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

FORM 10-K

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

For the fiscal year ended December 31, 2020

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

For the transition period from _____to _____
Commission file number 001-35887

MIMEDX GROUP, INC.

(Exact name of registrant as specified in its charter)

Florida	**26-2792552**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

1775 West Oak Commons Court, NE, Marietta, GA
(Address of principal executive offices)

30062
(Zip Code)

(770) 651-9100
(Registrant's telephone number, including area code)
Securities registered pursuant to Section 12(b) of the Act: None.

Title of each class	**Trading Symbol**	**Name of each exchange on which registered**
N/A	N/A	N/A

Securities registered pursuant to Section 12(g) of the Act:
Common Stock, par value $0.001 per share

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.
Yes o No ☑
Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Act. Yes o No ☑
Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☑ No ☐
Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§223.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☑ No ☐
Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

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

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

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

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

The aggregate market value of the registrant's voting common equity held by non-affiliates of the registrant as of June 30, 2020 (the last business day of the registrant's most recently completed second quarter) was approximately $537.7 million based upon the last sale price ($5.40) of the shares as reported on the OTC Pink Market on such date.

There were 111,261,154 shares of the registrant's common stock, par value $0.001 per share, outstanding as of February 15, 2021.

Documents Incorporated By Reference

Portions of the proxy statement relating to the 2021 Annual Meeting of Shareholders, to be filed within 120 days after the end of the fiscal year to which this report relates, are incorporated by reference in Part III of this Report.

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PART I

EXPLANATORY NOTE

As used herein, the terms "MiMedx," "the Company," "we," "our" and "us" refer to MiMedx Group, Inc., a Florida corporation, and its consolidated subsidiaries as a combined entity, except where it is clear that the terms mean only MiMedx Group, Inc.

Prior Investigation and Restatement

In February 2018, the Audit Committee (the "***Audit Committee***") of the Company's Board of Directors (the "***Board***") retained independent legal counsel to assist it in conducting an independent investigation into current and prior-period matters relating to allegations regarding certain sales and distribution practices at the Company and certain other matters (the "***Investigation***" or the "***Audit Committee Investigation***"). The Investigation focused primarily on the following areas: (1) the Company's revenue recognition practices; (2) revenue management activities; (3) actions taken against whistleblowers; (4) tone set by former senior management and (5) Anti-Kickback Statute and related allegations.

In a Form 8-K dated June 6, 2018, we disclosed that our Audit Committee, with the concurrence of management, concluded that the Company's previously issued consolidated financial statements and financial information relating to each of the fiscal years ended December 31, 2016, 2015, 2014, 2013 and 2012 and each of the interim periods within such years, along with the unaudited condensed consolidated financial statements included in the Company's Quarterly Reports on Form 10-Q for the quarters ended March 31, 2017, June 30, 2017 and September 30, 2017 (collectively, the "***Non-Reliance Periods***"), would need to be restated under United States generally accepted accounting principles ("***GAAP***") and could no longer be relied upon.

Our annual report on Form 10-K for the year ended December 31, 2018 (the "***2018 Form 10-K***"), filed on March 17, 2020, included our audited consolidated balance sheets, consolidated statements of operations, stockholders' equity and cash flows as of and for the years ended December 31, 2018 and 2017, which had not previously been filed, and for the year ended December 31, 2016, which were restated from the consolidated financial statements previously filed in our Annual Report on Form 10-K for the year ended December 31, 2016, as well as selected unaudited condensed consolidated financial data as of and for the years ended December 31, 2015 (Restated) and 2014 (Restated), which reflected adjustments to our previously filed consolidated financial statements as of and for the years ended December 31, 2015 and 2014 (collectively, the "***Restatement***"). Refer to Item 6, "Selected Financial Data" of our 2018 Form 10-K for information regarding the applicable adjustments or restatements of our financial results for 2016, 2015 and 2014.

Important Cautionary Statement Regarding Forward-Looking Statements

This Form 10-K contains forward-looking statements. All statements relating to events or results that may occur in the future are forward-looking statements, including, without limitation, statements regarding the following:

- our strategic focus, as illustrated by our current business priorities and our ability to implement these priorities;
- our ability to access capital sufficient to implement our current business priorities;
- our expectations regarding our ability to fund our ongoing and future operating costs;
- our expectations regarding future income tax liability;
- the advantages of our products and development of new products;
- our expectations regarding the size of the potential market and any growth in such market;
- our expectations regarding the regulatory pathway for our products, including our existing and planned investigative new drug application and pre-market approval requirements; current plans, designs, expected timelines, and expectations for success for our clinical trials; and current plans, designs, expected timelines, and expectations for success for regulatory approval of certain of our products including in some cases Biological License Applications ("***BLAs***");
- our expectations regarding ongoing regulatory obligations and oversight and the changing nature thereof impacting our products, research and clinical programs, and business, including those relating to patient privacy.
- our expectations regarding our ability to manufacture certain of our products in compliance with current Good Manufacturing Practices ("***CGMP***");
- our expectations regarding costs relating to compliance with regulatory standards, including those arising from our clinical trials, pursuit of BLAs, and CGMP compliance;
- the likelihood, timing, and scope of possible regulatory approval and commercial launch of our late-stage product candidates and new indications for our products.
- our ability to continue marketing our micronized products and certain other products during and following the end of the period of enforcement discretion announced by the United States Food and Drug Administration ("***FDA***");
- expectations regarding government and other third-party coverage and reimbursement for our products;
- expectations regarding future revenue growth;
- our belief in the sufficiency of our intellectual property rights in our technology;
- our ability to procure sufficient supplies of human tissue to manufacture and process our products;
- the outcome of pending litigation and investigations;
- our ability to remain in compliance with Securities and Exchange Commission (the "***SEC***") reporting obligations and Nasdaq listing requirements;
- ongoing and future effects arising from the Audit Committee Investigation, the Restatement, and related litigation;
- ongoing and future effects arising from the COVID-19 pandemic ("***COVID-19***") on our business, employees, suppliers and other third parties on which we rely, and our responses intended to mitigate such effects;
- demographic and market trends;
- our plans to remediate the identified material weaknesses in our internal control environment and to strengthen our internal control environment;

- our expectations regarding research and development costs, including those arising from filing additional investigative new drug applications and pursuing new BLAs; and

- our ability to compete effectively.

Forward-looking statements generally can be identified by words such as “expect,” “will,” “change,” “intend,” “seek,” “target,” “future,” “plan,” “continue,” “potential,” “possible,” “could,” “estimate,” “may,” “anticipate,” “to be” and similar expressions. These statements are based on numerous assumptions and involve known and unknown risks, uncertainties and other factors that could significantly affect the Company’s operations and may cause the Company’s actual actions, results, financial condition, performance or achievements to differ materially from any future actions, results, financial condition, performance or achievements expressed or implied by any such forward-looking statements. Factors that may cause such a difference include, without limitation, those discussed under the heading “*Risk Factors*” in this Form 10-K.

Unless required by law, the Company does not intend, and undertakes no obligation, to update or publicly release any revision to any forward-looking statements, whether as a result of the receipt of new information, the occurrence of subsequent events, a change in circumstances or otherwise. Each forward-looking statement contained in this Form 10-K is specifically qualified in its entirety by the aforementioned factors. Readers are advised to carefully read this Form 10-K in conjunction with the important disclaimers set forth above prior to reaching any conclusions or making any investment decisions and not to place undue reliance on forward-looking statements, which apply only as of the date of the filing of this Form 10-K with the SEC.

Estimates and Projections

This discussion includes certain estimates, projections and other statistical data. These estimates and projections reflect management’s best estimates based upon currently available information and certain assumptions we believe to be reasonable. These estimates are inherently uncertain, subject to risks and uncertainties, many of which are not within our control, have not been reviewed by our independent auditors and may be revised as a result of management’s further review. In addition, these estimates and projections are not a comprehensive statement of our financial results, and our actual results may differ materially from these estimates and projections due to developments that may arise between now and the time the results are final. There can be no assurance that the estimates will be realized, and our results may vary significantly from the estimates, including as a result of unexpected issues in our business and operations. Accordingly, you should not place undue reliance on such information. Projections, assumptions and estimates of our future performance and the future performance of the markets in which we operate are necessarily subject to a high degree of uncertainty and risk. See Item 1A — Risk Factors for further information.

Item 1. Business

Overview

MiMedx is an industry leader in utilizing birth tissue as a platform for regenerative medicine, developing and distributing placental tissue allografts with patent-protected, proprietary processes for multiple sectors of healthcare. As a pioneer in placental biologics, we have both a core business, focused on addressing the needs of patients with acute and chronic non-healing wounds, and a promising late-stage pipeline targeted at decreasing pain and improving function for patients with degenerative musculoskeletal conditions. We derive our products from human placental tissues and process these tissues using our proprietary processing methods, including the PURION® process. We employ Current Good Tissue Practices, Current Good Manufacturing Practices, and terminal sterilization to produce our allografts. MiMedx provides products primarily in the wound care, burn, surgical, and non-operative sports medicine sectors of healthcare. All of our products are regulated by the FDA.

At MiMedx, our vision is to advance regenerative science and innovative biologics that restore quality of life. Our mission is to improve people's health and lives through innovation that makes healing possible. By advancing rigorous science and increasing access to evidence-based regenerative technologies, we elevate the standard of care. Our commitment to the highest quality standards maximizes our potential to reduce cost to the healthcare system and restore quality of life. Character, Customer Orientation, Innovation, Collaboration and Stewardship are our core values.

MiMedx is a leading supplier of human placental allografts, which are human tissues that are derived from one person (the donor) and used to produce therapies to treat another person (the recipient). MiMedx has supplied over two million allografts, through both direct and consignment shipments. Our platform technologies include AmnioFix®, EpiFix®, EpiCord®, AmnioCord® and AmnioFill®. AmnioFix and EpiFix are our tissue allografts derived from the amnion and chorion layers of the human placental membrane. EpiCord and AmnioCord are tissue allografts derived from umbilical cord tissue. AmnioFill is a particulate product comprised of placental connective tissue matrix, derived from the placental disc and placental membranes.

Our EpiFix and EpiCord sheet product lines are promoted for external use, such as in advanced wound care applications, while our AmnioFix, AmnioCord and AmnioFill products are positioned for surgical applications, including lower extremity repair, plastic surgery, vascular surgery and multiple orthopedic repairs and reconstructions. We describe these in greater detail below under the heading "*Our Product Portfolio.*"

2017 FDA Guidance. The products we sell are regulated by the FDA. Generally, our products are regulated as Human Cells, Tissues and Cellular and Tissue – Based Products ("***HCT/Ps***"), which do not require pre-market clearance or approval by the FDA and are subject solely to Section 361 of the Public Health Service Act ("***Section 361***") and related regulations. However, in November 2017 the FDA published a series of related guidances, including one entitled "*Regulatory Considerations for Human Cells, Tissues, and Cellular and Tissue–Based Products: Minimal Manipulation and Homologous Use – Guidance for Industry and Food and Drug Administration Staff*" (the "***Guidance***"). The Guidance established an updated framework for the FDA's regulation of cellular and tissue-based products. Among other things, the guidances clarified the FDA's views about the criteria that differentiate those products subject to regulation solely under Section 361 ("***Section 361 HCT/Ps***") from those cellular and tissue-based products considered to be drugs, devices, and/or biological products ("***Section 351 HCT/Ps***") subject to licensure under Section 351 of the Public Health Service Act ("***Section 351***") and related regulations.

Effect on Our Products. Under the Guidance, we expect that the FDA will continue to regulate our amniotic membrane sheet products (AmnioFix, EpiFix, EpiBurn and EpiXL) as Section 361 HCT/Ps so long as the claims we make for them are consistent with the Section 361 framework. We expect, however, that the FDA will regulate certain of our other products, such as our micronized products (AmnioFix Injectable and EpiFix Micronized) as Section 351 HCT/Ps. We also expect other products, like AmnioFill, to be regulated under Section 351.

Enforcement Discretion. The Guidance stated that the FDA intends to exercise enforcement discretion under limited conditions with respect to the Investigative New Drug ("***IND***") application and pre-market approval requirements for certain HCT/Ps through November 2020. However, in July 2020, the FDA extended its period of enforcement discretion to May 31, 2021. In doing so, the FDA stated, "This will give manufacturers additional time to determine if they need to submit an investigational new drug (IND) or marketing application and, if such an application is needed, to prepare the IND or marketing application. Such additional time is warranted in light of COVID-19, which has presented unique challenges in recruiting clinical trial participants and carrying out clinical trials."

We believe this to mean that, through May 31, 2021, the FDA does not intend to enforce certain provisions as they currently apply to certain entities or activities. The FDA has stated that this period of enforcement discretion is intended to give sponsors

time to evaluate their products, have a dialogue with the agency and, if necessary, begin clinical trials and file the appropriate pre-market applications to transition products that had been marketed as Section 361 HCT/Ps into compliance with Section 351. The FDA's approach is risk-based, and the Guidance clarified that high-risk products and uses might be subject to immediate enforcement action.

During the Period of Enforcement Discretion. We have continued to market our micronized products (AmnioFix Injectable and EpiFix Micronized) and our particulate product (AmnioFill) under this policy of enforcement discretion, while at the same time pursuing Biologics License Applications ("***BLAs***") for certain of our micronized products.

We have already filed INDs for three indications for our micronized product, AmnioFix Injectable: plantar fasciitis, knee osteoarthritis, and Achilles tendonitis, and have been conducting clinical trials. We also intend to file the appropriate investigative application for both AmnioFill and for EpiFix Micronized, as well as an additional IND for AmnioFix Injectable in the first half of 2021; we are currently in the clinical trial design and planning stage, but have not yet initiated any clinical trials in furtherance of any additional regulatory approvals for these products.

Efforts to Seek Extension of Enforcement Discretion Period. MiMedx is actively engaging with the FDA to extend its enforcement discretion period beyond May 2021 to allow for the continued marketing of the potentially affected products in accordance with an agreed upon transition plan. However, there is no guarantee that the FDA will grant an extension, and even if issued, such an extension may be limited to the products, doses, and indications that are subject to clinical trials. See discussion below - "*Risk Factors*" under the heading "*To the extent our products do not qualify for regulation as human cells, tissues and cellular and tissue-based products solely under Section 361 of the Public Health Service Act, this could result in removal of the applicable products from the market, would make the introduction of some new tissue products more expensive, and could significantly delay the expansion of our tissue product offerings and subject us to additional post-market regulatory requirements."*

Post-Enforcement Discretion. Following the period of enforcement discretion, we may need to cease selling our micronized products and other products regulated under Section 351 until the FDA grants pre-market approval, and then we will only be able to market such products for indications that have been cleared or approved by the FDA. The loss of our ability to market and sell our micronized products would have a material adverse impact on our revenues, earnings and financial position. In 2020, revenues from all micronized products and AmnioFill were $32.8 million, or approximately 13% of our total revenue. Similarly, if the FDA determines that our umbilical cord products, EpiCord, EpiCord Expandable, and AmnioCord, do not meet the requirements for regulation solely under Section 361, then the products will be regulated under Section 351 and pre-market clearance or approval will be required. In 2020, revenues from umbilical cord-derived products was $16.6 million. See discussion below – "*Risk Factors*" under the heading "*To the extent our products do not qualify for regulation as human cells, tissues and cellular and tissue-based products solely under Section 361 of the Public Health Service Act, this could result in removal of the applicable products from the market, would make the introduction of some new tissue products more expensive, and could significantly delay the expansion of our tissue product offerings and subject us to additional post-market regulatory requirements."*

Most of our revenues are generated by wound care applications. We have focused our priorities on initiatives across our Commercial, Operations and Research & Development organizations that position us to exceed 10% year-over-year adjusted net sales growth in our core business, and enhance the probability of success for our late-stage pipeline. In the first half of 2021, we plan to continue executing our commercial strategy, complete the conversion of our manufacturing and quality systems toward compliance with the CGMP requirements that apply to Section 351 products, and continue to maintain a dialogue with the FDA in advance of the end of the period of enforcement discretion. We are advancing our therapeutic biologics pipeline to achieve FDA approvals for specific clinical indications, including areas of musculoskeletal degeneration and other areas of unmet clinical need. See the discussion below – "Clinical Trials" for more information.

Our History

Our current business began on February 8, 2008 when Alynx, Co., our predecessor company, acquired MiMedx, Inc., a development-stage medical device company, the assets of which included licenses to two development-stage medical device technology platforms which we do not currently market. On March 31, 2008, Alynx, Co. merged into MiMedx Group, Inc., a Florida corporation and wholly-owned subsidiary that had been formed for purposes of the merger, with MiMedx Group, Inc. as the surviving corporation in the merger. In January 2011, we acquired all of the outstanding equity interests of Surgical Biologics, LLC (n/k/a MiMedx Tissue Services, LLC).

Recent Developments

SEC Matters and Corporate Matters

On March 17, 2020, we filed our annual report for the year ended December 31, 2018 which included restated financial statements. On July 6, 2020, we filed our annual report for the year ended December 31, 2019, three quarterly reports for 2019, and our quarterly report for the period ended March 31, 2020. By doing so, we became current in our periodic reporting obligations with the SEC.

We also held our 2019 annual meeting of shareholders on August 31, 2020 and our 2020 annual meeting of shareholders on November 20, 2020.

Relisting of Common Stock and Related Matters

On November 4, 2020, The Nasdaq Stock Market LLC ("***Nasdaq***") relisted our common stock ("***Common Stock***"). Previously, Nasdaq had suspended our Common Stock from trading on November 8, 2018 and subsequently delisted our Common Stock effective March 8, 2019 due to our failure to remain current in our SEC reporting obligations.

Additions to our Management and Board of Directors

Since June 2018, most of our executive leadership team has changed.

- The Board appointed Timothy R. Wright as Chief Executive Officer, effective as of May 13, 2019.
- On December 2, 2019, William "Butch" Hulse IV joined the Company as General Counsel and Secretary.
- Effective March 18, 2020, the Board appointed Peter M. Carlson as Chief Financial Officer.
- On May 1, 2020 the Board appointed William L. Phelan as Chief Accounting Officer.
- On July 28, 2020, the Board appointed Rohit Kashyap, Ph.D. Executive Vice President and Chief Commercial Officer.
- On August 10, 2020, the Board appointed Robert B. Stein, M.D., Ph.D. Executive Vice President, Research and Development.

In addition, we welcomed four new directors to our Board of Directors in 2020. Pursuant to the Preferred Stock Transaction described below, we increased the size of our Board of Directors, and Martin P. Sutter and William A. Hawkins III were appointed to serve as Preferred Directors effective July 2, 2020. At the 2020 Annual Meeting held on November 20, 2020, shareholders elected Dr. Michael Giuliani and Dr. Cato Laurencin to the Board. Also, Dr. Phyllis Gardner will join the Board effective immediately following the filing of this report. As a result, all of our current directors have joined the Board as new members since May 2019.

Financing Transactions

On July 2, 2020, we issued shares of our Series B Convertible Preferred Stock, par value $0.001 per share (the "***Series B Preferred Stock***"), to an affiliate of EW Healthcare Partners and to certain funds managed by Hayfin Capital Management LLP pursuant to the Securities Purchase Agreement, dated as of June 30, 2020 (the "***Securities Purchase Agreement***"), for an aggregate purchase price of $100 million (the "***Preferred Stock Transaction***"). On July 2, 2020, we also borrowed an aggregate of $50 million pursuant to the loan agreement, dated as of June 30, 2020 (the "***Hayfin Loan Agreement***"), by and among the MiMedx Group, Inc., certain of our subsidiaries, Hayfin Services LLP and other funds managed by Hayfin Capital Management LLP, and obtained an additional committed but undrawn $25 million facility pursuant to the Hayfin Loan Agreement (collectively, the "***Hayfin Loan Transaction***"). A significant portion of the proceeds from these transactions was used to repay the outstanding balance of principal and accrued but unpaid interest, and prepayment premium, under existing indebtedness. For further information regarding the Preferred Stock Transaction, see Item 8, Note 10 "*Equity*." For further information regarding the Hayfin Loan Agreement and the repayment of our prior indebtedness, see Item 8, Note 8 "*Long-Term Debt.*"

Government Investigations and Litigation

On April 6, 2020, we announced that we had finalized a settlement with the Department of Justice (the "***DOJ***"), resolving an investigation concerning the accuracy of commercial pricing disclosures to the United States Department of Veterans Affairs (the "***VA***") for one of our products in connection with our Federal Supply Schedule contract, and a related qui tam action filed in Minnesota. We self-disclosed the matter to the VA Office of Inspector General (VA-OIG) in November 2018, prior to our knowledge of the qui tam suit or any underlying government investigation and, as the DOJ acknowledged in the settlement agreement, we cooperated with the government's investigation into the matter. Without admitting the allegations, we agreed to

pay $6.5 million to the DOJ to resolve the matter. Previously, we disclosed that we had accrued an amount to cover the settlement and anticipated related expenses in our annual report on Form 10-K for the year ended December 31, 2018.

On January 11, 2021, we provided an update regarding the United States Attorney's Office for the Southern District of New York ("***USAO-SDNY***") Investigation into, among other things, our recognition of revenue and practices with certain distributors and customers. The USAO-SDNY recently advised us, based on the USAO-SDNY's current understanding of facts, that it does not intend to pursue further action or remedies against us.

On September 9, 2020, we reached a settlement of three shareholder derivative actions (*Evans v. Petit, et al.* filed September 25, 2018, *Georgalas v. Petit, et al.* filed September 27, 2018, and *Roloson v. Petit, et al.* filed October 22, 2018) that had been filed in the Northern District of Georgia. On December 21, 2020, the Court approved the settlement.

Pursuant to the Florida Business Corporation Act and indemnification agreements with its former Chairman and CEO, Parker H. "Pete" Petit, and former COO, William Taylor, the Company has advanced defense costs to Petit and Taylor in connection with certain legal proceedings arising from their corporate status as former directors and officers of the Company. Following the jury verdict against Petit for securities fraud and Taylor for conspiracy to commit securities fraud, on January 12, 2021, the Company filed suit in the Eleventh Judicial Circuit of Florida in and for Miami-Dade County (*MiMedx Group, Inc. v. Petit and Taylor*) seeking (1) a declaratory judgment that a conviction of Petit and Taylor means the Company has no further obligation to indemnify or advance expenses to them, (2) reimbursement of amounts previously advanced to Petit and Taylor, and (3) any other relief deemed just and proper by the court. Given the inherent difficulty of predicting the outcome of litigation, the Company cannot estimate recoveries, ranges of recoveries, losses or ranges of losses in these proceedings, nor can it predict whether it may be required to continue to indemnify or advance defense costs to Petit and Taylor.

For more information see the discussion included in Item 8 -- Note 14, "Commitments and Contingencies."

Current Business Priorities and Strategy

As a pioneer in placental biologics, we have both a core business, focused on addressing the needs of patients with acute and chronic non-healing wounds, and a promising late-stage pipeline of products to decrease pain and improve function in patients with degenerative musculoskeletal conditions. Within the advanced wound care sector, there is significant unmet patient need, due to an aging population, an increasing incidence of obesity and diabetes, and other contributing comorbidities that result in a higher susceptibility to non-healing chronic wounds. These demographics extend into the musculoskeletal sector as well, and the increasing number of patients requiring advanced treatment represents a significant cost burden on the healthcare system. By incorporating a strategy to advance the underlying placental science and more rigorously establish the clinical and economic effectiveness of our products, we believe the Company can differentiate the value of our portfolio and address multiple areas of significant unmet clinical need. We have focused our priorities on initiatives across our Commercial, Operations and Research & Development organizations that position the Company to exceed 10% growth in our core business, and enhance the probability of success for our late-stage pipeline.

Within our core business, the Company's focus is on demonstrating the value of our existing portfolio, increasing the effectiveness and efficiency of our sales force using intensive analytics, and deploying clinical support and economic data to educate healthcare professionals on the efficacy of our products. In early 2021, we completed a redesign of our sales force, intended to structure personnel and territories to capitalize on new opportunities, drive efficiencies, and reward long-term territory growth through adjustments in our sales compensation structure. Over the course of the year, we plan to increase the number of sales personnel by approximately 10%, and to increase the number of Medical Science Liaisons to further support medical education initiatives. Initiatives designed to expand the market include increasing disease state awareness, improving patient understanding of available treatment options, and leveraging recent reimbursement coverage and the Company's favorable mention in a February 2020 Agency for Healthcare Research and Quality (AHRQ) report.

The Company is also focused on advancing our late-stage pipeline and accelerating efforts toward seeking FDA approval for AmnioFix Injectable, also designated as micronized dehydrated human amnion/chorion membrane ("***mdHACM***"), to treat musculoskeletal degeneration across multiple indications. As a significant area of focus and investment for MiMedx, we are progressing clinical, manufacturing, and quality initiatives, in support of mdHACM as a biologic with broad potential across a range of large and growing clinical indications. We are aligning voice-of-customer input, market intelligence, industry expertise and additional resources as inputs to our commercialization strategy for these products. In parallel, we are continuing to proactively communicate with the FDA. We are preparing to request and schedule End-of-Phase meetings with the FDA to review our progress with ongoing clinical trials, and outline the proposed next steps, including plans to accelerate a Phase 3 clinical trial for knee osteoarthritis. The timing for this meeting will be dependent upon FDA feedback and availability.

Our planned investments in Research and Development throughout 2021 are designed to advance our late-stage pipeline and support our core market growth objectives. We intend to publish additional peer-reviewed clinical, scientific and economic data that further reinforce the differentiation of our products and expand the utility of the Company's placentally-derived products in other clinical applications throughout the care continuum. In addition, we are enhancing business and product development efforts, targeting new applications and potential products that fit within our framework of innovative technologies backed by rigorous science, that elevate the standard of care.

Our Product Portfolio

We sell our placenta-based allograft products under our own brands and, on a limited basis, through a private label or original equipment manufacturer ("***OEM***") basis. We maintain strict controls on quality at each step of the manufacturing process beginning at the time of procurement. Our Quality Management System has long been focused on compliance with the American Association of Tissue Banks' ("***AATB***") standards and the FDA's current Good Tissue Practices ("***CGTP***"), and we are strengthening our controls for future BLA products through the implementation of our current Good Manufacturing Practices ("***CGMP***") program. We believe the implementation of CGMP will provide benefits throughout our entire product portfolio, and add to our competitive differentiation.

EpiFix

Our EpiFix allograft is a semi-permeable protective barrier membrane product comprised of dehydrated human amnion/chorion membrane that may be used in the treatment of chronic wounds, including diabetic foot ulcers ("***DFUs***"), venous leg ulcers ("***VLUs***"), pressure ulcers and burns. EpiFix is available in a variety of sizes that can be used appropriately for wounds of varying sizes.

MiMedx also has a micronized version of this product. As further discussed below under the heading "*Government Regulation -Recent FDA Guidance and Transition Policy for HCT/Ps*," the FDA clarified in its 2017 guidance that it regards micronized placental membrane products as subject to FDA licensure as biological products under Section 351. We intend to file the appropriate investigative application with the FDA for EpiFix Micronized in the first half of 2021 for potential application in DFUs or other areas of advanced wound care, and are currently in the clinical trial design and planning stage, but have not yet initiated any clinical trials in furtherance of any regulatory approvals.

AmnioFix

Our AmnioFix allograft is a semi-permeable protective barrier membrane product comprised of dehydrated human amnion/chorion membrane that may be used in the treatment of wounds related to surgical procedures. AmnioFix is configured in a variety of sizes for internal use. Currently, we offer AmnioFix as sheet products in a range of sizes and in a micronized format as AmnioFix Injectable.

- AmnioFix sheet form is used in a variety of surgical wound repair and internal surgical procedures. It is primarily used in lower extremity repair, spine, orthopedic, sports medicine, gastrointestinal, urologic, and other general surgery applications.

- AmnioFix Injectable is supplied in micronized powder form and is reconstituted with 0.9% sterile saline for injection. This product is our lead BLA candidate. We are studying the product's potential to address musculoskeletal degeneration across multiple indications. We have three on-going late-stage randomized controlled studies under open INDs, evaluating AmnioFix Injectable in plantar fasciitis, Achilles tendonitis and knee osteoarthritis. We currently are in Phase 3 for plantar fasciitis and Achilles tendonitis and in Phase 2B for knee osteoarthritis.

EpiCord and AmnioCord

EpiCord and AmnioCord are dehydrated human umbilical cord allografts intended for homologous use. EpiCord and AmnioCord provide a protective environment for the healing process and are used in the treatment of wounds or in surgical procedures. Our cord products are thicker than the EpiFix or AmnioFix allografts and have application in deeper wounds or in areas where suturing the allograft in place may be advantageous.

In September 2020, we launched EpiCord Expandable as the latest advancement in our product portfolio. EpiCord Expandable is the first and only expandable allograft derived from the umbilical cord. The allograft can expand to twice its size, conforming to uneven surfaces and deep wounds, and is thick enough to allow for suturing as needed to keep the graft in place. This new placental tissue allograft provides healthcare professionals an additional option to support the advanced wound care needs of

their patients with larger, chronic, and hard-to-heal wounds. As the wound progresses toward closure, a healthcare professional can transition to other products in our portfolio, including EpiCord or EpiFix as needed for additional sizes that can be used appropriately to best accommodate the size of the wound.

AmnioFill

AmnioFill consists of particles of connective tissue matrix derived from placental disc and placental membranes, and is used to replace or supplement damaged integumental tissue. Its primary application is in larger and uneven wound surfaces, or deep/tunneling wounds including pressure ulcers. Similar to our other micronized products, we are transitioning AmnioFill to recognize its regulation under Section 351, per FDA's 2017 guidance on HCT/Ps, and are working towards pre-market approval. We are currently in the clinical trial design and planning stage but have not yet initiated any clinical trials in furtherance of any regulatory approvals for AmnioFill.

OEM Products

We sell a selection of allografts on an OEM basis pursuant to an agreement under which we have granted a third party an exclusive license to some of our technology for use in dental applications. Other than dental applications, we have only a small number of OEM relationships.

We continue to research new opportunities for amniotic and other placental tissue, and we have several additional offerings in various stages of conceptualization and development.

Placenta Donation Program

We partner with physicians and hospitals to recover donated placental tissue. Through our donor program, a mother who delivers a healthy baby via a scheduled Caesarean section can donate her placenta and umbilical cord tissue in lieu of having it discarded as medical waste. After consent for donation is obtained, a blood sample from each donor is tested for communicable diseases, and the donor is screened for risk factors in order to determine eligibility in compliance with federal regulations and AATB standards. We operate a licensed tissue bank that is registered as a tissue establishment with the FDA, and we are an accredited member of the AATB. All donor records and test results are reviewed by our Medical Director and staff prior to the release of the tissue for distribution. However, see discussion below, "Risk Factors" under the heading "*The products we manufacture and process are derived from human tissue and therefore have the potential for disease transmission."*

We have developed a large, geographically diverse, network of hospitals that participate in our placenta donation program, and we employ a dedicated staff that work with these hospitals. We also utilize third-party providers of placenta donations on an as-needed basis to mitigate business risk. We believe that we will be able to obtain an adequate supply of tissue to meet anticipated demand. However, see discussion below "*Risk Factors*" under the heading "*Our products depend on the availability of tissue from human donors, and any disruption in supply could adversely affect our business.*"

Processing (Manufacturing)

The Company has developed and patented a unique and proprietary technique (PURION) for processing allografts from the donated placental tissue. This technique specifically focuses on preserving the tissue's natural growth factor content and regulatory proteins, and maintaining the structure and collagen matrix of the tissue. Our patented and proprietary processing method employs aseptic processing techniques in addition to terminal sterilization for increased patient safety. Despite starting with similar placental tissues, all placental tissue products and processes are not the same – we believe that our proprietary process preserves more of the natural beneficial characteristics of the tissue than the processes used by many of our competitors.

The PURION process produces an allograft that retains the tissue's inherent biological properties (cytokines, chemokines, growth factors, *etc.*) found in the placental tissue and produces an allograft that is safe and easy for healthcare providers to use. The allograft can be stored at room temperature and has a five-year shelf life. Each sheet allograft incorporates specialized visual embossments that assist the health care practitioner with allograft placement and orientation.

To ensure the safety of human tissue products, the FDA enforces current Good Tissue Practice ("***CGTP***") manufacturing regulations. We believe that MiMedx has developed mature systems to comply with, and is in compliance with, these regulations. As an important part of the Company's product safety compliance, MiMedx products are terminally sterilized to an internationally recognized industry standard in addition to having been processed *via* the PURION process.

Our facilities are subject to periodic unannounced inspections by regulatory authorities and may undergo compliance inspections conducted by the FDA and corresponding state and foreign agencies. We are registered with the FDA as a tissue establishment and are subject to the FDA's CGTP quality program regulations, state regulations and regulations promulgated by various regulatory authorities outside the United States. The Company's most recent FDA inspection for compliance with CGTP regulations, which took place in September 2018, resulted in no observations and a no action indicated (NAI) rating, which is the most favorable designation the FDA provides after an inspection.

In recent years, the FDA has clarified through inspection activity, letters to industry, and guidance documents its expectation that certain human tissue products, including product types manufactured by MiMedx, meet additional requirements that apply to traditional biological products, such as BLA approval and CGMP compliance beginning in May 2021. The guidance documents apply to products offered by many companies, not just MiMedx, and the guidance has implications for manufacturing processes, among other things. For example, the FDA generally requires products subject to Section 351 to be manufactured in compliance with CGMPs. After the end of the enforcement discretion period, these products will be subject to CGMP compliance. The Company is developing and enhancing systems to meet these requirements, and intends to complete those efforts by May 2021, although there is no guarantee that the Company will be able to meet the requirements by such date, or at all. In December 2019, the FDA conducted CGMP inspections at our Marietta, Georgia and Kennesaw, Georgia processing facilities. The FDA issued a Form FDA 483 ("***483***"), which is a list of inspectional observations, at the conclusion of each inspection. Specifically, the FDA issued a 483 consisting of 9 observations at our Marietta, Georgia processing facility, and a 483 consisting of 14 observations at our Kennesaw, Georgia processing facility. MiMedx timely responded to the FDA regarding each observation, providing substantive responses to all of the observations. The Company's response included completed and planned actions to address each observation, and as of the date of this filing, all of these remedial actions are now complete. In January 2021, the FDA classified its December 2019 inspection of our Kennesaw, Georgia facility as "VAI," or voluntary action indicated, which means objectionable conditions or practices were found in their December 2019 inspection but the agency is not taking or recommending any administrative or regulatory actions. The FDA has not yet categorized its December 2019 inspection of our Marietta, Georgia facility.

Intellectual Property

Our intellectual property includes owned and licensed patents, owned and licensed patent applications and patents pending, proprietary manufacturing processes and trade secrets, and trademarks associated with our technology. We believe that our patents, proprietary manufacturing processes, trade secrets, trademarks, and technology licensing rights provide us with important competitive advantages.

Patents and Patent Applications

Due to the substantial expertise and investment of time, effort and financial resources required to bring new regenerative biomaterial products and implants to the market, the importance of obtaining and maintaining patent protection for significant new technologies, products and processes cannot be underestimated. As of the date of the filing of this Form 10-K, in addition to international patents and patent applications, we own 58 U.S. patents related to our amniotic tissue technology and products, and 33 additional patent applications covering aspects of this technology are pending at the United States Patent and Trademark Office. The vast majority of our domestic patents covering our core amniotic tissue technology and products will not begin to expire until August 2027. See discussion below – "*Risk Factors*" under the heading "*Risks Related to Our Intellectual Property*."

Market Overview

Domestic sales currently account for substantially all of our revenue, and we are pursuing international expansion, primarily targeting Japan and select countries in Europe, Asia Pacific, and the Middle East. In the United States, advanced wound care applications, including burn treatment and lower extremity surgeries, are our primary areas of clinical use.

Wound Care

The broad wound care category includes traditional dressings such as bandages, gauzes and ointments, which are used to treat non-severe or non-chronic wounds, and advanced wound care products such as medical devices, advanced dressings, xenografts, biological products, and HCT/Ps, which are used as skin substitutes to treat severe wounds or chronic wounds that have not appropriately closed after four weeks of treatment with traditional or standard of care dressings.

In the United States, estimates indicate that in 2020, the prevalence of chronic wounds was 2% of the total U.S. population, or approximately 6.7 million people suffering from chronic wounds. Of these chronic cases, approximately 57% or 3.8 million are

categorized as chronic leg ulcers (which include DFUs and VLUs), with 39% treated with advanced wound care dressing such as skin substitutes (GlobalData: 2020 Wound Care Management- Tissue Engineered Skin Subs - US - 2015-2030). MiMedx is a leader in the advanced wound care category and the amniotic tissue allograft sub-category. Both of these categories are expected to continue growing due to certain demographic trends, including an aging population, increasing incidence of obesity and diabetes and the associated higher susceptibility to non-healing chronic wounds. Furthermore, the increasing number of patients requiring advanced treatment represents a significant cost burden on the healthcare system. The overall cost of treating chronic wounds is rising sharply, and the current annual estimated cost in the United States exceeds $28 billion.

Traditional dressings such as bandages, gauzes and ointments, along with treatment of active infection and debridement, currently represent the "standard of care" for treating chronic wounds such as DFUs and VLUs. If, after four weeks of standard of care therapy, the wound has not responded appropriately or improved, clinical research has shown that advanced therapy such as a skin substitute can be beneficial as part of the patient's treatment plan. However, often times advanced therapies are not employed due to current treatment guidelines, product access, or medical education around the clinical and economic benefits of advanced skin substitutes. We believe this represents a large opportunity for the Company to expand the market and drive initiatives resulting in market growth. According to data provided by BioMedGPS, MiMedx's EpiFix is the current product of choice for physicians choosing to use an amniotic skin substitute product as a barrier or cover. EpiFix stores at room temperature for up to five years compared to certain other skin substitutes currently on the market that require cryogenic freezer storage, have limited shelf life, and may not be human-derived. In addition, we market multiple sizes of EpiFix sheets for use as protective barriers which enables a healthcare provider to select an appropriate size graft based on the size of the wound to reduce product waste. The recent launch of our EpiCord Expandable product line also offers an alternative treatment option to address larger, deeper wounds in a cost-effective way earlier in the treatment algorithm.

Our AmnioFix tissue allografts have been used in a variety of surgical applications including, but not limited to, plastic surgery, general surgery, gynecology, urology, orthopedics, spinal surgery, lower extremity repair and sports medicine procedures. AmnioFix can be used as a barrier membrane in procedures where scar tissue formation may be problematic, or where a second surgery may be required.

Biologics License Application (BLA) Programs

The FDA clarified its expectations in late 2017 that certain cellular and tissue-based products, including types of products marketed by MiMedx, are considered drugs, devices, and/or biological products subject to Section 351 requirements under the federal Food, Drug and Cosmetic Act (the *"**FD&C Act***"). In order to conform to this regulatory guidance, MiMedx is pursuing several indications under the BLA pathway, although there can be no assurance that we will obtain a BLA and we may ultimately decide not to pursue a BLA for certain products or indications. See *Risk Factors - "Obtaining and maintaining the necessary regulatory approvals for certain of our products will be expensive and time consuming and may impede our ability to fully exploit our technologies."*

AmnioFix Injectable is our lead BLA product candidate, and we have three ongoing IND programs: plantar fasciitis (Phase 3), Achilles tendonitis (Phase 3) and knee osteoarthritis (Phase 2B). We have completed enrollment of subjects in each of these programs in their current phase. See *Clinical Trials*, below, for more information.

After oral non-habit forming pain medication fails to adequately relieve a patient's joint, ligament or tendon pain, market available injections such as corticosteroids are a commonly available treatment option. However, a number of patients still do not get adequate relief from corticosteroid injections, or do not want to use corticosteroids given their potential to damage human tissue. Additionally, in light of the current crisis with opioid abuse, non-surgical treatments and alternative approaches to musculoskeletal pain management are under consideration. Patients and physicians are searching for new products that are safe and effective for the management of chronic and degenerative musculoskeletal conditions.

More than 2.2 million people suffer from plantar fasciitis in the U.S., according to data from the National Center for Complimentary and Integrative Health, March 2018. Plantar fasciitis can become a chronic issue causing tissue damage and continuous pain, and recurrence is common. Approximately one million patients annually seek treatment, and available therapies include conservative options, such as ice and custom orthotics, corticosteroid injections, and potentially surgery. Based on primary research and a conjoint analysis conducted, we estimate that approximately 20,000 to 50,000 patients per year may be candidates for AmnioFix Injectable as a non-surgical treatment option to reduce pain and improve function in patients suffering from plantar fasciitis.

Osteoarthritis (OA) is a disease characterized by progressive articular cartilage destruction, ultimately leading to disabling pain and joint dysfunction. The knee is the most commonly affected joint and knee OA represents the leading cause of disability in the adult population. 17.5 million people suffer from symptomatic knee osteoarthritis (GlobalData: 2020 Orthopedic Devices -

Knee Reconstruction - US - 2015-2030), and this number is expected to increase to 19 million people by 2025 (GlobalData: 2020 Orthopedic Devices - Knee Reconstruction - US - 2015-2030). According to the Arthritis Foundation, more than half of knee osteoarthritis sufferers are younger than 65 years old. Current treatment options include analgesics, non-steroidal anti-inflammatory drugs (NSAIDs), injectable corticosteroids, viscosupplements, platelet rich plasma, and other emerging therapies. 80% of symptomatic knee OA patients fail conservative therapy (GlobalData: 2020 Orthopedic Devices - Viscosupplementation - US - 2015-2030). When conservative and non-operative treatment options fail, patients often consider surgical intervention. According to estimates by Global Data's United States Knee Reconstruction Model, approximately one million people required knee reconstruction surgery in 2020, with 2% needing bilateral knee replacement. Costs for knee replacement procedures, on average, can exceed $55,000. Based on primary research and a conjoint analysis conducted, we believe approximately 1.0 - 1.5 million patients per year may be candidates for AmnioFix Injectable as a non-surgical treatment option to reduce pain and improve function in patients suffering from knee osteoarthritis. However, as of the date of the filing of this Form 10-K, AmnioFix Injectable has not been approved by the FDA for any such use. See Item 1A - Risk Factors - "*Obtaining and maintaining the necessary regulatory approvals for certain of our products will be expensive and time consuming and may impede our ability to fully exploit our technologies.*"

Marketing and Sales

As of December 31, 2020 our direct sales team was comprised of more than 265 sales professionals, including field sales representatives and field sales management, who call on hospitals, wound care clinics, physician offices, and federal health care facilities such as the Department of Veterans Affairs (the "VA") and Department of Defense hospitals. We plan to grow our domestic direct sales team by approximately 10% by the end of 2021. Our direct sales force focuses on the advanced and chronic wound care category through multiple sites of service. We also maintain a network of independent sales agents that focus on musculoskeletal applications leveraging the complementary products in their portfolios, access to certain customers, and to provide sales coverage for areas where we do not have a full time sales representative.

We also sell our products through distributors. Distributors purchase products from us at wholesale prices and resell products to end users. See Note 15, "*Revenue Data by Customer Type*." As discussed above, we sell allografts for dental applications on an OEM basis pursuant to an agreement under which we granted a third party an exclusive license to some of our technology for use in certain fields in a specified field of use.

Coverage and Reimbursement

With the exception of government accounts, most purchasers of our products are physicians, hospitals or ambulatory surgery centers ("***ASCs***") that rely on reimbursement by third-party payers. Accordingly, our growth substantially depends on adequate levels of third-party reimbursement for our products from these payers. Third-party payers are sensitive to the cost of products and services and are increasingly seeking to implement cost containment measures to control, restrict access to, or influence the purchase of health care products and services. In the U.S., such payers include U.S. federal healthcare programs (*e.g.*, Medicare and Medicaid), private insurance plans, managed care programs and workers' compensation plans. Federal healthcare programs have prescribed coverage criteria and reimbursement rates for medical products, services and procedures. Similarly, private, third-party payers have their own coverage criteria and negotiate reimbursement amounts for medical products, services and procedures with providers. In addition, in the U.S., an increasing percentage of insured individuals are receiving their medical care through managed care programs (including managed federal healthcare programs) which monitor and may require pre-approval of the products and services that a member receives. Ultimately, however, each third-party payer determines whether and on what conditions they will provide coverage for our products, and such decisions often include each payer's assessment of the science and efficacy of the applicable product.

A portion of our products are purchased by U.S. government accounts (*e.g.*, the VA, the Indian Health Service), which do not depend on reimbursement from third party payers. In order for a company to be eligible to have its products purchased by such federal agencies and paid for by the Medicaid program, federal law requires the Company to participate in the VA Federal Supply Schedule ("***FSS***") pricing program.

EpiFix Sheet Products and EpiCord

Medicare Coverage

By far, the largest third-party payer in the United States is the Medicare program, which is a federally-funded program that provides healthcare coverage for senior citizens and certain disabled individuals. The Medicare program is administered by the Centers for Medicare and Medicaid Services ("***CMS***"), an agency within the U.S. Department of Health and Human Services ("***HHS***"). Medicare Administrative Contractors ("***MACs***") are private insurance companies that serve as agents of CMS in the

administration of the Medicare program and are responsible for making coverage decisions and paying claims for the designated Medicare jurisdiction. There are seven Part A/B MACs in the U.S., which cover 12 jurisdictions, each with its own geographical jurisdictions, and each MAC has its own standards and process for determining coverage and reimbursement for a procedure or product. Private payers often follow the lead of governmental payers in making coverage and reimbursement determinations. Therefore, achieving favorable Medicare coverage and reimbursement is usually a significant gating factor for successful coverage and reimbursement for a new product by private payers.

The coverage and reimbursement framework for products under Medicare is determined in accordance with the Social Security Act and pursuant to regulations promulgated by CMS, as well as the agency's coverage and reimbursement guidance. In some cases, CMS does not specify coverage, leaving each of the MACs to determine whether and on what conditions they will provide coverage for the product. Such decisions are based on each MAC's assessments of the science and efficacy of the applicable product. As noted below under the heading "*Research and Development*," we have devoted significant resources to clinical studies to provide data to the MACs, as well as other payers, in order to demonstrate the efficacy and clinical effectiveness of our tissue technologies. As of the date of this report, both EpiFix sheets and EpiCord allografts are eligible for coverage by all MACs. In January 2019, EpiFix and EpiCord received separate CMS HCPCS Codes, Q4186 and Q4187, distinguishing each product in coverage and reimbursement policies.

For Medicare reimbursement purposes, our EpiFix and EpiCord allografts are classified as "skin substitutes." Current reimbursement methodology varies between the hospital outpatient department ("***HOPD***") and ASC setting versus the physician office. Currently, skin substitutes are reimbursed under a "packaged" or "bundled" methodology along with the related application procedure under a two-tier payment system. In the HOPD and ASC setting, providers receive a single payment that reimburses for the application of the product as well as the product itself. CMS classifies skin substitutes into low cost or high cost groups, based on a geometric mean unit cost and per day cost. For 2020, the geometric mean unit cost threshold applicable to both our EpiFix and EpiCord allograft products was $48 per square centimeter, and the per day cost threshold is $790. The national HOPD average packaged ("bundled") rate for our EpiFix and EpiCord allograft products was $1,427 in 2017, was $1,568 in 2018, was $1,549 in 2019, was $1,623 in 2020, and is $1,715 in 2021. All skin substitute products administered in the HOPD and ASCs setting are bundled except for those that have been approved by CMS for pass-through status. EpiFix was approved by CMS for pass-through status but that status expired on December 31, 2014, and EpiCord has not been approved by CMS for pass-through status. This "bundled" payment structure applies only to the HOPD and ASCs settings.

Currently, providers that administer EpiFix or EpiCord allografts and other skin substitutes in the physician office setting are reimbursed based on the size of the graft, computed on a per square centimeter basis. The payment rate is calculated using the manufacturer's reported average sales price ("***ASP***") submitted quarterly to CMS. This payment methodology applies only to physician offices. The Medicare payment rates are updated quarterly based on this ASP information for many skin substitute products but not all. EpiFix is included on the Medicare national ASP Drug Pricing File, but EpiCord is not. The published skin substitute Medicare payment rate established by statute is ASP plus 6%. Reimbursement for products not included on the Medicare national ASP Drug Pricing File are at the discretion of each MAC, which typically is invoice cost or wholesale acquisition cost ("***WAC***") plus 3%.

Medicare payments for all items and services, including EpiFix sheet products and EpiCord, since 2013 have been reduced by 2% under the sequestration required by the Budget Control Act of 2011, as amended by the American Taxpayer Relief Act of 2012. Subsequent legislation extended the 2% reduction to 2030 (although the sequestration was suspended from May 1, 2020 through December 31, 2020 due to COVID-19). This 2% reduction in Medicare payments affects all parts of the Medicare program. The law allows for additional sequestration orders, potentially resulting in up to a 4% reduction in Medicare payments under a statutory PAYGO sequestration order.

Private Payers

We have devoted considerable resources to clinical trials to support coverage and reimbursement of our products and have confirmed an increasing number of private payers that reimburse for EpiFix in the physician office, the HOPD and the ASCs settings. Coverage and reimbursement vary according to the patient's health plan and related benefits. The majority of health plans currently provide coverage for EpiFix for the treatment of DFUs, and many include treatment of VLUs. In 2020, numerous health plans have added EpiCord coverage for the treatment of DFUs. On December 1, 2020, the largest U.S. commercial payer, granted coverage for EpiFix as a proven and medically necessary option in the treatment of diabetic foot ulcers. The Company believes that EpiFix is the only amniotic membrane product to receive coverage under this payer's updated commercial medical policy. Information contributing to the coverage determination included a third-party technical brief that evaluated a number of skin substitutes for treating chronic wounds, in which EpiFix was noted to have the most

Randomized Controlled Trials, a low risk of overall study bias, and statistically significant findings. MiMedx has secured payer coverage for over 300 million covered lives, allowing a significant number of patients access to our products.

We have established and continue to grow a reimbursement support group to educate providers and patients with regard to accurate coverage and reimbursement information regarding our products, and plan to invest in furthering clinical data supportive of coverage for our products in additional clinical areas of use. See discussion below – "*Risk Factors*" under the heading "*Our revenues depend on adequate reimbursement from public and private insurers and health systems.*"

Hospital Use

Products administered in the hospital inpatient setting are bundled when submitted as part of the hospital's claim under a diagnosis-related group ("***DRG***"). In these cases, we continue to educate the hospital that our products are cost-effective, and have the potential to improve patient outcomes and reduce the length of stay. We are working to develop additional health economic data to support this effort. As noted above, the ability to sell products in a hospital is dependent upon demonstrating to the hospital the product's efficacy and cost effectiveness.

Micronized and Other Products

Currently, our micronized products are available for coverage by only a limited number of Medicare, commercial and state Medicaid plans. EpiFix Micronized is listed on the Medicare national ASP Drug Pricing File and, similar to most Medicare Part B drugs, is reimbursed at ASP plus 6%, effective July 2019. There is currently no specific third-party reimbursement available for AmnioCord, AmnioFill, or AmnioFix sheet, except to the extent such products are bundled as part of a hospital's claim under a DRG. See discussion below – "*Risk Factors*" under the heading "*Our revenues depend on adequate reimbursement from public and private insurers and health systems.*"

Customer Concentration

A portion of our products are purchased by U.S. government accounts (*e.g.*, the VA, the Public Health Service (including the Indian Health Service)). For the years ended December 31, 2020, 2019, and 2018, our net sales to all U.S. government accounts comprised approximately 5%, 6%, and 8% of our net sales. We have contracted with a third party as our indefinite delivery/indefinite quantity channel partner into the VA and DoD markets. See discussion below – "*Risk Factors*" under the heading "*A portion of our revenues and accounts receivable come from government accounts.*"

Competition

Due to lower barriers of entry in the 361 HCT/P regulated market, competition in the placenta-based and allograft tissue field is intense and subject to more frequent new entrants and evolving market dynamics. Companies within the industry compete on the basis of price, ease of handling, logistics and efficacy. Another important factor is third-party reimbursement, which is difficult to obtain as it is a time-consuming and expensive process. We believe our success in obtaining third-party reimbursement, our strong position with group purchasing organizations, capabilities and experience with CGMP manufacturing, and established clinical evidence for our products are competitive advantages.

The Agency for Healthcare Research and Quality ("***AHRQ***") recently published a technology assessment analyzing Skin Substitutes for Treating Chronic Wounds. AHRQ conducted a literature search yielding 164 studies and 81 Supplemental Evidence and Data for Systematic Reviews ("***SEADs***") submissions. Only 22 randomized, controlled trials ("***RCTs***") met the inclusion criteria to be reviewed in the AHRQ analysis, and out of the 22 RCTs MiMedx had 6 RCTs included in the final brief. Of the 22 studies reviewed, only 12 were assessed as low risk of bias (ROB) of which 5 were MiMedx RCTs. This important government assessment highlights our commitment to providing unbiased level 1 clinical evidence in advanced wound treatment. This dedication to elevating the standard of care is further underscored by the fact that the AHRQ points out that MiMedx was the only entity to provide two studies out of the 22 evaluated that performed a subgroup analysis of patients with diabetic foot ulcers that received adequate debridement. Both studies reported an increase in wounds healed with adequate debridement.

Advanced wound care therapies employ technologies to aid in wound healing in cases where the wound is chronic and healing progress has stalled or stopped. The primary competitive products in the skin substitutes category include, among others, placental-tissue membrane allografts, tissue-engineered living skin equivalents, porcine-, bovine- and fish skin-derived xenografts and collagen matrix products. Xenografts, or tissue transplants from non-human species, serve mainly as an extracellular matrix and have to undergo aggressive processing to remove immunogenic animal products from the tissue. In addition, challenges with xenografts include limited clinical published data, and some products may require suturing or stapling

to the wound bed, making handling more difficult. Furthermore, other skin substitutes currently on the market require cryogenic freezer storage and have limited shelf life.

Our main competitors in the skin substitute market are Integra LifeSciences Holdings Corporation, Organogenesis, Inc., and Smith & Nephew plc, which sell a variety of advanced wound care products including skin substitutes and placental tissue allografts.

The primary competitive products in the surgical, orthopedic or sports medicine categories are other amniotic membrane allografts and injectable solutions, such as platelet-rich plasma, evolving cellular alternatives, or steroids.

See discussion below – "*Risk Factors*" under the heading "*We are in a highly competitive and evolving field and face competition from well-established tissue processors and medical device manufacturers, as well as new market entrants.*"

Government Regulation

The products manufactured and processed by the Company are derived from human tissue. As discussed below, Section 361 HCT/Ps are tissue-based products that are regulated solely under Section 361 and do not require pre-market clearance or approval by the FDA. Section 351 HCT/Ps are also tissue products but are regulated as biological products, medical devices or drugs and, in order to be lawfully marketed in the United States, require FDA pre-market clearance or approval. See discussion below – "*Risk Factors*" under the heading "*Risks Related to Regulatory Approval of Our Products and Other Government Regulations*."

Tissue Products

In 1997, the FDA proposed a new regulatory framework for cells and tissues. This framework was intended to provide adequate protection of public health while enabling the development of new therapies and products with as little regulatory burden as possible. A key innovation in the system is that covered HCT/Ps would be regulated solely under Section 361 and would not be subject to pre-market clearance. The registration and listing rules were finalized in January 2001 in 21 CFR Part 1271. Additional rules regarding donor eligibility and good tissue practices were soon adopted. Together, these rules form a comprehensive system intended to encourage significant innovation.

The FDA requires each HCT/P establishment to register and establish that its product meets the requirements to qualify for regulation solely under Section 361. To be a Section 361 HCT/P, a cellular or tissue-based product generally must meet all four of the following criteria (fully set forth in 21 CFR Part 1271):

- it must be minimally manipulated;
- it must be intended for homologous use;
- its manufacture must not involve combination with another article, except for water, crystalloids or a sterilizing, preserving or storage agent; and
- it must not have a systemic effect and must not be dependent upon the metabolic activity of living cells for its primary function.

Amniotic and other birth tissue are considered cellular and tissue-based articles and are therefore eligible for regulation solely as a Section 361 HCT/P depending on whether the specific product at issue and the claims made for it are consistent with the criteria set forth above. HCT/Ps that do not meet these criteria are subject to more extensive regulation as drugs, medical devices, biological products or combination products.

Products Regulated Solely as HCT/Ps

The FDA has specific regulations governing HCT/Ps, including some regulations specific to Section 361 HCT/Ps, which are set forth in 21 CFR Part 1271. All establishments that manufacture Section 361 HCT/Ps must register and list their HCT/Ps with the FDA's Center for Biologics Evaluation and Research within five days after commencing operations. In addition, establishments are required to update their registration annually in December or within 30 days of certain changes and submit changes in HCT/P listing at the time of or within six months of such change.

The regulations in 21 CFR Part 1271 also require establishments to comply with donor screening, eligibility and testing requirements and CGTP to prevent the introduction, transmission and spread of communicable diseases. The CGTP govern, as may be applicable, the facilities, controls and methods used in the manufacture of all HCT/Ps, including processing, storage, recovery, labeling, packaging and distribution of Section 361 HCT/Ps. CGTP require us, among other things, to maintain a quality program, train personnel, control and monitor environmental conditions as appropriate, control and validate processes,

properly store, handle and test our products and raw materials, maintain our facilities and equipment, keep records and comply with standards regarding recovery, pre-distribution, distribution, tracking and labeling of our products and complaint handling. 21 CFR Part 1271 also mandates compliance with adverse reaction and CGTP deviation reporting and labeling requirements.

The FDA conducts periodic inspections of HCT/P manufacturing facilities, and contract manufacturers' facilities, to assess compliance with CGTP. Such inspections can occur at any time with or without written notice at such frequency as determined by the FDA in its sole discretion. To determine compliance with the applicable provisions, the inspection may include, but is not limited to, an assessment of the establishment's facilities, equipment, finished and unfinished materials, containers, processes, HCT/Ps, procedures, labeling, records, files, papers and controls required to be maintained under 21 CFR Part 1271. If the FDA were to find serious non-compliant manufacturing or processing practices during such an inspection, it could take regulatory actions that could adversely affect our business, results of operations, financial condition and cash flows. See Item 1A Risk Factors, "*Our business is subject to continuing regulatory compliance by the FDA and other authorities, which is costly, and our failure to comply could result in negative effects on our business, results of operations and financial condition."*

Recent FDA Guidance and Transition Policy for HCT/Ps

In November 2017, the FDA released four guidance documents that, collectively, the agency described as a "comprehensive policy framework" for applying existing laws and regulations governing regenerative medicine products, including HCT/Ps. One guidance document in particular, "*Regulatory Considerations for Human Cells, Tissues, and Cellular and Tissue – Based Products: Minimal Manipulation and Homologous Use – Guidance for Industry and Food and Drug Administration Staff*," offered important clarity on some of the issues that the Company had previously raised with the FDA.

The guidance documents confirmed that sheet forms of amniotic membrane generally are appropriately regulated as solely Section 361 HCT/Ps when intended for use as a barrier or covering. We continually evaluate our marketing materials for each of our products to align with the FDA's guidance.

Second, the guidance documents confirmed the FDA's stance that all micronized amniotic membrane products are more than minimally manipulated, and therefore are not Section 361 HCT/Ps. However, the guidance documents also stated that the FDA intends to exercise enforcement discretion under limited conditions with respect to the IND application and pre-market approval requirements for certain HCT/Ps through November 2020, which was later extended through May 2021. This period of enforcement discretion was intended to give sponsors time to evaluate their products, have a dialogue with the agency and, if necessary, begin clinical trials and file the appropriate pre-market applications. The FDA's approach is risk-based, and the guidance documents clarified that high-risk products and uses could be subject to immediate enforcement action.

This enforcement discretion applies across our industry, and the Company has continued to market its products under this policy of enforcement discretion. At the same time, we are pursuing the BLA pre-market approval process for certain uses of AmnioFix Injectable. There is no assurance that the FDA will grant these approvals on a timely basis, or at all, or that we will not discontinue our pursuit of a BLA for certain products or indications. See "*Clinical Trials*" below for more information.

During the remainder of the enforcement discretion period, the Company will also continue to explore possible options for extending this enforcement discretion period. To this end, the Company has initiated dialogue and efforts for a further transition plan with the FDA to allow for continued marketing of the impacted products while the Company transitions to compliance with Section 351, the applicable sections of the FD&C Act, the CGMP regulations in 21 CFR Part 210 and 211, and other applicable FDA regulations. This would be an extension of the current policy, and there is no guarantee that the FDA will provide more time, either for MiMedx or the industry at large.

Products Regulated as Biologics – The BLA Pathway

The typical steps for obtaining FDA approval of a BLA to market a biological product in the United States include:

- Completion of preclinical laboratory tests, animal studies and formulations studies under the FDA's Good Laboratory Practice regulations;
- Submission to the FDA of an IND application for human clinical testing, which must become effective before human clinical trials may begin and which must include independent Institutional Review Board approval at each clinical site before the trials may be initiated;
- Performance of adequate and well-controlled clinical trials in accordance with Good Clinical Practices to establish the safety and efficacy of the product and its dosage (as applicable) for each indication;
- Development of purity, potency and identity tests to demonstrate consistency and reliability of the manufacturing process through a chemistry, manufacturing and control program;

- Submission to the FDA of a BLA for marketing the product that includes, among other things, reports of the outcomes and full data sets of the clinical trials, and proposed labeling and packaging for the product;
- Satisfactory review of the contents of the BLA by the FDA, including the satisfactory resolution of any questions raised during the review;
- Satisfactory completion of an FDA Advisory Committee review, if applicable;
- Satisfactory completion of an FDA inspection of the manufacturing facility or facilities at which the product is produced to assess compliance with FDA's CGMP regulations, to assure that the facilities, methods and controls are adequate to ensure the product's identity, potency, quality and purity; and
- FDA approval of the BLA, including agreement on post-marketing commitments, if applicable.

Generally, clinical trials are conducted in three phases, though the phases may overlap or be combined. Phase 1 trials typically involve a small number of healthy volunteers and are designed to provide information about the product safety and to evaluate the pattern of drug distribution and metabolism within the body. Phase 2 trials are conducted in a larger but limited group of patients afflicted with a particular disease or condition in order to determine preliminary efficacy, dosage tolerance and optimal dosing, and to identify possible adverse effects and safety risks. Dosage studies are typically designated as Phase 2A, and efficacy studies are designated as Phase 2B. Phase 3 clinical trials are generally large-scale, multi-center, comparative trials conducted with patients who have a particular disease or condition in order to provide statistically valid proof of efficacy, as well as safety and potency. In some cases, the FDA will require Phase 4, or post-marketing trials, to collect additional data after a product is on the market. All phases of clinical trials are subject to extensive record keeping, monitoring, auditing and reporting requirements.

The FDA has broad regulatory compliance and enforcement powers. If the FDA determines that the Company has failed to comply with applicable regulatory requirements, it can take a variety of compliance or enforcement actions, such as issuing an FDA Form 483 notice of inspectional observations; sending a warning letter or untitled letter; issuing an order of retention, destruction, or cessation of marketing; imposing civil money penalties; suspending or delaying issuance of approvals; requiring product recalls; imposing a total or partial shutdown of production; withdrawing approvals or clearances already granted; pursuing product seizures, consent decrees or other injunctive relief; and criminal prosecution through the DOJ.

Clinical Trials

Trial Overview

The Company is currently conducting three IND programs investigating the use of AmnioFix Injectable to reduce pain and increase function in patients with plantar fasciitis, Achilles tendonitis, and knee osteoarthritis. As previously disclosed, the trials were developed and initially overseen by senior managers who are no longer with the Company. Based on a review of the studies and interim results, the Company has instituted several actions with respect to its ongoing and anticipated clinical trials to address the resources, capabilities and expertise needed for commercial launch, including our strategy around an increased dialogue with the FDA regarding our BLA progress. However, there can be no assurance that we will obtain BLA approval and we may ultimately decide not to pursue a BLA for certain products or indications. See *Risk Factors - "Obtaining and maintaining the necessary regulatory approvals for certain of our products will be expensive and time consuming and may impede our ability to fully exploit our technologies."*

Plantar Fasciitis

In March 2015, we initiated a Phase 2B prospective, single-blinded, RCT investigating a single injection of 40 mg of AmnioFix Injectable as compared to a single intra-plantar injection of saline (placebo control) in the treatment of patients with recalcitrant plantar fasciitis pain and foot dysfunction. This trial enrolled 145 patients at 15 study sites. In September 2017, we announced the trial had met its efficacy endpoints, and the three-month endpoint data were published in 2018.

