; the availability and cost to access the capital markets; the decline in elective surgery procedures during the first half of 2020 and the potential decline in elective surgery procedures in the fourth quarter of 2020 and into 2021; the effect on our customers and customer demand for Senhance systems and the ability to provide training services; and disruptions or restrictions on our employees' ability to work and travel. In addition, any preventative or protective actions that governments implement or that we take in respect of COVID-19, such as travel restrictions or stay-at-home orders, may interfere with the ability of our employees, vendors and contract manufacturers to perform their respective responsibilities and obligations relative to the conduct of our business. Such results could have a material adverse effect on our operations, business, financial condition, results of operations, or cash flows.

[Table of Contents](#)

We believe the COVID-19 pandemic will continue to negatively impact our operations and our ability to implement our market development efforts, which will have a negative effect on our financial condition.

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

None.

Item 3 Defaults Upon Senior Securities.

None.

Item 4 Mine Safety Disclosures.

Not applicable.

Item 5 Other Information.

None.

[Table of Contents](#)

Item 6. EXHIBITS

| Exhibit No. | Description |
|-------------|--|
| 10.1.1 | Employment Agreement, dated August 14, 2020, by and between TransEnterix Canada, Inc., on behalf of TransEnterix, Inc. and Shameze Rampertab (incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K/A filed on August 14, 2020). |
| 10.1.2 | Amendment to Employment Agreement, dated September 16, 2020, by and between TransEnterix Canada, Inc., on behalf of TransEnterix, Inc. and Shameze Rampertab. |
| 10.2 * | TransEnterix, Inc. Employment Inducement Performance Restricted Stock Unit Award Agreement, dated as of August 24, 2020, by and between the Registrant and Shameze Rampertab |
| 10.3 * | TransEnterix, Inc. Employment Inducement Restricted Stock Unit Award Agreement, dated as of August 24, 2020, by and between the Registrant and Shameze Rampertab |
| 10.4 * | TransEnterix, Inc. Employment Inducement Stock Option Award Agreement, dated as of August 24, 2020, by and between the Registrant and Shameze Rampertab. |
| 31.1 * | Certification of Chief Executive Officer pursuant to Rule 13a-14(a)/15d-14(a). |
| 31.2 * | Certification of Chief Financial Officer pursuant to Rule 13a-14(a)/15d-14(a). |
| 32.1 * | Certification of Chief Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002. |
| 32.2 * | Certification of Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002. |
| 101.INS * | Inline XBRL Instance Document. |
| 101.SCH * | Inline XBRL Taxonomy Extension Schema Document. |
| 101.CAL * | Inline XBRL Taxonomy Extension Calculation Linkbase Document. |
| 101.DEF * | Inline XBRL Taxonomy Extension Definition Linkbase Document. |
| 101.LAB * | Inline XBRL Taxonomy Extension Label Linkbase Document. |

104 The cover page from the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2020, formatted in Inline XBRL (included in Exhibit 101).

+ A management contract, compensatory plan or arrangement required to be separately identified.
* Filed herewith.

48

[Table of Contents](#)

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) 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.

TransEnterix, Inc.

Date: November 5, 2020

By: /s/ Anthony Fernando
Anthony Fernando
President and Chief Executive Officer

Date: November 5, 2020

By: /s/ Shameze Rampertab
Shameze Rampertab
Executive Vice President and Chief Financial Officer

49

TRANSENERIX, INC.
EMPLOYMENT INDUCEMENT PERFORMANCE RESTRICTED STOCK UNIT
AWARD AGREEMENT

This EMPLOYMENT INDUCEMENT PERFORMANCE RESTRICTED STOCK UNIT AWARD AGREEMENT (this “Agreement”) dated as of August 24, 2020 (the “Date of Grant”), is made by TransEnterix, Inc., a Delaware corporation (the “Company”), to Shameze Rampertab (the “Participant”).

RECITALS

This Award is an employment inducement award exempt from the stockholder approval requirements under the NYSE American Company Guide Section 711(a). This Agreement, along with other Employment Inducement awards made to the Participant as of the Date of Grant shall collectively constitute the “Plan” for purposes of the NYSE American rules, the Ontario *Employment Standards Act, 2000* (“ESA”) and, if applicable, the securities regulations and laws of Ontario.

The provisions set forth in the Amended and Restated Incentive Compensation Plan of the Company, including its appendices, as adopted or amended from time to time (the “TransEnterix Plan”) related to Deferred Stock Awards that are not set forth in this Agreement are hereby deemed incorporated by reference into this Plan. Defined terms used in this Agreement without definition have the meanings set forth in the TransEnterix Plan; provided, however, that the following changes apply to this Plan:

(a) the definition of “Disability” for purposes of this Plan is set forth in the Employment Agreement between the Participant and TransEnterix Canada, Inc., entered into on August 14, 2020 (the “Employment Agreement”) and not in the TransEnterix Plan;

(b) the definition of “Continuous Service” in the TransEnterix Plan is amended to also refer to any ESA job-protected leave as a leave that does not interrupt such Continuous Service; and

(c) the definition of “Termination of Employment” for purposes of this Plan is set forth in the Employment Agreement and not in the TransEnterix Plan.

The Board of Directors has determined that it is in the best interests of the Company and its stockholders to grant the restricted stock unit award provided for herein to the Participant pursuant to the terms set forth herein as an incentive for the Participant to contribute to the Company’s future success and prosperity.

