

TRANSENERIX INC.

FORM 10-Q (Quarterly Report)

Filed 11/09/17 for the Period Ending 09/30/17

Address	635 DAVIS DRIVE SUITE 300 MORRISVILLE, NC, 27560
Telephone	919-765-8400
CIK	0000876378
Symbol	TRXC
SIC Code	3841 - Surgical and Medical Instruments and Apparatus
Industry	Medical Equipment, Supplies & Distribution
Sector	Healthcare
Fiscal Year	12/31

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, DC. 20549

FORM 10-Q

(Mark One)

Quarterly Report Pursuant to Section 13 or 15 (d) of the Securities Exchange Act of 1934

for the Quarterly Period ended September 30, 2017

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

TRANSENTERIX, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of
incorporation or organization)

635 Davis Drive, Suite 300, Morrisville, NC

(Address of principal executive offices)

11-2962080

(I.R.S. employer
identification no.)

27560

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

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

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

Emerging growth company

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

199,241,522 shares of the Company's common stock, par value \$0.001 per share, were outstanding as of November 3, 2017.

TRANSENERIX, INC.

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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 (the “Securities Act”) and Section 21E of the Securities Exchange Act of 1934, as amended (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. 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, 2016 filed on March 6, 2017 (“Fiscal 2016 Form 10-K”), and other filings we make with the Securities and Exchange Commission. 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. References in this report to “we,” “our,” “us,” or the “Company” refer to TransEnterix, Inc., including its subsidiaries, TransEnterix International, TransEnterix Italia, TransEnterix Europe S.Á.R.L, TransEnterix Europe S.Á.R.L, Bertrange, Swiss Branch, Lugano and TransEnterix Asia PTE. LTD. after giving effect to the Senhance Acquisition.

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.

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

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016
Revenue	\$ 183	\$ 1,466	\$ 3,713	\$ 1,466
Cost of revenue	921	1,031	3,227	1,031
Gross (loss) profit	(738)	435	486	435
Operating Expenses				
Research and development	4,889	7,011	16,814	21,760
Sales and marketing	4,528	2,574	12,000	5,563
General and administrative	2,920	2,793	8,688	7,927
Amortization of intangible assets	1,821	1,709	5,144	5,312
Change in fair value of contingent consideration	773	(100)	1,226	1,700
Change in fair value of warrant liabilities	22,887	—	25,213	—
Issuance costs for warrants	—	—	627	—
Inventory write-down related to restructuring	—	—	—	2,565
Restructuring and other charges	—	—	—	3,085
Goodwill impairment	—	—	—	61,784
Total Operating Expenses	37,818	13,987	69,712	109,696
Operating Loss	(38,556)	(13,552)	(69,226)	(109,261)
Other Expense				
Interest expense, net	(501)	(432)	(1,457)	(1,499)
Other (expense) income	(194)	(30)	(294)	65
Total Other Expense, net	(695)	(462)	(1,751)	(1,434)
Loss before income taxes	\$ (39,251)	\$ (14,014)	\$ (70,977)	\$ (110,695)
Income tax benefit	738	1,070	2,337	4,707
Net loss	\$ (38,513)	\$ (12,944)	\$ (68,640)	\$ (105,988)
Other comprehensive income				
Foreign currency translation gain	2,952	689	9,515	2,199
Comprehensive loss	\$ (35,561)	\$ (12,255)	\$ (59,125)	\$ (103,789)
Net loss per share - basic and diluted	\$ (0.26)	\$ (0.11)	\$ (0.51)	\$ (0.95)
Weighted average common shares outstanding - basic and diluted	149,516	114,946	134,622	111,189

See accompanying notes to consolidated financial statements.

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

	September 30, 2017 <u>(unaudited)</u>	December 31, 2016
Assets		
Current Assets		
Cash and cash equivalents	\$ 24,483	\$ 24,165
Accounts receivable, net	253	621
Inventories	11,273	7,883
Interest receivable	19	12
Other current assets	8,245	5,335
Total Current Assets	<u>44,273</u>	<u>38,016</u>
Restricted cash	6,386	10,425
Accounts receivable, net of current portion	—	266
Property and equipment, net	7,197	5,772
Intellectual property, net	36,663	37,090
In-process research and development	17,888	15,920
Goodwill	71,038	68,697
Other long term assets	279	63
Total Assets	<u>\$ 183,724</u>	<u>\$ 176,249</u>
Liabilities and Stockholders' Equity		
Current Liabilities		
Accounts payable	\$ 2,625	\$ 3,984
Accrued expenses	8,926	8,206
Contingent consideration – current portion	6,958	10,502
Notes payable - current portion, net of debt discount	—	7,997
Total Current Liabilities	<u>18,509</u>	<u>30,689</u>
Long Term Liabilities		
Contingent consideration – less current portion	11,446	12,298
Notes payable - less current portion, net of debt discount	12,825	4,995
Warrant liabilities	31,156	—
Net deferred tax liabilities	9,223	10,397
Total Liabilities	<u>83,159</u>	<u>58,379</u>
Commitments and Contingencies		
Stockholders' Equity		
Common stock \$0.001 par value, 750,000,000 shares authorized at September 30, 2017, and December 31, 2016; 155,283,207 and 115,781,030 shares issued at September 30, 2017 and December 31, 2016, respectively; and 155,281,071 and 115,687,351 shares outstanding at September 30, 2017 and December 31, 2016, respectively	155	115
Additional paid-in capital	468,150	426,609
Accumulated deficit	(371,484)	(302,844)
Treasury stock at cost, 2,136 and 93,679 shares at September 30, 2017 and December 31, 2016, respectively	(2)	(241)
Accumulated other comprehensive income (loss)	3,746	(5,769)
Total Stockholders' Equity	<u>100,565</u>	<u>117,870</u>
Total Liabilities and Stockholders' Equity	<u>\$ 183,724</u>	<u>\$ 176,249</u>

See accompanying notes to consolidated financial statements.

TransEnterix, Inc.
Consolidated Statements of Stockholders' Equity
(in thousands)
(Unaudited)

	Common Stock		Treasury Stock		Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive (Loss) Income	Total Stockholders' Equity
	Shares	Amount	Shares	Amount				
Balance, December 31, 2016	115,781	\$ 115	(94)	\$ (241)	\$ 426,609	\$ (302,844)	\$ (5,769)	\$ 117,870
Stock-based compensation	—	—	—	—	5,321	—	—	5,321
Non-employee warrant awards	—	—	—	—	571	—	—	571
Issuance of common stock and treasury stock, net of issuance costs	30,220	31	211	407	22,393	—	—	22,831
Exercise of stock options and warrants	5,204	5	—	—	7,733	—	—	7,738
Award of restricted stock units	355	—	—	—	—	—	—	—
Return of common stock to pay withholding taxes on restricted stock	—	—	(119)	(168)	—	—	—	(168)
Issuance of common stock in exchange for contingent consideration	3,723	4	—	—	5,223	—	—	5,227
Relative fair value of warrants issued with debt	—	—	—	—	300	—	—	300
Other comprehensive income	—	—	—	—	—	—	9,515	9,515
Net loss	—	—	—	—	—	(68,640)	—	(68,640)
Balance, September 30, 2017	155,283	\$ 155	(2)	\$ (2)	\$ 468,150	\$ (371,484)	\$ 3,746	\$ 100,565

See accompanying notes to consolidated financial statements.

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

	Nine Months Ended September 30,	
	2017	2016
Operating Activities		
Net loss	\$ (68,640)	\$ (105,988)
Adjustments to reconcile net loss to net cash and cash equivalents used in operating activities:		
Depreciation	1,816	1,498
Amortization of intangible assets	5,144	5,312
Amortization of debt discount and debt issuance costs	212	140
Stock-based compensation	5,321	3,858
Non-employee warrant awards	571	—
Common stock issued for services	—	116
Inventory write-down related to restructuring	—	2,565
Non-cash restructuring and other charges	—	2,551
Goodwill impairment	—	61,784
Deferred tax benefit	(2,320)	(4,725)
Loss on extinguishment of debt	308	—
Change in fair value of warrant liabilities	25,213	—
Change in fair value of contingent consideration	1,226	1,700
Changes in operating assets and liabilities:		
Accounts receivable	886	(809)
Interest receivable	79	(9)
Inventories	(3,519)	(1,883)
Other current and long term assets	(2,454)	(1,290)
Accounts payable	(1,599)	(1,917)
Accrued expenses	207	(168)
Net cash and cash equivalents used in operating activities	<u>(37,549)</u>	<u>(37,265)</u>
Investing Activities		
Purchase of property and equipment	(1,488)	(878)
Purchase of intellectual property	(418)	—
Net cash and cash equivalents used in investing activities	<u>(1,906)</u>	<u>(878)</u>
Financing Activities		
Payment of debt	(13,343)	(4,972)
Proceeds from issuance of debt and warrants, net of issuance costs	12,956	—
Payment of contingent consideration	(395)	—
Proceeds from issuance of common stock and warrants, net of issuance costs	31,546	57,637
Taxes paid related to net share settlement of vesting of restricted stock units	(168)	(130)
Proceeds from exercise of stock options and warrants	5,449	163
Net cash and cash equivalents provided by financing activities	<u>36,045</u>	<u>52,698</u>
Effect of exchange rate changes on cash and cash equivalents	(311)	(133)
Net (decrease) increase in cash, cash equivalents and restricted cash	(3,721)	14,422
Cash, cash equivalents and restricted cash, beginning of period	34,590	38,449
Cash, cash equivalents and restricted cash, end of period	<u>\$ 30,869</u>	<u>\$ 52,871</u>
Supplemental Disclosure for Cash Flow Information		
Interest paid	\$ 597	\$ 1,019
Supplemental Schedule of Noncash Investing Activities		
Transfer of inventory to property and equipment	—	\$ 1,866
Issuance of common stock as contingent consideration	\$ 5,227	—
Relative fair value of warrants issued with debt	\$ 300	—
Reclass of warrant liability to common stock and additional paid in capital	\$ 2,289	—

See accompanying notes to consolidated financial statements.

TransEnterix, Inc.

Notes to Consolidated Financial Statements

1. Organization and Capitalization

TransEnterix, Inc. (the “Company”) is a medical device company that is pioneering the use of robotics to improve minimally invasive surgery by addressing the clinical challenges associated with current laparoscopic and robotic options. The Company is focused on the commercialization of its Senhance™ Surgical Robotic System (the “Senhance System”), a multi-port robotic system that brings the advantages of robotic surgery to patients while enabling surgeons with innovative technology such as haptic feedback and eye sensing camera control. The Company also developed the SurgiBot™ System, a single-port, robotically enhanced laparoscopic surgical platform. The Senhance System has been granted a CE Mark in Europe for laparoscopic abdominal and pelvic surgery, as well as limited thoracic operations excluding cardiac and vascular surgery. In April 2017, the Company submitted a 510(k) application to the FDA for the Senhance System. On October 13, 2017, the Company received Section 510(k) clearance from the FDA for use in laparoscopic colorectal and gynecologic surgery. The Senhance System is available for sale in the U.S., the EU and select other countries. The SurgiBot System is not available for sale in any market.

The Senhance System is a multi-port robotic surgery system which allows multiple arms to control robotic instruments and a camera. The system features advanced technology to enable surgeons with haptic feedback and the ability to move the camera via eye movement. The system replicates laparoscopic motion that is familiar to experienced surgeons, and features three-dimensional high definition (“3DHD”) vision technology. The Senhance System also offers responsible economics to hospitals by offering robotic technology with reusable instruments with minimal additional costs per surgery.

The SurgiBot System is designed to utilize flexible instruments through articulating channels controlled directly by the surgeon, with robotic assistance, while the surgeon remains patient-side within the sterile field. In June 2015, the Company submitted a 510(k) application to the FDA for the SurgiBot System. On April 19, 2016, the FDA notified the Company that the SurgiBot System did not meet the criteria for substantial equivalence based on the data and information submitted by TransEnterix in the 510(k) submission. In May 2016, the Company implemented a restructuring plan. See Note 14 to the consolidated financial statements for further details regarding the restructuring.

On September 3, 2013, TransEnterix Surgical, Inc. a Delaware corporation (“TransEnterix Surgical”), and SafeStitch Medical, Inc., a Delaware corporation (“SafeStitch”) consummated a merger transaction whereby TransEnterix Surgical merged with a merger subsidiary of SafeStitch, with TransEnterix Surgical as the surviving entity in the merger (the “Merger”). As a result of the Merger, TransEnterix Surgical became a wholly owned subsidiary of SafeStitch. On December 6, 2013, SafeStitch changed its name to TransEnterix, Inc. and increased the authorized shares of common stock from 225,000,000 to 750,000,000, and authorized 25,000,000 shares of preferred stock, par value \$0.01 per share.

On September 18, 2015, the Company entered into a Membership Interest Purchase Agreement, (the “Purchase Agreement”) with Sofar S.p.A., (“Sofar”) as seller, Vulcanos S.r.l. (“Vulcanos”), as the acquired company, and TransEnterix International, Inc. (“TransEnterix International”), a direct, wholly owned subsidiary of the Company which was incorporated in September 2015, as buyer. The closing of the transactions occurred on September 21, 2015 (the “Closing Date”) pursuant to which the Company acquired all of the membership interests of Vulcanos from Sofar (now known as the “Senhance Acquisition”), and changed the name of Vulcanos to TransEnterix Italia S.r.l (“TransEnterix Italia”). The Senhance Acquisition included all of the assets, employees and contracts related to the Senhance System. See Note 3 for a description of the related transactions.

As used herein, the term “Company” refers to the combination of SafeStitch and TransEnterix Surgical after giving effect to the Merger, and includes TransEnterix International, TransEnterix Italia, TransEnterix Europe S.Á.R.L, TransEnterix Europe S.Á.R.L, Bertrange, Swiss Branch, Lugano and TransEnterix Asia PTE. LTD. after giving effect to the Senhance Acquisition.

The Company operates in one business segment.

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 Company’s latest Annual Report on 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 consolidated financial statements. The year-end condensed balance sheet data was derived from audited financial statements, but does not include all disclosures required by U.S. GAAP. The accompanying 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.Á.R.L., TransEnterix Europe S.Á.R.L., Bertrange, Swiss Branch, Lugano and TransEnterix Asia PTE. LTD. All inter-company accounts and transactions have been eliminated in consolidation.

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, restructuring and other charges, excess and obsolete inventory reserves, and deferred tax asset valuation allowances.

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 and investments with original maturities of between 91 days and one year to be short-term investments. In order to manage exposure to credit risk, the Company invests in high-quality investments rated at least A2 by Moody’s Investors Service or A by Standard & Poor.

Restricted cash at September 30, 2017 includes \$6.0 million in a money market account, held in connection with the Company’s notes payable (see Note 12) and \$386,000 in cash accounts held as collateral primarily under the terms of an office operating lease and automobile leases.

Fair Value of Financial Instruments

The carrying values of accounts receivable, interest receivable, accounts payable, and certain accrued expenses at September 30, 2017 and December 31, 2016, approximate their fair values due to the short-term nature of these items. The Company’s notes payable balance also approximates fair value as of September 30, 2017 and December 31, 2016, as the interest rates on the notes payable approximate the rates available to the Company as of these dates.

2. Summary of Significant Accounting Policies (Continued)

Concentrations and Credit Risk

The Company's principal financial instruments subject to potential concentration of credit risk are cash and cash equivalents and investments 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 cash deposits may at times exceed the FDIC 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 net revenue 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 but has not experienced significant losses to date. The Company had six customers who constituted 100% of the Company's net accounts receivable at September 30, 2017 and three customers who constituted 100% of the Company's net accounts receivable at December 31, 2016.

Accounts Receivable

Accounts receivable are recorded at net realizable value, which includes an allowance for estimated uncollectable accounts. The allowance for uncollectible accounts was determined based on historical collection experience.

Inventories

Inventories are stated at the lower of cost (determined on a first-in, first-out basis) and 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 consolidated balance sheets.

Identifiable Intangible Assets and Goodwill

Identifiable intangible assets are recorded at cost, or when acquired as part of a business acquisition, at estimated fair value. Certain intangible assets are amortized over 7 to 10 years. Similar to tangible personal property and equipment, the Company periodically evaluates identifiable intangible assets for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable.

Intellectual property consists of purchased patent rights and developed technology acquired as part of a business acquisition. 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 7 years. This method approximates the period over which the Company expects to receive the benefit from these assets. See Note 14 for additional information related to the write-off of purchased patents in connection with the restructuring plan executed in May 2016.

Indefinite-lived intangible assets, such as goodwill, are not amortized. The Company tests the carrying amounts of goodwill for recoverability on an annual basis at December 31 or when events or changes in circumstances indicate evidence a potential impairment exists, using a fair value based test. The Company continues to operate in one segment, which is considered to be the sole reporting unit and therefore, goodwill is tested for impairment at the enterprise level. See Note 9 for additional information related to goodwill impairment recorded during the second quarter of 2016.

2. Summary of Significant Accounting Policies (Continued)

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. If and when development is complete, which generally occurs upon regulatory approval, and the Company is able to commercialize products associated with the IPR&D assets, these assets are then deemed definite-lived 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 IPR&D assets were acquired on September 21, 2015.

Property and Equipment

Property and equipment consists primarily of 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:

Machinery, manufacturing equipment and demonstration equipment	3-5 years
Computer equipment	3 years
Furniture	5 years
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.

Impairment of Long-Lived Assets

The Company reviews its long-lived 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 of its long-lived assets, 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 long-lived assets, then such assets are written down to their fair value. The Company’s estimates of anticipated cash flows and the remaining estimated useful lives of long-lived assets could be reduced in the future, resulting in a reduction to the carrying amount of long-lived assets.

Contingent Consideration

Contingent consideration is recorded as a liability and is the estimate of the fair value of potential milestone payments related to business acquisitions. Contingent consideration is measured at fair value using a discounted cash flow model utilizing significant unobservable inputs including the probability of achieving each of the potential milestones 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 timelines for 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.

2. Summary of Significant Accounting Policies (Continued)

Warrant Liabilities

The Company's Series A Warrants and Series B Warrants (see Note 4) 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 13). The warrant derivative 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. As the derivative warrant liability is required to be measured at fair value at each reporting date, it is reasonably possible that these estimates and assumptions could change in the near term.

Translation of Foreign Currencies

The functional currency of the Company's operational foreign subsidiaries is Euros. 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 consolidated statements of operations and comprehensive loss. The net gains and losses included in net loss in the consolidated statements of operations and comprehensive loss for the nine months ended September 30, 2017 and 2016 were not significant.

Risk and Uncertainties

The Company is subject to a number of risks similar to other similarly-sized companies in the medical device industry. These risks include, without limitation, the historical lack of profitability; the Company's ability to raise additional capital; 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, Italy, other countries in the European Union, and other countries in which the Company does, or intends, to operate; its ability to attract and retain key management, marketing and scientific personnel; competition from new entrants; 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 company; competition in the market for robotic surgical devices; and its ability to identify and pursue development of additional products.

Revenue Recognition

The Company's revenue consists of product revenue resulting from the sales of systems, instruments and accessories, and service revenue. The Company recognizes revenue when persuasive evidence of an arrangement exists, delivery has occurred or service has been rendered, the price is fixed or determinable, and collectability is reasonably assured. Revenue is presented net of taxes collected from customers that are remitted to government authorities. The Company generally recognizes revenue at the following points in time:

- *System sales.* For systems sold directly to end customers, revenue is recognized when acceptance occurs, which is deemed to have occurred upon customer acknowledgment of delivery or installation, depending on the terms of the arrangement. The Senhance Systems are delivered with a software component. However, because the software and non-software elements function together to deliver the system's essential functionality, the Company's arrangements are excluded from being accounted for under software revenue recognition guidance.
- *Instruments and accessories.* Revenue from sales of instruments and accessories is generally recognized at the time of shipment. Revenue from services related to the supply and management of instruments and accessories is recognized as the services are rendered.
- *Service.* Service revenue is recognized ratably over the term of the service period. Revenue related to services performed on a time-and-materials basis is recognized when it is earned and billable.

2. Summary of Significant Accounting Policies (Continued)

The Company's system sale arrangements contain multiple elements including a system(s), instruments, accessories, and system service. The Company generally delivers all of the elements, other than service, within days of entering into the system sale arrangement. Each of these elements is a separate unit of accounting. System accessories, instruments, and service are also sold on a stand-alone basis.

For multiple-element arrangements, revenue is allocated to each unit of accounting based on their relative selling prices. Relative selling prices are based first on vendor specific objective evidence of fair value ("VSOE"), then on third-party evidence of selling price ("TPE") when VSOE does not exist, and then on management's best estimate of the selling price ("BESP") when VSOE and TPE do not exist.

The Company's system sale arrangements generally include a one-year period of free service, and the right for the customer to purchase service annually thereafter. The revenue allocated to the free service period is deferred and recognized ratably over the free service period.

Because the Company has neither VSOE nor TPE for its systems, the allocation of revenue is based on BESP for the systems sold. The objective of BESP is to determine the price at which the Company would transact a sale, had the product been sold on a stand-alone basis. The Company determines BESP for its systems by considering multiple factors, including, but not limited to, features and functionality of the system, geographies, type of customer, and market conditions. The Company regularly reviews BESP and maintains internal controls over establishing and updating these estimates.

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") and ASC 505-50 ("Equity-Based Payments to Non-employees"), which provide 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. For awards granted to non-employees, the Company determines the fair value of the stock-based compensation awards granted as either the fair value of the consideration received or the fair value of the equity instruments issued, whichever is more reliably measurable. If the fair value of the equity instruments issued is used, it is measured using the stock price and other measurement assumptions as of the earlier of either (1) the date at which a commitment for performance by the counterparty to earn the equity instruments is reached, or (2) the date at which the counterparty's performance is complete.

The Company recognizes compensation expense for stock-based awards based on estimated fair values on the date of grant for awards granted to employees. The Company uses the Black-Scholes-Merton option pricing model to determine the fair value of stock options. The fair value of restricted stock units is determined by the market price of the Company's common stock on the date of grant. The expense associated with stock-based compensation is recognized on a straight-line basis over the requisite service period of each award.

The Company records as expense the fair value of stock-based compensation awards, including stock options and restricted stock units. Compensation expense for stock-based compensation was approximately \$5,321,000 and \$3,858,000 for the nine months ended September 30, 2017 and 2016, respectively.

The TransEnterix, Inc. 2007 Incentive Compensation Plan (the "Plan") was originally approved by the Company's board of directors, or the Board, and adopted by the majority of the Company's stockholders on November 13, 2007. The Plan has been subsequently amended, and approved by stockholders, as required, to increase the number of shares available under the Plan and to make other changes. As of May 25, 2017, the date of the Company's annual meeting of stockholders for 2017, the number of shares of Common Stock authorized under the Plan is 25,940,000.

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.

2. Summary of Significant Accounting Policies (Continued)

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 57% of the Company’s total consolidated assets are located within the U.S. as of September 30, 2017. The remaining assets are mostly located in Europe and are primarily related to the Company’s facility in Italy, and include goodwill, intellectual property, in-process research and development, other current assets, property and equipment, cash, accounts receivable and inventory of \$79.0 million at September 30, 2017. Total assets outside of the U.S. excluding goodwill amounted to 43% and 40% of total consolidated assets at September 30, 2017 and December 31, 2016, respectively. All revenues recorded were outside of the U.S.

Impact of Recently Issued Accounting Standards

In January 2017, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) 2017-04, *Simplifying the Test for Goodwill Impairment*. Under the new standard, goodwill impairment would be measured as the amount by which a reporting unit’s carrying value exceeds its fair value, not to exceed the carrying value of goodwill. This ASU eliminates existing guidance that requires an entity to determine goodwill impairment by calculating the implied fair value of goodwill by hypothetically assigning the fair value of a reporting unit to all of its assets and liabilities as if that reporting unit had been acquired in a business combination. This ASU is effective prospectively to annual and interim impairment tests beginning after December 15, 2019, with early adoption permitted. The Company early adopted this ASU as of the beginning of fiscal year 2017. The adoption of this ASU did not have a material impact on the consolidated financial statements.

In August 2016, the FASB issued ASU 2016-15, *Statement of Cash Flows (Topic 230)* which addresses changes to reduce the presentation diversity of certain cash receipts and cash payments in the statement of cash flows, including debt prepayment or extinguishment costs, settlement of certain debt instruments, contingent consideration payments made after a business combination, proceeds from the settlement of insurance claims, and distributions received from equity method investees. The guidance becomes effective for fiscal years beginning after December 15, 2017, including interim periods within those fiscal years, with early adoption permitted. An entity that elects early adoption must adopt all of the amendments in the same period. The new standard will be applied retrospectively, but may be applied prospectively if retrospective application would be impracticable. The Company is currently evaluating the guidance and has not determined the impact this standard may have on its consolidated statement of cash flows.

In March 2016, the FASB issued ASU 2016-09, *Compensation – Stock Compensation (Topic 718) – Improvements to Employee Share-Based Payment Accounting*. Under ASU 2016-09, the tax effects of stock compensation will be recognized as income tax expense or benefit in the income statement and the tax effects of exercised or vested awards will be treated as discrete items in the reporting period in which they occur. Along with other income tax cash flows, excess tax benefits will be classified as operating activities, and cash paid by an employer when directly withholding shares for tax withholding purposes will be classified as financing activities. Entities may make an entity-wide accounting policy election to either estimate the number of awards that are expected to vest (current U.S. GAAP) or account for forfeitures when they occur. The threshold to qualify for equity classification permits withholding up to the maximum statutory tax rates in the applicable jurisdictions. For public companies, ASU 2016-09 is effective for annual periods beginning after December 15, 2016, and interim periods within those annual periods. The Company adopted this ASU as of the beginning of fiscal year 2017 and did not elect to account for forfeitures when they occur, but will continue to estimate the number of awards that are expected to vest. The adoption of this ASU did not have a material impact on the consolidated financial statements.

In February 2016, the FASB issued ASU 2016-02, *Leases*. The new standard establishes a right-of-use (ROU) model that requires a lessee to record a ROU asset and a lease liability on the balance sheet for all leases with terms longer than 12 months. Leases will be classified as either finance or operating, with classification affecting the pattern of expense recognition in the income statement. The new standard is effective for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. A modified retrospective transition approach is required for lessees for capital and operating leases existing at, or entered into after, the beginning of the earliest comparative period presented in the financial statements, with certain practical expedients available. The Company currently expects that upon adoption, ROU assets and lease liabilities will be recognized in the balance sheet in amounts that the Company does not expect will have a material impact on the consolidated financial statements based on the Company’s current leases.

In May 2014, the FASB issued ASU 2014-09, *Revenue from Contracts with Customers (ASU 2014-09)*, which supersedes nearly all existing revenue recognition guidance under U.S. GAAP. The core principle of ASU 2014-09 is to recognize revenue when promised goods or services are transferred to customers in an amount that reflects the consideration to which an entity expects to be entitled for those goods or services. ASU 2014-09 defines a five step process to achieve this core principle and, in doing so, more judgment and estimates may be required within the revenue recognition process than are required under existing U.S. GAAP.

2. Summary of Significant Accounting Policies (Continued)

The updated guidance is effective for annual periods beginning after December 15, 2017, and interim periods therein, using either of the following transition methods: (i) a full retrospective approach reflecting the application of the standard in each prior reporting period with the option to elect certain practical expedients, or (ii) a retrospective approach with the cumulative effect of initially adopting ASU 2014-09 recognized at the date of adoption (which includes additional footnote disclosures). Due to limited sales, the Company has evaluated its contracts and has concluded that the impact of adopting the standard will have no material impact on its consolidated financial statements and related disclosures.