In April 2017, we met with the FDA and informally discussed preliminary data from the Phase 2B study, our progress toward achieving CGMP compliance, and our proposed Phase 3 study design. Formal FDA feedback from this meeting was incorporated into our development plans. Based on this feedback and the Phase 2B interim data, in January 2018 we initiated a Phase 3 prospective, double-blinded, RCT to assess the safety and efficacy of a single 40 mg intra-plantar injection of AmnioFix Injectable as compared to a single intra-plantar injection of saline (placebo control) to treat patients with recalcitrant plantar fasciitis pain. The trial plan was initially to enroll 164 patients. In July 2019, we conducted an interim analysis to assess adequacy of the sample size to assess differences between the two treatment groups. We analyzed the data received from this sample size analysis, conducted on subjects representing 50% of total enrollment that had reached the primary efficacy endpoint. This analysis indicated that a significant increase in sample size would be required to observe clinically and statistically significant improvement and separation between treatment and control groups. We determined that increasing the

sample size to 276 patients would provide sufficient power to observe an efficacy result with statistical and clinical significance. We have instituted these changes and amendments and completed enrollment of 277 subjects in September 2020. We expect the last patient out in the second quarter of 2021, which will allow us to analyze the data and request a meeting with the FDA to review our clinical evidence. If the plantar fasciitis trials are determined to be adequate proof of efficacy and safety, we expect to file a BLA for AmnioFix Injectable to treat patients with plantar fasciitis in the first half of 2022, and are evaluating ways to accelerate this program where possible. We expect the outcome of this trial will help inform additional areas of unmet need for potential clinical study and may benefit our BLA submissions for other indications. We also anticipate that our efforts in obtaining regulatory approval of AmnioFix Injectable for plantar fasciitis will benefit the regulatory review of AmnioFix Injectable for other indications, based on the fact that it is the same product with the same manufacturing process and other attributes relevant to approval.

However, there can be no assurance that we will receive FDA approval. Approval may be delayed due to a variety of factors, including failure of the studies to achieve their endpoints; the ability of the study to demonstrate clinically and statistically significant improvement between treatment and control groups; the impact of the COVID-19 pandemic on study enrollment and FDA operations; the potential that the results of the clinical studies do not merit further investment; and the work required to achieve commercial and manufacturing readiness. See discussion in Item 1A - "*Risk Factors*" under the heading "*Obtaining and maintaining the necessary regulatory approvals for certain of our products will be expensive and time-consuming and may impede our ability to fully exploit our technologies."*

Knee Osteoarthritis

In March 2018, the FDA granted AmnioFix Injectable the Regenerative Medicine Advanced Therapy ("***RMAT***") designation for use in the treatment of osteoarthritis of the knee. RMAT-designated products are eligible for increased and earlier interactions with the FDA, similar to those interactions available to fast-track and breakthrough-designated therapies. In addition, these products may be eligible for rolling review and accelerated approval. The meetings with sponsors of RMAT-designated products may include discussions of whether accelerated approval would be appropriate based on surrogate or intermediate endpoints reasonably likely to predict long-term clinical benefit or reliance upon data obtained from a meaningful number of sites.

In March 2018, we initiated a Phase 2B prospective, double-blinded RCT investigating a single intra-articular injection of 40 mg of AmnioFix Injectable as compared to a single injection of saline (placebo control) in the treatment of pain and functional impairment in patients with osteoarthritis of the knee. This trial was planned to enroll 318 patients, with an interim analysis to assess adequacy of this sample size built into the statistical plan. This blinded interim analysis was performed in August 2019 and revealed that while differences in the treatment groups were observed, the power to observe statistically and clinically significant results would be enhanced by increasing the sample size to 466 patients. Amendments to the protocol to allow this increase were subsequently approved. It should be noted that during the first half of 2020 in particular, the ongoing COVID-19 pandemic slowed study enrollment considerably, though began to resolve in the third quarter of the year. Due to actual dropout rates observed in the study being lower than planned, in September 2020, we completed enrollment of 447 patients, and anticipate this number will allow for sufficient power to make the planned analyses.

We also amended the protocol to establish an open label extension to the trial and allow patients to receive a second injection of the active treatment at six months, nine months, or 12 months subsequent to their completion of study visits, if their pain has not resolved or responded, regardless of treatment arm. The study will still be blinded to subjects, sites and MiMedx during this extension. We expect that the blinded primary and secondary efficacy observation visits of this trial will be completed in April 2021, and expect the last patient visit will be completed in the second half of 2021.

Following the completion of this study, and if the data from the study are favorable, we expect to launch a Phase 3 study in the beginning of 2022 and file a BLA for this indication in the second half 2024 or first half of 2025. We are exploring opportunities to accelerate the program where possible, including the anticipated start date of the Phase 3 trial and the submission of a BLA.

There can be no assurance that the COVID-19 effects on study activities and FDA resources will fully resolve and allow completion of all activities in the anticipated timeframe; that the ongoing wave of virus infections will not continue to impact the study; that no further disruptions can be expected, or when completed, that the FDA will view the Phase 2B and Phase 3 studies as sufficient to support a BLA filing. There can be no assurance that we will receive FDA approval, and approval may be delayed due to a variety of factors, including failure of the studies to achieve their endpoints; the extra effort and cost required to improve our clinical trials as described above; the impact of the COVID-19 pandemic on study enrollment and FDA operations; the potential that the results of the clinical studies do not merit further investment; and the work required to achieve commercial and manufacturing readiness. See discussion in Item 1A - "*Risk Factors*" under the heading "*Obtaining and*

maintaining the necessary regulatory approvals for certain of our products will be expensive and time-consuming and may impede our ability to fully exploit our technologies."

Achilles Tendonitis

In January 2018, we initiated a Phase 3 prospective, double-blinded RCT investigating a single intra-tendon injection of 40 mg of AmnioFix Injectable as compared to a single injection of saline (placebo control) in the treatment of Achilles tendonitis. The planned trial enrollment was 158 patients, with an interim analysis to assess adequacy of the sample size built into the statistical plan. We analyzed data received from this sample size analysis, conducted on patients representing 50% of total enrollment that had reached the primary efficacy endpoint. This indicated that a substantial increase in sample size would be required to observe clinically and statistically significant improvement and separation between treatment and control groups. With this in mind, we concluded that the most reasonable approach was to continue the study to completion with the originally planned sample size, and analyze the final results to determine the adequacy of the measures employed and time points of observation to show meaningful clinical and statistical analyses. Enrollment for this study has completed and we anticipate that the last patient visit will occur in the first half of 2021. We plan to review our options for this program after we have assessed the results of this study, and may explore the efficacy potential of AmnioFix Injectable in a more well-defined subset of patients.

Other

In addition, we plan to initiate efforts to file appropriate investigational applications for AmnioFill and EpiFix Micronized, prior to the end of enforcement discretion in the first half of 2021. We have not yet initiated any clinical trials for AmnioFill or EpiFix Micronized related to these applications. Clinical study initiation will depend on FDA feedback for both of these programs.

BLA Process

If any of the study results support potential product approval and potential for commercialization, we intend to file BLAs as described above. The process of obtaining an approved BLA requires the expenditure of substantial time, effort and financial resources and may take years to complete. The fee for filing a BLA and the annual user fees payable with respect to any establishment that manufactures biologics and with respect to each approved product are substantial. While there can be no assurance that we will ultimately obtain regulatory approval for our micronized products, we have already completed substantial work towards multiple BLAs, including engineering our manufacturing processes to conform to CGMP requirements.

FDA Post – Market Regulation

Tissue processors regulated solely under Section 361 are still required to register as a tissue establishment with the FDA. As a registered tissue establishment, we are required to comply with regulations regarding labeling, record keeping, donor eligibility, screening and testing. We are also required to process the tissue in accordance with established CGTP, as well as report any deviations from core CGTP requirements or adverse reactions caused by a possible transmission of an infectious disease attributed to our tissue. Our facilities are also subject to periodic inspections to assess our compliance with the regulations.

Products covered by a BLA, New Drug Application, 510(k) clearance or a pre-market approval are subject to numerous additional regulatory requirements, which include, among others, compliance with CGMP (or, in the case of devices, with FDA's Quality System Regulation), which imposes certain procedural, substantive and record keeping requirements, and labeling regulations to ensure a product's identity, potency, quality, and purity. These products are also subject to the FDA's general prohibition against promoting products for unapproved or "off-label" uses, and additional adverse reaction reporting.

As part of our BLA development effort, we are updating our manufacturing establishments into compliance with CGMP for production for our injectable and other applicable Section 351 products. The transition process includes development and enhancement of production processes, procedures, tests and assays, and it requires extensive validation work. It also involves the procurement and installation of new production and lab equipment. These efforts require human capital, expertise and resources. We have made significant improvements in this transition over the last two years. We have engaged industry experts to assess our state of compliance and to provide guidance on the additional activities needed to meet CGMPs. Our goal is to achieve compliance with CGMP for our injectable and other applicable Section 351 products by the time the FDA's current period of enforcement discretion is complete in May 2021. See discussion in Item 1A – "*Risk Factors*" under the heading "*To the extent our products do not qualify for regulation as human cells, tissues and cellular and tissue-based products solely under Section 361 of the Public Health Service Act, this could result in removal of the applicable products from the market, would*

make the introduction of some new tissue products more expensive and could significantly delay the expansion of our tissue product offerings and subject us to additional post-market regulatory requirements."

Other Regulation Specific to Tissue Products

National Organ Transplant Act

Procurement of certain human organs and tissue for transplantation is subject to the restrictions of the National Organ Transplant Act ("***NOTA***"), which prohibits the transfer of certain human organs, including skin and related tissue, for valuable consideration, but permits the reimbursement of reasonable expenses associated with the removal, transportation, implantation, processing, preservation, quality control and storage of human tissue and skin. Our wholly-owned subsidiary, MiMedx Tissue Services, LLC, is registered with the FDA as an establishment that manufactures human cells, tissues and cellular and tissue-based productions and is involved with the recovery and storage of donated human amniotic tissue. We reimburse tissue banks, hospitals and physicians for their services associated with the recovery and storage of donated human tissue.

Tissue Bank Laws, Regulations, and Related Accreditation

As discussed above, we are required to register with the FDA as an establishment that manufactures human cells, tissues and cellular and tissue-based products. We are licensed, registered, or permitted as a tissue bank in California, Georgia, New York, Delaware, Illinois, Oregon, and Maryland. Additionally, we received and actively maintain AATB accreditation. The AATB has issued operating standards for tissue banking. Compliance with these standards is required in order to become an AATB-accredited tissue establishment. AATB standards include specific requirements for recovery, screening, testing, labeling and processing of placenta tissue. We believe we are compliant in all material respects with AATB standards and our state licensure requirements.

To the extent we sell our products outside of the United States, we also are subject to laws and regulations of foreign countries.

Other Healthcare Laws and Compliance Requirements

In the United States, our activities are potentially subject to regulation by various federal, state and local authorities in addition to the FDA, including CMS, other divisions of the HHS (e.g., the Office of Inspector General), the DOJ and individual United States Attorney offices within the DOJ, and state and local governments. These regulations include those described below.

- The federal Anti-Kickback Statute, which is a criminal law that prohibits, among other things, any person from knowingly and willfully offering, soliciting, receiving or providing any remuneration (including any kickback, bribe or rebate), directly or indirectly, overtly or covertly, in cash or in kind, to induce or reward referrals, purchases or orders, or arranging for or recommending the purchase, order or referral of any item or service for which payment may be made in whole or in part by a federal healthcare program, such as the Medicare and Medicaid programs. The term "remuneration" has been broadly interpreted to include anything of value. The Patient Protection and Affordable Care Act amended the intent requirement of the federal Anti-Kickback Statute, so that a person or entity no longer needs to have actual knowledge of this statute or specific intent to violate it. A conviction for violation of the Anti-Kickback Statute results in criminal fines and requires mandatory exclusion from participation in federal health care programs. Although there are a number of statutory exceptions and regulatory safe harbors to the federal Anti-Kickback Statute that protect certain common industry practices from prosecution, the exceptions and safe harbors are drawn narrowly, and arrangements may be subject to scrutiny or penalty if they do not fully satisfy all elements of an available exception or safe harbor. See discussion below under "*Risk Factors–We and our sales representatives, whether employees or independent contractors, must comply with various federal and state anti-kickback, self-referral, false claims and similar laws, any breach of which could cause an adverse effect on our business, results of operations and financial condition.*"

- The federal False Claims Act ("***FCA***") imposes significant civil liability on any person or entity that knowingly presents, or causes to be presented, a claim for payment to the U.S. government, including the Medicare and Medicaid programs, that is false or fraudulent. The FCA also allows a private individual or entity as a whistleblower to sue on behalf of the government to recover civil penalties and treble damages. FCA liability is potentially significant in the healthcare industry because the statute provides for treble damages and mandatory penalties of between $11,181 and $22,363 per false claim or statement for penalties assessed after January 29, 2018, with respect to violations occurring after November 2, 2015. As a result of a modification made by the Fraud Enforcement and Recovery Act of 2009, a claim includes "any request or demand" for money or property presented to the U.S. government. In April 2020, the Company settled a *qui tam* action brought by two former employees alleging violations of the FCA relating to the

Company's commercial pricing practices with respect to the VA, and as part of the settlement, the Company paid the government $6.5 million. See also Item 3, *"Legal Proceedings."*

- The federal Health Insurance Portability and Accountability Act of 1996 ("***HIPAA***") fraud and abuse provisions prohibit executing a scheme to defraud any healthcare benefit program, willfully obstructing a criminal investigation of a health care offense, or making false statements or concealing a material fact relating to payment for healthcare benefits, items or services.

- While manufacturers of human cell and tissue products regulated solely under Section 361 are not subject to the federal Physician Payments Sunshine Act and its implementing regulations (together with the Act, the "***Sunshine Act***"), in the future, if we receive a BLA approval, this law will require us (with certain exceptions) to report information to CMS related to certain payments or other transfers of value we make to U.S.-licensed physicians and teaching hospitals, and for reports submitted on or after January 1, 2022, physician assistants, nurse practitioners, clinical nurse specialists, certified nurse anesthetists and certified nurse-midwives. If we receive a BLA approval, the Sunshine Act would also require us to report annually certain ownership and investment interests held by U.S.-licensed physicians and their immediate family members. Such information will subsequently be made publicly available by CMS on the Open Payments website. There is a risk that CMS or another government agency may take the position that our products are not human cell and tissue products regulated solely under Section 361, and thereby assert that we are currently subject to the Sunshine Act, which could subject us to civil penalties and the administrative burden of having to comply with the law. see Item IA, Risk Factors, "*We and our sales representatives, whether employees or independent contractors, must comply with various federal and state anti-kickback, self-referral, false claims and similar laws, any breach of which could cause an adverse effect on our business, results of operations and financial condition."*

- Federal conflicts of interest laws, the Standards of Ethical Conduct for Employees of the Executive Branch, and local site policies for each federal institution we call upon govern our interactions with federal employees at our various government accounts (*e.g.*, Department of Defense ("***DoD***"), VA, *etc*.) and impose a number of limitations on such interactions.

- There are state law equivalents of each of the above federal laws, such as anti-kickback and false claims laws, which may apply to items or services reimbursed by any third-party payer, including commercial insurers, many of which differ from each other in significant ways and often are not preempted by federal laws, thus complicating compliance efforts.

In addition, we may be subject to data privacy and security regulation by both the federal government and the states in which we conduct our business. HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act ("***HITECH***") and its implementing regulations, imposes certain requirements relating to the privacy, security and transmission of protected health information. Among other things, HITECH made HIPAA's privacy and security standards directly applicable to "business associates," independent contractors or agents of covered entities that receive or obtain protected health information in connection with providing a service on behalf of a covered entity. HITECH also created four new tiers of civil monetary penalties, amended HIPAA to make civil and criminal penalties directly applicable to business associates and possibly other persons and gave state attorneys general new authority to file civil actions for damages or injunctions in federal courts to enforce the federal HIPAA laws and seek attorneys' fees and costs associated with pursuing federal civil actions. In addition, state laws govern the privacy and security of health information in certain circumstances, many of which differ from each other in significant ways and may not have the same effect, thus complicating compliance efforts.

Research and Development

Our research and development group has extensive experience in developing products related to our field of interest, and works to design products that are intended to improve patient outcomes, simplify techniques, shorten procedures, reduce hospitalization and rehabilitation times and, as a result, reduce costs. Our research and development group also works to establish scientific evidence in support of the use of our products. Clinical trials that demonstrate the safety, efficacy and cost effectiveness of our products are key to obtaining broader third-party reimbursement for our products. In addition to our internal staff, we contract with outside labs and physicians who aid us in our research and development process. See Part II, Item 7, below, for information regarding expenditures for research and development in each of the last three fiscal years.

Environmental Matters

Our tissue preservation activities generate a small amount of chemical and biomedical waste, consisting primarily of diluted alcohols and acids and human biological waste, including human tissue and body fluids removed during laboratory procedures. The biomedical waste generated by our tissue processing operations are placed in appropriately constructed and labeled containers and are segregated from other waste. We contract with third parties for transport, treatment, and disposal of our biomedical waste.

Employees

As of December 31, 2020, we had 735 employees. Generally, we consider our relationships with our employees to be good, and none of our employees are covered by a collective bargaining agreement. We conduct an annual survey of employees to monitor engagement levels and act on feedback received through this process.

We strive to promote diversity, inclusion and equal opportunity across the organization. In 2020, we formed a Diversity and Inclusion Council with the goal of supporting strategic initiatives and practices to foster an inclusive & diverse organization in order to better serve our customers and their patients. With the appointment of Dr. Gardner to our Board effective upon the filing of this report, women and minorities hold a third of the seats on our Board of Directors, including the Chair of the Board. 54% of our employees are women, and women comprised 57% and 58% of our new hires in 2020 and 2021 respectively. Additionally, approximately 20% of our workforce identifies as Black or African American, 8% as Hispanic or Latino, and 4% as other non-White including American Indian, Alaskan Native, Asian, Native Hawaiian, or Other Pacific.

We track turnover and retention for all employees. We also track time-to-hire and time-to-train for certain departments. In the last year, turnover has been elevated relative to historical trends. We have adopted specific measures and incentives to improve retention within the most affected organizational areas.

The health of our workforce is important to us, particularly of our processing employees and other employees who, based on their specific job tasks and requirements, are not able to work remotely. We employ approximately 59 highly-trained employees in our processing area. While we process donated tissue using aseptic techniques in a controlled environment, the manufacturing space is a confined space in which an employee with COVID-19 may spread the virus to other employees despite the use of personal protective equipment required for all areas at MiMedx. To date, we have been successful in mitigating these risks through a variety of measures, including screening employees for COVID-19 prior to entering our facilities, implementing a number of safety protocols, and partnering with a testing facility to provide test kits and rapid results for employees that have symptoms or have a known risk of exposure, although there can be no assurance that we will continue to be effective. See Item 1A., Risk Factors, "*The COVID-19 pandemic and governmental and societal responses thereto have adversely affected our business, results of operations and financial condition, and the continuation of the pandemic or the outbreak of other health epidemics could harm our business, results of operations, and financial condition.*"

Available Information

We are required to file proxy statements, annual reports on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K with the SEC. The SEC maintains an internet site, www.sec.gov, where these reports are available free of charge. We also make these reports available free of charge on our website, www.mimedx.com, under the heading "*Investors–SEC Filings*." In addition, our Audit Committee, Compensation Committee, Ethics and Compliance Committee, and Nominating and Corporate Governance Committee Charters as well as our Code of Business Conduct and Ethics, are on our website under the heading "*Investors–Corporate Governance*." The reference to our website does not constitute incorporation by reference of any information contained on that site.

Item 1A. Risk Factors

An investment in our Common Stock involves a substantial risk of loss. Set forth below are summary descriptions of those risks and uncertainties that we currently believe to be material. We caution you to read the following risk factors, which have affected, and/or in the future could affect, our business, prospects, operating results, and financial condition. Additional risks and uncertainties not currently known to us or that we currently deem immaterial may also affect our business, prospects, operating results, and financial condition. Additional risks and uncertainties are described under other captions in this report and should also be considered by our stockholders. If any of these risks materialize, our business, financial condition or operating results could suffer. In this case, the trading price of our Common Stock could decline, and you may lose part or all of your investment.

Summary of Risk Factors

Risks Related to Our Business and Industry

- If we do not successfully execute our priorities, our business could be adversely affected.
- We are in a highly competitive and evolving field and face competition from well-established tissue processors and medical device manufacturers, as well as new market entrants.
- Rapid technological change could cause our products to become obsolete.
- Our products depend on the availability of tissue from human donors.
- The COVID-19 pandemic and governmental and societal responses thereto have adversely affected our business.
- We depend on our senior leadership team and may not be able to retain or replace these employees or recruit additional qualified personnel.
- A portion of our revenues and accounts receivable come from government accounts.
- Our revenues depend on adequate reimbursement from public and private insurers and health systems.
- Our revenue, results of operations and cash flows may suffer upon the loss of a GPO or IDN.
- We contract with independent sales agents and distributors.
- Disruption of our processing could adversely affect our business, financial condition and results of operations.
- To be commercially successful, we must convince physicians, where appropriate, that our products are proper alternatives to existing treatments and that our products should be used in their procedures.
- If we cannot successfully address quality issues that may arise with our products, our brand reputation could suffer, and our business, financial condition, and results of operations could be adversely impacted.
- The formation of physician-owned distributorships (“PODs”) could result in increased pricing pressure on our products or harm our ability to sell our products to physicians who own or are affiliated with those distributorships.
- We face the risk of product liability claims and may not be able to obtain or maintain adequate product liability insurance.
- Our products are derived from human tissue and therefore have the potential for disease transmission.
- We may implement a product recall or voluntary market withdrawal.
- Significant disruptions of information technology systems or breaches of information security could adversely affect our business.
- We may expand or contract our business through acquisitions, divestitures, licenses, investments, and other commercial arrangements.
- New lines of business or new products and services may subject us to additional risks.
- Our international expansion and operations outside the U.S. expose us to additional risks.

Risks Related to Regulatory Approval of Our Products and Other Government Regulations

- To the extent our products do not qualify for regulation as human cells, tissues and cellular and tissue-based products solely under Section 361 of the Public Health Service Act, this could result in removal of certain products from the market.
- If any of the BLAs are approved, the Company would be subject to additional regulation which will increase costs and could result in adverse sanctions for non-compliance. Obtaining and maintaining the necessary regulatory approvals for certain of our products will be expensive and time consuming and may impede our ability to fully exploit our technologies

- Our business is subject to continuing regulatory compliance by the FDA and other authorities, which is costly.
- We may be subject to fines, penalties, injunctions and other sanctions if we are deemed to be promoting the use of our products for unapproved, or off-label, uses.
- We and our sales representatives must comply with various federal and state anti-kickback, self-referral, false claims and similar laws.
- Our results of operations may be adversely affected by current and potential future healthcare reforms.
- We may fail to obtain or maintain foreign regulatory approvals to market our products in other countries.
- Federal and state laws that protect the privacy and security of personal information may increase our costs and limit our ability to collect and use that information and subject us to liability if we are unable to fully comply with such laws.

Risks Related to Our Intellectual Property

- Our ability to protect our intellectual property and proprietary technology through patents and other means is uncertain and may be inadequate.
- We may become subject to claims of infringement of the intellectual property rights of others.
- We may be subject to damages resulting from claims that we, our employees, or our independent contractors have wrongfully used or disclosed alleged trade secrets, proprietary or confidential information of our competitors or are in breach of non-competition or non-solicitation agreements with our competitors.

Risks Related to the Audit Committee Investigation, Consolidated Financial Statements, Internal Controls and Related Matters

- We have identified material weaknesses in our internal control over financial reporting, and we have concluded that our internal control over financial reporting and our disclosure controls and procedures were not effective as of December 31, 2020.
- Negative publicity has had and could continue to have an adverse effect on our business, results of operations and financial condition.
- We are currently, and may in the future be, subject to substantial litigation and ongoing investigations that could cause us to incur significant legal expenses and result in harm to our business.

Risks Related to the Securities Markets and Ownership of Our Common Stock

- Our substantial indebtedness may adversely affect our financial health.
- The restrictive covenants in the Hayfin Loan Agreement, and the Company’s obligation to make debt payments under the Hayfin Loan Agreement, limit our operating and financial flexibility.
- Our variable rate indebtedness under the Hayfin Loan Agreement subjects us to interest rate risk.
- EW Healthcare Partners and its interests may conflict with those of our other shareholders.
- Holders of shares of Series B Preferred Stock have rights, preferences and privileges that are not held by, and are preferential to, the rights of, our common shareholders.
- Our Series B Preferred Stock is convertible into shares of our Common Stock, and any such conversion may dilute the value of our Common Stock.
- The price of our Common Stock has been, and will likely continue to be, volatile.
- Securities analysts may elect not to report on our common stock or may issue negative reports that adversely affect the stock price.
- Fluctuations in revenue or results of operations could cause additional volatility in our stock price.
- We do not intend to pay cash dividends on our Common Stock.
- Certain provisions of Florida law and anti-takeover provisions in our organizational documents may discourage or prevent a change of control.

Risks Related to Our Business and Industry

If we do not successfully execute our priorities, our business, operating results and financial condition could be adversely affected.

Our priorities are, in our core wound care business, to demonstrate the value of our existing portfolio, increasing the effectiveness and efficiency of our sales force using intensive analytics, and deploying clinical support and economic data to educate healthcare professionals on the efficacy of our products; over the course of 2011, we plan to increase the number of sales personnel by approximately 10%, and to increase the number of Medical Science Liaisons to further support medical education initiatives. The Company is also focused on advancing our late-stage pipeline and accelerating efforts toward seeking FDA approval for AmnioFix Injectable, also designated as mdHACM, to treat musculoskeletal degeneration across multiple indications, and our plans include investments in Research and Development, publishing additional peer-reviewed clinical, scientific and economic data that further reinforce the differentiation of our products and to expand the utility of the Company's placentally-derived products in other clinical applications throughout the care continuum; and enhancing business and product development efforts, targeting new applications and potential products that fit within our framework of innovative technologies backed by rigorous science, that elevate the standard of care.

We have sought and may continue to seek capital to implement our priorities. In developing our priorities, we evaluated many factors including, without limitation, those related to developments in our industry, customer demand, competition, regulatory developments, and general economic conditions. Actual conditions may be different from our assumptions, and we may not be able to successfully execute our priorities. If we do not successfully execute our priorities, or if actual results vary significantly from our assumptions, our business, operating results and financial condition could be adversely impacted.

We are in a highly competitive and evolving field and face competition from well-established tissue processors and medical device manufacturers, as well as new market entrants.

Our business is in a very competitive and evolving field. Competition from other tissue processors, medical device companies, and biotherapeutic companies, and from research and academic institutions, is intense, expected to increase and subject to rapid change and could be significantly affected by new product introductions. Established competitors and newer market entrants are investing in additional clinical research that may allow them to gain further clinician usage, adoption and payer coverage of their products. In addition, consolidation and cost containment measures in the healthcare industry may cause hospitals to consolidate their purchases with suppliers that have a broad portfolio of products. This would continue to give rise to demands for price concessions, which could have an adverse effect on our business, results of operations and financial condition. Further, competitors may introduce placental-based membrane products in the future at lower prices, adding new features or gaining additional reimbursement coverage, or utilize sales and marketing practices that negatively impact the industry. Further, they may copy our products outside the United States. The presence of this competition may lead to pricing pressure, which could have an adverse effect on our business, results of operations and financial condition.

Rapid technological change could cause our products to become obsolete and, if we do not enhance our product offerings through our research and development efforts, we may be unable to compete effectively.

The technologies underlying our products are subject to rapid and profound technological change. Competition intensifies as technical advances in each field are made and become more widely known. Others may develop services, products or processes with significant advantages over the products, services and processes that we offer or are seeking to develop. Any such occurrence could have an adverse effect on our business, results of operations and financial condition.

We plan to enhance and broaden our product offerings in response to changing customer demands and competitive pressure and technologies. The success of any new product offering or enhancement to an existing product will depend on numerous factors, including our ability to:

- properly identify and anticipate physician and patient needs;
- acquire, through licensing, co-development or outright purchase, new technology developed outside of MiMedx;
- develop and introduce new products or product enhancements in a timely manner;
- adequately protect our intellectual property and avoid infringing upon the intellectual property rights of third parties;
- demonstrate the safety and efficacy of new products; and
- obtain the necessary regulatory clearances or approvals for new products or product enhancements.

If we do not develop and, when necessary, obtain regulatory clearance or approval for new products or product enhancements in time to meet market demand, or if there is insufficient demand for these products or enhancements, our results of operations and financial condition will suffer. Our research and development efforts may require a substantial investment of time and

resources, including additional capital, before we are adequately able to determine the commercial viability of a new product, technology, material or other innovation. In addition, even if we are able to successfully develop enhancements or new generations of our products, these enhancements or new generations of products may not produce sales in excess of the costs of development, or they may never receive required regulatory approval and they may be quickly rendered obsolete by changing customer preferences or the introduction by our competitors of products embodying new technologies or features.

Our products depend on the availability of tissue from human donors, and any disruption in supply could adversely affect our business.

The success of our human tissue products depends upon, among other factors, the availability of tissue from human donors. Any failure to obtain tissue from our sources will interfere with our ability to effectively meet demand for our products incorporating human tissue. The availability of donated tissue could also be adversely impacted by regulatory changes, public opinion of the donor process and our own reputation in the industry. We may not be successful in our ability to scale tissue recovery efforts to meet the potential future demand of our pipeline. Obtaining adequate supplies of human tissue involves several risks, including limited control over availability (for example, access to hospital accounts and the number of consenting mothers), quality and delivery schedules. In addition, any interruption in the supply of any human tissue component could harm our ability to manufacture our products until a new source of supply, if any, could be found. We also utilize third-party providers of placental donations on an as-needed basis to mitigate risks but there can be no assurance that these third parties will be able to provide donated tissues at all times. We may be unable to find a sufficient alternative supply channel in a reasonable time period or on commercially reasonable terms, if at all, which would have an adverse effect on our business, results of operations and financial condition.

The COVID-19 pandemic and governmental and societal responses thereto have adversely affected our business, results of operations and financial condition, and the continuation of the pandemic or the outbreak of other health epidemics could harm our business, results of operations, and financial condition.

The COVID-19 pandemic and governmental and societal responses thereto have adversely affected our business, results of operations and financial condition, and will likely continue to do so. See Item 7, "*Management's Discussion and Analysis - Results of Operations.*" The continuation or additional waves of the outbreak of the COVID-19 pandemic may continue to adversely affect our operations and increase our costs and expenses in numerous ways. For example:

- We source raw materials for our products from donated placentas from scheduled C-section births via a large, geographically-diverse network of donor hospitals. We may experience shortages of donated placentas if donors or our recovery specialists are excluded from hospitals, or if our donor recovery specialists contract COVID-19 and are required to quarantine. In the second half of March 2020, we experienced interruptions for approximately two months from a portion of our hospitals in certain geographic areas. To date, we have been successful in mitigating this disruption to our supply by adding additional donor hospitals, increasing efforts at hospitals that did not impose access limits, and using third-party providers of donated placentas (where necessary and in accordance with MiMedx quality standards). However, there can be no assurance that our efforts to source raw materials for our products will continue to be successful, and we may experience shortages of raw materials, especially if the current pandemic or responses thereto intensify. Additionally, we may experience shortages of donated placentas if additional testing protocols are implemented for donated tissues based on guidance issued by the American Association of Tissue Banks, the FDA, or other standards, and are screened as ineligible.

- We process donated tissue using aseptic techniques in a controlled environment. However, the manufacturing space is a confined space area in which an infected employee may spread the virus to other employees despite the use of personal protective equipment required for all areas at MiMedx. To date, we have been successful in mitigating these risks through a variety of measures, including screening employees for COVID-19 prior to entering our facilities, implementing a number of safety protocols, and partnering with a testing facility to provide test kits and rapid results for employees that have symptoms or have a known risk of exposure. Additionally, in anticipation of expected disruptions, in the first quarter of 2020 we ran manufacturing at levels greater than demand and were successful in building our inventory of safety stock. However, there can be no assurance that our efforts to prevent wide scale infections among our processing staff will continue to be successful, especially if the current pandemic or responses thereto intensify. If we experience wide scale infections among our production staff, we may experience a shortage of finished goods.

- Our ability to sell our products has been hampered by the pandemic. In many areas of the country, our sales force was excluded from hospitals and the offices of other health care providers. Additionally, many patients stayed away from hospitals and other medical facilities. This had an adverse effect on our revenues beginning late in the first quarter of

2020 and continuing into April. By mid-May, access restrictions to hospitals and offices of healthcare providers had eased for our sales force, and significant numbers of patients began to return for treatment, including for elective procedures. This trend continued into the third and fourth quarters of 2020, where we saw net sales generally consistent with the comparable periods from 2019 on an "as-shipped" basis. In certain areas, local or regional surges of COVID-19 have continued, and future sales will depend on patients' willingness and ability to visit healthcare providers for care, and our sales force's access to healthcare providers. The timing, impact, and response to the pandemic has been uneven across the country. Subsequent waves may have a greater impact than did the first wave depending on a myriad of factors, including, but not limited to, the availability and efficacy of vaccines, the emergence and severity of new variants of the virus, infection rates, mitigation efforts, and societal response. We are not able to estimate the future effect of COVID-19 on patient behavior and, consequently, future demand or the ability of providers to pay for our products.

- Similarly, our clinical researchers, clinical study coordinators, and their patients experienced restrictions in their access to hospitals and ability to access other healthcare providers, which slowed enrollment in our clinical trials. For example, from mid-March through mid-May 2020, many patients stayed away from hospitals and other medical facilities, which stalled enrollments in our clinical trials. We have since concluded enrollment in our three IND trials. However, if such access were to be restricted again, it might impair or delay the initiation, approval and launch of future products or additional clinical trials. See "*To the extent our products do not qualify for regulation as human cells, tissues and cellular and tissue-based products solely under Section 361 of the Public Health Service Act ("Section 361"), this could result in removal of the applicable products from the market, would make the introduction of some new tissue products more expensive and could significantly delay the expansion of our tissue product offerings and subject us to additional post-market regulatory requirements.*"

If our leadership, employees, sales agents, suppliers, medical professionals, or users of our products are impacted by an epidemic, by illness, or through social distancing, quarantine or other precautionary measures, then our manufacturing operations, sales, demand for our products, and clinical trials may be adversely affected.

Disruptions to the health care system generally, such as if patients are unable or unwilling to visit health care providers, or if health care providers prioritize treatment of acute or communicable illnesses over wound care, have and may continue to adversely affect our revenues and results of operations.

The ultimate impact of the COVID-19 pandemic is highly uncertain and subject to change. We do not yet know the full extent of delays or impacts on our business, our clinical trials, healthcare systems or the global economy as a whole, or how long such effects will endure. The effects of the COVID-19 pandemic or other health epidemics could have an adverse impact on our business, results of operations and financial condition.

We depend on our senior leadership team and may not be able to retain or replace these employees or recruit additional qualified personnel, which would harm our business, results of operations and financial condition.

Our business and success are materially dependent on attracting and retaining members of our senior leadership team to formulate and execute the Company's business plans. Since June 2018, we have replaced a majority of our senior leadership team, and hired several new senior leaders including our Chief Executive Officer, Chief Financial Officer, General Counsel and Secretary, Executive Vice President – Research and Development, Executive Vice President and Chief Commercial Officer, and Chief Accounting Officer.

Leadership changes can be inherently difficult to manage and may cause material disruption to our business or management team. Changes in senior management could also lead to an environment that presents additional challenges in recruiting and retaining employees, which could have an adverse effect on our business, results of operations and financial condition. We experienced difficulties in recruiting due to legal and business uncertainties resulting from the issues which were the subject of the Audit Committee Investigation.

Our future success will depend, in part, upon our ability to attract and retain skilled personnel, including sales, managerial and technical personnel. There can be no assurance that we will be able to continue to find and attract additional qualified employees to support our expected growth or retain any such personnel.

A portion of our revenues and accounts receivable come from government accounts.

Some of our revenues are derived from sales, both direct and through a distributor, to the government. Any disruption of our products on the Federal Supply Schedule ("***FSS***"), or of the use of Indefinite Delivery, Indefinite Quantity contracts ("***IDIQ***"), or any change in the way the government purchases products like ours or the price it is willing to pay for our products, could adversely affect our business, results of operations and financial condition. In April 2020, the Company announced that it had resolved an issue for $6.5 million that it self-disclosed to the VA concerning the eligibility of one of its products for inclusion in the Company's FSS contract. Any resulting negative impact to our contractual relationship with the VA going forward may adversely affect our business, results of operations and financial condition.

Our revenues depend on adequate reimbursement from public and private insurers and health systems.

Our success depends on the extent to which our customers receive adequate reimbursement for the costs of our products and related treatments from third-party payers, including government healthcare programs, such as Medicare and Medicaid, as well as private insurers and health systems. Government and other third-party payers attempt to contain healthcare costs by limiting both coverage and the level of reimbursement of medical products, particularly new products. Therefore, significant uncertainty may exist as to the reimbursement status of new healthcare products by third-party payers. Although EpiFix has coverage with the majority of large payers, a significant number of public and private insurers and health systems currently do not cover or reimburse our other products.

If we are not successful in obtaining adequate coverage and reimbursement for our products from these third-party payers, it could have an adverse effect on market acceptance of our products. Inadequate reimbursement levels would likely also create downward price pressure on our products. Even if we do succeed in obtaining widespread coverage and reimbursement rates or policies for our products, future changes in coverage or reimbursement rates or policies could have a negative impact on our business, financial condition and results of operations.

Further, we have experienced some reluctance by payers to cover products for applications other than those for which we have published clinical efficacy data. Currently, there are three MACs that do not have a written medical policy in the form of a Local Coverage Determination ("***LCD***") or a specific article for skin substitutes. In the absence of an LCD, MACs will reimburse based on medical necessity. If these three MACs created written medical policy criteria that limit providers to the use of products that have published clinical evidence for a specific wound type such as Diabetic Foot Ulcer or Venous Leg Ulcer only, we could experience a negative impact on revenue. Our future revenues could experience additional declines if other MACs or other payers further limit their coverage of our products to specific clinical uses. This decline would adversely affect our business, financial condition and results of operations.

Our revenue, results of operations and cash flows may suffer upon the loss of a GPO or IDN.

As with many manufacturers in the healthcare space, the Company contracts with GPOs and IDNs to establish contracted pricing and terms and conditions for the members of GPOs and IDNs. Approximately three-quarters of our sales in the year ended December 31, 2020 came from customers that are members of our primary GPOs or IDNs.

Our agreements with GPOs and IDNs allow us to sell our products efficiently to large groups of customers. Our agreements with GPOs and IDNs typically provide their members with favorable ordering terms and conditions and access to favorable product pricing. These customers purchase our product through GPO and IDN arrangements in part because of favorable pricing and terms and conditions. If our agreement with any GPO or IDN is terminated or expires without being extended, renewed or renegotiated this could adversely affect our revenue, results of operations and cash flows.

We contract with independent sales agents and distributors.

In 2020, approximately 20% of our sales were through our relationships with independent agents and distributors. (Sales agents act directly on behalf of MiMedx to arrange sales, while distributors take title to product and may set their own prices.) See Note 15, *"Revenue Date by Customer Type."*

Because our agents and distributors are not employees, there is a risk we will be unable to ensure that our sales processes, compliance safeguards, and related policies will be adhered to despite our communication and training of agents and distributors regarding these requirements. Further, if we fail to maintain relationships with our key independent agents, or fail to ensure that our independent agents adhere to our sales processes, compliance safeguards and related policies, there could be an adverse effect on our business, results of operations, and financial condition.

Also, if our relationships with our independent sales agents or distributors were terminated for any reason, it could materially and adversely affect our revenues and profits. Because the independent agent often controls the customer relationships within its territory, there is a risk that if our relationship with the agent ends, our relationship with the customer will be lost.

We may obtain the assistance of additional distributors and independent sales representatives to sell products in certain sales channels, particularly in territories and fields where agents are commonly used. Our success is partially dependent upon our ability to train, retain and motivate our independent sales agencies, distributors, and their representatives to appropriately and compliantly sell our products in certain territories or fields. They may not be successful in implementing our marketing plans or compliance safeguards. Some of our independent sales agencies and distributors do not sell our products exclusively and may offer similar products from other companies. Our independent sales agencies and distributors may terminate their contracts with us, may devote insufficient sales efforts to our products or may focus their sales efforts on other products that produce greater commissions for them, which could have an adverse effect on our business, results of operations and financial condition. We also may not be able to find additional independent sales agencies and distributors who will agree to appropriately and compliantly market or distribute our products on commercially reasonable terms, if at all. If we are unable to establish new independent sales representative and distribution relationships or renew current sales agency and distribution agreements on commercially acceptable terms, our business, financial condition, and results of operations could be materially and adversely affected.

Disruption of our processing facilities could adversely affect our business, financial condition and results of operations.

Our business depends upon the continued operation of our processing facilities in Marietta, Georgia and Kennesaw, Georgia. Risks that could impact our ability to use these facilities include the occurrence of natural and other disasters, the outbreak of pandemics, and the need to comply with the requirements of directives from government agencies, including the FDA. See below, for example, "*The COVID-19 pandemic and governmental and societal responses thereto have adversely affected our business, results of operations and financial condition, and the continuation of COVID-19 or the outbreak of other health epidemics could harm our business, results of operations, and financial condition.*"

Either of our two processing facilities can serve as a redundant processing facility for our Section 361 products in the event the other facility experiences a disaster event. For our 351 products, we have transitioned manufacturing to our Kennesaw, Georgia facility to comply with CGMP standards, and implemented these standards for upstream and downstream supply chain activities at our Marietta, Georgia facility. However, the unavailability of our processing facilities could have a material adverse effect on our business, financial condition and results of operations during the period of such unavailability.

To be commercially successful, we must educate physicians, where appropriate, how and when our products are proper alternatives to existing treatments and that our products should be used in their procedures.

We believe physicians will only use our products if they determine, based on their independent medical judgment and experience, clinical data, and published peer reviewed journal articles, that the use of our products in a particular procedure is a favorable alternative to other treatments. Physicians may be hesitant to change their existing medical treatment practices for the following reasons, among others:

- their lack of experience with advanced therapeutics, such as our placenta-based allografts;
- lack of evidence supporting additional patient benefits of advanced therapeutics, such as our placenta-based allografts, over conventional methods in certain therapeutic applications;
- perceived liability risks generally associated with the use of new products and procedures;
- limited availability of reimbursement from third-party payers;
- more favorable reimbursement for other market-available products; and
- the time that must be dedicated to physician training in the use of our products.

If we cannot successfully address quality issues that may arise with our products, our brand reputation could suffer, and our business, financial condition, and results of operations could be adversely impacted.

In the course of conducting our business, we must adequately address quality issues that may arise with our products, as well as defects in third-party components included in our products, as any quality issues or defects may negatively impact physician use of our products. Although we have established internal procedures to minimize risks that may arise from quality issues, we may not be able to eliminate or mitigate occurrences of these issues and associated liabilities. If the quality of our products does not meet the expectations of physicians or patients, then our brand reputation could suffer and our business could be adversely impacted. We must also ensure any promotional claims made for our products comport with government regulations.

The formation of physician-owned distributorships ("PODs") could result in increased pricing pressure on our products or harm our ability to sell our products to physicians who own or are affiliated with those distributorships.

PODs are medical product distributors that are owned, directly or indirectly, by physicians. These physicians derive a proportion of their revenue from selling or arranging for the sale of medical products for use in procedures they perform on their own patients at hospitals that agree to purchase from or through the POD, or that otherwise furnish ordering physicians with income that is based directly or indirectly on those orders of medical products. The Office of Inspector General ("***OIG***") of the Department of Health & Human Services has issued a Special Fraud Alert on PODs, indicating that they are inherently suspect under the federal Anti-Kickback Statute.

Our commercial strategy emphasizes selling directly to healthcare providers and, to a limited extent, through distributors. To our knowledge, we do not directly sell to or distribute any of our products through PODs. The number and strength of PODs in the industry may continue to grow as economic pressures increase throughout the industry and hospitals, insurers and physicians search for ways to reduce costs, and, in the case of the physicians, identify additional sources to increase their incomes. These companies and the physicians who own, or partially own, PODs may have significant market knowledge, access to and influence on the physicians who use our products and the hospitals that purchase our products, and we may not be able to compete effectively for business from physicians who own PODs.

We face the risk of product liability claims and may not be able to obtain or maintain adequate product liability insurance.

Our business exposes us to the risk of product liability claims that are inherent in the manufacturing, processing and marketing of human tissue products. We may be subject to such claims if our products cause, or appear to have caused, an injury. Claims may be made by patients, healthcare providers or others selling our products. Product liability claims can be expensive to defend (regardless of merit), divert our management's attention, result in substantial damage awards against us, harm our reputation, and generate adverse publicity, which could result in the withdrawal of, or reduced acceptance of, our products in the market.

Although we have product liability insurance that we believe is adequate, this insurance is subject to deductibles and coverage limitations, and we may not be able to maintain this insurance at an acceptable cost or on acceptable terms or be able to secure increased coverage (if needed), nor can we be sure that existing or future claims against us will be covered by our product liability insurance. Moreover, the existing coverage of our insurance or any rights of indemnification and contribution that we may have may not be sufficient to offset existing or future claims. If we are unable to maintain product liability insurance at an acceptable cost or on acceptable terms with adequate coverage or otherwise protect ourselves against potential product liability claims or we underestimate the amount of insurance we need, we could be exposed to significant liabilities, which may harm our business. A product liability claim or other claim with respect to uninsured liabilities or for amounts in excess of insured liabilities could result in significant costs and significant harm to our business. Even if a claim is not successful, defending such claim would be time-consuming and expensive, may damage our reputation in the marketplace, and would likely divert our management's attention.

The products we manufacture and process are derived from human tissue and therefore have the potential for disease transmission.

The utilization of human tissue creates the potential for transmission of communicable disease, including, without limitation, human immunodeficiency virus, viral hepatitis, syphilis and other viral, fungal or bacterial pathogens. We are required to comply with federal and state regulations intended to prevent communicable disease transmission.

We maintain strict quality controls designed in accordance with CGTPs to ensure the safe procurement and processing of our tissue, including terminal sterilization of our products. These controls are intended to prevent the transmission of communicable disease. However, risks exist with any human tissue implantation. We are also in the process of implementing CGMP systems to comply with the regulations that will apply to our Section 351 HCT/Ps, and believe this provides an added level of quality throughout our manufacturing process. However, negative publicity concerning disease transmission from other companies' improperly processed donated tissue could have a negative impact on the demand for our products and adversely affect our business, financial condition and results of operations.

We may implement a product recall or voluntary market withdrawal, which could significantly increase our costs, damage our reputation, disrupt our business and adversely affect our business, results of operations and financial condition.

The processing and marketing of our tissue products involves an inherent risk that our tissue products or processes may not meet applicable quality standards and requirements. In the event that one or more of our products experiences a failure to meet such standards and requirements, we may voluntarily implement a recall or market withdrawal or may be required to do so by a regulatory authority.

For example, in March 2020, MiMedx submitted to the FDA a biological product deviation report ("BPDR") regarding tissue recovered from four donors in Palm Beach County, Florida. These tissues were recovered by a third-party recovery partner. At the time of recovery, Palm Beach County had only just been designated as an area of active Zika transmission by the Center for Disease Control. In February 2020, our recovery partner received an FDA 483 observation for recovering and providing this tissue to MiMedx. MiMedx contacted each facility that received allografts containing the subject tissues. Following MiMedx's submission of the BPDR to the FDA, the FDA notified MiMedx that this event meets the formal definition of a "recall" and classified it as a Class II recall on the FDA's recall website. As of the date of this filing, there have been no adverse reactions reported as a result of this submission and notification.

A recall or market withdrawal of one of our products could be costly and may divert management resources. A recall or withdrawal of one of our products, or a similar product processed by another entity, also could impair sales of our products as a result of confusion concerning the scope of the recall or withdrawal, or as a result of the damage to our reputation for quality and safety.

Significant disruptions of information technology systems or breaches of information security could adversely affect our business, results of operation and financial condition.

A breach of cybersecurity, a disruption in availability, or the unauthorized alteration of systems or data could adversely affect our business, results of operations and financial condition. We rely on technology for day-to-day operations as well as positioning to enhance our stance in the market. We generate intellectual property that is central to the future success of the business and transmit large amounts of confidential information. Additionally, we collect, store and transmit confidential information of customers, patients, employees and third parties. We also have outsourced significant elements of our operations to third parties, including significant elements of our information technology infrastructure, and, as a result, we are managing many independent vendor relationships with third parties who may or could have access to our confidential information. The continually changing threat landscape of cybersecurity today makes our systems potentially vulnerable to service interruptions or to security breaches from inadvertent or intentional actions by our employees, partners, and vendors, and from attacks by malicious third parties, including supply chain attacks originating at our third-party partners. Such attacks are of ever-increasing levels of sophistication. Attacks are made by individuals or groups that have varying levels of expertise, some of which are technologically advanced and well-funded including, without limitation, nation states, organized criminal groups and hacktivists organizations.

To ensure protection of our information, we have invested in cybersecurity and have implemented processes and procedural controls to maintain the confidentiality and integrity of such information. We measure these controls and their success through a cybersecurity framework that is based on industry standards. While we have invested in the protection of our data and technology, there can be no guarantees that our efforts will prevent all service interruptions or security breaches. Any such interruption or breach of our systems could adversely affect our business operations and result in the loss of critical or sensitive confidential information or intellectual property, and could result in financial, legal and reputational harm to our business, including legal claims and proceedings, liability under laws that protect the privacy of personal information, government enforcement actions and regulatory penalties, as well as remediation costs. We maintain cyber liability insurance. However, this insurance may not be sufficient to cover the financial, legal or reputational losses that may result from an interruption or breach of our systems.

We may expand or contract our business through acquisitions, divestitures, licenses, investments, and other commercial arrangements with other companies or technologies, which may adversely affect our business, results of operations and financial condition.

We periodically evaluate opportunities to acquire companies or divest divisions, technologies, products, and rights through licenses, distribution agreements, investments, and outright acquisitions to grow our business. In connection with one or more of those transactions, we may, subject to the requirements and limitations set forth in the Hayfin Loan Agreement:

- issue additional equity securities that would dilute the value of equity currently held by our shareholders;
- divest or license existing products or technology;

- use cash that we may need in the future to operate our business;
- incur debt that could have terms unfavorable to us or that we might be unable to repay;
- structure the transaction in a manner that has unfavorable tax consequences, such as a stock purchase that does not permit a step-up in the tax basis for the assets acquired;
- be unable to realize the anticipated benefits, such as increased revenues, cost savings, or synergies from additional sales;
- be unable to secure the services of key employees related to the transaction(s); and
- be unable to succeed in the marketplace with the transaction(s).

Any of these items could adversely affect our revenues, results of operations and financial condition. Business acquisitions also involve the risk of unknown liabilities associated with the acquired business, which could be material. Incurring unknown liabilities or the failure to realize the anticipated benefits of any transaction could adversely affect our business if we are unable to recover our initial investment. Inability to recover our investment, or any write off of such investment, associated goodwill or assets could have an adverse effect on our business, results of operations and financial condition.

New lines of business or new products and services may subject us to additional risks.

From time to time, we may implement or may acquire new lines of business or offer new products and services within existing lines of business. There are risks and uncertainties associated with these efforts, particularly in instances where the markets are not fully developed or are evolving. In developing and marketing new lines of business and new products and services, we may invest significant time and resources. External factors, such as regulatory compliance obligations, competitive alternatives, and shifting market preferences, may also impact the successful implementation of a new line of business or a new product or service. Failure to successfully manage these risks in the development and implementation of new lines of business or new products or services could have an adverse effect on our business, results of operations and financial condition.

Our international expansion and operations outside the U.S. expose us to risks associated with international sales and operations.

We are pursuing further expansion outside the U.S. Managing a global organization is difficult, time consuming and expensive. Our ability to conduct international operations is affected by many of the same risks we face in our U.S. operations, as well as unique costs and difficulties of managing international operations. Risks inherent in international operations also include, among others, potential adverse tax consequences, greater difficulty in enforcing intellectual property rights, risks associated with the Foreign Corrupt Practices Act and local anti-bribery law compliance, and the impact of foreign currency exchange rates and fluctuations. Also, the sale and shipment of our products across international borders, as well as the purchase of components and products from international sources, subject us to extensive U.S. and foreign governmental trade, import and export and customs regulations and laws, including, without limitation, the Export Administration Regulations and trade sanctions against embargoed countries, which are administered by the Office of Foreign Assets Control within the Department of the Treasury, as well as the laws and regulations administered by the Department of Commerce. These regulations limit our ability to market, sell, distribute or otherwise transfer our products or technology to prohibited countries or persons. International regulations may also limit what promotional claims we may make for our products.

Compliance with these regulations and laws is costly, and failure to comply with applicable legal and regulatory obligations could adversely affect us in a variety of ways that include, without limitation, significant criminal, civil and administrative penalties, including imprisonment of individuals, fines and penalties, denial of export privileges, seizure of shipments and restrictions on certain business activities. Also, the failure to comply with applicable legal and regulatory obligations could result in the disruption of our distribution and sales activities.

These risks may limit or disrupt our expansion, restrict the movement of funds or result in the deprivation of contractual rights or the taking of property by nationalization or expropriation without fair compensation. Operating outside of the U.S. also requires significant management attention and financial resources.

Risks Related to Regulatory Approval of Our Products and Other Government Regulations

To the extent our products do not qualify for regulation as human cells, tissues and cellular and tissue-based products solely under Section 361 of the Public Health Service Act ("Section 361"), this could result in removal of the applicable products from the market, would make the introduction of some new tissue products more expensive and could significantly delay the expansion of our tissue product offerings and subject us to additional post-market regulatory requirements.

The products we manufacture and process are derived from human tissue. Amniotic and other birth membrane are generally regulated as Human Cells, Tissues and Cellular and Tissue - Based Products ("***HCT/P***") and are therefore eligible to be subject to regulation solely under Section 361 ("***Section 361 HCT/P***") depending on whether the specific product at issue and the claims made for it are consistent with the applicable criteria. HCT/Ps that do not meet these criteria are subject to more extensive regulation as drugs, medical devices, biological products, or combination products. These HCT/Ps must comply with both the FDA's requirements for HCT/Ps and the requirements applicable to biologics, devices or drugs, including pre-market clearance or approval from the FDA. Obtaining FDA pre-market clearance or approval involves significant time and investment by the Company.

In November 2017, the FDA released a guidance document entitled "*Regulatory Considerations for Human Cells, Tissues, and Cellular and Tissue - Based Products: Minimal Manipulation and Homologous Use - Guidance for Industry and Food and Drug Administration Staff.*" The document confirmed the FDA's stance that all micronized amniotic products require a biologics license to be lawfully marketed in the United States. It also confirmed that sheet forms of amniotic tissue are appropriately regulated as solely Section 361 HCT/Ps when manufactured in accordance with 21 CFR Part 1271 and intended for use as a barrier or covering. The final guidance also stated that the FDA intends to exercise enforcement discretion under limited conditions with respect to the IND application and pre-market approval requirements for certain HCT/Ps for a limited period following the date of the Guidance. The FDA's approach is risk-based, and the Guidance clarified that high-risk products and uses could be subject to immediate enforcement action.

MiMedx continues to market our micronized and particulate products under the policy of enforcement discretion as we work to transition certain Section 361 products to Section 351 products. Our sales of such products for all uses was $32.8 million, and $42.4 million, and $68.4 million, respectively, in 2020, 2019, and 2018. At the same time, we are pursuing the BLA pre-market approval process for certain of our micronized products, as more fully discussed under "Business - Government Regulation." Following the period of enforcement discretion under the Guidance, we may need to cease selling our micronized products and other products regulated under Section 351 until the FDA approves a BLA, and then we will only be able to market such products for indications and doses that have been approved in a BLA. The loss of our ability to market and sell our micronized products would have an adverse impact on our revenues, business, financial condition and results of operations.

Also, the Company currently markets EpiCord and AmnioCord, tissue products derived from human umbilical cord, as providing a protective environment or as a barrier. The Company has become aware that the FDA may view the basic function of human umbilical cord as a conduit, based on warning letters to several companies marketing human umbilical cord derived products for a variety of uses, which raises the risk that the FDA will take the position that MiMedx's marketing of human umbilical cord products may not be a homologous use. To our knowledge, the FDA has not indicated this publically or to MiMedx however, if FDA determines that EpiCord and AmnioCord do not meet the requirements for regulation solely under Section 361, then pre-market clearance or approval under Section 351 will be required. While we expect that the enforcement discretion period described in the 2017 Guidance would apply to the umbilical cord tissue derived products, following the period of enforcement discretion, we may need to cease selling our umbilical cord derived products until the FDA grants a pre-market approval or clearance, and then we will only be able to market such products for indications that have been cleared or approved by the FDA. The loss of our ability to market and sell our umbilical cord derived products would have an adverse impact on our revenues, business, financial condition and results of operations. Included in net sales were sales of umbilical cord derived products totaling $16.6 million, $17.9 million, and $14.7 million, respectively, in 2020, 2019, and 2018.

In July 2020, the FDA extended its period of enforcement discretion to May 31, 2021. In doing so, the FDA stated,

> This will give manufacturers additional time to determine if they need to submit an investigational new drug (IND) or marketing application and, if such an application is needed, to prepare the IND or marketing application. Such additional time is warranted in light of the Coronavirus Disease 2019 (COVID-19) public health emergency, which has presented unique challenges in recruiting clinical trial participants and carrying out clinical trials.

In addition, the FDA might, at some future point, modify the scope of its enforcement discretion, or extend the period of enforcement discretion, or change its position on which current or future products qualify as Section 361 HCT/Ps, or determine that some or all of our micronized products may not be lawfully marketed under the FDA's policy of enforcement discretion.

Any regulatory changes could have adverse consequences for us and make it more difficult or expensive for us to conduct our business by requiring pre-market clearance or approval and compliance with additional post-market regulatory requirements with respect to those products. It is also possible that the FDA could decide it will not allow the Company to market any form of a micronized product during the rest of the enforcement discretion period without the pre-market approval, and it could even require the Company to recall its micronized products. We expect that following the expiration of its enforcement discretion period, sales of micronized amniotic tissue will be limited to those products and indications for which applicants have received a BLA or other pre-market approval. Also, our micronized products may be used by healthcare professionals or physicians for more indications than those for which we presently intend to pursue BLAs, as well as in other dosages. If the FDA does allow the Company to continue to market a micronized form of its sheet allografts within the period of enforcement discretion or any extension, the FDA may impose conditions, such as labeling restrictions, and the requirement that the product be manufactured in compliance with CGMP. Although the Company is preparing for these requirements in connection with its pursuit of a BLA for certain of its products, earlier compliance with these conditions would require significant additional time and cost investments by the Company. Moreover, increased regulatory scrutiny within the industry in which we operate could lead to increased regulation of HCT/Ps, including Section 361 HCT/Ps, which could ultimately increase our costs and adversely impact our business, results of operations and financial condition. If the FDA approves the BLAs we seek, we will incur increased compliance costs on an ongoing basis. See "*If any of the BLAs are approved, the Company would be subject to additional regulation which will increase costs and could result in adverse sanctions for non-compliance*."

If any of the BLAs are approved, the Company would be subject to additional regulation which will increase costs and could result in adverse sanctions for non-compliance.

Products subject to the FDA's BLA requirements must comply with a range of pre- and post-market provisions. Pre-market compliance includes the conduct of clinical trials in support of BLA approval, the development and submission of a BLA, and the production of product for use in the clinical trials that meets FDA's quality expectations. We have been making enhancements in our fixed plant as well as incurring costs and reduced product yields from testing products to ensure quality, identity, purity, and potency. Post-approval requirements for BLA products include: compliance with CGMPs, which will require us to comply with promotional and labeling requirements, which limit our ability to make claims about regulated products; submission of annual reports in appropriate circumstances; compliance with the FDA's "Biological Product Deviation Reporting System," when applicable; submission of adverse events; reporting and correcting product problems within established timeframes; recalling or stopping the manufacture of a product if a significant problem is detected; complying with the appropriate laws and regulations relevant to the biologics licensed and identifying any changes needed to help ensure product quality. In some instances, the FDA can also require that applicants conduct post-market studies or trials of the product. This additional compliance burden may increase costs, and failure to comply with such requirements may subject the Company to sanctions that would have an adverse impact on our business, results of operations and financial condition.

Obtaining and maintaining the necessary regulatory approvals for certain of our products will be expensive and time consuming and may impede our ability to fully exploit our technologies.

The process of obtaining regulatory clearances or approvals to market a biological product or medical device from the FDA or similar regulatory authorities outside of the U.S. may be costly and time consuming, and such clearances or approvals may not be granted on a timely basis, or at all. We are pursuing approval of BLAs for certain of our micronized products, but have not yet submitted a BLA for review. Additionally, the FDA may take the position that some of the other products that we currently market require a BLA as well. Some of the future products and enhancements to our current products that we expect to develop or may acquire and market may require marketing clearance or approval from the FDA. However, clearance or approval may not be granted with respect to any of our products or enhancements and further FDA review may add delays that could adversely affect our ability to market such products or enhancements.

The process of obtaining an approved BLA, including clinical trial development and execution as well as manufacturing processes, requires the expenditure of substantial time, effort and financial resources and may take years to complete. The fee for filing a BLA and program fees payable with respect to any establishment that manufactures biologics are substantial. Additionally, there are significant costs associated with clinical trials that can be difficult to accurately estimate until a BLA is approved. Clinical trials may not be successful or may return results that do not support approval. Moreover, data obtained from clinical trials are not always conclusive and may be susceptible to varying interpretations, which could delay, limit or prevent regulatory approval. The FDA may not grant approval on a timely basis, or at all, or we may decide not to pursue a BLA for certain products or indications, or need to conduct additional trials for a given indication. Additionally, the FDA may limit the indications for use or place other conditions on any approvals that could restrict the commercial application of the products. If we do receive approval, some types of changes to the approved product, such as adding new indications or doses, manufacturing changes and additional labeling claims, are subject to further testing requirements and FDA review and approval. Our revenues will be adversely affected if we fail to obtain BLA approvals on a timely basis or at all, if the FDA

requires us to stop marketing our products until a BLA is approved, or if the FDA limits the indications for use or requires other conditions that restrict the commercial application of our products.

Based on a review of the studies and interim results, the Company has instituted several actions with respect to its ongoing and planned clinical trials to address the resources, capabilities, and expertise needed for commercial launch including our strategy around an increased dialogue with the FDA regarding our BLA progress. If the BLAs we seek are approved, we will incur increased compliance costs on an ongoing basis. See "*If any of the BLAs are approved, the Company would be subject to additional regulation which will increase costs and could result in adverse sanctions for non-compliance.*"

Our business is subject to continuing regulatory compliance by the FDA and other authorities, which is costly, and our failure to comply could result in negative effects on our business, results of operations and financial condition.

As discussed above, the FDA has specific regulations governing our tissue-based products, or HCT/Ps. The FDA has broad post-market and regulatory and enforcement powers, even for Section 361 HCT/Ps. The FDA's regulation of HCT/Ps includes requirements for registration and listing of products, donor screening and testing, processing and distribution, labeling, record keeping and adverse-reaction reporting, and inspection and enforcement.