NOW THEREFORE, in consideration of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

1. Award of the Restricted Stock Units.

(a) The Company hereby grants to the Participant 20,000 performance-based restricted stock units ("Restricted Stock Units"), representing the right to receive an equal number of shares of common stock of the Company (the "Shares"), upon the lapse of forfeiture restrictions ("vesting") of some or all of such Restricted Stock Units, subject to the terms and conditions set forth in this Agreement.

(b) The Restricted Stock Units as awarded to the Participant are subject to the terms and conditions set forth in the TransEnterix Plan, including the discretion of the Committee under the TransEnterix Plan, subject to any specific provisions set forth in this Agreement. A copy of the Plan and the TransEnterix Plan are attached to this Agreement and made a part hereof.

(c) Upon vesting of the Restricted Stock Units, the Restricted Stock Units will be settled by a delivery of Shares. No dividend equivalents are authorized as part of the award of these Restricted Stock Units.

(d) Prior to vesting of the Restricted Stock Units pursuant to Sections 2 or 3 of this Agreement: (i) the Participant shall not be treated as a stockholder as to Shares issuable to the Participant with respect to such Restricted Stock Units, and shall only have a contractual right to receive such Shares following such vesting, unsecured by any assets of the Company or its Subsidiaries; (ii) the Participant shall not be permitted to vote the Restricted Stock Units or the Shares issuable with respect to such Restricted Stock Units; and (iii) the Participant's right to receive such Shares following vesting of the Restricted Stock Units shall be subject to the adjustment provisions set forth in Section 10(c) of the TransEnterix Plan. The Restricted Stock Units shall be subject to all of the restrictions hereinafter set forth.

2. Vesting.

(a) Except as otherwise provided in Section 3 hereof, the Restricted Stock Units shall vest one-third on each of July 1, 2021, 2022 and 2023 (each, a "Vesting Date"), subject to the Participant's Continuous Service through such Vesting Date and subject to satisfaction of the Performance Vesting Factor. For purposes of this Agreement, "Performance Vesting Factor" means that, during the performance period beginning on August 24, 2020 and ending on the third anniversary of such grant date (the "Performance Period"), the Company's common stock closing price must be equal to or exceed \$1.00 for twenty consecutive trading days. If the Performance Vesting Factor is achieved prior to the first Vesting Date, then the Restricted Stock Units will vest in full and be earned on each Vesting Date. If the Performance Vesting Factor is not earned before any Vesting Date, the Restricted Stock Units that would vest on such Vesting Date shall be considered vested but not earned until the Performance Vesting Factor is met. Any vested but unearned Restricted Stock Units will fully vest and be earned on the next Vesting Date by which the Performance Vesting Factor is satisfied, or, if later, on the last day of the Performance Period; provided, that if the Participant has vested but unearned Restricted Stock Units and ceases providing Continuous Service during the Performance Period for any reason other than termination for Cause, but after the date the Performance Vesting Factor is satisfied, the vested but unearned Restricted Stock Units will fully vest and be earned and the Shares will be issued as of the date of termination of service. If the Performance Vesting Factor is not satisfied by the end of the Performance Period, the Restricted Stock Units shall be forfeited and shall not vest. The Performance Vesting Factor shall be adjusted if the Company engages in any stock split, reverse stock split or other capitalization affecting all common stock during the Performance Period. Notwithstanding any other governing provision of the Plan or the TransEnterix Plan, if the ESA is applicable to the Participant on the termination of the Participant's employment by the Company or in a circumstance in which the Participant is entitled to notice of termination pursuant to the ESA, the Participant's "Continuous Service" shall end at the time defined in this Plan or on the expiry of the minimum notice of termination period required by the ESA, whichever is later. No period of common law notice (if applicable) or any other notice shall be deemed to constitute "Continuous Service" unless and only to the extent expressly agreed to by the Company in writing at the time of termination of the Participant's employment.

(b) Notwithstanding any other provision of the Plan, the TransEnterix Plan or this Agreement to the contrary, until the restrictions set forth in this Section 2 have lapsed, the Restricted Stock Units may not be transferred, assigned or otherwise encumbered other than in accordance with the applicable provisions of Sections 6 and 9 hereof.

3. Change in Control. The provisions of Article 9 of the TransEnterix Plan shall apply to the Restricted Stock Units under this Agreement.

4. Issuance of Certificates. Following the applicable vesting date with respect to the Restricted Stock Units, and subject to the terms and conditions of the TransEnterix Plan, the Company will issue a stock certificate for the Shares issuable with respect to such vested Restricted Stock Units. Such issuance shall take place as soon as practicable following the applicable vesting date (but in no event later than two and one-half months following the end of the calendar year in which the vesting date occurs). The certificates representing the Shares issued in respect of the Restricted Stock Units shall be subject to such stop transfer orders and other restrictions as the Committee may determine is required by the rules, regulations, and other requirements of the Securities and Exchange Commission, any stock exchange upon which such Shares are listed, any applicable federal, provincial or state laws and the Company's Certificate of Incorporation and Bylaws, and the Committee may cause a legend or legends to be put on any such certificates to make appropriate reference to such restrictions. If no such stop transfer orders or other restrictions are determined to be necessary, the Shares can be issued in book-entry form.

5. No Right to Continued Employment. Neither the Plan, the TransEnterix Plan nor this Agreement shall confer on the Participant any right to be retained, in any position, as an employee, consultant or director of the Company.