In July 2015, the FASB issued ASU 2015-11, *Simplifying the Measurement of Inventory (Topic 330)*. This update requires inventory within the scope of the standard to be measured at the lower of cost and net realizable value. Previous guidance required inventory to be measured at the lower of cost or market (where market was defined as replacement cost, with a ceiling of net realizable value and floor of net realizable value less a normal profit margin). This update is effective for annual and interim periods beginning after December 15, 2016. The Company adopted these provisions in the first quarter of fiscal year 2017 with no material impact on its consolidated financial statements.

In January 2016, the FASB issued ASU 2016-01, *Recognition and Measurement of Financial Assets and Financial Liabilities*. ASU 2016-01 requires equity investments to be measured at fair value with changes in fair value recognized in net income; simplifies the impairment assessment of equity investments without readily determinable fair values by requiring a qualitative assessment to identify impairment; eliminates the requirement for public business entities to disclose the method(s) and significant assumptions used to estimate the fair value that is required to be disclosed for financial instruments measured at amortized cost on the balance sheet; requires public business entities to use the exit price notion when measuring the fair value of financial instruments for disclosure purposes; requires an entity to present separately in other comprehensive income the portion of the total change in the fair value of a liability resulting from a change in the instrument-specific credit risk when the entity has elected to measure the liability at fair value in accordance with the fair value option for financial instruments; requires separate presentation of financial assets and financial liabilities by measurement category and form of financial assets on the balance sheet or the accompanying notes to the financial statements and clarifies that an entity should evaluate the need for a valuation allowance on a deferred tax asset related to available-for-sale securities in combination with the entity's other deferred tax assets. ASU 2016-01 is effective for financial statements issued for fiscal years beginning after December 15, 2017, and interim periods within those fiscal years. The Company does not believe the adoption of this guidance will have a material impact on its consolidated financial statements or related footnote disclosures.

Except as noted above, there have been no significant changes to our assessment of the impact of recently issued accounting standards included in Note 2 of Notes to Consolidated Financial Statements in our Fiscal 2016 Form 10-K.

3. Acquisition of 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 and changed the name of the acquired company from Vulcanos S.r.l. to TransEnterix Italia S.r.l.

Under the terms of the Purchase Agreement, the consideration consisted of the issuance of 15,543,413 shares of the Company's common stock (the "Securities Consideration") and approximately \$25.0 million U.S. Dollars and €27.5 million Euro in cash consideration (the "Cash Consideration"). The Securities Consideration was issued in full at the closing of the Senhance Acquisition; the Cash Consideration was or will be paid in four tranches, as follows:

(1) \$25.0 million of the Cash Consideration was paid at closing.

(2) On December 30, 2016, the Company 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"). Under the Amendment, the Second Tranche was restructured to be paid through the (A) the issuance of 3,722,685 shares of the Company's common stock with an aggregate fair market value of €5.0 million and (B) the payment of €5.0 million in cash upon the occurrence of either (i) receipt of clearance from the FDA for the Senhance System; or (ii) the Company having cash on hand of at least \$50.0 million, or (iii) successfully completing a financing, raising at least \$50.0 million in gross proceeds after September 2015, exclusive of any financing proceeds related to the December 2016 purchase agreement between the Company and Lincoln Park Capital Fund, LLC; with payment of simple interest at a rate of 9.0% per annum beginning on December 31, 2016. The Five Million Euro (€ 5,000,000) cash payment began to accrue simple interest at a rate of 9% per annum beginning on December 31, 2016 and will continue to accrue interest until paid in full. Such payment will be due immediately upon the completion of one of the three events identified above, except that the Company may, in its sole discretion, defer payment until December 31, 2017 in the event that any of the three events occurs before December 31, 2017. Prior to December 30, 2016, the second tranche of the Cash Consideration of €10.0 million was payable after the achievement of both of the following milestones (i) the earlier of approval from the FDA for the Senhance System or December 31, 2016, and (ii) the Company having cash on hand of at least \$50.0 million, or successfully completing a financing, raising at least \$50.0 million in gross proceeds; with payment of simple interest at a rate of 9.0% per annum between the achievement of the first milestone event and the payment date.

3. Acquisition of Senhance Surgical Robotic System (Continued)

(3) The third tranche of the Cash Consideration (the “Third Tranche”) of €15.0 million 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.

(4) The fourth tranche of the Cash Consideration of €2.5 million shall be payable 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, 2016. As of September 30, 2017 and December 31, 2016, the Company had paid €1.1 million of the fourth tranche.

The Third Tranche will be payable even if the Second Tranche is not then payable. In addition, the Second Tranche and Third Tranche payments 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. Payments of the fourth tranche of contingent consideration was \$395,000 for the three months ended September 30, 2017.

Under the Purchase Agreement, 10% of the Securities Consideration was held in escrow to support Sofar’s representations and warranties under the Purchase Agreement. In accordance with a related escrow agreement, the escrowed shares were released in September 2016. The Company, a subsidiary and Sofar also entered into a Security Agreement, which provided that 10% of the membership interests of TransEnterix Italia had a lien placed thereon by and in favor of Sofar to support the Company’s representations and warranties under the Purchase Agreement. The security interest period was twenty-four months after the closing of the Senhance Acquisition and expired on September 21, 2017.

The Purchase Agreement contains customary representations and warranties of the parties and the parties have customary indemnification obligations, which are subject to certain limitations described further in the Purchase Agreement.

In connection with the Senhance Acquisition, the Company also entered into a Registration Rights Agreement, dated as of September 21, 2015, with Sofar, pursuant to which the Company agreed to register the Securities Consideration shares for resale following the end of the lock-up periods described below. The resale registration statement has been filed and is effective.

In connection with the Senhance Acquisition, Sofar entered into a Lock-Up Agreement with the Company pursuant to which Sofar agreed, subject to certain exceptions, not to sell, transfer or otherwise convey any of the Securities Consideration over a two-year period following the Closing Date. As of September 21, 2017, all of the Securities Consideration was released from the lock-up restrictions and is eligible to be resold under the effective resale registration statement

The Senhance Acquisition was accounted for as a business combination utilizing the methodology prescribed in ASC 805. The purchase price for the Senhance Acquisition was allocated to the assets acquired and liabilities assumed based on their estimated fair values.

4. Fair Value

The Company holds certain assets and liabilities that are required to be measured at fair value on a recurring basis. These assets and liabilities include available for sale securities classified as 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 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 nine or three months ended September 30, 2017.

4. Fair Value (Continued)

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 Company utilizes fair value measurements to record fair value adjustments to certain assets and liabilities and to determine fair value disclosures.

As prescribed by U.S. GAAP, the Company groups assets and liabilities at fair value in three levels, based on the markets in which the assets and liabilities are traded and the reliability of the assumptions used to determine fair value. An adjustment to the pricing method used within either Level 1 or Level 2 inputs could generate a fair value measurement that effectively falls in a lower level in the hierarchy.

The determination of where an asset or liability falls in the hierarchy requires significant judgment. The Company evaluates its hierarchy disclosures and based on various factors, it is possible that an asset or liability may be classified differently from period to period. However, the Company expects changes in classifications between levels will be rare.

The following are the major categories of assets measured at fair value on a recurring basis as of September 30, 2017 and December 31, 2016, 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, 2017				
(In thousands) (unaudited)				
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	\$ 24,483	\$ —	\$ —	\$ 24,483
Restricted cash	6,386	—	—	6,386
Total Assets measured at fair value	\$ 30,869	\$ —	\$ —	\$ 30,869
Liabilities measured at fair value				
Contingent consideration	\$ —	\$ —	\$ 18,404	\$ 18,404
Warrant liabilities	—	—	31,156	\$ 31,156
Total liabilities measured at fair value	\$ —	\$ —	\$ 49,560	\$ 49,560
December 31, 2016				
(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	\$ 24,165	\$ —	\$ —	\$ 24,165
Restricted cash	10,425	—	—	10,425
Total Assets measured at fair value	\$ 34,590	\$ —	\$ —	\$ 34,590
Liabilities measured at fair value				
Contingent consideration	\$ —	\$ —	\$ 22,800	\$ 22,800
Total liabilities measured at fair value	\$ —	\$ —	\$ 22,800	\$ 22,800

4. Fair Value (Continued)

The Company's financial liabilities include 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 change in fair value of the contingent consideration of \$1,226,000 and \$1,700,000 for the nine months ended September 30, 2017 and 2016, respectively, was primarily due to the effect of the change in discount rate, passage of time on the fair value measurement and the impact of foreign currency exchange rates. Adjustments associated with the change in fair value of contingent consideration are included in the Company's consolidated statements of operations and comprehensive loss.

On April 28, 2017, the Company sold 24.9 million units (the "Units"), each consisting of one share of the Company's common stock, par value \$0.001 per share (the "Common Stock"), a Series A warrant to purchase one share of Common Stock with an exercise price of \$1.00 per share (the "Series A Warrants"), and a Series B warrant to purchase 0.75 shares of Common Stock with an exercise price of \$1.00 per share (the "Series B Warrants," together with the Series A Warrants, the "Warrants"), at an offering price of \$1.00 per Unit. Each Series A Warrant was exercisable at any time beginning on the date of issuance, and from time to time thereafter, through and including the first anniversary of the issuance date, unless terminated earlier as provided in the Series A Warrant. Receipt of Section 510(k) clearance for the Senhance System on October 13, 2017, triggered the acceleration of the expiration date of the Series A Warrants to October 31, 2017 (see Note 19). 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 fair value of the Series A Warrants of \$2.5 million at the date of issuance was estimated using the Black-Scholes Merton model which used the following inputs: term of 1 year, risk free rate of 1.07%, no dividends, volatility of 73.14%, and share price of \$0.65 per share based on the trading price of the Company's common stock. The fair value of the Series B Warrants of \$6.2 million at the date of issuance was estimated using the Black-Scholes Merton model which used the following inputs: term of 5 years, risk free rate of 1.81%, no dividends, volatility of 73.14%, and share price of \$0.65 per share based on the trading price of the Company's common stock. The fair value of the Series A Warrants of \$11.4 million at September 30, 2017 was estimated using the Black-Scholes Merton model which used the following inputs: term of 7 months, risk free rate of 1.22%, no dividends, volatility of 87.7%, and share price of \$1.43 per share based on the trading price of the Company's common stock. The fair value of the Series B Warrants of \$19.7 million at September 30, 2017 was estimated using the Monte Carlo valuation model which used the following inputs: term of 4.57 years, risk free rate of 1.86%, volatility of 87.7%, share price of \$1.43 per share based on the trading price of the Company's common stock, and probability of additional financing in 2018 and 2019 of 100%. The change in fair value of warrants for the nine months ended September 30, 2017 of \$25.2 million and three months ended September 30, 2017 of \$22.9 million was included in the Company's consolidated statements of operations and comprehensive loss.

The following table presents quantitative information about the inputs and valuation methodologies used for the Company's fair value measurements of Contingent consideration classified in Level 3 as of December 31, 2016 and September 30, 2017:

	Valuation Methodology	Significant Unobservable Input	Weighted Average (range, if applicable)
Contingent consideration	Probability weighted income approach	Milestone dates	2017 to 2020
		Discount rate	7.5% to 11.75%
		Probability of occurrence	100%

4. Fair Value (Continued)

The following table summarizes the change in fair value, as determined by Level 3 inputs, for all assets and liabilities using unobservable Level 3 inputs for the nine months ended September 30, 2017:

	Fair Value Measurement at Reporting Date (Level 3) (In thousands) (unaudited)	
	Common stock warrants	Contingent consideration
Balance at December 31, 2016	\$ —	\$ 22,800
Issuance of common stock in exchange for contingent consideration	—	(5,227)
Issuance of warrants, net of financing costs	8,715	—
Payment of contingent consideration	—	(395)
Exercise of warrants	(2,772)	—
Change in fair value	25,213	1,226
Balance at September 30, 2017	<u>31,156</u>	<u>18,404</u>
Current portion	—	6,958
Long-term portion	31,156	11,446
Balance at September 30, 2017	<u>\$ 31,156</u>	<u>\$ 18,404</u>

5. Accounts Receivable, Net

The following table presents the components of accounts receivable:

	September 30, 2017	December 31, 2016
	(In thousands) (unaudited)	
Gross accounts receivable	\$ 326	\$ 960
Allowance for uncollectible accounts	(73)	(73)
Total accounts receivable, net	<u>\$ 253</u>	<u>\$ 887</u>
Short-term portion	\$ 253	\$ 621
Long-term portion	—	266
Total accounts receivable	<u>\$ 253</u>	<u>\$ 887</u>

6. Inventories

The components of inventories are as follows:

	September 30, 2017	December 31, 2016
	(In thousands) (unaudited)	
Finished goods	\$ 2,777	\$ 4,698
Raw materials	8,496	3,185
Total inventories	<u>\$ 11,273</u>	<u>\$ 7,883</u>

As disclosed in Note 14, the Company executed a restructuring plan in May 2016 and wrote down inventory related to the SurgiBot System. The write down of inventory of \$2.6 million is included in the accompanying consolidated statement of operations and comprehensive loss for the nine months ended September 30, 2016. There were no such write-downs for the three and nine month periods ended September 30, 2017.

7. Other Current Assets

The following table presents the components of other current assets:

	September 30, 2017	December 31, 2016
	(In thousands)	
	(unaudited)	
Prepaid expenses	\$ 1,379	\$ 2,186
Advances to vendors	6,727	1,806
Other receivables	139	1,343
Total	<u>\$ 8,245</u>	<u>\$ 5,335</u>

8. Property and Equipment

Property and equipment consisted of the following:

	September 30, 2017	December 31, 2016
	(In thousands)	
	(unaudited)	
Machinery, manufacturing and demonstration equipment	\$ 10,763	\$ 7,579
Computer equipment	2,137	2,124
Furniture	595	614
Leasehold improvements	2,222	2,028
Total property and equipment	15,717	12,345
Accumulated depreciation and amortization	(8,520)	(6,573)
Property and equipment, net	<u>\$ 7,197</u>	<u>\$ 5,772</u>

As disclosed in Note 14, the Company executed a restructuring plan in May 2016 and disposed of certain long-lived assets, primarily equipment and fixtures related to the SurgiBot System. The disposal of long-lived assets of \$1.0 million is included as a component of restructuring and other charges in the accompanying consolidated statement of operations and comprehensive loss for the nine months ended September 30, 2016. There were no such disposals for the three and nine months ended September 30, 2017.

Depreciation expense was \$1,820,000 and \$1,498,000 for the nine months ended September 30, 2017 and 2016, respectively. Depreciation expense was \$678,000 and \$446,000 for the three months ended September 30, 2017 and 2016, respectively.

9. Goodwill, In-Process Research and Development and Intellectual Property

Goodwill

Goodwill of \$93.8 million was recorded in connection with the Merger, as described in Note 1, and goodwill of \$38.3 million was recorded in connection with the Senhance Acquisition, as described in Note 3. The carrying value of goodwill and the change in the balance for the nine months ended September 30, 2017 is as follows:

	<u>Goodwill</u>
	(In thousands)
	(unaudited)
Balance at December 31, 2016	\$ 68,697
Foreign currency translation impact	2,341
Balance at September 30, 2017	<u>\$ 71,038</u>

9. Goodwill, In-Process Research and Development and Intellectual Property (Continued)

Accumulated impairment of goodwill as of September 30, 2017 was \$61.8 million.

The Company performs an annual impairment test of goodwill at December 31, or more frequently if events or changes in circumstances indicate that the carrying value of the Company's one reporting unit may not be recoverable. During the second quarter of 2016, the FDA notified the Company that the SurgiBot System did not meet the criteria for substantial equivalency, negatively impacting the Company's market capitalization, and warranting an interim two-step quantitative impairment test. Prior to adopting ASU 2017-04 as of the beginning of fiscal year 2017, goodwill was tested for impairment using a two-step approach. In the first step, the fair value of the reporting unit was determined and compared to the reporting unit's carrying value, including goodwill. If the fair value of the reporting unit was less than its carrying value, the second step of the goodwill impairment test was performed to measure the amount of impairment, if any. In the second step, the fair value of the reporting unit was allocated to the assets and liabilities of the reporting unit as if it had been acquired in a business combination and the purchase price was equivalent to the fair value of the reporting unit. The excess of the fair value of the reporting unit over the amounts assigned to its assets and liabilities was referred to as the implied fair value of goodwill. The implied fair value of the reporting unit's goodwill was then compared to the actual carrying value of goodwill. If the implied fair value of goodwill was less than the carrying value of goodwill, an impairment loss was recognized for the difference. ASU 2017-04 removes Step 2 of the goodwill impairment test.

The Company determined the fair value of the reporting unit using a discounted cash flow analysis derived from the Company's long-term plans. The fair value of the reporting unit was corroborated using market prices for TransEnterix, Inc. The inputs used to determine the fair values were classified as Level 3 in the fair value hierarchy. Based on the impairment test, the Company recorded goodwill impairment of \$61.8 million during the second quarter of 2016.

The Company performed a qualitative assessment during the annual impairment review for fiscal 2016 as of December 31, 2016 and concluded that it is not more likely than not that the fair value of the Company's single reporting unit is less than its carrying amount. Therefore, the two-step goodwill impairment test for the reporting unit was not necessary at December 31, 2016. During the second quarter of 2017, the Company's stock price experienced a significant decline. The Company performed a Step 1 goodwill impairment test as of the second quarter and determined that no charge to goodwill for impairment was required during the second quarter of 2017. No charge for goodwill impairment was required during the third quarter of 2017.

In-Process Research and Development

As described in Note 3, on September 21, 2015, the Company acquired all of the assets related to the Senhance System and recorded \$17.1 million of IPR&D. The estimated fair value of the IPR&D was determined using a probability-weighted income approach, which discounts expected future cash flows to present value. The projected cash flows were based on certain key assumptions, including estimates of future revenue and expenses, taking into account the stage of development of the technology at the acquisition date and the time and resources needed to complete development. The Company used a discount rate of 45% and cash flows that have been probability adjusted to reflect the risks of product commercialization, which the Company believes are appropriate and representative of market participant assumptions.

The carrying value of the Company's IPR&D assets and the change in the balance for the nine months ended September 30, 2017 is as follows:

	In-Process Research and Development
	(unaudited)
	(In thousands)
Balance at December 31, 2016	\$ 15,920
Foreign currency translation impact	1,968
Balance at September 30, 2017	<u>\$ 17,888</u>

9. Goodwill, In-Process Research and Development and Intellectual Property (Continued)

Intellectual Property

As described in Note 3, on September 21, 2015, the Company acquired all of the developed technology related to the Senhance System and recorded \$48.5 million of intellectual property. The estimated fair value of the intellectual property was determined using a probability-weighted income approach, which discounts expected future cash flows to present value. The projected cash flows were based on certain key assumptions, including estimates of future revenue and expenses, taking into account the stage of development of the technology at the acquisition date and the time and resources needed to complete development. The Company used a discount rate of 45% and cash flows that have been probability adjusted to reflect the risks of product commercialization, which the Company believes are appropriate and representative of market participant assumptions.

In November 2016, the Company agreed to enter into a technology and patents purchase agreement with Sofar to acquire from Sofar certain technology and intellectual property rights related to the Senhance Acquisition, and formerly licensed by the Company. The acquisition price was \$400,000.

As disclosed in Note 14, the Company executed a restructuring plan in May 2016 and wrote-off certain intellectual property consisting of patents related to the SurgiBot System. The write-off of intellectual property of \$1.6 million is included as a component of restructuring and other charges in the accompanying consolidated statements of operations and comprehensive losses for the nine months ended September 30, 2016. There were no such write offs for the three and nine months ended September 30, 2017.

The components of gross intellectual property, accumulated amortization, and net intellectual property as of September 30, 2017 and December 31, 2016 are as follows:

	September 30, 2017				December 31, 2016			
	(In thousands) (unaudited)				(In thousands)			
	Gross Carrying Amount	Accumulated Amortization	Foreign currency translation impact	Net Carrying Amount	Gross Carrying Amount	Accumulated Amortization	Foreign currency translation impact	Net Carrying Amount
Developed technology	\$ 48,500	\$ (13,584)	\$ 1,350	\$ 36,266	\$ 48,500	\$ (8,458)	\$ (2,952)	\$ 37,090
Technology and patents purchased	400	(18)	15	\$ 397	—	—	—	—
	<u>\$ 48,900</u>	<u>\$ (13,602)</u>	<u>\$ 1,365</u>	<u>\$ 36,663</u>	<u>\$ 48,500</u>	<u>\$ (8,458)</u>	<u>\$ (2,952)</u>	<u>\$ 37,090</u>

10. Income Taxes

Income taxes have been accounted for using the 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 4.1% for the year ending December 31, 2017. This rate does not include the impact of any discrete items. The Company incurred losses for the nine month periods ended September 30, 2017 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, 2017. 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., Luxembourg, and Swiss operations. Accordingly, a full valuation allowance has been recorded related to the net deferred tax asset in those jurisdictions. Deferred tax assets and liabilities related to the TransEnterix Italia subsidiary have been recorded as a component of purchase accounting as of the acquisition date. The deferred tax benefit during the nine months ended September 30, 2017 and 2016, was approximately \$2.3 million and \$4.7 million, respectively.

There is no net deferred tax asset recorded in relation to TransEnterix Italia and accordingly no valuation allowance has been recorded in that jurisdiction.

The Company's effective tax rate for each of the nine month periods ended September 30, 2017 and 2016 was 3.3% and 4.3%, respectively. The effective tax rate for September 30, 2016 includes the tax effect of the Company's goodwill impairment charge, which is being treated as a discrete item for the quarter ending June 30, 2016. At September 30, 2017, the Company had no unrecognized tax benefits that would affect the Company's effective tax rate.

11. Accrued Expenses

The following table presents the components of accrued expenses:

	September 30, 2017	December 31, 2016
	(In thousands)	
	(unaudited)	
Taxes and other assessments	\$ 3,319	\$ 2,676
Compensation and benefits	3,620	2,328
Interest and final payment fee	163	1,000
Deferred rent	635	323
Consulting and other vendors	305	1,428
Legal and professional fees	271	243
Deferred revenue	128	—
Royalties	273	159
Other	212	49
Total	<u>\$ 8,926</u>	<u>\$ 8,206</u>

12. Notes Payable

On May 10, 2017, the Company and its domestic subsidiaries, as co-borrowers, entered into a Loan and Security Agreement (the “Innovatus Loan Agreement”) with Innovatus Life Sciences Lending Fund I, LP, as Lender and Collateral Agent (the “Lender”). Under the Innovatus Loan Agreement, the Lender agreed to make certain term loans in the aggregate principal amount of up to \$17,000,000. Funding of the first \$14,000,000 tranche occurred on May 10, 2017. The Company will be eligible to draw on the second tranche of \$3,000,000 upon achievement of certain milestones, including Senhance Clearance (as defined below). So long as the Company meets each Interest-Only Milestone (as defined below), the Company is entitled to make interest-only payments for up to twenty-four (24) months. At the end of the interest-only period, the Company will be required to repay the term loans over a two-year period, based on a twenty-four (24) month amortization schedule, with a final maturity date occurring on the fourth anniversary of the initial funding date. However, the interest-only period will end if the Company fails to meet any Interest-Only Milestone. Commencing on the first day of the month following such failure to achieve an Interest-Only Milestone, the Company will be required to repay the term loans over a two year period, based on a twenty-four (24) month amortization schedule. The Interest-Only Milestones require the Company to (i) achieve certain twelve month revenue targets, measured quarterly, commencing with the quarter ending March 31, 2018, (ii) meet a minimum capital raising threshold through the sale and issuance of equity securities during the period from April 10, 2017 through May 31, 2018 and (iii) obtain clearance for commercialization of the Senhance System by the FDA (“Senhance Clearance”) by May 30, 2018 (each such milestone, an “Interest-Only Milestone”).

The term loans bear interest at a fixed rate equal to 11% per annum, of which 2.5% can be paid in-kind and added to the outstanding principal amount of the term loans until the earlier of (i) the first anniversary following the funding date and (ii) the Company’s failure to achieve an Interest-Only Milestone. The Company will be required to repay the term loans if they are accelerated following an event of default. In addition, the Company is permitted to prepay the term loans in full at any time upon five (5) business days’ written notice to the Lender. Upon the earliest to occur of the maturity date, acceleration of the term loan, or prepayment of the term loan, the Company is required to make a final payment equal to the total term loan commitment multiplied by four percent (4%) (the “Final Fee”); provided, however, that in the event the Company refinances its obligations with the Lender after Senhance Clearance, no Final Fee or Prepayment Fee (as defined below) will be due thereunder; and provided, further, that if the Company elects to refinance its obligations prior to the funding of the second tranche, the Final Fee with respect to the second tranche shall be paid in full on the date of such refinancing. Any prepayment of the term loans in full, whether mandatory or voluntary, must include (i) the Final Fee, (ii) interest at the default rate (which is the rate otherwise applicable plus five percent (5%)) with respect to any amounts past due, (iii) the Lender’s expenses and all other obligations that are due and payable to the Lender and (iv) a prepayment fee of three percent (3%) if the term loan is paid in full on or before the first anniversary of the effective date, two percent (2%) if paid off after the first anniversary but on or before the second anniversary of the effective date and one percent (1%) if paid off after the second anniversary but on or before the third anniversary of the effective date (the “Prepayment Fee”).

12. Notes Payable (Continued)

In connection with the funding, the Company paid a facility fee of \$170,000 on the date of funding of the first tranche and incurred additional debt issuance costs of approximately \$1.2 million, recorded as debt discount. In addition, the Company issued warrants to the Lender to purchase shares of the Company's common stock. Additional warrants will be issued on the funding date of each subsequent tranche and will expire five (5) years from such issue date. The warrants issued in connection with funding of the first tranche entitle the Lender to purchase up to 1,244,746 shares of the Company's common stock at an exercise price of \$1.00 per share. The Company estimated the fair value of the warrants to be \$300,000. The value of the warrants was classified as equity and recorded as a discount to the loan. The debt discount is amortized as interest expense using the effective interest method over the life of the loan.

The Company's obligations under the Innovatus Loan Agreement are secured by a security interest in all of the assets of the Company and its current and future domestic and material foreign subsidiaries, including a security interest in the intellectual property. The Innovatus Loan Agreement contains customary representations and covenants that, subject to exceptions, restrict the Company's ability to do the following things: declare dividends or redeem or repurchase equity interests; incur additional liens; make loans and investments; incur additional indebtedness; 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 are not related to its existing business. Under the terms of the Innovatus Loan Agreement, the Company is required to maintain minimum unrestricted cash in an amount equal to (x) six million dollars (\$6,000,000), at all times prior to Senhance Clearance; and (y) at all times thereafter, the least of (i) \$6,000,000, (ii) the Company's trailing three (3) months' cash used to fund operating activities, as determined as of the most recent month end and (iii) the then outstanding principal amount of the term loans, together with accrued but unpaid interest.

The future principal payments under the Innovatus Loan Agreement are as follows:

Years ending December 31, (In thousands)	
2018	\$ —
2019	4,083
2020	7,000
2021	2,917
Total	\$ 14,000

In connection with its entrance into the Innovatus Loan Agreement, the Company repaid its existing credit facility with Silicon Valley Bank and Oxford Finance LLC (the "Prior Lenders"), which loan and security agreement, as subsequently amended and restated is referred to as the "SVB Loan Agreement." The Company recognized a loss of \$308,000 on the extinguishment of notes payable for the nine months ended September 30, 2017, which is included in interest expense on the consolidated statements of operations and comprehensive loss. The Company paid \$1.3 million in final payment obligations and \$255,000 in facility fees under the SVB Loan Agreement upon repayment.

The SVB Loan Agreement was initially entered into on January 17, 2012. In connection with the Merger, the Company assumed and became the borrower under the SVB Loan Agreement.