HCT/Ps that are regulated as drugs, biological products or medical devices are subject to even more stringent regulation by the FDA. Even if pre-market clearance or approval is obtained, the approval or clearance may place substantial restrictions on the indications for which the product may be marketed or to whom it may be marketed, may require warnings to accompany the product or impose additional restrictions on the sale or use of the product. In addition, regulatory approval is subject to continuing compliance with regulatory standards, including the FDA's quality system regulations.

If we fail to comply with the FDA regulations regarding our tissue products, the FDA could take enforcement action, including, without limitation, any of the following sanctions and the manufacture of our products or processing of our tissue could be delayed or terminated:

- untitled letters, warning letters, cease and desist orders, fines, injunctions, and civil penalties;
- recall or seizure of our products;
- operating restrictions, partial suspension or total shutdown of production;
- refusing our requests for clearance or approval of new products;
- withdrawing or suspending current applications for approval or approvals already granted;
- refusal to grant export approval for our products; and
- criminal prosecution.

The FDA's regulation of HCT/Ps may continue to evolve. Complying with any such new regulatory requirements may entail significant time delays and expense, which could have an adverse effect on our business, results of operations and financial condition.

The American Association of Tissue Banks ("***AATB***") has issued operating standards for tissue banking. Compliance with these standards is a requirement in order to become an accredited tissue bank. In addition, some states have their own tissue banking regulations.

In addition, procurement of certain human organs and tissue for transplantation is subject to the restrictions of the National Organ Transplant Act ("***NOTA***"), which prohibits the transfer of certain human organs, including skin and related tissue for valuable consideration, but permits the reasonable payment associated with the removal, transportation, implantation, processing, preservation, quality control and storage of human tissue and skin. We reimburse tissue banks, hospitals and physicians for their services associated with the recovery and storage of donated human tissue. Although we have independent third party appraisals that confirm the reasonableness of the service fees we pay, if we were to be found to have violated NOTA's prohibition on the sale or transfer of human tissue for valuable consideration, we potentially would be subject to criminal enforcement sanctions, which could adversely affect our results of operations.

Finally, we and other manufacturers of skin substitutes are required to provide average selling price ("***ASP***") information to CMS on a quarterly basis. The Medicare payment rates are updated quarterly based on this ASP information. If a manufacturer is found to have made a misrepresentation in the reporting of ASP, such manufacturer is subject to civil monetary penalties of up to $10,000 for each misrepresentation for each day in which the misrepresentation was applied, and potential False Claims Act liability. See "*We and our sales representatives, whether employees or independent contractors, must comply with various federal and state anti-kickback, self-referral, false claims and similar laws, any breach of which could cause an adverse effect on our business, results of operations and financial condition."*

We may be subject to fines, penalties, injunctions and other sanctions if we are deemed to be promoting the use of our products for unapproved, or off-label, uses.

As a general rule, FDA regulations require the marketing of 361 HCT/Ps only for appropriate homologous uses, and the promotion of pre-approved biological products or devices for FDA-approved indications. Generally, unless the products are approved by the FDA for alternative uses, the FDA contends that we may not make claims about the safety or effectiveness of our products, or promote them as safe or effective for uses other than those specifically approved by the FDA. Such limitations present a risk that the FDA or other federal or state law enforcement authorities could determine that the nature and scope of our sales, marketing and support activities, though designed to comply with all FDA requirements, constitute the promotion of our products for an unapproved use in violation of the federal FD&C Act. We also face the risk that the FDA or other governmental authorities might pursue enforcement based on past activities that we have discontinued or changed, including sales activities, prior marketing materials, arrangements with institutions and doctors, educational and training programs and other activities.

Investigations concerning the promotion of unapproved product uses and related issues are typically expensive, disruptive and burdensome and generate negative publicity. If our promotional activities are found to be in violation of the law, we may face significant legal action, fines, penalties, and even criminal liability and may be required to substantially change our sales, promotion, grant and educational activities. There is also a possibility that we could be enjoined from selling some or all of our products for any unapproved use. In addition, as a result of an enforcement action against us or any of our executive officers, we could be excluded from participation in government healthcare programs such as Medicare and Medicaid.

However, the FDA's Guidance stated that the FDA intends to exercise enforcement discretion under limited conditions with respect to IND application and pre-market approval requirements for certain HCT/Ps through May 31, 2021. This means that, through May 31, 2021, the FDA does not intend to enforce certain provisions as they currently apply to certain entities or activities. During the period of enforcement discretion, we have marketed, and intend to continue to market, our micronized products while at the same time pursuing a BLA for certain of our micronized products. We have already filed IND applications for three indications for our micronized product: plantar fasciitis, knee osteoarthritis, and Achilles tendonitis. We also intend to file the appropriate investigative application for both AmnioFill and for EpiFix Micronized, as well as an additional IND for AmnioFix Injectable in the first half of 2021; we are currently in the clinical trial design and planning stage, but have not yet initiated any clinical trials in furtherance of any additional regulatory approvals for these products.

Nevertheless, while we believe we are in compliance with the FDA's Guidance on HCT/Ps and enforcement discretion regarding products that do not meet some or all of the HCT/P requirements, there can be no assurance that we have correctly interpreted FDA Guidance, or that the FDA will not suspend its enforcement discretion and, in such cases, we may need to discontinue marketing a product and/or may be subject to fines, penalties, injunctions, and other sanctions if we are deemed to be promoting the use of our products for unapproved uses. Such regulatory penalties by the FDA could adversely affect our business and results of operations.

We and our sales representatives, whether employees or independent contractors, must comply with various federal and state anti-kickback, self-referral, false claims and similar laws, any breach of which could cause an adverse effect on our business, results of operations and financial condition.

Our relationships with physicians, hospitals and other healthcare providers are subject to various federal and state healthcare fraud and abuse laws. Healthcare fraud and abuse laws are complex and, in some instances, even minor or inadvertent violations can give rise to liability. Possible sanctions for violation of the healthcare fraud and abuse laws include, without limitation, monetary fines, civil and criminal penalties, exclusion from participating in the federal and state healthcare programs, including, without limitation, Medicare, Medicaid, the Department of Veterans Affairs ("VA") health programs and TRICARE (the healthcare program administered by or on behalf of the U.S. Department of Defense for uniformed service members, including both those in active duty and retirees, as well as their dependents), and forfeiture of amounts collected in violation of such prohibitions. Many states have similar fraud and abuse laws, imposing substantial penalties for violations. A finding of a violation of one or more of these laws, or even a government investigation or inquiry into the same, would likely result in a material adverse effect on the market price of our Common Stock, as well as on our business, results of operations, and financial condition.

The federal Anti-Kickback Statute is a criminal law that prohibits, among other things, any person from knowingly and willfully offering, paying, soliciting or receiving remuneration, directly or indirectly, in cash or in kind, to induce or reward referrals, purchases or orders or arranging for or recommending the purchase, order or referral of any item or service for which payment may be made in whole or in part by a federal healthcare program, such as the Medicare and Medicaid programs. The term "remuneration" has been broadly interpreted to include anything of value. The Patient Protection and Affordable Care Act

(the "***PPACA***") amended the federal Anti-Kickback Statute to clarify the intent that is required to prove a violation. Under the federal Anti-Kickback Statute as amended, a person or entity need not have actual knowledge of this statute or specific intent to violate it. The PPACA also amended the federal Anti-Kickback Statute to provide that any claims for items or services resulting from a violation of the federal Anti-Kickback Statute are considered false or fraudulent for purposes of the federal False Claims Act ("***FCA***"). A conviction for violation of the Anti-Kickback Statute results in criminal fines and requires mandatory exclusion from participation in federal health care programs. Although there are a number of statutory exceptions and regulatory safe harbors to the federal Anti-Kickback Statute that protect certain common industry practices from prosecution, the exceptions and safe harbors are drawn narrowly, and arrangements may be subject to scrutiny or penalty if they do not fully satisfy all elements of an available exception or safe harbor. We have entered into consulting agreements, speaker agreements, research agreements and product development agreements with physicians, including some who may order or recommend our products or make decisions to use them. In addition, some of these physicians own our stock, which they purchased in arm's-length transactions on terms identical to those offered to non-physicians, or received stock awards from us in the past as consideration for services performed by them. While we believe these transactions generally meet the requirements of applicable laws, including the federal Anti-Kickback Statute and analogous state laws, it is possible that our arrangements with physicians and other providers may be questioned by regulatory or enforcement authorities under such laws, which could lead us to redesign the arrangements and subject us to significant civil or criminal penalties. We have designed our policies and procedures to comply with the federal Anti-Kickback Statute, FCA, and industry best practices. In addition, we have conducted training sessions on these principles. If, however, regulatory or enforcement authorities were to view these arrangements as non-compliant with applicable laws, there would be risk of government investigations/inquiries or penalties. There is also risk that one or more of our employees or agents will disregard the rules we have established. Because our strategy relies on the involvement of physicians who consult with us on the design of our products, perform clinical research on our behalf or educate other health care professionals about the efficacy and uses of our products, we could be materially impacted if regulatory or enforcement agencies or courts interpret our financial relationships with physicians who refer or order our products to be in violation of applicable laws. This could harm our reputation and the reputations of the physicians we engage to provide services on our behalf. In addition, the cost of noncompliance with these laws could be substantial since we could be subject to monetary fines and civil or criminal penalties, and we could also be excluded from federally-funded healthcare programs, including Medicare, Medicaid, VA and TRICARE.

The FCA imposes civil liability on any person or entity that knowingly submits, or causes the submission of, a false or fraudulent claim to the U.S. government. Damages under the FCA can be significant and consist of the imposition of fines and penalties. The FCA also allows a private individual or entity to sue on behalf of the government to recover civil penalties and treble damages as a whistleblower. FCA liability is potentially significant in the healthcare industry because the statute provides for treble damages and mandatory penalties of between $11,181 and $22,363 per false claim or statement for penalties assessed after January 29, 2018, with respect to violations occurring after November 2, 2015.

Manufacturers can be held liable under the FCA even when they do not submit claims directly to government payers if they are deemed to "cause" the submission of false or fraudulent claims. The PPACA provides that claims tainted by a violation of the federal Anti-Kickback Statute are false for purposes of the FCA. The Department of Justice (the "***DOJ***") on behalf of the government has previously alleged that the marketing and promotional practices of pharmaceutical and medical device manufacturers, including the off-label promotion of products or the payment of prohibited kickbacks to doctors, violated the FCA, resulting in the submission of improper claims to federal and state healthcare programs such as Medicare and Medicaid. In certain cases, manufacturers have entered into criminal and civil settlements with the federal government under which they entered into plea agreements, paid substantial monetary amounts and entered into onerous corporate integrity agreements with the government that require, among other things, substantial reporting and remedial actions, as well as oversight and review by an outside entity, an Independent Review Organization ("***IRO***"), at substantial expense to the Company.

Under the Health Insurance Portability and Accountability Act of 1996 ("***HIPAA***") criminal federal healthcare fraud statute, it is a crime to knowingly and willfully execute, or attempt to execute, a scheme or artifice to defraud any health care benefit program or to obtain, by means of false or fraudulent pretenses, representations or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program, in connection with the delivery of or payment for health care benefits, items or services.

There are federal and state laws requiring detailed reporting of manufacturer interactions with and payments to healthcare providers, such as the federal Physician Payments Sunshine Act ("***Sunshine Act***"). The Sunshine Act requires, among others, "applicable manufacturers" of drugs, devices, biological products, and medical supplies reimbursed under Medicare, Medicaid or the Children's Health Insurance Program to annually report to CMS information related to payments and other transfers of value provided to "covered recipients." The term covered recipients includes U.S.-licensed physicians and teaching hospitals, and, for reports submitted on or after January 1, 2022, physician assistants, nurse practitioners, clinical nurse specialists, certified nurse anesthetists, and certified nurse-midwives. While manufacturers of human cell and tissue products regulated

solely under Section 361 are not subject to the Sunshine Act, in the future, if we receive a BLA, we will be subject to this law. There is the risk that CMS or another government agency may take the position that our products are not human cell and tissue products regulated solely under Section 361, and thereby assert that we are currently subject to the Sunshine Act, which could subject us to civil penalties and the administrative burden of having to comply with the law.

There are state law equivalents to the Anti-Kickback Statute and FCA. There are also so-called state "all-payer" anti-kickback laws which may apply to items or services reimbursed by any third-party payer, including commercial insurers, as well as when no insurer is involved (*i.e.* cash-pay patients).

The enforcement of all of these laws is uncertain and subject to rapid change. Federal or state regulatory or enforcement authorities may investigate or challenge our current or future activities under these laws. Any investigation or challenge could have a material adverse effect on our business, financial condition and results of operations. Any state or federal regulatory or enforcement review of us, regardless of the outcome, would be costly and time consuming. Additionally, we cannot predict the impact of any changes in these laws, whether these changes are retroactive or will have effect on a going-forward basis only.

Our results of operations may be adversely affected by current and potential future healthcare reforms.

In response to perceived increases in healthcare costs in recent years, there have been and continue to be proposals by the U.S. federal government, state governments, regulators and third-party payers to control these costs and, more generally, to reform the U.S. healthcare system. In the U.S., the PPACA was enacted in 2010 with a goal of reducing the cost of healthcare and substantially changing the way healthcare is financed by both government and private insurers.

In addition, other legislative changes have been proposed and adopted in the U.S. since the PPACA was enacted. The Budget Control Act of 2011 created measures for spending reductions by Congress. A Joint Select Committee on Deficit Reduction, tasked with recommending a targeted deficit reduction of at least $1.2 trillion for the years 2013 through 2021, was unable to reach required goals, thereby triggering the legislation's automatic reduction to several government programs. This included aggregate reductions of Medicare payments to providers of 2% per fiscal year, which went into effect on April 1, 2013. In January 2013, the American Taxpayer Relief Act was signed into law, which, among other things, further reduced Medicare payments to several provider types, including hospitals.

In addition to the ACA, the Medicare Access and CHIP Reauthorization Act of 2015 ("MACRA") repealed the Sustainable Growth Rate formula used to calculate Medicare payment updates for physicians providing services to Medicare beneficiaries. In its place, MACRA introduced the Quality Payment Program ("QPP"), which is a value-based program that focuses on quality and outcomes as a metric for physician reimbursement. The Centers for Medicare and Medicaid Services released its final rules for the QPP in October 2016. The QPP, which impacts more than 600,000 physicians and other practice-based clinicians, represents a fundamental change in physician reimbursement, transitioning from a system that solely rewards volume of care to one that also rewards quality and value of care. The rule may have an impact on our revenue in the future. The program's increased emphasis on quality and cost of care may encourage physicians to merge practices or seek direct employment with hospitals. In addition, the ACA encourages hospitals and physicians to work collaboratively through shared savings programs as well as other bundled payment initiatives. These shifts could lead to a consolidation of hospital providers into larger delivery networks with increased price negotiation strength resulting in downward pressure on our selling prices. Although we believe that we are well positioned to minimize any such impact on our business, our inability to address the consolidation trend could materially and adversely affect our business and results of operations.

There is uncertainty with respect to the impact the U.S. Administration, the executive order, and the attempted legislation may have, if any, and any changes will likely take time to unfold and could have an impact on coverage and reimbursement for healthcare items and services, including our products. We believe that substantial uncertainty remains regarding the net effect of the PPACA, or its repeal and potential replacement, on our business, including uncertainty over how benefit plans purchased on exchanges will cover our products, how the expansion or contraction of the Medicaid program will affect access to our products, the effect of risk-sharing payment models such as Accountable Care Organizations and other value-based purchasing programs on coverage for our product, and the effect of the general increase or decrease in federal oversight of healthcare payers. The taxes imposed and the expansion in government's role in the U.S. healthcare industry under the PPACA, if unchanged, may result in decreased revenues, lower reimbursements by payers for our products and reduced medical procedure volumes, all of which could have a material adverse effect on our business, results of operations and financial condition.

We may fail to obtain or maintain foreign regulatory approvals to market our products in other countries.

We currently market our products in a small number of foreign countries, and intend to expand our international marketing. Foreign jurisdictions require separate regulatory approvals and compliance with numerous and varying regulatory requirements.

The approval procedures vary among countries and may involve requirements for additional testing. Certain of our products require clearance or approval by the FDA. However, such clearance or approval does not ensure approval or certification by regulatory authorities in other countries or jurisdictions, and approval or certification by one foreign regulatory authority does not ensure approval or certification by regulatory authorities in other foreign countries or by the FDA. The foreign regulatory approval or certification process may include all of the risks associated with obtaining FDA clearance or approval. We may not obtain foreign regulatory approvals on a timely basis, if at all. We may not be able to file for regulatory approvals or certifications and may not receive necessary approvals to commercialize our products in any foreign jurisdiction. Furthermore, many foreign jurisdictions operate under socialized medical care, and obtaining reimbursement for our products under that construct may also prove difficult. If we fail to receive necessary approvals, certifications, or reimbursements necessary to commercialize our products in foreign jurisdictions on a timely basis, or at all, our business, results of operations and financial condition could be adversely affected. Further, governmental authorities outside the U.S. have become increasingly stringent in their regulation of medical devices, and our products may become subject to more rigorous regulation by non-U.S. governmental authorities in the future. U.S. or non-U.S. government regulations may be imposed in the future that may have a material adverse effect on our business and operations.

Federal and state laws that protect the privacy and security of personal information may increase our costs and limit our ability to collect and use that information and subject us to liability if we are unable to fully comply with such laws.

Numerous federal and state laws, rules and regulations govern the collection, dissemination, use, security and confidentiality of personal information, including protected health information and individually identifiable health information. These laws include:

- provisions of HIPAA that limit how covered entities and business associates may use and disclose protected health information, provide certain rights to individuals with respect to that information and impose certain security requirements;
- HITECH, which strengthened and expanded the HIPAA Privacy Rule and Security Rules, imposed data breach notification obligations, created new tiers of civil monetary penalties, amended HIPAA to make civil and criminal penalties directly applicable to business associates and gave state attorneys general new authority to file civil actions for damages or injunctions in U.S. federal courts to enforce the federal HIPAA laws and seek attorneys' fees and costs associated with pursuing federal civil actions;
- other federal and state laws restricting the use and protecting the privacy and security of personal information, including health information, many of which are not preempted by HIPAA;
- federal and state consumer protection laws; and
- federal and state laws regulating the conduct of research with human subjects.

One relevant state law is the California Consumer Protection Act ("***CCPA***"), which became effective on January 1, 2020. The CCPA is a privacy law that requires certain companies doing business in California to disclose information regarding the collection and use of a consumer's personal data and to delete a consumer's data upon request. The Act also permits the imposition of civil penalties and expands existing state security laws by providing a private right of action for consumers in certain circumstances where consumer data is subject to a breach. We are still evaluating whether and how this rule will impact our U.S. operations and /or limit the ways in which we can provide services or use personal data collected while providing services.

As part of our business operations, including our medical record keeping, third-party billing and reimbursement and research and development activities, we collect and maintain protected health information in paper and electronic format. Standards related to health information, whether implemented pursuant to HIPAA, HITECH, state laws, federal or state action or otherwise, could have a significant effect on the manner in which we handle personal information, including healthcare-related data, and communicate with payers, providers, patients, donors and others, and compliance with these standards could impose significant costs on us or limit our ability to offer services, thereby negatively impacting the business opportunities available to us.

If we are alleged not to comply with existing or new laws, rules and regulations related to personal information, we could be subject to litigation and to sanctions that include monetary fines, civil or administrative penalties, civil damage awards or criminal penalties.

Risks Related to Our Intellectual Property

Our ability to protect our intellectual property and proprietary technology through patents and other means is uncertain and may be inadequate, which could have an adverse effect on our business, results of operations and financial condition.

Our success depends significantly on our ability to protect our proprietary rights to the technologies used in our products. We rely on patent protection, as well as a combination of copyright, trade secret and trademark laws and nondisclosure, confidentiality and other contractual restrictions to protect our proprietary technology, including our licensed technology. These legal means afford only limited protection and may not adequately protect our rights or permit us to gain or keep any competitive advantage. In addition, our pending patent applications include claims to material aspects of our products and procedures that are not currently protected by issued patents. The patent application process can be time consuming and expensive. Our pending patent applications might not result in issued patents. Competitors may be able to design around our patents or develop products that provide outcomes that are comparable or even superior to ours. Although we have taken steps to protect our intellectual property and proprietary technology, including entering into confidentiality agreements and intellectual property assignment agreements with some of our officers, employees, consultants and advisors, such agreements may not be enforceable or may not provide meaningful protection for our trade secrets or other proprietary information in the event of unauthorized use or disclosure or other breaches of the agreements.

The failure to obtain and maintain patents or protect our intellectual property rights could have an adverse effect on our business, results of operations, and financial condition. Whether a patent claim is valid is a complex matter of science, facts and law, and therefore we cannot be certain that, if challenged, our patent claims would be upheld. If any of those patent claims are invalidated, our competitive advantage may be reduced or eliminated.

In the event a competitor infringes upon our licensed patents, issued patents, pending patent applications or other intellectual property rights, enforcing those rights may be costly, uncertain, difficult and time consuming. Even if successful, litigation to enforce or defend our intellectual property rights could be expensive and time consuming and could divert our management's attention. Further, bringing litigation to enforce our patents subjects us to the potential for counterclaims. Other companies or entities also have commenced, and may again commence, actions seeking to establish the invalidity of our patents and certain related claims. In the event that any of our patent claims are challenged, a court, the United States Patent and Trademark Office ("***USPTO***"), or the Patent Trial and Appeal Board ("***PTAB***") of the USPTO may invalidate one or more challenged patent claims or determine that the patent is unenforceable, which could harm our competitive position. If the USPTO or the PTAB ultimately cancels or narrows the claim scope of any of our patents through these proceedings, it could prevent or hinder us from being able to enforce them against competitors. Such adverse decisions could negatively impact our business, results of operations, and financial condition.

In addition, the laws of some foreign countries do not protect intellectual property rights to the same extent as the laws of the United States. Many companies have encountered significant problems in enforcing and defending intellectual property rights in certain foreign jurisdictions. This could make it difficult for us to stop infringement of our foreign patents, if obtained, or the misappropriation of our other intellectual property rights. For example, some foreign countries have compulsory licensing laws under which a patent owner must grant licenses to third parties. In addition, some countries limit the enforceability of patents against third parties, including government agencies or government contractors. In these countries, patents may provide limited or no benefit. Patent protection must ultimately be sought on a country-by-country basis, which is an expensive and time-consuming process with uncertain outcomes. Accordingly, we may choose not to seek patent protection in certain countries, and we will not have the benefit of patent protection in such countries. Proceedings to enforce our patent rights in foreign jurisdictions could result in substantial costs and divert our efforts and attention from other aspects of our business. Accordingly, our efforts to protect our intellectual property rights in some countries may be inadequate.

We may become subject to claims of infringement of the intellectual property rights of others, which could prohibit us from developing our products, require us to obtain licenses from third parties or to develop non-infringing alternatives, and subject us to substantial monetary damages.

Third parties could assert that our products infringe their patents or other intellectual property rights. Whether a product infringes a patent claim or other intellectual property right involves a complex combination of legal and factual issues, the determination of which is often uncertain. Therefore, we cannot be certain that we have not infringed the intellectual property rights of others. Because patent applications may take years to issue, there also may be applications now pending of which we are unaware that may later result in issued patent claims that our products or processes infringe. There also may be existing patents or pending patent applications of which we are unaware that our products or processes may inadvertently infringe.

Any infringement claim could cause us to incur significant costs, place significant strain on our financial resources, divert management's attention from our business and harm our reputation. If the relevant patent claims at issue in such a dispute were upheld as valid and enforceable and we were found to infringe, we could be prohibited from selling any product that is found to infringe those claims unless we could obtain licenses to use the technology covered by the asserted patent claims or other intellectual property, or are able to design around the patent claim or claims at issue or other intellectual property. We may be unable to obtain such a license on terms acceptable to us, if at all, and we may not be able to redesign our products to avoid infringement. A court could also order us to pay compensatory damages for such infringement, plus prejudgment interest and could, in addition, treble the compensatory damages and award attorney fees. These damages could be substantial and could harm our reputation, business, financial condition and operating results. A court also could enter orders that temporarily, preliminarily or permanently enjoin us and our customers from making, using, or selling products, and could enter an order mandating that we undertake certain remedial measures. Depending on the nature of the relief ordered by the court, we could become liable for additional damages to third parties. Further, because of the substantial amount of discovery required in connection with intellectual property litigation, there is a risk that some of our trade secrets or other confidential information could be compromised by inadvertent or court-ordered disclosure during this type of litigation.

We may be subject to damages resulting from claims that we, our employees, or our independent contractors have wrongfully used or disclosed alleged trade secrets, proprietary or confidential information of our competitors or are in breach of non-competition or non-solicitation agreements with our competitors.

Some of our employees were previously employed at other medical device, pharmaceutical or tissue companies. We may also hire additional employees who are currently employed at other medical device, pharmaceutical or tissue companies, including our competitors. Additionally, consultants or other independent agents with which we may contract may be or have been in a contractual arrangement with one or more of our competitors. Although no claims are currently pending, we may be subject to claims that we, our employees, or our independent contractors have inadvertently or otherwise used or disclosed trade secrets or other proprietary information of these former employers or competitors. In addition, we have been and may in the future be subject to claims that we caused an employee to breach the terms of his or her non-competition or non-solicitation agreement. Litigation may be necessary to defend against these claims. Even if we are successful in defending against these claims, litigation could result in substantial costs and be a distraction to management. If we fail to defend such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights or personnel. Any future litigation or the threat thereof may adversely affect our ability to hire additional direct sales representatives. A loss of key personnel or their work product could hamper or prevent our ability to market existing or new products, which could severely harm our business, financial condition and operating results.

Risks Related to the Audit Committee Investigation, Consolidated Financial Statements, Internal Controls and Related Matters

We have identified material weaknesses in our internal control over financial reporting, and we have concluded that our internal control over financial reporting and our disclosure controls and procedures were not effective as of December 31, 2020. If we fail to properly remediate these or any future material weaknesses or deficiencies, further material misstatements in our financial statements could occur and impair our ability to produce accurate and timely financial statements, affect our ability to keep our stock listed on a securities exchange, require significant expenditure of financial and other resources, give rise to litigation against us and otherwise affect our business, financial condition and operating results.

We have concluded that our internal control over financial reporting was not effective as of December 31, 2020 due to the existence of material weaknesses in such controls and we have also concluded that our disclosure controls and procedures were not effective as of December 31, 2020 due to material weaknesses in our control over financial reporting, all as described in Item 9A, *"Controls and Procedures,"* of this Form 10-K. While we continued meaningful remediation efforts during 2020 to address the identified weaknesses, we were not able to fully remediate our material weaknesses in internal controls as of December 31, 2020. In addition, one or more additional material weaknesses in our internal control over financial reporting might arise or be identified in the future. We intend to continue our control remediation activities and, in doing so, we will continue to incur expenses and expend management time on compliance-related issues.

If our remediation measures are insufficient to address the identified deficiencies, or if additional deficiencies in our internal control over financial reporting are discovered or occur in the future, our consolidated financial statements may contain material misstatements and we could be required to restate our financial results. Moreover, because of the inherent limitations of any control system, material misstatements due to error or fraud may not be prevented or detected on a timely basis, or at all. If we are unable to provide reliable and timely financial reports in the future, our business and reputation may be further harmed. Failures in internal controls may also cause us to fail to meet reporting obligations, negatively affect investor confidence in our

management and the accuracy of our financial statements and disclosures, or result in adverse publicity and concerns from investors, any of which could have a negative effect on the price of our Common Stock, subject us to further regulatory investigations and penalties or shareholder litigation, and adversely impact our business, results of operations and financial condition.

Negative publicity, including publicity relating to or arising from the Restatement, the Audit Committee Investigation, or related matters, has had and could continue to have an adverse effect on our business, results of operations and financial condition.

We have been and could continue to be the subject of negative publicity focusing on the Restatement, the results of the Investigation, and related matters. As a result, our customers and others with whom we do business have voiced concerns regarding the effort required to address our accounting and control environment and our ability to be a long-term provider to our customers. Further negative publicity could adversely affect our business, financial condition and results of operations.

We have incurred significant legal and accounting expenditures as a result of the Restatement and have become subject to a number of additional risks and uncertainties, including being a party to certain litigation relating to the Restatement. See Item 3. “Legal Proceedings” and Item 8 -- Note 14, “Commitments and Contingencies” for additional information. As a result of the Restatement, we may continue to be at risk for further government investigations, shareholder litigation, and additional accounting and legal fees in connection therewith, as well as loss of investor confidence in us, and a negative impact on our stock price.

We are currently, in the past have been, and in the future may be, subject to substantial litigation and ongoing investigations that could cause us to incur significant legal expenses, divert management’s attention, and result in harm to our business.

We are exposed to potential liabilities and reputational risk associated with litigation, regulatory proceedings and government enforcement actions. For example, we are party to a securities class action lawsuit alleging, among other things, violations of Section 10(b) of the Securities Exchange Act of 1934. See Item 3, “Legal Proceedings” and Item 8 -- Note 14, “Commitments and Contingencies” in the Consolidated Financial Statements for information regarding proceedings that we believe may be material to the Company as of the date of the filing of this Form 10-K. We may be subject to additional lawsuits, including class action or securities derivative lawsuits, and further government investigations as well as incur additional legal fees and may face negative impacts to our stock price and reputation. In addition, we are obligated to indemnify and advance expenses to certain individuals involved in certain of these proceedings.

Any adverse judgment in or settlement of any pending or any future litigation could result in significant payments, fines and penalties that could have a material adverse effect on our business, results of operations, financial condition and reputation. Such payments, damages or settlement costs, if any, related to these matters could be in excess of our insurance coverage. The amount of time that is required to resolve these lawsuits is unpredictable and any litigation or claims against us, even those without merit, may cause us to incur substantial costs, divert management’s attention from the day-to-day operation of our business, and materially harm our reputation.

Risks Related to the Securities Markets and Ownership of Our Common Stock

Our substantial indebtedness may adversely affect our financial health.

On July 2, 2020, the Company borrowed an aggregate of $50 million and obtained an additional committed but undrawn $25 million facility (the “***Hayfin Loan Agreement***”). See Item 8, Note 8, “*Long-Term Debt*.”

Our substantial outstanding debt may limit our ability to borrow additional funds or may adversely affect the terms on which such additional funds may be available. Additionally, a default under certain other indebtedness constitutes an event of default under the Hayfin Loan Agreement. Consequently, the effects of a default under other debt may be amplified by the lender exercising the remedies available to them in the Hayfin Loan Agreement for events of default, including foreclosure on the collateral securing our obligations and the declaration that all amounts outstanding under the Hayfin Loan Agreement are immediately due and payable. The limitations on our ability to access additional borrowing and the potential effects of a cross-default under the Hayfin Loan Agreement may limit our liquidity and have an adverse effect on our business, financial condition, and results of operations.

The restrictive covenants in the Hayfin Loan Agreement, and the Company’s obligation to make debt payments under the Hayfin Loan Agreement, limit our operating and financial flexibility and may adversely affect our business, results of operations and financial condition.

The Hayfin Loan Agreement imposes operating and financial restrictions and covenants. For example, the Hayfin Loan Agreement contains (a) certain covenants that impose certain reporting and/or performance obligations on the Company and its subsidiaries, including (i) a maximum Total Net Leverage Ratio (as defined in the Hayfin Loan Agreement) of 5.0x through the quarter ended December 31, 2020, stepping down to 4.5x through the quarter ending June 30, 2021 and to 4.0x thereafter until maturity at June 30, 2025, in each case tested quarterly; and (ii) Minimum Liquidity (as defined in the Hayfin Loan Agreement) of $10 million, an at-all-times covenant tested monthly and (b) certain negative covenants that generally limit, subject to various exceptions, the Company and its subsidiaries from taking certain actions, including, without limitation, incurring indebtedness (including with respect to drawdowns under the delayed draw term loan (the "***DD TL***") if the Total Net Leverage Ratio (pro forma for such drawdowns) exceeds 3.5x), making investments, incurring liens, paying dividends and engaging in mergers and consolidations, sale and leaseback transactions and asset dispositions.

A breach of a financial covenant in the Hayfin Loan Agreement would result in an event of default that would trigger the lenders' remedies, including the right to accelerate the entire principal balance of the loan under the Hayfin Loan Agreement. There can be no assurances that we will be able to repay all such amounts or be able to find alternative financing in case of such or other event of a default. Even if alternative financing is available in an event of a default under the Hayfin Loan Agreement, it may be on unfavorable terms, and the interest rate charged on any new borrowings could be substantially higher than the interest rate under the Hayfin Loan Agreement, thus adversely affecting our cash flows, liquidity, and results of operations. Acceleration of the repayment of the loan pursuant to the terms of the Hayfin Loan Agreement, in combination with the Company's current commitments and contingent liabilities, could also cast doubt on the Company's ability to continue as a going concern.

Our variable rate indebtedness under the Hayfin Loan Agreement subjects us to interest rate risk, which could result in higher expense in the event of increases in interest rates and adversely affect our business, financial condition, and results of operations.

Borrowings under the Hayfin Loan Agreement bear interest at a per annum rate equal to London Interbank Offered Rate ("***LIBOR***"), subject to a "floor" of 1.5%, plus a margin ranging from 6.0% to 6.75% based on our Total Net Leverage Ratio as defined in the Hayfin Loan Agreement. As a result, we are exposed to interest rate risk, which we do not hedge. If LIBOR rises, the interest rate on outstanding borrowings under the Hayfin Loan Agreement will increase. Therefore, an increase in LIBOR will increase our interest payment obligations under the Hayfin Loan Agreement and have a negative effect on our cash flows and liquidity, and could have a negative effect on our ability to make payments due under the Hayfin Loan Agreement.

EW Healthcare Partners and its interests may conflict with those of our other shareholders.

On July 2, 2020, we issued 90,000 shares of Series B Preferred Stock to an affiliate of EW Healthcare Partners ("***EW Healthcare Partners***") pursuant to the Securities Purchase Agreement. As of December 31, 2020, EW Healthcare Partners and their affiliates own 90% of the outstanding shares of Series B Preferred Stock which would result, upon conversion into shares of Common Stock, in an ownership interest of approximately 17.2% of our Common Stock (calculated on the basis set forth under Item 12, "*Security Ownership Of Certain Beneficial Owners And Management*" below). Also, for as long as EW Healthcare Partners and its affiliates collectively hold at least (i) 10% of the outstanding shares of our Common Stock (calculated on an as converted basis), EW Healthcare Partners has the right to designate two directors to our Board and (ii) 5% (but less than 10%) of the outstanding shares of our outstanding Common Stock (calculated on an as converted basis), EW Healthcare Partners has the right to designate one individual to serve on our Board. Such individuals will initially be preferred directors and therefore not subject to election by the holders of Common Stock. At the closing of the Preferred Stock Transaction, EW Healthcare Partners designated Martin P. Sutter and William A. Hawkins, III to serve on our board as preferred directors, and they were appointed to our Board on July 2, 2020. The interests of EW Healthcare Partners may conflict with those of our other shareholders, and EW Healthcare Partners may seek to influence, and may be able to influence, us through its director designation rights and its share ownership.

Holders of shares of Series B Preferred Stock have rights, preferences and privileges that are not held by, and are preferential to, the rights of, our common shareholders.

Holders of shares of Series B Preferred Stock are entitled to cumulative dividends at a rate of 4.0% per annum until June 30, 2021 and 6.0% per annum thereafter, in each case compounding quarterly in arrears. The dividends are payable quarterly in whole or in part, in cash. However, the Company may, at its option, elect not to pay any such dividend in cash and instead to accrue the amount of such dividend. The payment of regular dividends in cash to the holders of Series B Preferred Stock could impact our liquidity and reduce the amount of cash available for working capital, capital expenditures, growth opportunities, acquisitions, and other general corporate purposes. If we elect to accrue the dividends in lieu of paying them in cash, holders of

Common Stock could effectively be diluted because such accrual of dividends will increase the number of shares of Common Stock into which the Series B Preferred Stock would then be convertible. Our obligations to the holders of Series B Preferred Stock could also limit our ability to obtain additional equity or debt financing or increase our borrowing costs, which could have an adverse effect on our financial condition.

The Series B Preferred Stock ranks senior to our Common Stock with respect to dividends and distributions on liquidation, winding-up, and dissolution. Upon a liquidation, dissolution, or winding-up of the Company, holders of Series B Preferred Stock will be entitled to receive $1,000 per share of Series B Preferred Stock (subject to adjustment), plus any accrued and unpaid dividends. This amount will be payable prior to any distribution of our available assets to the holders of our Common Stock.

Holders of Series B Preferred Stock generally are entitled to vote together as a single class with the holders of the shares of Common Stock, on an as converted basis, on all matters submitted for a vote of holders of our Common Stock subject to certain limitations on their voting rights contained in the related Articles of Amendment. Additionally, certain matters will require the approval of the holders of the majority of the outstanding shares of Series B Preferred Stock, voting as a separate class, including the following actions:

- any changes to the rights, preferences, or privileges of the Series B Preferred Stock;
- amendments or restatements of any organizational document of the Company or its subsidiaries in a manner that materially, adversely, and disproportionately affects the rights, preferences, and privileges of the Series B Preferred Stock as compared to our Common Stock;
- the authorization or creation of any class or series of senior or parity equity securities;
- the declaration of any dividends or any other distributions, or the repurchase or redemption, of any equity securities of the Company ranking junior to or on parity with the Series B Preferred Stock (subject to certain exceptions);
- prior to January 2, 2023, the sale, transfer, or other disposition of any assets, business, or operations for $25 million or more (other than sales of inventory in the ordinary course of business), or the purchase or acquisition of any assets, business, or operations for $75 million or more;
- prior to January 2, 2023, the merger or consolidation of the Company unless either (x) the surviving company will have no class of equity securities ranking superior to or on parity with the Series B Preferred Stock or (y) the holders of shares of the Series B Preferred Stock will receive in connection therewith consideration per share of Series B Preferred Stock valued at 200% or more of the purchase price per share of $1,000;
- prior to January 2, 2023, commencing a voluntary case under any applicable bankruptcy, insolvency, or other similar law or consenting to the entry of an order for relief in an involuntary case under any such law, or effectuating any general assignment for the benefit of creditors; and
- prior to January 2, 2023, entering into any settlement agreement regarding the Company’s securities class action litigation.

The interests of our holders of Series B Preferred Stock and our Common Stock may conflict in certain circumstances, and these provisions may constrain the Company from taking certain actions that may be in the best interest of its holders of Common Stock.

The conversion price of the Series B Preferred Stock is subject to anti-dilution adjustments in the event that the Company sells or issues Common Stock to any third-party investor at any time prior to July 2, 2022 at a price that is less than $3.85 per share of Common Stock (although such adjustments cannot result in a conversion price for the Series B Preferred Stock of less than $3.47). Additionally, as long as EW Healthcare Partners holds at least 10% of our outstanding Common Stock (calculated on an as converted basis), it has certain preemptive rights to participate in offerings of Common Stock to any person, subject to customary exceptions.

Furthermore, in the event that the Company undergoes a change of control, the holders of Series B Preferred Stock will have certain redemption rights, which, if exercised, could require us to repurchase all of the outstanding shares of Series B Preferred Stock for cash at the original purchase price of Series B Preferred Stock plus all accrued and unpaid dividends thereon. Any required repurchase of the outstanding Series B Preferred Stock could impact our liquidity and reduce the amount of cash available for working capital, capital expenditures, growth opportunities, acquisitions, and other general corporate purposes.

The preferential rights of the Series B Preferred Stock could also result in divergent interests between the holders of Series B Preferred Stock and our common shareholders.

See Item 8, Note 10, “*Equity*” for more information regarding our Series B Preferred Stock.

Our Series B Preferred Stock is convertible into shares of our Common Stock, and any such conversion may dilute the value of our Common Stock.

Holders of shares of Series B Preferred Stock have the right, at their option, to convert each share of Series B Preferred Stock into shares of our Common Stock, except that no holder may convert its shares of Series B Preferred Stock into shares of Common Stock if such conversion would result in such holder and its affiliates holding more than 19.9% of the aggregate voting power of our Common Stock or beneficially owning in excess of 19.9% of our then-outstanding shares of Common Stock. Additionally, each share of Series B Preferred Stock (including any accrued and unpaid dividends) will automatically convert into shares of our Common Stock at any time after July 2, 2023, provided that our Common Stock has traded at 200% or more of the then conversion price (i) for 20 out of 30 consecutive trading days preceding, and (ii) as of the close of trading on the date immediately prior to conversion. The conversion of Series B Preferred Stock may significantly dilute our common shareholders and adversely affect both our net income per share of Common Stock and the market price of our Common Stock.

The price of our Common Stock has been, and will likely continue to be, volatile.

The market price of our Common Stock, like that of the securities of many other healthcare companies that are engaged in research, development, and commercialization, has fluctuated over a wide range, and it is likely that the price of our Common Stock will fluctuate in the future. The market price of our Common Stock could be impacted by a variety of factors, including:

- Our prior delisting from Nasdaq, and then subsequent re-listing on Nasdaq;
- Fluctuations in stock market prices and trading volumes of similar companies or of the markets generally;
- Our ability to successfully launch, market and earn significant revenue from our products;
- Our ability to obtain additional financing to support our continuing operations;
- Disclosure of the details and results of regulatory applications and proceedings;
- Developments in and disclosure or publicity regarding existing or new litigation or contingent liabilities;
- Changes in government regulations or our failure to comply with any such regulations;
- Additions or departures of key personnel;
- Our investments in research and development or other corporate resources;
- Announcements of technological innovations or new commercial products by us or our competitors;
- Developments in the patents or other proprietary rights owned or licensed by us or our competitors;
- The timing of new product introductions;
- Actual or anticipated fluctuations in our operating results, including any restatements of previously reported results;
- Our ability to effectively and consistently manufacture our products and avoid costs associated with the recall of defective or potentially defective products;
- Our ability and the ability of our distribution partners to market and sell our products;
- Changes in reimbursement for our products or the price for our products to our customers;
- Removal of our products from the FSS, or changes in how government accounts purchase products such as ours or in the price for our products to government accounts;
- Activities of market participants and investors, including analysts and MiMedx shareholders;
- Material amounts of short-selling of our Common Stock; and
- The other risks detailed in this Item 1A.

Price volatility or a decrease in the market price of our Common Stock could have an adverse effect on our ability to raise capital, liquidity, business, financial condition and results of operations.

Securities analysts may elect not to report on our common stock or may issue negative reports that adversely affect the stock price.

We have conducted extensive investor relations outreach to the investment analysts community with the goal of attracting analyst coverage. However, at this time, only one securities analyst provides coverage on us, and we compensate that analyst’s firm. There can be no assurance that any other analysts will cover our stock or, if they do, that they will continue to report on our common stock or that additional analysts will initiate reporting on our common stock.

If we fail to attract the coverage or securities analysts, or if securities analysts discontinue covering our common stock, the lack of research coverage may adversely affect the actual and potential market price of our common stock. The trading market for our common stock may be affected in part by the research and reports that industry participants, industry analysts or financial analysts publish about our business. If one or more analysts elect to cover us and then downgrade the stock, the stock price would likely decline rapidly. If one or more of these analysts cease coverage of us, we could lose visibility in the market, which in turn could cause our stock price to decline.

Fluctuations in revenue or results of operations could cause additional volatility in our stock price.

Any unanticipated shortfall in our revenue in any fiscal quarter could have an adverse effect on our results of operations in that quarter. The effect on our net income of such a shortfall could be exacerbated by the relatively fixed nature of most of our costs, which primarily include personnel costs as well as facilities costs. These fluctuations could cause the trading price of our stock to be negatively affected. Our quarterly operating results have varied substantially in the past and may vary substantially in the future.

We do not intend to pay cash dividends on our Common Stock.

Holders of our Series B Preferred Stock are entitled to contractually-determined dividends before holders of our Common Stock. See *Holders of shares of Series B Preferred Stock have rights, preferences and privileges that are not held by, and are preferential to, the rights of, our common shareholders.*

We have never declared or paid cash dividends on our Common Stock. We currently expect to use available funds and any future earnings to pay dividends on the Series B Preferred Stock; in the development, operation and expansion of our business; to repay debt; and, to the extent authorized by our Board, repurchasing our Common Stock. We do not anticipate paying any cash dividends on our Common Stock in the foreseeable future. As a result, capital appreciation, if any, of our Common Stock will be an investor's only source of potential gain from our Common Stock for the foreseeable future.

Certain provisions of Florida law and anti-takeover provisions in our organizational documents may discourage or prevent a change of control, even if an acquisition would be beneficial to shareholders, which could affect our share price adversely and prevent attempts by shareholders to remove current management.

The Florida Business Corporation Act (the "***FBCA***") includes several provisions applicable to the Company that may discourage potential acquirors. Such provisions include provisions that:

- allow directors to take other stakeholders into account in discharging their duties;
- a requirement that certain transactions with a shareholder of 10% or more ownership must be approved by the affirmative vote of two-thirds of the other shareholders unless approved by a majority of the disinterested directors or certain fair price requirements are met; and
- voting rights acquired by a shareholder at ownership levels at or above one-fifth, one-third and a majority of voting power are denied unless authorized by the Board prior to such acquisition or by a majority of the other shareholders (excluding interested shares (as defined in the FBCA)).

Additionally, our organizational documents contain provisions:

- authorizing the issuance of blank check preferred stock;
- restricting persons who may call shareholder meetings;
- providing for a classified Board;
- permitting shareholders to remove directors only "for cause" and only by super-majority vote; and
- providing the Board with the exclusive right to fill vacancies and to fix the number of directors.

These provisions of Florida law and our articles of incorporation and bylaws could negatively affect our share price, prevent attempts by shareholders to remove current management, prohibit or delay mergers or other takeovers or changes of control of the Company and discourage attempts by other companies to acquire us, even if such a transaction would be beneficial to our shareholders.

Item 1B. Unresolved Staff Comments

There are no unresolved SEC Staff comments with respect to our SEC filings.

Item 2. Properties

Our corporate headquarters are located in Marietta, Georgia, where we lease office, laboratory, tissue processing and warehouse space. We also lease a facility in Kennesaw, Georgia, which primarily consists of laboratory, tissue processing and warehouse space, and additional warehouse space in Marietta, Georgia. All of our properties are used by our one business segment, Regenerative Biomaterials, which includes the design, manufacture and marketing of products and tissue processing services primarily for the wound care, burn, surgical, and non-operative sports medicine sectors of healthcare.

The Company's properties are suitable and adequate for current business operations. We are making investments to increase our manufacturing capacity, especially in the context of enhancements to facilitate the processing of products required to be manufactured under CGMP.

Item 3. Legal Proceedings

The descriptions of our litigation and regulatory matters, and other matters, contained in Note 14, *"Commitments and Contingencies,"* to our financial statements included in Item 8 are incorporated herein by reference.

Item 4. Mine Safety Disclosures

Not applicable.

PART II

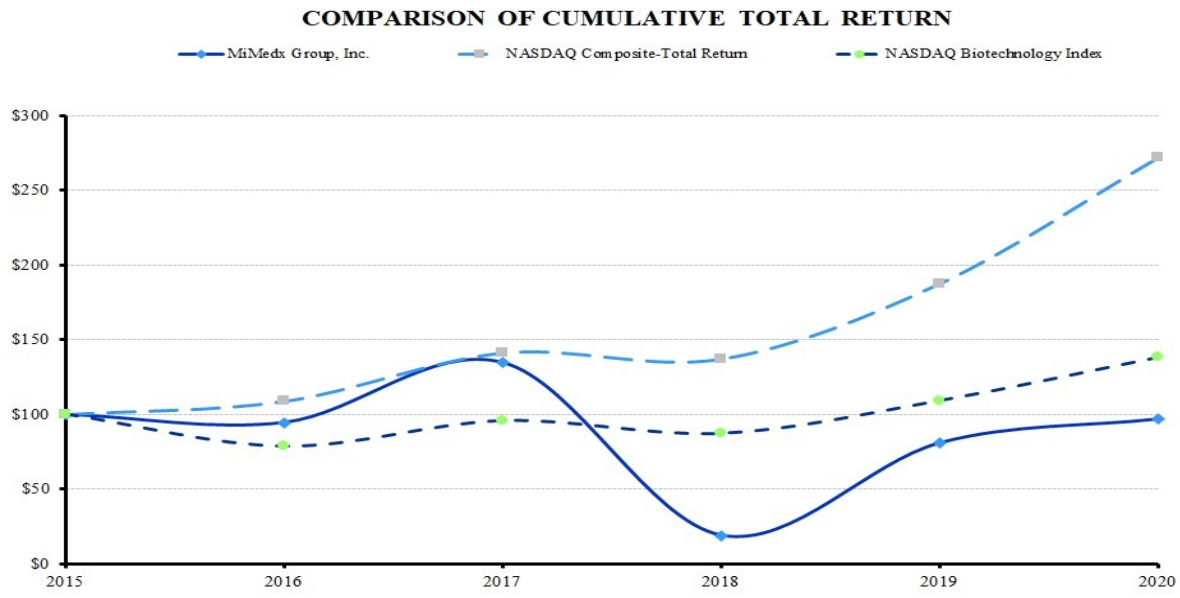
Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

Market for Common Stock

Our Common Stock trades on The Nasdaq Stock Market under the trading symbol "MDXG". Based upon information supplied from our transfer agent, there were approximately 912 shareholders of record of our Common Stock as of February 15, 2021. We have not paid any cash dividends and do not anticipate paying any cash dividends on our Common Stock in the foreseeable future.

Stock Performance Graph

The following graph compares the cumulative total stockholder return on our Common Stock with the cumulative total stockholder return of the Nasdaq Composite Index and the Nasdaq Biotechnology Index, assuming an investment of $100.00 on December 31, 2015, in each of our Common Stock, the stocks comprising the Nasdaq Composite Index, and the stocks comprising the Nasdaq Biotechnology Index.



ASSUMES $100 INVESTED ON DEC. 31, 2015
ASSUMES NO DIVIDENDS
FISCAL YEAR ENDED DEC. 31, 2020

Purchases of Equity Securities by the Issuer and Affiliated Purchasers

The following table sets forth information regarding the purchases of the Company's equity securities made by or on behalf of the Company or any affiliated purchaser (as defined in Rule 10b-18 under the Exchange Act) during the three-month period ended December 31, 2020.

Period	Total Number of Shares Purchased	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Approximate Dollar Value of Shares that May Yet Be Purchased Under Plans or Programs
October 1, 2020 - October 31, 2020	15,031	$ 6.04	—	$ —
November 1, 2020 - November 30, 2020	56,543	$ 5.78	—	$ —
December 1, 2020 - December 31, 2020	36,833	$ 7.68	—	$ —
Total for the quarter [1]	108,407	$ 6.46	—	$ —

(1) Shares repurchased during the quarter include shares surrendered by employees to satisfy tax withholding obligations upon vesting of restricted stock as well as restricted stock yielded to the Company to exercise stock options.

Item 6. Selected Financial Data

The selected consolidated financial data displayed below for the years ended December 31, 2020, 2019, and 2018 was derived from our audited consolidated financial statements for the three-year period ended December 31, 2020. As described below, the selected financial data as of and for the year ended December 31, 2017 and 2016 have been derived from our restated audited consolidated financial statements, which reflect the impact of adjustments to, or restatement of, our previously-filed financial information. The selected financial data set forth below is not necessarily indicative of results of future operations, and should be read in conjunction with Item 7, "*Management's Discussion and Analysis of Financial Condition and Results of Operations*" and the Consolidated Financial Statements.

	Year Ended December 31, in thousands				
	2020 (1) (3) (5)	2019 (1) (3)	2018 (3)	2017 (2) (4)	2016 (2)
Statement of Operations Data:					
Net sales	$ 248,234	$ 299,255	$ 359,111	$ 321,139	$ 221,712
Gross profit	208,904	256,174	322,725	285,920	190,774
Operating (loss) income	(45,398)	(21,160)	(3,924)	46,223	884
Net (loss) income	$ (49,284)	$ (25,580)	$ (29,979)	$ 64,727	$ 390
Net (loss) income per common share - basic	$ (0.77)	$ (0.24)	$ (0.28)	$ 0.61	$ 0.00
Net (loss) income per common share - diluted	$ (0.77)	$ (0.24)	$ (0.28)	$ 0.56	$ 0.00

(1) Includes the adjustments discussed in Item 8, Note 2 "*Significant Accounting Policies—Revenue Recognition*"
(2) Includes sales to external customers by Stability Biologics, LLC, our wholly-owned subsidiary acquired on January 13, 2016 and sold on September 30, 2017, were $7.0 million and $11.7 million during the years ended December 31, 2017 and 2016, respectively.
(3) Includes legal fees, forensic audit fees, and consulting fees relating to the Restatement; and legal fees relating to the SEC Investigation, shareholder derivative lawsuits, as well as expenses paid under indemnification agreements with certain former members of management.
(4) Includes Loss on sale of Stability Biologics, LLC of $1.0 million recognized during the year ended December 31, 2017.
(5) Includes Loss on extinguishment of BT Term Loan of $8.2 million.

For information regarding the comparability of the financial data presented in the tables above and factors that may impact comparability of future results, see Item 7. "*Management's Discussion and Analysis of Financial Condition and Results of Operations*" as well as the Consolidated Financial Statements.

	As of December 31, in thousands				
	2020	2019	2018	2017	2016
Balance Sheet Data:					
Cash and cash equivalents	$ 95,812	$ 69,069	$ 45,118	$ 27,476	$ 30,321
Accounts receivable, net	35,423	32,327	—	—	1,927
Inventory, net	10,361	9,104	15,986	9,467	15,872
Prepaid expenses	5,605	6,669	6,673	2,125	1,838
Income tax receivable	10,045	18	454	656	$ —
Other current assets	3,371	6,058	5,818	9,023	9,516
Total current assets	160,617	123,245	74,049	48,747	59,474
Total assets	$ 202,032	$ 167,166	$ 122,844	$ 121,255	$ 117,274
Current portion of long term debt	$ —	$ 3,750	$ —	$ —	$ —
Accounts payable	8,765	8,710	14,864	8,454	12,412
Accrued compensation	18,467	21,302	23,024	20,941	12,691
Accrued expenses	30,460	32,161	31,842	15,768	19,207
Current portion of earn out liability	—	—	—	—	8,260
Deferred tax liability	—	—	—	—	1,129
Income taxes	—	—	—	—	5,611
Other current liabilities	1,470	1,399	1,817	647	1,482
Total current liabilities	59,162	67,322	71,547	45,810	60,792
Long term liabilities	$ 51,452	$ 65,446	$ 1,642	$ 1,648	$ 8,415
Convertible preferred stock	91,568	—	—	—	—
Additional paid in capital	158,610	147,231	164,744	164,649	161,481
Accumulated deficit	(151,424)	(102,140)	(76,560)	(46,581)	(111,308)
Total stockholders' (deficit) equity	(150)	34,398	49,655	73,797	48,067
Total liabilities, convertible preferred stock, and stockholders' (deficit) equity	$ 202,032	$ 167,166	$ 122,844	$ 121,255	$ 117,274
Working capital	$ 101,455	$ 55,923	$ 2,502	$ 2,937	$ (1,318)

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

Overview

MiMedx is an industry leader in utilizing birth tissue as a platform for regenerative medicine, developing and distributing placental tissue allografts with patent-protected, proprietary processes for multiple sectors of healthcare. As a pioneer in placental biologics, we have both a core business, focused on addressing the needs of patients with acute and chronic non-healing wounds, and a promising late-stage pipeline targeted at decreasing pain and improving function for patients with degenerative musculoskeletal conditions. We derive our products from human placental tissues and process these tissues using our proprietary processing methods, including the PURION® process. We employ Current Good Tissue Practices, Current Good Manufacturing Practices, and terminal sterilization to produce our allografts. MiMedx provides products primarily in the wound care, burn, surgical, and non-operative sports medicine sectors of healthcare. All of our products are regulated by the FDA.

MiMedx is a leading supplier of human placental allografts, which are human tissues that are derived from one person (the donor) and used to produce therapies to treat another person (the recipient). MiMedx has supplied over two million allografts, through both direct and consignment shipments. Our platform technologies include AmnioFix®, EpiFix®, EpiCord®, AmnioCord® and AmnioFill®. AmnioFix and EpiFix are our tissue allografts derived from the amnion and chorion layers of the human placental membrane. EpiCord and AmnioCord are tissue allografts derived from umbilical cord tissue. AmnioFill is a particulate product comprised of placental connective tissue matrix, derived from the placental disc and placental membranes.

Our EpiFix and EpiCord sheet product lines are promoted for external use, such as in advanced wound care applications, while our AmnioFix, AmnioCord and AmnioFill products are positioned for surgical applications, including lower extremity repair, plastic surgery, vascular surgery and multiple orthopedic repairs and reconstructions.

MiMedx has two primary distribution channels: (1) direct to customers (healthcare professionals and/or facilities); and (2) sales through distributors.

This discussion, which presents our results for the fiscal years ended December 31, 2020 and December 31, 2019, should be read in conjunction with our Consolidated Financial Statements and the accompanying notes. Also please refer to Item 1 — Business and Item 1A — Risk Factors, which include detailed discussions of various items impacting the Company's business, results of operations and financial condition. We intend for this discussion to provide the reader with information that will assist in understanding our financial statements, the changes in certain key items in those financial statements from period to period and the primary factors that accounted for those changes. We also discuss certain performance metrics that management uses to assess the Company's performance. Further information on the factors that can affect our operating results can be found in Part I under the caption *"Important Cautionary Statement Regarding Forward-Looking Statements."*

Trends in Our Business

Our recent operating results have been burdened by the incurrence of significant legal expenses

Our prior results were adversely impacted by costs related to the Audit Committee Investigation and the Restatement. We do not expect any further direct costs related those matters, but we have incurred and may potentially continue to incur legal expenses to indemnify certain former members of the Company's management team in certain criminal and civil proceedings, as well as legal costs and penalties to settle ongoing matters involving the Company itself. In January 2021, following the conviction of our former CEO and our former Chief Operating Officer (the "***Convicted Former Officers***") for securities fraud and conspiracy to commit securities fraud, respectively, the Company filed suit seeking (1) a declaratory judgment that the Company has no further obligation to advance expenses to the Convicted Former Officers, (2) a refund of certain amounts previously advanced to the Convicted Former Officers, and (3) certain legal fees and expenses. See Item 3, "*Legal Proceedings.*"

Our recent operating results were adversely affected by the impact of the COVID-19 Pandemic

Restrictions on access to hospital and health care provider facilities, decreases in elective procedures, and cost savings measures implemented by hospitals in response to the COVID-19 pandemic adversely affected our revenues, results of operations, and financial condition. In certain areas, local or regional surges of COVID-19 have continued. See "*Expected Impact of COVID-19 Pandemic,*" below.

Demographic shifts are creating opportunities in the advanced wound care and musculoskeletal sectors

The sectors where our products are used are expected to continue growing due to certain demographic trends. Within the advanced wound care sector, there is significant unmet patient need, due to an aging population, an increasing incidence of obesity and diabetes, and other contributing comorbidities that result in higher susceptibility to non-healing chronic wounds. These demographics extend into the musculoskeletal sector as well, and the increasing number of patients requiring advanced treatment represents a significant cost burden on the healthcare system. We expect that these shifts will benefit our business.

As we look for ways to achieve long-term competitive advantages, we plan to continue to invest in research & development

The Company is also focused on advancing our late-stage pipeline and accelerating efforts toward seeking FDA approval for AmnioFix Injectable, or mdHACM, to treat musculoskeletal degeneration across multiple indications. As a significant area of focus and investment for MiMedx, we are progressing clinical, manufacturing, and quality initiatives, in support of mdHACM as a biologic with broad potential across a range of large and growing clinical indications. In parallel, we are continuing to proactively communicate with the FDA. We are preparing to request and schedule End-of-Phase meetings with the FDA to review our progress with ongoing clinical trials, and outline the proposed next steps, including plans to accelerate a Phase 3 clinical trial for knee osteoarthritis. Also, our planned investments in Research and Development throughout 2021 are designed to advance our late-stage pipeline and support our core market growth objectives. We intend to publish additional peer-reviewed clinical, scientific and economic data that further reinforce the differentiation of our products and expand the utility of the Company's placentally-derived products in other clinical applications throughout the care continuum. In addition, we are enhancing business and product development efforts, targeting new applications and potential products that fit within our framework of innovative technologies backed by rigorous science, that elevate the standard of care.

Impact of COVID-19 Pandemic

On March 11, 2020, the World Health Organization designated the outbreak of a novel strain of coronavirus as a global pandemic. Governments and businesses around the world have taken unprecedented actions to mitigate the spread of COVID-19, including imposing restrictions on movement and travel such as quarantines and shelter-in-place requirements, and restricting or prohibiting outright some or all commercial and business activity, including the manufacture and distribution of certain goods and the provision of nonessential services.

As of the end of 2020, many governments and businesses have relaxed these measures. In addition, the FDA has approved two vaccines with proven efficacy for use by the general public; although, as of the issuance of this report, availability of the vaccine is restricted to certain populations.

Despite these developments, it remains uncertain whether governments and businesses will reimpose similar or greater restrictions or other measures to mitigate the spread of the virus, the rate at which the vaccine will become available to the general population, the potential impact of additional variants of the virus, the amount, timing, and extent of additional fiscal relief or stimulus, and the timing and extent society will return to a pre-pandemic way of life.

The COVID-19 pandemic began affecting us late in the first quarter of 2020 and affected our operations for the remainder of the year.

Sourcing and Manufacturing

We source the raw materials for our product from donors in hospitals. We have a large, nation-wide network of donor hospitals. We experienced interruptions to our access to some hospitals in some geographic areas beginning in the second half of March 2020. However, we were successful in mitigating this disruption to our supply by adding additional donor hospitals, increasing efforts at hospitals, and by using third-party providers of donated placentas, that did not impose access limits. Additionally, in anticipation of expected disruptions, we ran manufacturing at levels greater than demand and were successful in building our inventory of safety stock. We process donated tissue in a sterile environment. However, the manufacturing space is a confined area where an affected employee might spread the virus to other employees despite the use of personal protective equipment required for this environment. Additionally, we required our non-manufacturing employees including our executives to work from home from March 13, 2020 until June 1, 2020, and again beginning July 12, 2020 through April 21, 2021, though this timeline may be further extended. To the extent that employees do need to enter the facility, we monitor our employees' temperatures prior to entering our facilities and ask if they are exhibiting any symptoms of COVID-19. To date, and due to significant mitigation efforts, COVID-19 has had only a modest impact on our ability to source and manufacture our products.

Sales and Marketing

Our ability to sell our products has been hampered by the COVID-19 pandemic. Our sales force is spread across the country. In many areas, our sales force was excluded from hospitals and the offices of other health care providers. Additionally, many patients stayed away from hospitals and other medical facilities. This had an adverse effect on our revenues beginning late in the first quarter of 2020 and continuing into April. However, by mid-May, access to hospitals and healthcare providers by our sales force had been mostly restored, and we began to see significant numbers of patients return to hospitals and other healthcare providers, including for elective procedures. This trend continued into the third and fourth quarters of 2020, where we saw net sales generally consistent with the comparable periods from 2019 on an "as-shipped" basis. In certain areas, local or regional surges of COVID-19 have continued, and future sales will depend on patients' willingness and ability to visit healthcare providers for care, and our sales force's access to healthcare providers. The timing, impact, and response to the pandemic has been uneven across the country. Subsequent waves may have a greater impact than did the first wave depending on a myriad of factors, including, but not limited to the availability and efficacy of vaccines, the emergence and severity of new variants of the virus, infection rates, mitigation efforts, and societal response. We are not able to estimate the future effect of COVID-19 on patient behavior and consequently future demand or the ability of providers to pay for our products. See Item 1A. - Risk Factors - *The COVID-19 pandemic and governmental and societal responses thereto have adversely affected our business, results of operations and financial condition, and the continuation of the pandemic or the outbreak of other health epidemics could harm our business, results of operations, and financial condition.*

Selling and General Administrative Expenses

In response to these challenges, our management team initiated several actions. Most discretionary expenses such as travel were cancelled. We negotiated additional discounts with vendors. Merit salary increases scheduled for the second quarter of 2020 were deferred until the fourth quarter of 2020. Beginning on April 5, 2020, we reduced employees' salaries, including those of senior executives, on a sliding scale with larger reductions applied to larger salaries. The salary reductions ended June 28, 2020. We estimate that the combination of these efforts have saved the Company approximately $17 million through December 31, 2020.