6. Transferability.

(a) The Restricted Stock Units are not transferable and may not be sold, assigned, transferred, disposed of, pledged or otherwise encumbered by the Participant, other than by will or the laws of descent and distribution. Upon such transfer (by will or the laws of descent and distribution), such transferee in interest shall take the rights granted herein subject to all the terms and conditions hereof.

(b) Subject to Section 6(a) hereof, in order to comply with any applicable securities laws, the Participant agrees that the Shares issued to the Participant with respect to vested Restricted Stock Units shall only be sold by the Participant following registration of such Shares under the Securities Act of 1933, as amended, or pursuant to an exemption therefrom and in accordance with applicable Ontario securities laws.

7. Representations and Warranties of Participant. The Participant represents and warrants that (i) he is an employee of the Company and/or a Subsidiary, and (ii) his participation in this distribution is voluntary.

8. Prospectus Exemption. For purposes of compliance with National Instrument 45-106 - *Prospectus Exemptions*, the prospectus requirement does not apply to a distribution by an issuer in a security of its own issue with an employee, executive officer, director or consultant of the issuer or a related entity of the issuer provided participation in the distribution is voluntary, and accordingly, the Shares with respect to vested Restricted Stock Units, acquired under the Plan are acquired pursuant to the prospectus exemptions under Ontario securities laws.

9. Resale Restrictions. Shares with respect to vested Restricted Stock Units are subject to certain restrictions on resale imposed by Ontario securities laws. Notwithstanding any provision of the Plan to the contrary, any transfer or resale of any Shares with respect to vested Restricted Stock Units must be in accordance with the resale rules under Ontario Securities Commission Rule 72-503 *Distributions Outside of Canada* ("**72-503**"), if the Participant is a resident in the Province of Ontario. In Ontario, the prospectus requirement does not apply to the first trade of Shares with respect to vested Restricted Stock Units, provided the conditions set forth in section 2.8 of 72-503 are satisfied. The Participant is advised to consult their legal advisor prior to any resale of Shares.

10. Withholding. The Participant shall pay to the Company promptly upon request, and in any event at the time the Participant recognizes taxable income in respect of the Restricted Stock Units, an amount equal to the federal, state, provincial or local taxes the Company determines it is required to withhold with respect to the Restricted Stock Units. Such payment shall be made in the form of cash

11. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to the conflicts of law provisions thereof; provided, however, that the applicable provisions of ESA and the securities regulations and the laws of the Province of Ontario, and the Federal laws of Canada applicable therein, shall control to the extent required by such laws.

12. Amendments. This Agreement may be amended or modified at any time by an instrument in writing signed by the parties hereto, except as otherwise provided in Section 14 of this Agreement regarding permitted unilateral action by the Committee or in Section 10(e) of the TransEnterix Plan related to amendments or alterations that do not adversely affect the rights of the Participant in this Award.

13. Administration. This Agreement shall at all times be interpreted in accordance with the terms and conditions of the TransEnterix Plan as if set forth herein. The Committee shall have sole and complete discretion under this Agreement with respect to all matters reserved to it by the TransEnterix Plan and decisions of the Committee with respect thereto and this Agreement shall be final and binding upon the Participant and the Company. In the event of any conflict between the terms and conditions of this Agreement and the Plan or the TransEnterix Plan, the provisions of this Agreement shall control. The Committee has the authority and discretion to determine any questions which arise in connection with the award of the Restricted Share Units hereunder.

14. Imposition of Other Requirements. The Company reserves the right to impose other requirements on the Restricted Stock Units and on any Shares acquired under the Plan, to the extent the Company determines it is necessary or advisable in order to comply with local law or facilitate the administration of the Award, and to require the Participant to sign any additional agreements or undertakings that may be necessary to accomplish the foregoing. The Participant agrees, upon demand of the Company or the Committee, to do all acts and execute, deliver and perform all additional documents, instruments and agreements which may be reasonably required by the Company or the Committee, as the case may be, to implement the provisions and purposes of this Agreement.

15. Notices. Any notice, request, instruction or other document given under this Agreement shall be in writing and may be delivered by such method as may be permitted by the Company, and shall be addressed and delivered, in the case of the Company, to the Secretary of the Company at the principal office of the Company and, in the case of the Participant, to the Participant's address as shown in the records of the Company or to such other address as may be designated in writing (or by such other method approved by the Company) by either party.

16. Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, and each other provision of the Agreement shall be severable and enforceable to the extent permitted by law.

[Signatures on the following page.]

IN WITNESS WHEREOF, the Company and the Participant hereby execute this Agreement.

TRANSENERIX, INC.

By: /s/ Anthony Fernando
Name: Anthony Fernando
Title: President and Chief Executive Officer
Date: August 24, 2020

Accepted:

PARTICIPANT

By: /s/ Shameze Rampertab
Name: Shameze Rampertab
Date: August 24, 2020

[Inducement PRSU Award]

TRANSENERIX, INC.
EMPLOYMENT INDUCEMENT RESTRICTED STOCK UNIT AWARD AGREEMENT

This EMPLOYMENT INDUCEMENT RESTRICTED STOCK UNIT AWARD AGREEMENT (this "Agreement") dated as of August 24, 2020 (the "Date of Grant"), is made by TransEnterix, Inc., a Delaware corporation (the "Company"), to Shameze Rampertab (the "Participant").

RECITALS

This Award is an employment inducement award exempt from the stockholder approval requirements under the NYSE American Company Guide Section 711(a). This Agreement, along with other Employment Inducement awards made to the Participant as of the Date of Grant shall collectively constitute the "Plan" for purposes of the NYSE American rules, the Ontario *Employment Standards Act, 2000* ("ESA") and, if applicable, the securities regulations and laws of Ontario.