On August 14, 2015, the Company entered into the First Amendment to the SVB Loan Agreement (the "First Amendment") with the Prior Lenders. The first tranche of the First Amendment increased the Company's borrowings at August 14, 2015 from \$10,000,000 to \$20,000,000. The First Amendment allowed for interest-only payments at 7.5% per annum through April 30, 2016 and had a maturity date of October 1, 2018.

On September 18, 2015, in connection with entry into the Purchase Agreement with Sofar S.p.A. (see Note 3 for a description of the related transactions), the Company and the Prior Lenders entered into the Consent and Second Amendment (the "Second Amendment") to the SVB Loan Agreement. The Second Amendment modified the period in which the Company could make interest-only payments at 7.5% per annum on the term loans until January 31, 2016. The Second Amendment had a maturity date of July 1, 2018.

In addition, in connection with the borrowings under the SVB Loan Agreement, the Company issued warrants to the Prior Lenders to purchase shares of the Company's common stock amounting to an aggregate of 430,815 warrants under the SVB Loan Agreement. The warrants expire seven years from their respective issue date.

12. Notes Payable (Continued)

In accordance with ASC 470-50 *Debt – Modifications and Extinguishments*, it was determined that a debt refinancing of the SVB Loan Agreement on September 26, 2014, was considered to be a debt modification. Accordingly, the Company recorded approximately \$129,000 of debt discount, consisting of the \$75,000 facility fee and the relative fair value of warrants on the issue date of \$54,000. Additionally, approximately \$30,000 of legal fees was recorded as a result of the transaction. The debt discount and deferred financing costs were amortized over the life of the new debt agreement using the effective interest method into interest expense, net, until the debt was extinguished in May 2017.

In accordance with ASC 470-50 *Debt – Modifications and Extinguishments*, it was determined that debt refinancings of the SVB Loan Agreement on August 14, 2015, September 18, 2015, April 19, 2016 and September 7, 2016 were considered to be debt modifications. The Company recorded a debt discount of approximately \$210,000 for these amendments. Accordingly, the unamortized debt discount was presented as a reduction of the related debt liability in the Company's consolidated balance sheet. The debt discount was amortized over the life of the new debt agreement using the effective interest method into interest expense, net, until the debt was extinguished in May 2017.

In connection with the issuance of the notes payable and amendments under the SVB Loan Agreement, TransEnterix Surgical incurred approximately \$371,000 in debt issuance costs paid to the Prior Lenders and third parties and \$280,000 in debt issuance costs related to issuance of warrants to the Prior Lenders. The unamortized balance of \$107,000 as of December 31, 2016, was amortized using the effective interest method, until the debt was extinguished in May 2017. At the time of extinguishment in May 2017, \$63,000 of unamortized debt issuance costs were included in the loss on extinguishment of notes payable.

13. Warrants

On March 22, 2013, SafeStitch entered into a stock purchase agreement with approximately 17 investors (the "2013 PIPE Investors") pursuant to which the 2013 PIPE Investors purchased an aggregate of approximately 2,420,000 shares of common stock at a price of \$1.25 per share for aggregate consideration of approximately \$3.0 million. Included in this private placement was the issuance of warrants to purchase approximately 1,209,600 common shares, representing one warrant for every two common shares purchased, with an exercise price of \$1.65 per share and five year expiration. Among the 2013 PIPE Investors purchasing shares were related parties who purchased 1.28 million shares and received 640,000 warrants. There were approximately 1.2 million warrants outstanding that were assumed as of the Merger. None of these warrants were exercised during the nine months ended September 30, 2017.

On January 17, 2012, TransEnterix Surgical entered into the original Loan Agreement with the Prior Lenders. Pursuant to such agreement, TransEnterix Surgical issued preferred stock warrants to the Prior Lenders on January 17, 2012 and December 21, 2012, respectively, to purchase shares of TransEnterix Surgical preferred stock. The preferred stock warrants expire 10 years from the issue date. The preferred stock warrants were remeasured immediately prior to the Merger. As of the Merger, the preferred stock warrants converted to common stock warrants, adjusted based on a Merger exchange ratio of 1.1533, and the preferred stock warrant liability was reclassified to additional paid-in capital. These warrants are exercisable for an aggregate of approximately 279,588 shares of common stock, with an exercise price of \$1.45 per share. During the year ended December 31, 2013, 139,794 of these warrants were exercised in a cashless transaction for 112,766 shares of common stock. None of these warrants were exercised during the nine months ended September 30, 2017.

On September 26, 2014, the Company entered into an amendment to its SVB Loan Agreement with the Prior Lenders. In connection with the first tranche borrowings under such amendment, the Company issued 38,324 common stock warrants to the Prior Lenders to purchase shares of the Company's common stock, with an exercise price of \$4.015 per share. The warrants expire seven years from their respective issue date. The Company concluded that the warrants are considered equity instruments. The warrants were recognized at the relative fair value on the issuance date as a debt discount and will be amortized using the effective interest method from issuance to the maturity of the term loans. None of these warrants were exercised during the nine months ended September 30, 2017.

On August 14, 2015, in connection with an amendment to the SVB Loan Agreement and first tranche borrowings thereunder, the Company issued 112,903 common stock warrants to the Prior Lenders to purchase shares of the Company's common stock, with an exercise price of \$3.10 per share. The warrants expire seven years from their respective issue date. The Company concluded that the warrants are considered equity instruments. The warrants were recognized at the relative fair value on the issuance date as a debt discount and will be amortized using the effective interest method from issuance to the maturity of the note. None of these warrants were exercised during the nine months ended September 30, 2017.

13. Warrants (Continued)

On April 28, 2017, the Company sold 24.9 million Units, each consisting of one share of Common Stock, a Series A Warrant to purchase one share of Common Stock with an exercise price of \$1.00 per share, and a Series B Warrant to purchase 0.75 shares of Common Stock with an exercise price of \$1.00 per share at an offering price of \$1.00 per Unit. Each Series A Warrant may be exercised at any time beginning on the date of issuance, and from time to time thereafter, through and including the first anniversary of the issuance date, unless terminated earlier as provided in the Series A Warrant. Receipt of Section 510(k) clearance for the Senhance System on October 13, 2017, triggered the acceleration of the expiration date of the Series A Warrants to October 31, 2017 (see Note 19).

Each Series B Warrant has an initial exercise price of \$1.00 per share and 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 (see Note 19).

The exercise prices and the number of shares issuable upon exercise of each of the 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 Warrants are subject to adjustment in the event that the Company issues or is deemed to issue shares of Common Stock for less than the then applicable exercise prices of each of the Warrants. The exercisability of the 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 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 Warrant holders. Additionally, in the event of a fundamental transaction, each Warrant holder will have the right to require the Company, or its successor, to repurchase the Warrants for an amount of cash equal to the Black-Scholes value of the remaining unexercised portion of such Warrants. As of September 30, 2017, 5,204,495 and 0 Series A warrants and Series B warrants, respectively, were exercised.

On May 10, 2017, in connection with the Innovatus Loan Agreement, the Company issued warrants to the Lender to purchase shares of the Company's common stock. The warrants are issued on the funding date of each tranche and will expire five (5) years from such issue date. The warrant issued in connection with funding of the first tranche will entitle the Lender to purchase up to 1,244,746 shares of the Company's common stock at an exercise price of \$1.00 per share. None of these warrants were exercised as of September 30, 2017.

On September 12, 2017, the Company entered into a service agreement with a third party vendor. In connection with the service agreement, the Company issued 950,000 common stock warrants ("Service Warrants") to purchase shares of the Company's common stock, with an exercise price of \$1.00 per share. The Service Warrants vest as follow: (a) twenty-five percent (25%) on the date of execution of the services agreement; (b) fifty percent (50%) upon completion of hiring the sales team; and (c) the remaining twenty-five percent (25%) upon achieving cumulative product revenue of \$15.0 million. The Service Warrants expire ten years from their issue date. The Company concluded that the Service Warrants are considered equity instruments. The fair value of the Service Warrants on the issuance date was determined using a Black-Scholes Merton model. The initial expense of \$0.6 was recognized as of September 30, 2017. The fair value of the remaining Service Warrants will be updated each reporting period and the expense will be recorded over the service period. None of these warrants were exercised as of September 30, 2017.

	<u>Number of Warrants</u>	<u>Weighted Average Exercise Price</u>	<u>Weighted Average Remaining Contractual Life (in years)</u>	<u>Weighted Average Fair Value</u>
Outstanding at December 31, 2016	1,426,622	\$ 1.81	2.20	\$ 1.54
Granted	45,769,746	1.00	2.76	0.22
Exercised	(5,204,495)	1.00	—	—
Outstanding at September 30, 2017	<u>41,991,873</u>	<u>\$ 1.03</u>	<u>2.72</u>	<u>\$ 0.27</u>

14. Restructuring

On April 19, 2016, the FDA notified the Company that the SurgiBot System did not meet the criteria for substantial equivalence based on the data submitted in the 510(k) submission. In May 2016, the Company implemented a restructuring plan. Under the restructuring plan, the Company reduced headcount, discontinued efforts on the SurgiBot System, and cancelled certain contracts. The restructuring charges amounted to \$5.7 million, of which \$2.6 million was included as inventory write down related to restructuring and \$3.1 million was included as restructuring and other charges in the consolidated statements of operations and comprehensive loss, during the second quarter of 2016.

The restructuring and other charges of \$3.1 million included: (i) \$0.5 million to be paid in cash, of which \$0.4 million related to employee severance costs and \$0.1 million related to cancellation of certain contracts; and (ii) \$2.6 million for other non-cash charges, of which \$1.0 million related to the disposal of long-lived assets for the abandonment of certain equipment and tooling directly relating to the SurgiBot System and \$1.6 million related to the write-off of intellectual property for certain patents also relating to the SurgiBot System.

15. Equity Line Financing, Controlled Equity Offering and Public Offering of Common Stock

On April 28, 2017, the Company sold 24.9 million units, each consisting of one share of the Company's common stock, a Series A warrant to purchase one share of common stock, and a Series B warrant to purchase 0.75 shares of common stock, at a public offering price of \$1.00 per unit for aggregate gross proceeds of \$24.9 million in an underwritten firm commitment public offering. Net proceeds after issuance costs were \$23.2 million, assuming no exercise of the warrants. The closing of the public offering occurred on May 3, 2017.

On December 16, 2016, the Company entered into a purchase agreement (the "LPC Purchase Agreement") with Lincoln Park Capital Fund, LLC, ("Lincoln Park"), pursuant to which the Company had the right to sell to Lincoln Park up to an aggregate of \$25.0 million in shares of the Company's common stock, (the "Common Stock"), subject to certain limitations and conditions set forth in the LPC Purchase Agreement. The Company issued to Lincoln Park 345,421 shares of Common Stock as commitment shares in consideration for the LPC Purchase Agreement through April 27, 2017. Sales under the LPC Purchase Agreement for the year ended December 31, 2016 were 300,000 shares, with gross proceeds of \$412,500 and net proceeds of \$392,500. Sales under the LPC Purchase Agreement for the nine months ended September 30, 2017 were 3,972,741 shares, with gross and net proceeds of \$5,304,000. Effective April 27, 2017, the Company terminated the LPC Purchase Agreement. The LPC Purchase Agreement provided the Company with an election to terminate the Purchase Agreement for any reason or for no reason by delivering a notice to Lincoln Park, and the Company did not incur any early termination penalties in connection with the termination of the LPC Purchase Agreement.

On February 20, 2015, the Company entered into a Controlled Equity Offering SM Sales Agreement (the "2015 Sales Agreement") with Cantor Fitzgerald & Co. ("Cantor"), as sales agent, pursuant to which the Company sold through Cantor, from time to time, up to \$25.0 million in shares of common stock in an at-the-market offering. The Company pays Cantor a commission of approximately 3% of the aggregate gross proceeds received from all sales of common stock under the Sales Agreement. Sales under the 2015 Sales Agreement have been fully sold as of February 9, 2016, with cumulative shares of 7,724,488, gross proceeds of \$25.0 million and net proceeds of \$24.0 million.

On February 9, 2016, the Company entered into a Controlled Equity Offering SM Sales Agreement (the "2016 Sales Agreement") with Cantor, as sales agent, pursuant to which the Company can sell through Cantor, from time to time, up to \$43.6 million in shares of common stock in an at-the-market offering. The Company pays Cantor a commission of approximately 3% of the aggregate gross proceeds received from all sales of common stock under the 2016 Sales Agreement. The 2016 Sales Agreement was terminated, effective September 10, 2017.

On August 31, 2017, the Company entered into an At-the-Market Equity Offering Sales Agreement (the "2017 Sales Agreement") with Stifel, Nicolaus & Company, Incorporated ("Stifel"), as sales agent, pursuant to which the Company can sell through Stifel, from time to time, up to \$50.0 million in shares of common stock in an at-the-market offering. The Company pays Stifel a commission of approximately 3% of the aggregate gross proceeds received from all sales of common stock under the 2017 Sales Agreement. Unless otherwise terminated earlier, the 2017 Sales Agreement continues until all shares available under the Sales Agreement have been sold (see Note 19).

15. Equity Line Financing, Controlled Equity Offering and Public Offering of Common Stock (Continued)

The following table summarizes the total sales under the 2015 Sales Agreement, 2016 Sales Agreement and 2017 Sales Agreement for the periods indicated (in thousands, except per share amounts):

	<u>2017 Sales Agreement</u>	<u>2016 Sales Agreement</u>	<u>2015 Sales Agreement</u>	
	<u>Nine Months Ended September 30, 2017</u>	<u>Year Ended December 31, 2016</u>	<u>Year Ended December 31, 2016</u>	<u>Year Ended December 31, 2015</u>
Total shares of common stock sold	1,525.1	8,763.4	5,710.2	2,014.3
Average price per share	\$ 1.27	\$ 4.70	\$ 3.23	\$ 3.25
Gross proceeds	\$ 1,944	\$ 41,156	\$ 18,454	\$ 6,546
Commissions earned by Stifel or Cantor	\$ 58	\$ 1,235	\$ 553	\$ 197
Other issuance costs	\$ 47	\$ 185	\$ —	\$ 259

16. 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 dilutive potential common shares that were outstanding during the period. Diluted potential common shares consist of incremental shares issuable upon exercise of stock options and warrants and restricted stock units. In computing diluted net loss per share for the three and nine months ended September 30, 2017 and 2016, no adjustment has been made to the weighted average outstanding common shares as the assumed exercise of outstanding options and warrants and restricted stock units would be anti-dilutive.

17. Related Person Transactions

On September 18, 2015, TransEnterix Italia entered into a services agreement for receipt of administrative services from Sofar and payment of rent to Sofar, a stockholder that owned approximately 12.4% and 13.5% of the Company's common stock at September 30, 2017 and 2016, respectively. Expenses under this agreement were approximately \$52,000 and \$162,000 for the nine months ended September 30, 2017 and 2016, respectively.

In November 2016, the Company agreed to enter into a technology and patents purchase agreement with Sofar to acquire from Sofar certain technology and intellectual property rights related to the Senhance Acquisition, and formerly licensed by the Company. The acquisition price was \$400,000.

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. On December 30, 2016, the Company entered into an Amendment to the Senhance Acquisition purchase agreement with Sofar 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 3,722,685 shares of the Company's common stock with an aggregate fair market value of €5.0 million. On January 4, 2017, the Company issued to Sofar 3,722,685 shares of the common stock with a fair value of €5.0 million. The price per share was \$1.404 and was calculated based on the average of the closing prices of the Company's common stock on ten consecutive trading days ending one day before the execution of the Amendment.

18. Commitments and Contingencies

Legal Proceedings

When determining the estimated probable loss or range of losses, significant judgment is required to be exercised in order to estimate the amount and timing of the loss to be recorded. Estimating an amount or range of possible losses resulting from litigation proceedings is inherently difficult and requires an extensive degree of judgment, particularly where the matters involve indeterminate claims for monetary damages, are in the early stages of the proceedings, and are subject to appeal. In addition, because most legal proceedings are resolved over extended periods of time, potential losses are subject to change due to, among other things, new developments, changes in legal strategy, the outcome of intermediate procedural and substantive rulings and other parties' settlement posture and their evaluation of the strength or weakness of their case against the Company. For these reasons, the Company is currently unable to predict the ultimate timing or outcome of, or reasonably estimate the possible losses or a range of possible losses resulting from, the matters described below. Based on information currently available, the Company does not believe that any reasonably possible losses arising from currently pending legal matters will be material to the Company's results of operations or financial condition. However, in light of the inherent uncertainties involved in such matters, an adverse outcome in one or more of these matters could materially and adversely affect the Company's financial condition, results of operations or cash flows in any particular reporting period.

18. Commitments and Contingencies (Continued)

No liability or related charge was recorded to earnings in the Company's consolidated financial statements for legal contingencies for the nine months ended September 30, 2017 or the year ended December 31, 2016.

On June 2, 2016 a stockholder filed a putative class action complaint, *Ashok V. Bankley, individually and on behalf of all others similarly situated vs. TransEnterix, Inc., Todd M. Pope and Joseph P. Slattery*, in the United States District Court for the Eastern District of North Carolina (Case No. 5:16-cv-00313-D) (the "Initial Complaint"), against the Company and two of its executive officers on behalf of all persons who purchased or otherwise acquired the Company's common stock between February 10, 2016 and May 10, 2016. On August 4, 2016, the defendants filed a motion to dismiss the Initial Complaint for failure to state a claim under the securities laws. On August 30, 2016, the court appointed Randall Clark, Samir Patel, the Underhill Cemetery Association, and the North Underhill Cemetery Association as the lead plaintiffs in the Initial Complaint, and also provided the plaintiffs an opportunity to amend the Initial Complaint. On September 26, 2016, the lead plaintiffs filed an Amended Complaint. Among other things, the Amended Complaint asserted revised claims against the Company and Messrs. Pope and Slattery, and added claims against certain current and former members of the Company's Board of Directors, and Cantor Fitzgerald & Co., the sales agent under the 2016 Sales Agreement, under which the Company offered and sold, through Cantor, shares of common stock in its 2016 ATM Offering. The Amended Complaint alleged that the defendants made false and misleading public statements related to the Company's SurgiBot System and its 510(k) application in violation of certain federal securities laws. The Amended Complaint sought class certification of a class consisting of all persons who purchased or otherwise acquired the Company's common stock between February 10, 2016 and May 10, 2016, class certification of a subclass of persons who purchased or otherwise acquired the Company's common stock in connection with the 2016 ATM Offering between February 9, 2016 and April 19, 2016, unspecified monetary damages, costs, and attorneys' fees. On November 8, 2016, the defendants moved to dismiss the Amended Complaint, which the lead plaintiffs later opposed. On September 22, 2017, the court entered an order granting the motions to dismiss. On October 6, 2017, the court entered final judgment in favor of the defendants dismissing the putative securities class action with prejudice.

On July 8, 2016, a stockholder filed a different putative derivative complaint, captioned *Otto Pikal v. Todd M. Pope, et al.*, in the General Court of Justice, Superior Court Division, Wake County, North Carolina (case number 16CV008930) (the "Pikal Action"), on behalf of the Company against certain of our current officers and directors. The complaint alleges, among other things, that the defendants breached their fiduciary duties by disseminating false and misleading information to the Company's shareholders relating to the Company's SurgiBot System and its 510(k) application in violation of certain federal securities laws and by failing to ensure that the Company maintained adequate internal controls. The complaint seeks, among other things, unspecified monetary damages and an order directing the Company to take steps to improve its corporate governance and to protect the Company and its stockholders from future wrongdoing such as that alleged in the complaint. On September 29, 2016, the court entered an order staying the Pikal Action pending resolution of the motion to dismiss the Amended Complaint in the *Bankley* Action.

On March 3, 2017, a different stockholder filed another putative class action complaint on behalf of the Company, captioned *Scott Maine vs. Paul LaViolette, et al.*, in the Court of Justice, Superior Court Division, Wake County, North Carolina (case number 17CV002590) (the "Maine Action"). The complaint in the Maine Action is substantially similar to the complaint in the Pikal Action, asserting similar claims and seeking similar relief against largely the same group of defendants named in the complaint in the Pikal Action. On April 11, 2017, the court entered an order staying the Maine Action pending resolution of the motion to dismiss the Amended Complaint in the *Bankley* Action.

19. Subsequent Events

Exercise of Series A and Series B Warrants

As discussed in Note 4 and Note 13, on April 28, 2017, the Company sold 24.9 million Units, each consisting of one share of Common Stock, a Series A Warrant to purchase one share of Common Stock with an exercise price of \$1.00 per share, and a Series B Warrant to purchase 0.75 shares of Common Stock with an exercise price of \$1.00 per share at an offering price of \$1.00 per Unit. Each Series A Warrant could be exercised at any time beginning on the date of issuance, and from time to time thereafter, through October 31, 2017, the accelerated expiration date of the Series A Warrants resulting from receipt of 510(k) clearance for the Company's Senhance Surgical System. As of October 31, 2017, all of the Series A Warrants had been exercised resulting in \$24.9 million in gross proceeds to the Company.

Each Series B Warrant has an initial exercise price of \$1.00 per share and 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. As of October 31, 2017, Series B Warrants representing approximately 8.9 million shares had been exercised resulting in \$8.7 million in gross proceeds to the Company.

19. Subsequent Events (Continued)***Completion of 2017 ATM Offering***

As discussed in Note 15, on August 31, 2017, the Company entered into the 2017 Sales Agreement with Stifel, as sales agent, pursuant to which the Company could sell through Stifel, from time to time, up to \$50.0 million in shares of common stock in an at-the-market offering. The Company pays Stifel a commission of approximately 3% of the aggregate gross proceeds received from all sales of common stock under the 2017 Sales Agreement. Unless otherwise terminated earlier, the 2017 Sales Agreement continues until all shares available under the Sales Agreement have been sold. As of October 31, 2017, the Company completed the sale of all shares available under the 2017 Sales Agreement resulting in gross proceeds of \$50 million and net proceeds to the Company of \$48.5 million.

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 consolidated financial statements and the related notes to our 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. (the "Company," "we" or "us") is a medical device company that is pioneering the use of robotics to improve minimally invasive surgery by addressing the clinical challenges associated with current laparoscopic and robotic options. The Company is focused on the commercialization of its Senhance™ Surgical Robotic System (the "Senhance System"), a multi-port robotic system that brings the advantages of robotic surgery to patients while enabling surgeons with innovative technology such as haptic feedback and eye sensing camera control. The Company also developed the SurgiBot™ System, a single-port, robotically enhanced laparoscopic surgical platform. The Senhance System has been granted a CE Mark in Europe for laparoscopic abdominal and pelvic surgery, as well as limited thoracic operations excluding cardiac and vascular surgery. In April 2017, the Company submitted a 510(k) application to the FDA for the Senhance System. On October 13, 2017, the Company received Section 510(k) clearance from the FDA for use in laparoscopic colorectal and gynecologic surgery. The Senhance System is available for sale in the U.S., the EU and select other countries. The SurgiBot System is not available for sale in any market.

The Senhance System is a multi-port robotic surgery system which allows multiple robotic arms to control instruments and a camera. The system features advanced technology to enable surgeons with haptic feedback and the ability to move the camera via eye movement. The system replicates laparoscopic motion that is familiar to experienced surgeons, and integrates three-dimensional high definition ("3DHD") vision technology. The Senhance System also offers responsible economics to hospitals by offering robotic technology with reusable instruments thereby reducing additional costs per surgery when compared to other robotic solutions.

The SurgiBot System is designed to utilize flexible instruments through articulating channels controlled directly by the surgeon, with robotic assistance, while the surgeon remains patient-side within the sterile field. In June 2015, the Company submitted a 510(k) application to the FDA for the SurgiBot System. On April 19, 2016, the FDA notified the Company that the SurgiBot System did not meet the criteria for substantial equivalence based on the data and information submitted by TransEnterix in the 510(k) submission. After interactions with the FDA, the Company determined that a new 510(k) application would need to be submitted in order to obtain clearance for the SurgiBot System.

In May 2016, the Company implemented a restructuring plan. The restructuring plan resulted in: 1) reducing the Company's workforce; 2) abandoning certain equipment; 3) cancelling certain contracts; 4) writing down inventory related to the SurgiBot System; and 5) writing off certain patents.

We believe that future outcomes of minimally invasive surgery will be enhanced through our combination of more advanced tools and robotic functionality which are designed to: (i) empower surgeons with improved precision, dexterity and visualization; (ii) improve patient satisfaction and enable a desirable post-operative recovery; and (iii) provide a cost-effective robotic system, compared to existing alternatives today, for a potentially wide range of clinical applications. Our strategy is to focus on the development and commercialization of the Senhance System.

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.

Since inception, we have been unprofitable. As of September 30, 2017, we had an accumulated deficit of \$371.5 million.

We expect to continue to invest in research and development and sales and marketing and increase selling, general and administrative expenses as we grow. As a result, we will need to generate significant revenue in order to achieve profitability.

We operate in one business segment.

Recent Events

Debt Refinancing

On May 10, 2017, the Company and its domestic subsidiaries, as co-borrowers, entered into a Loan and Security Agreement (the “Innovatus Loan Agreement”) with Innovatus Life Sciences Lending Fund I, LP, as Lender and Collateral Agent (the “Lender”). Under the Innovatus Loan Agreement, the Lender has agreed to make certain term loans in the aggregate principal amount of up to \$17,000,000. Funding of the first \$14,000,000 tranche occurred on May 10, 2017. The Company will be eligible to draw on the second tranche of \$3,000,000 upon achievement of certain milestones, including Senhance Clearance (as defined below). So long as the Company meets each Interest-Only Milestone (as defined below), the Company is entitled to make interest-only payments for up to twenty-four (24) months. At the end of the interest-only period, the Company will be required to repay the term loans over a two-year period, based on a twenty-four (24) month amortization schedule, with a final maturity date occurring on the fourth anniversary of the initial funding date. However, the interest-only period will end if the Company fails to meet any Interest-Only Milestone. Commencing on the first day of the month following such failure to achieve an Interest-Only Milestone, the Company will be required to repay the term loans over a two year period, based on a twenty-four (24) month amortization schedule. The Interest-Only Milestones require the Company to (i) achieve certain twelve month revenue targets, measured quarterly, commencing with quarter ending March 31, 2018, (ii) meet a minimum capital raising threshold through the sale and issuance of equity securities during the period from April 10, 2017 through May 31, 2018 and (iii) obtain clearance for commercialization of the Senhance System by the U.S. Food and Drug Administration (“Senhance Clearance”) by May 30, 2018 (each such milestone, an “Interest-Only Milestone”). In connection with its entrance into the Innovatus Loan Agreement, the Company repaid its existing credit facility with Silicon Valley Bank and Oxford Finance LLC under the SVB Loan Agreement.

The term loans bear interest at a fixed rate equal to 11% per annum, of which 2.5% can be paid in-kind and added to the outstanding principal amount of the term loans until the earlier of (i) the first anniversary following the funding date and (ii) the Company’s failure to achieve an Interest-Only Milestone. The Company will be required to repay the term loans if they are accelerated following an event of default. In addition, the Company is permitted to prepay the term loans in full at any time upon five (5) business days’ written notice to the Lender. Upon the earliest to occur of the maturity date, acceleration of the term loan, or prepayment of the term loan, the Company is required to make a final payment equal to the total term loan commitment multiplied by four percent (4%) (the “Final Fee”); provided, however, that in the event the Company refinances its obligations with the Lender after Senhance Clearance, no Final Fee or Prepayment Fee (as defined below) will be due thereunder; and provided, further, that if the Company elects to refinance its obligations prior to the funding of the second tranche, the Final Fee with respect to the second tranche shall be paid in full on the date of such refinancing. Any prepayment of the term loans in full, whether mandatory or voluntary, must include (i) the Final Fee, (ii) interest at the default rate (which is the rate otherwise applicable plus five percent (5%)) with respect to any amounts past due, (iii) the Lender’s expenses and all other obligations that are due and payable to the Lender and (iv) a prepayment fee of three percent (3%) if the term loan is paid in full on or before the first anniversary of the effective date, two percent (2%) if paid off after the first anniversary but on or before the second anniversary of the effective date and one percent (1%) if paid off after the second anniversary but on or before the third anniversary of the effective date (the “Prepayment Fee”).