Liquidity and Capital Resources

On June 30, 2020, we entered into a Loan Agreement with, among others, Hayfin Services, LLP, an affiliate of Hayfin Capital Management LLP, which was funded on July 2, 2020 and provided us with a senior secured term loan in an aggregate amount of $50 million and an additional delayed draw term loan in the form of a committed but undrawn facility. In addition, on July 2, 2020, we issued shares of Series B Preferred Stock to an affiliate of EW Healthcare Partners and to certain funds managed by Hayfin Capital Management LLP pursuant to the Securities Purchase Agreement for an aggregate purchase price of $100 million (collectively, the "***Financing Transactions***"). The proceeds from these transactions were used to:

(1) refinance, in whole, the outstanding indebtedness under the Loan Agreement, dated as of June 10, 2019, among us, the lenders and Blue Torch Finance LLC as administrative agent and collateral agent for such lenders,

(2) pay fees and expenses incurred with certain financing transactions, and

(3) finance the working capital, capital expenditures, and other general corporate obligations of the Company.

In large part due to the Financing Transactions, we have $95.8 million of cash and cash equivalents and $101.5 million of working capital as of December 31, 2020. Despite the uncertainty brought upon by the COVID-19 pandemic, we believe that our current cash balance, in concert with cash flows from operations, as well as $25 million available on the delayed draw term loan, will be sufficient to cover our obligations for twelve months from the filing of this Form 10-K.

As noted above, the COVID-19 pandemic has affected our operations and may continue to negatively affect our operations. It is possible that, as a result of a deterioration of our operations, we may breach one or more of the financial covenants specified within our term loan agreements. Such a circumstance would constitute an event of default and could allow our lenders to call outstanding loans and require us to repay the outstanding principal balance, accrued interest, and prepayment premium immediately. Absent this circumstance, our lenders may require us to pay a higher interest rate on our debt so long as we remain in default on our loan agreements. Either circumstance could impact our cash flows or liquidity.

The COVID-19 pandemic and governmental and societal responses thereto may cause a deterioration of debt and equity markets, limiting our ability to access capital should the need arise. If we do seek additional financing through the capital markets, it is possible that the terms of such agreements may be less favorable than the terms of our existing term loan

agreements. This could be the result of factors specific to our operations or systemic to the capital markets brought upon by the COVID-19 pandemic.

Refer to discussion in the *Liquidity and Capital Resources* section below for additional information regarding the Financing Transactions.

Reserves and Financial Estimates

We do not expect that there will be significant changes in judgments in determining the fair value of other assets measured in accordance with U.S. GAAP. We do not expect to incur any material impairments (e.g., with respect to goodwill, intangible assets, long-lived assets, fixed assets, or right of use assets) as a direct result of the pandemic, increases in allowances for credit losses, restructuring charges, other expenses, or changes in accounting judgments that have had or are reasonably likely to have a material impact on our financial statements, although we expect our days sales outstanding, post revenue recognition transition discussed in the "*Critical Accounting Policies*" below, to increase modestly as a result of patient behavior.

Financial Reporting Systems and Internal Controls

We have invested in technology to allow our office staff to work remotely. As a result, we do not expect the pandemic to have a material adverse effect on our financial reporting systems, internal controls over financial reporting and disclosure controls and procedures, although we have experienced delays when working with third parties who do not have remote access to our systems or whose procedures require them to review certain physical records.

Recent Events

SEC Matters and Corporate Matters

On March 17, 2020, we filed our annual report for the year ended December 31, 2018 which included restated financial statements. On July 6, 2020, we filed our annual report for the year ended December 31, 2019, three quarterly reports for 2019, and our quarterly report for the period ended March 31, 2020. By doing so, we became current in our periodic reporting obligations with the SEC.

We also held our 2019 annual meeting of shareholders on August 31, 2020 and our 2020 annual meeting of shareholders on November 20, 2020.

Relisting of Common Stock and Related Matters

On November 4, 2020, The Nasdaq Stock Market LLC ("***Nasdaq***") relisted our common stock ("***Common Stock***"). Previously, Nasdaq had suspended our Common Stock from trading on November 8, 2018 and subsequently delisted our Common Stock effective March 8, 2019 due to our failure to remain current in our SEC reporting obligations.

Additions to our Management and Board of Directors

Since June 2018, most of our executive leadership team has changed.

- The Board appointed Timothy R. Wright as Chief Executive Officer, effective as of May 13, 2019.
- On December 2, 2019, William "Butch" Hulse IV joined the Company as General Counsel and Secretary.
- Effective March 18, 2020, the Board appointed Peter M. Carlson as Chief Financial Officer.
- On May 1, 2020 the Board appointed William L. Phelan as Chief Accounting Officer.
- On July 28, 2020, the Board appointed Rohit Kashyap, Ph.D. Executive Vice President and Chief Commercial Officer.
- On August 10, 2020, the Board appointed Robert B. Stein, M.D., Ph.D. Executive Vice President, Research and Development.

In addition, we welcomed four new directors to our Board of Directors in 2020. Pursuant to the Preferred Stock Transaction described below, we increased the size of our Board of Directors, and Martin P. Sutter and William A. Hawkins III were appointed to serve as Preferred Directors effective July 2, 2020. At the 2020 Annual Meeting held on November 20, 2020, shareholders elected Dr. Michael Giuliani and Dr. Cato Laurencin to the Board. Also, Dr. Phyllis Gardner will join the Board effective immediately following the filing of this report. As a result, all of our current directors have joined the Board as new members since May 2019.

Financing Transactions

On July 2, 2020, we issued shares of our Series B Convertible Preferred Stock, par value $0.001 per share (the "***Series B Preferred Stock***"), to an affiliate of EW Healthcare Partners and to certain funds managed by Hayfin Capital Management LLP pursuant to the Securities Purchase Agreement, dated as of June 30, 2020 (the "***Securities Purchase Agreement***"), for an aggregate purchase price of $100 million (the "***Preferred Stock Transaction***"). On July 2, 2020, we also borrowed an aggregate of $50 million pursuant to the loan agreement, dated as of June 30, 2020 (the "***Hayfin Loan Agreement***"), by and among the MiMedx Group, Inc., certain of our subsidiaries, Hayfin Services LLP and other funds managed by Hayfin Capital Management LLP, and obtained an additional committed but undrawn $25 million facility pursuant to the Hayfin Loan Agreement (collectively, the "***Hayfin Loan Transaction***"). A significant portion of the proceeds from these transactions was used to repay the outstanding balance of principal and accrued but unpaid interest, and prepayment premium, under existing indebtedness. For further information regarding the Preferred Stock Transaction, see Item 8, Note 10 "*Equity*." For further information regarding the Hayfin Loan Agreement and the repayment of our prior indebtedness, see Item 8, Note 8 "*Long-Term Debt.*"

Government Investigations and Litigation

On April 6, 2020, we announced that we had finalized a settlement with the Department of Justice (the "***DOJ***"), resolving an investigation concerning the accuracy of commercial pricing disclosures to the United States Department of Veterans Affairs (the "***VA***") for one of our products in connection with our Federal Supply Schedule contract, and a related qui tam action filed in Minnesota. We self-disclosed the matter to the VA Office of Inspector General (VA-OIG) in November 2018, prior to our knowledge of the qui tam suit or any underlying government investigation and, as the DOJ acknowledged in the settlement agreement, we cooperated with the government's investigation into the matter. Without admitting the allegations, we agreed to pay $6.5 million to the DOJ to resolve the matter. Previously, we disclosed that we had accrued an amount to cover the settlement and anticipated related expenses in our annual report on Form 10-K for the year ended December 31, 2018.

On January 11, 2021, we provided an update regarding the United States Attorney's Office for the Southern District of New York ("***USAO-SDNY***") Investigation into, among other things, our recognition of revenue and practices with certain distributors and customers. The USAO-SDNY recently advised us, based on the USAO-SDNY's current understanding of facts, that it does not intend to pursue further action or remedies against us.

On September 9, 2020, we reached a settlement of three shareholder derivative actions (*Evans v. Petit, et al.* filed September 25, 2018, *Georgalas v. Petit, et al.* filed September 27, 2018, and *Roloson v. Petit, et al.* filed October 22, 2018) that had been filed in the Northern District of Georgia. On December 21, 2020, the Court approved the settlement.

Pursuant to the Florida Business Corporation Act and indemnification agreements with its former Chairman and CEO, Parker H. "Pete" Petit, and former COO, William Taylor, the Company has advanced defense costs to Petit and Taylor in connection with certain legal proceedings arising from their corporate status as former directors and officers of the Company. Following the jury verdict against Petit for securities fraud and Taylor for conspiracy to commit securities fraud, on January 12, 2021, the Company filed suit in the Eleventh Judicial Circuit of Florida in and for Miami-Dade County (*MiMedx Group, Inc. v. Petit and Taylor*) seeking (1) a declaratory judgment that a conviction of Petit and Taylor means the Company has no further obligation to indemnify or advance expenses to them, (2) reimbursement of amounts previously advanced to Petit and Taylor, and (3) any other relief deemed just and proper by the court. Given the inherent difficulty of predicting the outcome of litigation, the Company cannot estimate recoveries, ranges of recoveries, losses or ranges of losses in these proceedings, nor can it predict whether it may be required to continue to indemnify or advance defense costs to Petit and Taylor.

For more information see the discussion included in Item 8 -- Note 14, "Commitments and Contingencies."

Critical Accounting Policies

We believe that of our significant accounting policies, which are described in Note 2 "*Significant Accounting Policies*" to our consolidated financial statements appearing elsewhere in this report, the following accounting policies involve a greater degree of judgment and complexity.

Revenue Recognition

Current Policy

We sell our products primarily to two classes of customers: individual customers and independent distributors. Customers obtain and use products either through ship and bill sales or consignment arrangements. Under ship and bill arrangements, we retain possession of the product until the customer submits an order. Upon approval of the sales order, we ship product to the customer and invoice them for the product sold. Under consignment arrangements, the customer takes possession of the product, but we retain title until the implantation, or application of our product to the end user.

Subsequent to the Transition (as defined below) and including for all of the year ended December 31, 2020, we recognized revenue as performance obligations were fulfilled; which occurs upon the shipment of product to the customers for ship and bill orders or upon implantation for consignment sales. All revenue is recognized at a point in time.

Revenue is recognized based on the consideration we expect to receive from the sale. This consists of the gross selling price of the product, less any discounts or rebates (collectively, "***Deductions***" or "***sales deductions***"). Gross selling price is a standard we set for all customers, unless a contract governing the sale provides for a specified price. Sales deductions are specified in individual contracts with customers and generally achieved based on total sales during a specified period. We estimate the total sales deductions which a specific customer will achieve over the relevant term and apply the deductions to sales as they are made throughout the period. Rebates owed to customers are accrued and recorded in accrued expenses on the consolidated balance sheets.

We act as the principal in all of our customer arrangements and therefore record revenue on a gross basis. Shipping is considered immaterial in the context of the overall customer arrangement, and damages or loss of goods in transit are rare. Therefore, shipping is not deemed a separately recognized performance obligation and we have elected to treat shipping costs as activities to fulfill the promise to transfer the product. We maintain a returns policy that allows our customers to return product that is consigned, damaged or non-conforming, ordered in error, or due to a recall. The estimate of the provision for returns is based upon historical experience with actual returns given consideration to any changes in historical periods presented. Our payment terms for customers are typically 30 to 60 days from receipt of title of the goods.

In addition to the above revenue recognition policy, we recognize revenue associated with the Remaining Contracts (as defined below) upon cash receipt. The Remaining Contracts represent contracts for which all of the criteria necessary for revenue recognition were not met at the time of shipment and that such criteria would not be met until ultimate collection of such sales. A summary of amounts collected and recorded as net sales for the years ended December 31, 2020 and 2019, as well as amounts still outstanding as of those dates, are as follows (amounts in thousands):

	Amounts Invoiced and Not Collected	Deferred Cost of Sales
Amounts as of September 30, 2019	$ 48,883	$ 6,415
Revenue recognized related to amounts invoiced and not collected at September 30, 2019:		
Transition Adjustment during the three months ended September 30, 2019	(21,385)	(2,565)
Cash collected during the three months ended December 31, 2019 related to the Remaining Contracts	(8,219)	(1,151)
	(29,604)	(3,716)
Write-off of customer contracts where collection is no longer reasonably assured (a)	(10,273)	(1,438)
Amounts as of December 31, 2019	9,006	1,261
Cash collected during the year ended December 31, 2020	(7,767)	(1,087)
Amounts as of December 31, 2020	$ 1,239	$ 174

(a) The Company determined that for approximately $10.3 million of existing contracts where payment had not been received, collection was no longer reasonably assured. As a result, $1.4 million of deferred cost of sales relating to these customers was written off. Any future collections relating to these customer contracts will be recorded as revenue at the time payment is received.

Previous Revenue Recognition Policy and Transition

In 2018, and into part of 2019, our control environment was such that it created uncertainty surrounding all of our customer arrangements, which required consideration related to the proper revenue recognition under the applicable literature. The control environment allowed for the existence of extra-contractual or undocumented terms or arrangements initiated by or

agreed to by us and former members of our management at the outset of the transactions (side agreements). Concessions were also agreed to subsequent to the initial sale (e.g. sales above established customer credit limits extended and unusually long payment terms, return or exchange rights, and contingent payment obligations) that called into question the ability to recognize revenue at the time that product was shipped to a customer.

We changed our pattern of revenue recognition effective October 1, 2019. As a result, our pattern of revenue recognition varies between the years ended December 31, 2020, 2019, and 2018. The application of the relevant revenue recognition guidance and the pattern of revenue recognition are further discussed below for each period presented.

Fiscal Year Ended December 31, 2018

We adopted ASC Topic 606, *Revenue from Contracts with Customers ("**ASC 606**")*, on January 1, 2018 by using the modified retrospective method. ASC 606 establishes principles for reporting information about the nature, amount, timing and uncertainty of revenue and cash flows arising from the entity's contracts to provide goods or services to customers. The core principle requires an entity to recognize revenue to depict the transfer of goods or services to customers in an amount that reflects the consideration that it expects to be entitled to receive in exchange for those goods or services recognized as performance obligations under the relevant criteria. We assessed the impact of the ASC 606 guidance by reviewing customer contracts and accounting policies and practices to identify differences, including identification of the contract and the evaluation of our performance obligations, transaction price, customer payments, transfer of control and principal versus agent considerations.

ASC 606 establishes a five-step model for revenue recognition. The first of these steps requires the identification of the contract as described in ASC 606-10-25-1. The specific criteria (the "***Step 1 Criteria***") to this determination are as follows:

- The parties to the contract have approved the contract (in writing, orally, or in accordance with other customary business practices) and are committed to perform their respective obligations;
- The entity can identify each party's rights regarding the goods or services to be transferred; and
- The entity can identify the payment terms for the goods or services to be transferred.
- The contract has commercial substance.
- It is probable that the entity will collect substantially all of the consideration to which it will be entitled in exchange for the goods or services that will be transferred to the customer.

We concluded that the first three of the above criteria were not met upon shipment of product to the customer, the fourth criteria had been met and we acknowledge that there was a degree of uncertainty as to whether last criteria above had been met. Although the parties to the contract may have approved the contract and purchase orders in writing, we concluded that, upon shipment of products to the customer, there was not sufficient evidence that our customers were committed to perform their obligations defined in the contract due to the existence of extra-contractual or undocumented terms or arrangements (e.g., regarding payment terms, right of return, etc.). We could not reliably identify each party's rights regarding the products to be transferred upon shipment of those products to customers.

We determined the transaction price of our contracts to equal the amount of consideration received from customers less the amount expected to be refunded or credited to customers, which is recognized as a refund liability that is updated at the end of each reporting period for changes in circumstances. The refund liability is included within accrued expenses in our consolidated balance sheet.

Fiscal Year Ended December 31, 2019 and Transition

We continued to assess new and existing contracts throughout 2019 to determine if the Step 1 Criteria noted above for the determination of a contract under ASC 606 were met for new contracts at the outset of a sales transaction (i.e., upon shipment of product) or for existing contracts at some point within 2019 when all the terms of the arrangement would have been known. Until it was determined if the Step 1 Criteria had been met, revenue recognition continued to be deferred consistent with the assessment for the year ended December 31, 2018.

As further discussed above, the primary factors contributing to the determination in prior periods that the Step 1 Criteria had not been met were the inappropriate tone at the top and the existence of pervasive extra-contractual or undocumented terms or arrangements. These prior business practices and the lack of transparency surrounding them created a systemically implied right for customers to demand future and unknown performance by us. Although some of the former executives were employed by us

only through June 2018, we determined that based on the impact of the prior tone at the top, the continued internal sales force strategy and the existing customer base's continued expectations (based on past practice), there would be flexibility with respect to arrangement terms even after delivery of the product so pervasive that all customer arrangements continued to be subject to uncertain modification of terms into 2019.

After identifying the primary factors contributing to the lack of knowledge regarding our customer contractual terms, we began implementing changes in mid-2018 to remediate the pervasive weaknesses in the control environment, followed by gradually implementing measures to empower our compliance, legal, and accounting departments; educate our sales force on appropriate business practices; and communicate our revised terms of sale to customers. We assessed our efforts throughout 2019 to determine when, if at any point, the factors contributing to the inability to satisfy the Step 1 Criteria were sufficiently addressed such that the Step 1 Criteria were met at the time of physical delivery to the customer. Determining when these conditions were effectively satisfied was a matter of judgment; however, we determined that adequate knowledge of the contractual arrangements with our customers did exist in 2019 for new and certain existing arrangements. We did note that there is no single determinative change that overcame the pervasive challenges noted above, but rather an accumulation of efforts that taken together, resulted in sufficient knowledge of contractual relationships both internally and externally with our customers.

To address the tone at the top issues, we noted that proper remediation involved not only the removal of members of management who were setting an inappropriate tone but also the establishment of new management throughout the organization that emphasized a commitment to integrity, ethical values, and transparency and have that reinforcement for a sustained period of time. The changes made to management positions throughout the organization and the resulting organizational behavior changes were assessed to have been sufficiently addressed by the end of the second quarter of 2019.

To determine when we had either eliminated or had sufficient knowledge to identify any extra-contractual arrangements, we noted that a key factor contributing to our historical lack of visibility into the arrangements with our customers was the failure to adhere to credit limits, payment terms and return policies. The establishment of additional controls and the emphasis on adherence to our existing policies and controls was an iterative process that continued through the first two quarters of 2019. Additional factors contributing to the increased visibility into our contractual arrangements involved further education and training of the sales personnel regarding our terms and conditions as well as monitoring of the sales personnel and customers for compliance with the contractual arrangements. We implemented a disciplined approach to educating the sales personnel regarding the prior practices that were considered unacceptable, ensuring they were knowledgeable regarding current terms and conditions and implementing an open dialogue with the credit and collections department. Monitoring of the customer base was accomplished through a variety of measures including, but not limited to, analysis of payments made within the original terms, levels of returns post-shipment, and various continued communication with the customer account representatives by members of our credit and collections department. During the third quarter of 2019, management determined that these efforts with the sales personnel and the external customers had been in place for a sufficient period of time to provide us an understanding of its contractual arrangements with customers.

Therefore, beginning October 1, 2019 for all new customer arrangements, we determined adequate measures were in place to understand the terms of our contracts with customers such that the Step 1 Criteria would be met prior to shipment of product to the customer or implantation (or surgical insertion) of the products on consignment.

We also reassessed whether the Step 1 Criteria had been met for all shipments of product where payment had not been received as of September 30, 2019. While the measures summarized above provided significant evidence necessary to understand the terms of our contractual arrangements with our customers, certain of these customers continued to exhibit behaviors that resulted in extended periods until cash collection. Such delays in collection suggested that uncertainty regarding extra-contractual arrangements may continue, particularly as it relates to payment terms. As a result, we concluded the following for any existing arrangements, which remained unpaid at September 30, 2019.

- For customer arrangements where collection was considered probable within 90 days from the date of the original shipment or implantation of the products, we concluded the Step 1 Criteria were met (the "***Transition Adjustment***").

- For the remaining customer arrangements (the "***Remaining Contracts***"), we concluded that, due to the uncertainty that extracontractual arrangements may continue, the Step 1 Criteria would not be satisfied until we receive payment from the customer. At that point, we determined that an accounting contract would exist and our performance obligations to deliver product to the customer to pay for the product would be satisfied. Upon continuing reassessment, we concluded that the Step 1 Criteria continued to not be met due to the same circumstances described above for these contracts.

We continued to record the deferred cost of sales on the arrangements that failed the Step 1 Criteria where collectibility was reasonably assured and will recognize the costs when the related revenue is recognized. We also continued to offset deferred revenue with the associated accounts receivable obligations for these arrangements that continued to fail the Step 1 Criteria.

For all customer transactions concluded to meet the Step 1 Criteria, we then assessed the remaining criteria of ASC 606 to determine the proper timing of revenue recognition.

Under ASC 606, we recognize revenue following the five-step model: (i) identify the contract with a customer (the Step 1 Criteria); (ii) identify the performance obligations in the contract; (iii) determine the transaction price; (iv) allocate the transaction price to the performance obligations in the contract; and (v) recognize revenue when (or as) the entity satisfies a performance obligation. As noted above, beginning October 1, 2019, we determined that we had met the Step 1 Criteria for new and certain existing arrangements. We also determined that the performance obligation was met upon delivery of the product to the customer, or at the time the product is implanted for products on consignment, at which point we determined we will collect the consideration we are entitled to in exchange for the product transferred to the customer. As a result, we recognize as revenue the amount of the transaction price that is allocated to the respective performance obligation when (or as) the performance obligation is satisfied, generally upon shipment of the product to the customer. The nature of our contracts gives rise to certain types of variable consideration, including rebates and other discounts. We include estimated amounts of variable consideration in the transaction price to the extent that it is probable there will not be a significant reversal of revenue. Estimates are based on historical or anticipated performance and represent our best judgment at the time of sale. We have consignment agreements with several customers and distributors which allow us to better market our products by moving them closer to the end user. We determined that we have fulfilled our performance obligation once control of the product has been delivered to the customer, which occurs simultaneously with the product being implanted.

Impairment of Goodwill and Indefinite-Lived Intangible Assets

Goodwill represents the excess of purchase price over the fair value of net assets of acquired businesses. We assess the recoverability of our goodwill at least annually on September 30, or more frequently whenever events or substantive changes in circumstances indicate that it is more likely than not that goodwill is impaired. In performing the goodwill impairment test, we evaluate qualitative factors to determine the existence of impairment. If the qualitative factors indicate that it is more likely than not that the carrying value of the reporting unit exceeds its fair value, we proceed to a quantitative test to measure the existence and amount of goodwill impairment. We may also choose to bypass the qualitative assessment and proceed directly to the quantitative analysis.

At present, we have one reporting unit.

In performing the quantitative test, impairment loss is recorded to the extent that the carrying value of the reporting unit exceeds the assessed fair value of the reporting unit, not to exceed goodwill allocated to that reporting unit. No impairment is recognized if fair value is determined to exceed carrying value. We determine the fair value utilizing the income and market approaches. Under the income approach, we assess fair value using the present value of future cash flows. These future cash flows are derived from revenue, cost savings, tax deductions, and proceeds from a hypothetical disposition. Value indications are developed by discounting expected cash flows to their present value at a risk-adjusted weighted average cost of capital using the capitalization of market comparable companies. The weighted average cost of capital is rooted in the risk-free rate of a US Treasury with a similar maturity to the time period evaluated, credit risk adjustments, relevant equity risk premia, our incremental borrowing rate, and the prevailing marginal income tax rate. Under the market approach, we use our market capitalization, which is calculated by taking our share price times the number of outstanding common shares plus the value of Series B Convertible Preferred Stock outstanding. Our estimates associated with the goodwill impairment test are considered critical due to the amount of goodwill recorded on our consolidated balance sheets and the judgment required in determining fair value, including projected future cash flows.

Acquired indefinite-lived intangible assets are tested for impairment annually on September 30 or whenever events or changes in circumstances indicate that the carrying amount of an intangible asset may exceed fair value. Our impairment reviews are based on an estimated future cash flow approach that requires significant judgment with respect to future revenue and expense growth estimates. Our estimates consistent with business plans and a market participant view of the assets being evaluated. Actual results may differ from the estimates used in these analyses.

For the goodwill impairment test performed on September 30, 2020, we performed a quantitative test for its reporting unit, concluding that the fair value exceeded the carrying value. Therefore, no goodwill impairment was recognized related to this test.

There were no recorded impairment losses related to goodwill in 2020, 2019, or 2018. The Company recorded impairment losses related to our indefinite-lived intangible assets of $0, $0.8 million, and $0 related to the abandonment of patents in process during 2020, 2019, and 2018, respectively.

Share-based Compensation

We grant share-based awards to employees and members of our Board of Directors (the "***Board***") and non-employee consultants. Awards to employees and the Board are generally made annually as well as at certain points of time throughout the year at the discretion of the Board. Awards to non-employee consultants are rare, occurring most recently in February 2018. Such awards are recognized as share-based payment expense over the requisite service or vesting period, to the extent such awards are expected to vest in accordance with FASB ASC Topic 718 "*Compensation—Stock Compensation.*" The amount of expense to be recognized is determined by the fair value of the award using inputs available as of the grant date.

The fair value of restricted common stock is the value of common stock on the grant date. The fair value of stock option grants is estimated using the Black-Scholes option pricing model. Use of the valuation model requires us to make certain assumptions with respect to selected model inputs. We use the simplified method for share-based compensation to estimate the expected term. The risk-free interest rate is based on the U.S. Treasury yield curve in effect at the time of grant for the estimated option expected term. We estimate volatility using a blend of our own historical stock price volatility as well as that of market-comparable publicly-traded peer companies. We routinely review our calculation of volatility for potential changes in future volatility, our life cycle, our peer group, and other factors. Finally, we use an expected dividend yield of zero; we do not pay cash dividends on our common stock and do not expect to pay any cash dividends on our common stock in the foreseeable future.

For awards with service-based vesting conditions only, we recognize share-based compensation expense on a straight-line basis over the requisite service or vesting period. For awards with service- and performance-based vesting conditions, we recognize stock-based compensation expense using the graded vesting method over the requisite service period beginning in the period in which the awards are deemed probable to vest, to the extent such awards are probable to vest. We recognize the cumulative effect of changes in the probability outcomes in the period in which the changes occur.

Income Taxes

Our income tax expense, deferred tax assets and liabilities, and liabilities for unrecognized tax benefits reflect management's best assessment of estimated current and future taxes to be paid. We are subject to income taxes in the United States, including numerous state jurisdictions.

Deferred income taxes arise from temporary differences between the tax basis of assets and liabilities and their reported amounts in the financial statements, which will result in taxable or deductible amounts in the future. In evaluating our ability to recover our deferred tax assets within the jurisdiction from which they arise, we consider all available positive and negative evidence, including scheduled reversals of deferred tax liabilities, projected future taxable income, tax-planning strategies, and results of recent operations. In projecting future taxable income, we begin with historical results adjusted for the results of discontinued operations and incorporate assumptions about the amount of future state, federal, and foreign pretax operating income adjusted for items that do not have tax consequences. The assumptions about future taxable income require significant judgment and are consistent with the plans and estimates we are using to manage the underlying businesses. In evaluating the objective evidence that historical results provide, we consider three years of cumulative operating income (loss). We account for income taxes under the asset and liability method, which requires the recognition of deferred tax assets and liabilities for the expected future tax consequences of events that have been included in the financial statements. Under this method, deferred tax assets and liabilities are determined on the basis of the differences between the financial statement and tax bases of assets and liabilities using enacted tax rates in effect for the year in which the differences are expected to reverse. The effect of a change in tax rates on deferred tax assets and liabilities is recognized in income in the period that includes the enactment date.

We recognize deferred tax assets to the extent that we believe these assets are more likely than not to be realized. If we determine that we would be able to realize our deferred tax assets in the future in excess of their net recorded amount, we would make an adjustment to the deferred tax asset valuation allowance, which would reduce the provision for income taxes.

The calculation of our tax liabilities involves dealing with uncertainties in the application of complex tax laws and regulations both for U.S. federal income tax purposes and across numerous state jurisdictions. ASC Topic 740 ("***ASC 740***") states that a tax benefit from an uncertain tax position may be recognized when it is more likely than not that the position will be sustained upon examination, including resolutions of any related appeals or litigation processes, on the basis of the technical merits. We (1) record unrecognized tax benefits as liabilities in accordance with ASC 740, and (2) adjust these liabilities when our judgment changes as a result of the evaluation of new information not previously available. Because of the complexity of some of these uncertainties, the ultimate resolution may result in a payment that is materially different from our current estimate of the unrecognized tax benefit liabilities. These differences will be reflected as increases or decreases to income tax expense in the period in which new information is available.

We record uncertain tax positions in accordance with ASC 740 on the basis of a two-step process whereby (1) we determine whether it is more likely than not that the tax positions will be sustained on the basis of the technical merits of the position, and (2) for those tax positions that meet the more-likely-than-not recognition threshold, we recognize the largest amount of tax benefit that is more than 50 percent likely to be realized upon ultimate settlement with the related tax authority.

We recognize interest and penalties related to unrecognized tax benefits within the income tax expense line in the accompanying Consolidated Statement of Operations. Accrued interest and penalties, if any, are included within the related tax liability line in the consolidated balance sheet.

As of December 31, 2020 and 2019, we had a valuation allowance recorded of $35.6 million and $30.6 million, respectively, against our net deferred tax assets. These amounts represent full valuation allowances against our net deferred tax assets.

To the extent we determine that, based on the weight of available evidence, all or a portion of our valuation allowance is no longer necessary, we will recognize an income tax benefit in the period such determination is made for the reversal of the valuation allowance. If management determines that, based on the weight of available evidence, it is more-likely-than-not that all or a portion of the net deferred tax assets will not be realized, we will maintain our valuation allowance and not record additional tax benefits in future years.

Contingencies

We are subject to various patent challenges, product liability claims, government investigations and other legal proceedings in the ordinary course of business. Material legal proceedings are discussed in Item 8, Note 14, *"Commitments and Contingencies."* Contingent accruals and legal settlements are recorded in the consolidated statements of operations as litigation-related and other contingencies when we determine that a loss is both probable and reasonably estimable. Legal fees and other expenses related to litigation are expensed as incurred and included in selling, general and administrative expenses in the consolidated statements of operations.

Due to the fact that legal proceedings and other contingencies are inherently unpredictable, our estimates of the probability and amount of any such liabilities involve significant judgment regarding future events. The factors we consider in developing our liabilities for legal proceedings include the merits and jurisdiction of the proceeding, the nature and the number of other similar current and past proceedings, the nature of the product and the current assessment of the science subject to the proceeding, if applicable, and the likelihood of the conditions of settlement being met.

In order to evaluate whether a claim is probable of loss, we may rely on certain information about the claim. Without access to and review of such information, we may not be in a position to determine whether a loss is probable. Further, the timing and extent to which we obtain any such information, and our evaluation thereof, is often impacted by factors outside of our control including, without limitation, the normal cadence of the litigation process and the provision of claim information to us by opposing counsel. The amount of our liabilities for legal proceedings may change as we receive additional information and/or become aware of additional asserted or unasserted claims. Additionally, there is a possibility that we will suffer adverse decisions or verdicts of substantial amounts or that we will enter into additional monetary settlements, either of which could be in excess of amounts previously accrued for. Any changes to our liabilities for legal proceedings could have a material adverse effect on our business, financial condition, results of operations and cash flows.

As of December 31, 2020, our reserve for loss contingencies totaled $10.0 million related to the legal proceedings discussed in Note 14, "*Commitments and Contingencies*". Although we believe there is a reasonable possibility that a loss in excess of the amount recognized exists, we are unable to estimate the possible loss or range of loss in excess of the amount recognized at this time.

Recently Adopted Accounting Pronouncements

See Note 2, "*Significant Accounting Policies*," in the Consolidated Financial Statements for recently adopted accounting pronouncements.

Components of and Key Factors Influencing Our Results of Operations

In assessing the performance of our business, we consider a variety of performance and financial measures. We believe the items discussed below provide insight into the factors that affect these key measures.

Revenue

The majority of our revenues are generated by wound care applications. We have two distribution channels: (1) direct to customers and (2) sales through distributors. Each distribution channel can be further disaggregated between sales to federal customers and non-federal customers.

Several factors affect our reported revenue in any period, including product, payer and geographic sales mix, operational effectiveness, pricing realization, marketing and promotional efforts, timing of orders and shipments, regulatory actions including healthcare reimbursement scenarios, competition, and business acquisitions that involve our customers or competitors.

Cost of goods sold and gross profit

Cost of goods sold includes product testing costs, quality assurance costs, personnel costs, manufacturing costs, raw materials and product costs, and facility costs associated with our manufacturing and warehouse facilities. Fluctuations in our cost of goods sold correspond with the fluctuations in sales units driven by the changes in our sales force and sales territories, product portfolio offerings and the number of facilities that offer our products.

Gross profit is calculated as net revenue less cost of goods sold. Our gross profit is affected by product and geographic sales mix, realized pricing of our products, the efficiency of our manufacturing operations and the costs of materials used to make our products. Regulatory actions, including with respect to reimbursement for our products, may require costly expenditures or result in pricing pressure, and may decrease our gross profit and gross margin.

Selling, general and administrative expenses

Selling, general and administrative expenses include personnel costs, commissions, incentive compensation, customer support, administrative and labor costs, insurance, professional fees, depreciation, and bad debt expense. We expect our selling, general and administrative expenses to fluctuate based on revenue fluctuations, geographic changes and any changes to the size of our sales and marketing forces.

Research and development expenses

Research and development expenses relate to our investments in improvements to our manufacturing processes (including additional costs to transition our manufacturing establishments into compliance with CGMP for commercial production), product enhancements, and additional investments in our product pipeline and platforms. Our research and development costs also include expenses such as clinical trial and regulatory costs.

We expense research and development costs as incurred. Our research and development expenses fluctuate from period to period primarily based on the ongoing improvement to our manufacturing processes and product enhancements. We expect that these costs will increase in the near term as we continue to transition our manufacturing facilities into compliance with CGMP, advance our IND applications, and pursue BLAs for certain of our micronized products.

Results of Operations for 2020 Compared to 2019

	Year Ended December 31, (in thousands)			
	2020	2019	$ Change	% Change
Net sales	$ 248,234	$ 299,255	$ (51,021)	(17.0)%
Gross profit	208,904	256,174	(47,270)	(18.5)%
Selling, general and administrative	181,022	198,205	(17,183)	(8.7)%
Investigation, restatement and related	59,465	66,504	(7,039)	(10.6)%
Research and development	11,715	11,140	575	5.2 %
Amortization of intangible assets	1,073	1,039	34	3.3 %
Impairment of intangible assets	1,027	446	581	130.3 %
Loss on extinguishment of debt	(8,201)	—	(8,201)	100.0 %
Interest expense, net	(7,941)	(4,708)	(3,233)	68.7 %
Other (expense) income, net	(3)	283	(286)	(101.1)%
Income tax provision benefit (expense)	12,259	5	12,254	245,080.0 %
Net loss	$ (49,284)	$ (25,580)	$ (23,704)	92.7 %

Net Sales

We recorded revenue for the year ended December 31, 2020 of $248.2 million, a decrease of $51.0 million or 17.0% over 2019 revenue of $299.3 million. The decrease primarily resulted from a change in revenue recognition for sales, discussed below, and access restrictions, decreases in elective procedures, and cost savings measures implemented by hospitals, primarily brought upon by the COVID-19 pandemic. As discussed in the "*Critical Accounting Policies*" section above, we assessed our sales arrangements with customers during 2019 beginning with the definition of a contract under ASC 606 at the time of shipment of goods to the customer or upon the delivery of such goods if so stipulated by the terms of sale. Based on this assessment, we recognized revenue in 2019 related to the Transition and collections from the Remaining Contracts, totaling approximately $29.6 million. Collections on the Remaining Contracts during the year ended December 31, 2020 totaled $7.8 million.

Excluding these impacts, Adjusted Net Sales were $240.5 million, compared to $269.7 million, a decrease of 11% principally driven by the impacts of the Pandemic noted earlier. Adjusted Net Sales is a Non-GAAP financial metric intended to remove the effects of the Transition. Refer to the section "*Non-GAAP Financial Metrics*" below for more information.

We expect adjusted net sales in 2021 to increase at least 10% over our reported adjusted net sales the prior year, assuming we are able to sell our micronized, particulate, and umbilical cord products for the full year. However, the FDA may determine that our micronized, particulate, and/or umbilical cord-derived products do not qualify for regulation as human cells, tissues and cellular, and tissue-based products solely under Section 361 of the Public Health Service Act, and could require us to remove them from the market immediately. As an example, if our micronized and particulate products are required to be removed from the market following the end of the period of enforcement discretion, currently anticipated for May 31, 2021, we estimate the impact on our expected 2021 net sales could be in the range of $20 million to $25 million. Such a decision by the FDA could have a negative impact on our expected net sales. See Item 1A - Risk Factors - "*To the extent our products do not qualify for regulation as human cells, tissues and cellular and tissue-based products solely under Section 361 of the Public Health Service Act, this could result in removal of the applicable products from the market, would make the introduction of some new tissue products more expensive and could significantly delay the expansion of our tissue product offerings and subject us to additional post-market regulatory requirements.*" Our sales of micronized and particulate products for all uses was $32.8 million, 42.4 million, and $68.4 million, respectively, in 2020, 2019, and 2018. Our sales of umbilical cord-derived products were $16.6 million, $17.9 million, and $14.7 million, respectively, in 2020, 2019, and 2018. Further, because we cannot predict the impact of COVID-19 in 2021, our estimate for 2021 net sales assumes no restrictions on our ability to access hospitals, healthcare provider facilities and other places where we sell our products.

Gross Margin

Gross margin in 2020 was 84.2%, compared to 85.6% in 2019. The decrease in gross margin was driven by costs incurred to meet higher quality standards of CGMP, which we started incurring in the second half of 2019.

Selling, General and Administrative Expenses

Selling, General and Administrative ("***SG&A***") expense for 2020 decreased approximately $17.2 million, or 8.7%, to $181.0 million, compared to $198.2 million for 2019. The decrease in SG&A expense was driven by an $11 million decrease in compensation, which includes salaries, benefits, commissions, and bonus, as well as a $4 million decrease in travel and entertainment in 2020 compared to 2019. These effects were, at least in part, driven by our response to the COVID-19 pandemic, in which we temporarily reduced salaries and other expenses. In addition, we incurred lower commission expenses in 2020 than in 2019, primarily the result of a reduction in sales. The remaining variance is primarily the result of a reduction in legal, consulting, and accounting expenses. In 2021, we expect compensation expense to increase as a result of additional sales and medical education employees.

Investigation, Restatement and Related Expenses

Investigation, restatement, and related expenses decreased by $7.0 million, or 10.6% to $59.5 million for 2020 compared to $66.5 million for 2019. The decrease resulted from fewer fees related to the Investigation and restatement in 2020 compared to 2019, offset by increases in legal fees incurred in connection with indemnification arrangements.

We expect to continue to incur litigation costs moving forward, but expect a significant reduction in Investigation, restatement, and related expenses year over year, other than costs to resolve the securities class action, the amount and timing of which are highly uncertain. See Note 14, "*Commitments and Contingencies.*"

Research and Development Expenses

Our research and development expenses increased approximately $0.6 million, or 5.2%, to $11.7 million in 2020, compared to $11.1 million in the prior year. The increase is primarily due to year-over-year increases in consulting fees related to our clinical trial efforts. We anticipate as much as a three-fold increase in research and development expense for 2021, as we plan to file additional INDs and continue working towards the filing of our BLAs, although this amount is partially dependent on whether the interim results from our ongoing IND clinical trials merit further investment.

Amortization of Intangible Assets

Amortization expense related to intangible assets remained relatively consistent for 2020 as compared 2019. We expect amortization expense to decrease in 2021 and beyond because of the impairment of intangible assets recorded in 2020.

Impairment of Intangible Assets

Impairment of intangible assets of $1.0 million was recorded in 2020 related to the impairment of customer relationships acquired as part of the acquisition of Surgical Biologics, LLC in 2011. Impairment of intangible assets of $0.4 million was recorded in 2019 related to the impairment of customer relationships that were part of the divestiture of Stability in 2017.

Loss on Extinguishment of Debt

Loss on extinguishment of debt of $8.2 million was recorded in 2020. The following items, all of which related to the repayment and termination of our loan agreement with Blue Torch Financial, LLC (the "***BT Term Loan***"), comprise this activity (amounts in thousands):

Unamortized deferred financing costs	$	4,528
Unamortized original issue discount		1,538
Unamortized amendment fee		671
Prepayment premium		1,439
Other fees		25
Loss on extinguishment of debt	$	8,201

Interest Expense, net

Interest expense, net increased by $3.2 million to $7.9 million during the year ended December 31, 2020 from $4.7 million during the year ended December 31, 2019. We incurred interest on the BT Term Loan through July 2, 2020 and interest on the Hayfin Term Loan from that point forward. For 2019, we did not have interest-bearing debt until we borrowed funds on the BT Term Loan in June 2019. We expect interest expense to decrease in 2021 compared to 2020. The extent of this decrease will be

contingent upon whether we elect to draw the additional $25 million allowed under the delayed draw term loan. This decrease is primarily the result of a lower interest rate on the Hayfin Term Loan compared to the BT Term Loan, combined with a reduction in deferred financing costs and original issue discount to be amortized over the year.

Other (Expense) Income, Net

Other income, net of $0.3 million during 2019, reflects amounts received in connection with a legal settlement. Other expense, net during 2020 was immaterial.

Income Taxes

The effective tax rate for 2020 was 19.9% on pre-tax book loss of $61.5 million, primarily reflecting a current tax benefit associated with the carryback of federal net operating losses, as permitted by the CARES Act. Such net operating losses were previously offset by a valuation allowance, which was released during 2020.

Results of Operations for 2019 Compared to 2018

	Year Ended December 31, (in thousands)			
	2019	2018	$ Change	% Change
Net sales	$ 299,255	$ 359,111	$ (59,856)	(16.7)%
Gross profit	256,174	322,725	(66,551)	(20.6)%
Selling, general and administrative	198,205	258,528	(60,323)	(23.3)%
Investigation, restatement and related	66,504	51,322	15,182	29.6 %
Research and development	11,140	15,765	(4,625)	(29.3)%
Amortization of intangible assets	1,039	1,034	5	0.5 %
Impairment of intangible assets	446	—	446	100.0 %
Interest (expense) income, net	(4,708)	527	(5,235)	(993.4)%
Other income, net	283	—	283	100.0 %
Income tax provision benefit (expense)	5	(26,582)	26,587	(100.0)%
Net loss	$ (25,580)	$ (29,979)	$ 4,399	(14.7)%

Net Sales

We recorded revenue for the year ended December 31, 2019 of $299.3 million, a decrease of $59.9 million or 16.7% over 2018 revenue of $359.1 million. As discussed in the "*Critical Accounting Policies*" section above, the Company assessed its sales arrangements with customers during 2019 beginning with the definition of a contract under ASC 606 at the time of shipment of goods to the customer or upon the delivery of such goods if so stipulated by the terms of sale. Based on this assessment, the Company recognized revenue from a revenue benefit in the third quarter of 2019 related to the Transition and collections from the Remaining Customers during the fourth quarter of 2019 totaling approximately $29.6 million. Excluding this benefit related to the method in which the Company recognizes revenue, the decrease primarily resulted from unfavorable insurance coverage developments, which resulted in a decrease in the number of units sold. Additionally, approximately one-half of the reduction of the Company's workforce announced in December 2018 and completed through 2019 were sales personnel that resulted in fewer visits to customers. Further, both the negative publicity resulting from the Audit Committee Investigation and discontinuing the OrthoFlo and AmnioFix Sports Medicine product lines adversely affected revenues.

Gross Margin

Gross margin in 2019 was 85.6%, as compared to 89.9% in 2018. The gross margin decrease reflects fixed overhead costs being spread over lower production levels, increased costs of production related to the higher quality standards of CGMP. We implemented an electronic batch record system late in 2019.

Selling, General and Administrative Expenses

Selling, General and Administrative expense for 2019 decreased approximately $60.3 million, or 23.3%, to $198.2 million, compared to $258.5 million for 2018.

Sales and Marketing expense included in SG&A decreased by $33.1 million, or 19.8%, to $134.2 million for 2019 compared to $167.3 million for 2018. The decrease was primarily due to the reduction in the workforce discussed below and lower commissions from the reduction in net sales discussed above.

General and administrative ("***G&A***") expense included in SG&A decreased by $27.2 million, or 29.9%, to $64.0 million for 2019 compared to $91.2 million for 2018. The decrease was largely due to the completion of the Investigation in May 2019 and was partially offset by costs in 2019 related to the two proxy contests in connection with the 2018 annual meeting of shareholders. The decrease in total G&A was also due to the reduction of our workforce announced in December 2018 by approximately 240 full-time employees, or 24% of our total workforce, of which about half were sales force personnel.

Share-based compensation included in SG&A for the years ended December 31, 2019 and 2018, was approximately $11.3 million and $13.5 million, respectively, a decrease of approximately $2.2 million, or 16.0%. The decrease was primarily due to the reduction in the workforce discussed above.

Investigation, Restatement and Related Expenses

Investigation, restatement, and related expenses increased by $15.2 million, or 29.6% to $66.5 million for 2019 compared to $51.3 million for 2018. The increase in 2019 as compared to 2018 primarily resulted from an increase in restatement, litigation, consulting fees and settlements of $21.7 million partially offset by a decrease in investigation fees of $6.5 million.

- The Investigation was completed in 2019.
- Restatement costs are third-party service costs related to compiling, completing and auditing the financial statements included in the 2018 Form 10-K and in this filing.
- Litigation fees increased by $11.6 million year over year from $14.6 million for 2018 compared to $26.2 million for 2019 due to the increase in settlement disputes and near-term contingencies related to the internal investigation.
- Consulting costs in 2019 related to staff augmentation for restatement activities and advisory services related to financial reporting, internal controls, and the 2019 proxy contests. We continued to incur such costs in 2020 to assist with our effort to become current with our SEC financial reporting requirements.

Research and Development Expenses

Our research and development expenses decreased approximately $4.6 million, or 29.3%, to $11.1 million in 2019, compared to $15.8 million in the prior year. The decrease is primarily due to year-over-year decreases in clinical trial activities, the reductions in personnel due to the Company's reduction in workforce as well as the decision to significantly reduce animal studies.

Amortization of Intangible Assets

Amortization expense related to intangible assets remained relatively consistent for 2019 as compared 2018.

Impairment of Intangible Assets

Impairment of intangible assets of $0.4 million for 2019 related to the impairment of customer relationships that were part of the divestiture of Stability in 2017.

Interest (Expense) Income, net

Interest (expense) income, net increased by $5.2 million to $(4.7) million during the year ended December 31, 2019 from $0.5 million during the year ended December 31, 2018. This increase was due to the interest on our borrowings under the BT Loan Agreement entered into on June 10, 2019.

Other Income, Net

Other income, net of $0.3 million during the year ended December 31, 2019 reflects a settlement payment received for patent infringement case.

Income Taxes

The effective tax rate for 2019 was 0.0% on pre-tax book loss of $25.6 million, reflecting the lack of current tax expense due to our net loss position and the offset of deferred tax benefits by the corresponding adjustment to the valuation allowance. During 2019, a valuation allowance was recorded against current year losses resulting in effectively no tax expense or benefit. The effective tax rate in 2018 of (782.6)%, based on pre-tax book loss of $3.4 million, reflects the increase in the valuation allowance.

Contractual Obligations

Contractual obligations associated with ongoing business activities are expected to result in cash payments in future periods. The table below summarizes the amounts and estimated timing of these future cash payments as of December 31, 2020 (in thousands):

Contractual Obligations	Total	Less than 1 year	1-3 years	3-5 years	Thereafter
Hayfin Term Loan Principal	$ 50,000	$ —	$ —	$ 50,000	$ —
Hayfin Term Loan Interest	18,815	4,182	8,365	6,268	—
Operating lease obligations	4,993	1,537	2,074	677	705
Meeting space commitments	1,058	169	889	—	—
Other	253	120	133	—	—
Total	$ 75,119	$ 6,008	$ 11,461	$ 56,945	$ 705

In addition, holders of our Series B Preferred Stock are entitled to cumulative dividends at a rate of 4.0% per annum prior to the quarterly dividend payment ending on June 30, 2021, and a 6.0% cumulative dividend per annum thereafter. Dividends are declared at the sole discretion of our board of directors. Dividends, if declared, are paid in cash at the end of each quarter based on dividend amounts that accumulate beginning on the last payment date through the day prior to the end of each quarter. In lieu of paying a dividend in cash, we may elect to accrue the dividend owed to shareholders. Accrued dividend balances, themselves, accumulate dividends at the prevailing dividend rate for each dividend period for which they are outstanding. If prior to the payment of accrued dividends, the holders of the Series B Preferred Stock exercise their conversion rights, or the automatic conversion feature of the Series B Preferred Stock is triggered, in each case with respect to any outstanding shares of Series B Preferred Stock, such holders are entitled to receive common shares equal to the accrued but unpaid dividend balance divided by $3.85. In addition, the holders may require the Company to redeem the Series B Preferred Stock for the initial purchase price plus any accrued dividends in the event of a change in control.

We have not declared or paid any cash dividends on our Series B Convertible Preferred Stock since the issuance of such shares. Dividends in arrears as of December 31, 2020 were approximately $2.0 million. Assuming we do not declare or pay a cash dividend, the holders do not exercise their option to convert, and the other conversion or redemption features are not triggered, we would accrue approximately $5.2 million of dividends in 2021, $13.5 million in aggregate in 1-3 years, and $15.3 million in aggregate in 3-5 years.

Off-Balance Sheet Arrangements

We have no off-balance sheet arrangements.

Liquidity and Capital Resources

We require capital for our operating activities, including costs associated with the sale of product through direct and indirect sales channels, the conduct of research and development activities, compliance costs, and legal and consulting fees in connection with ongoing litigation and other matters. We generally fund our operating capital requirements through our operating activities, cash reserves and proceeds from certain financing activities. We expect to use capital in the near and medium term to implement our current business priorities, including advancement of our IND applications, pursuit of BLAs for certain of our micronized products, settlements of certain legal matters, capital investments, and potential obligations under indemnification agreements with certain former members of management.

We have funded our cash requirements, including for our operating activities through existing cash reserves and from operating activities and the term loans described below under "*Term Loans.*" In addition, on July 2, 2020, we issued shares of Series B Preferred Stock to an affiliate of EW Healthcare Partners and to certain funds managed by Hayfin Capital Management LLP pursuant to the Securities Purchase Agreement for an aggregate purchase price of $100 million.

As of December 31, 2020, the Company had $95.8 million of cash and cash equivalents.

Our net working capital at December 31, 2020, increased $45.5 million to $101.5 million from $55.9 million at December 31, 2019. The increase in working capital was primarily due to net proceeds resulting from the Financing Transactions on July 2, 2020. Our current ratio (current assets divided by current liabilities) was 2.7 to 1 as of December 31, 2020 and 1.8 to 1 as of December 31, 2019.

The Company is currently paying its obligations in the normal course of business. We believe that our anticipated cash from operating activities and existing cash and cash equivalents will enable us to meet our operational liquidity needs for the twelve months following the filing date of this Form 10-K.

We expect to incur additional costs in connection with efforts to enhance our CGMP compliant manufacturing capabilities and toward the completion of the BLA process. This includes development and enhancement of production processes, procedures, tests and assays, and it requires extensive validation work. It can also involve the procurement and installation of new production or lab equipment. These efforts also require human capital, expertise and resources.

Additionally, as discussed in Note 14, "*Commitments and Contingencies*," of the Consolidated Financial Statements, we anticipate cash requirements related to the following items within one year from the date of the filing of this Form 10-K:

- lawsuits or potential settlements for which we are not able to estimate a loss, or for which our ultimate our estimate for loss. In addition, it is uncertain if we would be entitled to indemnification from our insurance providers;
- indemnification agreements involving certain former members of our management team;
- investments and other expenditures required to advance our INDs and BLAs.

We have analyzed our ability to address aforementioned commitments and potential liabilities for the 12 months extending from the date of the filing of this 2020 Form 10-K. We believe it is probable that we will meet all obligations as they come due.

Term Loans

On June 30, 2020, we entered into a Loan Agreement with, among others, Hayfin Services, LLP, ("***Hayfin***") an affiliate of Hayfin Capital Management LLP (the "***Hayfin Loan Agreement***"), which was funded (the "***Hayfin Loan Transaction***") on July 2, 2020 (the "***Closing Date***") and provided us with a senior secured term loan in an aggregate amount of $50 million (the "***Term Loan***") and an additional delayed draw term loan (the "***DD TL***", collectively, the "***Credit Facilities***") in the form of a committed but undrawn facility in an amount not to exceed $25 million. The Term Loan and the DD TL both mature on June 30, 2025 (the "***Maturity Date***"). Interest is payable on the Term Loan and the DD TL for balances outstanding quarterly through the Maturity Date. No principal payments on either the Term Loan or the DD TL are due and payable until the Maturity Date.

The Term Loan and DD TL, which are senior secured obligations, were sold shares of our Series B Convertible Preferred Stock (as defined and described in Note 10, "*Equity*") for an aggregate amount of $100 million in order to:

(1) refinance, in whole, the outstanding indebtedness (the "***Refinancing***") under the Loan Agreement, dated as of June 10, 2019 (as amended and restated, the "***BT Term Loan Agreement***"), among us, the lenders and Blue Torch Finance LLC as administrative agent and collateral agent for such lenders,

(2) pay fees and expenses incurred with certain financing transactions, and

(3) finance the working capital, capital expenditures, and other general corporate obligations of the Company.

The interest rate applicable to any borrowings under the Term Loan is equal to LIBOR (subject to a floor of 1.5%) plus a margin of 6.75% per annum. If LIBOR is unavailable, the loan will carry interest at the greatest of the Prime Rate, the Federal Funds Rate plus 0.5% per annum, and 2.5%, plus the margin of 6.75%.

After December 31, 2020, the margin on the interest rate is eligible for a reduction; as follows:

- 6.75% per annum if the Total Net Leverage Ratio (as defined in the Hayfin Loan Agreement) is greater than 2.0x,
- 6.5% per annum if the Total Net Leverage Ratio is less than 2.0x but greater than or equal to 1.0x, or
- 6.0% per annum if the Total Net Leverage Ratio is less than 1.0x.

At December 31, 2020, the Total Net Leverage Ratio was 3.1x. At issuance, and as of December 31, 2020, the Term Loan carried an interest rate of 8.3%. An additional 3.0% margin is applied to the interest rate in the event of default as defined by the Hayfin Term Loan Agreement.

The Credit Facilities contain financial covenants requiring the Company, on a consolidated basis, to maintain the following:

- Maximum Total Net Leverage Ratio of 5.0x through the quarter ended December 31, 2020, reduced to 4.5x through the quarter ending June 30, 2021, further reduced to 4.0x thereafter for the life of the loans, required to be calculated on a quarterly basis. At December 31, 2020, the Total Net Leverage Ratio was 3.1x.
- Delayed Draw Term Loan Incurrence Covenant (as defined in the Hayfin Loan Agreement) of 3.5x Total Net Leverage, tested prior to any drawings under the DD TL. At December 31, 2020, the Total Net Leverage Ratio was 3.1x.
- Minimum Liquidity (as defined in the Hayfin Term Loan Agreement) of $10 million, an at-all-times financial covenant, tested monthly. As of December 31, 2020, the Company had approximately $95.8 million of cash and cash equivalents.

The Credit Facilities also specify that any prepayment of the loan, voluntary or mandatory, as defined in the Term Loan Agreement, subjects us to a prepayment premium applicable as of the date of the prepayment:

- On or before the first anniversary of the Closing Date:
    - A make-whole premium, equal to the greater of:
        - 5% of the principal balance repaid,
        - 102% of the principal balance plus interest that would have been accrued from the repayment date to 12 months following the Closing Date.
- After the first anniversary of the Closing Date but on or before the second anniversary of the Closing Date: 2% of the principal balance repaid.
- After the second anniversary of the Closing Date but on or before the third anniversary of the Closing Date: 1% of the principal balance repaid.
- After the third anniversary of the Closing Date: 0% of the principal balance repaid.

The Loan Agreement also includes certain negative covenants events of default customary for facilities of this type, and upon the occurrence of such events of default, subject to customary cure rights, all outstanding loans under the Credit Facilities may be accelerated or the lenders' commitments terminated. The mandatory prepayments are also required in the event of a change in control, incurring other indebtedness, certain proceeds from disposal of assets and insured casualty event.

Beginning with the fiscal year ending December 31, 2021, we are required to prepay the outstanding loans based on the percentage of Excess Cash Flow (as defined in the Hayfin Loan Agreement), if such is generated, with the percentage determined based on the Total Net Leverage thresholds.

Series B Convertible Preferred Stock

On July 2, 2020, we issued shares of our Series B Convertible Preferred Stock, par value $0.001 per share (the "***Series B Preferred Stock***") to an affiliate of EW Healthcare Partners and to certain funds managed by Hayfin (individually, the "***Holder***", collectively the "***Holders***") pursuant to a Securities Purchase Agreement with Falcon Fund 2 Holding Company, L.P., an affiliate of EW Healthcare Partners, and certain funds managed by Hayfin, dated as of June 30, 2020 (the "***Securities Purchase Agreement***"), for an aggregate purchase price of $100 million (the "***Preferred Stock Transaction***").

The Series B Preferred Stock pays a 4.0% cumulative dividend per annum prior to the quarterly dividend payment ending on June 30, 2021, and a 6.0% cumulative dividend per annum thereafter. Dividends are declared at the sole discretion of our board of directors. Dividends, if declared, are paid in cash at the end of each quarter based on dividend amounts that accumulate beginning on the last payment date through the day prior to the end of each quarter. In lieu of paying a dividend in cash, we may elect to accrue the dividend owed to shareholders. Accrued dividend balances accumulate dividends at the prevailing dividend rate for each dividend period for which they are outstanding.

Each share of Series B Preferred Stock, including any accrued and unpaid dividends, is convertible into our common stock at any time at the option of the Holder at a conversion price of $3.85 per common share, or 259.74 common shares for each Series B Preferred Share prior to any accrued and unpaid dividends. The Series B Preferred Stock, including any accrued and unpaid dividends, automatically converts into common stock at any time after the third anniversary of the issuance date, provided that the common stock has traded at 200% or more of the conversion price (i) for 20 out of 30 consecutive trading days and (ii) on such date of conversion.

If we undergo a change of control, we will have the option to repurchase some or all of the then-outstanding shares of Series B Preferred Stock for cash in an amount equal to the liquidation preference, subject to the rights of the Holders of the Series B Preferred Stock in connection with such change in control. If we do not exercise such repurchase right, Holders of the Series B Preferred Stock will have the option to (1) require us to repurchase any or all of our then-outstanding shares of Series B Preferred Stock for cash in an amount equal to the liquidation preference or (2) convert the Series B Preferred Stock, including accrued and unpaid dividends into common stock and receive its pro rata consideration thereunder.

We have not declared or paid any cash dividends on our Series B Convertible Preferred Stock since issuance. Dividends in arrears as of December 31, 2020 was $2.0 million.

Liquidity Considerations

Our net sales declined 17% in 2020 compared to 2019. In addition, all of our revenues from micronized products and AmnioFill, which accounted for $32.8 million, $42.4 million, and $68.4 million, and umbilical cord-derived products, which accounted for $16.6 million, $17.9 million, and $14.7 million, of our net sales for the years ended December 31, 2020, 2019, and 2018, respectively, are at risk upon the expiration of the FDA's enforcement discretion, which is scheduled to expire on May 31, 2021. See Item 1A - Risk Factors - "*To the extent our products do not qualify for regulation as human cells, tissues and cellular and tissue-based products solely under Section 361 of the Public Health Service Act, this could result in removal of the applicable products from the market, would make the introduction of some new tissue products more expensive and could significantly delay the expansion of our tissue product offerings and subject us to additional post-market regulatory requirements.*"

Further, our liquidity is challenged by expected costs, investments in clinical trials to support BLAs, and contingent liabilities:

- We need to continue to invest in our manufacturing establishments to bring them into compliance with CGMP for production for our micronized products. The transition process includes development and enhancement of production processes, procedures, test and assays, and it requires extensive validation work. It can also involve the procurement and installation of new production or lab equipment. These efforts require human capital, expertise and resources. See Item 1A. – "*Risk Factors*" under the heading "*To the extent our products do not qualify for regulation as human cells, tissues and cellular and tissue-based products solely under Section 361 of the Public Health Service Act, this could result in removal of the applicable products from the market, would make the introduction of some new tissue products more expensive and could significantly delay the expansion of our tissue product offerings and subject us to additional post-market regulatory requirements.*"

- The clinical program to support our BLAs will involve substantial cost. Products subject to the FDA's BLA requirements must comply with a range of pre- and post-market provisions. Pre-market compliance includes the conduct of clinical trials in support of BLA approval, the development and submission of a BLA, and the production of product for use in the clinical trials that meets FDA's quality expectations. See Item 1A - Risk Factors - "*Obtaining*

and maintaining the necessary regulatory approvals for certain of our products will be expensive and time consuming and may impede our ability to fully exploit our technologies," and "If any of the BLAs are approved, the Company would be subject to additional regulation which will increase costs and could result in adverse sanctions for non-compliance."

- We are exposed to potential liabilities and reputational risk associated with litigation, regulatory proceedings, and government enforcement actions. See Item 3, "*Legal Proceedings*" and Note 14, "*Commitments and Contingencies*" and *Item 1A. - Risk Factors - "We are currently, and may in the future be, subject to substantial litigation and ongoing investigations that could cause us to incur significant legal expenses and result in harm to our business."*

- We may become obligated to make payments in respect of our indemnity obligations to former officers and directors.

We are subject to financial covenants in the Hayfin Term Loan Agreement, including a $10 million minimum liquidity covenant. A breach of a financial covenant in the Hayfin Term Loan Agreement, if uncured or unable to be cured, would likely result in an event of default that could trigger the lender's remedies, including acceleration of the entire principal balance of the loan as well as any prepayment premiums specified in the Hayfin Term Loan Agreement.

While we currently have sufficient cash to repay all such amounts in an event of default, we may require alternative financing to cover other obligations. Even if alternative financing were available in an event of default under the Hayfin Term Loan Agreement, it might be on unfavorable terms, and the interest rate charged on any new borrowings may be substantially higher than the interest rate under the Hayfin Term Loan Agreement, thus adversely affecting our cash flows, liquidity, and results of operations. Acceleration of the repayment of the loan pursuant to the terms of the Hayfin Term Loan Agreement, in combination with the Company's current commitments and contingent liabilities, also could have cast doubt on our ability to continue as a going concern.

Moreover, as noted above, our revenues for 2020 decreased when compared to revenues for 2019. The COVID-19 pandemic has made and may continue to make it difficult to predict future revenues in the near term, and there is no assurance that the COVID-19 pandemic will not continue to adversely affect revenue in 2021. More specifically:

- Our customers have experienced, and may continue to experience, restrictions in their access to hospitals and ability to access other healthcare providers, particularly for elective procedures.

- Our manufacturing operations, sales and demand for our products, and clinical trials may be adversely affected if our leadership, employees, sales agents, suppliers, medical professionals, or users of our products are impacted by illness or through actions taken to stop or slow the spread of the COVID-19 pandemic.

- Our results of operations may be adversely affected if we experience shortages of donated placentas because donors or our recovery specialists are excluded from hospitals, or because additional testing protocols are implemented for donated tissues based on guidance issued by the AATB, FDA, or other standards and are screened as ineligible.