The provisions set forth in the Amended and Restated Incentive Compensation Plan of the Company, including its appendices, as adopted or amended from time to time (the "TransEnterix Plan") related to Deferred Stock Awards that are not set forth in this Agreement are hereby deemed incorporated by reference into this Plan. Defined terms used in this Agreement without definition have the meanings set forth in the TransEnterix Plan; provided, however, that the following changes apply to this Plan:

- (a) the definition of "Disability" for purposes of this Plan is set forth in the Employment Agreement between the Participant and TransEnterix Canada, Inc., entered into on August 14, 2020 (the "Employment Agreement") and not in the TransEnterix Plan;
- (b) the definition of "Continuous Service" in the TransEnterix Plan is amended to also refer to any ESA job-protected leave as a leave that does not interrupt such Continuous Service; and
- (c) the definition of "Termination of Employment" for purposes of this Plan is set forth in the Employment Agreement and not in the TransEnterix Plan.

The Board of Directors has determined that it is in the best interests of the Company and its stockholders to grant the restricted stock unit award provided for herein to the Participant pursuant to the terms set forth herein as an incentive for the Participant to contribute to the Company's future success and prosperity.

NOW THEREFORE, in consideration of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

1. Award of the Restricted Stock Units.

(a) The Company hereby grants to the Participant 30,000 restricted stock units ("Restricted Stock Units"), representing the right to receive an equal number of shares of common stock of the Company (the "Shares"), upon the lapse of forfeiture restrictions ("vesting") of some or all of such Restricted Stock Units, subject to the terms and conditions set forth in this Agreement.

(b) The Restricted Stock Units as awarded to the Participant are subject to the terms and conditions set forth in the TransEnterix Plan, including the discretion of the Committee under the TransEnterix Plan, subject to any specific provisions set forth in this Agreement. A copy of the Plan and the TransEnterix Plan are attached to this Agreement and made a part hereof.

(c) Upon vesting of the Restricted Stock Units, the Restricted Stock Units will be settled by a delivery of Shares. No dividend equivalents are authorized as part of the award of these Restricted Stock Units.

(d) Prior to vesting of the Restricted Stock Units pursuant to Sections 2 or 3 of this Agreement: (i) the Participant shall not be treated as a stockholder as to Shares issuable to the Participant with respect to such Restricted Stock Units, and shall only have a contractual right to receive such Shares following such vesting, unsecured by any assets of the Company or its Subsidiaries; (ii) the Participant shall not be permitted to vote the Restricted Stock Units or the Shares issuable with respect to such Restricted Stock Units; and (iii) the Participant's right to receive such Shares following vesting of the Restricted Stock Units shall be subject to the adjustment provisions set forth in Section 10(c) of the TransEnterix Plan. The Restricted Stock Units shall be subject to all of the restrictions hereinafter set forth.

2. Vesting.

(a) Except as otherwise provided in Section 3 hereof, the Restricted Stock Units shall vest one-third on each of July 1, 2021, 2022 and 2023 (each, a "Vesting Date"), subject to the Participant's Continuous Service through such Vesting Date. Notwithstanding any other governing provision of the Plan or the TransEnterix Plan, if the ESA is applicable to the Participant on the termination of the Participant's employment by the Company or in a circumstance in which the Participant is entitled to notice of termination pursuant to the ESA, the Participant's "Continuous Service" shall end at the time defined in this Plan or on the expiry of the minimum notice of termination period required by the ESA, whichever is later. No period of common law notice (if applicable) or any other notice shall be deemed to constitute "Continuous Service" unless and only to the extent expressly agreed to by the Company in writing at the time of termination of the Participant's employment.

(b) Notwithstanding any other provision of the Plan, the TransEnterix Plan or this Agreement to the contrary, until the restrictions set forth in this Section 2 have lapsed, the Restricted Stock Units may not be transferred, assigned or otherwise encumbered other than in accordance with the applicable provisions of Section 6 hereof.

3. Change in Control. The provisions of Article 9 of the TransEnterix Plan shall apply to the Restricted Stock Units under this Agreement.
4. Issuance of Certificates. Following the applicable vesting date with respect to the Restricted Stock Units, and subject to the terms and conditions of the TransEnterix Plan, the Company will issue a stock certificate for the Shares issuable with respect to such vested Restricted Stock Units. Such issuance shall take place as soon as practicable following the applicable vesting date (but in no event later than two and one-half months following the end of the calendar year in which the vesting date occurs). The certificates representing the Shares issued in respect of the Restricted Stock Units shall be subject to such stop transfer orders and other restrictions as the Committee may determine is required by the rules, regulations, and other requirements of the Securities and Exchange Commission, any stock exchange upon which such Shares are listed, any applicable federal, provincial or state laws and the Company's Certificate of Incorporation and Bylaws, and the Committee may cause a legend or legends to be put on any such certificates to make appropriate reference to such restrictions. If no such stop transfer orders or other restrictions are determined to be necessary, the Shares can be issued in book-entry form.
5. No Right to Continued Employment. Neither the Plan, the TransEnterix Plan nor this Agreement shall confer on the Participant any right to be retained, in any position, as an employee, consultant or director of the Company.
6. Transferability.
- (a) The Restricted Stock Units are not transferable and may not be sold, assigned, transferred, disposed of, pledged or otherwise encumbered by the Participant, other than by will or the laws of descent and distribution. Upon such transfer (by will or the laws of descent and distribution), such transferee in interest shall take the rights granted herein subject to all the terms and conditions hereof.
- (b) Subject to Section 6(a) hereof, in order to comply with any applicable securities laws, the Participant agrees that the Shares issued to the Participant with respect to vested Restricted Stock Units shall only be sold by the Participant following registration of such Shares under the Securities Act of 1933, as amended, or pursuant to an exemption therefrom and in accordance applicable Ontario securities laws.
7. Representations and Warranties of Participant. The Participant represents and warrants that (i) he is an employee of the Company and/or a Subsidiary, and (ii) his participation in this distribution is voluntary.
8. Prospectus Exemption. For purposes of compliance with National Instrument 45-106 - *Prospectus Exemptions*, the prospectus requirement does not apply to a distribution by an issuer in a security of its own issue with an employee, executive officer, director or consultant of the issuer or a related entity of the issuer provided participation in the distribution is voluntary, and accordingly, the Shares with respect to vested Restricted Stock Units, acquired under the Plan are acquired pursuant to the prospectus exemptions under Ontario securities laws.