In connection with the funding, the Company paid a facility fee of \$170,000 on the date of funding of the first tranche. In addition, the Company issued warrants to the Lender to purchase shares of the Company’s common stock. Additional warrants will be issued on the funding date of each subsequent tranche and will expire five (5) years from such issue date. The warrant issued in connection with funding of the first tranche entitles the Lender to purchase up to 1,244,746 shares of the Company’s common stock at an exercise price of \$1.00 per share.

The Company’s obligations under the Innovatus Loan Agreement are secured by a security interest in all of the assets of the Company and its current and future domestic and material foreign subsidiaries, including a security interest in the intellectual property. The Innovatus Loan Agreement contains customary representations and covenants that, subject to exceptions, restrict the Company’s ability to do the following things: declare dividends or redeem or repurchase equity interests; incur additional liens; make loans and investments; incur additional indebtedness; 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 are not related to its existing business. Under the terms of the Innovatus Loan Agreement, the Company is required to maintain minimum unrestricted cash in an amount equal to (x) six million dollars (\$6,000,000), at all times prior to Senhance Clearance; and (y) at all times thereafter, the least of (i) \$6,000,000, (ii) the Company’s trailing three (3) months’ cash used to fund operating activities, as determined as of the most recent month end and (iii) the then outstanding principal amount of the term loans, together with accrued but unpaid interest.

Public Offering of Units

On April 28, 2017, we entered into an underwriting agreement (the “Underwriting Agreement”) with Stifel, Nicolaus & Company, Incorporated (the “Underwriter”), relating to an underwritten public offering of an aggregate of 24,900,000 Units, each consisting of one share of the Company’s Common Stock, a Series A Warrant to purchase one share of Common Stock and a Series B Warrant to purchase 0.75 shares of Common Stock at an offering price to the public of \$1.00 per Unit. Certain of the Company’s officers, directors and existing stockholders purchased approximately \$2.5 million of Units in the public offering. The closing of the public offering occurred on May 3, 2017.

Each Series A Warrant has an initial exercise price of \$1.00 per share and may be exercised at any time beginning on the date of issuance, and from time to time thereafter, through and including the first anniversary of the issuance date, unless terminated earlier as provided in the Series A Warrant. Receipt of Section 510(k) clearance for the Senhance System on October 13, 2017, triggered the acceleration of the expiration date of the Series A Warrants to October 31, 2017. As of October 25, 2017, all of the Series A Warrants had been exercised.

Each Series B Warrant has an initial exercise price of \$1.00 per share and 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. As of October 25, 2017, Series B Warrants representing approximately 8.8 million shares had been exercised.

The exercise prices and the number of shares issuable upon exercise of each of the 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 Warrants are subject to adjustment in the event that the Company issues or is deemed to issue shares of Common Stock for less than the then applicable exercise prices of each of the Warrants. The exercisability of the 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 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 Warrant holders. Additionally, in the event of a fundamental transaction, each Warrant holder will have the right to require the Company, or its successor, to repurchase the Warrants for an amount of cash equal to the Black-Scholes value of the remaining unexercised portion of such Warrants.

The Underwriting Agreement contains customary representations, warranties and agreements by the Company, customary conditions to closing, indemnification obligations of the Company and the Underwriters, including for liabilities under the Securities Act of 1933, as amended, other obligations of the parties and termination provisions. The representations, warranties and covenants contained in the Underwriting Agreement were made only for purposes of such agreement and as of specific dates, were solely for the benefit of the parties to such agreement, and may be subject to limitations agreed upon by the contracting parties.

The net proceeds to the Company from the offering were approximately \$23.2 million, prior to any exercise of the Warrants, after deducting underwriting discounts and commissions and estimated offering expenses paid by the Company.

The Units were issued pursuant to a prospectus supplement dated April 28, 2017 and an accompanying base prospectus dated June 22, 2016 that form a part of the registration statement on Form S-3 that the Company filed with the SEC on November 7, 2014 and was declared effective on December 19, 2014 (File No. 333-199998), and post-effectively amended pursuant to Post-Effective Amendment No. 1 on Form S-3, as filed with the SEC on March 8, 2016 and declared effective on June 22, 2016 and a related registration statement filed pursuant to Rule 462(b) promulgated under the Securities Act of 1933.

Lincoln Park Purchase Agreement

On December 16, 2016, we entered into a purchase agreement (the “LPC Purchase Agreement”) with Lincoln Park Capital Fund, LLC, an Illinois limited liability company (“Lincoln Park”), pursuant to which we had the right to sell to Lincoln Park up to an aggregate of \$25,000,000 in shares of our common stock, subject to certain limitations and conditions set forth in the LPC Purchase Agreement.

Effective April 27, 2017, the Company terminated the LPC Purchase Agreement. The LPC Purchase Agreement provided the Company with an election to terminate the Purchase Agreement for any reason or for no reason by delivering a notice to Lincoln Park, and the Company did not incur any early termination penalties in connection with the termination of the LPC Purchase Agreement. Prior to termination, the Company sold shares of its Common Stock to Lincoln Park under the LPC Purchase Agreement for gross proceeds of approximately \$5.7 million.

Controlled Equity Offering

On February 9, 2016, we entered into a Controlled Equity Offering SM Sales Agreement (the “2016 Sales Agreement”) with Cantor Fitzgerald & Co. (“Cantor”) under which we can offer and sell, through Cantor, up to approximately \$43.6 million in shares of common stock in an at-the market offering (the “2016 ATM Offering”). The 2016 Sales Agreement was terminated, effective September 10, 2017. On February 20, 2015, we had entered into a Controlled Equity Offering SM Sales Agreement (the “2015 Sales Agreement”) with Cantor, as sales agent, pursuant to which we offered and sold, through Cantor, \$25.0 million in shares of common stock in an at-the-market offering from February 2015 through February 2016 (the “2015 ATM Offering”). All sales of shares were made pursuant to an effective shelf registration statement on Form S-3 filed with the SEC. We pay Cantor a commission of approximately 3% of the aggregate gross proceeds received from all sales of common stock under the 2015 Sales Agreement and the 2016 Sales Agreement.

On August 31, 2017, we entered into an At-the-Market Equity Offering Sales Agreement (the “2017 Sales Agreement”) with Stifel, Nicolaus & Company, Incorporated (“Stifel”) under which we can offer and sell, through Stifel, up to approximately \$50.0 million in shares of common stock in an at-the-market offering (the “2017 ATM Offering”). All sales of shares were made pursuant to an effective shelf registration statement on Form S-3 filed with the SEC. We pay Stifel a commission of approximately 3% of the aggregate gross proceeds received from all sales of common stock under the 2017 Sales Agreement. As of October 31, 2017, the 2017 ATM Offering was completed.

The following table summarizes the total sales under the 2015 Sales Agreement, 2016 Sales Agreement and 2017 Sales Agreement for the periods indicated (in thousands, except per share amounts):

	2017 Sales Agreement		2016 Sales Agreement		2015 Sales Agreement	
	Nine Months Ended September 30, 2017		Year Ended December 31, 2016		Year Ended December 31, 2015	
Total shares of common stock sold	1,525.1		8,763.4		5,710.2	
Average price per share	\$	1.27	\$	4.70	\$	3.23
Gross proceeds	\$	1,944	\$	41,156	\$	18,454
Commissions earned by Stifel or Cantor	\$	58	\$	1,235	\$	553
Other issuance costs	\$	47	\$	185	\$	—

Senhance Acquisition and Related Transactions

Amendment to Membership Interest Purchase Agreement

On September 21, 2015, the Company announced that it had entered into a Membership Interest Purchase Agreement, dated September 18, 2015 (the “Purchase Agreement”) with Sofar S.p.A., (the “Seller”), Vulcanos S.r.l., as the acquired company, and TransEnterix International, Inc., a wholly owned subsidiary of the Company (the “Buyer”). The closing of the transactions contemplated by the Purchase Agreement occurred on September 21, 2015 (the “Closing Date”) pursuant to which the Buyer acquired all of the membership interests of the acquired company from the Seller, and changed the name of the acquired company to TransEnterix Italia S.r.l (“TransEnterix Italia”). On the Closing Date, pursuant to the Purchase Agreement, the Company completed the strategic acquisition from Sofar S.p.A. 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 (the “Senhance Acquisition”).

Under the terms of the Purchase Agreement, the consideration consisted of the issuance of 15,543,413 shares of the Company’s common stock (the “Securities Consideration”) and approximately \$25,000,000 U.S. Dollars and €27,500,000 Euro in cash consideration (the “Cash Consideration”). The Securities Consideration was issued in full at closing of the acquisition; the Cash Consideration was or will be paid in four tranches, with US \$25,000,000 paid at closing and the remaining Cash Consideration of €27,500,000 to be paid in three additional tranches based on achievement of negotiated milestones. On December 30, 2016, the Company entered into an amendment to restructure the terms of the Second Tranche of the Cash Consideration (the “Amendment”). Under the Amendment, the Second Tranche was restructured to reduce the contingent cash consideration by €5.0 million in exchange for the issuance of 3,722,685 shares of the Company’s common stock with an aggregate fair market value of €5.0 million, which were issued on January 4, 2017. The price per share was \$1.404 and was calculated based on the average of the closing prices of the Company’s common stock on ten consecutive trading days ending one day before the execution of the Amendment.

The issuance of the Securities Consideration was effected as a private placement of securities under Section 4(a)(2) of the Securities Act of 1933, as amended (the “Securities Act”), and Regulation D promulgated thereunder.

The Purchase Agreement contains customary representations and warranties of the parties and the parties have customary indemnification obligations, which are subject to certain limitations described further in the Purchase Agreement.

Registration Rights and Lock-Up Agreements

In connection with the Senhance Acquisition, we also entered into a Registration Rights Agreement, dated as of September 21, 2015, with the Seller, pursuant to which we agreed to register the Securities Consideration shares for resale following the end of the lock-up periods described below. The resale Registration Statement has been filed and is effective.

In connection with the Senhance Acquisition, Sofar entered into a Lock-Up Agreement with us pursuant to which Sofar agreed, subject to certain exceptions, not to sell, transfer or otherwise convey any of the Securities Consideration over a two-year period following the Closing Date. As of September 21, 2017, all of the Securities Consideration was released from the lock-up restrictions and is eligible to be resold under the effective resale registration statement.

Results of Operations

Revenue

Our revenue consisted of product and service revenue resulting from the sale in Europe and Asia of Senhance Systems, instruments and accessories, and related services. We recognize revenue when persuasive evidence of an arrangement exists, delivery has occurred or service has been rendered, the price is fixed or determinable, and collectability is reasonably assured. Amounts billed in excess of the associated revenue recognized are deferred.

We expect to experience some unevenness in the number and trend, and average selling price, of units sold on a quarterly basis given the early stage of commercialization of our products.

Product and service revenue for the three months ended September 30, 2017 decreased to \$0.2 million compared to \$1.5 million for the three months ended September 30, 2016. The \$1.3 million decrease was primarily the result of the revenue recognized on the sale of one Senhance System in the third quarter of 2016.

Product and service revenue for the nine months ended September 30, 2017 increased to \$3.7 million compared to \$1.5 million for the nine months ended September 30, 2016. The \$2.2 million increase was primarily the result of the revenue recognized on the sale of two Senhance Systems during 2017.

Cost of Revenue

Cost of revenue consists primarily of costs related to contract manufacturing, materials, manufacturing overhead and field service costs. We expense all inventory 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.

Cost of revenue for the three months ended September 30, 2017 decreased to \$0.9 million as compared to \$1.0 million for the three months ended September 30, 2016. This \$0.1 million decrease over the prior year period was the result of decreased sales offset by increased costs for manufacturing overhead.

Cost of revenue for the nine months ended September 30, 2017 increased to \$3.2 million as compared to \$1.0 million for the nine months ended September 30, 2016. This \$2.2 million increase over the prior year period was the result of the costs recognized in connection with the sale of two Senhance Systems during 2017 compared to the sale of one Senhance System during 2016 and increased costs for manufacturing overhead.

Research and Development

Research and development (“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 remain consistent or be modestly lower as we continue to transition our investments into commercial activities. R&D expenses are expensed as incurred.

R&D expenses for the three months ended September 30, 2017 decreased 30% to \$4.9 million as compared to \$7.0 million for the three months ended September 30, 2016. The \$2.1 million decrease resulted primarily from decreased contract engineering services, consulting and other outside services of \$2.2 million, decreased depreciation of \$0.4 million and decreased facility costs of \$0.5 million, and decreased other costs of \$0.3 million, offset by increased supplies expense of \$1.2 million.

R&D expenses for the nine months ended September 30, 2017 decreased 23% to \$16.8 million as compared to \$21.8 million for the nine months ended September 30, 2016. The \$5.0 million decrease resulted primarily from the Company’s decision in 2016 to focus our resources solely on advancing the Senhance platform, resulting in decreased contract engineering services, consulting and other outside services of \$2.4 million, decreased personnel related costs of \$1.1 million, decreased facility costs of \$0.8 million and decreased depreciation of \$0.7 million.

Sales and Marketing

Sales and marketing expenses include costs for sales and marketing personnel, travel, demonstration product, market development, physician training, tradeshow, marketing clinical studies and consulting expenses. We expect sales and marketing expenses to increase significantly in 2017 in support of our Senhance System product launch. We cannot assure you that we will meet our anticipated product launch target for the Senhance System in 2017.

Sales and marketing expenses for the three months ended September 30, 2017 increased 73% to \$4.5 million compared to \$2.6 million for the three months ended September 30, 2016. The \$1.9 million increase was primarily related to increased contract sales force costs of \$0.6 million, increased personnel related costs of \$0.5 million, increased travel related expenses of \$0.5 million and increased other costs of \$0.3 million.

Sales and marketing expenses for the nine months ended September 30, 2017 increased 114% to \$12.0 million compared to \$5.6 million for the nine months ended September 30, 2016. The \$6.4 million increase was primarily related to increased personnel related costs of \$2.1 million, increased travel related expenses of \$0.9 million, increased depreciation expense \$0.7 million, increased tradeshow costs of \$0.6 million, increased contract sales force costs of \$0.6 million, increased demonstration product costs of \$0.5 million, increased stock compensation costs of \$0.4 million and increased other costs of \$0.6 million.

General and Administrative

General and administrative expenses consist of personnel costs related to the executive, finance and human resource functions, as well as professional service fees, legal fees, accounting fees, insurance costs, and general corporate expenses. In future periods, we expect general and administrative expenses to increase to support our sales, marketing, and research and development efforts.

General and administrative expenses for the three months ended September 30, 2017 of \$2.9 million were consistent with general and administrative expenses of \$2.8 million for the three months ended September 30, 2016.

General and administrative expenses for the nine months ended September 30, 2017 increased 10% to \$8.7 million compared to \$7.9 million for the nine months ended September 30, 2016. The \$0.8 million increase was primarily due to increased stock compensation costs of \$0.5 million and increased personnel costs of \$0.5 million, offset by decreased other expenses of \$0.2 million.

Amortization of Intangible Assets

Amortization of intangible assets for the three months ended September 30, 2017 increased to \$1.8 million compared to \$1.7 million for the three months ended September 30, 2016. The \$0.1 million increase was primarily the result of the acquisition of patents.

Amortization of intangible assets for the nine months ended September 30, 2017 decreased to \$5.1 million compared to \$5.3 million for the nine months ended September 30, 2016. The \$0.2 million decrease was primarily the result of the write-off of certain patents in May 2016.

Change in Fair Value of Contingent Consideration

The change in fair value of contingent consideration in connection with the Senhance Acquisition was \$0.8 million for the three months ended September 30, 2017 and \$(0.1) million for the three months ended September 30, 2016. The increase of \$0.9 million is primarily related to the effect of the change in discount rate, passage of time on the fair value measurement and the impact of foreign currency exchange rates.

The change in fair value of contingent consideration in connection with the Senhance Acquisition was \$1.2 million for the nine months ended September 30, 2017 and \$1.7 million for the nine months ended September 30, 2016. The decrease of \$0.5 million is primarily related to the change in the discount rate, passage of time on the fair value measurement and the impact of foreign currency exchange rates.

Change in Fair Value of Warrant Liabilities

The change in fair value of Series A Warrants and Series B Warrants issued in April 2017 was \$22.9 million and \$25.2 million for the three and nine months ended September 30, 2017, respectively. The increase was primarily the result of our increased stock price at September 30, 2017.

Inventory write-down related to restructuring

On April 19, 2016, the FDA notified the Company that the SurgiBot System did not meet the criteria for substantial equivalence based on the data submitted in the 510(k) submission. As a result, we reprioritized our near-term regulatory efforts to the 510(k) submission for the Senhance System. Consequently, in May 2016, the Company implemented a restructuring plan. Under this plan, we recorded a \$2.6 million write-down of inventory related to the SurgiBot System during the nine month periods ended September 30, 2016.

Restructuring and other charges

Under the restructuring plan executed in May 2016, we recorded \$3.1 million in restructuring and other charges. The restructuring charges included: (i) \$0.5 million to be paid in cash, of which \$0.4 million related to employee severance costs and \$0.1 million related to cancellation of certain contracts; and (ii) \$2.6 million for other non-cash charges, of which \$1.0 million related to the write-off of long-lived assets for the abandonment of certain equipment and tooling and \$1.6 million related to the write-off of intellectual property for certain patents.

Goodwill impairment

The Company performs an annual impairment test of goodwill at December 31, or more frequently if events or changes in circumstances indicate that the carrying value of our one reporting unit may not be recoverable. During the second quarter of 2016, we were notified by the FDA that the SurgiBot System did not meet the criteria for substantial equivalency, negatively impacting our market capitalization, and warranting an interim two-step quantitative impairment test. Based on the impairment test, we recorded goodwill impairment of \$61.8 million during the second quarter of 2016.

Issuance costs for Warrants

Issuance costs of \$0.6 million were allocated to the Series A Warrants and Series B Warrants issued in April 2017.

Other Expense, Net

Other expense is primarily composed of interest expense on notes payable.

Other expenses for the three months ended September 30, 2017 increased to \$0.7 million compared to \$0.5 million for the three months ended September 30, 2016. The \$0.2 million increase was primarily the result of the loss on the extinguishment of debt and increased interest expense.

Other expense for the nine months ended September 30, 2017 increased to \$1.8 million compared to \$1.4 million for the nine months ended September 30, 2016. The \$0.4 million increase was primarily the result of the loss on the extinguishment of debt and increased interest expense.

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 \$0.7 million and \$1.1 million of income tax benefit for the three months ended September 30, 2017 and 2016, respectively. We recognized \$2.3 million and \$4.7 million of income tax benefit for the nine months ended September 30, 2017 and 2016, respectively. The Company estimates an annual effective tax rate of 4.1% for the year ending December 31, 2017. The primary difference between the estimated rate of 4.1% and the federal statutory rate of 34% is that a full valuation allowance has been recorded related to the net deferred tax assets in the US, Luxembourg, and Swiss jurisdictions, as well as the lower statutory tax rate in Italy. There is no net deferred tax asset recorded in relation to TransEnterix Italia and accordingly no valuation allowance has been recorded in that jurisdiction.

Liquidity and Capital Resources

Sources of Liquidity

Since our inception we have incurred significant losses and, as of September 30, 2017, we had an accumulated deficit of \$371.5 million. We have not yet achieved profitability and we cannot assure investors that we will achieve profitability with our existing capital resources. We expect to continue to fund sales and marketing, research and development and general and administrative expenses at similar to current or higher levels and, as a result, we will need to generate significant revenues to achieve profitability. Our principal sources of cash to date have been proceeds from public offerings of common stock, private placements of common and preferred stock, incurrence of debt and the sale of equity securities held as investments.

As of September 30, 2017, the Company had one effective shelf registration statement on file with the SEC, which registers up to \$150.0 million of debt securities, common stock, preferred stock, or warrants, or any combination thereof for future financing transactions. The shelf registration statement was declared effective by the SEC on May 19, 2017. We have raised \$50.0 million in gross proceeds and approximately \$48.5 in net proceeds under such shelf registration statement through the sale of all the shares available under the 2017 ATM Offering. As of October 31, 2017, we had \$100.0 million available for future financings under such shelf registration statement.

At October 31, 2017, we had cash, cash equivalents and restricted cash of approximately \$100.6 million.

Consolidated Cash Flow Data

(in millions)	Nine Months Ended	
	2017	2016
Net cash (used in) provided by		
Operating activities	\$ (37.5)	\$ (37.3)
Investing activities	(1.9)	(0.9)
Financing activities	36.0	52.7
Effect of exchange rate changes on cash and cash equivalents	(0.3)	(0.1)
Net (decrease) increase in cash, cash equivalents and restricted cash	<u>\$ (3.7)</u>	<u>\$ 14.4</u>

Operating Activities

For the nine months ended September 30, 2017, cash used in operating activities of \$37.5 million consisted of net loss of \$68.6 million and cash used for working capital of \$6.4 million, offset by non-cash items of \$37.5 million. The non-cash items primarily consisted of \$25.2 million change in fair value of warrant liabilities, \$5.3 million of stock-based compensation expense, \$1.8 million of depreciation, \$5.4 million of amortization, \$1.2 million change in fair value of contingent consideration, \$0.6 million of non-employee warrant awards and loss on debt extinguishment of \$0.3 million offset by \$2.3 million deferred income tax benefit. The decrease in cash from changes in working capital included \$1.6 million decrease in accounts payable, \$3.5 million increase in inventories, \$2.5 million increase in other current and long term assets, \$0.9 million decrease in accounts receivable and \$0.2 million increase in accrued expenses.

Investing Activities

For the nine months ended September 30, 2017, net cash used in investing activities was \$1.9 million. This amount reflected the purchases of property and equipment and intellectual property.

Financing Activities

For the nine months ended September 30, 2017, net cash provided by financing activities was \$36.0 million. This amount was primarily related to \$31.5 million in proceeds from the issuance of common stock, net of issuance costs, \$13.0 million in proceeds from the issuance of debt, \$5.4 million proceeds from the exercise of warrants, partially offset by \$13.3 million in payments of debt.

Operating Capital and Capital Expenditure Requirements

We believe that our existing cash and cash equivalents, together with cash received from sales of our products, will be sufficient to meet our anticipated cash needs through at least the next 12 months. We intend to spend substantial amounts on commercial activities, on research and development activities, including product development, regulatory and compliance, clinical studies in support of our future product offerings, the enhancement and protection of our intellectual property, on notes payable payments as they come due, and on contingent consideration payments in connection with the acquisition of the Senhance System. 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 and other funding transactions. 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.

Cash and cash equivalents held by our foreign subsidiaries totaled \$0.8 million at September 30, 2017, including restricted cash. We do not intend or currently foresee a need to repatriate cash and cash equivalents held by our foreign subsidiary. If these funds are needed in the U.S., we believe that the potential U.S. tax impact to repatriate these funds would be immaterial.

Innovatus Loan Agreement

On May 10, 2017, the Company and its domestic subsidiaries, as co-borrowers, entered into the Innovatus Loan Agreement with Innovatus Life Sciences Lending Fund I, LP, as Lender and Collateral Agent. Please see the description of the Innovatus Loan Agreement above in this “Management’s Discussion and Analysis of Financial Condition and Results of Operations-Recent Events-Debt Refinancing.”

SVB Loan Agreement

In connection with its entrance into the Innovatus Loan Agreement on May 10, 2017, the Company repaid its existing credit facility with Silicon Valley Bank and Oxford Finance LLC under the SVB Loan Agreement (the “Prior Lenders”), initially entered into in January 2012, as subsequently amended or amended and restated (collectively, the “SVB Loan Agreement”). A number of the amendments related to the Senhance Acquisition or the growth of our business in non-U.S. jurisdictions. Under the SVB Loan Agreement, our current borrowing capacity was \$20.0 million, all of which was borrowed under term loans. We had periods of interest-only payments during the SVB Loan Agreement, and had been making principal payments since January 2016. The maturity date of the term loans was July 1, 2018.

In connection with the entry into the Innovatus Loan Agreement, we were obligated to pay final payment and facility fees under the SVB Loan Agreement. The final payment fee obligation was \$1.3 million.

Contractual Obligations and Commercial Commitments

The following table summarizes our annual contractual obligations as of September 30, 2017 (in millions):

	Payments due by period				
	Total	Less than 1 year	1 to 3 years	3 to 5 years	Thereafter
Long-term debt obligations (1)	\$ 19.1	\$ 1.8	\$ 13.0	\$ 4.3	\$ —
Operating leases	\$ 1.6	\$ 0.8	\$ 0.5	\$ 0.3	\$ —
License, supply and third party vendor agreements	\$ 15.0	\$ 7.8	\$ 3.0	\$ 1.2	\$ 3.0
Total contractual obligations (2)	<u>\$ 35.7</u>	<u>\$ 10.4</u>	<u>\$ 16.5</u>	<u>\$ 5.8</u>	<u>\$ 3.0</u>

- (1) Long-term debt obligations include principal and interest payments on our notes payable.
- (2) As of December 31, 2016, the contingent consideration that may be paid under the Purchase Agreement with Sofar upon the achievement of milestones is approximately €21.4 million. Due to uncertainty regarding the timing and amount of future payments related to these liabilities, these amounts are excluded from the contractual obligations table above.

Long-term debt obligations include future payments under the Loan Agreement.

Operating lease amounts include future minimum lease payments under all our non-cancelable operating leases with an initial term in excess of one year. We rent office space in North Carolina under an operating lease which expires in 2018, with options to extend the lease through 2021. We also rent space for a warehouse facility in North Carolina which expires in 2018, with options to extend the lease through 2024. In Italy, we rent space for research and development and demonstration facilities under an operating lease which expires in 2022. This table does not include obligations for any lease extensions.

License, supply and third party vendor agreements include agreements assumed as part of the Senhance Acquisition and other third party vendor agreements.

Off-Balance Sheet Arrangements

As of September 30, 2017, 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 the Fiscal 2016 Form 10-K. The preparation of these financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities and expenses, and related disclosure of contingent assets and liabilities. On an on-going basis, we evaluate our critical accounting policies and estimates, including identifiable intangible assets and goodwill, business acquisitions, in-process research and development, contingent consideration, common stock warrants, stock-based compensation, inventory and revenue recognition. 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 the Fiscal 2016 Form 10-K. 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 and Goodwill

Identifiable intangible assets consist of purchased patent rights recorded at cost and developed technology acquired as part of a business acquisition recorded at estimated fair value. Intangible assets are amortized over 7 to 10 years. We periodically evaluate identifiable intangible assets for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable.