- Because our sales are not evenly spread across the United States, to the extent that areas most impacted by COVID-19 are those where we have more of our sales, the pandemic will have a greater adverse impact on our revenues.

- While vaccines have been approved by the FDA, the extent and speed with which the vaccine is available to the general population, as well as the general willingness to accept the vaccine when available, could influence the availability of elective procedures and, potentially, demand for our product.

- The ultimate impact of the COVID-19 pandemic is highly uncertain. The duration and magnitude of these impacts on our business is uncertain.

Discussion of Cash Flows

Operating Activities

During the year ended December 31, 2020, net cash used in operating activities decreased $9.1 million to $30.3 million compared to $39.4 million for the year ended December 31, 2019. The decrease in cash used was primarily attributable to year-over-year reductions in operating expenses, including those incurred in connection with the Audit Committee Investigation and related Restatement. These effects were offset by legal settlement payouts, severance payouts to former executives, and interest payments on our various loan agreements.

During the year ended December 31, 2019, net cash (used in) provided by operations decreased approximately $75.2 million to $(39.4) million, compared to $35.8 million for the year ended December 31, 2018. This decrease was primarily attributable to the effect of the change in revenue recognition policy of $17.4 million, an increase in accounts receivable of $10.9 million, as well as the $20.1 million decrease in cash related to the change in other balance sheet accounts in 2019.

Investing Activities

During the year ended December 31, 2020, net cash (used in) provided by investing activities was $(4.6) million of cash used compared to $0.5 million of cash provided for the year ended December 31, 2019. Cash provided by investing activities in 2019 was driven by principal received on a note receivable from Stability, LLC for $2.7 million. Exclusive of this activity, the change was driven by year-over-year increases in capital expenditures of $2.5 million. The remaining difference is the result of year-over-year decreases in cash paid for patent application costs.

During the year ended December 31, 2019, net cash provided by (used in) investing activities increased approximately $9.7 million to $0.5 million provided by investing activities compared to $9.2 million of cash used in investing activities for the year ended December 31, 2018 due to the repayment of the note receivable from Stability, partially offset by a significant reduction in the equipment purchased during 2019.

Financing Activities

During the year ended December 31, 2020, net cash provided by financing activities was approximately $61.6 million a decrease of $1.3 million compared to $62.9 million for the year ended December 31, 2019. Activity in 2020 was driven by the sale of our Series B Convertible Preferred Stock, for which we received proceeds of $92.5 million, net of stock issuance costs. In addition, we received net proceeds on the borrowing of our Hayfin Term Loan of $46.3 million, net of deferred financing costs and original issue discount. These proceeds were used to repay the outstanding principal and prepayment premium on our BT Term Loan of $73.4 million.

By comparison, activity in 2019 was driven by proceeds from our BT Term Loan of $66.1 million, net of deferred financing costs and original issue discount.

The remaining variance was driven by year-over-year increases in the cash paid for shares repurchased ($0.9 million), offset by increases in proceeds from option exercises ($0.3 million).

During the year ended December 31, 2019, net cash flows provided by (used for) financing activities was approximately $62.9 million compared to $(8.9) million during the year ended December 31, 2018. The increase was primarily due to the BT Term Loan borrowing of $75.0 million in June 2019 partially offset by the deferred financing costs on the BT Term Loan and shares repurchased for tax withholdings on restricted shares. During 2019, the Company repurchased 429,918 shares of Common Stock surrendered by employees to satisfy tax withholding obligations upon vesting of restricted stock. The Company did not otherwise repurchase any shares of our Common Stock during 2019.

Non-GAAP Financial Measures

In addition to our GAAP results, we provide certain Non-GAAP metrics including Adjusted Net Sales, Earnings Before Interest, Taxes, Depreciation and Amortization ("***EBITDA***"), and Adjusted EBITDA. We believe that the presentation of these measures provides important supplemental information to management and investors regarding our performance. These measurements are not, and should not be used as, a substitute for GAAP measurements. Company management uses these Non-GAAP measurements as aids in monitoring our on-going financial performance from quarter-to-quarter and year-to-year on a regular basis and for benchmarking against comparable companies.

Adjusted Net Sales

We provide Adjusted Net Sales to facilitate comparisons of sales between periods in which the method used to calculate our reported net sales varied. Specifically those reported prior to and after the Transition, included revenue recognized on a cash basis and an "as-shipped" basis in the same period. Refer to Note 2, "*Significant Accounting Policies*," of the consolidated financial statements for additional details regarding the Transition. Adjusted Net Sales provides comparative assessments of our revenue and assists in evaluating our sales performance. Adjusted Net Sales consists of GAAP net sales less the effects of the Transition. For 2019, this includes the Transition Adjustment and cash received from the Remaining Contracts. For 2020, this reflects cash received from the Remaining Contracts. A reconciliation of GAAP net sales to Adjusted Net Sales is provided in the table below (in thousands):

	Year ended December 31,		
	2020	2019	2018
Net sales	$ 248,234	$ 299,255	$ 359,111
Effect of change in revenue recognition	(7,767)	(29,604)	—
Adjusted net sales	$ 240,467	$ 269,651	$ 359,111

EBITDA and Adjusted EBITDA

We provide EBITDA and Adjusted EBITDA to facilitate comparisons to results of other companies. EBITDA is intended to provide a measure of the Company's operating performance as it eliminates the effects of financing and capital expenditures. EBITDA consists of GAAP net loss excluding: (i) depreciation, (ii) amortization of intangibles, (iii) interest expense (income), (iv) loss on extinguishment of debt, and (v) income tax provision.

Adjusted EBITDA is intended to provide an enduring, normalized view of EBITDA and our broader business operations that we expect to experience on an ongoing basis by removing from EBITDA certain items which may be irregular, one-time, non-cash items not excluded when calculating EBITDA, or non-recurring; most significantly those expenses related to the Audit Committee Investigation and Restatement. This enables us to identify underlying trends in our business that could otherwise be masked by such items.

Adjusted EBITDA consists of GAAP net loss excluding: (i) depreciation, (ii) amortization of intangibles, (iii) interest expense (income), (iv) loss on extinguishment of debt, (v) income tax provision, (vi) costs incurred in connection with Audit Committee Investigation and Restatement, (vii) the effect of the change in revenue recognition on net income, (viii) share-based compensation, and (ix) impairment of intangible assets.

A reconciliation of GAAP net loss to EBITDA and Adjusted EBITDA appears in the table below (in thousands):

	Years ended December 31,		
	2020	2019	2018
Net loss	$ (49,284)	$ (25,580)	$ (29,979)
Non-GAAP Adjustments:			
Depreciation expense	5,782	6,546	5,882
Amortization of intangible assets	1,073	1,039	1,034
Interest expense (income), net	7,941	4,708	(527)
Loss on extinguishment of debt	8,201	—	—
Income tax provision (benefit) expense, net	(12,259)	(5)	26,582
EBITDA	(38,546)	(13,292)	2,992
Additional Non-GAAP Adjustments:			
Costs incurred in connection with Audit Committee Investigation and Restatement	59,465	66,504	51,322
Effect of change in revenue recognition	(6,680)	(24,450)	—
Share-based compensation	15,357	12,064	14,768
Impairment of intangible assets	1,027	1,258	—
Adjusted EBITDA	$ 30,623	$ 42,084	$ 69,082

Item 7A. Quantitative and Qualitative Disclosures About Market Risk

Based on our lack of market risk sensitive instruments outstanding at December 31, 2020, we have determined that we had no material market risk exposure as of such date.

Item 8. Financial Statements and Supplementary Data

Index to Financial Statements

Report of Independent Registered Public Accounting Firm

Stockholders and Board of Directors
MiMedx Group, Inc.
Marietta, Georgia

Opinion on the Consolidated Financial Statements

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

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) ("PCAOB"), the Company's internal control over financial reporting as of December 31, 2020, based on criteria established in Internal Control – Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO") and our report dated March 8, 2021 expressed an adverse opinion thereon.

Basis for Opinion

These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's consolidated financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) ("PCAOB") and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud.

Our audits included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that our audits provide a reasonable basis for our opinion.

Critical Audit Matter

The critical audit matter communicated below is a matter arising from the current period audit of the consolidated financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the consolidated financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matter does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing separate opinions on the critical audit matter or on the accounts or disclosures to which it relates.

Evaluation of the audit evidence for revenue recognition

The Company recorded consolidated net sales of $248.2 million for the year ended December 31, 2020. As more fully described in Note 2 to the consolidated financial statements, during 2018 and into part of 2019, the Company's control environment was such that it created uncertainty surrounding all of its customer arrangements. The control environment allowed for the existence of extra-contractual or undocumented terms or arrangements initiated by or agreed to by the Company and former members of Company management at the outset of the transactions (side agreements). Concessions were also agreed to subsequent to the initial sale (e.g. sales above established customer credit limits, extended and unusually long payment terms, return or exchange rights, and contingent payment obligations). Beginning October 1, 2019, for all new customer arrangements, the Company determined adequate measures were in place to understand the terms of its contracts with customers. As such, the Company concluded that the Step 1 Criteria (identify the contracts with a customer) for revenue recognition would be met prior to shipment of product to the customer or implantation of the products on consignment.

We identified the evaluation of the sufficiency of audit evidence over revenue recognition as a critical audit matter. Evaluating the sufficiency of audit evidence required especially challenging auditor judgment to determine that extracontractual arrangements or side agreements did not exist at the onset of the transaction and that fictitious customer purchase orders were not entered into the system by sales personnel.

The primary procedures we performed to address this critical audit matter included:

- Testing the design and operating effectiveness of internal controls over the Company's revenue processes, including controls over management's review of the Step 1 Criteria.
- Testing the existence of revenue by selecting a sample of revenue transactions and comparing the amounts recorded for consistency with the underlying documentation, including the customer contract, purchase order, sales invoice, third party shipping documents, support documenting the implantation date (for consignment revenue), authorized pricing tables and customer payment support.
- Obtaining the monthly sales returns information recorded during 2020 to determine whether any unauthorized side agreements existed.
- Obtaining the January and February 2021 sales returns information to determine the completeness of the sales returns and associated credit memos.
- Performing data analytics over revenue transactions (excluding consignment and cash basis revenue) during the year ensuring a match of the sales order, sales invoice, shipping documents and payment support and investigating any items that did not agree.

/s/ BDO USA, LLP

We have served as the Company's auditor since 2019.

Atlanta, Georgia

March 8, 2021

Report of Independent Registered Public Accounting Firm

Stockholders and Board of Directors
MiMedx Group, Inc.
Marietta, Georgia

Opinion on Internal Control over Financial Reporting

We have audited MiMedx Group, Inc.'s (the "Company's") internal control over financial reporting as of December 31, 2020, based on criteria established in Internal Control – Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission (the "COSO criteria"). In our opinion, the Company did not maintain, in all material respects, effective internal control over financial reporting as of December 31, 2020, based on the COSO criteria.

We do not express an opinion or any other form of assurance on management's statement referring to any corrective actions taken by the Company after the date of management's assessment.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) ("PCAOB"), the consolidated balance sheets of the Company as of December 31, 2020 and 2019, the related consolidated statements of operations, stockholders' (deficit) equity, and cash flows for each of the three years in the period ended December 31, 2020, and the related notes and schedule (collectively referred to as "the financial statements")" and our report dated March 8, 2021 expressed an unqualified opinion thereon.

Basis for Opinion

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Item 9A, Management's Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit of internal control over financial reporting in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on assessed risk. Our audit also included performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the company's annual or interim financial statements will not be prevented or detected on a timely basis. The following material weaknesses have been identified and described in management's assessment:

- Failure to design, implement and maintain controls over financial reporting, revenue, income taxes, inventory, procure-to-pay, financial forecasting, goodwill impairment testing and going concern.

These material weaknesses were considered in determining the nature, timing, and extent of audit tests applied in our audit of the 2020 financial statements, and this report does not affect our report dated March 8, 2021 on those financial statements.

Definition and Limitations of Internal Control over Financial Reporting

A company's internal control over financial reporting is a process designed 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. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ BDO USA, LLP

Atlanta, Georgia

March 8, 2021

MIMEDX GROUP, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(in thousands, except share data)

	December 31, 2020	December 31, 2019
ASSETS		
Current assets:		
Cash and cash equivalents	$ 95,812	$ 69,069
Accounts receivable, net	35,423	32,327
Inventory, net	10,361	9,104
Prepaid expenses	5,605	6,669
Income tax receivable	10,045	18
Other current assets	3,371	6,058
Total current assets	160,617	123,245
Property and equipment, net	11,437	12,328
Right of use asset	3,623	3,397
Goodwill	19,976	19,976
Intangible assets, net	6,004	7,777
Other assets	375	443
Total assets	$ 202,032	$ 167,166
LIABILITIES, CONVERTIBLE PREFERRED STOCK, AND STOCKHOLDERS' (DEFICIT) EQUITY		
Current liabilities:		
Accounts payable	$ 8,765	$ 8,710
Accrued compensation	18,467	21,302
Accrued expenses	30,460	32,161
Current portion of long term debt	—	3,750
Other current liabilities	1,470	1,399
Total current liabilities	59,162	67,322
Long term debt, net	47,697	61,906
Other liabilities	3,755	3,540
Total liabilities	$ 110,614	$ 132,768
Commitments and contingencies (Note 14)		
Convertible preferred stock Series B; $.001 par value; 100,000 shares authorized, issued and outstanding at December 31, 2020 and 0 authorized, issued and outstanding at December 31, 2019	$ 91,568	$ —
Stockholders' (deficit) equity:		
Preferred stock Series A; $.001 par value; 5,000,000 shares authorized; 0 issued and outstanding at December 31, 2020 and 0 issued and outstanding at December 31, 2019	$ —	$ —
Common stock; $.001 par value; 187,500,000 shares authorized, 112,703,926 issued, and 110,930,243 outstanding at December 31, 2020 and 150,000,000 authorized, 112,703,926 issued and 110,818,649 outstanding at December 31, 2019	113	113
Additional paid-in capital	158,610	147,231
Treasury stock at cost; 1,773,683 shares at December 31, 2020 and 1,885,277 shares at December 31, 2019	(7,449)	(10,806)
Accumulated deficit	(151,424)	(102,140)
Total stockholders' (deficit) equity	(150)	34,398
Total liabilities, convertible preferred stock, and stockholders' (deficit) equity	$ 202,032	$ 167,166

See notes to the consolidated financial statements.

MIMEDX GROUP, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS
(in thousands, except share and per share data)

	Years Ended December 31,		
	2020	2019	2018
Net sales	$ 248,234	$ 299,255	$ 359,111
Cost of sales	39,330	43,081	36,386
Gross profit	208,904	256,174	322,725
Operating expenses:			
Selling, general and administrative	181,022	198,205	258,528
Investigation, restatement and related	59,465	66,504	51,322
Research and development	11,715	11,140	15,765
Amortization of intangible assets	1,073	1,039	1,034
Impairment of intangible assets	1,027	446	—
Operating loss	(45,398)	(21,160)	(3,924)
Other (expense) income			
Loss on extinguishment of debt	(8,201)	—	—
Interest (expense) income, net	(7,941)	(4,708)	527
Other (expense) income, net	(3)	283	—
Loss before income tax provision	(61,543)	(25,585)	(3,397)
Income tax provision benefit (expense)	12,259	5	(26,582)
Net loss	$ (49,284)	$ (25,580)	$ (29,979)
Net loss available to common stockholders (Note 9)	$ (83,328)	$ (25,580)	$ (29,979)
Net loss per common share - basic	$ (0.77)	$ (0.24)	$ (0.28)
Net loss per common share - diluted	$ (0.77)	$ (0.24)	$ (0.28)
Weighted average common shares outstanding - basic	108,257,112	106,946,384	105,596,256
Weighted average common shares outstanding - diluted	108,257,112	106,946,384	105,596,256

See notes to the consolidated financial statements.

MIMEDX GROUP, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF STOCKHOLDERS' (DEFICIT) EQUITY
(in thousands, except share data)

	Common Stock		Additional Paid-in	Treasury Stock		Accumulated	
	Shares	Amount	Capital	Shares	Amount	Deficit	Total
Balance at December 31, 2017	112,703,926	$ 113	$ 164,649	3,356,409	$ (44,384)	$ (46,581)	73,797
Share-based compensation expense	—	—	14,768	—	—	—	14,768
Exercise of stock options	—	—	(8,210)	(786,708)	11,765	—	3,555
Issuance of restricted stock	—	—	(25,657)	(1,947,475)	25,657	—	—
Restricted stock cancellation / forfeited	—	—	19,194	1,861,314	(19,194)	—	—
Shares repurchased	—	—	—	507,600	(7,572)	—	(7,572)
Shares repurchased for tax withholding on vesting of restricted stock units	—	—	—	614,123	(4,914)	—	(4,914)
Net loss	—	—	—	—	—	(29,979)	(29,979)
Balance at December 31, 2018	112,703,926	$ 113	$ 164,744	3,605,263	$ (38,642)	$ (76,560)	$ 49,655
Share-based compensation expense	—	—	11,689	—	—	—	11,689
Exercise of stock options	—	—	(1,343)	(150,000)	1,451	—	108
Issuance of restricted stock	—	—	(37,798)	(3,084,875)	37,798	—	—
Restricted stock cancellation / forfeited	—	—	9,939	1,084,971	(9,939)	—	—
Shares repurchased for tax withholding on vesting of restricted stock units	—	—	—	429,918	(1,474)	—	(1,474)
Net loss	—	—	—	—	—	(25,580)	(25,580)
Balance at December 31, 2019	112,703,926	$ 113	$ 147,231	1,885,277	$ (10,806)	$ (102,140)	$ 34,398
Issuance of Series B Convertible Preferred Stock	—	—	32,954	—	—	—	32,954
Deemed dividends	—	—	(32,028)	—	—	—	(32,028)
Share-based compensation expense	—	—	15,733	—	—	—	15,733
Exercise of stock options	—	—	(3,180)	(359,328)	3,591	—	411
Issuance of restricted stock	—	—	(5,463)	(613,146)	5,463	—	—
Restricted stock cancellation / forfeited	—	—	3,363	425,388	(3,363)	—	—
Shares repurchased for tax withholding on vesting of restricted stock units	—	—	—	435,492	(2,334)	—	(2,334)
Net loss	—	—	—	—	—	(49,284)	(49,284)
Balance at December 31, 2020	112,703,926	$ 113	$ 158,610	1,773,683	$ (7,449)	$ (151,424)	$ (150)

See notes to the consolidated financial statements.

MIMEDX GROUP, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)

	Years Ended December 31,		
	2020	2019	2018
Cash flows from operating activities:			
Net loss	$ (49,284)	$ (25,580)	$ (29,979)
Adjustments to reconcile net loss to net cash (used in) provided by operating activities:			
Effect of change in revenue recognition	—	(17,382)	—
Share-based compensation	15,357	12,064	14,768
Loss on extinguishment of debt	8,201	—	—
Depreciation	5,782	6,546	5,882
Amortization of deferred financing costs and debt discount	2,276	1,431	137
Amortization of intangible assets	1,073	1,039	1,034
Impairment of intangible assets	1,027	1,258	—
Non cash lease expenses	983	947	—
Accretion of asset retirement obligation	10	—	—
Loss on fixed asset disposal	1	318	—
Amortization of discount on notes receivable	—	—	(190)
Change in deferred income taxes	—	—	25,541
Increase (decrease) in cash resulting from changes in:			
Accounts receivable	(3,096)	(10,938)	—
Inventory	(1,257)	6,882	(6,519)
Prepaid expenses	1,064	4	(4,548)
Other assets	(119)	(5,770)	3,562
Accounts payable	177	(6,171)	6,585
Accrued compensation	(2,459)	(1,722)	2,083
Accrued expenses	1,746	(57)	16,074
Income taxes	(10,027)	436	202
Other liabilities	(1,718)	(2,717)	1,164
Net cash flows (used in) provided by operating activities	(30,263)	(39,412)	35,796
Cash flows from investing activities:			
Purchases of property and equipment	(4,228)	(1,752)	(9,419)
Patent application costs	(327)	(466)	(609)
Principal payments from note receivable	—	2,722	778
Proceeds from property and equipment sale	—	—	30
Net cash flows (used in) provided by investing activities	(4,555)	504	(9,220)
Cash flows from financing activities:			
Proceeds from sale of Series B convertible preferred stock	100,000	—	—
Stock issuance costs	(7,470)	—	—
Proceeds from term loans	59,500	72,750	—
Deferred financing costs	(3,235)	(6,650)	—
Repayment of term loans	(83,872)	(1,875)	—
Prepayment premium on early repayment of term loan	(1,439)	—	—
Stock repurchased for tax withholdings on vesting of restricted stock	(2,334)	(1,474)	(4,914)

Proceeds from exercise of stock options	411	108	3,555
Stock repurchase under repurchase plan	—	—	(7,572)
Payments under capital lease obligations	—	—	(3)
Net cash flows provided by (used in) financing activities	61,561	62,859	(8,934)
Net change in cash	26,743	23,951	17,642
Cash and cash equivalents, beginning of year	69,069	45,118	27,476
Cash and cash equivalents, end of year	$ 95,812	$ 69,069	$ 45,118

See notes to the consolidated financial statements.

1. Nature of Business

MiMedx Group, Inc. (together with its subsidiaries, except where the context otherwise requires, "***MiMedx***," or the "***Company***") is an industry leader in utilizing birth tissue as a platform for regenerative medicine, developing and distributing placental tissue allografts with patent-protected, proprietary processes for multiple sectors of healthcare. As a pioneer in placental biologics, we have both a core business, focused on addressing the needs of patients with acute and chronic non-healing wounds, and a promising late-stage pipeline targeted at decreasing pain and improving function for patients with degenerative musculoskeletal conditions. We derive our products from human placental tissues and process these tissues using our proprietary processing methods, including the PURION® process. We employ Current Good Tissue Practices, Current Good Manufacturing Practices, and terminal sterilization to produce our allografts. MiMedx provides products primarily in the wound care, burn, surgical, and non-operative sports medicine sectors of healthcare. All of our products are regulated by the FDA.

The Company's business model is focused primarily on the United States of America but the Company is pursuing opportunities for international expansion.

Effect of the COVID-19 Pandemic

On March 11, 2020, the World Health Organization designated the outbreak of a novel strain of coronavirus as a global pandemic (the "***Pandemic***" or "***COVID-19 Pandemic***"). The COVID-19 pandemic and associated governmental and societal responses have affected the Company's business, results of operations and financial condition. The continuation or additional waves of the outbreak of the COVID-19 pandemic or the outbreak of other health epidemics could harm the Company's operations, hinder the Company's ability to generate revenue, or increase the Company's costs and expenses. The ultimate impact of the pandemic is highly uncertain. As a result of the pandemic, the Company has experienced delays and impacts on the business and clinical trials. It is uncertain the extent and how long the pandemic will affect the healthcare system and the global economy as a whole. The effects of the pandemic or other health epidemics could continue to have an adverse impact on the Company's business, results of operations, and financial condition in the future.

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (the "***CARES Act***") was signed into law. The CARES Act includes provisions relating to refundable payroll tax credits, deferment of the employer portion of certain payroll taxes, loans, and grants to certain businesses, net operating loss carryback periods, alternative minimum tax credit refunds, modifications to the net interest deduction limitations and technical corrections to tax depreciation methods for qualified improvement property. Certain of these provisions were extended or expanded as a result of the Consolidated Appropriations Act, 2021, which was signed into law on December 27, 2020. As a result of these laws, the Company recorded a federal tax benefit of approximately $11.3 million due to the release of a previously-recorded valuation allowance. Of this amount, the Company received $1.2 million during the year ended December 31, 2020. The remaining $10.1 million is recorded as part of income tax receivable on the consolidated balance sheet as of December 31, 2020.

2. Significant Accounting Policies

Use of Estimates

The consolidated financial statements have been prepared in accordance with generally accepted accounting principles ("***GAAP***") in the United States of America ("***U.S.***"). Generally accepted accounting principles require management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported consolidated statements of operations during the reporting period. Actual results could differ from those estimates. Significant estimates include estimated useful lives and potential impairment of property and equipment, goodwill and intangible assets, estimates of loss for contingent liabilities, estimate of allowance for doubtful accounts, management's assessment of the Company's ability to continue as a going concern, estimate of fair value of share-based payments, and valuation of deferred tax assets.

Principles of Consolidation

The consolidated financial statements include the accounts of MiMedx Group, Inc. and its wholly-owned subsidiaries. All intercompany balances and transactions have been eliminated upon consolidation.

Segment Reporting

Accounting Standards Codification ("***ASC***") 280, "*Segment Reporting*" requires the use of the "management approach" model for segment reporting. The management approach model is based on the way a company's chief operating decision-maker organizes segments within the Company for which separate discrete financial information is available regarding resource allocation and assessing performance. The Company has determined it operates as one operating segment.

Market Concentrations and Credit Risk

The Company places its cash and cash equivalents on deposit with U.S.-based financial institutions. The U.S. Federal Deposit Insurance Corporation ("***FDIC***") provides insurance coverage for deposits up to $250,000 for substantially all depository accounts. As of December 31, 2020 and 2019, the Company had cash and cash equivalents of approximately $95.1 million and $68.4 million, respectively, in excess of the insured amounts in four depository institutions.

Cash and Cash Equivalents

Cash and cash equivalents include cash held at various banks. The Company considers all highly-liquid investments purchased with an original maturity of three months or less at the date of purchase and money market mutual funds to be cash equivalents.

Accounts Receivable

Accounts receivable represent amounts due from customers for which revenue has been recognized. Generally, the Company does not require collateral or any other security to support its receivables.

Bad debt expense and the allowance for doubtful accounts are based on historical trends and current expectations for credit losses. The Company's policy to reserve for potential bad debts is based on the aging of the individual receivables as well as customer-specific qualitative factors, such as bankruptcy proceedings. The Company manages credit risk by routinely performing credit checks on customers prior to sales. The individual receivables are written-off after all reasonable efforts to collect the funds have been made. Actual write-offs may differ from the amounts reserved.

Inventories

Inventories are valued at the lower of cost or net realizable value, using the first–in, first-out ("***FIFO***") method. Inventory is tracked through raw material, work-in-process, and finished goods stages as the product progresses through various production steps and stocking locations. Labor and overhead costs are absorbed through the various production processes up to when the work order closes. Historical yields and normal capacities are utilized in the calculation of production overhead rates. Reserves for inventory obsolescence are utilized to account for slow-moving inventory as well as inventory no longer needed due to diminished demand.

Property and Equipment

Property and equipment are recorded at cost and depreciated on a straight-line method over their estimated useful lives, principally three to seven years. Leasehold improvements are depreciated on a straight-line method over the shorter of the estimated useful lives or the lease term.

Asset Retirement Obligations

The Company records obligations associated with the retirement of tangible long-lived assets and right of use assets and the associated asset retirement costs in accordance with authoritative guidance on asset retirement obligations. The Company reviews legal obligations associated with the retirement of long-lived assets that result from contractual obligations or the acquisition, construction, development and/or normal use of the assets. If it is determined that a legal obligation exists, regardless of whether the obligation is conditional on a future event, the fair value of the liability for an asset retirement obligation is recognized in the period in which it is incurred, if a reasonable estimate of fair value can be made. The fair value is calculated as the estimate of the expected cash outflow to satisfy the legal obligation discounted to present value using the Company's incremental borrowing rate. At such point in time, an asset and liability are recorded for the amount of the expected liability. The asset amount is depreciated, straight-line over the life of the underlying asset, while the liability is accreted to the amount of the expected outflow through selling, general and administrative expense using the effective interest method.

Impairment of Long-lived Assets

The Company evaluates the recoverability of its long-lived assets (property, equipment, and intangible assets with finite lives) whenever adverse events or changes in business climate indicate that the expected undiscounted future cash flows from the related assets may be less than their carrying amounts. When a situation determines that it is more likely than not that an asset is not recoverable, the Company estimates cash flows expected to be derived from the continuing use and eventual disposition of the asset. If the sum of those cash flows, not discounted to present value, does not exceed the net book value of the asset, the Company estimates the fair value of the asset. Impairment loss is recorded to the extent that the net book value exceeds the fair value of the asset.

Impairment reviews are based on an estimated future cash flow approach that requires significant judgment with respect to future revenue and expense growth rates, selection of appropriate discount rate, asset groupings, and other assumptions and estimates. The Company uses estimates that are consistent with its business plans and a market participant view of the assets being evaluated. Actual results may differ from these estimates.

The Company recorded impairment losses on amortizable intangible assets of $1.0 million, $0.5 million, and $0 in in 2020, 2019, and 2018, respectively. The Company recorded no impairment losses with respect to its property and equipment in those periods.

Goodwill and Indefinite-lived Intangible Assets

Goodwill represents the excess of purchase price over the fair value of net assets of acquired businesses. The Company assesses the recoverability of its goodwill at least annually on September 30, or more frequently whenever events or substantive changes in circumstances indicate that it is more likely than not that goodwill is impaired. In performing the goodwill impairment test, the Company assesses qualitative factors to determine the existence of impairment. If the qualitative factors indicate that it is more likely than not that the carrying value of the reporting unit exceeds its fair value, the Company proceeds to a quantitative test to measure the existence and amount of goodwill impairment. The Company may also choose to bypass the qualitative assessment and proceed directly to the quantitative analysis.

At present, the Company has one reporting unit.

In performing the quantitative test, impairment loss is recorded to the extent that the carrying value of the reporting unit exceeds the assessed fair value of the reporting unit, not to exceed goodwill allocated to that reporting unit. No impairment is recognized if fair value is determined to exceed carrying value. The Company determines the fair value utilizing the income and market approaches. Under the income approach, the fair value of the Company is the present value of its future cash flows. These future cash flows are derived from revenue, cost savings, tax deductions, working capital flows, capital expenditures, and other projected sources and uses of cash. Value indications are developed by discounting expected cash flows to their present value at a risk-adjusted weighted average cost of capital using the capitalization of market comparable companies. The weighted average cost of capital is rooted in the risk-free rate of a U.S. Treasury with a similar maturity to the time period evaluated, credit risk specific to the Company, relevant equity risk premia, the incremental borrowing rate for the Company, and the prevailing marginal income tax rate. Under the market approach, the Company uses its market capitalization, which is calculated by taking the Company’s share price times the number of outstanding common shares plus the value of Convertible preferred stock Series B outstanding. The Company’s estimates associated with the goodwill impairment test are considered critical due to the amount of goodwill recorded on its consolidated balance sheets and the judgment required in determining fair value, including projected future cash flows.

Acquired indefinite-lived intangible assets are tested for impairment annually on September 30 or whenever events or changes in circumstances indicate that the carrying amount of an intangible asset may not be recoverable. The Company’s impairment reviews are based on an estimated future cash flow approach that requires significant judgment with respect to future revenue and expense growth estimates. The Company uses estimates consistent with business plans and a market participant view of the assets being evaluated. Actual results may differ from the estimates used in these analyses.

For the goodwill impairment test performed on September 30, 2020, the Company performed a quantitative test for its reporting unit, concluding that the fair value exceeded the carrying value. Therefore, no goodwill impairment was recognized related to this test.

There were no recorded impairment losses related to goodwill in 2020, 2019, or 2018. The Company recorded impairment losses related to our indefinite-lived intangible assets of $0, $0.8 million, and $0 related to the abandonment of patents in process during 2020, 2019, and 2018, respectively.

Patent Costs

The Company incurs certain legal and related costs in connection with patent applications for tissue-based products and processes. The Company capitalizes such costs to be amortized over the expected life of the patent to the extent that an economic benefit is anticipated from the resulting patent or alternative future use is available to the Company. The Company capitalized $0.3 million, $0.5 million, and $0.6 million of patent costs for the years ended December 31, 2020, 2019, and 2018, respectively.

Lease Obligations

The Company determines if a contract is, or contains, a lease at inception. Right of use assets and the related liabilities resulting from operating leases were included in Right of use asset, Other current liabilities, and Other liabilities, respectively, in the consolidated balance sheets as of December 31, 2020 and 2019.

Operating lease assets represent the Company's right to use an underlying asset for the lease term and lease liabilities represent the Company's obligation to make lease payments arising from the lease. Operating lease assets and liabilities are recognized at the lease commencement date based on the estimated present value of lease payments over the lease term. Since most of the Company's leases do not have a readily determinable implicit discount rate, the Company uses its incremental borrowing rate to calculate the present value of lease payments determined using the rate of interest that the Company would have to pay on collateralized or secured borrowing over a similar term. Variable components of the lease payments such as fair market value adjustments, utilities, and maintenance costs are expensed as incurred and not included in determining the present value of lease liabilities. The lease term and applicable payments include options to extend or terminate the lease when it is reasonably certain that the Company will exercise that option. As an accounting policy election, the Company does not capitalize leases having initial terms of 12 months or fewer. Lease expense is recognized on a straight-line basis over the lease term. The Company has made an accounting policy election not to separate lease components from non-lease components in the event that the agreement contains both. The Company continues to account for leases in financial statements prior to January 1, 2019 under ASC 840. See Note 5, "*Leases"* for further information regarding lease obligations.

Contingencies

The Company is or has been subject to various patent challenges, product liability claims, government investigations, former employee matters, and other legal proceedings, see Note 14, "*Commitments and Contingencies*." Legal fees and other expenses related to litigation are expensed as incurred and included in selling, general and administrative expenses in the consolidated statements of operations. The Company records an accrual for legal settlements and other contingencies in the consolidated financial statements when the Company determines that a loss is both probable and reasonably estimable. The Company discloses all ongoing legal matters for which a loss is probable, regardless of whether an estimate can be reasonably determined.

Due to the fact that legal proceedings and other contingencies are inherently unpredictable, the Company's estimates of the probability and amount of any such liabilities involve significant judgment regarding future events. The actual costs of resolving a claim may be substantially different from the amount of reserve the Company recorded. The Company records a receivable from its product liability insurance carriers only when the resolution of any dispute has been reached and realization of the amounts equal to the potential claim for recovery is considered probable. Any recovery of an amount in excess of the related recorded contingent loss will be recognized only when all contingencies relating to recovery have been resolved.

Revenue Recognition

Current Policy

The Company sells its products primarily to individual customers and independent distributors (collectively referred to as "***customers***"). Customers obtain and use products either through ship and bill sales or consignment arrangements. Under ship and bill arrangements, the Company retains possession of the product until the customer submits an order. Upon approval of the sales order, the Company ships product to the customer and invoices them for the product sold. Under consignment arrangements, the customer takes possession of the product, but the Company retains title until the implantation, or application of the Company's product to the end user.

Subsequent to the Transition (as defined below) and including all of the year ended December 31, 2020, the Company recognizes revenue as performance obligations are fulfilled; which occurs upon the shipment of product to the customers for ship and bill orders or upon implantation for consignment sales.

Revenue is recognized based on the consideration the Company expects to receive from the sale. This consists of the gross selling price of the product, less any discounts or rebates (collectively, "***deductions***" or "***sales deductions***"). Gross selling price

is a standard set by the Company for all customers unless a contract governing the sale provides for a specified price. Sales deductions are specified in individual contracts with customers and generally achieved based on total sales during a specified period. The Company estimates the total sales deductions which a specific customer will achieve over the relevant term and applies the reduction to sales as they are made throughout the period. Rebates owed to customers are accrued and recorded in accrued expenses on the consolidated balance sheets.

The Company acts as the principal in all of its customer arrangements and therefore records revenue on a gross basis. Shipping is considered immaterial in the context of the overall customer arrangement, and damages or loss of goods in transit are rare. Therefore, shipping is not deemed a separately recognized performance obligation and the Company has elected to treat shipping costs as activities to fulfill the promise to transfer the product. The Company maintains a returns policy that allows its customers to return product that is consigned, damaged or non-conforming, ordered in error, or due to a recall. The estimate of the provision for returns is based upon historical experience with actual returns given consideration to any changes in historical periods presented. The Company's payment terms for customers are typically 30 to 60 days from receipt of title of the goods.

In addition to the above revenue recognition policy, the Company recognizes revenue associated with the Remaining Contracts (as defined below) upon cash receipt. The Remaining Contracts represent contracts for which all of the criteria necessary for revenue recognition were not met at the time of shipment and that such criteria would not be met until ultimate collection of such sales. A summary of amounts collected and recorded as net sales for the years ended December 31, 2020 and 2019, as well as amounts still outstanding as of those dates, are as follows (amounts in thousands):

	Amounts Invoiced and Not Collected	Deferred Cost of Sales
Amounts as of September 30, 2019	$ 48,883	$ 6,415
Revenue recognized related to amounts invoiced and not collected at September 30, 2019:		
Transition Adjustment during the three months ended September 30, 2019	(21,385)	(2,565)
Cash collected during the three months ended December 31, 2019 related to the Remaining Contracts	(8,219)	(1,151)
	(29,604)	(3,716)
Write-off of customer contracts where collection is no longer reasonably assured (a)	(10,273)	(1,438)
Amounts as of December 31, 2019	9,006	1,261
Cash collected during the year ended December 31, 2020 related to the Remaining Contracts	(7,767)	(1,087)
Amounts as of December 31, 2020	$ 1,239	$ 174

(a) The Company determined that for approximately $10.3 million of existing contracts where payment had not been received, collection was no longer reasonably assured. As a result, $1.4 million of deferred cost of sales relating to these customers was written off. Any future collections relating to these customer contracts will be recorded as revenue at the time payment is received.

Previous Revenue Recognition Policy and Transition

In 2018, and into part of 2019, the Company's control environment was such that it created uncertainty surrounding all of its customer arrangements, which required consideration related to the proper revenue recognition under the applicable literature. The control environment allowed for the existence of extra-contractual or undocumented terms or arrangements initiated by or agreed to by the Company and former members of Company management at the outset of the transactions (side agreements). Concessions were also agreed to subsequent to the initial sale (e.g. sales above established customer credit limits extended and unusually long payment terms, return or exchange rights, and contingent payment obligations) that called into question the ability to recognize revenue at the time that product was shipped to a customer. The applicable revenue recognition guidance also changed beginning January 1, 2018, which further impacted the Company's revenue recognition methodology.

The Company changed its pattern of revenue recognition effective October 1, 2019. As a result, the Company's pattern of revenue recognition varies between the years ended December 31, 2020, 2019, and 2018. The application of the relevant revenue recognition guidance and the pattern of revenue recognition are further discussed below for each period presented.

Fiscal Year Ended December 31, 2018

The Company adopted ASC Topic 606, *Revenue from Contracts with Customers ("**ASC 606**")*, on January 1, 2018 by using the modified retrospective method. ASC 606 establishes principles for reporting information about the nature, amount, timing and uncertainty of revenue and cash flows arising from the entity's contracts to provide goods or services to customers. The core principle requires an entity to recognize revenue to depict the transfer of goods or services to customers in an amount that reflects the consideration that it expects to be entitled to receive in exchange for those goods or services recognized as performance obligations are satisfied. The Company assessed the impact of the ASC 606 guidance by reviewing customer contracts and accounting policies and practices to identify differences, including identification of the contract and the evaluation of the Company's performance obligations, transaction price, customer payments, transfer of control and principal versus agent considerations.

ASC 606 establishes a five-step model for revenue recognition. The first of these steps requires the identification of the contract as described in ASC 606-10-25-1. The specific criteria (the "***Step 1 Criteria***") to this determination are as follows:

- The parties to the contract have approved the contract (in writing, orally, or in accordance with other customary business practices) and are committed to perform their respective obligations;
- The entity can identify each party's rights regarding the goods or services to be transferred;
- The entity can identify the payment terms for the goods or services to be transferred;
- The contract has commercial substance; and
- It is probable that the entity will collect substantially all of the consideration to which it will be entitled in exchange for the goods or services that will be transferred to the customer.

The Company concluded that the first three of the above criteria were not met upon shipment of product to the customer, the fourth criteria had been met and the Company acknowledges that there is a degree of uncertainty as to whether last criteria above had been met. Although the parties to the contract may have approved the contract and purchase orders in writing, the Company concluded that upon shipment of products to the customer there was not sufficient evidence that its customers were committed to perform their obligations defined in the contract due to the existence of extra-contractual or undocumented terms or arrangements (e.g., regarding payment terms, right of return, etc.). The Company could not reliably identify each party's rights regarding the products to be transferred upon shipment of those products to customers. The Company's sales personnel continued to make side agreements with customers which directly conflicted with the explicitly stated terms of sale. These side agreements created significant ambiguity around the rights and obligations of both parties involved in the transaction. This practice continued to result in extended payment terms and returns occurring long after the original sale was made. The Company's business practices created an implied right for the customer to demand future, unknown, performance by the Company. As a result, each party (and, in particular, the Company) could not at the time of product shipment adequately determine its rights regarding the good transferred as required by ASC 606-10-25-1. Upon shipment of product to the customer, the Company could not reliably identify the payment terms for the products it sold to customers. Although the written payment terms were known to both parties, the Company's pervasive business practices (e.g., informal and undocumented side agreements) overrode the written payment terms and often resulted in extensions of the terms for payment. The Company's contracts did appear to have commercial substance (i.e., the risk, timing, or amount of the Company's future cash flows was expected to change as a result of the contract) upon fulfillment of a purchase order, as most fulfillments have eventually resulted in the Company receiving cash. Therefore, the Company concluded that this criterion appears to be met upon shipment of product to customers (i.e., fulfillment of the purchase order).

The probability that the Company would collect the consideration to which it was entitled in exchange for products shipped to the customer was questionable. In evaluating whether the collectibility of an amount of consideration was probable, the Company considered the customer's ability and intention to pay that amount of consideration when it was due. Historically, the customers' intention to pay amounts when due was uncertain in light of the conflicting messages customers received with respect to the payment terms and rights of return and lack of adherence to credit limits. The assessment in ASC 606 is based on whether the customer has the ability and intention to pay for the product being delivered by the Company. Assessment of a customer's ability to pay is typically done through a credit check process and the establishment of a credit limit for each customer by the Company's accounts receivable team. Although the Company did have a process in place to establish credit limits, the evidence previously mentioned indicates that those credit limits were routinely overridden by certain sales personnel and members of management. Despite these overrides, the Company recovered the majority of its billings made in 2018. Furthermore, the quantitative and qualitative evidence gathered by the Company raised considerable doubt as to the collectibility of its billings at the time of shipment, but this evidence was not persuasive enough for the Company to conclude

that collectibility was not probable. As a result of the considerations outlined above, the Company determined that it did not meet the criteria necessary for its revenue arrangements to qualify as “contracts” under the requirements of ASC 606 (i.e., these arrangements did not pass the Step 1 Criteria of the revenue recognition model).

The Company’s inability to fulfill these criteria was due to uncertainties of contractual adjustments with customers created by a combination of an inappropriate tone at the top and extra-contractual arrangements. Consequently, as of the date of the Company’s adoption of ASC 606 effective January 1, 2018 and for the remainder of the year ended December 31, 2018, the Company concluded that it did not meet the Step 1 Criteria upon physical delivery of the product. Subsequent to the delivery of product, uncertainties surrounding contractual adjustment were not resolved until either: (1) the customer returned the product prior to payment; or (2) the Company received payment from the customer. At that point, the Company determined that an accounting contract existed and the performance obligations of the Company to deliver product and the customer to pay for the product were satisfied. The Company determined the transaction price of its contracts to equal the amount of consideration received from customers less the amount expected to be refunded or credited to customers, which is recognized as a refund liability that is updated at the end of each reporting period for changes in circumstances. The refund liability was included within accrued expenses in the consolidated balance sheet as of December 31, 2018.

The Company considered how to account for costs associated with the delivered products of the contract for which revenue has been deferred, which is whether to match the related costs of sales expense with revenue or recognize expense upon shipment. In making this assessment, the Company considered the financial viability of its distributors and customers based on their creditworthiness to determine if collectibility of amounts sufficient to realize the costs of the products shipped was reasonably assured at the time of shipment. As the Company determined that there was a probable economic benefit associated with sales transactions, the Company deferred the cost of sales until the revenue was recognized for the year ended December 31, 2018.

The Company also continued to offset deferred revenue with the associated accounts receivable obligations in connection with the sales of products to its customers. The amount shipped and billed but not recorded as revenue was $51.0 million for the year ended December 31, 2018.

Fiscal Year Ended December 31, 2019 and Transition

The Company continued to assess contracts, new and existing, throughout 2019 to determine if the Step 1 Criteria noted above for the determination of a contract under ASC 606 were met for new contracts at the outset of a sales transaction (i.e., upon shipment of product) or for existing contracts at some point within 2019 when all the terms of the arrangement would have been known. Until it was determined if the Step 1 Criteria had been met, revenue recognition continued to be deferred consistent with the assessment for the year ended December 31, 2018.

As further discussed above, the primary factors contributing to the determination in prior periods that the Step 1 Criteria had not been met were the inappropriate tone at the top and the existence of pervasive extra-contractual or undocumented terms or arrangements. These prior business practices and the lack of transparency surrounding them created a systemically implied right for customers to demand future, unknown, performance by the Company. Although some of the former executives were employed by the Company only through June 2018, the Company determined that based on the impact of the prior tone at the top, the continued internal sales force strategy and the existing customer base’s continued expectations (based on past practice), there would be flexibility with respect to arrangement terms even after delivery of the product so pervasive that all customer arrangements continued to be subject to uncertain modification of terms into 2019.

After identifying the primary factors contributing to the lack of knowledge regarding its customer contractual terms, the Company began implementing changes in mid-2018 to remediate the pervasive weaknesses in the control environment, followed by gradually implementing measures to empower its compliance, legal, and accounting departments, educating its sales force on appropriate business practices, and communicating its revised terms of sale to customers. The Company assessed its efforts throughout 2019 to determine when, if at any point, the factors contributing to the inability to satisfy the Step 1 Criteria were sufficiently addressed such that the Step 1 Criteria were met at the time of physical delivery to the customer. Determining when these conditions were effectively satisfied was a matter of judgment; however, the Company determined that adequate knowledge of the contractual arrangements with its customers did exist in 2019 for new and certain existing arrangements. Management did note that there is no single, definitive change that overcame the pervasive challenges noted above, but rather an accumulation of efforts that, taken together, resulted in sufficient knowledge of contractual relationships both internally within the Company and externally with its customers.

To address the tone at the top issues, the Company noted that proper remediation involved not only the removal of members of management who were setting an inappropriate tone but also the establishment of new management throughout the organization who emphasized a commitment to integrity, ethical values and transparency and have that reinforcement for a sustained period

of time. The changes made to management positions throughout the organization and the resulting organization behavior changes were assessed to have been sufficiently addressed by mid-2019.

To determine when the Company had either eliminated or had sufficient knowledge to identify any extra-contractual arrangements, the Company noted that a key factor contributing to its historical lack of visibility into the arrangements with its customers was the failure to adhere to credit limits, payment terms and return policies. The establishment of additional controls and the emphasis on adherence to the Company's existing policies and controls was an iterative process that continued through the first two quarters of 2019. Additional factors contributing to the increased visibility into its contractual arrangements involved further education and training of the sales personnel regarding the Company's terms and conditions as well as monitoring of the sales personnel and customers for compliance with the contractual arrangements. The Company implemented a disciplined approach to educating the sales personnel regarding the prior practices that were considered unacceptable, ensuring they were knowledgeable regarding current terms and conditions and implementing an open dialogue with the credit and collections department. Monitoring of the customer base was accomplished through a variety of measures including, but not limited to, analysis of payments made within the original terms, levels of returns post-shipment, and various continued communication with the customer account representatives by members of the Company's credit and collections department. During the third quarter of 2019, management determined that these efforts with the sales personnel and the external customers had been in place for a sufficient period of time to provide the customers an understanding of the Company's contractual arrangements with them.

Therefore, beginning October 1, 2019, for all new customer arrangements, the Company determined adequate measures were in place to understand the terms of its contracts with customers. As such, beginning October 1, 2019, the Company concluded that the Step 1 Criteria would be met prior to shipment of product to the customer or implantation of the products on consignment.

The Company also reassessed whether the Step 1 Criteria had been met for all shipments of products where payment had not been received as of September 30, 2019. While the measures summarized above provided significant evidence necessary to understand the terms of the Company's contractual arrangements with its customers, certain of these customers continued to exhibit behaviors that resulted in extended periods until cash collection. Such delays in collection suggested that uncertainty regarding extra-contractual arrangements may continue, particularly as it relates to payment terms. As a result, the Company concluded the following for any existing arrangements, which remained unpaid at September 30, 2019:

- For customer arrangements where collection was considered probable within 90 days from the date of original shipment or implantation of the products, the Company concluded the Step 1 Criteria were met (the "***Transition Adjustment***").

- For the remaining customer arrangements (the "***Remaining Contracts***"), the Company concluded that, due to the uncertainty that extra-contractual arrangements may continue, the Step 1 Criteria would not be satisfied until the Company receives payment from the customer. At that point, the Company determined that an accounting contract would exist and the performance obligations of the Company to deliver product and the customer to pay for the product would be satisfied. The Company continued to reassess the Remaining Contracts for settlement of the Step 1 Criteria prior to payment, concluding that the Step 1 Criteria continued to not be met due to the same circumstances described above.

The Company continued to record the deferred costs of sales on the arrangements that failed the Step 1 Criteria where collectibility was reasonably assured and will recognize the costs when the related revenue is recognized. The Company also continued to offset deferred revenue with the associated accounts receivable obligations for these arrangements that continued to fail the Step 1 Criteria.

For all customer transactions concluded to meet the Step 1 Criteria, the Company then assessed the remaining criteria of ASC 606 to determine the proper timing of revenue recognition.

Under ASC 606, the Company recognizes revenue following the five-step model: (i) identify the contracts with a customer (the Step 1 Criteria); (ii) identify the performance obligations in the contract; (iii) determine the transaction price; (iv) allocate the transaction price to the performance obligations in the contract; and (v) recognize revenue when (or as) the entity satisfies a performance obligation. As noted above, beginning October 1, 2019, the Company determined that they had met the Step 1 Criteria for new customer arrangements. The Company has determined that the performance obligation was met upon delivery of the product to the customer, or at the time the product is implanted for products on consignment, at which point the Company determined it will collect the consideration it is entitled to in exchange for the product transferred to the customer. As a result, the Company recognizes as revenue the amount of the transaction price that is allocated to the respective performance obligation when (or as) the performance obligation is satisfied, generally upon shipment of the product to the customer or upon implantation of the product to the end user. The nature of the Company's contracts gives rise to certain types of variable

consideration, including rebates and other discounts. The Company includes estimated amounts of variable consideration in the transaction price to the extent that it is probable there will not be a significant reversal of revenue. Estimates are based on historical or anticipated performance. The Company does have consignment agreements with several customers and distributors which allow the Company to better market its products by moving them closer to the end user. In these cases, the Company determined that it has fulfilled its performance obligation once control of the product has been delivered to the customer, which occurs simultaneously with the product being implanted.

GPO Fees

The Company sells to Group Purchasing Organization ("***GPO***") members who transact directly with the Company at GPO-agreed pricing. GPOs are funded by administrative fees that are paid by the Company. These fees are set as a percentage of the purchase volume, which is typically 3% of sales made to the GPO members. Upon adoption of ASC 606, the Company concluded that although it benefited from the access that a GPO provides to its members, this benefit was neither distinct from other promises in the Company's contracts with GPOs nor was the benefit separable from the sale of goods by the Company to the end customer. Therefore, the Company presents fees paid to GPOs as a reduction of product revenues.

Cost of Sales

Cost of sales includes all costs directly related to bringing the Company's products to their final selling destination. Amounts include direct and indirect costs to manufacture products including raw materials, personnel costs and direct overhead expenses necessary to convert collected tissues into finished goods, product testing costs, quality assurance costs, facility costs associated with the Company's manufacturing and warehouse facilities, including depreciation, freight charges, costs to operate equipment and other shipping and handling costs for products shipped to customers.

The Company obtains raw material in the form of human placenta donations from participating mothers who give birth via scheduled Caesarean section.

Prior to the Transition, the Company deferred the cost of sales from transactions where title to inventory transferred from the Company to the customer, but for which all revenue recognition criteria have not yet been met. Once all revenue recognition criteria are met, the revenue and associated cost of sales was recognized.

Subsequent to the Transition, the Company continued to defer the cost of sales for certain arrangements for which all revenue recognition criteria have not been met. These amounts were recorded within other current assets on the consolidated balance sheets in the amount of $0.2 million and $1.3 million as of December 31, 2020 and 2019, respectively.

Research and Development Costs

Research and development costs consist of direct and indirect costs associated with the development of the Company's technologies. These costs are expensed as incurred.

Advertising expense

Advertising expense consists primarily of print media promotional materials. Advertising costs are expensed as incurred. Advertising expense for each of the years ended December 31, 2020, 2019, and 2018 amounted to $0.1 million.

Income Taxes

Income tax provision benefit (expense), deferred tax assets and liabilities, and liabilities for unrecognized tax benefits reflect management's best assessment of estimated current and future taxes to be paid. The Company is subject to income taxes in the United States, including numerous state jurisdictions.

Deferred income taxes arise from temporary differences between the tax basis of assets and liabilities and their reported amounts in the financial statements, which will result in taxable or deductible amounts in the future. The Company recognizes deferred tax assets to the extent that it believes these assets are more likely than not to be realized. If the Company determines that it would be able to realize its deferred tax assets in the future in excess of their net recorded amount, the Company would make an adjustment to the deferred tax asset valuation allowance.

In evaluating the Company's ability to recover its deferred tax assets within the jurisdiction from which they arise, management considers all available positive and negative evidence, including scheduled reversals of deferred tax liabilities, projected future taxable income, tax-planning strategies, results of recent operations, and changes in tax laws. In projecting future taxable income, the Company begins with historical results and incorporates assumptions about the amount of future state and federal

pretax operating income adjusted for items that do not have tax consequences. The assumptions about future taxable income require significant judgment and are consistent with the plans and estimates the Company uses to manage the underlying businesses. In evaluating the objective evidence that historical results provide, management considers three years of cumulative income (loss). The Company accounts for income taxes under the asset and liability method, which requires the recognition of deferred tax assets and liabilities for the expected future tax consequences of events that have been included in the financial statements. Under this method, deferred tax assets and liabilities are determined on the basis of the differences between the financial statement and tax bases of assets and liabilities using enacted tax rates in effect for the year in which the differences are expected to reverse. The effect of a change in tax rates on deferred tax assets and liabilities is recognized in the tax provision (benefit) in the period that includes the enactment date.

The calculation of income tax liabilities involves dealing with uncertainties in the application of complex tax laws and regulations both for U.S. federal income tax purposes and across numerous state jurisdictions. ASC Topic 740 ("***ASC 740***") states that a tax benefit from an uncertain tax position may be recognized when it is more likely than not that the position will be sustained upon examination, including resolutions of any related appeals or litigation processes, on the basis of the technical merits. The Company (1) records unrecognized tax benefits as liabilities in accordance with ASC 740 included within other liabilities on the consolidated balance sheets, and (2) adjusts these liabilities when management's judgment changes as a result of the evaluation of new information not previously available. Because of the complexity of some of these uncertainties, the ultimate resolution may result in a payment that is materially different from management's current estimate of the unrecognized tax benefit liabilities. These differences will be reflected as increases or decreases to the deferred tax asset or income tax expense in the period in which new information is available.

The Company records uncertain tax positions in accordance with ASC 740 on the basis of a two-step process whereby (1) it determines whether it is more likely than not that the tax positions will be sustained on the basis of the technical merits of the position, and (2) for those tax positions that meet the more-likely-than-not recognition threshold, it recognizes the largest amount of tax benefit that is more than 50 percent likely to be realized upon ultimate settlement with the related tax authority.

The Company recognizes interest and penalties related to unrecognized tax benefits within the income tax expense line in the consolidated statements of operations. Accrued interest and penalties, if any, are included within the related deferred tax liability line in the consolidated balance sheets and recorded as a component of income tax expense.

Share-based Compensation

The Company grants share-based awards to employees and members of the Company's Board of Directors (the "***Board***") and non-employee consultants. Awards to employees and the Board are generally made annually as well as at certain points of time throughout the year at the discretion of the Board. Awards to non-employee consultants are rare, occurring most recently in February 2018. Such awards are recognized as share-based payment expense over the requisite service or vesting period, to the extent such awards are expected to vest in accordance with FASB ASC Topic 718 "*Compensation—Stock Compensation.*" The amount of expense to be recognized is determined by the fair value of the award using inputs available as of the grant date.

The fair value of restricted common stock is the value of common stock on the grant date. The fair value of stock option grants is estimated using the Black-Scholes option pricing model. Use of the valuation model requires management to make certain assumptions with respect to selected model inputs. The Company uses the simplified method for share-based compensation to estimate the expected term. The risk-free interest rate is based on the U.S. Treasury yield curve in effect at the time of grant for the estimated option expected term. The Company estimates volatility using a blend of its own historical stock price volatility as well as that of market-comparable publicly-traded peer companies. The Company routinely reviews its calculation of volatility for potential changes in future volatility, the Company's life cycle, its peer group, and other factors. Finally, the Company uses an expected dividend yield of zero; the Company does not pay cash dividends on its common stock and does not expect to pay any cash dividends on its common stock in the foreseeable future.

For awards with service-based vesting conditions only, the Company recognizes share-based compensation expense on a straight-line basis over the requisite service or vesting period. For awards with service- and performance-based vesting conditions, the Company recognizes stock-based compensation expense using the graded vesting method over the requisite service period beginning in the period in which the awards are deemed probable to vest, to the extent such awards are probable to vest. The Company recognizes the cumulative effect of changes in the probability outcomes in the period in which the changes occur.

Basic and Diluted Net Loss per Common Share

Basic net loss per common share is calculated as net loss available to common stockholders divided by weighted average common shares outstanding for the applicable period. Net loss available to common stockholders is determined by adjusting net loss for preferred dividends accrued or deemed during the period. This amount is divided by the weighted average common shares outstanding during the period.

Diluted net loss per common share adjusts basic net loss per common share for convertible securities, options, restricted stock unit awards, and other share-based payment awards which have yet to vest, to the extent such adjustments reduce basic net loss per common share.

The dilutive effect of the Company's Series B Convertible Preferred Stock, and other convertible securities to the extent they are outstanding, is determined based on the if-converted method. The if-converted method assumes that convertible securities are converted at the later of the issuance date or the beginning of the period. If the hypothetical conversion of convertible securities, and the consequential avoidance of any deemed or accumulated preferred dividends, would decrease basic net loss per common share, these effects are incorporated in the calculation of diluted net loss per common share, adjusted for the proportion of the period the securities were outstanding.

The dilutive effect of outstanding options, restricted stock unit awards, and other share-based payments is derived using the treasury stock method. The treasury stock method assumes that the proceeds from exercise are used to repurchase common shares at the weighted average market price during the period, increasing the denominator for the net effect of shares issued upon exercise less hypothetical shares repurchased.

For all periods with a net loss available to common stockholders, any adjustment for potential common shares would be naturally anti-dilutive. Therefore, the weighted average shares outstanding used to calculate both basic and diluted net loss per common share are the same for periods with a net loss.

Fair Value of Financial Instruments and Fair Value Measurements

The respective carrying value of certain on-balance sheet financial instruments approximated their fair values due to the short-term nature and type of these instruments. These financial instruments include cash and cash equivalents, accounts receivable, notes receivable, and certain other financial assets and liabilities.

The Company measures certain non-financial assets at fair value on a non-recurring basis. These non-recurring valuations include evaluating assets such as long-lived assets, and non-amortizing intangible assets for impairment, allocating value to assets in an acquired asset group, and accounting for business combinations. The Company uses the fair value measurement framework to value these assets and reports these fair values in the periods in which they are recorded or written down.

Fair value financial instruments are recorded in accordance with the fair value measurement framework. The fair value measurement framework includes a fair value hierarchy that prioritizes observable and unobservable inputs used to measure fair values in their broad levels. These levels from highest to lowest priority are as follows:

- Level 1: Quoted prices (unadjusted) in active markets that are accessible at the measurement date for identical assets or liabilities;
- Level 2: Quoted prices in active markets for similar assets or liabilities or observable prices that are based on inputs not quoted on active markets, but corroborated by market data.
- Level 3: Unobservable inputs or valuation techniques that are used when little or no market data is available.

The determination of fair value and the assessment of a measurement's placement within the hierarchy require judgment. Level 3 valuations often involve a higher degree of judgment and complexity. Level 3 valuations may require the use of various cost, market, or income valuation methodologies applied to unobservable management estimates and assumptions. Management's assumptions could vary depending on the asset or liability valued and the valuation method used. Such assumptions could include: estimates of prices, earnings, costs, actions of market participants, market factors, or the weighting of various valuation methods. The Company may also engage external advisors to assist it in determining fair value, as appropriate.

Although the Company believes that the recorded fair value of its financial instruments is appropriate, these fair values may not be indicative of net realizable value or reflective of future fair values.

Recently Adopted Accounting Pronouncements

In June 2016, the FASB issued ASU 2016-13, "*Financial Instruments - Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*," that introduces a new model for recognizing credit losses on financial instruments based on an estimate of current expected credit losses. This includes accounts receivable, trade receivables, loans, held-to-maturity debt securities, net investments in leases and certain off-balance sheet credit exposures. The guidance also modifies the impairment model for available-for-sale debt securities. This ASU is effective for the Company and all public filers which do not qualify as smaller reporting companies for fiscal years beginning after December 15, 2019. The Company adopted this ASU on January 1, 2020 using a modified retrospective transition method which requires a cumulative-effect adjustment to the opening balance of retained earnings to be recognized on the date of adoption with no change to financial results reported in prior periods. The Company adopted this ASU on January 1, 2020 using a modified retrospective transition method which requires a cumulative-effect adjustment to the opening balance of retained earnings to be recognized on the date of adoption, with no change to the financial results reported in prior periods. There was no impact on the Company's consolidated financial statements upon adoption of this ASU.

Recently Issued Accounting Pronouncements Not Yet Adopted

In August 2020, the FASB issued ASU 2020-06, "*Accounting for Convertible Instruments and Contracts in an Entity's Own Equity*," which simplifies and clarifies certain calculation and presentation matters related to convertible equity and debt instruments. Specifically, ASU 2020-06 removes requirements to separately account for conversion features as a derivative under ASC Topic 815 and removing the requirement to account for beneficial conversion features on such instruments. Accounting Standards Update 2020-06 also provides clearer guidance surrounding disclosure of such instruments and provides specific guidance for how such instruments are to be incorporated in the calculation of Diluted EPS. The guidance under ASU 2020-06 is effective for fiscal years beginning after December 15, 2021, including interim periods within those fiscal years. Early adoption is permitted, but no earlier than fiscal years beginning after December 15, 2020. The Company will adopt this standard using a modified retrospective approach effective January 1, 2021. The Company does not expect a material impact on the consolidated financial statements as a result of adoption.

All other ASUs issued and not yet effective as of December 31, 2020, and through the date of this report, were assessed and determined to be either not applicable or are expected to have minimal impact on the Company's current or future financial position or results of operations.

3. Inventory

Inventory consists of the following (in thousands):

	December 31,	
	2020	2019
Raw materials	$ 328	$ 318
Work in process	4,543	4,299
Finished goods	6,329	5,206
Inventory, gross	11,200	9,823
Reserve for obsolescence	(839)	(719)
Inventory, net	$ 10,361	$ 9,104

Consignment inventory, included as a component of finished goods in the table above, was $3.5 million and $3.4 million as of December 31, 2020 and 2019, respectively.

4. Property and Equipment

Property and equipment consist of the following (in thousands):

	December 31,	
	2020	2019
Leasehold improvements	$ 6,010	$ 5,321
Laboratory and clean room equipment	15,524	14,894
Furniture and office equipment	15,295	15,118
Construction in progress	3,321	972
Asset retirement cost	785	—
Property and equipment, gross	40,935	36,305
Less accumulated depreciation and amortization	(29,498)	(23,977)
Property and equipment, net of accumulated depreciation	$ 11,437	$ 12,328

Depreciation expense for each of the years ended December 31, 2020, 2019, and 2018 was recorded in certain captions of the consolidated statements of operations for those periods in the amounts shown in the table below (in thousands):

	Year ended December 31,		
	2020	2019	2018
Cost of sales	$ 2,022	$ 1,965	$ 1,757
Selling, general and administrative expenses	3,416	4,223	3,760
Research and development expenses	344	358	365
Total	$ 5,782	$ 6,546	$ 5,882

5. Leases

The Company has operating leases primarily for corporate offices, vehicles, and certain equipment. Such leases do not require any contingent rental payments, impose any financial restrictions, or contain any residual value guarantees. The Company determines if an arrangement is or contains a lease at inception.