9. Resale Restrictions. Shares with respect to vested Restricted Stock Units are subject to certain restrictions on resale imposed by Ontario securities laws. Notwithstanding any provision of the Plan to the contrary, any transfer or resale of any Shares with respect to vested Restricted Stock Units must be in accordance with the resale rules under Ontario Securities Commission Rule 72-503 *Distributions Outside of Canada* (“72-503”), if the Participant is a resident in the Province of Ontario. In Ontario, the prospectus requirement does not apply to the first trade of Shares with respect to vested Restricted Stock Units, provided the conditions set forth in section 2.8 of 72-503 are satisfied. The Participant is advised to consult their legal advisor prior to any resale of Shares.
10. Withholding. The Participant shall pay to the Company promptly upon request, and in any event at the time the Participant recognizes taxable income in respect of the Restricted Stock Units, an amount equal to the federal, state, provincial or local taxes the Company determines it is required to withhold with respect to the Restricted Stock Units. Such payment shall be made in the form of cash.
11. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to the conflicts of law provisions thereof; provided, however, that the applicable provisions of ESA and the securities regulations and laws of the Province of Ontario, and the Federal laws of Canada applicable therein, shall control to the extent required by such laws.
12. Amendments. This Agreement may be amended or modified at any time by an instrument in writing signed by the parties hereto, except as otherwise provided in Section 14 of this Agreement regarding permitted unilateral action by the Committee or in Section 10(e) of the TransEnterix Plan related to amendments or alterations that do not adversely affect the rights of the Participant in this Award.
13. Administration. This Agreement shall at all times be interpreted in accordance with the terms and conditions of the TransEnterix Plan as if set forth herein. The Committee shall have sole and complete discretion under this Agreement with respect to all matters reserved to it by the TransEnterix Plan and decisions of the Committee with respect thereto and this Agreement shall be final and binding upon the Participant and the Company. In the event of any conflict between the terms and conditions of this Agreement and the Plan or the TransEnterix Plan, the provisions of this Agreement shall control. The Committee has the authority and discretion to determine any questions which arise in connection with the award of the Restricted Share Units hereunder.
14. Imposition of Other Requirements. The Company reserves the right to impose other requirements on the Restricted Stock Units and on any Shares acquired under the Plan, to the extent the Company determines it is necessary or advisable in order to comply with local law or facilitate the administration of the Award, and to require the Participant to sign any additional agreements or undertakings that may be necessary to accomplish the foregoing. The Participant agrees, upon demand of the Company or the Committee, to do all acts and execute, deliver and perform all additional documents, instruments and agreements which may be reasonably required by the Company or the Committee, as the case may be, to implement the provisions and purposes of this Agreement.

15. Notices. Any notice, request, instruction or other document given under this Agreement shall be in writing and may be delivered by such method as may be permitted by the Company, and shall be addressed and delivered, in the case of the Company, to the Secretary of the Company at the principal office of the Company and, in the case of the Participant, to the Participant's address as shown in the records of the Company or to such other address as may be designated in writing (or by such other method approved by the Company) by either party.

16. Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, and each other provision of the Agreement shall be severable and enforceable to the extent permitted by law.

[Signatures on the following page.]

IN WITNESS WHEREOF, the Company and the Participant hereby execute this Agreement.

TRANSENERIX, INC.

By: /s/ Anthony Fernando

Name: Anthony Fernando

Title: President and Chief Executive Officer

Date: August 24, 2020

Accepted:

PARTICIPANT

By: /s/ Shameze Rampertab

Name: Shameze Rampertab

Date: August 24, 2020

[Inducement RSU Award]

TRANSENERIX, INC.

EMPLOYMENT INDUCEMENT STOCK OPTION AWARD AGREEMENT

1. **Grant of Option.** TRANSENERIX, INC. (the “Company”) hereby grants, as of August 24, 2020 (the “Date of Grant”), to Shameze Rampertab (the “Optionee”) a non-qualified stock option (the “Option”) to purchase up to 150,000 shares of the Company’s common stock, par value \$0.001 per share (the “Shares”), at an exercise price per share equal to \$0.42 (the “Exercise Price”). The Option is an employment inducement award exempt from the stockholder approval requirements under the NYSE American Company Guide Section 711(a). This Employment Inducement Stock Option Award Agreement (the “Option Agreement”), along with other Employment Inducement awards made to the Optionee as of the Date of Grant shall collectively constitute the “Plan” for purposes of the NYSE American rules, the Ontario *Employment Standards Act, 2000* (“ESA”) and, if applicable, the securities regulations and laws of Ontario. The provisions set forth in the TransEnterix, Inc. Amended and Restated Incentive Compensation Plan, including its appendices, as adopted or amended from time to time (the “TransEnterix Plan”) relating to non-qualified stock options that are not set forth in this Option Agreement are hereby deemed incorporated by reference in this Plan. The Optionee hereby acknowledges receipt of a copy of the Plan and the TransEnterix Plan, and agrees to be bound by all of the terms and conditions hereof and thereof and all applicable laws and regulations.