Indefinite-lived intangible assets, such as goodwill, are not amortized. We test the carrying amounts of goodwill for recoverability on an annual basis or when events or changes in circumstances indicate evidence of potential impairment exists by performing either a qualitative evaluation or a two-step quantitative test. The qualitative evaluation is an assessment of factors, including industry, market and general economic conditions, market value, and future projections to determine whether it is more likely than not that the fair value of a reporting unit is less than its carrying amount, including goodwill. Prior to the adoption of ASU 2017-04 as of the beginning of fiscal year 2017, we have elected to bypass this qualitative assessment and perform a two-step quantitative test. The quantitative goodwill impairment test was performed using a two-step approach. In the first step, the fair value of the reporting unit was determined and compared to the reporting unit's carrying value, including goodwill. If the fair value of the reporting unit was less than its carrying value, the second step of the goodwill impairment test was performed to measure the amount of impairment, if any. In the second step, the fair value of the reporting unit was allocated to the assets and liabilities of the reporting unit as if it had been acquired in a business combination and the purchase price was equivalent to the fair value of the reporting unit. The excess of the fair value of the reporting unit over the amounts assigned to its assets and liabilities was referred to as the implied fair value of goodwill. The implied fair value of the reporting unit's goodwill was then compared to the actual carrying value of goodwill. If the implied fair value of goodwill was less than the carrying value of goodwill, an impairment loss was recognized for the difference. ASU 2017-04 removes Step 2 of the goodwill impairment test.

During the second quarter of 2016, the FDA notified the Company that the SurgiBot System did not meet the criteria for substantial equivalency, negatively impacting the Company's market capitalization, and warranting an interim two-step quantitative impairment test. We determined the fair value of our reporting unit using a discounted cash flow analysis derived from our long-term plans. The fair value of the reporting unit was corroborated using market prices for TransEnterix, Inc. The inputs used to determine the fair values were classified as Level 3 in the fair value hierarchy. Based on the impairment test, we recorded goodwill impairment of \$61.8 million during the second quarter of 2016. We performed a qualitative assessment during the annual impairment review for fiscal 2016 as of December 31, 2016 and concluded that it is not more likely than not that the fair value of our single reporting unit is less than its carrying amount. Therefore, the two-step goodwill impairment test for the reporting unit was not necessary as of December 31, 2016.

During the second quarter of 2017, our stock price experienced a significant decline and as of June 30, 2017 and we performed a Step 1 goodwill impairment test as of the second quarter. Our analysis included utilizing our market capitalization with a control premium. To determine the appropriate control premium, we considered recent merger and acquisition transaction activity of comparable public healthcare equipment companies. Based on this analysis, we determined a control premium range of approximately 19% to 46%, and selected the mid-range of approximately 32.5%. After applying a 32.5% control premium, our market value exceeded our carrying value by 13%. Based on this analysis, we determined that no charge to goodwill for impairment was required during the second quarter of 2017. No charge for goodwill impairment was required during the third quarter of 2017.

A significant amount of judgment is involved in determining if an indicator of goodwill impairment has occurred. Such indicators may include, among others: a significant decline in expected future cash flows; a sustained, significant decline in the Company's stock price and market capitalization; a significant adverse change in legal factors or in the business climate; adverse assessment or action by a regulator; and unanticipated competition. Key assumptions used in the annual goodwill impairment test are highly judgmental and include: selection of comparable companies and amount of control premium. Any change in these indicators or key assumptions could have a significant negative impact on the Company's financial condition, impact the goodwill impairment analysis or cause the Company to perform a goodwill impairment analysis more frequently than once per year.

In-Process Research and Development

In-process research and development, or IPR&D, assets are considered to be indefinite-lived until the completion or abandonment of the associated research and development projects. IPR&D assets represent the fair value assigned to technologies that we acquire, which at the time of acquisition have not reached technological feasibility and have no alternative future use. During the period that the 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. If and when development is complete, which generally occurs when we have regulatory approval and are able to commercialize products associated with the IPR&D assets, these assets are then deemed definite-lived 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 consideration is recorded as a liability and measured at fair value using a discounted cash flow model utilizing significant unobservable inputs including the probability of achieving each of the potential milestones 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 timelines for 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 fair value of the contingent consideration at each reporting date will be updated by reflecting the changes in fair value in our statement of operations and comprehensive loss .

Warrant Liabilities

For the Series A Warrants and Series B Warrants, the warrant derivatives are recorded as liabilities and are revalued at each reporting period. The change in fair value is 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 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. As the derivative warrant liability is required to be measured at fair value at each reporting date, it is reasonably possible that these estimates and assumptions could change in the near term.

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. We adopted ASU 2016-09, *Compensation – Stock Compensation (Topic 718) – Improvements to Employee Share-Based Payment Accounting* as of the beginning of fiscal year 2017 and did not elect to account for forfeitures when they occur, but will continue to estimate the number of awards that are expected to vest. The adoption of this ASU did not have a material impact on the consolidated financial statements.

Inventory

Inventory, which includes material, labor and overhead costs, is stated at the lower of cost, determined on a first-in, first-out basis, and 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.

Revenue Recognition

Our revenue consists of product revenue resulting from the sales of systems, instruments and accessories, and service revenue. We recognize revenue when persuasive evidence of an arrangement exists, delivery has occurred or service has been rendered, the price is fixed or determinable, and collectability is reasonably assured. Revenue is presented net of taxes collected from customers that are remitted to government authorities. We generally recognize revenue at the following points in time:

- *System sales.* For systems sold directly to end customers, revenue is recognized when acceptance occurs, which is deemed to have occurred upon customer acknowledgment of delivery or installation, depending on the terms of the arrangement. The Senhance Systems are delivered with a software component. However, because the software and non-software elements function together to deliver the system's essential functionality, our arrangements are excluded from being accounted for under software revenue recognition guidance.
- *Instruments and accessories.* Revenue from sales of instruments and accessories is generally recognized at the time of shipment. Revenue from services related to the supply and management of instruments and accessories is recognized as the services are rendered.
- *Service.* Service revenue is recognized ratably over the term of the service period. Revenue related to services performed on a time-and-materials basis is recognized when it is earned and billable.

Our system sale arrangements contain multiple elements including a system(s), instruments, accessories, and system service. We generally deliver all of the elements, other than service, within days of entering into the system sale arrangement. Each of these elements is a separate unit of accounting. System instruments, accessories and service are also sold on a stand-alone basis.

For multiple-element arrangements, revenue is allocated to each unit of accounting based on their relative selling prices. Relative selling prices are based first on vendor specific objective evidence of fair value (“VSOE”), then on third-party evidence of selling price (“TPE”) when VSOE does not exist, and then on management's best estimate of the selling price (“BESP”) when VSOE and TPE do not exist.

Our system sale arrangements generally include a one-year period of free service, and the right for the customer to purchase service annually thereafter. The revenue allocated to the free service period is deferred and recognized ratably over the free service period. Deferred revenue was primarily comprised of deferred revenue related to service contracts for the periods presented.

Because we have neither VSOE nor TPE for our systems, the allocation of revenue is based on BESP for the systems sold. The objective of BESP is to determine the price at which we would transact a sale, had the product been sold on a stand-alone basis. We determine BESP for our systems by considering multiple factors, including, but not limited to, features and functionality of the system, geographies, type of customer, and market conditions. We regularly review BESP and maintain internal controls over establishing and updating these estimates.

Recent Accounting Pronouncements

See “Note 2. Summary of Significant Accounting Policies” of the Notes to Consolidated Financial Statements in the Company’s Annual Report on Form 10-K for the year ended December 31, 2016, filed by the Company with the SEC on March 6, 2017 as well as the notes to the consolidated financial statements above, for a full description of recent accounting pronouncements including the respective expected dates of adoption and effects on Consolidated Balance Sheets and Consolidated Statements of Operations and Comprehensive Loss.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

General

We have limited exposure to market risks from instruments that may impact the Balance Sheets, Statements of Operations and Comprehensive Loss, and Statements of Cash Flows. Such exposure is due primarily to changing interest rates and foreign currency exchange rates.

Interest Rates

The primary objective for our investment activities is to preserve principal while maximizing yields without significantly increasing risk. This is accomplished by investing excess cash in money market funds and Treasury securities. As of September 30, 2017, approximately 100% of the investment portfolio was in cash equivalents with very short term maturities and therefore not subject to any significant interest rate fluctuations.

Foreign Currency Exchange Rate Risk

We conduct operations in several different countries, including the U.S. and throughout Europe, and portions of our revenues, expenses, assets and liabilities are denominated in U.S. dollars or other currencies, including Euros. Since our consolidated financial statements are presented in U.S. dollars, we must translate revenues, income and expenses, as well as assets and liabilities, into U.S. dollars at exchange rates in effect during or at the end of each reporting period. We have not historically hedged our exposure to foreign currency fluctuations. Accordingly, increases or decreases in the value of the U.S. dollar against the other currencies could materially affect our net operating revenues, operating income and the value of balance sheet items denominated in foreign currencies.

During the nine months ended September 30, 2017, 100% of our revenue and approximately 43% of our expenses were denominated in currencies other than the U.S. dollar, most notably the Euro. Based on actual results over the past year, a hypothetical 10% increase or decrease in the U.S. dollar against the Euro would have increased or decreased revenue by approximately \$0.4 million and operating expenses by approximately \$1.7 million.

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, 2017. 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 Chief Financial Officer concluded that, as of September 30, 2017, our disclosure controls and procedures were effective at the reasonable assurance level.

Changes in Internal Control Over Financial Reporting

There were no changes in the Company's internal control over financial reporting during the last quarter that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1 Legal Proceedings

Please see the description in Note 18 – Commitments and Contingencies of the Notes to Consolidated Financial Statements, for a description of on-going legal proceedings. Based on the stage of such proceedings, we have determined that the amount of any possible loss or range of possible loss in connection with these on-going matters is not reasonably estimable.

Item 1A Risk Factors.

Reference is made to the Risk Factors included in our Fiscal 2016 Form 10-K, which are supplemented and updated by the following risk factors.

We are currently highly dependent on the commercial success of a single product, the Senhance System. We cannot give any assurance that the Senhance System can be successfully commercialized.

We are currently highly dependent on the commercial success of the Senhance System, which is CE marked and recently FDA cleared. We began our selling efforts for the Senhance System in the fourth quarter of 2015 in Europe and we have had limited commercial success to date. We recently began to establish our commercial infrastructure in the U.S. We cannot assure you that we will be able to successfully commercialize the Senhance System, for a number of reasons, including, without limitation, failure in our sales and marketing efforts, the long sales cycle associated with the purchase of a piece of capital equipment, such as the Senhance System, or the potential introduction by our competitors of more clinically effective or cost-effective alternatives. Failure to successfully commercialize the Senhance System would have a material and adverse effect on our business.

The sales cycle for the Senhance System is lengthy and unpredictable, which will make it difficult for us to forecast revenue and increase the magnitude of quarterly fluctuations in our operating results.

Purchase of a surgical robotic system such as the Senhance System represents a capital purchase by hospitals and other potential customers. The capital purchase nature of the transaction, the complexity of our product, the relative newness of surgical robotics and the competitive landscape requires us to spend substantial time and effort to assist potential customers in evaluating our robotic systems. We must communicate with multiple surgeons, administrative staff and executives within each potential customer in order to receive all approvals on behalf of such organizations. We may face difficulty identifying and establishing contact with such decision makers. Even after initial acceptance, the negotiation and documentation processes can be lengthy. Additionally, our customers may have strict limitations on spending given the current economic climate. We expect our sales cycle to range between six and twelve months, or longer. Any delay in completing sales in a particular quarter could cause our operating results to fall below expectations. We also expect such a lengthy sales cycle makes it more difficult for us to accurately forecast revenue in future periods and may cause revenues and operating results to vary significantly in future periods.

Although we have recently expanded our commercial organization, we currently have limited marketing, sales and distribution capabilities. We intend to distribute our products through direct sales and independent contractor and distribution agreements with

companies possessing established sales and marketing operations in the medical device industry, but there can be no assurance that we will be successful in building our sales capabilities. To the extent that we enter into distribution, co-promotion or other arrangements, our product revenue is likely to be lower than if we directly market or sell our products. In addition, any revenue we receive will depend in whole or in part upon the efforts of such third parties, which may not be successful and are generally not within our control. If we are unable to enter into such arrangements on acceptable terms or at all, we may not be able to successfully commercialize our products. If we are not successful in commercializing our existing and future products, either on our own or through collaborations with one or more third parties, our future product revenue will suffer and we may incur significant additional losses.

We will need to ensure that we have procedures in place to require our distributors and sales agents to comply with applicable laws and regulations governing the sales of medical devices in the jurisdictions where they operate. Failure to meet such requirements could subject us to financial penalties or the suspension or termination of the ability to sell our products in such jurisdiction.

We issued 24,900,000 Series A Warrants and 24,900,000 Series B Warrants in May 2017, which must be revalued each reporting period. In addition, we owe contingent consideration to Sofar under the Senhance Acquisition agreement that is also revalued each reporting period. Such assessments involve the use of estimates that could later be found to differ materially from actual results, which could have an adverse effect on our financial condition.

On April 28, 2017, we sold 24.9 million units, each consisting of one share of common stock, a Series A warrant to purchase one share of common stock, and a Series B warrant to purchase 0.75 shares of common stock, at a public offering price of \$1.00 per unit for aggregate gross proceeds of \$24.9 million in an underwritten firm commitment public offering. The outstanding Series B Warrants contain provisions, often referred to as “down-round protection” that may lead to adjustment of the exercise price and number of underlying warrant shares with respect to future issuances by the Company of its securities, including its common stock or convertible securities or debt securities. In addition, two tranches of the contingent consideration to be paid to Sofar under the Senhance Acquisition agreement remain outstanding, to be paid if the designated milestones are met.

The Series B Warrants and the contingent consideration are each recorded as a liability on our financial statements, and we are required to revalue each of the Warrants and the contingent consideration at each reporting period. Such revaluations necessarily involve the use of estimates, assumptions, probabilities and application of complex accounting principles. Actual value at the time the Warrants are exercised or the contingent consideration paid could vary significantly from the value assigned to such liabilities on a quarterly basis. We cannot assure you that the revaluation of the Warrants and contingent consideration will equal the value in the future, and know that the actual value could be significantly different, which could have a material adverse effect on our financial condition.

The exercise of our outstanding options and warrants will dilute shareholders and could decrease our stock price.

The existence of our outstanding options and warrants, including the outstanding Series B Warrants, may adversely affect our stock price due to sales of a large number of shares or the perception that such sales could occur. These factors also could make it more difficult to raise funds through future offerings of common stock or warrants, and could adversely impact the terms under which we could obtain additional equity capital. Exercise of outstanding options and warrants, or any future issuance of additional shares of common stock or other equity securities, including but not limited to options, warrants or other derivative securities convertible into our common stock, may result in significant dilution to our stockholders and may decrease our stock price.

You may experience future dilution as a result of future equity offerings or other equity issuances.

In order to raise additional capital, we may in the future offer and issue additional shares of our common stock or other securities convertible into or exchangeable for our common stock. We have an effective shelf registration statement under which we have the current ability to raise up to \$100 million through the issuance of equity or debt securities. We cannot assure you that we will be able to sell shares or other securities in any offering at a price per share that is equal to or greater than the price per share paid by investors in previous offerings, and investors purchasing shares or other securities in the future could have rights superior to existing stockholders. The price per share at which we sell additional shares of our common stock or other securities convertible into or exchangeable for our common stock in future transactions may be higher or lower than the price per share in previous offerings.

The outstanding Series B Warrants contain provisions, often referred to as “down-round protection” that may lead to adjustment of the exercise price and number of underlying warrant shares with respect to future issuances by the Company of its securities, including its common stock or convertible securities or debt securities. Any such adjustment could further impact the dilution from future offerings of our securities.

In addition, we have a significant number of stock options outstanding. To the extent that outstanding stock options have been or may be exercised or other shares issued, you may experience further dilution. Further, we may choose to raise additional capital due to market conditions or strategic considerations, even if we believe we have sufficient funds for our current or future operating plans.

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

On September 7, 2017, the Board of Directors approved the issuance of common stock warrants to purchase 950,000 shares to a service provider to the Company. The issuance of the foregoing securities were exempt from the registration requirements of the Securities Act of 1933, as amended (the "Securities Act") afforded by Section 3(a)(9) or 4(a)(2) thereof and Regulation D promulgated thereunder, which exception we believe is available because the securities were not offered pursuant to a general solicitation and such issuances were otherwise made in compliance with the requirements of Regulation D and Rule 506. The securities issued in this transaction may not be resold except pursuant to an effective registration statement filed under the Securities Act or pursuant to a valid exemption from the registration requirements of the Securities Act.

Item 3 Defaults Upon Senior Securities.

None.

Item 4 Mine Safety Disclosures.

Not applicable.

Item 5 Other Information.

None.

Item 6. Exhibits.

Exhibit No.	Description
4.4*	Form of Service Warrant to purchase common stock for warrants issued to third party vendor*
10.5*	Amended and Restated Incentive Compensation Plan, as amended and restated effective July 2, 2017
10.6	At-the-Market Equity Offering Sales Agreement, dated August 31, 2017, by and between the Company and Stifel, Nicolaus & Company, Incorporated (incorporated by reference to Exhibit 1.1 to the Company's Current report on Form 8-K filed with the SEC on August 31, 2017)
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	XBRL Instance Document*
101.SCH	XBRL Taxonomy Extension Schema Document*
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document*
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document*
101.LAB	XBRL Taxonomy Extension Label Linkbase Document*
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document*

* Filed or furnished herewith.

SIGNATURES

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

Date: November 9, 2017

TransEnterix, Inc.

By: /s/ Todd M. Pope
Todd M. Pope
President and Chief Executive Officer

Date: November 9, 2017

By: /s/ Joseph P. Slattery
Joseph P. Slattery
Executive Vice President and Chief Financial Officer

THIS WARRANT AND THE SHARES ISSUABLE HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “**ACT**”), OR THE SECURITIES LAWS OF ANY STATE AND, EXCEPT AS SET FORTH IN SECTION 5.3 BELOW, MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED UNLESS AND UNTIL REGISTERED UNDER SAID ACT AND LAWS OR, IN THE OPINION OF LEGAL COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER, SUCH OFFER, SALE, PLEDGE OR OTHER TRANSFER IS EXEMPT FROM SUCH REGISTRATION.

WARRANT TO PURCHASE COMMON STOCK

Company: TransEnterix, Inc., a Delaware corporation

Number of Shares: 950,000, subject to adjustment as provided herein

Type/Series of Stock: Common Stock

Exercise Price: \$1.00 per share

Issue Date: September 12, 2017

Expiration Date: September 12, 2027 **See also Section 5.1(b).**

Services Agreement: This Warrant to Purchase Common Stock (this “**Warrant**”) is issued in connection with that certain Services Agreement dated September 12, 2017 between _____ and the Company (as amended and/or modified and in effect from time to time, the “**Agreement**”).

THIS WARRANT CERTIFIES THAT, for good and valuable consideration, _____ (“_____” and, together with any successor or permitted assignee or transferee of this Warrant or of any shares issued upon exercise hereof, “**Holder**”) is entitled to purchase up to such number of fully paid and non-assessable shares (the “**Shares**”) of the Common Stock, par value \$0.001 per share (the “**Common Stock**”) of TRANSENERIX, INC. (the “**Company**”), at the above-stated Exercise Price, all as set forth above and as adjusted pursuant to Section 2 of this Warrant, subject to the provisions and upon the terms and conditions set forth in this Warrant.

SECTION 1. EXERCISE.

1.1 Vesting. This Warrant shall vest as follows: (a) twenty-five percent (25%) on the date of execution of the Agreement; (b) fifty percent (50%) upon completion of hiring of the Sales Team (as defined in the Agreement); and (c) the remaining twenty-five percent (25%) upon achieving cumulative Products (as defined in the Agreement) revenue of \$15 million; provided, however, that if the Company terminates the Agreement for any reason other than a breach by the Holder, or there is a Change in Control (as defined in the Agreement) of the Company any unvested portion of this Warrant will accelerate and vest to the date of such termination or Change in Control.

1.2 Method of Exercise. Holder may at any time and from time to time exercise this Warrant, in whole or in part, by delivering to the Company the original of this Warrant together with a duly executed Notice of Exercise in substantially the form attached hereto as Appendix 1 and, unless Holder is exercising this Warrant pursuant to a cashless exercise set forth in Section 1.2, a check, wire transfer of same-day funds (to an account designated by the Company), or other form of payment acceptable to the Company for the aggregate Exercise Price for the Shares being purchased.

1.3 Cashless Exercise. On any exercise of this Warrant, in lieu of payment of the aggregate Exercise Price in the manner as specified in Section 1.1 above, but otherwise in accordance with the requirements of Section 1.1, Holder may elect to receive Shares equal to the value of this Warrant, or portion hereof as to which this Warrant is being exercised. Thereupon, the Company shall issue to the Holder such number of fully paid and non-assessable Shares as are computed using the following formula:

$$X = Y(A-B)/A$$

where:

- X = the number of Shares to be issued to the Holder;
- Y = the number of Shares with respect to which this Warrant is being exercised (inclusive of the Shares surrendered to the Company in payment of the aggregate Exercise Price);
- A = the Fair Market Value (as determined pursuant to Section 1.3 below) of one Share; and
- B = the Exercise Price.

1.4 Fair Market Value. If the Common Stock is then traded or quoted on a nationally recognized securities exchange, inter-dealer quotation system or over-the-counter market (a “**Trading Market**”), the fair market value of a Share shall be the closing price or last sale price of a share of Common Stock reported for the Business Day immediately before the date on which Holder delivers this Warrant together with its Notice of Exercise to the Company. If the Company’s Common Stock is not traded in a Trading Market, the Board of Directors of the Company shall determine the fair market value of a Share in its reasonable good faith judgment.

1.5 Delivery of Certificate and New Warrant. Within a reasonable time after Holder exercises this Warrant in the manner set forth in Section 1.1 or 1.2 above, the Company shall issue the Shares by electronic delivery or deliver to Holder a certificate representing the Shares issued to Holder upon such exercise and, if this Warrant has not been fully exercised and has not expired, a new warrant of like tenor representing the Shares not so acquired.

1.6 Replacement of Warrant. On receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and, in the case of loss, theft or destruction, on delivery of an indemnity agreement reasonably satisfactory in form, substance and amount to the Company or, in the case of mutilation, on surrender of this Warrant to the Company for cancellation, the Company shall, within a reasonable time, execute and deliver to Holder, in lieu of this Warrant, a new warrant of like tenor and amount.

1.7 Treatment of Warrant Upon Acquisition of Company.

(a) Acquisition. For the purpose of this Warrant, “**Acquisition**” means any transaction or series of related transactions involving: (i) the sale, lease, exclusive license, or other disposition of all or substantially all of the assets of the Company (ii) any merger or consolidation of the Company into or with another person or entity (other than a merger or consolidation effected exclusively to change the Company’s domicile), or any other corporate reorganization, in which the stockholders of the Company in their capacity as such immediately prior to such merger, consolidation or reorganization, own less than a majority of the Company’s (or the surviving or successor entity’s) outstanding voting power immediately after such merger, consolidation or reorganization (or, if such Company stockholders beneficially own a majority of the outstanding voting power of the surviving or successor entity as of immediately after such merger, consolidation or reorganization, such surviving or successor entity is not the Company); or (iii) any sale or other transfer by the stockholders of the Company of shares representing at least a majority of the Company’s then-total outstanding combined voting power. “**Acquisition**” shall not include any transaction the primary purpose of which is a bona fide equity financing of the Company.

(b) Treatment of Warrant at Acquisition. In the event of an Acquisition in which the consideration to be received by the Company's stockholders consists solely of cash, solely of Marketable Securities or a combination of cash and Marketable Securities (a "**Cash/Public Acquisition**"), either (i) Holder shall exercise this Warrant pursuant to Section 1.1 and/or 1.2 and such exercise will be deemed effective immediately prior to and contingent upon the consummation of such Acquisition or (ii) if Holder elects not to exercise the Warrant, this Warrant will expire immediately prior to the consummation of such Acquisition.

(c) The Company shall provide Holder with written notice of its request relating to the Cash/Public Acquisition (together with such reasonable information as Holder may reasonably require regarding the treatment of this Warrant in connection with such contemplated Cash/Public Acquisition giving rise to such notice), which is to be delivered to Holder not less than five (5) Business Days prior to the closing of the proposed Cash/Public Acquisition. In the event the Company does not provide such notice, then if, immediately prior to the Cash/Public Acquisition, the fair market value of one Share (or other security issuable upon the exercise hereof) as determined in accordance with Section 1.3 above would be greater than the Exercise Price in effect on such date, then this Warrant shall automatically be deemed on and as of such date to be exercised pursuant to Section 1.2 above as to all Shares (or such other securities) for which it shall not previously have been exercised, and the Company shall promptly notify the Holder of the number of Shares (or such other securities) issued upon such exercise to the Holder and Holder shall be deemed to have restated each of the representations and warranties in Section 4 of the Warrant as the date thereof.

(d) Upon the closing of any Acquisition other than a Cash/Public Acquisition as defined above, the surviving or successor entity shall assume this Warrant and the obligations of the Company hereunder, and this Warrant shall, from and after such closing, be exercisable for the same class, number and kind of securities, cash and other property as would have been paid for or in respect of the Shares issuable (as of immediately prior to such closing) upon exercise in full hereof as if such Shares had been issued and outstanding on and as of such closing, at an aggregate Exercise Price equal to the aggregate Exercise Price in effect as of immediately prior to such closing; and subject to further adjustment thereafter from time to time in accordance with the provisions of this Warrant.

(e) As used in this Warrant, "**Marketable Securities**" means securities meeting all of the following requirements: (i) the issuer thereof is then subject to the reporting requirements of Section 13 or Section 15(d) of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), and is then current in its filing of all required reports and other information under the Act and the Exchange Act; (ii) the class and series of shares or other security of the issuer that would be received by Holder in connection with the Acquisition were Holder to exercise this Warrant on or prior to the closing thereof is then traded in Trading Market, and (iii) Holder would be able to publicly re-sell, within six (6) months and one day following the closing of such Acquisition, all of the issuer's shares and/or other securities that would be received by Holder in such Acquisition were Holder to exercise this Warrant in full on or prior to the closing of such Acquisition.

SECTION 2. ADJUSTMENTS TO THE SHARES AND WARRANT PRICE.

2.1 Stock Dividends, Splits, Etc. If the Company declares or pays a dividend or distribution on the outstanding shares of the Common Stock payable in Common Stock or other securities or property (other than cash), then upon exercise of this Warrant, for each Share acquired, Holder shall receive, without additional cost to Holder, the total number and kind of securities and property which Holder would have received had Holder owned the Shares of record as of the date the dividend or distribution occurred. If the Company subdivides the outstanding shares of the Common Stock by reclassification or otherwise into a greater number of shares, the number of Shares purchasable hereunder shall be proportionately increased and the Exercise Price shall be proportionately decreased. If the outstanding shares of the Common Stock are combined or consolidated, by reclassification or otherwise, into a lesser number of shares, the Exercise Price shall be proportionately increased and the number of Shares shall be proportionately decreased.

2.2 Reclassification, Exchange, Combinations or Substitution. Upon any event whereby all of the outstanding shares of the Common Stock are reclassified, exchanged, combined, substituted, or replaced for, into, with or by Company securities of a different class and/or series, then from and after the consummation of such event, this Warrant will be exercisable for the number, class and series of Company securities that Holder would

have received had the Shares been outstanding on and as of the consummation of such event, and subject to further adjustment thereafter from time to time in accordance with the provisions of this Warrant. The provisions of this Section 2.2 shall similarly apply to successive reclassifications, exchanges, combinations substitutions, replacements or other similar events.

2.3 No Fractional Share. No fractional Share shall be issuable upon exercise of this Warrant and the number of Shares to be issued shall be rounded down to the nearest whole Share. If a fractional Share interest arises upon any exercise of the Warrant, the Company shall eliminate such fractional Share interest by paying Holder in cash the amount computed by multiplying the fractional interest by (i) the fair market value (as determined in accordance with Section 1.3 above) of a full Share, less (ii) the then-effective Exercise Price.