Lease expense for operating lease payments is recognized on a straight-line basis over the term of the lease. Operating lease assets and liabilities are recognized based on the present value of lease payments over the lease term. Since most of the Company's leases do not have a readily determinable implicit discount rate, the Company uses its incremental borrowing rate to calculate the present value of lease payments determined using the rate of interest that the Company would have to pay on collateralized or secured borrowing over a similar term. As a practical expedient, the Company has made an accounting policy election not to separate lease components from non-lease components in the event that the agreement contains both. The Company includes both the lease and non-lease components for purposes of calculating the right of use asset and related lease liability.

As of December 31, 2020, the Company does not have any leases classified as financing leases.

The Company subleases one of its leased industrial warehouse spaces. The sublease income from the facility offsets the lease expense associated with the facility. Sublease income for the facility is $0.1 million, $0, and $0 for the years ended December 31, 2020, 2019, and 2018, respectively, and is presented as a reduction to selling, general, and administrative expense on the consolidated statements of operations in those periods.

Supplemental balance sheet information related to operating leases is as follows (amounts in thousands, except lease term and discount rate):

	December 31,	
	2020	2019
Assets		
Right of use asset	$ 3,623	$ 3,397
Liabilities		
Short term lease liability	1,176	1,168
Long term lease liability	2,960	2,919
Weighted-average remaining lease term (years)	4.4 years	3.1 years
Weighted-average discount rate	10.0 %	11.5 %

Information related to lease costs for operating leases are as follows (amounts in thousands):

	Year ended December 31,	
	2020	2019
Operating lease cost	$ 1,392	$ 1,469
Amortization of leased assets	983	947

Rent expense for the year ended December 31, 2018, which was accounted for under ASC 840, *Leases*, was $1.5 million. This amount, as well as those included in the table above, are allocated among cost of sales, research and development and selling, general and administrative expenses in the consolidated statements of operations.

Maturities of operating lease liabilities are as follows (amounts in thousands):

Year ending December 31,	Maturities
2021	$ 1,537
2022	1,566
2023	507
2024	339
2025	339
Thereafter	705
Total lease payments	4,993
Less: imputed interest	(857)
	$ 4,136

Certain lease agreements require the Company to return designated areas of leased space to its original condition upon termination of the lease agreement, for which the Company records an asset retirement obligation and a corresponding capital asset in an amount equal to the estimated fair value of the obligation. In subsequent periods, the asset retirement obligation is accreted for the change in its present value and the capitalized asset is depreciated, both over the term of the associated lease agreement. Asset retirement obligations of $0.8 million and $0 of December 31, 2020 and 2019, respectively, are included under Other liabilities in the consolidated balance sheets.

6. Goodwill and Intangible Assets

Goodwill

Goodwill is evaluated for impairment on an annual basis on September 30, and when events or changes indicate it is more likely than not the carrying value exceeds fair value. The Company operates as one reporting unit.

For the impairment test performed September 30, the Company performed a quantitative analysis to determine the existence and extent of impairment. The quantitative analysis concluded that the fair value of the Company's reporting unit exceeded its carrying value. As a result of these assessments, the Company concluded that there was no impairment. Accordingly, no impairment was recorded for the year ended December 31, 2020.

For the impairment test performed September 30, 2019, the Company performed a qualitative analysis to determine if it was more likely than not that goodwill impairment existed as of the annual impairment test date. As a result of this assessment, the Company concluded that it was not more likely than not that goodwill was impaired. Accordingly, the Company did not perform a quantitative assessment. There was no impairment recorded with respect to goodwill for the year ended December 31, 2019.

The following represents the changes in the carrying amount of goodwill for 2020 and 2019 (in thousands):

	Goodwill
Balance as of January 1, 2019	$ 19,976
Activity	—
Balance as of December 31, 2019	19,976
Activity	—
Balance as of December 31, 2020	$ 19,976

Intangible Assets

Intangible assets are summarized as follows (in thousands):

	December 31, 2020			December 31, 2019		
	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
Amortized intangible assets						
Licenses	$ 1,414	$ (1,334)	$ 80	$ 1,414	$ (1,200)	$ 214
Patents and know-how	9,510	(5,730)	3,780	9,099	(5,070)	4,029
Customer and supplier relationships	241	(172)	69	3,761	(2,417)	1,344
Non-compete agreements	120	(98)	22	120	(68)	52
Total amortized intangible assets	$ 11,285	$ (7,334)	$ 3,951	$ 14,394	$ (8,755)	$ 5,639
Unamortized intangible assets						
Tradenames and trademarks	$ 1,008		$ 1,008	$ 1,008		$ 1,008
Patents in process	1,045		1,045	1,130		1,130
Total intangible assets	$ 13,338		$ 6,004	$ 16,532		$ 7,777

Amortization expense for the years ended December 31, 2020, 2019, and 2018, is summarized in the table below (amounts in thousands):

	Year ended December 31,		
	2020	2019	2018
Amortization of intangible assets	$ 1,073	$ 1,039	$ 1,034
Impairment of intangible assets	1,027	1,258	—

Impairment of intangible assets in 2020 related to customer relationship assets that were determined to be unrecoverable due to lower than expected margins. Impairment of intangible assets in 2019 were related to the abandonment of patents in process and customer relationship assets.

Expected future amortization of intangible assets as of December 31, 2020, is as follows (in thousands):

Year ending December 31,	Estimated Amortization Expense
2021	$ 793
2022	691
2023	691
2024	691
2025	279
Thereafter	806
	$ 3,951

7. Accrued Expenses

Accrued expenses consist of the following (in thousands):

	December 31,	
	2020	2019
Legal costs	$ 14,822	$ 12,202
Settlement costs	9,975	12,825
Estimated returns	688	2,581
External commissions	2,141	1,722
Accrued clinical trials	651	1,076
Accrued rebates	886	142
Other	1,297	1,613
Total	$ 30,460	$ 32,161

The Company's accrual for the pricing adjustment with the Department of Veterans Affairs of $6.9 million, which was presented separately in previously-issued financial statements, is included as part of settlement costs above as of December 31, 2019. This matter was settled and paid during the year ended December 31, 2020.

8. Long Term Debt

Hayfin Term Loan Agreement

On June 30, 2020, the Company entered into a Loan Agreement with, among others, Hayfin Services, LLP, ("***Hayfin***") an affiliate of Hayfin Capital Management LLP (the "***Hayfin Loan Agreement***"), which was funded (the "***Hayfin Loan Transaction***") on July 2, 2020 (the "***Closing Date***") and provided the Company with a senior secured term loan in an aggregate amount of $50.0 million (the "***Term Loan***") and an additional delayed draw term loan (the "***DD TL***", collectively, the "***Credit Facilities***") in the form of a committed but undrawn $25.0 million facility. The Company has the right to draw upon the DD TL until June 30, 2021.

The Term Loan and the DD TL (if drawn upon prior to expiry) both mature on June 30, 2025 (the "***Maturity Date***"). Interest is payable on the Term Loan and the DD TL for balances outstanding quarterly through the Maturity Date. No principal payments on either the Term Loan or the DD TL are due and payable until the Maturity Date.

The Term Loan and DD TL, which are senior secured obligations, were entered into together with the sale of the Company's Series B Convertible Preferred Stock (as defined and described in Note 10, "*Equity*") for $100.0 million (collectively, the "***Financing Transactions***") in order to:

(1) refinance, in whole, the outstanding indebtedness (the "***Refinancing***") under the Loan Agreement, dated as of June 10, 2019 (as amended and restated, the "***BT Term Loan Agreement***"), among the Company, the lenders and Blue Torch Finance LLC as administrative agent and collateral agent for such lenders,

(2) pay fees and expenses incurred with certain financing transactions, and

(3) finance the working capital, capital expenditures, and other general corporate obligations of the Company.

The interest rate applicable to any borrowings under the Term Loan is equal to LIBOR (subject to a floor of 1.5%) plus a margin of 6.75% per annum. If LIBOR is unavailable, the loan will carry interest at the greatest of the Prime Rate, the Federal Funds Rate plus 0.5% per annum, and 2.5%, plus the margin of 6.75%.

After December 31, 2020, the margin on the interest rate is eligible for a reduction; as follows:

- 6.75% per annum if the Total Net Leverage Ratio (as defined in the Hayfin Loan Agreement) is greater than 2.0x,
- 6.5% per annum if the Total Net Leverage Ratio is less than 2.0x but greater than or equal to 1.0x, or
- 6.0% per annum if the Total Net Leverage Ratio is less than 1.0x.

An additional 3.0% margin is applied to the interest rate in the event of default as defined by the Hayfin Term Loan Agreement. Both at issuance and as of December 31, 2020, the Term Loan carried an interest rate of 8.3%.

The Credit Facilities contain financial covenants requiring the Company, on a consolidated basis, to maintain the following:

- Maximum Total Net Leverage Ratio of 5.0x through December 31, 2020, reduced to 4.5x through June 30, 2021, further reduced to 4.0x thereafter for the life of the loans, required to be calculated on a quarterly basis,
- Delayed Draw Term Loan Incurrence Covenant (as defined in the Hayfin Loan Agreement) of 3.5x Total Net Leverage, tested prior to any drawings under the DD TL, and
- Minimum Liquidity (as defined in the Hayfin Term Loan Agreement) of $10 million, an at-all-times financial covenant, tested monthly.

The Credit Facilities also specify that any prepayment of the loan, voluntary or mandatory, as defined in the Term Loan Agreement, subjects the Company to a prepayment premium applicable as of the date of the prepayment:

- On or before the first anniversary of the Closing Date:
    - A make-whole premium, equal to the greater of:
        - 5% of the principal balance repaid,
        - 102% of the principal balance plus interest that would have been accrued from the repayment date to 12 months following the Closing Date.
- After the first anniversary of the Closing Date but on or before the second anniversary of the Closing Date: 2% of the principal balance repaid.
- After the second anniversary of the Closing Date but on or before the third anniversary of the Closing Date: 1% of the principal balance repaid.
- After the third anniversary of the Closing Date: 0% of the principal balance repaid.

The Hayfin Loan Agreement also includes events of default customary for facilities of this type, and upon the occurrence of such events of default, subject to customary cure rights, all outstanding loans under the Credit Facilities may be accelerated or the lenders' commitments terminated. The mandatory prepayments are also required in the event of a change in control, incurring other indebtedness, certain proceeds from disposal of assets and insured casualty event.

Beginning with the fiscal year ending December 31, 2021, the Company is required to prepay the outstanding loans based on the percentage of Excess Cash Flow (as defined in the Hayfin Loan Agreement), if such is generated, with the percentage determined based on the Total Net Leverage thresholds.

Hayfin maintains a first-priority security interest in substantially all of the Company's assets.

Original issue discount and deferred financing costs incurred as part of the Financing Transactions were allocated between the sale of the Series B Convertible Preferred Stock and the Hayfin Term Loan on the basis of the relative fair values of the transactions. The costs allocated to the Hayfin Term Loan were further allocated between the Term Loan and the DD TL on the basis of the maximum potential principal outstanding between the Credit Facilities. The allocation of the deferred financing costs and original issue discount between Term Loan and the DD TL on July 2, 2020 was as follows (amounts in thousands):

	July 2, 2020		
	Term Loan	DD TL	Total
	Long term debt	*Other current assets*	
Original issue discount	$ 333	$ 167	$ 500
Deferred financing costs	2,169	1,084	3,253

Deferred financing costs and original issue discount allocated to the Term Loan are amortized using the effective interest method through the Maturity Date. The amortization of such amounts are presented as part of interest expense (income), net on the consolidated statement of operations for the year ended December 31, 2020.

Deferred financing costs and original issue discount associated with the DD TL are amortized using the straight-line method through the earlier of the expiration of the DD TL commitment term on June 30, 2021, or the date the balance of the DD TL is funded. To the extent that there are unamortized deferred financing costs or original issue discount associated with the DD TL upon funding, such amounts will be amortized using the effective interest method through the Maturity Date. Amortization of these amounts are presented as part of interest expense (income), net on the consolidated statements of operations. Unamortized deferred financing costs and original issue discount associated with the DD TL are presented as other current assets on the consolidated balance sheet as of December 31, 2020.

The DD TL is subject to a commitment fee of 1% per annum of the amount undrawn, which is recognized as interest expense. The DD TL was not drawn upon as of December 31, 2020.

The balances of the Term Loan as of December 31, 2020 were as follows (amounts in thousands):

	December 31, 2020
Outstanding principal	$ 50,000
Deferred financing costs	(1,996)
Original issue discount	(307)
Long term debt	$ 47,697

Components of interest expense related to the Term Loan, included in interest expense (income), net on the consolidated statements of operations, was as follows (amounts in thousands):

	Year ended December 31, 2020
Stated interest	$ 2,085
Amortization of deferred financing costs	173
Accretion of original issue discount	26
Interest expense	$ 2,284

Interest expense related to the DD TL, included in interest (expense) income, net in consolidated statements of operations, was as follows (amounts in thousands):

	Year ended December 31, 2020
Commitment fee	$ 128
Amortization of deferred financing costs	542
Accretion of original issue discount	83
Interest expense	$ 753

Scheduled principal payments on the Term Loan as of December 31, 2020 are as follows:

Year ending December 31,	Principal
2021	$ —
2022	—
2023	—
2024	—
2025	50,000
Thereafter	—
Outstanding principal	$ 50,000

The DD TL was not funded as of December 31, 2020. Consequently, no principal payments are owed.

As of December 31, 2020, the fair value of the Term Loan was $52.8 million. This valuation was calculated based on a series of Level 2 and Level 3 inputs, including a discount rate based on the credit risk spread of debt instruments of similar risk character in reference to U.S. Treasury instruments with similar maturities, with an incremental risk premium for risk factors specific to the Company. The remaining cash flows associated with the Term Loan were discounted to December 31, 2020 using this discount rate to derive the fair value.

BT Term Loan

On June 10, 2019, the Company entered into a loan agreement (the "***BT Loan Agreement***") with Blue Torch Finance LLC ("***Blue Torch***"), as administrative agent and collateral agent, to borrow funds with a face value of $75.0 million (the "***BT Term Loan***"), of which the full amount was borrowed and funded. The proceeds from the BT Term Loan were used (i) for working capital and general corporate purposes and (ii) to pay transaction fees, costs and expenses incurred in connection with the BT Term Loan and the related transactions. The BT Term Loan would have matured on June 20, 2022 and was repayable in quarterly installments of $0.9 million, with the balance due on June 20, 2022. Blue Torch maintained a first-priority security interest in substantially all the Company's assets. The BT Term Loan was issued net of the original issue discount of $2.3 million. The Company incurred $6.7 million of deferred financing costs.

On April 22, 2020, the Company amended the BT Loan Agreement with Blue Torch. The amendment provided for an increase in the maximum Total Leverage Ratio, which was a quarterly test, for the remainder of 2020, and also provided for a reduction in the minimum Liquidity requirement from April 2020 through November 2020. In connection with the amendment, the Company agreed to pay a one-time fee of approximately $0.7 million, added to the principal balance, and a 1 percentage point increase in the interest rate to LIBOR plus 9%.

On July 2, 2020, a portion of the proceeds from the Financing Transactions were used to repay the outstanding balance of principal, accrued but unpaid interest, and prepayment premium under the BT Loan Agreement. In connection with the repayment of the BT Term Loan, the Company terminated the BT Loan Agreement. The Company has no continuing obligations related to the BT Term Loan as of December 31, 2020. The Company recorded a loss on extinguishment of debt of $8.2 million. The composition of the loss on extinguishment of debt was as follows (amounts in thousands):

	July 2, 2020
Unamortized deferred financing costs	$ 4,528
Unamortized original issue discount	1,538
Unamortized amendment fee	671
Prepayment premium	1,439
Other fees	25
Loss on extinguishment of debt	$ 8,201

The balances of the BT Term Loan were as follows (amounts in thousands):

	December 31, 2019	
	Current portion	Long-term
Outstanding principal	$ 3,750	$ 69,375
Original issue discount	—	(1,890)
Deferred financing cost	—	(5,579)
Long-term debt	$ 3,750	$ 61,906

Interest expense related to the BT Term Loan, included in interest (expense) income, net in the consolidated statements of operations was as follows (amounts in thousands):

	Year ended December 31,	
	2020	2019
Interest on principal balance	$ 3,773	$ 4,331
Accretion of original issue discount	354	360
Accretion of amendment fee	53	—
Amortization of deferred financing costs	1,051	1,071
Total BT Term Loan interest expense	$ 5,231	$ 5,762

Paycheck Protection Program Loan

The Company applied for and, on April 24, 2020, received proceeds of $10.0 million in the form of a loan under the Paycheck Protection Program (the "***PPP Loan***"). On May 11, 2020, the Company repaid the PPP Loan in full. There are no continuing obligations under the PPP Loan as of December 31, 2020.

9. Net Loss Per Common Share

Net loss per common share is calculated using two methods: basic and diluted.

Basic Net Loss Per Common Share

Basic net loss per common share is calculated as net loss available to common shareholders divided by weighted average common shares outstanding. Net loss available to common shareholders is calculated as net loss less (i) dividends accumulated on the Company's Convertible preferred stock Series B during the period, (ii) periodic amortization of beneficial conversion feature, and (iii) periodic accretion of the increasing-rate dividend feature.

The following table provides a reconciliation of Net loss to Net loss available to common shareholders and calculation of basic net loss per common share for each of the years ended December 31, 2020, 2019, and 2018 (amounts in thousands, except share and per share amounts):

	Year ended December 31,		
	2020	2019	2018
Net loss	$ (49,284)	$ (25,580)	$ (29,979)
Adjustments to reconcile to net loss available to common stockholders:			
Accumulated dividend on Series B Convertible Preferred Stock	2,016	—	—
Amortization of beneficial conversion feature	31,110	—	—
Accretion of increasing-rate dividend feature	918	—	—
Total adjustments	34,044	—	—
Net loss available to common stockholders	$ (83,328)	$ (25,580)	$ (29,979)
Weighted average common shares outstanding	108,257,112	106,946,384	105,596,256
Basic net loss per common share	$ (0.77)	$ (0.24)	$ (0.28)

Diluted Net Loss Per Common Share

Diluted loss per common share is calculated as net loss available to common shareholders, adjusted for dividends on convertible preferred stock (to the extent conversions of such shares would be dilutive), divided by weighted average common shares outstanding plus potential common shares. Potential common shares considers incremental shares resulting from certain transactions, including the exercise of stock options and the issuance of restricted stock using the treasury stock method, as well as the hypothetical conversion of the Company's Series B Preferred Stock using the if-converted method. The treasury stock method assumes that proceeds from the transaction are used to purchase common stock at the average market price throughout the period. The if-converted method adds back dividends accrued or deemed on the Company's Series B Convertible Preferred Stock and assumes conversion as of the later of the beginning of the period or the original transaction date, to the extent that such effects are determined to be dilutive.

Each individual transaction is assessed for its dilutive effect on net loss per common share. To the extent that the transaction is antidilutive, or does not reduce net loss per common share, the effect is excluded from the calculation.

The following table sets forth the computation of basic and diluted net loss per common share (in thousands, except share and per-share data):

	Year ended December 31,		
	2020	2019	2018
Net loss available to common stockholders	$ (83,328)	$ (25,580)	$ (29,979)
Dividends on Series B Convertible Preferred Stock	34,044	—	—
Numerator - net loss available to common stockholders adjusted for hypothetical conversion of Series B Convertible Preferred Stock (a)	$ (83,328)	$ (25,580)	$ (29,979)
Denominator - weighted average common shares outstanding adjusted for potential common shares (b)	108,257,112	106,946,384	105,596,256
Diluted net loss per common share	$ (0.77)	$ (0.24)	$ (0.28)

(a) Diluted net loss per common share is not adjusted for dividends of $34.0 million on the Series B Convertible Preferred Stock because the effect of a hypothetical conversion was determined to be anti-dilutive.

(b) Weighted average common shares outstanding for the calculation of diluted net loss per common share does not include the following adjustments for potential common shares below because their effects were determined to be anti-dilutive for the periods presented:

	Year ended December 31,		
	2020	2019	2018
Convertible preferred stock Series B	12,987,013	—	—
Restricted stock awards	1,299,770	1,157,563	365,978
Outstanding stock options	752,499	978,243	3,172,943
Restricted stock unit awards	616,141	—	—
Performance stock unit awards	31,621	—	—
Potential common shares	15,687,044	2,135,806	3,538,921

10. Equity

Convertible Preferred Stock Series B

On July 2, 2020, the Company issued shares of its Convertible preferred stock Series B, par value $0.001 per share (the "***Series B Preferred Stock***") to an affiliate of EW Healthcare Partners and to certain funds managed by Hayfin (individually, the "***Holder***", collectively the "***Holders***") pursuant to a Securities Purchase Agreement with Falcon Fund 2 Holding Company, L.P., an affiliate of EW Healthcare Partners, and certain funds managed by Hayfin, dated as of June 30, 2020 (the "***Securities Purchase Agreement***"), for an aggregate purchase price of $100 million (the "***Preferred Stock Transaction***").

The Series B Preferred Stock accumulates a 4.0% cumulative dividend per annum prior to the quarterly dividend payment for the period ending June 30, 2021, and a 6.0% cumulative dividend per annum thereafter. Dividends are declared at the sole discretion of the Company's board of directors. Dividends are paid at the end of each quarter based for dividend amounts that accumulate beginning on the last payment date through the day prior to the end of each quarter. In lieu of paying a dividend, the Company may elect to accrue the dividend owed to shareholders. Accrued dividend balances accumulate dividends at the prevailing dividend rate for each dividend period for which they are outstanding.

Each share of Series B Preferred Stock, including any accrued and unpaid dividends, is convertible into Company's common stock at any time at the option of the Holder at a conversion price of $3.85 per common share, or 259.74 common shares for each Series B Preferred Share prior to any accrued and unpaid dividends. The Series B Preferred Stock, including any accrued and unpaid dividends, automatically converts into common stock at any time after the third anniversary of the issuance date, provided that the common stock has traded at 200% or more of the conversion price (i) for 20 out of 30 consecutive trading days and (ii) on such date of conversion.

Holders of the Series B Preferred Stock, voting as a class, are entitled to appoint two members to the board of directors. Holders of the Series B Preferred Stock are entitled to vote on all matters to be voted on by the Company's shareholders shall vote on an as-converted basis as a single class with the Common Stock not to exceed 19.9% of the total voting stock of the Company. Holders of the Series B Preferred Stock are also entitled to a liquidation preference in an amount equal to the original issue price plus all accrued and unpaid dividends in the event of a liquidation, dissolution, or winding-up of the Company.

The Company evaluated its Series B Preferred Stock and determined that it was considered an equity host under ASC 815, *Derivatives and Hedging*. As a result of the Company's conclusion that the Series B Preferred Stock represented an equity host, the conversion feature of all Series B Preferred Stock was considered to be clearly and closely related to the associated Series B Preferred Stock host instrument. Accordingly, the conversion feature of all Series B Preferred Stock was not considered an embedded derivative that required bifurcation. At the time of the issuance of the Series B Preferred Stock, the Company's common stock, into which the Company's Series B Preferred Stock is convertible, had an estimated fair value exceeding the effective conversion price of the Series B Preferred Stock, giving rise to a beneficial conversion feature in the amount of $31.1 million. This amount was immediately recognized as a deemed dividend on the commitment date since there is no stated redemption date and the Series B Preferred Stock is immediately convertible.

The Series B Preferred Stock instrument contains an increasing-rate cumulative dividend feature. The Company determined the present value of the difference between the (1) dividends that will be payable, in the period preceding commencement of the

perpetual dividend; and (2) the perpetual dividend amount for a corresponding number of periods to ascribe a fair value to this feature. These amounts were discounted to present value using a market rate for dividend yield as of the Closing Date. The Company calculated the amount of the increasing-rate dividend feature as $1.8 million. This amount is amortized as a deemed dividend to preferred shareholders using the effective interest method through the commencement date of the Perpetual Dividend Rate. During the year ended December 31, 2020, the Company recognized $0.9 million of deemed dividends related to the amortization of the increasing-rate dividend feature.

If the Company undergoes a change of control, the Company will have the option to repurchase some or all of the then-outstanding shares of Series B Preferred Stock for cash in an amount equal to the liquidation preference, subject to the rights of the Holders of the Series B Preferred Stock in connection with such change in control. If the Company does not exercise such repurchase right, Holders of the Series B Preferred Stock will have the option to (1) require the Company to repurchase any or all of its then-outstanding shares of Series B Preferred Stock for cash in an amount equal to the liquidation preference or (2) convert the Series B Preferred Stock, including accrued and unpaid dividends into common stock and receive its pro rata consideration thereunder. Because the contingent redemption of the Series B Preferred Stock by the holder in the event of change in control is outside the Company's control, the Series B Preferred Stock and related beneficial conversion feature were classified as temporary equity.

The below table illustrates changes in the Company's balance of Convertible preferred stock Series B for the year ended December 31, 2020 (in thousands, except per share amounts):

	Convertible preferred stock Series B	
	Shares	Amount
Balance at December 31, 2019	—	$ —
Issuance of Series B Preferred Stock	100,000	59,540
Deemed dividends	—	32,028
Balance at December 31, 2020	100,000	$ 91,568

The Company has not declared or paid any dividends on the Series B Convertible Preferred Stock since issuance. Dividends in arrears as of December 31, 2020 was $2.0 million. As this amount has not been declared, the Company has not recorded this amount on its consolidated balance sheet as of December 31, 2020.

Based on accumulated dividends as of December 31, 2020, the Series B Convertible Preferred Stock was convertible into an aggregate of 26,497,570 shares of the Company's common stock.

Stock Incentive Plans

The Company has two share-based compensation plans which provide for the granting of equity awards, including qualified incentive and non-qualified stock options, stock appreciation awards and restricted Common Stock awards: the MiMedx Group, Inc. 2016 Equity and Cash Incentive Plan Amended and Restated through October 2, 2020 (the "***2016 Plan***"), which was approved by shareholders on May 18, 2016 and the MiMedx Group, Inc. Assumed 2006 Stock Incentive Plan (the "***Prior Incentive Plan***"). During the years ended December 31, 2020, 2019, and 2018 the Company used only the 2016 Plan to make grants.

The 2016 Plan permits the grant of equity awards to the Company's employees, directors, consultants and advisors for up to 8,400,000 shares of the Company's common stock plus (i) the number of shares of the Company's common stock that remain available for issuance under the Prior Incentive Plan, and (ii) the number of shares that are represented by outstanding awards that later become available because of the expiration or forfeiture of the award without the issuance of the underlying shares. The awards are subject to a vesting schedule as set forth in each individual agreement. Option awards are generally granted with an exercise price equal to the market price of the Company's stock at the date of grant, and those option awards generally vest based on three years of continuous service and have 10-year contractual terms. Restricted stock awards generally vest over three years. Certain option and restricted stock awards provide for accelerated vesting if there is a change in control or upon death or disability.

A summary of stock option activity for the year ended December 31, 2020, and changes during the year then ended are presented below:

	Number of Shares	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Term (in years)	Aggregate Intrinsic Value
Outstanding at January 1, 2020	2,885,334	$ 4.42		
Granted	—	—		
Exercised	(508,300)	2.62		
Unvested options forfeited	—	—		
Vested options expired	(351,351)	5.90		
Outstanding at December 31, 2020	2,025,683	4.62	2.10	9,054,128
Exercisable at December 31, 2020	2,025,683	$ 4.62	2.10	$ 9,054,128

The intrinsic values of the options exercised during the years ended December 31, 2020, 2019 and 2018 were $1.9 million, $0.6 million, and $7.9 million, respectively. Cash received from option exercise under all share-based payment arrangements for the years ended December 31, 2020, 2019 and 2018 was $0.4 million, $0.1 million, and $3.6 million, respectively. The actual tax benefit for the tax deductions from option exercise of the share-based payment arrangements totaled $1.6 million, $0.2 million, and $5.9 million, respectively, for the years ended December 31, 2020, 2019 and 2018. The Company has a policy of using its available repurchased treasury stock to satisfy option exercises.

The fair value of options vested during the years ended December 31, 2020, 2019 and 2018 were $0, $1.4 million, and $0.1 million, respectively. There were no options granted during the years ended December 31, 2020, 2019 and 2018 and there was no unrecognized compensation expense at December 31, 2020.

Modification of Stock Options

During the year ended December 31, 2019, On June 13, 2019, our Board of Directors (prior to the election or appointment of any of the Company's current non-executive Board members), in its capacity as Administrator of the 2006 Plan, extended the contractual life of 612,000 fully vested share options held by 7 members of the Board and 278,916 fully vested share options held by a former employee. As a result of that modification, the Company recognized incremental share-based compensation expense of $0.4 million for the year ended December 31, 2019.

The incremental fair value of the modified options in 2020 was estimated on the modification date using the Black-Scholes option-pricing model that uses assumptions for expected volatility, expected dividends, expected term, and the risk-free interest rate. Expected volatilities were the blend of the Company's historical stock price volatility as well as that of market comparable publicly traded peer companies and other factors estimated over the expected term of the options. The term of the modified options was the remaining time until the end of the contractual maturity of ten years. The risk-free rate was based on the U.S. Treasury yield curve in effect at the time of modification for the period of the expected term.

2019 Option Modification	
Expected volatility	65% - 95%
Expected life (in years)	0.28 - 5.12
Expected dividend yield	0
Risk-free interest rate	1.56% - 2.02%

Restricted Stock Awards

The Company has issued several classes of restricted stock awards to employees: restricted stock ("***RSAs***"), restricted stock unit awards ("***RSUs***"), and performance stock unit awards ("***PSUs***"). The following is summary information for restricted stock awards for the year ended December 31, 2020. Restricted stock and RSUs vest over a one- to three-year period in equal annual increments and require continuous service. Performance stock unit awards vest based on specific agreements with employees and require continuous service through the specified event.

As of December 31, 2020, there was approximately $11.5 million of total unrecognized stock-based compensation related to unvested restricted stock awards. That expense is expected to be recognized over a weighted-average period of 1.99 years, which approximates the remaining vesting period of these grants. All RSAs noted below as unvested are considered issued and outstanding at December 31, 2020, while unvested RSAs and PSUs are not considered issued and outstanding as of December 31, 2020.

	RSA		RSU		PSU	
	Number of Shares	Weighted-Average Grant Date Fair Value	Number of Shares	Weighted-Average Grant Date Fair Value	Number of Shares	Weighted-Average Grant Date Fair Value
Unvested at January 1, 2020	3,383,196	$ 5.13	—	$ —	140,845	$ 7.10
Modification of prior year grants	—	—	271,184	5.90	—	—
Granted	599,728	6.33	2,432,654	5.90	25,422	5.90
Vested	(1,416,888)	6.18	(271,184)	5.90	(87,370)	6.87
Forfeited	(390,177)	5.11	(107,381)	5.90	(43,685)	6.87
Unvested at December 31, 2020	2,175,859	$ 4.78	2,325,273	$ 5.90	35,212	$ 7.10

The total fair value of restricted stock awards vested during the years ended December 31, 2020, 2019 and 2018, was $10.1 million, $5.2 million, and $17.9 million, respectively.

During the year ended December 31, 2019, the Company granted a fixed dollar value restricted share unit award to the members of its Board in the amount of $1.6 million. The restricted share unit awards vested at the date of the 2019 Annual Meeting and were settled in common stock with the number of shares of common stock based on the closing price of the Company's share price on August 5, 2020, a date thirty days after the Company became current on its SEC filings. Upon this event, these awards were modified from a fixed dollar-amount of awards to be settled in a variable number of shares to a fixed number of shares based on the closing price of the Company's common stock on August 5, 2020. This event constituted a modification of the awards from liability-based awards to equity-based awards and did not change the total amount of expense recognized. Prior to August 5, 2020, the Company recorded $1.3 million of expense, of which $0.9 million and $0.4 million were recognized during the years ended December 31, 2020 and 2019, respectively. The Company reclassified $1.3 million of recorded liability to additional paid-in capital to reflect this modification on August 5, 2020. Subsequent to the modification, $0.3 million of expense was recognized as additional paid-in capital.

For the years ended December 31, 2020, 2019, and 2018 the Company recognized share-based compensation as follows (in thousands):

	Years Ended December 31,		
	2020	2019	2018
Cost of sales	$ 520	$ 477	$ 705
Research and development	288	265	584
Selling, general and administrative	14,549	11,322	13,479
Total share-based compensation	15,357	12,064	14,768
Income tax benefit	(3,792)	$ (3,081)	$ (3,803)
Total share-based compensation, net of tax benefit	$ 11,565	$ 8,983	$ 10,965

Treasury Stock

For the year ended December 31, 2018, the Company purchased 507,600 shares of its Common Stock under the Company's share repurchase program, for an aggregate purchase price of approximately $7.6 million. The share repurchase program expired during the year ended December 31, 2018.

Repurchases of shares of Common Stock in connection with the satisfaction of employee tax withholding obligations upon vesting of restricted stock and exercise of stock options for the years ended December 31, 2020, 2019, and 2018 were 435,492, 429,918, and 614,123, respectively, for an aggregate purchase price of $2.3 million, $1.5 million, and $4.9 million, respectively.

During 2020, certain stock option holders elected to return restricted shares to the Company as consideration to exercise stock options. In total, 148,972 shares were returned to the Company during the year ended December 31, 2020 for an aggregate fair value of $0.9 million. There were no equivalent transactions during either the years ended December 31, 2019 or 2018.

11. Income Taxes

On March 27, 2020, the U.S. government enacted the CARES Act which, among other changes, eliminated the taxable income limit for certain net operating losses ("***NOL***"), allowed businesses to carry back NOLs arising in 2018, 2019, and 2020 to the five prior years, and provided a payment delay of employer payroll taxes during 2020 after the date of enactment. These provisions allowed the Company to carry back federal tax losses related to 2018 and 2019. The Company recorded net tax receivable totaling $11.3 million in 2020 related to these provisions, of which $1.2 million has been collected as of December 31, 2020. The remaining $10.1 million is reflected in income tax receivable on the consolidated balance sheet as of December 31, 2020. The Company has deferred payment on $2.2 million in employer taxes until 2021, which is included as part of accrued compensation on the consolidated balance sheet as of December 31, 2020.

Deferred income taxes reflect the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes.

Significant components of the Company's deferred tax assets and liabilities are as follows (in thousands):

	December 31,	
	2020	2019
Deferred Tax Assets:		
Net operating loss	$ 17,010	$ 14,350
Research and development and other tax credits	5,920	2,349
Share-based compensation	3,259	3,439
Interest limitation carryforward	2,992	839
Accrued expenses	2,918	3,759
Accrued settlement costs	2,464	3,276
Bad debts	2,138	4,859
Lease obligation	1,021	1,044
Sales return and allowances	170	659
Other	1,075	1,285
Deferred Tax Liabilities:		
Prepaid expenses	(1,170)	(1,189)
Property and equipment	(1,073)	(1,582)
Right of use asset	(895)	(868)
Intangible assets	(160)	(389)
Deferred costs of goods sold	(43)	(322)
Unearned insurance refund	—	(894)
Net Deferred Tax Assets	35,626	30,615
Less: Valuation allowance	(35,626)	(30,615)
Net Deferred Tax Assets after Valuation Allowance	$ —	$ —

Interest limitation carryforward of $0.8 million was included as part of other in 2019. This amount is presented separately in the table above for comparative purposes.

The reconciliation of the federal statutory income tax rate of 21% to the effective rate is as follows:

	Year ended December 31,		
	2020	2019	2018
Federal statutory rate	21.00 %	21.00 %	21.00 %
State taxes, net of federal benefit	(0.20)%	(1.36)%	3.52 %
Nondeductible compensation	(0.89)%	(1.49)%	(15.33)%
Meals and entertainment	(0.50)%	(2.04)%	(24.16)%
Share-based compensation	(1.24)%	(5.05)%	10.82 %
Tax credits	0.32 %	0.45 %	19.75 %
Uncertain tax positions	0.24 %	1.22 %	(2.35)%
Write-off of net operating losses	— %	— %	(11.81)%
Fixed asset adjustment	— %	— %	5.33 %
NOL carryback rate differential	10.99 %	— %	— %
Other	(1.66)%	0.12 %	(1.03)%
Valuation allowance	(8.14)%	(12.83)%	(788.33)%
Effective tax rate	19.92 %	0.02 %	(782.59)%

The tax benefit associated with the carryback of federal net operating losses under the CARES Act had a significant impact on the Company's effective tax rate for the year ended December 31, 2020. Additionally, the effective tax rate was affected by other permanent differences, as well as the change in the valuation allowance.

Share-based Compensation had a significant impact on the Company's effective tax rate for the year ended December 31, 2019. Additionally, state taxes, Meals and Entertainment, and Nondeductible Compensation had a significant impact on the Company's effective tax rate.

Meals and Entertainment had a significant impact on the Company's effective tax rate for the year ended December 31, 2018 due to the impact of the Act on the Company's method of calculating this permanent adjustment. Additionally, Federal and state tax credits, mostly related to the Company's Research and Development activities, had a significant impact on the Company's effective rate.

Current and deferred income tax (benefit) expense is as follows (in thousands):

	December 31,		
	2020	2019	2018
Current:			
Federal	$ (12,418)	$ (53)	$ 614
State	159	48	427
Total current	(12,259)	(5)	1,041
Deferred:			
Federal	—	—	19,452
State	—	—	6,089
Total deferred	—	—	25,541
Total (benefit) expense	$ (12,259)	$ (5)	$ 26,582

Certain items of income and expense are not reported in tax returns and financial statements in the same year. The tax effect of such temporary differences is reported as deferred income taxes. The measurement of deferred tax assets is reduced, if necessary, by the amount of any tax benefit that, based on available evidence, is not expected to be realized. The Company establishes a valuation allowance for deferred tax assets for which realization is not likely. As of each reporting date,

management considers new evidence, both positive and negative, that could affect its view of the future realization of deferred tax assets.

A valuation allowance of $35.6 million and $30.6 million was recorded against the deferred tax asset balance as of December 31, 2020 and December 31, 2019, respectively. The Company maintains a full valuation allowance because it is not more likely than not the deferred tax assets will be utilized based on all available positive and negative evidence. In the event that the weight of the evidence changes in the future, any reduction in the valuation allowance would result in an income tax benefit.

At December 31, 2020 and 2019, the Company had income tax net operating loss ("***NOL***") carryforwards for federal and state purposes of $62.7 million and $68.5 million and $56.8 million and $49.3 million, respectively. A portion of the Company's NOLs and tax credits are subject to annual limitations due to ownership change limitations provided by Internal Revenue Code Section 382. If not utilized, the federal and state tax NOL carryforwards will expire between 2027 and 2037. As of December 31, 2020, the Company has recorded a deferred tax asset for both federal and state NOL carryforwards of approximately $13.2 million and $4.0 million, respectively. As of December 31, 2019, the Company has recorded a deferred tax asset for federal and state NOL carryforwards of $11.9 million and approximately $3.1 million, respectively.

The following is a tabular reconciliation of the total amounts of unrecognized tax benefits (in thousands) included in other liabilities in the consolidated balance sheets:

	2020	2019	2018
Unrecognized tax benefits - January 1	$ 627	$ 938	$ 847
Gross increases - tax positions in current period	—	56	91
Decreases in prior year positions	(150)	(367)	—
Unrecognized tax benefits - December 31	$ 477	$ 627	$ 938

Included in the balance of unrecognized tax benefits as of December 31, 2020 and December 31, 2019, are $0 and $0.6 million, respectively, of tax benefits that, if recognized, would affect the effective tax rate.

The Company recognizes accrued interest related to unrecognized tax benefits and penalties as income tax expense. Related to the unrecognized tax benefits noted above, the Company accrued $0 of interest during 2020. The Company accrued $0.1 million of interest during 2019 and, in total, as of December 31, 2019 had recognized $0.1 million of interest. The Company accrued $0.1 million of interest during 2018, and, in total, as of December 31, 2018 had recognized $0.1 million of interest.

The Company is subject to taxation in the U.S. and various state jurisdictions. As of December 31, 2020, the Company's tax returns for 2017 through 2019 generally remain open for exam by taxing jurisdictions. Additional prior years may be open to the extent attributes are being carried forward to an open tax year.

12. Supplemental Disclosure of Cash Flow and Non-Cash Investing and Financing Activities

Selected cash payments, receipts, and noncash activities are as follows (in thousands):

	Years Ended December 31,		
	2020	2019	2018
Cash paid for interest	$ 7,456	$ 4,331	$ 197
Income taxes paid	208	308	859
Cash paid for operating leases	1,569	1,650	—
Non-cash activities:			
Purchases of equipment included in accounts payable	1,062	1,184	1,168
Deferred financing costs	53	6,650	—
Deemed dividends on convertible preferred stock Series B	32,028	—	—
Amendment fee on BT Term Loan	722	—	—
Lease right of use asset and liability	1,169	—	—
Fair value of non-cash consideration received for option exercise	922	—	—

13. 401(k) Plan

The Company has a 401(k) plan (the "***401(k) Plan***") covering all employees who have completed one month of service. Under the 401(k) Plan, participants could defer up to 90% of their eligible wages to a maximum of $19,500 per year (annual limit for 2020). Employees age 50 or over in 2020 could make additional pre-tax contributions up to $6,500. The Company matched 50% of employee contributions up to 5% of the employee's eligible compensation. The matching contribution for the years ended December 31, 2020, 2019, and 2018 was $1.5 million, $1.5 million, and $1.9 million, respectively. For 2021, the Company continues to match to 50% of employee contributions and has increased the cap on its matching contribution to 8% of the employee's eligible compensation. Additionally, the Company could elect to make a discretionary contribution to the 401(k) Plan.

14. Commitments and Contingencies

Contractual Commitments

In addition to the leases noted under Note 5, "*Leases*," the Company has commitments for meeting space. These leases expire over 3 years following December 31, 2020, and generally contain renewal options. The Company anticipates that most of these leases will be renewed or replaced upon expiration.

The estimated meeting space commitments are as follows (in thousands):

Years Ended December 31,		
2021	$	169
2022		889
2023		—
	$	1,058

See Note 5, "*Leases"* for further information regarding maturities of operating lease liabilities.

Litigation and Regulatory Matters

In the ordinary course of business, the Company and its subsidiaries may routinely be a party to many pending and threatened legal, regulatory, and governmental actions and proceedings (including those described below). In view of the inherent difficulty of predicting the outcome of such matters, particularly where the plaintiffs or claimants seek very large or indeterminate damages or where the matters present novel legal theories or involve a large number of parties, the Company generally cannot predict what the eventual outcome of the pending matters will be, what the timing of the ultimate resolution of these matters will be, or what the eventual recovery, loss, fines or penalties related to each pending matter may be.

In accordance with applicable accounting guidance, the Company accrues a liability when those matters present loss contingencies that are both probably and estimable. The Company's financial statements at December 31, 2020 reflect the Company's current best estimate of probable losses associated with these matters, including costs to comply with various settlement agreements, where applicable. As of December 31, 2020, the Company had accrued $10.0 million related to the matters described below. The Company paid $7.4 million to settle legal proceedings during 2020. In addition, $3.5 million was paid on the Company's behalf through an insurance provider during 2020. As of December 31, 2019, the Company had accrued $12.8 million related to legal proceedings and other matters of litigation. The actual costs of resolving these matters may be in excess of the amounts reserved.

The following is a description of certain litigation and regulatory matters:

Securities Class Action

On January 16, 2019, the United States District Court for the Northern District of Georgia entered an order consolidating two purported securities class actions (MacPhee v. MiMedx Group, Inc., et al. filed February 23, 2018 and Kline v. MiMedx Group, Inc., et al. filed February 26, 2018). The order also appointed Carpenters Pension Fund of Illinois as lead plaintiff. On May 1, 2019, the lead plaintiff filed a consolidated amended complaint, naming as defendants the Company, Michael J. Senken, Parker H. Petit, William C. Taylor, Christopher M. Cashman and Cherry Bekaert & Holland LLP. The amended complaint (the "Securities Class Action Complaint") alleged violations of Section 10(b) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), Rule 10b-5 promulgated thereunder and Section 20(a) of the Exchange Act. It asserted a class period of March 7, 2013 through June 29, 2018. Following the filing of motions to dismiss by the various defendants, the lead plaintiff was granted leave to file an amended complaint. The lead plaintiff filed its amended complaint against the Company, Michael Senken, Pete Petit, William Taylor, and Cherry Bekaert & Holland (Christopher Cashman was dropped as a defendant) on March 30, 2020. The Defendants filed motions to dismiss on May 29, 2020, which remain pending. At this time, given the uncertainty of litigation, the preliminary stage of the case, and the legal standards that must be met for, among other things, class certification and success on the merits, the Company is unable to predict the outcome of the securities class action described above. In the event of an adverse judgment or material settlement with respect to the securities class actions described above, the Company may be required to pay significant damages or settlement costs. Successful claims brought against the Company with respect to the securities class action in excess of its available insurance coverage could have a material adverse effect on its business, financial condition and results of operations.

Shareholder Derivative Suits

On December 6, 2018, the United States District Court for the Northern District of Georgia entered an order consolidating three shareholder derivative actions (*Evans v. Petit, et al.* filed September 25, 2018, *Georgalas v. Petit, et al.* filed September 27, 2018, and *Roloson v. Petit, et al.* filed October 22, 2018) that had been filed in the Northern District of Georgia. On January 22, 2019, plaintiffs filed a verified consolidated shareholder derivative complaint. The consolidated action sets forth claims of breach of fiduciary duty, corporate waste and unjust enrichment against certain former officers, and certain current and former directors, of the Company: Parker H. Petit, William C. Taylor, Michael J. Senken, John E. Cranston, Alexandra O. Haden, Joseph G. Bleser, J. Terry Dewberry, Charles R. Evans, Larry W. Papasan, Luis A. Aguilar, Bruce L. Hack, Charles E. Koob, Neil S. Yeston and Christopher M. Cashman. The allegations generally involve claims that the defendants breached their fiduciary duties by causing or allowing the Company to misrepresent its financial statements as a result of improper revenue recognition. The Company filed a motion to stay on February 18, 2019, pending the completion of the investigation by the Company's Special Litigation Committee. The Special Litigation Committee completed its investigation relating to this action and filed an executive summary of its findings with the Court on July 1, 2019. The parties (together with parties from the Hialeah derivative lawsuit, the Nix and Demaio derivative lawsuit, and the Murphy derivative lawsuit, each described below) held a mediation on February 11, 2020. Following continued discussions, on May 1, 2020, the parties notified the Court that plaintiffs and the Company had reached an agreement in principle to settle this consolidated derivative action, which settlement also encompasses all claims asserted in the Hialeah derivative lawsuit, the Nix and Demaio derivative lawsuit, and the Murphy derivative lawsuit. The hearing on final approval was held on December 21, 2020 and the Court entered an Order granting final approval of the settlement the same day.

On October 29, 2018, the City of Hialeah Employees Retirement System ("***Hialeah***") filed a shareholder derivative complaint in the Circuit Court for the Second Judicial Circuit in and for Leon County, Florida (the "***Florida Court***"). The complaint alleges claims for breaches of fiduciary duty and unjust enrichment against certain former officers, and certain current and former directors, of the Company: Parker H. Petit, William C. Taylor, Michael J. Senken, John E. Cranston, Alexandra O. Haden, Joseph G. Bleser, J. Terry Dewberry, Charles R. Evans, Bruce L. Hack, Charles E. Koob, Larry W. Papasan, and Neil S. Yeston. The allegations generally involve claims that the defendants breached their fiduciary duties by causing or allowing the Company to misrepresent its financial statements as a result of improper revenue recognition. The Company moved to stay the action on February 7, 2019, to allow the prior-filed consolidated derivative action in the Northern District of Georgia to be resolved first and to allow the Company's Special Litigation Committee time to complete its investigation. The Company also filed a motion to dismiss on April 8, 2019. As discussed above, the plaintiff participated in the mediation that took place in connection with the prior-filed consolidated derivative action in the Northern District of Georgia and is a party to the agreement settling that consolidated derivative action. In accordance with the terms of the settlement, Hialeah filed a motion for leave to dismiss its derivative action with prejudice on January 4, 2021.

On May 15, 2019, two individuals purporting to be shareholders of the Company filed a shareholder derivative complaint in the Superior Court for Cobb County, Georgia. (*Nix and Demaio v. Evans, et al.*) The complaint alleges claims for breaches of fiduciary duty, corporate waste and unjust enrichment against certain current and former directors and officers of the Company: Parker H. Petit, William C. Taylor, Michael J. Senken, John E. Cranston, Alexandra O. Haden, Chris Cashman, Lou Roselli, Mark Diaz, Charles R. Evans, Luis A. Aguilar, Joseph G. Bleser, J. Terry Dewberry, Bruce L. Hack, Charles E. Koob, Larry W. Papasan and Neil S. Yeston. The allegations generally involve claims that the defendants breached their fiduciary duties by

causing or allowing the Company to misrepresent its financial statements as a result of improper revenue recognition. The Court ordered this matter stayed pending the resolution of the consolidated derivative suit pending in the Northern District of Georgia. As discussed above, the plaintiffs participated in the mediation that took place in connection with the prior-filed consolidated derivative action in the Northern District of Georgia and are a party to the agreement settling that consolidated derivative action. In accordance with the terms of the settlement, plaintiffs filed a notice of settlement and voluntary dismissal with prejudice on January 13, 2021.

On August 12, 2019, John Murphy filed a shareholder derivative complaint in the United States District Court for the Southern District of Florida (*Murphy v. Petit, et al.*). The complaint alleged claims for breaches of fiduciary duty and unjust enrichment against certain former officers, and certain current and former directors, of the Company: Parker H. Petit, William C. Taylor, Michael J. Senken, John E. Cranston, Alexandra O. Haden, Charles R. Evans, Luis A. Aguilar, Joseph G. Bleser, J. Terry Dewberry, Bruce L. Hack, Charles E. Koob, Larry W. Papasan and Neil S. Yeston. The allegations generally involve claims that the defendants breached their fiduciary duties by causing or allowing the Company to misrepresent its financial statements as a result of improper revenue recognition. The Company filed a motion to transfer this action to the Northern District of Georgia. Prior to resolution of that motion, the plaintiff voluntarily dismissed this action without prejudice. As discussed above, the plaintiff participated in the mediation that took place in connection with the prior-filed consolidated derivative action in the Northern District of Georgia and is a party to the agreement settling that consolidated derivative action. Pursuant to the terms of the settlement, this action is deemed dismissed with prejudice.

Investigations

*United States Attorney's Office for the Southern District of New York ("**USAO-SDNY**") Investigation*
The USAO-SDNY conducted an investigation into, among other things, the Company's recognition of revenue and practices with certain distributors and customers. The USAO-SDNY conducted interviews of various individuals, including employees and former employees of the Company. The USAO-SDNY issued an indictment in November 2019 against former executives Messrs. Petit and Taylor charging them with one count each for (i) securities fraud and (ii) conspiracy to commit securities fraud, to make false filings with the SEC, and to influence improperly the conduct of audits relating to alleged misconduct that resulted in inflated revenue figures for fiscal 2015. On November 19, 2020, the jury found Mr. Petit guilty of securities fraud and Mr. Taylor guilty of conspiracy to commit securities fraud. The Company has cooperated with the investigation, and the USAO-SDNY recently advised the Company that, based on the USAO-SDNY's current understanding of facts, it does not intend to pursue further action or remedies against the Company.

*Department of Veterans' Affairs Office of Inspector General ("**VA-OIG**") and Civil Division of the Department of Justice ("**DOJ-Civil**") Subpoenas and/or Investigations*
VA-OIG has issued subpoenas to the Company seeking, among other things, information concerning the Company's financial relationships with VA clinicians. DOJ-Civil has requested similar information. The Company has cooperated fully and produced responsive information to VA-OIG and DOJ-Civil. Periodically, VA-OIG has requested additional documents and information regarding payments to individual VA clinicians. On June 3, 2020, the Company received a subpoena from the VA-OIG requesting information regarding the Company's financial relationships and interactions with two healthcare providers at the VA Long Beach Healthcare System. The Company has continued to cooperate and respond to these requests.

*United States Attorney's Office for the Middle District of North Carolina ("**USAO-MDNC**") Investigation*
On January 9, 2020, the USAO-MDNC informed the Company that it is investigating the Company's financial relationships with two former clinicians at the Durham VA Medical Center. The Company has cooperated with the investigation and reached an agreement in principal to resolve this issue with the government.

On February 8, 2021, the Company received a subpoena issued by the Department of Defense Office of Inspector General seeking records regarding the sales of the Company's micronized and other products to federal medical facilities and federal contracting offices, including those operated by the Department of Veterans Affairs or the Department of Defense. The subpoena also seeks information regarding the Company's communications with the FDA regarding its products. The Company understands that the Office of the United States Attorney for the Western District of Washington Civil Division is overseeing the investigation, which is being conducted principally by agents employed by the Department of the Army Criminal Investigation Command. The Company is cooperating with the government's investigation and at this time the Company is unable to predict the outcome of the investigation, including whether the investigation will result in any action or proceeding against us.

Qui Tam Actions

On January 19, 2017, a former employee of the Company filed a *qui tam* False Claims Act complaint in the United States District Court for the District of South Carolina (*United States of America, ex rel. Jon Vitale v. MiMedx Group, Inc.*) alleging that the Company's donations to the patient assistance program, Patient Access Network Foundation, violated the Anti-Kickback Statute and resulted in submission of false claims to the government. The government declined to intervene and the complaint was unsealed on August 10, 2018. The Company filed a motion to dismiss on October 1, 2018. The Company's

motion to dismiss was granted in part and denied in part on May 15, 2019. The parties have reached an agreement to resolve this matter.

On January 20, 2017, two former employees of the Company, filed a qui tam False Claims Act complaint in the United States District Court for the District of Minnesota (*Kruchoski et. al. v. MiMedx Group, Inc.*). An amended complaint was filed on January 27, 2017. The operative complaint alleges that the Company failed to provide truthful, complete and accurate information about the pricing offered to commercial customers in connection with the Company's Federal Supply Schedule contract. On May 7, 2019, the Department of Justice ("***DOJ***") declined to intervene, and the case was unsealed. In April 2020, without admitting the allegations, the Company agreed to pay $6.5 million to the DOJ to resolve this matter. This amount was paid during the year ended December 31, 2020. Accordingly, there is no liability outstanding with respect to this matter as of December 31, 2020.

Former Employee Litigation

On November 19, 2018, the Company's former Chief Financial Officer filed a complaint in the Superior Court for Cobb County, Georgia (*Michael J. Senken v. MiMedx Group, Inc.*) in which he claims that the Company has breached its obligations under the Company's charter and bylaws to advance to him, and indemnify him for, his legal fees and costs that he incurred in connection with certain Company internal investigations and litigation. The Company filed its answer denying the plaintiff's claims on April 19, 2019. To date, no deadlines have been established by the court.

In December 2019, MiMedx received notice of a complaint filed in July 2018 with the Occupational Safety and Health Administration ("OSHA") section of the Department of Labor ("DOL") by Thomas Tierney, a former Regional Sales Director, against MiMedx and the referenced individuals, *Tierney v. MiMedx Group, Inc., Parker Petit, William Taylor, Christopher Cashman, Thornton Kuntz, Jr. and Alexandra Haden*, DOL No. 4-5070-18-243. Mr. Tierney alleged that he was terminated from MiMedx in retaliation for reporting concerns about revenue recognition practices, compliance issues, and the corporate culture, in violation of the anti-retaliation provisions of the Sarbanes-Oxley Act. The parties settled this matter and OSHA dismissed the complaint on May 20, 2020.

On January 21, 2019, a former employee filed a complaint in the Fifth Judicial Circuit, Richland County, South Carolina (*Jon Michael Vitale v. MiMedx Group, Inc. et. al.*) against the Company alleging retaliation, defamation and unjust enrichment and seeking monetary damages. The former employee claims he was retaliated against after raising concerns related to insurance fraud and later defamed by comments concerning the indictments of three South Carolina VA employees. On February 19, 2019, the case was removed to the U.S. District Court for the District of South Carolina. The Company filed a motion to dismiss on April 8, 2019, which was denied by the Court. The parties have reached an agreement to resolve this matter.

On January 12, 2021, the Company filed suit in the Circuit Court of the Eleventh Judicial District in and for Miami-Dade County, Florida (*MiMedx Group, Inc. v. Petit, et. al.*) against its former CEO, Parker "Pete" Petit, and its former COO, Bill Taylor, seeking a determination of its rights and obligations under indemnification agreements with Petit and Taylor following a federal jury's guilty verdict against Petit for securities fraud and Taylor for conspiracy to commit securities fraud. The Company is seeking a declaratory judgment that it is not obligated to indemnify or advance expenses to Petit and Taylor in connection with certain cases to which Petit and Taylor are parties and also seeking to recoup moneys previously paid on behalf of Petit and Taylor in connection with such cases.

Defamation Claims

On June 4, 2018, Sparrow Fund Management, LP ("***Sparrow***") filed a complaint against the Company and Mr. Petit, including claims for defamation and civil conspiracy in the United States District Court for the Southern District of New York (*Sparrow Fund Management, L.P. v. MiMedx Group, Inc. et. al.*). The complaint seeks monetary damages and injunctive relief and alleges the defendants commenced a campaign to publicly discredit Sparrow by falsely claiming it was a short seller who engaged in illegal and criminal behavior by spreading false information in an attempt to manipulate the price of our common stock. On March 31, 2019, a judge granted defendants' motions to dismiss in full, but allowed Sparrow the ability to file an amended complaint. The Magistrate has recommended Sparrow's motion for leave to amend be granted in part and denied in part and the Judge adopted the Magistrate's recommendation. On April 3, 2020, Sparrow filed its amended complaint against MiMedx (Mr. Petit has been dropped from the lawsuit), on April 3, 2020 and the Company subsequently filed its answer. This case is in discovery.

On June 17, 2019, the principals of Viceroy Research ("***Viceroy***"), filed suit in the Circuit Court for the Seventeenth Judicial Circuit in Broward County, Florida (*Fraser John Perring et. al. v. MiMedx Group, Inc. et. al.*) against the Company and Mr. Petit, alleging defamation and malicious prosecution based on the defendants' alleged campaign to publicly discredit Viceroy and the lawsuit the Company previously filed against the plaintiffs, but which the Company subsequently dismissed without prejudice. On November 1, 2019, the Court granted Mr. Petit's motion to dismiss on jurisdictional grounds, denied the

Company's motion to dismiss, and granted plaintiffs leave to file an amended complaint to address the deficiencies in its claims against Mr. Petit, which they did on November 21, 2019. The Company filed its answer on December 20, 2019. The parties have agreed to a stay of this matter in order to hold a mediation in March 2021.

Intellectual Property Litigation

The NuTech Action
On March 2, 2015, the Company filed a patent infringement lawsuit against NuTech Medical, Inc. ("***NuTech***") and DCI Donor Services, Inc. ("***DCI***") in the United States District Court for the Northern District of Alabama (*MiMedx Group, Inc. v. NuTech Medical, Inc. et. al.*). The Company has alleged that NuTech and DCI infringed and continue to infringe on the Company's patents through the manufacture, use, sale and/or offering of their tissue graft product. The Company has also asserted that NuTech knowingly and willfully made false and misleading representations about its products to customers and prospective customers. The Company is seeking permanent injunctive relief and unspecified damages. The case was stayed pending the restatement of the Company's financial statements. Since the Company has completed its restatement, the case resumed. The parties have reached a settlement in the matter and the case was dismissed with prejudice.

The Osiris Action
On February 20, 2019, Osiris Therapeutics, Inc. ("***Osiris***") refiled its trade secret and breach of contract action against the Company (which had been dismissed in a different forum) in the United States District Court for the Northern District of Georgia (*Osiris Therapeutics, Inc. v. MiMedx Group, Inc.*). The parties have reached a settlement in the matter and the case was dismissed with prejudice on October 26, 2020.

Other Matters

Pursuant to the Florida Business Corporation Act and indemnification agreements with its former Chairman and CEO, Parker H. "Pete" Petit, and former COO, William Taylor, the Company has advanced defense costs to Petit and Taylor in connection with certain legal proceedings arising from their corporate status as former directors and officers of the Company. Following the jury verdict against Petit for securities fraud and Taylor for conspiracy to commit securities fraud, on January 12, 2021, the Company filed suit in the Eleventh Judicial Circuit of Florida in and for Miami-Dade County (*MiMedx Group, Inc. v. Petit and Taylor*) seeking (1) a declaratory judgment that a conviction of Petit and Taylor means the Company has no further obligation to indemnify or advance expenses to them, (2) reimbursement of amounts previously advanced to Petit and Taylor, and (3) any other relief deemed just and proper by the court. Given the inherent difficulty of predicting the outcome of litigation, the Company cannot estimate recoveries, ranges of recoveries, losses or ranges of losses in these proceedings, nor can it predict whether it may be required to continue to indemnify or advance defense costs to Petit and Taylor.

In addition to the matters described above, the Company is a party to a variety of other legal matters that arise in the ordinary course of the Company's business, none of which is deemed to be individually material at this time. Due to the inherent uncertainty of litigation, there can be no assurance that the resolution of any particular claim or proceeding would not have a material adverse effect on the Company's business, results of operations, financial position or liquidity.

15. Revenue Data by Customer Type

The Company has two primary distribution channels: (1) direct to customers (healthcare professionals and/or facilities) ("***Direct Customers***"); and (2) sales through distributors ("***Distributors***").

The Company did not have significant foreign operations or a single external customer from which 10% or more of revenues were derived during the years ended December 31, 2020, 2019, and 2018.

Below is a summary of net sales by each customer type (in thousands):

	Year Ended December 31,		
	2020	2019	2018
Direct Customers	$ 240,690	$ 288,800	$ 343,464
Distributors	7,544	10,455	15,647
Total	$ 248,234	$ 299,255	$ 359,111

16. Related Party Transactions

The Company has employed Thomas Koob as its Chief Scientific Officer (a non-executive officer) since 2006. Thomas Koob is the brother of a former director, Charles Koob. Subsequent to the Company's employment of Thomas Koob, Charles Koob was appointed as a director of the Company in March 2008. Charles Koob's term as a Director expired at the 2020 Annual Meeting held on November 20, 2020. In 2019, the Company paid Thomas Koob a salary of $0.2 million and provided equity, incentive compensation and other compensation of $0.2 million. In 2020, the Company paid Thomas Koob an annual salary of $0.2 million and provided equity, incentive compensation and other compensation of $0.3 million.

The Company employs Simon Ryan, the brother-in-law of the Company's former General Counsel, Alexandra O. Haden as a sales representative. In 2019, the Company paid Mr. Ryan total compensation of $0.2 million, consisting of a salary of $0.1 million and sales commissions, equity and other compensation of $0.1 million. Ms. Haden resigned from her position as General Counsel and Secretary of the Company, effective August 12, 2019, to accept another position.

17. Restructuring

Set forth below are disclosures relating to restructuring initiatives that resulted in material expenses or cash expenditures during the year ended December 31, 2019, and resulted in material restructuring liabilities at December 31, 2019. Employee retention and certain other employee benefit-related costs related to the Company's restructuring are expensed ratably over an agreed-upon service period. One-time employee separation and related employee benefit costs are generally expensed as incurred.

In December 2018, the Company announced a reduction of the Company's workforce by approximately 240 full-time employees, or 24% of its total workforce, of which approximately half were sales personnel as part of the plans to implement a broad-based organizational realignment, cost reduction and efficiency program to better ensure the Company's cost structure was appropriate given its revenue expectations.