2. **Definitions.** Capitalized terms used herein and not otherwise defined shall have the respective meanings ascribed thereto in the TransEnterix Plan; provided, however, that the following changes apply to this Plan:

(a) the definition of “Disability” for purposes of this Plan is set forth in the Employment Agreement between the Optionee and TransEnterix Canada, Inc., entered into on August 14, 2020 (the “Employment Agreement”) and not in the TransEnterix Plan;

(b) the definition of “Continuous Service” in the TransEnterix Plan is amended to also refer to any ESA job-protected leave as a leave that does not interrupt such Continuous Service; and

(c) the definition of “Termination of Employment” for purposes of this Plan is set forth in the Employment Agreement and not in the TransEnterix Plan.

3. **Exercise Schedule.** Except as otherwise provided in Sections 6 or 9 of this Option Agreement, or in the TransEnterix Plan, the Option shall vest and be exercisable one-third of the award on each of August 24, 2021, 2022 and 2023 (each, a “Vesting Date”), subject to Optionee’s Continuous Service through such Vesting Date. Upon the termination of the Optionee’s Continuous Service prior to a Vesting Date, the unvested portion of this Option shall terminate and be null and void.

4. **Method of Exercise.** The vested portion of this Option shall be exercisable, in whole or in part, by written notice, which shall state the election to exercise the Option, the number of Shares in respect of which the Option is being exercised, and such other representations and agreements as to the holder's investment intent with respect to such Shares as may be required by the Company pursuant to the provisions of the TransEnterix Plan. Such written notice shall be signed by the Optionee and shall be delivered in person or by certified mail to the Secretary of the Company. The written notice shall be accompanied by payment of the Exercise Price. This Option shall be deemed to be exercised after both (a) receipt by the Company of such written notice accompanied by the Exercise Price and (b) arrangements that are satisfactory to the Committee in its sole discretion have been made for Optionee's payment to the Company of the amount, if any, that is necessary to be withheld in accordance with applicable federal, state, provincial or local withholding requirements. No Shares shall be issued pursuant to the Option unless and until such issuance and such exercise complies with all relevant provisions of applicable law, including the requirements of any stock exchange upon which the Shares may then be traded.

5. **Method of Payment.** Payment of the Exercise Price shall be by any of the following, or a combination thereof, at the election of the Optionee: (a) cash; (b) check; (c) to the extent permitted by the Committee, with Shares owned by the Optionee, or the withholding of Shares that otherwise would be delivered to the Optionee as a result of the exercise of the Option; (d) pursuant to a "cashless exercise" procedure, by delivery of a properly executed exercise notice together with such other documentation, and subject to such guidelines, as the Committee shall require to effect an exercise of the Option and delivery to the Company by a licensed broker acceptable to the Company of proceeds from the sale of Shares or a margin loan (to the extent available to the Optionee) sufficient to pay the Exercise Price and any applicable income or employment taxes; or (e) such other consideration or in such other manner as may be determined by the Committee in its absolute discretion.

6. **Termination of Option.**

(a) **General.** Any vested and unexercised portion of the Option shall automatically and without notice terminate and become null and void at the time of the earliest of the following to occur:

(i) unless the Committee otherwise determines in writing in its sole discretion, on the later of (i) the end of the minimum statutory notice of termination period required by the ESA (if applicable) if the Optionee is entitled to notice of termination of employment by the Company pursuant to the ESA, or (ii) three months after the date on which the Optionee's Continuous Service terminates, other than by reason of (A) by the Company or a Related Entity for Cause, (B) a Disability of the Optionee as determined by a medical doctor satisfactory to the Committee, or (C) the death of the Optionee;

(ii) immediately upon the termination of the Optionee's Continuous Service by the Company or a Related Entity for Cause, or on the expiry of the minimum notice of termination period required by the ESA (if applicable) if, despite the "Cause", the Optionee is entitled to notice of termination pursuant to the ESA;

(iii) twelve months after the date on which the Optionee's Continuous Service is terminated by reason of a Disability as determined by a medical doctor satisfactory to the Committee;

(iv) (A) twelve months after the date of termination of the Optionee's Continuous Service by reason of the death of the Optionee, or, if later, (B) three months after the date on which the Optionee dies if such death occurs during the one year period specified in Section 6(a)(iii) hereof; or

(v) the seventh (7th) anniversary of the date as of which the Option is granted.