2.4 Notice/Certificate as to Adjustments. Upon each adjustment of the Exercise Price, Common Stock and/or number of Shares, the Company, at the Company's expense, shall notify Holder in writing within a reasonable time setting forth the adjustments to the Exercise Price, Common Stock and/or number of Shares and facts upon which such adjustment is based. The Company shall, upon written request from Holder, furnish Holder with a certificate of its Chief Financial Officer, including computations of such adjustment and the Exercise Price, Common Stock and number of Shares in effect upon the date of such adjustment.

SECTION 3. REPRESENTATIONS AND COVENANTS OF THE COMPANY.

3.1 Representations and Warranties. The Company represents and warrants to, and agrees with, the Holder as follows that all Shares which may be issued upon the exercise of this Warrant, and all securities, if any, issuable upon conversion of the Shares, shall, upon issuance, be duly authorized, validly issued, fully paid and non-assessable, and free of any liens and encumbrances except for restrictions on transfer provided for herein or under applicable federal and state securities laws. The Company covenants that it shall at all times cause to be reserved and kept available out of its authorized and unissued capital stock such number of shares of the Common Stock and other securities as will be sufficient to permit the exercise in full of this Warrant and the conversion of the Shares into Common Stock or such other securities.

3.2 Notice of Certain Events. If the Company proposes at any time to:

(a) declare any dividend or distribution upon the outstanding shares of the Common Stock, whether in cash, property, stock, or other securities and whether or not a regular cash dividend;

(b) offer for subscription or sale pro rata to the holders of the outstanding shares of the Common Stock any additional shares of any class or series of the Company's stock (other than pursuant to contractual pre-emptive rights);

(c) effect any reclassification, exchange, combination, substitution, reorganization or recapitalization of the outstanding shares of the Common Stock; or

(d) effect an Acquisition or to liquidate, dissolve or wind up.

then, in connection with each such event, the Company shall give Holder:

(1) in the case of the matters referred to in (a) and (b) above, at least five (5) Business Days prior written notice of the earlier to occur of the effective date thereof or the date on which a record will be taken for such dividend, distribution, or subscription rights (and specifying the date on which the holders of outstanding shares of the Common Stock will be entitled thereto) or for determining rights to vote, if any; and

(2) in the case of the matters referred to in (c) and (d) above at least five (5) Business Days prior written notice of the date when the same will take place (and specifying the date on which the holders of outstanding shares of the Common Stock will be entitled to exchange their shares for the securities or other property deliverable upon the occurrence of such event).

Reference is made to Section 1.6(c) whereby this Warrant will be deemed to be exercised pursuant to Section 1.2 hereof if the Company does not give written notice to Holder of a Cash/Public Acquisition as required by the terms hereof. Company will also provide information requested by Holder that is reasonably necessary to enable Holder to comply with Holder's accounting or reporting requirements.

SECTION 4. REPRESENTATIONS, WARRANTIES OF THE HOLDER.

The Holder represents and warrants to the Company as follows:

4.1 Purchase for Own Account. This Warrant and the securities to be acquired upon exercise of this Warrant by Holder are being acquired for investment for Holder's account, not as a nominee or agent, and not with a view to the public resale or distribution within the meaning of the Act. Holder also represents that it has not been formed for the specific purpose of acquiring this Warrant or the Shares.

4.2 Disclosure of Information. Holder is aware of the Company's business affairs and financial condition and has received or has had full access to all the information it considers necessary or appropriate to make an informed investment decision with respect to the acquisition of this Warrant and its underlying securities. Holder further has had an opportunity to ask questions and receive answers from the Company regarding the terms and conditions of the offering of this Warrant and its underlying securities and to obtain additional information (to the extent the Company possessed such information or could acquire it without unreasonable effort or expense) necessary to verify any information furnished to Holder or to which Holder has access.

4.3 Investment Experience. Holder understands that the purchase of this Warrant and its underlying securities involves substantial risk. Holder has experience as an investor in securities of companies in the development stage and acknowledges that Holder can bear the economic risk of such Holder's investment in this Warrant and its underlying securities and has such knowledge and experience in financial or business matters that Holder is capable of evaluating the merits and risks of its investment in this Warrant and its underlying securities and/or has a preexisting personal or business relationship with the Company and certain of its officers, directors or controlling persons of a nature and duration that enables Holder to be aware of the character, business acumen and financial circumstances of such persons.

4.4 Accredited Investor Status. Holder is an "accredited investor" within the meaning of Regulation D promulgated under the Act.

4.5 The Act. Holder understands that this Warrant and the Shares issuable upon exercise hereof have not been registered under the Act in reliance upon a specific exemption therefrom, which exemption depends upon, among other things, the bona fide nature of the Holder's investment intent as expressed herein. Holder understands that this Warrant and the Shares issued upon any exercise hereof must be held indefinitely unless subsequently registered under the Act and qualified under applicable state securities laws, or unless exemption from such registration and qualification are otherwise available. Holder is aware of the provisions of Rule 144 promulgated under the Act.

4.6 No Rights as a Stockholder. Without limiting any provision of this Warrant, Holder agrees that it will not have any rights as a stockholder of the Company until the exercise of this Warrant.

SECTION 5. MISCELLANEOUS.

5.1 Term; Automatic Cashless Exercise Upon Expiration.

(a) Term. Subject to the provisions of Section 1.6 above, this Warrant is exercisable in whole or in part at any time and from time to time on or before 6:00 PM, Eastern time, on the Expiration Date and shall be void thereafter.

(b) Automatic Cashless Exercise upon Expiration. In the event that, upon the Expiration Date, the fair market value of one Share (or other security issuable upon the exercise hereof) as determined in accordance with Section 1.3 above is greater than the Exercise Price in effect on such date, then this Warrant shall automatically be deemed on and as of such date to be exercised pursuant to Section 1.2 above as to all Shares (or such other securities) for which it shall not previously have been exercised, and the Company shall, within a reasonable time, deliver a certificate representing the Shares (or such other securities) issued upon such exercise to Holder.

5.2 Legends. Each certificate evidencing Shares (and each certificate evidencing securities issued upon conversion of any Shares, if any) shall be imprinted with a legend in substantially the following form:

THE SHARES EVIDENCED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “**ACT**”), OR THE SECURITIES LAWS OF ANY STATE AND, EXCEPT AS SET FORTH IN THAT CERTAIN WARRANT TO PURCHASE STOCK ISSUED BY THE ISSUER TO _____ DATED SEPTEMBER 12, 2017, MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED UNLESS AND UNTIL REGISTERED UNDER SAID ACT AND LAWS OR, IN THE OPINION OF LEGAL COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER, SUCH OFFER, SALE, PLEDGE OR OTHER TRANSFER IS EXEMPT FROM SUCH REGISTRATION.

5.3 Compliance with Securities Laws on Transfer. This Warrant and the Shares issued upon exercise of this Warrant (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) may not be transferred or assigned in whole or in part except in compliance with applicable federal and state securities laws by the transferor and the transferee (including, without limitation, the delivery of investment representation letters and legal opinions reasonably satisfactory to the Company, as reasonably requested by the Company). The Company shall not require Holder to provide an opinion of counsel if the transfer is to an affiliate of Holder, provided that any such transferee is an “accredited investor” as defined in Regulation D promulgated under the Act. Additionally, the Company shall also not require an opinion of counsel if there is no material question as to the availability of Rule 144 promulgated under the Act.

5.4 Notices. All notices and other communications hereunder from the Company to the Holder, or vice versa, shall be deemed delivered and effective (i) when given personally, (ii) on the third (3rd) Business Day after being mailed by first-class registered or certified mail, postage prepaid, (iii) upon actual receipt if given by facsimile or electronic mail and such receipt is confirmed in writing by the recipient, or (iv) on the first Business Day following delivery to a reliable overnight courier service, courier fee prepaid, in any case at such address as may have been furnished to the Company or Holder, as the case may be, in writing by the Company or such Holder from time to time in accordance with the provisions of this Section 5.4. All notices to Holder shall be addressed as follows until the Company receives notice of a change of address in connection with a transfer or otherwise:

With a copy (which shall not constitute notice) to:

Ballard Spahr LLP
Attn: Mary Mullany
1735 Market Street, 51st Floor
Philadelphia, PA 19103-7599
Telephone: (215) 864-8631
Facsimile: (215) 864-8999
Email: mullany@ballardspahr.com

Notice to the Company shall be addressed as follows until Holder receives notice of a change in address:

TransEnterix, Inc.
Attn: Chief Financial Officer
635 Davis Drive, Suite 300
Morrisville, NC 27560
Telephone: (919) 765-8400
Facsimile: (919) 765-8459
Email. jslattery@transenterix.com

With a copy (which shall not constitute notice) to:

TransEnterix, Inc.
Attn: Chief Legal Officer
635 Davis Drive, Suite 300
Morrisville, NC 27560
Telephone: (305) 575-4602
Facsimile:
Email. jweingard@transenterix.com

Ballard Spahr LLP
Attn: Mary Mullany
1735 Market Street, 51st Floor
Philadelphia, PA 19103-7599
Telephone: (215) 864-8631
Facsimile: (215) 864-8999
Email: mullany@ballardspahr.com

5.5 Waiver. This Warrant and any term hereof may be changed, waived, discharged or terminated (either generally or in a particular instance and either retroactively or prospectively) only by an instrument in writing signed by the party against which enforcement of such change, waiver, discharge or termination is sought.

5.6 Attorneys' Fees. In the event of any dispute between the parties concerning the terms and provisions of this Warrant, the party prevailing in such dispute shall be entitled to collect from the other party all costs incurred in such dispute, including reasonable attorneys' fees.

5.7 Counterparts; Facsimile/Electronic Signatures. This Warrant may be executed in counterparts, all of which together shall constitute one and the same agreement. Any signature page delivered electronically or by facsimile shall be binding to the same extent as an original signature page with regards to any agreement subject to the terms hereof or any amendment thereto.

5.8 Governing Law. This Warrant shall be governed by and construed in accordance with the laws of the State of Delaware, without giving effect to its principles regarding conflicts of law.

5.9 Headings. The headings in this Warrant are for purposes of reference only and shall not limit or otherwise affect the meaning of any provision of this Warrant.

5.10 Business Days. “ **Business Day** ” is any day that is not a Saturday, Sunday or a day on which banks are closed in North Carolina.

[Remainder of page left blank intentionally]
[Signature page follows]

IN WITNESS WHEREOF, the parties have caused this Warrant to Purchase Common Stock to be executed by their duly authorized representatives effective as of the Issue Date written above.

“COMPANY”

TRANSENERIX, INC.

By: _____
Name: Todd M. Pope
Title: President and Chief Executive Officer

“HOLDER”

By: _____
Name: _____
Title: _____

APPENDIX 1

NOTICE OF EXERCISE

1. The undersigned Holder hereby exercises its right to purchase _____ shares of the Common Stock of TRANSENTERIX, INC. (the “**Company**”) in accordance with the attached Warrant To Purchase Stock, and tenders payment of the aggregate Exercise Price for such shares as follows:

- check in the amount of \$_____ payable to order of the Company enclosed herewith
- Wire transfer of immediately available funds to the Company’s account
- Cashless Exercise pursuant to Section 1.2 of the Warrant
- Other [Describe] _____

2. Please issue a certificate or certificates representing the Shares in the name specified below:

Holder’s Name

(Address)

3. By its execution below and for the benefit of the Company, Holder hereby restates each of the representations and warranties in Section 4 of the Warrant to Purchase Common Stock as of the date hereof.

HOLDER:

By: _____

Name: _____

Title: _____

(Date): _____

TRANSENERIX, INC.
AMENDED AND RESTATED
INCENTIVE COMPENSATION PLAN, AS AMENDED

DMEAST #23834550 v3

TRANSENERIX, INC.
AMENDED AND RESTATED
INCENTIVE COMPENSATION PLAN

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TRANSENERIX, INC.
AMENDED AND RESTATED
INCENTIVE COMPENSATION PLAN

1. Purpose. The purpose of this AMENDED AND RESTATED INCENTIVE COMPENSATION PLAN (the “Plan”) is to assist TRANSENERIX, INC., a Delaware corporation (the “Company”) and its Related Entities (as hereinafter defined) in attracting, motivating, retaining and rewarding high-quality executives and other employees, officers, directors, consultants and other persons who provide services to the Company or its Related Entities by enabling such persons to acquire or increase a proprietary interest in the Company in order to strengthen the mutuality of interests between such persons and the Company’s shareholders, and providing such persons with performance incentives to expend their maximum efforts in the creation of shareholder value.

2. Definitions. For purposes of the Plan, the following terms shall be defined as set forth below, in addition to such terms defined in Section 1 hereof and elsewhere herein.

(a) “**Award**” means any Option, Stock Appreciation Right, Restricted Stock Award, Deferred Stock Award, Share granted as a bonus or in lieu of another Award, Dividend Equivalent, Other Stock-Based Award or Performance Award, together with any other right or interest, granted to a Participant under the Plan.

(b) “**Award Agreement**” means any written agreement, contract or other instrument or document evidencing any Award granted by the Committee hereunder.

(c) “**Beneficiary**” and “**Beneficial Ownership**” means the person, persons, trust or trusts that have been designated by a Participant in his or her most recent written beneficiary designation filed with the Committee to receive the benefits specified under the Plan upon such Participant’s death or to which Awards or other rights are transferred if and to the extent permitted under Section 10(b) hereof. If, upon a Participant’s death, there is no designated Beneficiary or surviving designated Beneficiary, then the term Beneficiary means the person, persons, trust or trusts entitled by will or the laws of descent and distribution to receive such benefits.

(d) “**Beneficial Owner**” shall have the meaning ascribed to such term in Rule 13d-3 under the Exchange Act and any successor to such Rule.

(e) “**Board**” means the Company’s Board of Directors.

(f) “**Cause**” shall, with respect to any Participant, have the meaning specified in the Award Agreement. In the absence of any definition in the Award Agreement, “Cause” shall have the equivalent meaning or the same meaning as “cause” or “for cause” set forth in any employment, consulting, or other agreement for the performance of services between the Participant and the Company or a Related Entity or, in the absence of any such agreement or any such definition in such agreement, such term shall mean (i) the failure by the Participant to perform, in a reasonable manner, his or her duties as assigned by the Company or a Related Entity, (ii) any violation or breach by the Participant of his or her employment, consulting or other similar agreement with the Company or a Related Entity, if any, (iii) any violation or breach by the Participant of any non-competition, non-solicitation, non-disclosure and/or other

similar agreement with the Company or a Related Entity, (iv) any act by the Participant of dishonesty or bad faith with respect to the Company or a Related Entity, (v) use of alcohol, drugs or other similar substances in a manner that adversely affects the Participant's work performance, or (vi) the commission by the Participant of any act, misdemeanor, or crime reflecting unfavorably upon the Participant or the Company or any Related Entity. The good faith determination by the Committee of whether the Participant's Continuous Service was terminated by the Company for "Cause" shall be final and binding for all purposes hereunder.

(g) "**Change in Control**" means a Change in Control as defined in Section 9(b) of the Plan.

(h) "**Code**" means the Internal Revenue Code of 1986, as amended from time to time, including regulations thereunder and successor provisions and regulations thereto.

(i) "**Committee**" means a committee designated by the Board to administer the Plan; provided, however, that if the Board fails to designate a committee or if there are no longer any members on the committee so designated by the Board, then the Board shall serve as the Committee. The Committee shall consist of at least two directors, and each member of the Committee shall be (i) a "non-employee director" within the meaning of Rule 16b-3 (or any successor rule) under the Exchange Act, unless administration of the Plan by "non-employee directors" is not then required in order for exemptions under Rule 16b-3 to apply to transactions under the Plan, (ii) an "outside director" within the meaning of Section 162(m) of the Code, and (iii) "Independent."

(j) "**Consultant**" means any person (other than an Employee or a Director, solely with respect to rendering services in such person's capacity as a director) who is engaged by the Company or any Related Entity to render consulting or advisory services to the Company or such Related Entity.

(k) "**Continuous Service**" means the uninterrupted provision of services to the Company or any Related Entity in any capacity of Employee, Director, Consultant or other service provider. Continuous Service shall not be considered to be interrupted in the case of (i) any approved leave of absence, (ii) transfers among the Company, any Related Entities, or any successor entities, in any capacity of Employee, Director, Consultant or other service provider, or (iii) any change in status as long as the individual remains in the service of the Company or a Related Entity in any capacity of Employee, Director, Consultant or other service provider (except as otherwise provided in the Award Agreement). An approved leave of absence shall include sick leave, military leave, or any other authorized personal leave.

(l) "**Covered Employee**" means the Person who, as of the end of the taxable year, either is the principal executive officer of the Company or is serving as the acting principal executive officer of the Company, and each other Person whose compensation is required to be disclosed in the Company's filings with the Securities and Exchange Commission by reason of that person being among the three highest compensated officers of the Company as of the end of a taxable year, or such other person as shall be considered a "covered employee" for purposes of Section 162(m) of the Code.

(m) “ **Deferred Stock** ” means a right to receive Shares, including Restricted Stock, cash measured based upon the value of Shares or a combination thereof, at the end of a specified deferral period.

(n) “ **Deferred Stock Award** ” means an Award of Deferred Stock granted to a Participant under Section 6(e) hereof.

(o) “ **Director** ” means a member of the Board or the board of directors of any Related Entity.

(p) “ **Disability** ” means a permanent and total disability (within the meaning of Section 22(e) of the Code), as determined by a medical doctor satisfactory to the Committee.

(q) “ **Dividend Equivalent** ” means a right, granted to a Participant under Section 6(g) hereof, to receive cash, Shares, other Awards or other property equal in value to dividends paid with respect to a specified number of Shares, or other periodic payments.

(r) “ **Effective Date** ” means the effective date of the Plan, which shall be the Shareholder Approval Date.

(s) “ **Eligible Person** ” means each officer, Director, Employee, Consultant and other person who provides services to the Company or any Related Entity. The foregoing notwithstanding, only employees of the Company, or any parent corporation or subsidiary corporation of the Company (as those terms are defined in Sections 424(e) and (f) of the Code, respectively), shall be Eligible Persons for purposes of receiving any Incentive Stock Options. An Employee on leave of absence may be considered as still in the employ of the Company or a Related Entity for purposes of eligibility for participation in the Plan.

(t) “ **Employee** ” means any person, including an officer or Director, who is an employee of the Company or any Related Entity. The payment of a director’s fee by the Company or a Related Entity shall not be sufficient to constitute “employment” by the Company.

(u) “ **Exchange Act** ” means the Securities Exchange Act of 1934, as amended from time to time, including rules thereunder and successor provisions and rules thereto.

(v) “ **Fair Market Value** ” means the fair market value of Shares, Awards or other property as determined by the Committee, or under procedures established by the Committee. Unless otherwise determined by the Committee, the Fair Market Value of a Share as of any given date shall be the closing sale price per Share reported on a consolidated basis for stock listed on the principal stock exchange or market on which Shares are traded on the date as of which such value is being determined or, if there is no sale on that date, then on the last previous day on which a sale was reported.

(w) “ **Good Reason** ” shall, with respect to any Participant, have the meaning specified in the Award Agreement. In the absence of any definition in the Award Agreement, “Good Reason” shall have the equivalent meaning or the same meaning as “good reason” or “for good reason” set forth in any employment, consulting or other agreement for the performance of services between the Participant and the Company or a Related Entity or, in the absence of any such agreement or any such definition in such agreement, such term shall mean (i) the

assignment to the Participant of any duties inconsistent in any material respect with the Participant's duties or responsibilities as assigned by the Company or a Related Entity, or any other action by the Company or a Related Entity which results in a material diminution in such duties or responsibilities, excluding for this purpose an isolated, insubstantial and inadvertent action not taken in bad faith and which is remedied by the Company or a Related Entity promptly after receipt of notice thereof given by the Participant or (ii) any material failure by the Company or a Related Entity to comply with its obligations to the Participant as agreed upon, other than an isolated, insubstantial and inadvertent failure not occurring in bad faith and which is remedied by the Company or a Related Entity promptly after receipt of notice thereof given by the Participant; or (iii) the Company's or Related Entity's requiring the Participant to be based at any office or location outside of fifty miles from the location of employment or service as of the date of Award, except for travel reasonably required in the performance of the Participant's responsibilities.

(x) "**Incentive Stock Option**" means any Option intended to be designated as an incentive stock option within the meaning of Section 422 of the Code or any successor provision thereto.

(y) "**Independent**", when referring to either the Board or members of the Committee, shall have the same meaning as used in the rules of NYSE MKT or any national securities exchange on which any securities of the Company are listed for trading, and if not listed for trading, by the rules of NYSE MKT.

(z) "**Incumbent Board**" means the Incumbent Board as defined in Section 9(b)(ii) of the Plan.

(aa) "**Option**" means a right granted to a Participant under Section 6(b) hereof, to purchase Shares or other Awards at a specified price during specified time periods.

(bb) "**Optionee**" means a person to whom an Option is granted under this Plan or any person who succeeds to the rights of such person under this Plan.

(cc) "**Other Stock-Based Awards**" means Awards granted to a Participant under Section 6(i) hereof.

(dd) "**Participant**" means a person who has been granted an Award under the Plan which remains outstanding, including a person who is no longer an Eligible Person.

(ee) "**Performance Award**" shall mean any Award of Performance Shares or Performance Units granted pursuant to Section 6(h).

(ff) "**Performance Period**" means that period established by the Committee at the time any Performance Award is granted or at any time thereafter during which any performance goals specified by the Committee with respect to such Award are to be measured.

(gg) “ **Performance Share** ” means any grant pursuant to Section 6(h) of a unit valued by reference to a designated number of Shares, which value may be paid to the Participant by delivery of such property as the Committee shall determine, including cash, Shares, other property, or any combination thereof, upon achievement of such performance goals during the Performance Period as the Committee shall establish at the time of such grant or thereafter.

(hh) “ **Performance Unit** ” means any grant pursuant to Section 6(h) of a unit valued by reference to a designated amount of property (including cash) other than Shares, which value may be paid to the Participant by delivery of such property as the Committee shall determine, including cash, Shares, other property, or any combination thereof, upon achievement of such performance goals during the Performance Period as the Committee shall establish at the time of such grant or thereafter.

(ii) “ **Person** ” shall have the meaning ascribed to such term in Section 3(a)(9) of the Exchange Act and used in Sections 13(d) and 14(d) thereof, and shall include a “group” as defined in Section 13(d) thereof.

(jj) “ **Related Entity** ” means any Subsidiary, and any business, corporation, partnership, limited liability company or other entity designated by the Board, in which the Company or a Subsidiary holds a substantial ownership interest, directly or indirectly.

(kk) “ **Restricted Stock** ” means any Share issued with the restriction that the holder may not sell, transfer, pledge or assign such Share and with such risks of forfeiture and other restrictions as the Committee, in its sole discretion, may impose (including any restriction on the right to vote such Share and the right to receive any dividends), which restrictions may lapse separately or in combination at such time or times, in installments or otherwise, as the Committee may deem appropriate.

(ll) “ **Restricted Stock Award** ” means an Award granted to a Participant under Section 6(d) hereof.

(mm) “ **Rule 16b-3** ” means Rule 16b-3, as from time to time in effect and applicable to the Plan and Participants, promulgated by the Securities and Exchange Commission under Section 16 of the Exchange Act.

(nn) “ **Shareholder Approval Date** ” means May 7, 2015, the date of the Company’s 2015 Annual Meeting on which this Plan was approved by stockholders of the Company eligible to vote in the election of directors, by a vote sufficient to meet the requirements of Code Sections 162(m) (if applicable) and 422, Rule 16b-3 under the Exchange Act (if applicable), applicable requirements under the rules of any stock exchange or automated quotation system on which the Shares may be listed or quoted, and other laws, regulations and obligations of the Company applicable to the Plan.

(oo) “ **Shares** ” means the shares of common stock of the Company, par value \$0.01 per share, and such other securities as may be substituted (or resubstituted) for Shares pursuant to Section 10(c) hereof.

(pp) “ **Stock Appreciation Right** ” means a right granted to a Participant under Section 6(c) hereof.

(qq) “ **Subsidiary** ” means any corporation or other entity in which the Company has a direct or indirect ownership interest of 50% or more of the total combined voting power of the then outstanding securities or interests of such corporation or other entity entitled to vote generally in the election of directors or in which the Company has the right to receive 50% or more of the distribution of profits or 50% or more of the assets on liquidation or dissolution.

(rr) “ **Substitute Awards** ” means Awards granted or Shares issued by the Company in assumption of, or in substitution or exchange for, Awards previously granted, or the right or obligation to make future Awards, by a company acquired by the Company or any Related Entity or with which the Company or any Related Entity combines.

3. Administration.

(a) **Authority of the Committee** . The Plan shall be administered by the Committee, except to the extent the Board elects to administer the Plan, in which case the Plan shall be administered by only those directors who are Independent Directors, in which case references herein to the “Committee” shall be deemed to include references to the Independent members of the Board. The Committee shall have full and final authority, subject to and consistent with the provisions of the Plan, to select Eligible Persons to become Participants, grant Awards, determine the type, number and other terms and conditions of, and all other matters relating to, Awards, prescribe Award Agreements (which need not be identical for each Participant) and rules and regulations for the administration of the Plan, construe and interpret the Plan and Award Agreements and correct defects, supply omissions or reconcile inconsistencies therein, and to make all other decisions and determinations as the Committee may deem necessary or advisable for the administration of the Plan. In exercising any discretion granted to the Committee under the Plan or pursuant to any Award, the Committee shall not be required to follow past practices, act in a manner consistent with past practices, or treat any Eligible Person or Participant in a manner consistent with the treatment of other Eligible Persons or Participants.

(b) **Manner of Exercise of Committee Authority** . The Committee, and not the Board, shall exercise sole and exclusive discretion on any matter relating to a Participant then subject to Section 16 of the Exchange Act with respect to the Company to the extent necessary in order that transactions by such Participant shall be exempt under Rule 16b-3 under the Exchange Act. Any action of the Committee shall be final, conclusive and binding on all persons, including the Company, its Related Entities, Eligible Persons, Participants, Beneficiaries, transferees under Section 10(b) hereof or other persons claiming rights from or through a Participant, and shareholders. The express grant of any specific power to the Committee, and the taking of any action by the Committee, shall not be construed as limiting any power or authority of the Committee. The Committee may delegate to officers or managers of the Company or any Related Entity, or committees thereof, the authority, subject to such terms as the Committee shall determine, to perform such functions, including administrative functions as the Committee may determine to the extent that such delegation will not result in the loss of an exemption under Rule 16b-3(d)(1) for Awards granted to Participants subject to Section 16 of the Exchange Act in respect of the Company and will not cause Awards intended to qualify as “performance-based compensation” under Code Section 162(m) to fail to so qualify. The Committee may appoint agents to assist it in administering the Plan.

(c) **Limitation of Liability** . The Committee and the Board, and each member thereof, shall be entitled to, in good faith, rely or act upon any report or other information furnished to him or her by any officer or Employee, the Company's independent auditors, Consultants or any other agents assisting in the administration of the Plan. Members of the Committee and the Board, and any officer or Employee acting at the direction or on behalf of the Committee or the Board, shall not be personally liable for any action or determination taken or made in good faith with respect to the Plan, and shall, to the extent permitted by law, be fully indemnified and protected by the Company with respect to any such action or determination.

4. Shares Subject to Plan.

(a) **Limitation on Overall Number of Shares Available for Delivery Under Plan** . Subject to adjustment as provided in Section 10(c) hereof, the total number of Shares reserved and available for delivery under the Plan shall be 25,940,000. Any Shares that are subject to Awards shall be counted against this limit as one (1) Share for every one (1) Share granted. Any Shares delivered under the Plan may consist, in whole or in part, of authorized and unissued shares or treasury shares.