As a result of the December 2018 broad-based organizational realignment, cost reduction and efficiency program, the Company incurred pre-tax charges of $8.5 million and $6.1 million during the years ended December 31, 2019 and 2018, respectively. The charges related to employee retention and other one-time employee separation benefit-related costs. These charges are included in the cost of sales, research and development, and selling, general and administrative expenses in the consolidated statements of operations.

The Company's restructuring program concluded in 2020. All obligations related to the Company's restructuring program have been settled as of December 31, 2020.

The liability related to restructuring activities during 2020 are included in accrued compensation in the consolidated balance sheets. Changes to this liability during the years ended December 31, 2020 were as follows (in thousands):

Liability balance as of January 1, 2018	$ —
Expenses	6,055
Cash distributions	(448)
Liability balance as of December 31, 2018	5,607
Expenses	8,543
Cash distributions	(10,589)
Liability balance as of December 31, 2019	3,561
Expenses	—
Cash distributions	(3,561)
Liability balance as of December 31, 2020	$ —

18. Quarterly Financial Data

The following table sets forth selected quarterly financial data for 2020 and 2019. Amounts for the fourth quarter of 2020 reflect the recording of out of period adjustments related to certain accruals recorded in prior quarters, including accruals of rebates, which were identified subsequent to the filings of the financial statements for those periods. The reflection of these adjustments increased net sales and gross profit by $0.8 million and decreased net loss by $1.3 million in the fourth quarter. The adjustments decreased basic and diluted net loss per common share in the fourth quarter by $0.01. All identified adjustments exclusively related to 2020 and did not affect any reported amounts for periods prior to 2020.

Amounts presented are unaudited, in thousands, except per share amounts:

		First Quarter	Second Quarter	Third Quarter (1)	Fourth Quarter
Net sales	2020	$ 61,736	$ 53,647	$ 64,303	$ 68,548
	2019	66,555	67,437	88,863	76,400
Gross profit	2020	51,711	45,449	54,014	57,730
	2019	59,137	57,688	75,658	63,691
Income tax provision benefit (expense)	2020	11,304	(27)	(38)	1,020
	2019	(42)	(42)	309	(220)
Net (loss) income	2020	(4,821)	(8,466)	(19,417)	(16,580)
	2019	(13,273)	(17,210)	12,379	(7,476)
Net (loss) income per common share - basic	2020	$ (0.04)	$ (0.08)	$ (0.48)	$ (0.17)
	2019	$ (0.12)	$ (0.16)	$ 0.12	$ (0.07)
Net (loss) income per common share - diluted	2020	$ (0.04)	$ (0.08)	$ (0.48)	$ (0.17)
	2019	$ (0.12)	$ (0.16)	$ 0.11	$ (0.07)

(1) - Q3 2019 amounts include the transition adjustment discussed in Note 2.

19. Subsequent Events

The Company has assessed subsequent events through March 8, 2021, the date which these consolidated financial statements were first available to be issued. Based on this assessment, there were no material subsequent events requiring disclosure.

Schedule II Valuation and Qualifying Accounts

MIMEDX GROUP, INC. AND SUBSIDIARIES
SCHEDULE II VALUATION AND QUALIFYING ACCOUNTS
Years ended December 31, 2020, 2019 and 2018 (in thousands)

	Balance at Beginning of Year	Additions charged to Expense or Revenue	Deductions and write-offs	Balance at End of Year
For the Year ended December 31, 2020				
Allowance for doubtful accounts	$ —	$ 719	$ 18	$ 737
Allowance for product returns	4,115	705	(2,499)	2,321
Allowance for obsolescence	719	340	(220)	839
For the Year ended December 31, 2019				
Allowance for product returns	$ 8,510	$ —	$ (4,395)	$ 4,115
Allowance for obsolescence	589	1,204	(1,074)	719
For the Year ended December 31, 2018				
Allowance for product returns	$ 7,362	$ 1,148	$ —	$ 8,510
Allowance for obsolescence	768	511	(690)	589

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

None.

Item 9A. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Management maintains a set of disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), designed to ensure that information required to be disclosed by us in reports that we file or submit under the Exchange Act is recorded, processed, summarized, and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to management, including our CEO and CFO, to allow for timely decisions regarding required disclosure.

An evaluation of the effectiveness of the design and operation of our disclosure controls and procedures was performed under the supervision and with the participation of our management, including our CEO and CFO. As a result of this evaluation, our CEO and CFO concluded that our disclosure controls and procedures were not effective as of December 31, 2020 because of material weaknesses in internal control over financial reporting, as further described below.

Management's Report on Internal Control Over Financial Reporting

Management, including our CEO and CFO, is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act and based upon the criteria established in Internal Control-Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission (the "COSO framework"). The Company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of our financial reporting and the preparation of our financial statements for external purposes in accordance with United States Generally Accepted Accounting Principles (“GAAP”).

An effective internal control system, no matter how well designed, has inherent limitations, including the possibility of human error or overriding of controls, and therefore can provide only reasonable assurance with respect to reliable financial reporting. Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. In addition, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may demonstrate.

Under the supervision and with the participation of our management, including our CEO and CFO, we have conducted an evaluation of the effectiveness of our internal control over financial reporting based on the COSO framework. Based on evaluation under these criteria, management determined, as a result of the existence of the material weaknesses described below, that we did not maintain effective internal control over financial reporting as of December 31, 2020.

A material weakness (as defined in Rule 12b-2 under the Exchange Act) is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that a reasonable possibility exists that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis.

The Company previously disclosed material weaknesses in internal control over financial reporting as of December 31, 2019 in our Annual Report on Form 10-K for the year ended December 31, 2019 related to our control environment and control activities. As described below, while management has developed and implemented certain remediation actions to address the material weaknesses, further actions are still ongoing or have not been implemented for a sufficient amount of time to test and conclude on the effectiveness of the remediation actions as of December 31, 2020 with respect to our control activities. As a result, material weaknesses corresponding to the control activities component of internal control as defined by COSO continue to be present as of December 31, 2020. Management has reported to the Audit Committee the status of these remediation actions. These control deficiencies could have resulted in other misstatements in financial statement accounts and disclosures that would result in a material misstatement to the annual or interim consolidated financial statements that might not have been prevented or detected.

The Company identified material weaknesses corresponding to the control activities component of internal control as defined by COSO as described below:

Control Activities

The control deficiencies identified specific to the Control Activities COSO element constitute material weaknesses, either individually or in the aggregate, relating to: (i) the operation of control activities that contribute to the mitigation of risks and

support achievement of objectives for a sufficient period of time during the year ended December 31, 2020 and (ii) deploying control activities through policies that establish what is expected and procedures that put policies into action. Deficiencies in control activities contributed to the potential for there to have been material accounting errors in several financial statement account balances and disclosures, specifically:

- The Company did not have adequate documentation to demonstrate the completeness and accuracy of data for certain transactions considered material for financial reporting, including revenue recognition and completeness of inventory.
- The Company, for certain processes, did not maintain adequate controls to enforce segregation of duties within the revenue process, including a lack of controls in place to verify the accuracy and legitimacy of sales orders for certain types of sales transactions.
- The Company did not design and maintain adequate controls to ensure that accounting for income tax provisions were appropriately recorded in accordance with GAAP.
- The Company did not design and maintain adequate controls over the inventory process, to ensure that accounting determinations related to inventory were appropriately considered and recorded in accordance with GAAP, that the inventory balance was complete and accurate and that disclosures related to the inventory balance were appropriately reflected within the financial statements.
- The Company did not maintain adequate controls to enforce segregation of duties as it relates to payables and disbursements.
- The Company did not adequately document its evaluation of the significant business assumptions applied to its financial forecast, going concern and goodwill analyses, and did not have adequate procedures in place to validate the completeness and accuracy of the data utilized in these processes and associated dependent budget versus actual review controls.
- The Company did not develop and maintain adequate controls to verify the completeness and accuracy of revenue recognition associated with customer arrangements for which the Step 1 criteria for the determination of a contract under ASC 606 would not be satisfied until payment from the customer was received.
- The Company did not develop and maintain adequate controls related to the completeness and accuracy of accrued expenses associated with professional services, commissions, employee bonuses, and customer rebates.

BDO USA, LLP, our independent registered public accounting firm, has audited the effectiveness of our internal control over financial reporting as of December 31, 2020. BDO USA, LLP has expressed an adverse report on internal control over financial reporting which appears on page F-3 of this Form 10-K.

Remediation Plan and Status

Remediation of the identified material weaknesses and strengthening our internal control environment was a priority for us throughout 2020 and will continue to be a priority in 2021. We will implement and then test the design and ongoing operating effectiveness of the new and existing controls in future periods. The material weaknesses cannot be considered completely remediated until the applicable controls have operated for a sufficient period of time and management has concluded, through testing, that these controls are operating effectively. With continued oversight from the Audit Committee, the Company's management has designed and commenced implementing changes in processes and controls to remediate the material weaknesses described above and has improved the Company's internal control over financial reporting as follows:

Control Environment

We previously disclosed management’s conclusions at the end of both 2018 and 2019 that the Company did not maintain an effective control environment based on the criteria established in the COSO framework. Specifically, the Company identified control deficiencies that constituted material weaknesses, either individually or in the aggregate, relating to: (i) appropriate organizational structure, reporting lines, and authority and responsibilities in pursuit of objectives, and (ii) holding individuals accountable for their internal control related responsibilities. Through the completion of the following activities (some of which were confirmed to have been effectively implemented during 2019), the previously disclosed material weaknesses related to control environment have been remediated:

The Board created an Ethics and Compliance Committee consisting solely of independent directors which is responsible for reviewing the status of the Company's ethics and compliance program, reviewing and advising the Board regarding any open cases and trends that may impact the business, and recommending future initiatives to improve compliance performance and effectiveness.

Management reinforced the importance of integrity, accountability, and adherence to the redesigned internal controls, policies, and procedures through the adoption of a revised Code of Business Conduct and Ethics. All Board members, employees, including all executives, newly hired employees, and agents, are required to certify that they have read, understand and will abide by the Code upon hire and then re-certify the same annually thereafter.

The Company also enhanced the onboarding training provided to newly hired salespeople to emphasize the importance of compliance with the various regulations specific to the Life Sciences industry to which the Company is subject.

Management conducted and will continue to schedule training sessions with the Company's Sales Department to ensure that they are familiar with the Company's current sales related policies and procedures, including those which are significant to the Company's financial reporting objectives. Portions of these training sessions are facilitated by the Chief Accounting Officer (“CAO”), who presents on topics such as the Company's current sales return policy, acceptable credit terms for customers, events that would trigger commission claw-backs, customer credit limit modification approval protocol, and the importance of proper revenue recognition.

The Ethics and Compliance Committee of the Board, and the full Board, have received regular updates of the ethics and compliance efforts of the Company from the SVP and Chief Compliance Officer. This includes an explanation of all the policies and procedures that have either been revised and reissued or newly created. Both the Ethics and Compliance Committee and the Board have also both helped in reviewing, approving and training on the new Code of Business Conduct and Ethics.

The purpose of the whistleblower hotline and the mechanics of its use were formally communicated by the Chief Compliance Officer during numerous meetings with all levels of the sales department during 2019, with an emphasis on the following: (a) each employee's responsibility to report any actual or apparent violations of law or ethical standards and any questionable accounting or auditing matters so that they may be investigated and dealt with appropriately, (b) management's commitment to ensuring that any employees communicating such an issue via the hotline will not be subject to retaliation, and (c) the Board of Directors’ oversight of complaints raised through the hotline to ensure appropriate actions are taken.

In addition to enhancing processes and controls over adoption of new accounting standards and the proper application of existing accounting standards, the Company enhanced the technical capabilities of its accounting department by leveraging third party consultants with expertise in GAAP, as well as by hiring a new Chief Financial Officer and expanding its full-time accounting leadership team by hiring a Chief Accounting Officer, and Director of SEC Reporting. Furthermore, the Company lessened its reliance on third-party consultants for its technical accounting needs during 2020 by transitioning roles previously assigned to outside consultants to full-time employees with similar technical accounting competencies.

Management developed a contract management policy that defines who is required to review new, extended, or amended contracts (including those with distributors and agents). This policy includes the implementation of a checklist for standard and non-standard contracts to ensure that the revenue recognition criteria are properly considered for each of the standard and non-standard contracts.

Control Activities

We previously disclosed that in 2018, management concluded there to be a material weakness in the application of the Company’s revenue recognition methodology which was not aligned with the Company's customary business practices, resulting in certain revenue events being recorded prior to the time at which all of the sales recognition criteria were met. To remediate the material weakness specific to the revenue recognition methodology, the Company implemented controls in which the customary business practices were aligned to GAAP criteria to determine the point at which revenue recognition is appropriate. See Transition in Revenue Recognition footnote disclosures.

Beginning in 2018 and continuing through 2020, management collaborated with outside consultants possessing significant financial reporting and internal control expertise to perform an extensive review of the design of the Company's internal controls over financial reporting. This review included the identification of internal control deficiencies and the development of remediation plans for each identified deficiency. These internal control deficiencies identified included (but were not limited to) the following: improvements to the financial close and reporting process, accounting for satisfaction of performance obligations related to revenue recognition, calculation of inventory costing and related accuracy of inventory, accounting for income taxes,

accurate calculation of stock-based compensation expense, timely review of consignment inventory and the development of quality estimates related to accrued expenses.

The Company enhanced its financial close process by formalizing its accounting policies, introducing additional layers of independent reviews by appropriately qualified individuals, improving the precision and timeliness of reviews applied to various financial result analyses, and providing required education and training to the members of the finance department.

The Company enhanced the design and adherence to controls addressing the accuracy and completeness of the accounting for income taxes, including retention of evidence of review and review of significant judgements to ensure proper application of GAAP.

Management continued to enhance its oversight of the completeness and accuracy of data material to financial reporting by establishing criteria in the performance of controls to evaluate the accuracy and completeness of data. Management is implementing required training for control owners specific to the evaluation of the accuracy and completeness of data used in control activities.

The Company continues to conduct required training and education for control owners in critical financial reporting roles.

The Company has enhanced its review of salesperson activity which may indicate noncompliance with the Company's sales policies, such as a quarterly review of data by the CFO, CAO, and SVP of Sales and other key metrics both by region and at the individual salesperson level and has added controls to monitor potential instances of noncompliance.

Management has gained a better understanding of system functionality through a comprehensive review of permissions and profiles within each IT application that is significant to the Company's financial reporting objectives, and subsequently reconfigured profiles with appropriate permissions to better align with job responsibilities and enforce segregation of duties. Once user profiles and their associated permissions were reconfigured, management employed procedures to ensure the continued appropriateness of all applicable system and network access. This objective was achieved through the performance of periodic user access reviews and the enhancement of procedures related to the granting and removing of system and network access.

Management modified its policy regarding the periodic review of sales to involve the Finance Department in an effort to enhance the Finance Department's awareness and oversight of sales activities in order to verify the validity and proper accounting treatment of sales transactions.

Changes in Internal Control Over Financial Reporting

Other than the changes described above in “Remediation Plan and Status,” there were no changes during the quarter ended December 31, 2020 in our internal control over financial reporting (as such term is defined in the Exchange Act) that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Item 9B. Other Information

Appointment of New Director. On March 4, 2021, the Board appointed Phyllis Gardner, M.D. to the Board, effective immediately following the filing of this Annual Report on Form 10-K, as a Class II director to fill an existing vacancy.

There are no arrangements or understandings between Dr. Gardner and any other person pursuant to which Dr. Gardner was appointed to the Board. There are no transactions in which Dr. Gardner does not have any direct or indirect material interest in any transaction requiring disclosure under Item 404(a) of Regulation S-K.

Dr. Gardner will receive the same compensation as the Company's other non-employee directors as described under "Executive Compensation—Director Compensation" in the Company's definitive proxy statement filed with the Securities and Exchange Commission on October 15, 2020.

Dr. Gardner has spent over 35 years in academia, medicine and industry. Dr. Gardner has served on the board of directors of several public and private companies, including Revance Therapeutics, Inc. since 2006, Corium International, Inc. from November 2007 to December 2018, CohBar, Inc. from February 2019 to present. Dr. Gardner has also served as an advisor to Change Health Care, Inc. from April 2019 to present. From June 1999 to July 2014, she served in various capacities including as an Adjunct Partner at Essex Woodlands Ventures, a growth equity firm that focuses on the healthcare industry (and a predecessor firm to EW Healthcare Partners, a holder of our Series B Preferred Stock). Additionally, Dr. Gardner has been a member of the Harvard Medical School Board of Fellows since April 2013 and is a scientific reviewer for the Cancer Prevention and Research Institute of Texas. She began her academic medical career at Stanford University, where she has held several positions including Senior Associate Dean for Education and Student Affairs and remains today as Professor of Medicine. From 1994 to 1998, she took a leave of absence from Stanford University to serve as Principal Scientist, Vice President of Research and Head of ALZA Technology Institute, a major drug delivery company. Dr. Gardner holds a B.S. from the University of Illinois and an M.D. from Harvard University.

Restated Articles of Incorporation. On March 4, 2021, the Board adopted restated articles of incorporation for the Company, which became effective on March 5, 2021 upon acceptance for filing by the Secretary of State of the State of Florida. The Company has filed the restated articles of incorporation as Exhibit 3.1 to this Annual Report on Form 10-K.

PART III

Item 10. Directors, Executive Officers and Corporate Governance

Information required by this Item will be contained in our definitive proxy statement relating to our 2021 Annual Meeting of Shareholders under the captions “Executive Officers,” “Election of Directors” and “Delinquent Section 16(a) Reports,” or similar captions which are incorporated herein by reference.

Item 11. Executive Compensation

Information required by this Item will be contained in our definitive proxy statement relating to our 2021 Annual Meeting of Shareholders under the caption “Executive Compensation,” or similar caption which is incorporated herein by reference.

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

Information required by this Item will be contained in our definitive proxy statement relating to our 2021 Annual Meeting of Shareholders under the captions “Stock Ownership,” “Executive Compensation,” and “Equity Compensation Plan Information,” or similar captions which are incorporated herein by reference.

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

Information required by this Item will be contained in our definitive proxy statement relating to our 2021 Annual Meeting of Shareholders under the captions “Certain Relationships and Related Party Transactions,” and "Election of Directors" or similar captions which are incorporated herein by reference.

Item 14. Principal Accounting Fees and Services

Information required by this Item will be contained in our definitive proxy statement relating to our 2021 Annual Meeting of Shareholders under the captions “Ratification of Appointment of Independent Registered Public Accounting Firm” and “Election of Directors,” or similar captions which are incorporated herein by reference.

PART IV

Item 15. Exhibits, Financial Statement Schedules

(a) Documents filed as part of this report:

(i) Financial Statements

(ii) Financial Statement Schedule:

The following Financial Statement Schedule is filed as part of this Report:

Schedule II Valuation and Qualifying Accounts for the years ended December 31, 2020, 2019 and 2018

(iii) Exhibits

See Item 15(b) below. Each management contract or compensation plan has been identified with an asterisk.

(b) Exhibits

Notes

*	Indicates a management contract or compensatory plan or arrangement
#	Filed herewith
##	Certain exhibits and schedules have been omitted pursuant to Item 601(b)(2) of Regulation S-K, but a copy will be furnished supplementally to the Securities and Exchange Commission upon request.

Exhibit Number	Description
3.1#	Restated Articles of Incorporation, adopted March 4, 2021, effective March 5, 2021.
3.2	Bylaws of MiMedx Group, Inc., as amended and restated as of October 3, 2018 (incorporated by reference to Exhibit 3.1 to the Registrant's Form 8-K filed on October 4, 2018).
4.1	The description of the Registrant's Securities Registered Pursuant to Section 12 of the Securities Exchange Act of 1934, incorporated by reference to Registration Statement on Form 8-A filed November 2, 2020.
10.1##	Loan Agreement dated as of June 30, 2020 by and among MiMedx Group, Inc., certain subsidiaries of MiMedx Group, Inc. parties thereto, the Lenders from time to time party hereto, Hayfin Services LLP, as administrative agent for the Lenders and as collateral agent for the Secured Parties, incorporated by reference to Exhibit 10.36 to Annual Report on Form 10-K filed July 6, 2020.
10.2##	Loan Agreement, dated June 10, 2019, by and between MiMedx Group, Inc., the other guarantors party thereto, the lenders party thereto and Blue Torch Finance LLC, as administrative agent and collateral agent (incorporated by reference to Exhibit 10.1 to the Registrant's Form 8-K Filed June 11, 2019).
10.3	First Amendment, dated as of April 22, 2020, to Loan Agreement, dated June 10, 2019, by and between MiMedx Group, Inc., the other guarantors party thereto, the lenders party thereto and Blue Torch Finance LLC, as administrative agent and collateral agent (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed April 27, 2020).
10.4##	Securities Purchase Agreement, dated as of June 30, 2020, by and between MiMedx Group, Inc., Falcon Fund 2 Holding Company, L.P. and certain other investors, incorporated by reference to Exhibit 10.38 to Annual Report on Form 10-K filed July 6, 2020.
10.5	Registration Rights Agreement dated as of July 2, 2020, by and between MiMedx Group, Inc. and Falcon Fund 2 Holding Company, L.P., incorporated by reference to Exhibit 10.39 to Annual Report on Form 10-K filed July 6, 2020.
10.6	Lease effective May 1, 2013 between Hub Properties of GA, LLC and MiMedx Group, Inc. (incorporated by reference to Exhibit 10.1 to the Registrant's Form 10-Q filed on May 10, 2013).
10.7	First Amendment to Lease dated March 7, 2017 between CPVF II West Oak LLC (as successor in interest to HUB Properties of GA, LLC) and MiMedx Group, Inc. (incorporated by reference to Exhibit 10.1 to the Registrant's Form 8-K filed on March 13, 2017).
10.8	Second Amendment to Lease made as of August 29, 2018 for real property and improvements located at 1775 West Oak Commons Court, Marietta, Georgia between RE Fields, LLC, successor in interest to HUB Properties GA, LLC, and CPVF II West Oak LLC, and MiMedx Group, Inc., dated January 25, 2013, as amended March 7, 2017 (incorporated by reference to Exhibit 10.4 to Annual Report on Form 10-K filed March 17, 2020).
10.9*	MiMedx Group, Inc. Assumed 2006 Stock Incentive Plan, as amended and restated effective February 25, 2014 (incorporated by reference to Exhibit 10.2 to the Registrant's Form 8-K filed on March 3, 2014).

Exhibit Number	Description
10.10*	Form of Incentive Stock Option Agreement under the MiMedx Group, Inc. Assumed 2006 Stock Incentive Plan (incorporated by reference to Exhibit 10.4 to the Registrant's Form 10-K filed on March 4, 2014).
10.11*	Form of Nonqualified Stock Option Agreement under the MiMedx Group, Inc. Assumed 2006 Stock Incentive Plan (incorporated by reference to Exhibit 10.5 to the Registrant's Form 10-K filed on March 4, 2014).
10.12*	Form of Restricted Stock Agreement for Non-Employee Directors under the MiMedx Group, Inc. 2006 Assumed Stock Incentive Plan (incorporated by reference to Exhibit 10.66 to the Registrant's Form 10-Q filed on August 8, 2013).
10.13*	Form of Restricted Stock Agreement under the MiMedx Group, Inc. 2006 Assumed Stock Incentive Plan (incorporated by reference to Exhibit 10.3 to the Registrant's Form 10-K filed on March 4, 2014).
10.14*	2016 Equity and Cash Incentive Plan, as amended and restated through October 2, 2020, incorporated by reference to Exhibit 4.6 to Registration Statement on Form S-8 filed December 17, 2020.
10.15*	Form of Incentive Stock Option Agreement under the MiMedx Group, Inc. 2016 Equity and Cash Incentive Plan (incorporated by reference to Exhibit 10.2 to the Registrant's Form 10-Q filed on August 2, 2016).
10.16*	Form of Restricted Stock Agreement under the MiMedx Group, Inc 2016 Equity and Cash Incentive Plan (for shares not registered under the Securities Act of 1933) (incorporated by reference to Exhibit 10.9 to the Registrant's Form 8-K filed on May 30, 2019).
10.17*	Form of Restricted Stock Agreement under the MiMedx Group, Inc. 2016 Equity and Cash Incentive Plan (incorporated by reference to Exhibit 10.3 to the Registrant's Form 10-Q filed on August 2, 2016).
10.18*	Form of Restricted Stock Agreement for Non-Employee Directors under the MiMedx Group, Inc. 2016 Equity and Cash Incentive Plan (incorporated by reference to Exhibit 10.11 to the Registrant's Form 8-K filed on May 30, 2019).
10.19*	Form of Nonqualified Stock Option Agreement under the MiMedx Group, Inc. 2016 Equity and Cash Incentive Plan (incorporated by reference to Exhibit 10.4 to the Registrant's Form 10-Q filed on August 2, 2016).
10.20*	Form of Director Restricted Stock Unit Award Agreement (incorporated by reference to Exhibit 10.16 to the Registrant's Annual Report on Form 10-K filed March 17, 2020).
10.21*	Form of Employee (Time-Vested) Restricted Stock Unit Award Agreement, incorporated by reference to Exhibit 10.33 to Annual Report on Form 10-K filed July 6, 2020.
10.22*	Form of Employee (Performance-Vested, uncertain number of shares) Restricted Stock Unit Award Agreement, incorporated by reference to Exhibit 10.34 to Annual Report on Form 10-K filed July 6, 2020.
10.23*	Form of Employee (Performance-Vested, certain number of shares) Restricted Stock Unit Award Agreement, incorporated by reference to Exhibit 10.35 to Annual Report on Form 10-K filed July 6, 2020.
10.24*	Form of Non-Employee Restricted Stock Award Agreement (vest into retirement), incorporated by reference to Exhibit 10.4 to Quarterly Report on Form 10-Q filed August 4, 2020.
10.25*#	Form of Employee (Time-Vested) Restricted Stock Unit Award Agreement.
10.26*	Letter Agreement dated April 10, 2019 between MiMedx Group, Inc. and Timothy R. Wright (incorporated by reference to Exhibit 10.1 to the Registrant's Form 8-K filed on May 9, 2019).
10.27*	Employment Offer Letter between the Company and Peter M. Carlson, as amended and restated on April 29, 2020, incorporated by reference to Exhibit 10.29 to Annual Report on Form 10-K filed July 6, 2020.
10.28*	Employment Offer Letter between the Company and William F. Hulse IV as of November 4, 2019, incorporated by reference to Exhibit 10.30 to Annual Report on Form 10-K filed July 6, 2020.
10.29*	Employment Offer Letter between the Company and Rohit Kashyap dated as of July 23, 2020, incorporated by reference to Exhibit 10.2 to Quarterly Report on Form 10-Q filed August 4, 2020.
10.30*	Employment Offer Letter between the Company and Robert B. Stein effective August 1, 2020, incorporated by reference to Exhibit 10.3 to Quarterly Report on Form 10-Q filed August 4, 2020.
10.31*	Employment Offer Letter between the Company and William L. Phelan dated as of April 30, 2020, incorporated by reference to Exhibit 10.37 to Annual Report on Form 10-K filed July 6, 2020.
10.32*	Employment Offer Letter dated April 3, 2018 between MiMedx Group, Inc. and Edward Borkowski (incorporated by reference to Exhibit 10.22 to the Registrant's Form 8-K filed on May 30, 2019).
10.33*	Separation and Transition Services Agreement, dated as of November 15, 2019, between MiMedx Group, Inc. and Edward J. Borkowski (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed November 20, 2019).
10.34*	Form of Key Employee Retention and Restrictive Covenant Agreement, incorporated by reference to Exhibit 10.1 to Current Report on Form 8-K filed December 21, 2020.
10.35*#	2020 Management Incentive Plan.
10.36*	Management Incentive Plan, incorporated by reference to Exhibit 10.2 to Current Report on Form 8-K filed December 21, 2020.
10.37*	Form of Indemnification Agreement (incorporated by reference to Exhibit 10.65 to the Registrant's Form 8-K filed July 15, 2008).

Exhibit Number	Description
10.38	Technology License Agreement dated January 29, 2007 between MiMedx, Inc., Shriner's Hospitals for Children and University of South Florida Research Foundation (incorporated by reference to Exhibit 10.32 to the Registrant's Form 8-K filed on February 8, 2008).
10.39	Cooperation Agreement dated as of May 29, 2019 among MiMedx Group, Inc., M. Kathleen Behrens Wilsey, K. Todd Newton, Richard J. Barry, Prescience Partners, LP, Prescience Point Special Opportunity LP, Prescience Capital LLC, Prescience Investment Group, LLC d/b/a Prescience Point Capital Management LLC and Eiad Asbahi (incorporated by reference to Exhibit 10.32 to the Registrant's Form 8-K filed on May 30, 2019).
21.1#	Subsidiaries of MiMedx Group, Inc.
23.1#	Consent of Independent Registered Public Accounting Firm.
24.1#	Power of Attorney (included on the signature page to this Report).
31.1#	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2#	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
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

Item 16. Form 10-K Summary

Not applicable.

SIGNATURES

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

MIMEDX GROUP, INC.

March 8, 2021

By: /s/ Peter M. Carlson
Peter M. Carlson
Chief Financial Officer and Principal Financial Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints William F. Hulse IV and David A. Wisniewski and each of them acting individually, as his or her true and lawful attorneys-in-fact and agents, each with full power of substitution and resubstitution, for him or her in any and all capacities, to sign any and all amendments to this Annual Report on Form 10-K for the year ended December 31, 2020, and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming our signatures as they may be signed by our said attorney to any and all amendments to said Annual Report on Form 10-K.

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

Signature / Name	Title	Date
/s/ Timothy R. Wright Timothy R. Wright	Chief Executive Officer and Director (Principal Executive Officer)	March 8, 2021
/s/ Peter M. Carlson Peter M. Carlson	Chief Financial Officer (Principal Financial Officer)	March 8, 2021
/s/ William L. Phelan William L. Phelan	Senior Vice President and Chief Accounting Officer (Principal Accounting Officer)	March 8, 2021
/s/ M. Kathleen Behrens M. Kathleen Behrens	Chair of the Board (Director)	March 7, 2021
/s/ James L. Bierman James L. Bierman	Director	March 7, 2021
/s/ Michael A. Giuliani Michael A. Giuliani	Director	March 7, 2021
/s/ William A. Hawkins III William A. Hawkins III	Director	March 7, 2021
/s/ Cato T. Laurencin Cato T. Laurencin	Director	March 8, 2021
/s/ K. Todd Newton K. Todd Newton	Director	March 7, 2021
/s/ Martin P. Sutter Martin P. Sutter	Director	March 8, 2021

Exhibit 3.1

MIMEDX GROUP, INC.

RESTATED ARTICLES OF INCORPORATION

(Florida Department of State Document No. P08000023430)

Article I: The name of the Corporation is MiMedx Group, Inc.

Article II: On March 4, 2021, the Board of Directors of MiMedx Group, Inc. adopted restated articles of incorporation. Pursuant to F.S. 607.1007 shareholder action was not required. The text of the entire restated articles of incorporation is attached hereto as Exhibit A (the "**Restated Articles of Incorporation**").

Article III: These Restated Articles of Incorporation consolidate all amendments into a single document.

Article IV: The Restated Articles of Incorporation shall be effective immediately upon filing with the Secretary of State of the State of Florida.

I submit this document and affirm that the facts stated herein are true. I am aware that the false information submitted in a document to the Department of State constitutes a third degree felony as provided for in s.817.155, F.S.

Date: March 4, 2021.

/s/ William F. Hulse IV
William F. Hulse IV,
General Counsel and Secretary

RESTATED ARTICLES OF INCORPORATION
OF
MIMEDX GROUP, INC.

Article 1. Name. The name of the Corporation is **MIMEDX GROUP, INC.**

Article 2. State of Organization. The Corporation is organized pursuant to the provisions of the Florida Business Corporation Act (the "Act").

Article 3. Capital Stock. The total number of shares of stock which the Corporation shall have authority to issue is not more than 192,500,000 shares of capital stock, of which 187,500,000 shares shall be designated "Common Stock," at $.001 par value per share, and 5,000,000 shares shall be designated as "Preferred Stock," at $.001 par value per share.

The designations and the preferences, conversion and other rights, voting powers, restrictions, provisions as to dividends, qualifications, redemption rights and other terms and conditions of the shares of each class of stock are as follows:

3.1 Preferred Stock. The Preferred Stock may be issued from time to time by the Board of Directors as shares of one or more series. The description of shares of each series of Preferred Stock, including any preferences, conversion and other rights, voting powers, restrictions, provisions as to dividends, qualifications, redemption rights and any other terms and conditions shall be as set forth in resolutions adopted by the Board of Directors, and articles of amendment to these Articles of Incorporation shall be filed with the Department of State of the State of Florida as required by law to be filed with respect to the issuance of such Preferred Stock, prior to the issuance of any shares of such series.

The Board of Directors is expressly authorized, at any time, by adopting resolutions providing for the issuance of, or providing for a change in the number of, shares of any particular series of Preferred Stock and, if and to the extent from time to time required by law, by filing articles of amendment to these Articles of Incorporation which are effective without shareholder action, to increase or decrease the number of shares included in each series of Preferred Stock, but not below the number of shares then issued, and to set or change in any one or more respects the designations, preferences, conversion or other rights, voting powers, restrictions, provisions as to dividends, qualifications, redemption rights or other terms and conditions relating to the shares of each such series. The authority of the Board of Directors with respect to each series of Preferred Stock shall include, but not be limited to, setting or changing the following:

(a) the annual dividend rate, if any, on shares of such series, the times of payment and the date from which dividends shall be accumulated, if dividends are to be cumulative;

(b) whether the shares of such series shall be redeemable and, if so, the redemption price and the terms and conditions of such redemption;

(c) the obligation, if any, of the Corporation to redeem shares of such series pursuant to a sinking fund;

(d) whether shares of such series shall be convertible into, or exchangeable for, shares of stock of any other class or classes and, if so, the terms and conditions of such conversion or exchange, including the price or prices or the rate or rates of conversion or exchange and the terms of adjustment, if any;

(e) whether the shares of such series shall have voting rights, in addition to the voting rights provided by law, and, if so, the extent of such voting rights;

(f) the rights of the shares of stock of such series in the event of voluntary or involuntary liquidation, dissolution or winding-up of the Corporation; and

(g) any other relative rights, powers, preferences, qualifications, limitations or restrictions thereof relating to such series.

The shares of Preferred Stock of any one series shall be identical with each other in all respects except as to the dates from and after which dividends thereon shall cumulate, if cumulative.

3.2 Common Stock. Subject to all of the rights of the Preferred Stock as expressly provided herein, by law or by the Board of Directors pursuant to this Article 3, the Common Stock of the Corporation shall possess all such rights and privileges as are afforded to capital stock by applicable law, including, but not limited to, the following rights and privileges:

(a) dividends may be declared and paid or set apart for payment upon the Common Stock out of any assets or funds of the Corporation legally available for the payment of dividends;
(b) the holders of Common Stock shall have the right to vote for the election of Directors and on all other matters requiring shareholder action, each share being entitled to one vote; and
(c) upon the voluntary or involuntary liquidation, dissolution or winding-up of the Corporation, the net assets of the Corporation available for distribution shall be distributed pro rata to the holders of the Common Stock in accordance with their respective rights and interests.

c. Series A Junior Participating Preferred Stock

1. Designation and Amount. The shares of such series shall be designated as "Series A Junior Participating Preferred Stock" (the **"Series A Preferred Stock")** and the number of shares constituting the Series A Preferred Stock shall be 150,000. Such number of shares may be increased or decreased by resolution of the Board; provided that no decrease shall reduce the number of shares of Series A Preferred Stock to a number less than the number of shares then outstanding plus the number of shares reserved for issuance upon the exercise of outstanding options, rights or warrants or upon the conversion of any outstanding securities issued by the Corporation convertible into Series A Preferred Stock.

2. Dividends and Distributions.

a. Subject to the rights of the holders of any shares of any series of Preferred Stock (or any similar stock) ranking prior and superior to the Series A Preferred Stock with respect to dividends, the holders of shares of Series A Preferred Stock, in preference to the holders of common stock, par value $0.001 per shares (collectively, the “Common Stock”), of the Corporation and of any other junior stock, shall be entitled to receive, when, as and if declared by the Board out of funds legally available for the purpose, quarterly dividends payable in cash on the first day of March, June, September and December in each year (each such date being referred to herein as a **"Quarterly Dividend Payment Date"),** commencing on the first Quarterly Dividend Payment Date after the first issuance of a share or fraction of a share of Series A Preferred Stock, in an amount per share (rounded to the nearest cent) equal to the greater of (1) $1.00 or (2) subject to the provision for adjustment hereinafter set forth, 1,000 times the aggregate per share amount of all cash dividends , and 1,000 times the aggregate per share amount (payable in kind) of all non-cash dividends or other distributions, other than a dividend payable in shares of Common Stock or a subdivision of the outstanding shares of Common Stock (by reclassification or otherwise), declared on the Common Stock since the immediately preceding Quarterly Dividend Payment Date or, with respect to the first Quarterly Dividend Payment Date, since the first issuance of any share or fraction of a share of Series A Preferred Stock. In the event the Corporation shall at any time declare or pay any dividend on the Common Stock payable in shares of Common Stock, or effect a subdivision or combination or consolidation of the outstanding shares of Common Stock (by reclassification or otherwise than by payment of a dividend in shares of Common Stock) into a greater or lesser number of shares of Common Stock, then in each such case the amount to which holders of shares of Series A Preferred Stock were entitled immediately prior to such event under clause (2) of the preceding sentence shall be adjusted by multiplying such amount by a fraction, the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

b. The Corporation shall declare a dividend or distribution on the Series A Preferred Stock as provided in paragraph (a) of this subsection immediately after it declares a dividend or distribution on the Common

Stock (other than a dividend payable in shares of Common Stock) ; *provided*, that in the event no dividend or distribution shall have been declared on the Common Stock during the period between any Quarterly Dividend Payment Date and the next subsequent Quarterly Dividend Payment Date, a dividend of $1.00 per share on the Series A Preferred Stock shall nevertheless be payable on such subsequent Quarterly Dividend Payment Date.

c. Dividend s shall begin to accrue and be cumulative on outstanding shares of Series A Preferred Stock from the Quarterly Dividend Payment Date next preceding the date of issue of such shares, unless the date of issue of such shares is prior to the record date for the first Quarterly Dividend Payment Date, in which case dividends on such s hares shall begin to accrue from the date of issue of such s hares , or unless the date of issue is a Quarterly Dividend Payment Date or is a date after the record date for the determination of holder s of shares of Series A Preferred Stock entitled to receive a quarterly dividend and before such Quarterly Dividend Payment Date, in either of which events such dividends shall begin to accrue and be cumulative from such Quarterly Dividend Payment Date. Accrued but unpaid dividends shall not bear interest. Dividends paid on the shares of Series A Preferred Stock in an amount less than the total amount of such dividends at the time accrued and payable on such shares shall be allocated pro rata on a share-by-share basis among all such shares at the time outstanding. The Board may fix a record date for the determination of holders of shares of Series A Preferred Stock entitled to receive payment of a dividend or distribution declared thereon, which record date shall be not more than 60 days prior to the date fixed for the payment thereof.

3. Voting Rights. The holders of shares of Series A Preferred Stock shall have the following voting rights:

(A) Subject to the provision for adjustment hereinafter set forth, each share of Series A Preferred Stock shall entitle the holder thereof to 1,000 votes on all matters submitted to a vote of the shareholders of the Corporation. In the event the Corporation shall at any time declare or pay any dividend on the Common Stock payable in shares of Common Stock, or effect a subdivision or combination or consolidation of the outstanding shares of Common Stock (by reclassification or otherwise than by payment of a dividend in shares of Common Stock) into a greater or lesser number of shares of Common Stock, then in each such case the number of votes per share to which holders of shares of Series A Preferred Stock were entitled immediately prior to such event shall be adjusted by multiplying such number by a fraction, the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

(B) Except as otherwise provided herein, in any other articles of amendment creating a series of Preferred Stock or any similar stock, or by law, the holders of shares of Series A Preferred Stock and the holders of shares of Common Stock and any other capital stock of the Corporation having general voting rights shall vote together as one class on all matters submitted to a vote of shareholders of the Corporation.

(C) Except as set forth herein, or as otherwise provided by law, holders of Series A Preferred Stock shall have no special voting rights and their consent shall not be required (except to the extent they are entitled to vote with holders of Common Stock as set forth herein) for taking any corporate action.

4. Certain Restrictions.

(A) Whenever quarterly dividends or other dividends or distributions payable on the Series A Preferred Stock as provided in Section 2 are in arrears, thereafter and until all accrued and unpaid dividends and distributions, whether or not declared, on shares of Series A Preferred Stock outstanding shall have been paid in full, the Corporation shall not:

(i) declare or pay dividends, or make any other distributions, on any shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series A Preferred Stock;

(ii) declare or pay dividends, or make any other distributions, on any shares of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series A Preferred Stock,

except dividends paid ratably on the Series A Preferred Stock and all such parity stock on which dividends are payable or in arrears in proportion to the total amounts to which the holders of all such shares are then entitled;

(iii) redeem or purchase or otherwise acquire for consideration shares of any stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series A Preferred Stock other than (A) such redemptions or purchases that may be deemed to occur upon the exercise of stock options, warrants or similar rights or grant, vesting or lapse of restrictions on the grant of any other performance shares, restricted stock, restricted stock units or other equity awards to the extent that such shares represent all or a portion of (x) the exercise or purchase price of such options, warrants or similar rights or other equity awards and (y) the amount of withholding taxes owed by the recipient of such award in respect of such grant, exercise, vesting or lapse of restrictions; (B) the repurchase, redemption, or other acquisition or retirement for value of any such shares from employees, former employees, directors, former directors, consultants or former consultants of the Corporation or their respective estate, spouse, former spouse or family member, pursuant to the terms of the agreements pursuant to which such shares were acquired, provided that the Corporation may at any time redeem, purchase or otherwise acquire shares of any such junior stock in exchange for shares of any stock of the Corporation ranking junior (either as to dividends or upon dissolution, liquidation or winding up) to the Series A Preferred Stock; or

(iv) redeem or purchase or otherwise acquire for consideration any shares of Series A Preferred Stock, or any shares of stock ranking on a parity with the Series A Preferred Stock, except in accordance with a purchase offer made in writing or by publication (as determined by the Board) to all holders of such shares upon such terms as the Board, after consideration of the respective annual dividend rates and other relative rights and preferences of the respective series and classes, shall determine in good faith will result in fair and equitable treatment among the respective series or classes.

(B) The Corporation shall not permit any subsidiary of the Corporation to purchase or otherwise acquire for consideration any shares of stock of the Corporation unless the Corporation could, under paragraph (a) of this Section 4, purchase or otherwise acquire such shares at such time and in such manner.

5. Reacquired Shares. Any shares of Series A Preferred Stock purchased or otherwise acquired by the Corporation in any manner whatsoever shall be retired and cancelled promptly after the acquisition thereof. All such shares shall upon their cancellation become authorized but unissued shares of Preferred Stock and may be reissued as part of a new series of Preferred Stock subject to the conditions and restrictions on issuance set forth herein, in the Articles of Incorporation, or in any other articles of amendment creating a series of Preferred Stock or any similar stock or as otherwise required by law.

6. Liquidation, Dissolution or Winding Up. Upon any liquidation, dissolution or winding up of the Corporation, voluntary or otherwise, no distribution shall be made (1) to the holders of shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series A Preferred Stock unless, prior thereto, the holders of shares of Series A Preferred Stock shall have received the greater of (A) $1,000 per share, plus an amount equal to accrued and unpaid dividends and distributions thereon, whether or not declared, to the date of such payment, and (B) an amount, subject to the provision for adjustment hereinafter set forth, equal to 1,000 times the aggregate amount to be distributed per share to holders of shares of Common Stock, or (2) to the holders of shares of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series A Preferred Stock, except distributions made ratably on the Series A Preferred Stock and all such parity stock in proportion to the total amounts to which the holders of all such shares are entitled upon such liquidation, dissolution or winding up. In the event the Corporation shall at any time declare or pay any dividend on the Common Stock payable in shares of Common Stock, or effect a subdivision or combination or consolidation of the outstanding shares of Common Stock (by reclassification or otherwise than by payment of a dividend in shares of Common Stock) into a greater or lesser number of shares of Common Stock, then in each such case the aggregate amount to which holders of shares of Series A Preferred Stock were entitled immediately prior to such event under the proviso in clause (1) of the preceding sentence shall be adjusted by multiplying such amount by a fraction, the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

7. Consolidation, Merger, Etc. In case the Corporation shall enter into any consolidation, merger, combination or other transaction in which the shares of Common Stock are exchanged for or changed into other stock or securities, cash and/or any other property, then in any such case each share of Series A Preferred Stock shall at the same time be similarly exchanged or changed into an amount per share, subject to the provision for adjustment hereinafter set forth, equal to 1,000 times the aggregate amount of stock, securities, cash and/or any other property (payable in kind), as the case may be, into which or for which each share of Common Stock is changed or exchanged. In the event the Corporation shall at any time declare or pay any dividend on the Common Stock payable in shares of Common Stock, or effect a subdivision or combination or consolidation of the outstanding shares of Common Stock (by reclassification or otherwise than by payment of a dividend in shares of Common Stock) into a greater or lesser number of shares of Common Stock, then in each such case the amount set forth in the preceding sentence with respect to the exchange or change of shares of Series A Preferred Stock shall be adjusted by multiplying such amount by a fraction, the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

8. No Redemption. The shares of Series A Preferred Stock shall not be redeemable.

9. Rank. The Series A Preferred Stock shall rank, with respect to the payment of dividends and the distribution of assets, junior to all series of any other class of the Corporation's Preferred Stock, and shall rank senior to the Common Stock as to such matters.

10. Amendment. The Articles of Incorporation of the Corporation shall not be amended in any manner which would materially alter or change the powers, preferences or special rights of the Series A Preferred Stock so as to affect them adversely without the affirmative vote of the holders of at least two-thirds of the outstanding shares of Series A Preferred Stock, voting together as a single class.

11. Fractional Shares. The Series A Preferred Stock may be issued in fractions of a share, which fractions shall entitle the holder, in proportion to such holder's fractional shares, to exercise voting rights, receive dividends, participate in distributions, and to have the benefit of all other rights of holders of Series A Preferred Stock.

3.4 Series B Convertible Preferred Stock

1. Designation and Amount. The shares of such series of Preferred Stock shall be designated as "Series B Convertible Preferred Stock" (the "Series B Preferred Stock"). The number of authorized shares constituting the Series B Preferred Stock shall be 100,000. That number from time to time may be increased or decreased (but not below the number of shares of Series B Preferred Stock then outstanding) by further resolution duly adopted by the Board, or any duly authorized committee thereof, and by filing appropriate Articles of Amendment with the Office of the Department of State of the State of Florida. The Corporation shall not have the authority to issue fractional shares of Series B Preferred Stock.

2. Ranking**.** The Series B Preferred Stock will rank, with respect to dividend rights and rights on the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation:

   (a) on a parity basis with each other class or series of Capital Stock of the Corporation authorized on or after the Original Issuance Date, the terms of which expressly provide that such class or series ranks on a parity basis with the Series B Preferred Stock as to dividend rights and rights on the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation (such Capital Stock, but for the avoidance of doubt excluding the Series B Preferred Stock, "Parity Stock");

   (b) junior to each other class or series of Capital Stock of the Corporation authorized on or after the Original Issuance Date, the terms of which expressly provide that such class or series ranks senior to the Series B Preferred Stock as to dividend rights and rights on the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation (such Capital Stock, "Senior Stock"); and

(c) senior to (i) the Series A Junior Participating Preferred Stock and (ii) the Common Stock and each other class or series of Capital Stock of the Corporation authorized on or after the Original Issuance Date, the terms of which do not expressly provide that such class or series ranks on a parity basis with or senior to the Series B Preferred Stock as to dividend rights and rights on the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation (such Capital Stock, "Junior Stock").

3. Definitions. As used in this Section 3.4 with respect to Series B Preferred Stock:

"10% Holder" means, with respect to the EW Investor, that since the Original Issuance Date, the EW Investor and its Affiliates have at all times beneficially owned at least 10% of the total number of outstanding shares of Common Stock (calculated on a Fully-Diluted Basis).

"5% Holder" means, with respect to the EW Investor, that since the Original Issuance Date, the EW Investor and its Affiliates have at all times beneficially owned at least 5% of the total number of outstanding shares of Common Stock (calculated on a Fully-Diluted Basis) but the EW Investor and its Affiliates beneficially own less than 10% of the total number of outstanding shares of Common Stock (calculated on a Fully-Diluted Basis).

"Acceptable Change of Control Event" has the meaning set forth in Subsection 13(c)(viii).

"Accrued Dividend Record Date" has the meaning set forth in Subsection 4(e).

"Accrued Dividends" means, as of any date, with respect to any share of Series B Preferred Stock, all Dividends that have accrued on such share pursuant to Subsection 4(c), whether or not declared, but that have not, as of such date, been paid.

"Accumulated Dividends" means, as of any date, with respect to any share of Series B Preferred Stock, all Dividends that have been accumulated on such share pursuant to Subsection 4(b) but that have not, as of such date, been accrued on such share pursuant to Subsection 4(c) or declared and paid in respect of such share pursuant to Subsection 4(c), Subsection 4(d) or otherwise.

"Affected Holder" has the meaning set forth in Subsection 13(d).

"Affiliate" means, with respect to any Person, any other Person that, directly or indirectly, Controls or is Controlled by or is under common Control with such Person, and in the case of an investment fund, vehicle or similar entity, any other investment fund, vehicle or similar entity that Controls or is Controlled by or under common Control with such investment fund, vehicle or similar entity. "Affiliated" has a correlative meaning.

Any Person shall be deemed to "beneficially own", to have "beneficial ownership" of, or to be "beneficially owning" any securities (which securities shall also be deemed "beneficially owned" by such Person) that such Person is deemed to "beneficially own" within the meaning of Rule 13d-3 or 13d-5 under the Exchange Act; provided that any Person shall be deemed to beneficially own any securities that such Person has the right to acquire, whether or not such right is exercisable within sixty (60) days or thereafter (including assuming conversion of all Series B Preferred Stock, if any, owned by such Person to Common Stock).

"Board" means the Board of Directors of the Corporation.

"Business Day" means any day except any Saturday, any Sunday, any day which is a federal legal holiday in the United States or any day on which banking institutions in the State of New York are authorized or required by law or other governmental action to close.

"Bylaws" means the Amended and Restated Bylaws of the Corporation, as amended as of October 3, 2018, and as may be further amended from time to time.

"Capital Stock" means, with respect to any Person, any and all shares of, interests in, rights to purchase, warrants to purchase, options for, participations in or other equivalents of or interests in (however designated) stock issued by such Person.

"Change of Control" means the occurrence of one of the following, whether in a single transaction or a series of related transactions:

(a) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act), is or becomes the beneficial owner, directly or indirectly, of a majority of the total voting power of the Voting Stock of the Corporation, other than as a result of a transaction in which (1) the holders of securities that represented 100% of the Voting Stock of the Corporation immediately prior to such transaction are substantially the same as the holders of securities that represent a majority of the Voting Stock of the surviving Person or its Parent Entity immediately following such transaction and (2) the holders of securities that represented 100% of the Voting Stock of the Corporation immediately prior to such transaction own directly or indirectly Voting Stock of the surviving Person or its Parent Entity in substantially the same proportion to each other as immediately prior to such transaction; or

(b) the merger or consolidation of the Corporation with or into another Person or the merger of another Person with or into the Corporation, or the sale, transfer, lease, or exclusive license of all or substantially all the assets of the Corporation (determined on a consolidated basis), whether in a single transaction or a series of related transactions, to another Person, or any recapitalization, reclassification or other transaction in which all or substantially all of the Common Stock is exchanged for or converted into cash, securities or other property, other than (1) in the case of a merger, consolidation, recapitalization, reclassification or other transaction, a transaction pursuant to which the holders of securities that represented 100% of the Voting Stock of the Corporation immediately prior to such transaction own directly or indirectly (in substantially the same proportion to each other as immediately prior to such transaction, other than changes in proportionality as a result of any cash/stock election provided under the terms of the definitive agreement regarding such transaction) at least a majority of the voting power of the Voting Stock of the surviving Person in such merger or consolidation transaction immediately after such transaction, and (2) in the case of a sale, transfer, lease or exclusive license of all or substantially all of the assets of the Corporation, any such sale, transfer or lease made to a Subsidiary of the Corporation or a Person that becomes a Subsidiary of the Corporation.

"Change of Control Notice" has the meaning set forth in Subsection 10(c).

"Change of Control Redemption Date" has the meaning set forth in Subsection 10(a).

"Change of Control Redemption Price" has the meaning set forth in Subsection 10(a).

"Close of business" means 5:00 p.m. (New York City time).

"Common Director" has the meaning set forth in Subsection 14(b).

"Common Stock" means the common stock, par value $0.001 per share, of the Corporation.

"Competitor" has the meaning set forth in the SPA.

"Constituent Person" has the meaning set forth in Subsection 12(a).

"Control" means, with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or by contract or agency or otherwise. "Controlled" has a correlative meaning.

"Conversion Agent" means the Transfer Agent acting in its capacity as conversion agent for the Series B Preferred Stock, and its successors and assigns.

"Conversion Date" has the meaning set forth in Subsection 8(a).

"Conversion Notice" has the meaning set forth in Subsection 6(c)(i).

"Conversion Price" means, for each share of Series B Preferred Stock, $3.85, subject to adjustment in accordance with Subsection 11.

"Degressive Issuance" has the meaning set forth in Subsection 11(b).

"Director Indemnitors" has the meaning set forth in Subsection 14(e).

"Dividend Accrual" has the meaning set forth in Subsection 4(c).

"Dividend Payment Date" means March 31, June 30, September 30 and December 31 of each year; provided that if any such Dividend Payment Date is not a Business Day, then the applicable Dividend shall be payable on the next Business Day immediately following such Dividend Payment Date, without any interest.

"Dividend Payment Period" means in respect of any share of Series B Preferred Stock the period from and including the Issuance Date of such share to but excluding the next Dividend Payment Date and, subsequently, in each case the period from and including any Dividend Payment Date to but excluding the next Dividend Payment Date.

"Dividend Rate" means 4.0% per annum for any Dividend Payment Period ending prior to June 30, 2021, and 6.0% per annum for any Dividend Payment Period thereafter.

"Dividend Record Date" has the meaning set forth in Subsection 4(e).

"Dividends" has the meaning set forth in Subsection 4(a).

"Effective Price" has the following meaning with respect to the issuance or sale of any shares of Common Stock or any Equity-Linked Securities:

(a) in the case of the issuance or sale of shares of Common Stock, the value of the consideration received or receivable by (or at the direction of) the Corporation or any of its Subsidiaries for such shares, expressed as an amount per share of Common Stock; and

(b) in the case of the issuance or sale of any Equity-Linked Securities, an amount equal to a fraction whose:

(i) numerator is equal to the sum, without duplication, of (x) the value of the aggregate consideration received or receivable by (or at the direction of) the Corporation or any of its Subsidiaries for the issuance or sale of such Equity-Linked Securities; and (y) the value of the minimum aggregate additional consideration, if any, payable to purchase or otherwise acquire shares of Common Stock pursuant to such Equity-Linked Securities; and

(ii) denominator is equal to the maximum number of shares of Common Stock underlying such Equity-Linked Securities;

provided, however, that:

(w) for purposes of clauses (a) and (b)(i) above, all underwriting commissions, placement agency commissions or similar commissions paid to any broker-dealer by the Corporation or any of its Subsidiaries in connection with such issuance or sale will be added to the aggregate consideration referred to in such clause;

(x) for purposes of clause (b) above, if such minimum aggregate consideration, or such maximum number of shares of Common Stock, is not determinable at the time such Equity-Linked Securities are issued or sold, then (1) the initial consideration payable under such Equity-Linked Securities, or the initial number of shares of Common Stock underlying such Equity-Linked Securities, as applicable, will be used; and (2) at each time thereafter when such amount of consideration or number of shares becomes determinable or is otherwise adjusted (including pursuant to "anti-dilution" or similar provisions), there will be deemed to occur, for purposes of Subsection 11(b) and without affecting any prior adjustments theretofore made to the Conversion Price, an issuance of additional Equity-Linked Securities;

(y) for purposes of clause (b) above, the surrender, extinguishment, maturity or other expiration of any such Equity-Linked Securities will be deemed not to constitute consideration payable to purchase or otherwise acquire shares of Common Stock pursuant to such Equity-Linked Securities; and

(z) the "value" of any such consideration will be the fair value thereof, as of the date such shares or Equity-Linked Securities, as applicable, are issued or sold, determined in good faith by the Board (or, in the case of cash denominated in U.S. dollars, the face amount thereof).

"Equity-Linked Securities" means any rights, options, warrants or other securities entitling the holder thereof to purchase or otherwise acquire (whether immediately, during specified times, upon the satisfaction of any conditions, by conversion, exchange, exercise or otherwise) any shares of Common Stock or any rights, options, warrants or other securities exercisable for, convertible into or exchangeable for such rights, options, warrants or other securities.

"EW Investor" has the meaning set forth in the SPA.

"EW Investor Parties" has the meaning set forth in the SPA.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Exchange Property" has the meaning set forth in Subsection 12(a).

"Excluded Issuance" means (a) the Corporation's issuance of any securities as full or partial consideration in connection with a merger, acquisition, consolidation or purchase of all or substantially all of the securities or assets of a corporation or other entity; (b) the Corporation's issuance to directors, officers, employees, consultants, service providers or agents of the Corporation of equity securities, including those issued upon the exercise of stock options, and the vesting and settlement of other awards in each case granted pursuant to any employee share purchase or equity-based incentive plan, program or arrangement of the Corporation in existence as of the Original Issuance Date or that has been approved by either (i) a majority of the independent members of the Board or (ii) the compensation committee of the Board, including inducement grants under Nasdaq Listing Rule 5635(c)(4); (c) the Corporation's issuance of equity securities in connection with a reclassification, recapitalization, exchange, stock split (including a reverse stock split), combination or readjustment of shares or any stock dividend or stock distribution, or similar transaction; (d) the Corporation's issuance of securities upon the exercise, exchange or conversion of any securities that are exercisable or exchangeable for, or convertible into, shares of Common Stock and are outstanding as of the Original Issuance Date, provided that such exercise, exchange or conversion is effected pursuant to the terms of such securities as in effect on the Original Issuance Date; (e) the Corporation's issuance of securities pursuant to any equipment loan or leasing arrangement, real property leasing arrangement or debt financing from a bank or similar financial institution approved by a majority of the disinterested members of the Board and as in effect on the Original Issuance Date; and (f) the Corporation's issuance of the Series B Preferred Stock and any shares of Common Stock upon conversion of the Series B Preferred Stock.

"Fully-Diluted Basis" means treating for this purpose as outstanding all shares of Common Stock issuable upon exercise, conversion or exchange of all Equity-Linked Securities (including the Series B Preferred Stock) outstanding as of the relevant date of the calculation.

"Governmental Entity" means any federal, state, or local governmental agency, board, commission, department, court or tribunal; or any regulatory agency, bureau, commission, or authority.

"Holder" means a Person in whose name the shares of the Series B Preferred Stock are registered, which Person shall be treated by the Corporation, Transfer Agent, Registrar, paying agent and Conversion Agent as the absolute owner of the shares of Series B Preferred Stock for the purpose of making payment and settling conversions and for all other purposes; provided that, to the fullest extent permitted by law, (i) no Person that has received shares of Series B Preferred Stock in violation of the SPA shall be a Holder; (ii) the Transfer Agent, Registrar, paying agent and Conversion Agent, as applicable, shall not, unless directed otherwise by the Corporation, recognize any such Person as a Holder; and (iii) the Person in whose name the shares of the Series B Preferred Stock were registered immediately prior to such transfer shall remain the Holder of such shares.

"Independent Financial Advisor" means an accounting, appraisal, investment banking firm or consultant of nationally recognized standing; provided, however, that such firm or consultant is not an Affiliate of the Corporation.

"Investor Designee" has the meaning set forth in Subsection 14(a).

"Investor Director" has the meaning set forth in Subsection 14(e).

"Investor Per Share Purchase Price" means, with respect to any share of Series B Preferred Stock, $1,000 per share.

"Issuance Date" means, with respect to any share of Series B Preferred Stock, the date of issuance of such share.

"Judgment" has the meaning set forth in the SPA.

"Junior Stock" has the meaning set forth in Subsection 2(c).

"Liquidation Preference" means, with respect to any share of Series B Preferred Stock, as of any date, $1,000 per share.

"Liquidity Event" has the meaning set forth in Subsection 5(a).

"Mandatory Conversion" has the meaning set forth in Subsection 7(a).

"Mandatory Conversion Date" has the meaning set forth in Subsection 7(a).

"Mandatory Conversion Price" means 200% of the Conversion Price (as may be adjusted pursuant to the provisions of Subsection 11). The Mandatory Conversion Price shall initially be $7.70.

"Market Disruption Event" means, with respect to any date, the occurrence or existence, during the one-half hour period ending at the scheduled close of trading on such date on the principal U.S. national or regional securities exchange or other market on which the Common Stock is listed for trading or trades, of any material suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant exchange or otherwise) in the Common Stock or in any options contracts or futures contracts relating to the Common Stock.

"Minimum Price" means $5.25; provided that if the Conversion Price is adjusted pursuant to the provisions of Subsection 11(a), then the Minimum Price shall be proportionately adjusted.

"Notice of Mandatory Conversion" has the meaning set forth in Subsection 7(b).

"Original Issuance Date" means the date on which the Closing (as defined in the SPA) occurs.

"Parent Entity" means, with respect to any Person, any other Person of which such first Person is a direct or indirect wholly owned Subsidiary.

"Parity Stock" has the meaning set forth in Subsection 2(a).

"Person" means an individual, firm, corporation (including any non-profit corporation), partnership, limited liability company, joint venture, association, trust, Governmental Entity or other entity or organization.

"Preferred Director" has the meaning set forth in Subsection 14(a).

"Preferred Stock" has the meaning set forth in the recitals above.

A "Qualified Person" means an individual who, (i) qualifies as an "independent director" under applicable rules of the Securities and Exchange Commission, the rules of any stock exchange on which securities of the Corporation are traded and applicable governance policies of the Corporation; (ii) satisfies all other criteria and qualifications for service as a director applicable to all directors of the Corporation; (iii) is not a Representative of a Competitor; (iv) has not been involved in any of the events enumerated under Item 2(d) or (2)(e) of Schedule 13D under the

Exchange Act or Item 401(f) of Regulation S-K under the Securities Act; (v) is not subject to any Judgment prohibiting service as a director of any public company; and (vi) is reasonably acceptable to the Board.

"Record Date" means, with respect to any dividend, distribution or other transaction or event in which the holders of the Common Stock have the right to receive any cash, securities or other property or in which the Common Stock is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of holders of the Common Stock entitled to receive such cash, securities or other property (whether such date is fixed by the Board or by statute, contract or otherwise).

"Registrar" means the Transfer Agent acting in its capacity as registrar for the Series B Preferred Stock, and its successors and assigns.

"Reorganization Event" has the meaning set forth in Subsection 12(a).

"Replacement Designee" has the meaning set forth in Subsection 14(b).

"Representative" has the meaning set forth in the SPA.

"Senior Stock" has the meaning set forth in Subsection 2(b).

"Series B Preferred Stock" has the meaning set forth in Subsection 1.

"Share Delivery Date" has the meaning set forth in Subsection 8(c)

"Shareholder Approval" means such approval as required by the applicable Nasdaq Stock Market Rules by the shareholders of the Corporation with respect to the conversion of all shares of Series B Preferred Stock and the issuance of the shares of Common Stock issuable upon the conversion of the Series B Preferred Stock.