(b) **Cancellation.** To the extent not previously exercised, (i) the Option shall terminate immediately in the event of (A) the liquidation or dissolution of the Company, or (B) any reorganization, merger, consolidation or other form of corporate transaction in which the Company does not survive or the Shares are exchanged for or converted into securities issued by another entity, or an affiliate of such successor or acquiring entity, unless the successor or acquiring entity, or an affiliate thereof, assumes the Option or substitutes an equivalent option or right pursuant to Section 9(b) of the TransEnterix Plan, and (ii) the Committee in its sole discretion may by written notice ("cancellation notice") cancel, effective upon the consummation of any transaction that constitutes a Change in Control, the Option (or portion thereof) that remains unexercised on such date. The Committee shall give written notice of any proposed transaction referred to in this Section 6(b) a reasonable period of time prior to the closing date for such transaction (which notice may be given either before or after approval of such transaction), in order that the Optionee may have a reasonable period of time prior to the closing date of such transaction within which to exercise the Option if and to the extent that it then is exercisable (including any portion of the Option that may become exercisable upon the closing date of such transaction). The Optionee may condition his or her exercise of the Option upon the consummation of a transaction referred to in this Section 6(b).

7. **Transferability.** Unless otherwise determined by the Committee, the Option is not transferable, and, during the lifetime of the Optionee, the Option shall be exercisable only by the Optionee, or the Optionee's guardian or legal representative. In addition, the Option shall not be assigned, negotiated, pledged or hypothecated in any way (whether by operation of law or otherwise), and the Option shall not be subject to execution, attachment or similar process. Upon any attempt to transfer, assign, negotiate, pledge or hypothecate the Option, or in the event of any levy upon the Option by reason of any execution, attachment or similar process contrary to the provisions hereof, the Option shall immediately become null and void. The terms of this Option shall be binding upon the executors, administrators, heirs, successors and assigns of the Optionee. Notwithstanding the foregoing or anything in the Plan, the Optionee hereby acknowledges that he may not dispose of any Option or Share issuable upon the exercise of the Option other than in accordance with applicable securities laws.

8. **No Stockholder Rights.** Neither the Optionee nor any personal representative (or beneficiary) shall be, or shall have any of the rights and privileges of, a stockholder of the Company with respect to any Shares issuable upon the exercise of the Option, in whole or in part, prior to the date on which the Shares are issued.

9. **Acceleration of Exercisability of Option.**

(a) **Acceleration upon Certain Terminations or Cancellations of Option.** This Option shall become immediately fully exercisable prior to the termination of the Option pursuant to Section 6 hereof, in the event that, (i) the Option will be terminated pursuant to Section 6(b)(i) hereof, or (ii) the Company exercises its discretion to provide a cancellation notice with respect to the Option pursuant to Section 6(b)(ii) hereof.

(b) **Acceleration upon Change in Control.** This Option shall become immediately fully exercisable in the event that, prior to the termination of the Option pursuant to Section 6 hereof, and during the Optionee's Continuous Service, there is a "Change in Control," as defined in Section 9(b) of the TransEnterix Plan and the Optionee's employment is terminated, other than for Cause, in connection with or as a result of such Change in Control.

(c) **Exception to Acceleration upon Change in Control.** Notwithstanding the foregoing, if in the event of a Change in Control the successor company assumes or substitutes for the Option, the vesting of the Option shall not be accelerated as described in Section 9(b). For the purposes of this paragraph, the Option shall be considered assumed or substituted for if following the Change in Control the Option or substituted option confers the right to purchase, for each Share subject to the Option immediately prior to the Change in Control, the consideration (whether stock, cash or other securities or property) received in the transaction constituting a Change in Control by holders of Shares for each Share held on the effective date of such transaction (and if holders were offered a choice of consideration, the type of consideration chosen by the holders of a majority of the outstanding shares); provided, however, that if such consideration received in the transaction constituting a Change in Control is not solely common stock of the successor company or its parent or subsidiary, the Committee may, with the consent of the successor company, or its parent or subsidiary, provide that the consideration to be received upon the exercise or vesting of the Option will be solely common stock of the successor company or its parent or subsidiary substantially equal in Fair Market Value to the per share consideration received by holders of Shares in the transaction constituting a Change in Control. The determination of such substantial equality of value of consideration shall be made by the Committee in its sole discretion and its determination shall be conclusive and binding. Notwithstanding the foregoing, on such terms and conditions as may be set forth in an Award Agreement, in the event of a termination of the Optionee's employment in such successor company (other than for Cause) within 24 months following such Change in Control, the option held by the Optionee at the time of the Change in Control shall be accelerated as described in paragraph (b) of this Section 9.

10. **Representations and Warranties of Optionee.** The Optionee represents and warrants that (i) he is an employee of the Company and/or a Subsidiary, and (ii) his participation in this distribution is voluntary.

11. **Prospectus Exemption.** For purposes of compliance with National Instrument 45-106 - Prospectus Exemptions, the prospectus requirement does not apply to a distribution by an issuer in a security of its own issue with an employee, executive officer, director or consultant of the issuer or a related entity of the issuer provided participation in the distribution is voluntary, and accordingly, the Options, and Shares issuable upon exercise of the Options, acquired under the Plan are acquired pursuant to the prospectus exemptions under Ontario securities laws.

12. **Resale Restrictions.** Shares issuable upon exercise of the Options are subject to certain restrictions on resale imposed by Ontario securities laws. Notwithstanding any provision of the Plan to the contrary, any transfer or resale of any Shares issuable upon exercise of the Options must be in accordance with the resale rules under Ontario Securities Commission Rule 72-503 *Distributions Outside of Canada* (“72-503”), if the Optionee is a resident in the Province of Ontario. In Ontario, the prospectus requirement does not apply to the first trade of shares issued in connection with the exercise of the Options, provided the conditions set forth in section 2.8 of 72-503 are satisfied. The Optionee is advised to consult their legal advisor prior to any resale of Shares.