(b) **Application of Limitation to Grants of Award** . No Award may be granted if the number of Shares to be delivered in connection with such an Award or, in the case of an Award relating to Shares but settled only in cash (such as cash-only Stock Appreciation Rights), the number of Shares to which such Award relates, exceeds the number of Shares remaining available for delivery under the Plan, minus the number of Shares deliverable in settlement of or relating to then outstanding Awards. The Committee may adopt reasonable counting procedures to ensure appropriate counting, avoid double counting (as, for example, in the case of tandem or substitute awards) and make adjustments if the number of Shares actually delivered differs from the number of Shares previously counted in connection with an Award.

(c) **Availability of Shares Not Delivered under Awards and Adjustments to Limits** .

(i) If any Shares subject to an Award are forfeited, expire or otherwise terminate without issuance of such Shares, or any Award is settled for cash or otherwise does not result in the issuance of all or a portion of the Shares subject to such Award, the Shares shall, to the extent of such forfeiture, expiration, termination, cash settlement or non-issuance, again be available for Awards under the Plan, subject to Section 4(c)(v).

(ii) In the event that any Option or other Award granted hereunder is exercised through the tendering of Shares (either actually or by attestation) or by the withholding of Shares by the Company, or withholding tax liabilities arising from such option or other award are satisfied by the tendering of Shares (either actually or by attestation) or by the withholding of Shares by the Company, then only the number of Shares issued net of the Shares tendered or withheld shall be counted for purposes of determining the maximum number of Shares available for grant under the Plan.

(iii) Substitute Awards shall not reduce the Shares authorized for grant under the Plan or authorized for grant to a Participant in any period. Additionally, in the event that a company acquired by the Company or any Related Entity or with which the Company or any Related Entity combines has shares available under a pre-existing plan approved by shareholders and not adopted in contemplation of such acquisition or combination, the shares available for delivery pursuant to the terms of such pre-existing plan (as adjusted, to the extent appropriate, using the exchange ratio or other adjustment or valuation ratio or formula used in such acquisition or combination to determine the consideration payable to the holders of common stock of the entities party to such acquisition or combination) may be used for Awards under the Plan and shall not reduce the Shares authorized for delivery under the Plan; provided that Awards using such available shares shall not be made after the date awards or grants could have been made under the terms of the pre-existing plan, absent the acquisition or combination, and shall only be made to individuals who were not Employees or Directors prior to such acquisition or combination.

(iv) Any Share that again becomes available for delivery pursuant to this Section 4(c) shall be added back as one (1) Share under the Plan.

(v) Notwithstanding anything in this Section 4(c) to the contrary but subject to adjustment as provided in Section 10(c) hereof, the maximum aggregate number of Shares that may be issued under the Plan as a result of the exercise of the Incentive Stock Options shall be 25,940,000 shares.

5. Eligibility; Per-Person Award Limitations

. Awards may be granted under the Plan only to Eligible Persons. In any fiscal year of the Company during any part of which the Plan is in effect, no Participant may be granted (i) Options or Stock Appreciation Rights with respect to more than 1,000,000 Shares or (ii) Restricted Stock, Deferred Stock, Performance Shares and/or Other Stock-Based Awards with respect to more than 2,000,000 Shares, subject to adjustment as provided in Section 10(c) (the “Adjustment”), provided, however, that the Adjustment will be limited to not less than 1,000,000 Shares for Options or Stock Appreciation Rights and not less than 2,000,000 for Restricted Stock, Deferred Stock, Performance Shares and/or Other Stock-Based Awards. In addition, the maximum dollar value payable to any one Participant with respect to Performance Units is (x) two million dollars (\$2,000,000) with respect to any 12 month Performance Period (pro-rated for any Performance Period that is less than 12 months based upon the ratio of the number of days in the Performance Period as compared to 365), and (y) with respect to any Performance Period that is more than 12 months, two million dollars (\$2,000,000) multiplied by the number of full 12 months periods that are in the Performance Period.

6. Specific Terms of Awards.

(a) **General** . Awards may be granted on the terms and conditions set forth in this Section 6. In addition, the Committee may impose on any Award or the exercise thereof, at the date of grant or thereafter (subject to Section 10(e)), such additional terms and conditions, not inconsistent with the provisions of the Plan, as the Committee shall determine, including terms requiring forfeiture of Awards in the event of termination of the Participant’s Continuous Service and terms permitting a Participant to make elections relating to his or her Award. The

Committee shall retain full power and discretion to accelerate, waive or modify, at any time, any term or condition of an Award that is not mandatory under the Plan. Except in cases in which the Committee is authorized to require other forms of consideration under the Plan, or to the extent other forms of consideration must be paid to satisfy the requirements of Delaware law, no consideration other than services may be required for the grant (as opposed to the exercise) of any Award.

(b) **Options** . The Committee is authorized to grant Options to any Eligible Person on the following terms and conditions:

(i) **Exercise Price** . Other than in connection with Substitute Awards, the exercise price per Share purchasable under an Option shall be determined by the Committee, provided that such exercise price shall not be less than 100% of the Fair Market Value of a Share on the date of grant of the Option and shall not, in any event, be less than the par value of a Share on the date of grant of the Option. If an Employee owns or is deemed to own (by reason of the attribution rules applicable under Section 424(d) of the Code) more than 10% of the combined voting power of all classes of stock of the Company (or any parent corporation or subsidiary corporation of the Company, as those terms are defined in Sections 424(e) and (f) of the Code, respectively) and an Incentive Stock Option is granted to such employee, the exercise price of such Incentive Stock Option (to the extent required by the Code at the time of grant) shall be no less than 110% of the Fair Market Value of a Share on the date such Incentive Stock Option is granted.

(ii) **Time and Method of Exercise** . The Committee shall determine the time or times at which or the circumstances under which an Option may be exercised in whole or in part (including based on achievement of performance goals and/or future service requirements), the time or times at which Options shall cease to be or become exercisable following termination of Continuous Service or upon other conditions, the methods by which the exercise price may be paid or deemed to be paid (including in the discretion of the Committee a cashless exercise procedure), the form of such payment, including, without limitation, cash, Shares (including without limitation the withholding of Shares otherwise deliverable pursuant to the Award), other Awards or awards granted under other plans of the Company or a Related Entity, or other property (including notes or other contractual obligations of Participants to make payment on a deferred basis provided that such deferred payments are not in violation of the Sarbanes-Oxley Act of 2002, or any rule or regulation adopted thereunder or any other applicable law), and the methods by or forms in which Shares will be delivered or deemed to be delivered to Participants.

(iii) **Incentive Stock Options** . The terms of any Incentive Stock Option granted under the Plan shall comply in all respects with the provisions of Section 422 of the Code. Anything in the Plan to the contrary notwithstanding, no term of the Plan relating to Incentive Stock Options (including any Stock Appreciation Right issued in tandem therewith) shall be interpreted, amended or altered, nor shall any discretion or authority granted under the Plan be exercised, so as to disqualify either the Plan or any Incentive Stock Option under Section 422 of the Code, unless the Participant has first requested, or consents to, the change that will result in such disqualification. Thus, if and to the extent required to comply with Section 422 of the Code, Options granted as Incentive Stock Options shall be subject to the following special terms and conditions:

(A) the Option shall not be exercisable for more than ten years after the date such Incentive Stock Option is granted; provided, however, that if a Participant owns or is deemed to own (by reason of the attribution rules of Section 424(d) of the Code) more than 10% of the combined voting power of all classes of stock of the Company (or any parent corporation or subsidiary corporation of the Company, as those terms are defined in Sections 424(e) and (f) of the Code, respectively) and the Incentive Stock Option is granted to such Participant, the term of the Incentive Stock Option shall be (to the extent required by the Code at the time of the grant) for no more than five years from the date of grant; and

(B) The aggregate Fair Market Value (determined as of the date the Incentive Stock Option is granted) of the Shares with respect to which Incentive Stock Options granted under the Plan and all other option plans of the Company (and any parent corporation or subsidiary corporation of the Company, as those terms are defined in Sections 424(e) and (f) of the Code, respectively) that become exercisable for the first time by the Participant during any calendar year shall not (to the extent required by the Code at the time of the grant) exceed \$100,000.

(c) **Stock Appreciation Rights** . The Committee may grant Stock Appreciation Rights to any Eligible Person in conjunction with all or part of any Option granted under the Plan or at any subsequent time during the term of such Option (a “Tandem Stock Appreciation Right”), or without regard to any Option (a “Freestanding Stock Appreciation Right”), in each case upon such terms and conditions as the Committee may establish in its sole discretion, not inconsistent with the provisions of the Plan, including the following:

(i) **Right to Payment** . A Stock Appreciation Right shall confer on the Participant to whom it is granted a right to receive, upon exercise thereof, the excess of (A) the Fair Market Value of one Share on the date of exercise over (B) the grant price of the Stock Appreciation Right as determined by the Committee. The grant price of a Stock Appreciation Right shall not be less than 100% of the Fair Market Value of a Share on the date of grant, in the case of a Freestanding Stock Appreciation Right, or less than the associated Option exercise price, in the case of a Tandem Stock Appreciation Right.

(ii) **Other Terms** . The Committee shall determine at the date of grant or thereafter, the time or times at which and the circumstances under which a Stock Appreciation Right may be exercised in whole or in part (including based on achievement of performance goals and/or future service requirements), the time or times at which Stock Appreciation Rights

shall cease to be or become exercisable following termination of Continuous Service or upon other conditions, the method of exercise, method of settlement, form of consideration payable in settlement, method by or forms in which Shares will be delivered or deemed to be delivered to Participants, whether or not a Stock Appreciation Right shall be in tandem or in combination with any other Award, and any other terms and conditions of any Stock Appreciation Right.

(iii) **Tandem Stock Appreciation Rights** . Any Tandem Stock Appreciation Right may be granted at the same time as the related Option is granted or, for Options that are not Incentive Stock Options, at any time thereafter before exercise or expiration of such Option. Any Tandem Stock Appreciation Right related to an Option may be exercised only when the related Option would be exercisable and the Fair Market Value of the Shares subject to the related Option exceeds the exercise price at which Shares can be acquired pursuant to the Option. In addition, if a Tandem Stock Appreciation Right exists with respect to less than the full number of Shares covered by a related Option, then an exercise or termination of such Option shall not reduce the number of Shares to which the Tandem Stock Appreciation Right applies until the number of Shares then exercisable under such Option equals the number of Shares to which the Tandem Stock Appreciation Right applies. Any Option related to a Tandem Stock Appreciation Right shall no longer be exercisable to the extent the Tandem Stock Appreciation Right has been exercised, and any Tandem Stock Appreciation Right shall no longer be exercisable to the extent the related Option has been exercised.

(d) **Restricted Stock Awards** . The Committee is authorized to grant Restricted Stock Awards to any Eligible Person on the following terms and conditions:

(i) **Grant and Restrictions** . Restricted Stock Awards shall be subject to such restrictions on transferability, risk of forfeiture and other restrictions, if any, as the Committee may impose, or as otherwise provided in this Plan, covering a period of time specified by the Committee (the "Restriction Period"). The terms of any Restricted Stock Award granted under the Plan shall be set forth in a written Award Agreement which shall contain provisions determined by the Committee and not inconsistent with the Plan. The restrictions may lapse separately or in combination at such times, under such circumstances (including based on achievement of performance goals and/or future service requirements), in such installments or otherwise, as the Committee may determine at the date of grant or thereafter. Except to the extent restricted under the terms of the Plan and any Award Agreement relating to a Restricted Stock Award, a Participant granted Restricted Stock shall have all of the rights of a shareholder, including the right to vote the Restricted Stock and the right to receive dividends thereon (subject to any mandatory reinvestment or other requirement imposed by the Committee). During the Restriction Period, subject to Section 10(b) below, the Restricted Stock may not be sold, transferred, pledged, hypothecated, margined or otherwise encumbered by the Participant.

(ii) **Forfeiture** . Except as otherwise determined by the Committee, upon termination of a Participant's Continuous Service during the applicable Restriction Period, the Participant's Restricted Stock that is at that time subject to a risk of forfeiture that has not lapsed or otherwise been satisfied shall be forfeited and reacquired by the Company; provided that the Committee may provide, by rule or regulation or in any Award Agreement, or may determine in any individual case, that forfeiture conditions relating to Restricted Stock Awards shall be waived in whole or in part in the event of terminations resulting from specified causes.

(iii) **Certificates for Stock** . Restricted Stock granted under the Plan may be evidenced in such manner as the Committee shall determine. If certificates representing Restricted Stock are registered in the name of the Participant, the Committee may require that such certificates bear an appropriate legend referring to the terms, conditions and restrictions applicable to such Restricted Stock, that the Company retain physical possession of the certificates, and that the Participant deliver a stock power to the Company, endorsed in blank, relating to the Restricted Stock.

(iv) **Dividends and Splits** . As a condition to the grant of a Restricted Stock Award, the Committee may require or permit a Participant to elect that any cash dividends paid on a Share of Restricted Stock be automatically reinvested in additional Shares of Restricted Stock or applied to the purchase of additional Awards under the Plan. Unless otherwise determined by the Committee, Shares distributed in connection with a stock split or stock dividend, and other property distributed as a dividend, shall be subject to restrictions and a risk of forfeiture to the same extent as the Restricted Stock with respect to which such Shares or other property have been distributed.

(e) **Deferred Stock Award** . The Committee is authorized to grant Deferred Stock Awards to any Eligible Person on the following terms and conditions:

(i) **Award and Restrictions** . Satisfaction of a Deferred Stock Award shall occur upon expiration of the deferral period specified for such Deferred Stock Award by the Committee (or, if permitted by the Committee, as elected by the Participant). In addition, a Deferred Stock Award shall be subject to such restrictions (which may include a risk of forfeiture) as the Committee may impose, if any, which restrictions may lapse at the expiration of the deferral period or at earlier specified times (including based on achievement of performance goals and/or future service requirements), separately or in combination, in installments or otherwise, as the Committee may determine. A Deferred Stock Award may be satisfied by delivery of Shares, cash equal to the Fair Market Value of the specified number of Shares covered by the Deferred Stock, or a combination thereof, as determined by the Committee at the date of grant or thereafter. Prior to satisfaction of a Deferred Stock Award, a Deferred Stock Award carries no voting or dividend or other rights associated with Share ownership.

(ii) **Forfeiture** . Except as otherwise determined by the Committee, upon termination of a Participant's Continuous Service during the applicable deferral period or portion thereof to which forfeiture conditions apply (as provided in the Award Agreement evidencing the Deferred Stock Award), the Participant's Deferred Stock Award that is at that time subject to a risk of forfeiture that has not lapsed or otherwise been satisfied shall be forfeited; provided that the Committee may provide, by rule or regulation or in any Award Agreement, or may determine in any individual case, that forfeiture conditions relating to a Deferred Stock Award shall be waived in whole or in part in the event of terminations resulting from specified causes, and the Committee may in other cases waive in whole or in part the forfeiture of any Deferred Stock Award.

(iii) **Dividend Equivalents** . Unless otherwise determined by the Committee at date of grant, any Dividend Equivalents that are granted with respect to any Deferred Stock Award shall be either (A) paid with respect to such Deferred Stock Award at the dividend payment date in cash or in Shares of unrestricted stock having a Fair Market Value equal to the amount of such dividends, or (B) deferred with respect to such Deferred Stock Award and the amount or value thereof automatically deemed reinvested in additional Deferred Stock, other Awards or other investment vehicles, as the Committee shall determine or permit the Participant to elect.

(f) **Bonus Stock and Awards in Lieu of Obligations** . The Committee is authorized to grant Shares to any Eligible Persons as a bonus, or to grant Shares or other Awards in lieu of obligations to pay cash or deliver other property under the Plan or under other plans or compensatory arrangements, provided that, in the case of Eligible Persons subject to Section 16 of the Exchange Act, the amount of such grants remains within the discretion of the Committee to the extent necessary to ensure that acquisitions of Shares or other Awards are exempt from liability under Section 16(b) of the Exchange Act. Shares or Awards granted hereunder shall be subject to such other terms as shall be determined by the Committee.

(g) **Dividend Equivalents** . The Committee is authorized to grant Dividend Equivalents to any Eligible Person entitling the Eligible Person to receive cash, Shares, other Awards, or other property equal in value to the regular dividends paid with respect to a specified number of Shares, or other periodic payments. Dividend Equivalents may be awarded on a free-standing basis or in connection with another Award. The Committee may provide that Dividend Equivalents shall be paid or distributed when accrued or shall be deemed to have been reinvested in additional Shares, Awards, or other investment vehicles, and subject to such restrictions on transferability and risks of forfeiture, as the Committee may specify.

(h) **Performance Awards** . The Committee is authorized to grant Performance Awards to any Eligible Person payable in cash, Shares or other Awards, on terms and conditions established by the Committee, subject to the provisions of Section 8 if and to the extent that the Committee shall, in its sole discretion, determine that an Award shall be subject to those provisions. The performance criteria to be achieved during any Performance Period and the length of the Performance Period shall be determined by the Committee upon the grant of each Performance Award. Except as provided in Section 9 or as may be provided in an Award Agreement, Performance Awards will be distributed only after the end of the relevant Performance Period. The performance goals to be achieved for each Performance Period shall be conclusively determined by the Committee and may be based upon the criteria set forth in Section 8(b), or in the case of an Award that the Committee determines shall not be subject to Section 8 hereof, any other criteria that the Committee, in its sole discretion, shall determine should be used for that purpose. The amount of the Award to be distributed shall be conclusively determined by the Committee. Performance Awards may be paid in a lump sum or in installments following the close of the Performance Period or, in accordance with procedures established by the Committee, on a deferred basis.

(i) **Other Stock-Based Awards** . The Committee is authorized, subject to limitations under applicable law, to grant to any Eligible Person such other Awards that may be denominated or payable in, valued in whole or in part by reference to, or otherwise based on, or related to, Shares, as deemed by the Committee to be consistent with the purposes of the Plan. Other Stock-Based Awards may be granted to Participants either alone or in addition to other Awards granted under the Plan, and such Other Stock-Based Awards shall also be available as a form of payment in the settlement of other Awards granted under the Plan. The Committee shall determine the terms and conditions of such Awards. Shares delivered pursuant to an Award in the nature of a purchase right granted under this Section 6(i) shall be purchased for such consideration, (including without limitation loans from the Company or a Related Entity provided that such loans are not in violation of the Sarbanes Oxley Act of 2002, or any rule or regulation adopted thereunder or any other applicable law) paid for at such times, by such methods, and in such forms, including, without limitation, cash, Shares, other Awards or other property, as the Committee shall determine.

7. Certain Provisions Applicable to Awards.

(a) **Stand-Alone, Additional, Tandem, and Substitute Awards** . Awards granted under the Plan may, in the discretion of the Committee, be granted either alone or in addition to, in tandem with, or in substitution or exchange for, any other Award or any award granted under another plan of the Company, any Related Entity, or any business entity to be acquired by the Company or a Related Entity, or any other right of a Participant to receive payment from the Company or any Related Entity. Such additional, tandem, and substitute or exchange Awards may be granted at any time. If an Award is granted in substitution or exchange for another Award or award, the Committee shall require the surrender of such other Award or award in consideration for the grant of the new Award. In addition, Awards may be granted in lieu of cash compensation, including in lieu of cash amounts payable under other plans of the Company or any Related Entity, in which the value of Stock subject to the Award is equivalent in value to the cash compensation (for example, Deferred Stock or Restricted Stock), or in which the exercise price, grant price or purchase price of the Award in the nature of a right that may be exercised is equal to the Fair Market Value of the underlying Stock minus the value of the cash compensation surrendered (for example, Options or Stock Appreciation Right granted with an exercise price or grant price “discounted” by the amount of the cash compensation surrendered).

(b) **Term of Awards** . The term of each Award shall be for such period as may be determined by the Committee; provided that in no event shall the term of any Option or Stock Appreciation Right exceed a period of ten years (or in the case of an Incentive Stock Option such shorter term as may be required under Section 422 of the Code).

(c) **Form and Timing of Payment Under Awards; Deferrals** . Subject to the terms of the Plan and any applicable Award Agreement, payments to be made by the Company or a Related Entity upon the exercise of an Option or other Award or settlement of an Award may be made in such forms as the Committee shall determine, including, without limitation, cash, Shares, other Awards or other property, and may be made in a single payment or transfer, in installments, or on a deferred basis. Any installment or deferral provided for in the preceding sentence shall, however, be subject to the Company’s compliance with the provisions of the

Sarbanes-Oxley Act of 2002, the rules and regulations adopted by the Securities and Exchange Commission thereunder, and all applicable rules of NYSE MKT or any national securities exchange on which the Company's securities are listed for trading and, if not listed for trading on either NYSE MKT or other national securities exchange, then the rules of NYSE MKT. The settlement of any Award may be accelerated, and cash paid in lieu of Shares in connection with such settlement, in the discretion of the Committee or upon occurrence of one or more specified events (in addition to a Change in Control). Installment or deferred payments may be required by the Committee (subject to Section 10(e) of the Plan, including the consent provisions thereof in the case of any deferral of an outstanding Award not provided for in the original Award Agreement) or permitted at the election of the Participant on terms and conditions established by the Committee. The Committee may, without limitation, make provision for the payment or crediting of a reasonable interest rate on installment or deferred payments or the grant or crediting of Dividend Equivalents or other amounts in respect of installment or deferred payments denominated in Shares.

(d) **Exemptions from Section 16(b) Liability** . It is the intent of the Company that the grant of any Awards to or other transaction by a Participant who is subject to Section 16 of the Exchange Act shall be exempt from Section 16 pursuant to an applicable exemption (except for transactions acknowledged in writing to be non-exempt by such Participant). Accordingly, if any provision of this Plan or any Award Agreement does not comply with the requirements of Rule 16b-3 then applicable to any such transaction, such provision shall be construed or deemed amended to the extent necessary to conform to the applicable requirements of Rule 16b-3 so that such Participant shall avoid liability under Section 16(b).

(e) **Code Section 409A** . This Plan is intended to comply with Section 409A of the Code to the extent subject thereto, and, accordingly, to the maximum extent permitted, the Committee shall make a good faith effort to interpret and administer the Plan in compliance therewith. Any payments described in the Plan that are due within the "short-term deferral period" as defined in Section 409A of the Code shall not be treated as deferred compensation unless applicable laws require otherwise. Notwithstanding anything to the contrary in this Plan, to the extent required to avoid accelerated taxation and tax penalties under Section 409A of the Code, (a) amounts that would otherwise be payable and benefits that would otherwise be provided pursuant to the Plan during the six (6) month period immediately following the Participant's termination of Continuous Service shall instead be paid on the first payroll date after the six-month anniversary of the Participant's separation from service (or the Participant's death, if earlier), and (b) amounts payable upon the termination of a Participant's Continuous Service shall only be payable if such termination constitutes a "separation from service" within the meaning of Section 409A of the Code. Notwithstanding the foregoing, neither the Company, any Related Entity nor the Committee shall have any obligation to take any action to prevent the assessment of any excise tax or penalty on any Participant under Section 409A of the Code and neither the Company nor the Committee will have any liability to any Participant for such tax or penalty.

8. Code Section 162(m) Provisions .

(a) **Covered Employees** . The Committee, in its discretion, may determine at the time an Award is granted to an Eligible Person who is, or is likely to be, as of the end of the tax year in which the Company would claim a tax deduction in connection with such Award, a Covered Employee, that the provisions of this Section 8 shall be applicable to such Award.

(b) **Performance Criteria** . If an Award is subject to this Section 8, then the lapsing of restrictions thereon and the distribution of cash, Shares or other property pursuant thereto, as applicable, shall be contingent upon achievement of one or more objective performance goals. Performance goals shall be objective and shall otherwise meet the requirements of Section 162(m) of the Code and regulations thereunder including the requirement that the level or levels of performance targeted by the Committee result in the achievement of performance goals being “substantially uncertain.” One or more of the following business criteria for the Company, on a consolidated basis, and/or for Related Entities, or for business or geographical units of the Company and/or a Related Entity (except with respect to the total shareholder return and earnings per share criteria), shall be used by the Committee in establishing performance goals for such Awards: (1) earnings per share; (2) revenues or margins; (3) cash flow; (4) operating margin; (5) return on net assets, investment, capital, or equity; (6) economic value added; (7) direct contribution; (8) net income; pretax earnings; earnings before interest and taxes; earnings before interest, taxes, depreciation and amortization; earnings after interest expense and before extraordinary or special items; operating income; income before interest income or expense, unusual items and income taxes, local, state or federal and excluding budgeted and actual bonuses which might be paid under any ongoing bonus plans of the Company; (9) working capital; (10) management of fixed costs or variable costs; (11) identification or consummation of investment opportunities or completion of specified projects in accordance with corporate business plans, including strategic mergers, acquisitions or divestitures; (12) total shareholder return; (13) debt reduction; (14) market share; (15) entry into new markets, either geographically or by business unit; (16) customer retention and satisfaction; and (17) strategic plan development and implementation, including turnaround plans. Any of the above goals may be determined on an absolute or relative basis or as compared to the performance of a published or special index deemed applicable by the Committee including, but not limited to, the Standard & Poor’s 500 Stock Index or a group of companies that are comparable to the Company. The Committee shall exclude the impact of an event or occurrence which the Committee determines should appropriately be excluded, including without limitation (i) restructurings, discontinued operations, extraordinary items, and other unusual or non-recurring charges, (ii) an event either not directly related to the operations of the Company or not within the reasonable control of the Company’s management, or (iii) a change in accounting standards required by generally accepted accounting principles.

(c) **Performance Period; Timing For Establishing Performance Goals** . Achievement of performance goals in respect of Performance Awards shall be measured over a Performance Period as specified by the Committee. Performance goals shall be established not later than 90 days after the beginning of any Performance Period applicable to such Performance Awards, or at such other date as may be required or permitted for “performance-based compensation” under Code Section 162(m).

(d) **Adjustments** . The Committee may, in its discretion, reduce the amount of a settlement otherwise to be made in connection with Awards subject to this Section 8, but may not exercise discretion to increase any such amount payable to a Covered Employee in respect of an Award subject to this Section 8. The Committee shall specify the circumstances in which such Awards shall be paid or forfeited in the event of termination of Continuous Service by the Participant prior to the end of a Performance Period or settlement of Awards.

(e) **Committee Certification** . No Participant shall receive any payment under the Plan that is subject to this Section 8 unless the Committee has certified, by resolution or other appropriate action in writing, that the performance criteria and any other material terms previously established by the Committee or set forth in the Plan, have been satisfied to the extent necessary to qualify as “performance based compensation” under Code Section 162(m).

9. Change in Control.

(a) **Effect of “Change in Control.”** Subject to Section 9(a)(iv), and if and only to the extent provided in the Award Agreement, or to the extent otherwise determined by the Committee, upon the occurrence of a “Change in Control,” as defined in Section 9(b):

(i) Any Option or Stock Appreciation Right that was not previously vested and exercisable as of the time of the Change in Control, shall become immediately vested and exercisable, subject to applicable restrictions set forth in Section 10(a) hereof.

(ii) Any restrictions, deferral of settlement, and forfeiture conditions applicable to a Restricted Stock Award, Deferred Stock Award or an Other Stock-Based Award subject only to future service requirements granted under the Plan shall lapse and such Awards shall be deemed fully vested as of the time of the Change in Control, except to the extent of any waiver by the Participant and subject to applicable restrictions set forth in Section 10(a) hereof.

(iii) With respect to any outstanding Award subject to achievement of performance goals and conditions under the Plan, the Committee may, in its discretion, deem such performance goals and conditions as having been met as of the date of the Change in Control.