12. **No Right to Continued Employment.** Neither the Option nor this Option Agreement shall confer upon the Optionee any right to continued employment or service with the Company.

13. **Governing Law.** This Option Agreement shall be governed in accordance with and by the internal laws of the State of Delaware; provided, however, that the applicable provisions of ESA and the securities regulations and the laws of the Province of Ontario, and the Federal laws of Canada applicable therein, shall control to the extent required by such laws.

14. **Interpretation / Provisions of Plan Control.** This Option Agreement is subject to all the terms, conditions and provisions of the TransEnterix Plan, including, without limitation, the amendment provisions thereof, and to such rules, regulations and interpretations relating to the TransEnterix Plan adopted by the Committee as may be in effect from time to time. If and to the extent that this Option Agreement conflicts or is inconsistent with the terms, conditions and provisions of the TransEnterix Plan, the TransEnterix Plan shall control, and this Option Agreement shall be deemed to be modified accordingly. The Optionee accepts the Option subject to all of the terms and provisions of the Plan, the TransEnterix Plan and this Option Agreement. The undersigned Optionee hereby accepts as binding, conclusive and final all decisions or interpretations of the Committee upon any questions arising under the Plan, the TransEnterix Plan and this Option Agreement, unless shown to have been made in an arbitrary and capricious manner.

15. **Notices.** Any notice under this Option Agreement shall be in writing and shall be deemed to have been duly given when delivered personally or when deposited in the United States mail or the Canada Post, registered, postage prepaid, and addressed, in the case of the Company, to the Company’s Secretary at 635 Davis Drive, Suite 300, Morrisville, NC 27560, or if the Company should move its principal office, to such principal office, and, in the case of the Optionee, to the Optionee’s last permanent address as shown on the Company’s records, subject to the right of either party to designate some other address at any time hereafter in a notice satisfying the requirements of this Section.

Signatures Follow on Next Page

IN WITNESS WHEREOF, the undersigned have executed this Option Agreement as of the date first set forth above.

COMPANY:

TRANSENERIX, INC.

By: /s/ Anthony Fernando

Name: Anthony Fernando

Title: President and Chief Executive Officer

The Optionee acknowledges receipt of a copy of the Plan and the TransEnterix Plan and represents that he or she has reviewed the provisions of the Plan, the TransEnterix Plan and this Option Agreement in their entirety, is familiar with and understands their terms and provisions, and hereby accepts this Option subject to all of the terms and provisions of the Plan, the TransEnterix Plan and this Option Agreement. The Optionee further represents that he has had an opportunity to obtain the advice of counsel prior to executing this Option Agreement.

OPTIONEE:

/s/ Shameze Rampertab

Name: Shameze Rampertab

GRANT SUMMARY

Grant Date: **August 24, 2020**

Expiration Date: **August 24, 2027**

Grant Type: **NQSO**

Optionee Class: **Employee**

Number of Shares: **150,000**

Exercise Price: **\$0.42 per share**

Vesting Dates: **One-third on each of August 24, 2021, 2022 and 2023**

Number or % Vesting: **One-third on each vesting date**

[Inducement Stock Option Award]

SECTION 302
CERTIFICATION OF CHIEF EXECUTIVE OFFICER

I, Anthony Fernando, certify that:

- (1) I have reviewed this Quarterly Report on Form 10-Q of TransEnterix, 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 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 we 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 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 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.

November 5, 2020

By: /s/ Anthony Fernando
Anthony Fernando,
President and Chief Executive Officer
(Principal Executive Officer)

SECTION 302
CERTIFICATION OF CHIEF FINANCIAL OFFICER

I, Shameze Rampertab, certify that:

- (1) I have reviewed this Quarterly Report on Form 10-Q of TransEnterix, 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 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 we 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 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 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.

November 5, 2020

By: /s/ Shameze Rampertab
Shameze Rampertab
Executive Vice President and Chief Financial Officer
(Principal Financial Officer and Principal Accounting
Officer)

**CERTIFICATION OF CHIEF EXECUTIVE OFFICER
PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

I, Anthony Fernando, hereby certify pursuant to Rule 13a-14(b) or Rule 15d-14(b) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”) and 18 U.S.C. Section 1350, that the Quarterly Report on Form 10-Q of TransEnterix, Inc. (the “Company”) for the quarterly period ended September 30, 2020 (the “Report”) fully complies with the requirements of Section 13(a) or 15(d) of the Exchange Act and that the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

By: /s/ Anthony Fernando

/s/ Anthony Fernando

Anthony Fernando, President and Chief Executive Officer (Principal Executive Officer)

November 5, 2020

The certification set forth above is being furnished as an Exhibit solely pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and is not being filed as part of the Report or as a separate disclosure document of TransEnterix, Inc. or the certifying officers.

**CERTIFICATION OF CHIEF FINANCIAL OFFICER
PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

I, Shameze Rampertab, hereby certify pursuant to Rule 13a-14(b) or Rule 15d-14(b) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") and 18 U.S.C. Section 1350, that the Quarterly Report on Form 10-Q of TransEnterix, Inc. (the "Company") for the quarterly period ended September 30, 2020 (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Exchange Act and that the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

By: /s/ Shameze Rampertab

/s/ Shameze Rampertab

Shameze Rampertab, Executive Vice President and Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)

November 5, 2020

The certification set forth above is being furnished as an Exhibit solely pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and is not being filed as part of the Report or as a separate disclosure document of TransEnterix, Inc. or the certifying officers.