(iv) Notwithstanding the foregoing or any provision in any Award Agreement to the contrary, but subject to the absolute discretion and approval of the Committee, if in the event of a Change in Control the successor company assumes or substitutes for an Option, Stock Appreciation Right, Restricted Stock Award, Deferred Stock Award or Other Stock-Based Award, then each such outstanding Option, Stock Appreciation Right, Restricted Stock Award, Deferred Stock Award or Other Stock-Based Award shall not be accelerated as described in Sections 9(a)(i), (ii) and (iii). For the purposes of this Section 9(a)(iv), an Option, Stock Appreciation Right, Restricted Stock Award, Deferred Stock Award or Other Stock-Based Award shall be considered assumed or substituted for if following the Change in Control the Award confers the right to purchase or receive, for each Share subject to the Option, Stock Appreciation Right, Restricted Stock Award, Deferred Stock Award or Other Stock-Based Award 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 an Option, Stock Appreciation Right, Restricted Stock Award, Deferred Stock Award or Other Stock-Based Award, for each Share subject thereto, 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.

(b) **Definition of “Change in Control.”** Unless otherwise specified in an Award Agreement, a “Change in Control” shall mean the occurrence of any of the following:

(i) The acquisition by any Person of Beneficial Ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of more than fifty percent (50%) of either (A) the then outstanding shares of common stock of the Company (the “Outstanding Company Common Stock”) or (B) the combined voting power of the then outstanding voting securities of the Company entitled to vote generally in the election of directors (the “Outstanding Company Voting Securities”) (the foregoing Beneficial Ownership hereinafter being referred to as a “Controlling Interest”); provided, however, that for purposes of this Section 9(b), the following acquisitions shall not constitute or result in a Change in Control: (u) any acquisition directly from the Company; (v) any acquisition by the Company; (w) any acquisition by any Person that as of the Effective Date owns Beneficial Ownership of a Controlling Interest; (x) any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Company or any Related Entity; (y) any acquisition by Dr. Phillip Frost or by any Person controlled by Dr. Phillip Frost, including, but not limited to, the Frost Gamma Investments Trust or (z) any acquisition by any entity pursuant to a transaction which complies with clauses (A), (B) and (C) of subsection (iii) below; or

(ii) During any period of two (2) consecutive years (not including any period prior to the Effective Date) individuals who constitute the Board on the Effective Date (the “Incumbent Board”) cease for any reason to constitute at least a majority of the Board; provided, however, that any individual becoming a director subsequent to the Effective Date whose election, or nomination for election by the Company’s shareholders, was approved by a vote of at least a majority of the directors then comprising the Incumbent Board shall be considered as though such individual were a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the Board; or

(iii) Consummation of a reorganization, merger, statutory share exchange or consolidation or similar transaction involving the Company or any of its Related Entities, a sale or other disposition of all or substantially all of the assets of the Company, or the acquisition of assets or equity of another entity by the Company or any of its Related Entities (each a “Business Combination”), in each case, unless, following such Business Combination, (A) all or substantially all of the individuals and entities who were the Beneficial Owners, respectively, of the Outstanding Company Common Stock and Outstanding Company Voting Securities immediately prior to such Business Combination beneficially own, directly or indirectly, more than fifty percent (50%) of the value of the then outstanding equity securities and the combined voting power of the then outstanding voting securities entitled to vote generally in the election of members of the board of directors (or comparable governing body of an entity that does not have such a board), as the case may be, of the entity resulting from such Business Combination (including, without limitation, an entity which as a result of such transaction owns the Company or all or substantially all of the Company’s assets either directly or through one or more subsidiaries) in substantially the same proportions as their ownership, immediately prior to such Business Combination of the Outstanding Company Common Stock and Outstanding Company Voting Securities, as the case may be, (B) no Person (excluding any employee benefit plan (or related trust) of the Company or such entity resulting from such Business Combination or any Person that as of the Effective Date owns Beneficial Ownership of a Controlling Interest) beneficially owns, directly or indirectly, fifty percent (50%) or more of the value of the then outstanding equity securities of the entity resulting from such Business Combination or the combined voting power of the then outstanding voting securities of such entity except to the extent that such ownership existed prior to the Business Combination and (C) at least a majority of the members of the Board of Directors or other governing body of the entity resulting from such Business Combination were members of the Incumbent Board at the time of the execution of the initial agreement, or of the action of the Board, providing for such Business Combination; or

(iv) Approval by the shareholders of the Company of a complete liquidation or dissolution of the Company.

10. General Provisions.

(a) ***Compliance With Legal and Other Requirements*** . The Company may, to the extent deemed necessary or advisable by the Committee, postpone the issuance or delivery of Shares or payment of other benefits under any Award until completion of such registration or qualification of such Shares or other required action under any federal or state law, rule or regulation, listing or other required action with respect to any stock exchange or automated quotation system upon which the Shares or other Company securities are listed or quoted, or compliance with any other obligation of the Company, as the Committee, may consider appropriate, and may require any Participant to make such representations, furnish such information and comply with or be subject to such other conditions as it may consider appropriate in connection with the issuance or delivery of Shares or payment of other benefits in compliance with applicable laws, rules, and regulations, listing requirements, or other obligations.

(b) **Limits on Transferability; Beneficiaries** . No Award or other right or interest granted under the Plan shall be pledged, hypothecated or otherwise encumbered or subject to any lien, obligation or liability of such Participant to any party, or assigned or transferred by such Participant otherwise than by will or the laws of descent and distribution or to a Beneficiary upon the death of a Participant, and such Awards or rights that may be exercisable shall be exercised during the lifetime of the Participant only by the Participant or his or her guardian or legal representative, except that Awards and other rights (other than Incentive Stock Options and Stock Appreciation Rights in tandem therewith) may be transferred to one or more Beneficiaries or other transferees during the lifetime of the Participant, and may be exercised by such transferees in accordance with the terms of such Award, but only if and to the extent such transfers are permitted by the Committee pursuant to the express terms of an Award Agreement (subject to any terms and conditions which the Committee may impose thereon). A Beneficiary, transferee, or other person claiming any rights under the Plan from or through any Participant shall be subject to all terms and conditions of the Plan and any Award Agreement applicable to such Participant, except as otherwise determined by the Committee, and to any additional terms and conditions deemed necessary or appropriate by the Committee.

(c) **Adjustments** .

(i) **Adjustments to Awards** . In the event that any extraordinary dividend or other distribution (whether in the form of cash, Shares, or other property), recapitalization, forward or reverse split, reorganization, merger, consolidation, spin-off, combination, repurchase, share exchange, liquidation, dissolution or other similar corporate transaction or event affects the Shares and/or such other securities of the Company or any other issuer such that a substitution, exchange, or adjustment is determined by the Committee to be appropriate, then the Committee shall, in such manner as it may deem equitable, substitute, exchange or adjust any or all of (A) the number and kind of Shares which may be delivered in connection with Awards granted thereafter, (B) the number and kind of Shares by which annual per-person Award limitations are measured under Section 5 hereof, (C) the number and kind of Shares subject to or deliverable in respect of outstanding Awards, (D) the exercise price, grant price or purchase price relating to any Award and/or make provision for payment of cash or other property in respect of any outstanding Award, and (E) any other aspect of any Award that the Committee determines to be appropriate.

(ii) **Adjustments in Case of Certain Transactions** . In the event of any merger, consolidation or other reorganization in which the Company does not survive, or in the event of any Change in Control, any outstanding Awards may be dealt with in accordance with any of the following approaches, as determined by the agreement effectuating the transaction or, if and to the extent not so determined, as determined by the Committee: (a) the continuation of the outstanding Awards by the Company, if the Company is a surviving entity, (b) the assumption or substitution for, as those terms are defined in Section 9(b)(iv) hereof, the outstanding Awards by the surviving entity or its parent or subsidiary, (c) full exercisability or vesting and accelerated expiration of the outstanding Awards, or (d) settlement of the value of the outstanding Awards in cash or cash equivalents or other property followed by cancellation of such Awards (which value, in the case of Options or Stock Appreciation Rights, shall be measured by the amount, if any, by which the Fair Market Value of a Share exceeds the exercise or grant price of the Option or Stock Appreciation Right as of the effective date of the

transaction). The Committee shall give written notice of any proposed transaction referred to in this Section 10(c)(ii) a reasonable period of time prior to the closing date for such transaction (which notice may be given either before or after the approval of such transaction), in order that Participants may have a reasonable period of time prior to the closing date of such transaction within which to exercise any Awards that are then exercisable (including any Awards that may become exercisable upon the closing date of such transaction). A Participant may condition his exercise of any Awards upon the consummation of the transaction.

(iii) **Other Adjustments** . The Committee (and the Board if and only to the extent such authority is not required to be exercised by the Committee to comply with Section 162(m) of the Code) is authorized to make adjustments in the terms and conditions of, and the criteria included in, Awards (including Performance Awards, or performance goals relating thereto) in recognition of unusual or nonrecurring events (including, without limitation, acquisitions and dispositions of businesses and assets) affecting the Company, any Related Entity or any business unit, or the financial statements of the Company or any Related Entity, or in response to changes in applicable laws, regulations, accounting principles, tax rates and regulations or business conditions or in view of the Committee's assessment of the business strategy of the Company, any Related Entity or business unit thereof, performance of comparable organizations, economic and business conditions, personal performance of a Participant, and any other circumstances deemed relevant; provided that no such adjustment shall be authorized or made if and to the extent that such authority or the making of such adjustment would cause Options, Stock Appreciation Rights, Performance Awards granted pursuant to Section 8(b) hereof to Participants designated by the Committee as Covered Employees and intended to qualify as "performance-based compensation" under Code Section 162(m) and the regulations thereunder to otherwise fail to qualify as "performance-based compensation" under Code Section 162(m) and regulations thereunder.

(d) **Taxes** . The Company and any Related Entity are authorized to withhold from any Award granted, any payment relating to an Award under the Plan, including from a distribution of Shares, or any payroll or other payment to a Participant, amounts of withholding and other taxes due or potentially payable in connection with any transaction involving an Award, and to take such other action as the Committee may deem advisable to enable the Company or any Related Entity and Participants to satisfy obligations for the payment of withholding taxes and other tax obligations relating to any Award. This authority shall include authority to withhold or receive Shares or other property and to make cash payments in respect thereof in satisfaction of a Participant's tax obligations, either on a mandatory or elective basis in the discretion of the Committee.

(e) **Changes to the Plan and Awards** . The Board may amend, alter, suspend, discontinue or terminate the Plan, or the Committee's authority to grant Awards under the Plan, without the consent of shareholders or Participants, except that any amendment or alteration to the Plan shall be subject to the approval of the Company's shareholders not later than the annual meeting next following such Board action if such shareholder approval is required by any federal or state law or regulation (including, without limitation, Rule 16b-3 or Code Section 162(m)) or the rules of any stock exchange or automated quotation system on which the Shares may then be listed or quoted, and the Board may otherwise, in its discretion, determine to submit other such changes to the Plan to shareholders for approval; provided that, without the consent of an

affected Participant, no such Board action may materially and adversely affect the rights of such Participant under any previously granted and outstanding Award. The Committee may waive any conditions or rights under, or amend, alter, suspend, discontinue or terminate any Award theretofore granted and any Award Agreement relating thereto, except as otherwise provided in the Plan; provided that, without the consent of an affected Participant, no such Committee or the Board action may materially and adversely affect the rights of such Participant under such Award.

(f) **Limitation on Rights Conferred Under Plan** . Neither the Plan nor any action taken hereunder or under any Award shall be construed as (i) giving any Eligible Person or Participant the right to continue as an Eligible Person or Participant or in the employ or service of the Company or a Related Entity; (ii) interfering in any way with the right of the Company or a Related Entity to terminate any Eligible Person's or Participant's Continuous Service at any time, (iii) giving an Eligible Person or Participant any claim to be granted any Award under the Plan or to be treated uniformly with other Participants and Employees, or (iv) conferring on a Participant any of the rights of a shareholder of the Company including, without limitation, any right to receive dividends or distributions, any right to vote or act by written consent, any right to attend meetings of shareholders or any right to receive any information concerning the Company's business, financial condition, results of operation or prospects, unless and until such time as the Participant is duly issued Shares on the stock books of the Company in accordance with the terms of an Award. None of the Company, its officers or its directors shall have any fiduciary obligation to the Participant with respect to any Awards unless and until the Participant is duly issued Shares pursuant to the Award on the stock books of the Company in accordance with the terms of an Award. Neither the Company nor any of the Company's officers, directors, representatives or agents are granting any rights under the Plan to the Participant whatsoever, oral or written, express or implied, other than those rights expressly set forth in this Plan or the Award Agreement.

(g) **Unfunded Status of Awards; Creation of Trusts** . The Plan is intended to constitute an "unfunded" plan for incentive and deferred compensation. With respect to any payments not yet made to a Participant or obligation to deliver Shares pursuant to an Award, nothing contained in the Plan or any Award shall give any such Participant any rights that are greater than those of a general creditor of the Company; provided that the Committee may authorize the creation of trusts and deposit therein cash, Shares, other Awards or other property, or make other arrangements to meet the Company's obligations under the Plan. Such trusts or other arrangements shall be consistent with the "unfunded" status of the Plan unless the Committee otherwise determines with the consent of each affected Participant. The trustee of such trusts may be authorized to dispose of trust assets and reinvest the proceeds in alternative investments, subject to such terms and conditions as the Committee may specify and in accordance with applicable law.

(h) **Nonexclusivity of the Plan** . Neither the adoption of the Plan by the Board nor its submission to the shareholders of the Company for approval shall be construed as creating any limitations on the power of the Board or a committee thereof to adopt such other incentive arrangements as it may deem desirable including incentive arrangements and awards which do not qualify under Section 162(m) of the Code.

(i) **Payments in the Event of Forfeitures; Fractional Shares** . Unless otherwise determined by the Committee, in the event of a forfeiture of an Award with respect to which a Participant paid cash or other consideration, the Participant shall be repaid the amount of such cash or other consideration. No fractional Shares shall be issued or delivered pursuant to the Plan or any Award. The Committee shall determine whether cash, other Awards or other property shall be issued or paid in lieu of such fractional shares or whether such fractional shares or any rights thereto shall be forfeited or otherwise eliminated.

(j) **Governing Law** . The validity, construction and effect of the Plan, any rules and regulations under the Plan, and any Award Agreement shall be determined in accordance with the laws of the State of Delaware without giving effect to principles of conflict of laws, and applicable federal law.

(k) **Non-U.S. Laws** . The Committee shall have the authority to adopt such modifications, procedures, and subplans as may be necessary or desirable to comply with provisions of the laws of foreign countries in which the Company or its Related Entities may operate to assure the viability of the benefits from Awards granted to Participants performing services in such countries and to meet the objectives of the Plan.

(l) **Plan Effective Date and Shareholder Approval; Termination of Plan** . The Plan shall become effective on the Effective Date. The Plan shall terminate at the earliest of (a) such time as no Shares remain available for issuance under the Plan, (b) termination of this Plan by the Board, or (c) the tenth anniversary of the Effective Date. Awards outstanding upon expiration of the Plan shall remain in effect until they have been exercised or terminated, or have expired.

As approved by stockholders on: May 7, 2015

Amended and restated by the Board of Directors to incorporate amendments: July 2, 2017

EXHIBIT A

OPTIONS - ADDENDUM

France

The Committee has determined that it is necessary and advisable to establish a sub-plan for the purpose of permitting options to qualify for the French specific tax and social security treatment. Therefore, options granted under the Amended and Restated Incentive Compensation Plan (the Plan”) by TransEnterix, Inc. (the “Company”) to employees who are French tax residents and/or subject to the French social security regime on a mandatory basis on the Grant Date (the “French Participants”) of its Related Entities may be granted under the terms of this Addendum as follows:

1. Definitions:

Capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Plan and in the Option Agreement. In the event of a conflict between the terms and conditions of the Plan, this Addendum and the Option Agreement, the terms and conditions of the Plan shall prevail except for the following additional terms that shall be defined as follows:

- Grant Date: the term “Grant Date” shall be the date on which the Board or the Committee (i) designates the French Participant(s), (ii) sets up the Exercise Price of the options, and (iii) specifies the terms and conditions of the options.
- Related Entities: the term “Related Entities” means the companies within the meaning of Article L. 225-197-2 of the French Commercial Code or any provision substituted for same.

2. Specific conditions laid down under this Addendum:

- 1) Notwithstanding any other provision of the Plan, options granted to any Participant who is a consultant, an “Administrateur,” or a member of the “Conseil de Surveillance,” as these terms are defined in French Corporate law, and who does not have a work contract with the Company or its Related Companies will be deemed to have not been granted an option pursuant to this Addendum.
 - 2) Notwithstanding any other provision of the Plan, the number of options offered through the Plan cannot exceed one third of the capital of the Company. This limit is reduced to 10% of the company capital if the options are granted over treasury shares.
 - 3) Notwithstanding any other provision of the Plan, no option can be granted to a French Participant who holds directly or indirectly more than ten percent (10%) of the Company’s share capital.
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- 4) Notwithstanding any other provision of the Plan, any option with an Exercise Price on the Grant Date of the option that is less than 80% of the average of the market value of the underlying share during the twenty (20) trading days (using opening quotation) preceding the Grant Date shall be deemed to have not been granted under this Addendum. In addition, with respect to options to purchase existing shares, any option with an Exercise Price that is less than 80% of the average price paid by the Company to buy back the Shares it holds as at Grant Date shall be deemed to have not been granted under this Addendum.
- 5) Notwithstanding any other provision of the Plan, options cannot be granted before the end of a period of twenty (20) stock exchange sessions after the date on which Shares are traded without dividend rights or capital increase subscription rights (“détachement du coupon”).
- 6) Notwithstanding any other provision of the Plan, no options can be granted during the ten (10) stock exchange sessions preceding or following the publication of the annual financial consolidated account or the annual financial statement.
- 7) Notwithstanding any other provision of the Plan, no options can be granted during the period starting the date the corporate management of the company is aware of information the publication of which could have a substantial consequence on the Fair Market Value of the Shares and ending ten (10) stock exchange sessions after the publication of this information.
- 8) Notwithstanding any other provision of the Plan, the Exercise Price of an option shall be adjusted only upon the occurrence of the events under section L.225-181 of the French Commercial Code. Any reduction by the Company, to the Exercise Price of an outstanding and unexercised option previously issued under this Addendum, to the current Fair Market Value of the underlying Shares shall be deemed to not have been an option granted under this Addendum.
- 9) Notwithstanding any other provision of the Plan, in the event of the death of a French Participant, the heirs of such French Participant shall have a six (6)-month period from the date of such French Participant's death, to exercise all or part of the options held by such French Participant on the day of his death regardless of whether or not they are vested. As a consequence, all the options held by such French Participant which have not yet been exercised by his/her heirs upon the expiration of the aforementioned six (6)-month period, shall be definitively and automatically forfeited.
- 10) Notwithstanding any other provision of the Plan and, except in the case of death of the French Participant, the options are non-transferable.
- 11) Notwithstanding any other provision of the Plan, it is intended that the options granted under this Addendum shall qualify for the special tax and social security treatment applicable to stock options according to Sections L. 225-177 to L. 225-186-1 of the French Commercial Code and in accordance with the relevant provisions set forth by French income tax and social security laws, but no undertaking is made to maintain such status.

The terms of the options granted to French Participants in accordance with this Addendum shall be interpreted accordingly and in accordance with the relevant provisions set forth by French income tax and social security laws, as well as the relevant administrative guidelines and subject to the fulfillment of any applicable legal, tax and reporting obligations, if applicable.

This Addendum is adopted and is effective as of October 26, 2015.

TRANSENERIX - RESTRICTED STOCK UNITS (RSU) - ADDENDUM

FRANCE

The Committee has determined that it is necessary and advisable to establish a sub-plan for the purpose of permitting Restricted Stock Units (“RSU”) to qualify for the French specific tax and social security treatment applicable to free share awards granted in accordance with Articles L.225-197-1 to L.225-197-6 of the French Commercial Code.

Therefore, RSU granted under the Amended and Restated Incentive Compensation Plan (the Plan”) by TransEnterix, Inc. (the “Company”) to employees who are French tax residents and/or subject to the French social security regime on a mandatory basis on the Grant Date (the “French Participants”) of its Related Entities may be granted under the terms of this Addendum as follows:

1. Definitions :

Capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Plan and in the Agreement. In the event of a conflict between the terms and conditions of the Plan, this Addendum and the Agreement, the terms and conditions of the Plan shall prevail except for the following additional terms that shall be defined as follows:

- “Closed Period” means (i) ten quotation days preceding and three quotation days following the disclosure to the public of the consolidated financial statements or annual statement of the Company; or (ii) the period as from the date the corporate management possesses material information which could, if disclosed to the public, significantly impact the quotation of the Shares of the Company, until ten quotation days after the day such information is disclosed to the public.
- “Disability” means disability as determined in categories 2 and 3 under Article 341-4 of the French Social Security Code.
- “First Vesting Date” shall mean the date the first one-third of the RSU become non-forfeitable and converted into Shares as provided for in the Agreement.
- “Grant Date” shall be the date on which the Committee (i) designates the French Participants; and (ii) specifies the terms and conditions of the RSU, including the number of Shares to be transferred at a future date, the Vesting Period, the Holding Period, the conditions for the delivery of the Shares underlying the RSU by the Company, if any, and the conditions for the disposal of the Shares, if any.
- “Holding Period” shall mean the period of at least two years following the First/Second/Third Vesting Dates during which the Shares cannot be sold or transferred.
- “Related Companies” means the companies within the meaning of Article L. 225-197-2 of the French Commercial Code or any provision substituted for same.

- “RSU” shall mean a promise by the Company to transfer Shares to a French Participant, at a future date, for free as long as the French Participant fulfills the conditions as provided for in the Agreement. The French Participants are not entitled to any dividend or voting rights until the Shares are transferred to the French Participant.
- “Second Vesting Date” shall mean the date the second one-third of the RSU become non-forfeitable and converted into Shares as provided for in the Agreement.
- “Third Vesting Date” shall mean the date the last one-third of the RSU become non-forfeitable and converted into Shares as provided for in the Agreement.
- “Vesting Date” shall mean the date the RSU become non-forfeitable and converted into Shares. The vesting schedule is provided for in the Agreement and may be composed of a First Vesting Date, a Second Vesting Date or a Third Vesting Date. To qualify for the French special tax and social security regime, such First Vesting Date shall not occur prior to the second anniversary of the Grant Date.

2. Specific conditions laid down under this Addendum :

- 1) This Addendum shall be applicable to French Employees and corporate officers (e.g., Président du Conseil d’Administration, Directeur Général, Directeur Général Délégué, Membre du Directoire, Gérant de sociétés, Président de sociétés par actions) of a Related Company and who is a French tax resident and/or subject to the French social security regime on a mandatory basis at the time of the grant (the “French Participants”).
- 2) RSU may be granted only to French Participants who hold less than ten percent (10%) of the outstanding Shares of the Company at the Grant Date, being specified that a grant cannot entitle a French Participant to hold more than ten percent (10%) of the share capital of the Company.
- 3) The First Vesting Date, the Second Vesting Date and the Third Vesting Date shall not occur prior to the expiration of a period of at least two years calculated from the Grant Date. However, notwithstanding the above, in the event of the death or Disability of a French Participant, all of his or her outstanding RSU shall vest as set forth in Section 8 and in Section 9 below.
- 4) The Shares are automatically transferred to the French Participant upon Vesting Date. The Shares transferred to a French Participant shall be recorded in the name of the French Participant in an account with the Company or a broker, or in such other manner as the Company may otherwise determine, to ensure compliance with applicable restrictions provided under French tax law.
- 5) Unless and until such time as Shares are transferred to the French Participant, the French Participant shall have no ownership of the Shares allocated to the RSU and shall have no right to vote and to receive dividends, if applicable, subject to the terms, conditions and restrictions described in the Plan, in the Agreement and herein.

6) The Shares shall not be sold, assigned, transferred, pledged, hypothecated, or otherwise disposed of until the end of the Holding Period. This Holding Period applies even if the French Participant is no longer an employee or corporate officer of a Related Entity in France, except as provided for in Section 8, in Section 9 and in Section 10 below. As from the end of each Holding Period (the release Date), the corresponding Shares shall be freely transferable, subject to applicable legal and regulatory provisions in force. In addition, the Shares allocated under this Addendum may not be sold or transferred during Closed Periods.

7) Notwithstanding any provision in the Plan to the contrary and, except in the case of French Participant's death, the RSU are not transferable.

8) In the event of the death of a French Participant, all RSU held by the French Participant at the time of death shall become immediately transferable to the French Participant's heirs. The Company shall transfer the underlying Shares to the French Participant's heirs, at their request, provided such request occurs within six months following the death. Notwithstanding the foregoing, the French Participant's heirs are not subject to the restriction on the sale of shares set forth in Section 6 above.

9) In the event of the Disability of a French Participant, all RSU held by the French Participant at the time of termination due to the Disability become vested in full. In addition, the French Participant is no longer subject to the restriction on the sale of Shares set forth in Section 6 above.

10) In the event the French Participant is no longer a French tax resident and is no longer affiliated to the French social security regime on a mandatory basis at Vesting Date, the Holding Period as provided for in this Addendum should not apply.

11) It is intended that the RSU granted under this Addendum shall qualify for the special tax and social security treatment applicable to free shares granted under Sections L. 225-197-1 to L. 225-197-6 of the French Commercial Code and in accordance with the relevant provisions set forth by French tax and social security laws, but no undertaking is made to maintain such status.

The terms of the RSU granted to French Participants shall be interpreted accordingly and in accordance with the relevant provisions set forth by French tax and social security laws, as well as the relevant administrative guidelines and subject to the fulfillment of any applicable legal, tax and reporting obligations, if applicable.

This Addendum is adopted and is effective as of October 26, 2015.

**CERTIFICATION OF CHIEF EXECUTIVE OFFICER
PURSUANT TO RULE 13A-14(A)/15D-14(A)**

I, Todd M. Pope, 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 (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 9, 2017

/s/ Todd M. Pope

Todd M. Pope

President and Chief Executive Officer

**CERTIFICATION OF CHIEF FINANCIAL OFFICER
PURSUANT TO RULE 13A-14(A)/15D-14(A)**

I, Joseph P. Slattery, 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 (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 9, 2017

/s/ Joseph P. Slattery

Joseph P. Slattery

Executive Vice President and Chief Financial Officer

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

I, Todd M. Pope, 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, 2017 (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.

Date: November 9, 2017

By: /s/ Todd M. Pope

Todd M. Pope

President and Chief Executive Officer

This certification accompanies the Report pursuant to Rule 13a-14(b) or Rule 15d-14(b) under the Exchange Act and 18 U.S.C. Section 1350 and shall not be deemed filed by the Company for purposes of Section 18 of the Exchange Act, and shall not be incorporated by reference into any filing of the Company under the Securities Act of 1933, as amended, or the Exchange Act, whether made before or after the date of this Report, irrespective of any general incorporation language contained in such filing.

A signed original of this certification has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

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

I, Joseph P. Slattery, 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, 2017 (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.

Date: November 9, 2017

By: /s/ Joseph P. Slattery

Joseph P. Slattery
Executive Vice President and Chief Financial Officer

This certification accompanies the Report pursuant to Rule 13a-14(b) or Rule 15d-14(b) under the Exchange Act and 18 U.S.C. Section 1350 and shall not be deemed filed by the Company for purposes of Section 18 of the Exchange Act, and shall not be incorporated by reference into any filing of the Company under the Securities Act of 1933, as amended, or the Exchange Act, whether made before or after the date of this Report, irrespective of any general incorporation language contained in such filing.

A signed original of this certification has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.