"SPA" means that certain Securities Purchase Agreement between the Corporation and the Holders set forth on Schedule 1 thereto, dated as of June 30, 2020, as it may be amended, supplemented or otherwise modified from time to time, with respect to certain terms and conditions concerning, among other things, the rights of and restrictions on the Holders.

"Specified Contract Terms" means the covenants, terms and provisions of any indenture, credit agreement or any other agreement, document or instrument evidencing, governing the rights of the holders of or otherwise relating to any indebtedness of the Corporation or any of its Subsidiaries as in effect on the date hereof, or any amendments thereto or refinancings or replacements thereof.

"Subsidiary", means, with respect to any Person, any corporation, partnership, joint venture or other legal entity as to which such Person (either alone or through or together with any other subsidiary), (a) owns, directly or indirectly, more than 50% of the stock or other equity interests, or (b) has the power to elect a majority of the board of directors or similar governing body.

"Sunset Date" has the meaning set forth in Subsection 13(c)(vii).

"Trading Day" means any day on which trading in the Common Stock generally occurs on the principal U.S. national or regional securities exchange on which the Common Stock is then listed or, if the Common Stock is not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Common Stock is then traded, provided that there is no Market Disruption Event. If the Common Stock is not so listed or traded, then "Trading Day" means a Business Day.

"Trading Period" has the meaning set forth in Subsection 7(a).

"Transfer Agent" means the Person acting as Transfer Agent, Registrar and paying agent and Conversion Agent for the Series B Preferred Stock, and its successors and assigns. The Transfer Agent initially shall be Issuer Direct Corporation.

"Transfer Tax" has the meaning set forth in Subsection 17.

"Voting Stock" means (i) with respect to the Corporation, the Common Stock, the Series A Junior Participating Preferred Stock, the Series B Preferred Stock (subject to the limitations set forth herein) and any other Capital Stock of the Corporation having the right to vote generally in any election of directors of the Board and (ii) with respect to any other Person, all Capital Stock of such Person having the right to vote generally in any election of directors of the board of directors of such Person or other similar governing body.

"VWAP" per share of Common Stock on any Trading Day means the per share volume-weighted average price as displayed under the heading Bloomberg VWAP on Bloomberg (or, if Bloomberg ceases to publish such price, any successor service reasonably chosen by the Corporation) page "USFD <equity> AQR" (or its equivalent successor if such page is not available) in respect of the period from the open of trading on the relevant Trading Day until the close of trading on such Trading Day (or if such volume-weighted average price is unavailable, the market price of one share of Common Stock on such Trading Day determined, using a volume-weighted average method, by an Independent Financial Advisor retained for such purpose by the Corporation).

"Weighted Average Issuance Price" has the meaning set forth in Subsection 11(b).

4. Dividends.

(i) Dividends. Holders shall be entitled to receive dividends of the type and in the amount determined as set forth in this Subsection 4 (such dividends, "Dividends").

(ii) Accumulation of Dividends. Dividends on each share of Series B Preferred Stock shall accumulate (i) on a daily basis from and including the Issuance Date of such share, whether or not declared and whether or not the Corporation has assets legally available to make payment thereof, at a rate equal to the Dividend Rate calculated on the Liquidation Preference plus any Accrued Dividends in respect of such share, and (ii) on the basis of a 365-day year based on actual days elapsed. The amount of Dividends accumulated with respect to any share of Series B Preferred Stock for any Dividend Payment Period shall equal the sum of the daily dividend amounts accumulated in accordance with the first sentence of this Subsection 4(b) with respect to such share during such Dividend Payment Period.

(iii) Payment of Dividend. With respect to any Dividend Payment Date, the Corporation shall, if, as and when authorized by the Board in its sole discretion, and to the extent permitted by applicable law, declare a dividend on each share of Series B Preferred Stock in an amount up to the amount of the Accumulated Dividends in respect of the Dividend Payment Period ending immediately prior to such Dividend Payment Date; provided, however, that if the Corporation does not declare and pay in cash the full amount of such Accumulated Dividends, any portion not so declared and paid in cash shall accrue in respect of each such share (a "Dividend Accrual"). The Corporation shall provide written notice to each Holder of the amount of the Dividend Accrual in respect of such Holder's shares of Series B Preferred Stock no less than five (5) Business Days prior to such Dividend Payment Date.

(iv) Arrearages. The Corporation shall be entitled to at any time and from time to time, at its option, to declare and pay all or any part of the Accrued Dividends or Accumulated Dividends in cash and, following such payment, such paid Accrued Dividends or Accumulated Dividends, as applicable, shall no longer be deemed Accrued Dividends or Accumulated Dividends hereunder.

(v) Record Date. The Record Date for payment of Dividends that are declared and paid on any relevant Dividend Payment Date in accordance with Subsection 4(c) will be the close of business on the fifteenth (15th) day of the calendar month which contains the relevant Dividend Payment Date (each, a "Dividend Record Date"), and the Record Date for payment of any Accrued Dividends or Accumulated Dividends in accordance with Subsection 4(d) will be the close of business on the date that is established by the Board, or a duly authorized committee thereof, as such, which will not be more than forty-five (45) days prior to the date on which such Dividends are paid (each, an "Accrued Dividend Record Date"), in each case whether or not such day is a Business Day.

(vi) Priority of Dividends. So long as any shares of Series B Preferred Stock remain outstanding, unless all Accrued Dividends and Accumulated Dividends on all outstanding shares of Series B Preferred Stock have been declared and paid in cash, or have been or contemporaneously are declared and a sum in cash sufficient for the payment of those dividends has been or is set aside for the benefit of the Holders, the Corporation may not declare any dividend on, or make any distributions relating to, Junior Stock or Parity Stock, or redeem, purchase, acquire (either directly or through any Subsidiary) or make a liquidation payment relating to, any Junior Stock or Parity Stock, other than:

(i) purchases, redemptions or other acquisitions of shares of Junior Stock in connection with any employment contract, benefit plan or other similar arrangement existing on the date hereof or approved by the Board with or for the benefit of current or former employees, officers, directors or consultants;

(ii) purchases of Junior Stock in an amount equal to the proceeds received from the substantially contemporaneous sale of other shares of Junior Stock;

(iii) as a result of an exchange or conversion of any class or series of Parity Stock or Junior Stock for any other class or series of Parity Stock (in the case of Parity Stock) or Junior Stock (in the case of Parity Stock or Junior Stock);

(iv) purchases of fractional interests in shares of Parity Stock or Junior Stock (A) pursuant to the conversion or exchange provisions of such Parity Stock or Junior Stock or the security being converted or exchanged or (B) in connection with any bona-fide reclassification, recapitalization, exchange, stock split (including a reverse stock split), combination or readjustment of shares or any stock dividend or stock distribution, or similar transaction;

(v) payment of any dividends in respect of Junior Stock where the dividend is in the form of the same stock or rights to purchase the same stock as that on which the dividend is being paid;

(vi) rights to purchase Common Stock;

(vii) dividends or distributions of Common Stock or rights to purchase Common Stock;
(viii) any dividend in connection with the implementation of a shareholders' rights or similar plan, or the redemption or repurchase of any rights under any such plan.

Subject to the provisions of this Subsection 4, dividends may be authorized by the Board, or any duly authorized committee thereof, and declared and paid by the Corporation, on any Junior Stock and Parity Stock from time to time; and the Holders will not be entitled to participate in those dividends.

(vii) Conversion Following a Record Date. If the Conversion Date for any shares of Series B Preferred Stock is prior to the close of business on a Dividend Record Date or an Accrued Dividend Record Date, the Holder of such shares will not be entitled to any dividend in respect of such Dividend Record Date or Accrued Dividend Record Date, as applicable, other than through the inclusion of Accrued Dividends and Accumulated Dividends as of the Conversion Date in the calculation under Subsection 6(a) or 7(a), as applicable. If the Conversion Date for any shares of Series B Preferred Stock is after the close of business on a Dividend Record Date or an Accrued Dividend Record Date but prior to the corresponding payment date for such dividend, the Holder of such shares as of such Dividend Record Date or Accrued Dividend Record Date, as applicable, shall be entitled to receive such dividend, notwithstanding the conversion of such shares prior to the applicable Dividend Payment Date; provided that the amount of such dividend shall not be included for the purpose of determining the amount of Accrued Dividends or Accumulated Dividends under Subsection 6(a) or 7(a), as applicable, with respect to such Conversion Date.

5. Liquidation Rights.

(viii) Liquidation. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation (each a "Liquidity Event"), the Holders shall be entitled, out of assets legally available therefor, before any distribution or payment out of the assets of the Corporation may be made to or set aside for the holders of any Junior Stock, and subject to the rights of the holders of any Senior Stock or Parity Stock and the rights of the Corporation's existing and future creditors, to receive in full a liquidating distribution in cash and in the amount per share of Series B Preferred Stock equal to the sum of (i) the Liquidation Preference *plus* (ii) the Accrued Dividends *plus* (iii) the Accumulated Dividends with respect to such share of Series B Preferred Stock as of the date of such Liquidity Event. Holders shall not be entitled to any further payments in the event of any such Liquidity Event other than what is expressly provided for in this Subsection 5 and will have no right or claim to any of the Corporation's remaining assets.

(ix) Partial Payment. If in connection with any distribution described in Subsection 5(a) above, the assets of the Corporation or proceeds therefrom are not sufficient to pay in full the aggregate liquidating distributions required to be paid pursuant to Subsection 5(a) to all Holders and the liquidating distributions payable to all holders of any Parity Stock, the amounts distributed to the Holders and to the holders of all such Parity Stock shall be paid *pro rata* in accordance with the respective aggregate liquidating distributions to which they would otherwise be entitled if all amounts payable thereon were paid in full.

(x) Merger, Consolidation and Sale of Assets Not Liquidity Event. For purposes of this Subsection 5, each of the following events shall not be deemed a Liquidity Event: (i) the sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation, (ii) the merger, consolidation, statutory exchange or any other business combination transaction of the Corporation into or with any other Person, (iii) the merger, consolidation, statutory exchange or any other business combination transaction of any other Person into or with the Corporation, or (iv) a Change of Control.

6. Right of the Holders to Convert.

(xi) Each Holder shall have the right, at such Holder's option, subject to the conversion procedures set forth in Subsection 8, the limitations in Subsection 9 and the right of the Corporation to declare and pay all or any part of the Accrued Dividends or Accumulated Dividends at any time under Subsection 4(c), to convert each share of such Holder's Series B Preferred Stock at any time into (i) the number of shares of Common Stock equal to the quotient of (A) the sum of (x) the Liquidation Preference *plus* (y) the Accrued Dividends *plus* (z) the Accumulated Dividends with respect to such share of Series B Preferred Stock as of the applicable Conversion Date *divided by* (B) the Conversion Price as of the applicable Conversion Date *plus* (ii) to the extent applicable, cash in lieu of fractional shares in accordance with Subsection 8(e). The right of conversion may be exercised as to all or any portion of such Holder's Series B Preferred Stock from time to time; provided that, in each case, no right of conversion may be exercised by a Holder in respect of fewer than 1,000 shares of Series B Preferred Stock (unless such conversion relates to all shares of Series B Preferred Stock held by such Holder).

(xii) The Corporation shall at all times reserve and keep available out of its authorized and unissued Common Stock, solely for issuance upon the conversion of the Series B Preferred Stock, such number of shares of Common Stock as shall from time to time be issuable upon the conversion of all the shares of Series B Preferred Stock then outstanding, and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all the then outstanding shares of the Series B Preferred Stock, the Corporation shall take such corporate action as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in reasonable best efforts to obtain the requisite stockholder approval of any necessary amendment to the Articles of

Incorporation. Any shares of Common Stock issued upon conversion of Series B Preferred Stock shall be duly authorized, validly issued, fully paid and nonassessable. If the Common Stock is then listed on any securities exchange or quoted on any inter-deal quotation system, then the Corporation will cause each such share of Common Stock, when so delivered, to be admitted for listing on such exchange or quotation on such system.

(xiii) A Holder must do each of the following in order to convert shares of Series B Preferred Stock pursuant to this Subsection 6:

(i) (A) complete and manually sign the conversion notice provided by the Conversion Agent (the "Conversion Notice"), and deliver such notice to the Conversion Agent; provided that a Conversion Notice may be conditional on the completion of a Change of Control or other corporate transaction, and (B) provide the Corporation with at least five (5) Business Days' written notice prior to the delivery of any Conversion Notice to the Conversion Agent;

(ii) Promptly after delivery of the Conversion Notice deliver to the Conversion Agent the certificate or certificates (if any) representing the shares of Series B Preferred Stock to be converted;

(iii) if required by the Conversion Agent, furnish appropriate endorsements and transfer documents; and

(iv) to the extent applicable, pay any stock transfer, documentary, stamp or similar taxes on such conversion not payable by the Corporation pursuant to Subsection 17.

7. Mandatory Conversion by the Corporation.

(xiv) Mandatory Conversion. All of the outstanding shares of Series B Preferred Stock shall automatically be converted into shares of Common Stock (a "Mandatory Conversion") if, on a given day following the third anniversary of the Original Issuance Date (the "Mandatory Conversion Date"), the VWAP per share of Common Stock is equal to or greater than the Mandatory Conversion Price (i) for at least twenty (20) Trading Days (whether or not consecutive) in any period of thirty (30) consecutive Trading Days (such thirty (30) consecutive Trading Day period, the "Trading Period") and (ii) as of the close of trading on the Trading Day immediately prior to the Mandatory Conversion Date. In the case of a Mandatory Conversion, each share of Series B Preferred Stock then outstanding shall be converted into (i) the number of shares of Common Stock equal to the quotient of (A) the sum of (x) the Liquidation Preference *plus* (y) the Accrued Dividends *plus* (z) the Accumulated Dividends with respect to such share of Series B Preferred Stock as of the Mandatory Conversion Date *divided by* (B) the Conversion Price of such share in effect as of the Mandatory Conversion Date *plus* (ii) to the extent applicable, cash in lieu of fractional shares in accordance with Subsection 8(e).

(xv) Notice of Mandatory Conversion. As soon as practicable, and in any event no later than the fifth (5th) Business Day after the Mandatory Conversion Date, the Corporation shall provide a written notice to the Holders that a Mandatory Conversion has occurred ("Notice of Mandatory Conversion"). As soon as practicable, and in any event within five (5) Business Days following the receipt of a Notice of Mandatory Conversion, each Holder must:

(i) deliver to the Conversion Agent the certificate or certificates (if any) representing the shares of Series B Preferred Stock to be converted;

(ii) if required by the Conversion Agent, furnish appropriate endorsements and transfer documents; and

(iii) to the extent applicable, pay any stock transfer, documentary, stamp or similar taxes on such conversion not payable by the Corporation pursuant to Subsection 17.

8. Conversion Procedures and Effect of Conversion.

(xvi) Conversion Date. The "Conversion Date" means (A) with respect to conversion of any shares of Series B Preferred Stock at the option of any Holder under Subsection 6(a), the date on which such Holder complies with the procedures in Subsection 6(c) (including the satisfaction of any conditions to conversion set forth in the Conversion Notice) and (B) with respect to Mandatory Conversion under Subsection 7(a), the Mandatory Conversion Date.

(xvii) Effect of Conversion. Effective immediately prior to the close of business on the Conversion Date applicable to any shares of Series B Preferred Stock, Dividends shall no longer accrue or be declared on any such shares of Series B Preferred Stock, and such shares of Series B Preferred Stock shall cease to be outstanding.

(xviii) Record Holder of Underlying Securities as of Conversion Date. The Person or Persons entitled to receive the Common Stock and, to the extent applicable, cash, securities or other property issuable upon conversion of Series B Preferred Stock on a Conversion Date shall be treated for all purposes as the record holder(s) of such shares of Common Stock and/or cash, securities or other property as of the close of business on such Conversion Date. As promptly as practicable, but no later than five (5) Business Days after the Conversion Date (the "Share Delivery Date") and subject to compliance by the applicable Holder with the relevant procedures contained in Subsection 6(c) and Subsection 7(b), the Corporation shall issue the number of whole shares of Common Stock issuable upon conversion (and to the extent applicable, deliver payment of cash in lieu of fractional shares in accordance with Subsection 8(e)) and, to the extent applicable, any cash, securities or other property issuable thereon. Such delivery of shares of Common Stock, securities or other property shall be made by book-entry or, at the request of the Holder, through the facilities of the Conversion Agent or in certificated form. Any such certificate or certificates shall be delivered by the Corporation to the appropriate Holder on a book-entry basis, through the facilities of the Conversion Agent, or by mailing certificates evidencing the shares to the Holders, in each case at their respective addresses as set forth in the Conversion Notice (in the case of a conversion pursuant to Subsection 6(a)) or in the records of the Corporation or as set forth in a notice from the Holder to the Conversion Agent, as applicable (in the case of a Mandatory Conversion). In the event that a Holder shall not by written notice designate the name in which shares of Common Stock (and payments of cash in lieu of fractional shares) and, to the extent applicable, cash, securities or other property to be delivered upon conversion of shares of Series B Preferred Stock should be registered or paid, or the manner in which such shares, cash, securities or other property should be delivered, the Corporation shall be entitled to register and deliver such shares, securities or other property, and make such payment, in the name of the Holder and in the manner shown on the records of the Corporation. If the number of shares of Series B Preferred Stock represented by the Series B Preferred Stock certificate(s) submitted for conversion is greater than the number of shares of Series B Preferred Stock being converted, then the Corporation shall, as soon as practicable and in no event later than ten (10) Business Days after receipt of the Series B Preferred Stock certificate(s) and at its own expense, issue and deliver to such Holder a new Series B Preferred Stock certificate representing the number of shares of Series B Preferred Stock not converted.

(xix) Status of Converted Shares. Shares of Series B Preferred Stock converted in accordance with the terms hereof shall be retired promptly after the conversion or acquisition thereof. All such shares shall, upon their retirement, become authorized but unissued shares of Preferred Stock, without designation as to series until such shares are once more designated as part of a particular series by the Board.

(xx) No Charge of Payment. The issuance of shares of Common Stock upon conversion of shares of Series B Preferred Stock shall be made without payment of additional consideration to the Corporation by, or other charge or cost imposed by the Corporation on the holder in respect thereof.

(xxi) Fractional Shares. No fractional shares of Common Stock will be delivered to the Holders upon conversion. In lieu of fractional shares otherwise issuable, the Holders will be entitled to receive, at the Corporation's sole discretion, either (i) an amount in cash equal to the fraction of a share of Common Stock multiplied by the closing price of the Common Stock on the Trading Day immediately preceding the applicable Conversion Date or (ii) one additional whole share of Common Stock.

9. Limitations on Common Stock Issuable Upon Conversion.

(xxii) Beneficial Ownership Limitation. Notwithstanding anything herein to the contrary, no conversion of a share of Series B Preferred Stock pursuant to Subsection 6 or pursuant to Subsection 7 hereof shall be permitted to the extent such conversion would result in a converting Holder, together with its Affiliates and any other Person whose holdings would be aggregated with such Holder for purposes of Section 13(d) of the Exchange Act:

(i) beneficially owning more than 19.90% of the issued and outstanding Common Stock; or

(ii) holding more than 19.90% of the votes entitled to be cast at any shareholders meeting, in each case, unless the Corporation obtains Shareholder Approval to remove the restrictions contained in this Subsection 9(a). In any vote to obtain any Shareholder Approval, the Holders of shares of Series B Preferred Stock shall not be entitled to vote.

(xxiii) Subject to Subsection 9(c), any attempted conversion (whether by a Holder pursuant to Subsection 6 or by Mandatory Conversion pursuant to Subsection 7) to the extent it would violate this Subsection 9 shall be void *ab initio* and of no force and effect.

(xxiv) If any conversion in accordance with Subsection 6 or any Mandatory Conversion pursuant to Subsection 7 would be limited as a result of the application of Subsection 9(a), then (i) in the case of a Conversion Notice pursuant to Subsection 6, the Conversion Notice in respect of such conversion shall be deemed to have been amended automatically and without any action by the Holder thereof so that it applies only to the number of shares of Series B Preferred Stock that are permitted to be converted pursuant to Subsection 9(a) and (ii) in the case of a Mandatory Conversion pursuant to Subsection 7, all shares of Series B Preferred Stock that are permitted to be converted pursuant to Subsection 9(a) shall be so converted in accordance with Subsection 7, and thereafter from time to time, to the extent Series B Preferred Stock are permitted to be converted in accordance with Subsection 9(a), they shall be deemed to have been so automatically converted.

10. Redemption upon Change of Control.

(xxv) Corporation's Rights upon a Change of Control. Subject to the other terms of this Subsection 10, if a Change of Control occurs, the Corporation will have the right to redeem, contingent upon and substantially contemporaneously with the consummation of the Change of Control (the date of such consummation, the "Change of Control Redemption Date") any or all of the shares of Series B Preferred Stock for cash in an amount equal to the sum of (x) the Liquidation Preference *plus* (y) the Accrued Dividends *plus* (z) the Accumulated Dividends for each such share of Series B Preferred Stock redeemed (the "Change of Control Redemption Price"), subject to the right of each Holder to convert its Series B Preferred Stock pursuant to Subsection 6 prior to such redemption.

(xxvi) Holders' Rights upon a Change of Control. If and to the extent the Corporation does not exercise its right to redeem any or all of the then-outstanding shares of Series B Preferred Stock under Subsection 10(a), each Holder shall have the option to (i) require the Corporation to redeem any or all of such Holder's then-outstanding shares of Series B Preferred Stock for cash in an amount equal to (x) the Liquidation Preference *plus* (y) the Accrued Dividends *plus* (z) the Accumulated Dividends for each such share of Series B Preferred Stock redeemed, or (ii) convert any or all of such Holder's then-

outstanding shares of Series B Preferred Stock into shares of Common Stock and, if any consideration is payable to the holders of Common Stock upon such Change of Control, receive for each share of Common Stock issued upon such conversion (including payments of cash in lieu of fractional shares) the consideration per share of Common Stock payable upon the Change of Control thereunder, in each case of clauses (i) or (ii) above, as of the Change of Control Redemption Date. If the value of the consideration payable to the holders of Common Stock upon such Change of Control (if any) has changed since the date of a Holder's election under this Subsection 10(b) then, each Holder may withdraw or amend its election made under this Subsection 10(b) by delivering a written notice of such withdrawal or amendment, as the case may be, to the Corporation at any time before the close of business on the fifth (5th) Business Day immediately prior to the date on which the Corporation anticipates consummating the Change of Control.

(xxvii) Initial Change of Control Notice. On or before the twentieth (20th) Business Day prior to the date on which the Corporation anticipates consummating a Change of Control (or, if later, promptly after the Corporation discovers that a Change of Control may occur), a written notice (a "Change of Control Notice") shall be sent by or on behalf of the Corporation to each Holder at its address as it appears in the records of the Corporation. The Change of Control Notice shall include (i) a brief summary of the events causing the Change of Control; (ii) a description of the material terms and conditions of the Change of Control; (iii) the Conversion Price in effect on the date of such Change of Control Notice and a description and quantification of any adjustments to the Conversion Price that may result from such Change of Control (if any); (iv) the date on which the Change of Control is anticipated to be consummated, to the extent that such information does not constitute material non-public information (or, if applicable, the date on which a Schedule TO or other schedule, form or report disclosing a Change of Control was filed); (v) subject to the right of each Holder to convert its Series B Preferred Stock pursuant to Subsection 6 prior to such redemption, whether the Corporation is exercising its right under Subsection 10(a) to redeem any or all of the outstanding shares of Series B Preferred Stock and, if so, the number of shares of Series B Preferred Stock to be redeemed from such Holder, and stating the place or places at which the shares of Series B Preferred Stock called for redemption shall, upon presentation and surrender of the certificates evidencing such shares of Series B Preferred Stock, be redeemed (and other instructions a Holder must follow to receive payment); and (vi) the applicable Change of Control Redemption Price (which may be stated as a formula to the extent the date of such Change of Control is not definitively known). If, or to the extent that, the Corporation is not exercising its rights pursuant to Subsection 10(a), a Holder may exercise its right pursuant to Subsection 10(b) to (y) require the Corporation to redeem all or any portion of the outstanding shares of Series B Preferred Stock owned by such Holder by delivering a written notice to the Corporation stating that such Holder is exercising its right to require the Corporation to redeem all or a portion of its outstanding shares of Series B Preferred Stock and including wire transfer instructions for the payment of the Change of Control Redemption Price or (z) convert any or all of such Holder's then-outstanding shares of Series B Preferred Stock into shares of Common Stock in accordance with Subsection 6 and if any consideration is payable to the holders of Common Stock upon such Change of Control, receive for each share of Common Stock issued upon such conversion, the consideration per share of Common Stock payable upon the Change of Control thereunder, which notice for redemption or conversion, as the case may be, shall be delivered no later the fifth (5th) Business Day prior to the date on which the Corporation anticipates consummating the Change of Control. In the event that a Holder so exercises it rights pursuant to Subsection 10(b), the Corporation will, as promptly as practicable, deliver to such Holder at its address as it appears in the records of the Corporation written instructions stating the place or places at which the shares of Series B Preferred Stock to be redeemed or converted shall, upon presentation and surrender of the certificates evidencing such shares of Series B Preferred Stock, be redeemed or converted (and other instructions such Holder must follow to receive payment or such other consideration (if any) per share of Common Stock payable upon the Change of Control, as applicable) and the applicable Change of Control Redemption Price (which may be stated as a formula to the extent the date of such Change of Control is not definitively known).

(xxviii) Delivery upon Change of Control. If either the Corporation or a Holder has exercised its right to redeem, or require redemption of, any outstanding shares of Series B Preferred Stock pursuant to Subsection 10(a) or 10(b), then upon the consummation of a Change of Control and subject to Subsection 10(e) below and subject to such Holder properly surrendering the certificates evidencing the applicable shares of Series B Preferred Stock, the Corporation (or its successor) shall promptly deliver or cause to be delivered to such Holder by wire transfer the applicable Change of Control Redemption Price with respect to each of such Holder's shares so redeemed.

(xxix) Cash Redemption Not Permitted. If the Corporation shall (A) not have sufficient funds legally available to redeem in compliance with applicable law, or (B) will be in violation of Specified Contract Terms if its redeems, all outstanding shares of Series B Preferred Stock otherwise required or sought to be redeemed pursuant to this Subsection 10, the Corporation shall not be entitled to elect to redeem any shares of Series B Preferred Stock pursuant to Subsection 10(a) and, with respect to any shares of Series B Preferred Stock with respect to which Holders of such shares have exercised their rights pursuant to Subsection 10(b), the Corporation shall (i) redeem, *pro rata* among such electing Holders, a number of shares of Series B Preferred Stock with an aggregate applicable Change of Control Redemption Price equal to the lesser of: (1) the amount legally available therefor and (2) the largest amount that can be used for such redemption not prohibited by the Specified Contract Terms, in each case for the redemption of shares of Series B Preferred Stock, (ii) take all actions, including taking commercially reasonable efforts to seek any consents or approvals required from any third party or Governmental Entity, (as determined by the Board in good faith and consistent with its fiduciary duties) required or permitted under applicable law to permit the redemption or repurchase of the Series B Preferred Stock, including, without limitation, if and to the extent permitted by law, generally accepted accounting principles and the rules and regulations of any stock exchange on which the Common Stock is then traded, through the revaluation of the Corporation's assets in accordance with applicable law, to make funds legally available under applicable law for such redemption, and (iii) redeem any shares of Series B Preferred Stock with respect to which Holders of such shares have exercised their rights pursuant to Subsection 10(b) not purchased because of the foregoing limitations at the applicable Change of Control Redemption Price as soon as practicable after the Corporation is able to make such redemption out of assets legally available under applicable law for the purchase of such shares of Series B Preferred Stock and without violation of the Specified Contract Terms. The Corporation will not voluntarily consummate any transaction, that would result in a Change of Control unless the Corporation will, on the date of payment, have sufficient funds legally available to fully pay the maximum aggregate Change of Control Redemption Price that would be payable in respect of such Change of Control on all shares of Series B Preferred Stock then outstanding. The inability of the Corporation (or its successor) to make a redemption payment for any reason shall not relieve the Corporation (or its successor) from its obligation to effect any required redemption when, as and if permitted by applicable law and the Specified Contract Terms.

(xxx) Effect of Redemption. Effective immediately prior to the close of business on the Change of Control Redemption Date for any shares of Series B Preferred Stock redeemed pursuant to this Subsection 10, Dividends shall, notwithstanding anything else herein to the contrary, no longer accumulate, accrue or be declared on any such shares of Series B Preferred Stock, and such shares of Series B Preferred Stock shall cease to be outstanding.

(xxxi) Status of Redeemed Shares. Any shares of Series B Preferred Stock redeemed or otherwise acquired by the Corporation in any manner whatsoever shall be retired promptly after the acquisition thereof. All such shares shall, upon their retirement, become authorized but unissued shares of Preferred Stock, without designation as to series until such shares are once more designated as part of a particular series by the Board.

11. Anti-Dilution Adjustments.

(xxxii) Stock Dividends, Splits and Combinations. For so long as any shares of Series B Preferred Stock remain outstanding, if the Corporation issues shares of Common Stock as a dividend or distribution on all or substantially all shares of Common Stock, or if the Corporation effects a stock split or a stock combination in respect of the Common Stock (in each case excluding an issuance pursuant to a Reorganization Event, as to which Subsection 12 will apply), then the Conversion Price will be adjusted based on the following formula:

$$CP_1 = CP_0 \times \frac{OS_0}{OS_1}$$

where:

CP0 = the Conversion Price in effect immediately before the close of business on the Dividend Record Date, or immediately before the close of business on the effective date of such dividend, distribution, stock split or stock combination, as applicable;

CP1 = the Conversion Price in effect immediately after the close of business on such Dividend Record Date or effective date, as applicable;

OS0 = the number of shares of Common Stock outstanding (calculated on a Fully-Diluted Basis) immediately before the close of business on such Dividend Record Date or effective date, as applicable, without giving effect to such dividend, distribution, stock split or stock combination; and

OS1 = the number of shares of Common Stock outstanding (calculated on a Fully-Diluted Basis) immediately after giving effect to such dividend, distribution, stock split or stock combination.

If any dividend, distribution, stock split or stock combination of the type described in this Subsection 11(a) is declared or announced, but not so paid or made, then the Conversion Price will be readjusted, effective as of the date the Board (or its authorized delegate) determines not to pay such dividend or distribution or to effect such stock split or stock combination, to the Conversion Price that would then be in effect had such dividend, distribution, stock split or stock combination not been declared or announced. For the purpose of this Subsection 11, the number of shares of Common Stock outstanding at any time will exclude shares of Common Stock held in the Corporation's treasury (unless the Corporation pays any dividend or makes any distribution on shares of Common Stock held in its treasury).

(b) Degressive Issuances. Subject to Subsection 11(c), if, on or after the Original Issuance Date and prior to the second anniversary of the Original Issuance Date, the Corporation issues or otherwise sells any shares of Common Stock, or any Equity-Linked Securities, in each case at an Effective Price per share of Common Stock that is less than the Conversion Price in effect (before giving effect to the adjustment required by this Subsection 11(b)) as of the date of the issuance or sale of such shares or Equity-Linked Securities (such an issuance or sale, a "Degressive Issuance"), then, effective as of the close of business on such date, the Conversion Price will be decreased to an amount equal to the Weighted Average Issuance Price. For these purposes, the "Weighted Average Issuance Price" will be equal to:

$$\frac{(CP \; x \; OS) + (EP \; x \; X)}{OS + X}$$

where:

CP = such Conversion Price;

OS = the number of shares of Common Stock outstanding immediately before such Degressive Issuance (treating for this purpose as outstanding all shares of Common Stock issuable upon exercise, conversion or exchange of all Equity-Linked Securities (including the Series B Preferred Stock) outstanding immediately prior to such issue);

EP = the Effective Price per share of Common Stock in such Degressive Issuance; and

X = the sum, without duplication, of (x) the total number of shares of Common Stock issued or sold in such Degressive Issuance; and (y) the maximum number of shares of Common Stock underlying such Equity-Linked Securities issued or sold in such Degressive Issuance;

provided, however, that (A) the Conversion Price will not be adjusted pursuant to this Subsection 11(b) to the extent that the Degressive Issuance is an Excluded Issuance; (B) the issuance of shares of Common Stock pursuant to any Equity-Linked Securities will not constitute an additional issuance or sale of shares of Common Stock for purposes of this Subsection 11(b) (it being understood, for the avoidance of doubt, that the issuance or sale of such Equity-Linked Securities, or any re-pricing or amendment thereof, will be subject to this Subsection 11(b)); and (C) in no event will the Conversion Price be increased pursuant to this Subsection 11(b). For purposes of this Subsection 11(b), any re-pricing or amendment of any Equity-Linked Securities (including, for the avoidance of doubt, any Equity-Linked Securities existing as of the Original Issuance Date) will be deemed to be the issuance of additional Equity-Linked Securities, without affecting any prior adjustments theretofore made to the Conversion Price.

(c) Limitations on Adjustments.

(i) Adjustment Cap on Degressive Issuances. Notwithstanding anything to the contrary in this Subsection 11, under no circumstances shall adjustments to the Conversion Price pursuant to Subsection 11(b) cause the Conversion Price to be less than $3.47.

(ii) No Adjustments in Certain Events. The Corporation will not be required to adjust the Conversion Price except pursuant to this Subsection 11. Without limiting the foregoing, the Corporation will not be required to adjust the Conversion Price on account of:

i. except as otherwise provided in Subsection 11(b), the sale of shares of Common Stock for a purchase price that is less than the market price per share of Common Stock or less than the Conversion Price;

ii. the issuance of any shares of Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Corporation's securities and the investment of additional optional amounts in shares of Common Stock under any such plan;

iii. except as otherwise provided in Subsection 11(b), the issuance of any shares of Common Stock or options or rights to purchase shares of Common Stock pursuant to any present or future employee, director or consultant benefit plan or program of, or assumed by, the Corporation or any of its Subsidiaries, including inducement grants under Nasdaq Listing Rule 5635(c)(4);

iv. except as otherwise provided in Subsection 11(b), the issuance of any shares of Common Stock pursuant to any option, warrant, right, restricted stock unit, performance stock unit or other awards granted under any employee share purchase or equity-based incentive plan, program or arrangement of the Corporation, or convertible or exchangeable security of the Corporation outstanding as of the Original Issuance Date; or

v. solely a change in the par value of the Common Stock.

(iii) Adjustment Deferral. If an adjustment to the Conversion Price otherwise required by this Subsection 11 would result in a change of less than one percent (1%) to the Conversion Price, then the Corporation may, at its election, defer such adjustment, except that all such deferred adjustments must be given effect immediately upon the earliest to occur of the following: (A) when all such deferred adjustments would result in a change of at least one percent (1%) to the Conversion Price, (B) the Conversion Date of any share of Series B Preferred Stock and (C) the Change of Control Redemption Date for any Change of Control.

(iv) Shareholder Rights Plans. If any shares of Common Stock are to be issued upon conversion of any Series B Preferred Stock and, at the time of such conversion, the Corporation has in effect any shareholder rights plan, then the Holders of such Series B Preferred Stock will be entitled to receive, in addition to, and concurrently with the delivery of, the consideration otherwise due upon such conversion, the rights set forth in such shareholder rights plan.

(v) Notice of Conversion Price Adjustments. Upon the effectiveness of any adjustment to the Conversion Price pursuant to this Subsection 11, the Corporation will, as soon as reasonably practicable and no later than ten (10) Business Days after the date of such effectiveness, send notice to the Holders containing (A) a brief description of the transaction or other event on account of which such adjustment was made, (B) the Conversion Price in effect immediately after such adjustment, and (C) the effective time of such adjustment.

12. Adjustment for Reorganization Events.

(a) Reorganization Events. In the event of:

(i) any reclassification, statutory exchange, merger, consolidation or other similar business combination of the Corporation with or into another Person, in each case, pursuant to which at least a majority of the Common Stock is changed or converted into, or exchanged for, cash, securities or other property of the Corporation or another Person;

(ii) any sale, transfer, lease, exclusive license, or conveyance to another Person of all or a majority of the property and assets of the Corporation, in each case pursuant to which the Common Stock is converted into cash, securities or other property; or

(iii) any statutory exchange of securities of the Corporation with another Person (other than in connection with a merger or acquisition) or reclassification, recapitalization or reorganization of the Common Stock into other securities; other than, in each case, any such transaction that constitutes a Change of Control, with respect to which, for the avoidance of doubt, the provisions of Subsection 10 shall apply (each of which is referred to as a "Reorganization Event"), each share of Series B Preferred Stock outstanding immediately prior to such Reorganization Event will, without the consent of the Holders but subject to Subsection 12(d), remain outstanding but shall become convertible into, out of funds legally available therefor, the number, kind and amount of securities, cash and other property (the "Exchange Property") (without any interest on such Exchange Property and without any right to dividends or distribution on such Exchange Property that have a Record Date that is prior to the applicable Conversion Date) that the Holder of such share of Series B Preferred Stock would have received in such Reorganization Event had such Holder converted its shares of Series B Preferred Stock into the applicable number of shares of Common Stock immediately prior to the effective date of the Reorganization Event using the Conversion Price applicable immediately prior to the effective date of the Reorganization Event and the Liquidation Preference (plus (y) the Accrued Dividends plus (z) the Accumulated Dividends for each such shares of Series B Preferred Stock) applicable at the time of such subsequent conversion (without regard to the provisions of Subsection 9); provided that the foregoing shall not apply if such Holder is a Person with which the Corporation consolidated or into which the Corporation merged or which merged into the Corporation or to which such sale or transfer was made, as the case may be (any such Person, a "Constituent Person"), or an Affiliate of a Constituent Person, to the extent such Reorganization Event provides for different treatment of Common Stock held by such Constituent Persons or such Affiliate thereof. If the kind or amount of securities, cash and other property receivable upon such Reorganization Event is not the same for each share of Common Stock held immediately prior to such Reorganization Event by a Person (other than a Constituent Person or an Affiliate thereof), then for the purpose of this Subsection 12(a), the kind and amount of securities, cash and other property receivable upon conversion following such Reorganization Event will be deemed to be the weighted average of the types and amounts of consideration received by the holders of Common Stock.

(b) Successive Reorganization Events. The above provisions of this Subsection 12 shall similarly apply to successive Reorganization Events and the provisions of Subsection 11 shall apply to any shares of Capital Stock received by the holders of the Common Stock in any such Reorganization Event.

(c) Reorganization Event Notice. The Corporation (or any successor) shall, no less than thirty (30) days prior to the anticipated effective date of any Reorganization Event, provide written notice to the Holders of such occurrence of such event and of the kind and amount of the cash, securities or other property that constitutes the Exchange Property. Failure to deliver such notice shall not affect the operation of this Subsection 12.

(d) Reorganization Event Agreements. The Corporation shall not enter into any agreement for a transaction constituting a Reorganization Event unless (i) such agreement provides for or does not interfere with or prevent (as applicable) conversion of the Series B Preferred Stock into the Exchange Property in a manner that is consistent with and gives effect to this Subsection 12 and (ii) to the extent that the Corporation is not the surviving corporation in such Reorganization Event or will be dissolved in connection with such Reorganization Event, proper provision shall be made in the agreements governing such Reorganization Event for the conversion of the Series B Preferred Stock into stock of the Person surviving such Reorganization Event or such other continuing entity in such Reorganization Event.

13. Voting Rights.

(a) General. Except as provided in Subsection 13(c) or as otherwise provided in the Florida Business Corporation Act, the Holders shall be entitled to vote as a single class with the holders of the Common

Stock and the holders of any other class or series of Capital Stock of the Corporation then entitled to vote with the Common Stock on all matters submitted to a vote of the holders of Common Stock (and, if applicable, holders of any other class or series of Capital Stock of the Corporation). Subject to Subsection 13(b), each Holder shall be entitled in respect of each share of Preferred Stock held by such Holder to a number of votes equal to the number of whole shares of Common Stock into which each share of Series B Preferred Stock is convertible pursuant to Subsection 6, in each case at and calculated as of the Record Date for the determination of shareholders entitled to vote or consent on such matters or, if no such Record Date is established, at and as of the date such vote or consent is taken or any written consent of shareholders is first executed. The Holders shall be entitled to notice of any meeting of holders of Common Stock (or requests for consent) to the same extent that holders of Common Stock are entitled to thereunder.

(b) Voting Cap. Notwithstanding anything herein to the contrary:

(i) no Holder (together with its Affiliates) shall be entitled to vote (in respect of such Person's holdings of Series B Preferred Stock and any Common Stock issued or issuable upon conversion of such Series B Preferred Stock) more than 19.90% of the total Voting Stock of the Corporation (measured as of the time of such vote); and

(ii) no Holder shall be entitled in respect of each share of Series B Preferred Stock to more than a number of votes equal to (x) $1,000 *divided by* (y) the Minimum Price.

(c) Special Voting Rights. For as long as any shares of Series B Preferred Stock remain outstanding, the Corporation shall not take, and shall cause its Subsidiaries not to take, any of the actions described in this Subsection 13(c) without the prior written consent of the Holders of not less than a majority of the then total outstanding shares of Series B Preferred Stock, voting separately as a single class with one vote per share, in person or by proxy, either in writing without a meeting or at an annual or a special meeting of such Holders, and any such action taken without such consent shall be null and void *ab initio*, and of no force or effect:

(i) alter, amend or change the rights, preference or privileges of the Series B Preferred Stock;

(ii) amend or restate any organizational document of the Corporation or its Subsidiaries in a manner that materially, adversely and disproportionately affects the rights, preferences and privileges of the Series B Preferred Stock as compared to Common Stock;

(iii) authorize or create any class or series of Senior Stock or Parity Stock (or any security convertible or exchangeable into or evidencing the right to purchase, shares of any class or series of Senior Stock or Parity Stock);

(iv) declare or pay dividends or otherwise make distributions with respect to any shares of Parity Stock or Junior Stock, except dividends or distributions made for purposes as set forth in Subsection 4(f)(i) through Subsection 4(f)(vii);

(v) repurchase or redeem any issued and outstanding shares of Junior Stock or Parity Stock, other than repurchases or redemptions as contemplated by Subsection 4(f)(i) through Subsection 4(f)(vii);

(vi) repurchase or redeem any issued and outstanding shares of Series B Preferred Stock, other than repurchases or redemptions of shares of Series B Preferred Stock upon the occurrence of a Change of Control in accordance with Subsection 10 (for the avoidance of doubt, conversions of Preferred Stock shall not constitute repurchases or redemptions);

(vii) at any time prior to the date that is 30 months after the Original Issuance Date (the "Sunset Date"), (A) sell, transfer or otherwise dispose of any assets (other than sales of inventory in the ordinary course

of business), business or operations, for consideration equal to or greater than $25 million or (B) acquire any assets, business or operations, for consideration equal to or greater than $75 million, in each case of clauses (A) or (B) above in any one transaction or series of related transactions;

(viii) at any time prior to the Sunset Date, merge or consolidate the Corporation with and into any other company unless either (A) the surviving company will have no class of equity securities ranking superior to or on parity with the Series B Preferred Stock in any liquidation, dissolution or wind-up of the Corporation or with respect to dividends, or (B) the Holders will receive in connection with such merger or consolidation, consideration (in the form of cash or publicly traded securities) in respect of each share of Series B Preferred Stock valued (as of the time a definitive agreement in respect of such merger or consolidation is entered into) at or above an amount equal to 200% of the Investor Per Share Purchase Price (any merger or consolidation or other Change of Control in which the Holders will receive consideration meeting the requirements set forth in this clause (B), an "Acceptable Change of Control Event");

(ix) at any time prior to the Sunset Date, commence a voluntary case under any applicable bankruptcy, insolvency or other similar law or consent to the entry of an order for relief in an involuntary case under any such law, or effect any general assignment for the benefit of creditors; or

(x) at any time prior to the Sunset Date, enter into any settlement agreement with respect to the following proceeding: *In re MiMedx Group, Inc. Securities Litigation, Case No. 1:18-cv-00830-WMR (N.D. Ga.)*.

Notwithstanding anything herein to the contrary, no consent or approval of the Holders shall be required for (i) the Corporation to enter into or consummate an Acceptable Change of Control Event or (ii) the authorization or creation of, or the increase in the number of authorized or issued shares of Junior Stock. For the avoidance of doubt, any consent in writing executed by the Holders of at least a majority of the then total outstanding shares of Series B Preferred Stock shall be sufficient to grant any consent required under this Subsection 13(c) for all purposes hereunder and (except as otherwise agreed in writing with a Holder) no notice of such action to the other Holders of Series B Preferred Stock shall be required and no meeting of the Holders of the Series B Preferred Stock shall be required to be convened; provided, that, if the Corporation has not publicly disclosed any action set forth in clauses (i) through (vi) within 10 Business Days of taking such action, then the Corporation shall provide written notice to all Holders of Series B Preferred Stock no less than five (5) Business Days following the taking of such action.

(d) Consent Rights of the Series B Preferred Holders. For as long as any shares of Series B Preferred Stock remain outstanding, the Corporation shall not amend the provisions of its Articles of Incorporation in a manner that adversely and disproportionately affects the rights, preferences and privileges of any Holder of Series B Preferred Stock (such affected holder, an "Affected Holder") as compared to any other Holder of Series B Preferred Stock, without the prior written consent of the Affected Holder.

14. Investor Designees. Notwithstanding anything else to the contrary herein, this Subsection 14 shall be effective only for so long as any shares of Series B Preferred Stock remain outstanding.

(a) Right to Designate Preferred Directors.

(i) Subject to Subsection 14(b), from and after the Original Issuance Date, so long as the EW Investor is a 10% Holder, the EW Investor shall have the right to designate two (2) Investor Designees to serve as preferred directors (each, a "Preferred Director"). To effect this right, on the Original Issuance Date, the size of the Board shall be increased by two (2) members, and two (2) Qualified Persons designated by the EW Investor (each Qualified Person designated by the EW Investor, an "Investor Designee") shall be appointed to the Board as Preferred Directors, filling the vacancies created by such increase. The initial Preferred Directors shall be Martin P. Sutter and William A. Hawkins, III, each of whom shall take office effective as of the Original Issuance Date subject to the terms of this Subsection 14. If

any Investor Designee is not elected to serve as a Preferred Director, the Board will take all lawful actions to appoint such Investor Designee as a Preferred Director.

(ii) Subject to Subsection 14(b), from and after the Original Issuance Date, so long as the EW Investor is a 5% Holder, the EW Investor shall have the right to designate one (1) Investor Designee to serve as a Preferred Director.

(iii) From and after the Original Issuance Date, if the EW Investor is at any time neither a 5% Holder nor a 10% Holder, the EW Investor shall have no right to designate any person to serve as a Preferred Director.

(iv) Notwithstanding anything to the contrary contained in Article 10 of the Articles of Incorporation, and subject to the other terms and conditions of this Subsection 14, including Subsection 14(b) and Subsection 14(c), each Preferred Director shall continue to hold office until the death, disability, resignation or removal of such Preferred Director and shall not be a member of any class of directors that is elected by the holders of shares of Common Stock. Subject to Subsection 14(b), no Person other than the EW Investor shall have any right to designate, appoint, elect or remove any Preferred Directors, and the EW Investor may remove any Preferred Director at any time with or without cause. Only the EW Investor shall have the right to fill any Preferred Director vacancies resulting from death, disability, resignation, disqualification, removal or other cause; provided, however, that the EW Investor shall not designate anyone other than a Qualified Person to fill any such vacancy and provided further that the EW Investor shall not have any right to fill any vacancy resulting from the acceptance of any resignation pursuant to Subsection 14(c).

(v) So long as the EW Investor has any right to designate any Preferred Director, in the event of the death, disability, resignation, disqualification or removal of a Preferred Director as a member of the Board (other than pursuant to Subsection 14(c)), the EW Investor may designate a Qualified Person to be a replacement Preferred Director to the Board.

(vi) The size of the Board may be increased or decreased at any time in accordance with the Articles of Incorporation, the Bylaws and applicable law; provided that no such decrease shall limit the rights of the EW Investor to designate Preferred Directors under this Subsection 14.

(b) Service as Common Directors in Lieu of Service as Preferred Directors. The Board may, by notice to the EW Investor, (i) appoint any Investor Designee (including any Investor Designee who is then serving as a Preferred Director) as a director under Article 10 of the Articles of Incorporation (any such director, a "Common Director") or (ii) nominate any Investor Designee (including any Investor Designee who is then serving as a Preferred Director) for election to the Board by holders of Common Stock at the Corporation's next annual meeting of shareholders, provided that (x) no such appointment or nomination of an Investor Designee shall take place if such Investor Designee would be up for election as a Common Director prior to the 2022 annual meeting of shareholders of the Corporation, and (y) if an Investor Designee is appointed or nominated as a Common Director prior to the second anniversary of the Original Issuance Date, then the other Investor Designee may not be so appointed or nominated to be a Common Director prior to the second anniversary of the Original Issuance Date. Any such notice shall indicate the class of Common Director to which such Investor Designee will be appointed or nominated for election. Upon the earlier of the appointment or the election of such Investor Designee (or a Replacement Designee (as defined below)) as a Common Director, and for so long as such Investor Designee (or a Replacement Designee) serves as a Common Director, the EW Investor's rights to designate an Investor Designee as a Preferred Director under Subsection 14(a) shall be deemed to have been satisfied. For the avoidance of doubt, the total number of Investor Designees that the EW Investor is entitled to have serving on the Board as Preferred Directors, Common Directors or a combination thereof when the EW Investor is a 10% Holder shall be no greater than two (2), and the total number of Investor Designees that the EW Investor is entitled to have serving on the Board as Preferred Directors or Common Directors when the EW Investor is a 5% Holder shall be no

greater than one (1). In the event of the death, disability, resignation or removal of an Investor Designee who is serving as a Common Director pursuant to this Subsection 14(b), the EW Investor may designate a Qualified Person to serve as a replacement Investor Designee (any such Person, a "Replacement Designee").

(c) Resignation; Removal.

(i) If, at any time after the Original Issuance Date, two (2) Investor Designees are serving on the Board, whether as Preferred Directors, Common Directors or a combination thereof, and the EW Investor ceases to be a 10% Holder, the EW Investor shall immediately deliver notice to the Board indicating which Investor Designee's conditional resignation described in Subsection 14(d)(iii) below shall be deemed to have been tendered, and a majority of the then remaining directors (other than the Investor Designees) shall determine whether or not to accept such resignation. If the Board receives no such notice within five (5) Business Days after the EW Investor ceases to be a 10% Holder, the Board (other than the Investor Designees) shall determine which Investor Designee's conditional resignation described in Subsection 14(d)(iii) below shall be deemed to have been tendered, and a majority of the then remaining directors (other than the Investor Designees) shall determine whether or not to accept such resignation. If the Board determines to accept such resignation, the Investor Designee who tendered his or her resignation shall cease to be an Investor Designee hereunder. If the Board determines not to accept such resignation then, regardless of whether such Investor Designee served as a Preferred Director or a Common Director immediately prior to the time when the EW Investor ceased to be a 10% Holder, such Investor Designee shall, upon the Board's determination not to accept such Investor Designee's resignation, serve on the Board as a Common Director in such class as the Board shall determine (if such a determination has not been previously been made by the Board) and not as a Preferred Director.

(ii) If, at any time after the Original Issuance Date, pursuant to Subsection 14(c)(i) only one (1) Investor Designee is serving on the Board as a Preferred Director or a Common Director, and the EW Investor ceases to be a 5% Holder, (a) a majority of the then remaining directors (other than the Investor Designee) shall determine whether or not to accept the conditional resignation of such Investor Designee and (b) the EW Investor shall no longer have any rights under this Subsection 14. If the Board determines to accept such resignation, the Investor Designee who tendered his or her resignation shall cease to be an Investor Designee hereunder. If the Board determines not to accept such resignation then, regardless of whether such Investor Designee served as a Preferred Director or a Common Director immediately prior to the time when the EW Investor ceased to be a 5% Holder, such Investor Designee shall, upon the Board's determination not to accept such Investor Designee's resignation, serve on the Board as a Common Director in such class as the Board shall determine (if such a determination has not been previously been made by the Board) and not as a Preferred Director.

(d) As a condition to any Investor Designee's appointment to the Board pursuant to this Subsection 14, the EW Investor and such Investor Designee shall provide to the Corporation:

(i) if requested by the Corporation, the information required from a nominating shareholder or a Proposed Nominee (as defined in Article II, Section 10 of the Bylaws) under Article II, Section 10 of the Bylaws;

(ii) an undertaking in writing by the Investor Designee to (A) be subject to, bound by and duly comply with the code of conduct and other policies of the Corporation to the same extent required of other non-executive directors of the Corporation; and (B) recuse himself or herself from any deliberations or discussion of the Board or any committee thereof regarding the Corporation's relationship with the EW Investor or any of its Affiliates, including in connection with the EW Investor Parties' purchase or holding of the Series B Preferred Stock; and

(iii) a conditional irrevocable letter of resignation signed by the Investor Designee resigning automatically and without further action, subject to acceptance of such resignation by vote of a majority of the then remaining directors (other than any Investor Designees), upon the occurrence of any of the following events: (A) the EW Investor's ceasing to be a 10% Holder and notice to such Investor Designee of the effectiveness of such Investor Designee's resignation pursuant to Subsection 14(c)(i), (B) the EW Investor's ceasing to be a 5% Holder, (C) such Investor Designee's failure satisfy the requirements set forth in clause (i), (ii), (iii), (iv) or (v) of the definition of Qualified Person or (D) such Investor Designee's material breach of any of the Corporation's Articles of Incorporation or Bylaws, committee charters, corporate governance guidelines, insider trading policies, stock ownership guidelines or similar governance documents.

(e) Indemnification. Upon election or appointment to the Board, an Investor Designee shall herein be referred to as an "Investor Director". The Corporation shall indemnify each Investor Director and provide each Investor Director with director and officer insurance to the same extent as it indemnifies and provides such insurance to other non-executive members of the Board, pursuant to the Articles of Incorporation and Bylaws of the Corporation, applicable laws or otherwise. The Corporation hereby acknowledges that an Investor Director may have rights to indemnification and advancement of expenses provided by the EW Investor or its Affiliates (directly or through insurance obtained by any such entity) (collectively, the "Director Indemnitors"). The Corporation hereby agrees and acknowledges that (i) it is the indemnitor of first resort with respect to an Investor Director, (ii) it shall be required to advance the full amount of expenses incurred by such Investor Director, as required by law, the terms of the Articles of Incorporation and Bylaws, an agreement, vote of stockholders or disinterested directors, or otherwise, without regard to any rights such Investor Director may have against the Director Indemnitors and (iii) to the extent permitted by law, it irrevocably waives, relinquishes and releases the Director Indemnitors from any and all claims against the Director Indemnitors for contribution, subrogation or any other recovery of any kind in respect thereof. The Corporation further agrees that no advancement or payment by the Director Indemnitors on behalf of the Corporation with respect to any claim for which such Investor Director has sought indemnification from the Corporation shall affect the foregoing and the Director Indemnitors shall have a right of contribution and/or be subrogated to the extent of such advancement or payment to all of the rights of recovery of such Investor Director against the Corporation. These rights shall be a contract right.

(f) Conflicts.

(i) The Corporation reserves the right to withhold any information and to exclude the Investor Designees from any meeting or portion thereof if access to such information or attendance at such meeting would reasonably be expected to result in a conflict of interest.

(ii) The EW Investor shall cause the Investor Designees not to participate in, and to recuse themselves from, any Board deliberations and actions relating to the Corporation's relationship with the EW Investor Parties, including in connection with the EW Investor Parties' purchase or holding of the Series B Preferred Stock.

(g) No Assignment or Transfer. The rights of the EW Investor hereunder may not be assigned or transferred whether directly or indirectly.

15. Transfer Agent, Conversion Agent, Registrar and Paying Agent. The initial duly appointed Transfer Agent, Conversion Agent, Registrar and paying agent for the Series B Preferred Stock shall be Issuer Direct Corporation. The Corporation may, in its sole discretion, appoint any other Person to serve as Transfer Agent, Conversion Agent, Registrar or paying agent for the Series B Preferred Stock and thereafter may remove or replace such other Person at any time. Upon any such appointment or removal, the Corporation shall send written notice thereof by first class mail or email to the Holders.

16. Replacement Certificates.

(a) Mutilated, Destroyed, Stolen and Lost Certificates. If physical certificates evidencing the Series B Preferred Stock are issued, the Corporation shall replace any mutilated certificate at the Holder's expense upon surrender of that certificate to the Transfer Agent. The Corporation shall replace certificates that become destroyed, stolen or lost at the Holder's expense upon delivery to the Corporation and the Transfer Agent of satisfactory evidence that the certificate has been destroyed, stolen or lost, together with any bond, indemnity or security that may be required by the Transfer Agent and the Corporation.

(b) Certificates Following Conversion. If physical certificates representing the Series B Preferred Stock are issued, the Corporation shall not be required to issue replacement certificates representing shares of Series B Preferred Stock on or after the Conversion Date applicable to such shares, to the extent that no shares of Series B Preferred Stock represented by such certificates remain outstanding following such Conversion Date. In place of the delivery of a replacement certificate following the applicable Conversion Date, the Transfer Agent, upon receipt of the satisfactory evidence and bond described in clause (a) above, shall deliver the shares of Common Stock issuable upon conversion of such shares of Series B Preferred Stock formerly evidenced by the physical certificate.

17. Taxes.

(a) The Corporation may deduct and withhold, or cause to be deducted and withheld, any amounts required to be deducted and withheld under applicable law with respect to the Series B Preferred Stock (and may set off any such amounts required to be deducted and withheld against any Dividends, distributions or other payments on the Series B Preferred Stock).

(b) The Corporation shall pay any and all documentary, stamp, recording, registration and similar issue or transfer tax ("Transfer Tax") due on (x) the issuance of the Series B Preferred Stock and (y) the issuance of shares of Common Stock upon conversion of Series B Preferred Stock. However, the Corporation shall not be required to pay any Transfer Tax that may be payable in respect of the issuance or delivery (or any transfer involved in the issuance or delivery) of Series B Preferred Stock or shares of Common Stock issued upon conversion of Series B Preferred Stock to a beneficial owner other than the beneficial owner of the Series B Preferred Stock or shares of Common Stock issued upon conversion of Series B Preferred Stock immediately prior to the event pursuant to which such issuance or delivery is required, and no such issuance or delivery shall be made unless and until the Person requesting such issuance or delivery has paid to the Corporation the amount of any such Transfer Tax or has established to the satisfaction of the Corporation that such Transfer Tax has been paid or is not payable.

18. Notices. All notices referred to herein shall be in writing and, unless otherwise specified herein, all notices hereunder shall be deemed to have been given upon the earlier of delivery or three (3) Business Days after the mailing thereof, with respect to mailing in the United States and ten (10) Business Days after the mailing thereof, with respect to mailing outside of the United States, in each case if sent by registered or certified mail with postage prepaid, or by private courier service addressed: (i) if to the Corporation, to its office at 1775 West Oak Commons Court, Marietta, GA 30062 (Attention: General Counsel), (ii) if to any Holder, to such Holder at the address of such Holder as listed in the stock record books of the Corporation (which may include the records of the Transfer Agent) or (iii) to such other address as the Corporation or any such Holder, as the case may be, shall have designated by notice similarly given; provided, that notices to the Holders hereunder may be provided by e-mail if and to the extent the Corporation has on file an e-mail address for such Holder.

19. Waiver. Any provision contained herein and any right of the Holders granted hereunder may be waived as to all shares of Series B Preferred Stock (and the Holders thereof) upon the vote or written consent of the

Holders of a majority of the shares of Series B Preferred Stock then outstanding, provided that any waiver of a provision or rights that adversely and disproportionately affects the rights, preferences and privileges of an Affected Holder as compared to any other Holder of Series B Preferred Stock shall require the consent of the Affected Holder.

20. Severability. If any term of the Series B Preferred Stock set forth herein is invalid, unlawful or incapable of being enforced by reason of any rule of law or public policy, all other terms set forth herein which can be given effect without the invalid, unlawful or unenforceable term will, nevertheless, remain in full force and effect, and no term herein set forth will be deemed dependent upon any other such term unless so expressed herein. Notwithstanding the foregoing in the event of any conflict between the Corporation's Articles of Incorporation and this Article 3, this Article 3 shall control."

Article 4. Registered Office and Registered Agent. The initial registered office of the Corporation shall be at 1201 Hays Street Tallahassee, Leon County, Florida 32301. The initial registered agent of the Corporation at such address shall be Corporation Service Company.

Article 5. Principal Office. The initial principal office of the Corporation shall be at 1234 Airport Road, Suite 105, Destin, Okaloosa County, Florida 32541.

Article 6. Director's Liability. No Director shall have any personal liability to the Corporation or to its shareholders for monetary damages for breach of duty of care or other duty as a Director, by reason of any act or omission, except that this provision shall not eliminate or limit the liability of a Director for liabilities of a Director imposed by Section 607.0831 of the Act.

Article 7. No Preemptive Rights. No holder of any of the shares of any class of stock of the Corporation shall be entitled as of right to subscribe for, purchase, or otherwise acquire any shares of any class of stock of the Corporation which the Corporation proposes to issue or any rights or options which the Corporation proposes to grant for the purchase of shares of any class of stock of the Corporation or for the purchase of any shares, bonds, securities, or obligations of the Corporation which are convertible into or exchangeable for, or which carry any rights to subscribe for, purchase, or otherwise acquire shares of any class of stock of the Corporation; and any and all of such shares, bonds, securities, or obligations of the Corporation, whether now or hereafter authorized or created, may be issued, or may be reissued if the same have been reacquired and if their reissue is not prohibited, and any and all of such rights and options may be granted by the Board of Directors to such individuals and entities, and for such lawful consideration, and on such terms, as the Board of Directors in its discretion may determine, without first offering the same, or any thereof, to any said holder.

Article 8. Indemnification. Each person who is or was a Director or Officer of the Corporation, and each person who is or was a Director or Officer of the Corporation who at the request of the Corporation is serving or has served as an officer, director, partner, joint venturer, trustee, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise shall be indemnified by the Corporation against those expenses (including attorneys' fees), judgments, fines, penalties and amounts paid in settlement which are allowed to be paid or reimbursed by the Corporation under the laws of the State of Florida and which are actually and reasonably incurred in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, in which such person may be involved by reason of his being or having been a Director or Officer of this Corporation or of such other enterprises.

The indemnification provided herein shall not be deemed to limit the right of the Corporation to indemnify any other person for any liability, including obligations to pay a judgment, settlement, penalty, fine (including and excise tax assessed with respect to any employee benefit plan), and expenses actually and reasonably incurred (including attorneys' fees), to the fullest extent permitted by law, both as to action in such person's official capacity and as to action in another capacity while holding such office.

Notwithstanding anything contained herein to the contrary, this Article is intended to provide indemnification to each Director and Officer of the Corporation to the fullest extent authorized by the Act, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the

Corporation to provide broader rights than said statute permitted the Corporation to provide prior thereto). Neither any amendment nor repeal of this Article 8 shall eliminate or reduce the effect of this Article 8, with respect to any matter occurring, or any action or proceeding accruing or arising or that, but for this Article 8, would accrue or arise, prior to such amendment, repeal or adoption of an inconsistent provision.

Article 9. Special Meeting of Shareholders. Special meetings of the shareholders for any purpose may be called at the request in writing of shareholders owning not less than 50% of all votes entitled to be cast on any issue proposed to be considered at the proposed meeting by delivering one or more written demands for the meeting which are signed, dated and delivered to the Secretary of the Corporation and describe the purposes for which the meeting is to be held.

Article 10. **Board of Directors**. The business and the affairs of the Corporation shall be managed by, or under the direction of, a Board of Directors comprised as follows:

(a) The number of directors shall consist of not less than three members, the exact number of which shall be fixed from time to time by resolution adopted by the Board of Directors; provided, that no decrease in the number of directors shall have the effect of shortening the term of any incumbent director. Directors shall be natural persons 18 years of age or older, but need not be residents of the State of Florida or shareholders of the Corporation.

(b) The members of the Board of Directors elected at the 2010 annual meeting of Shareholders shall be divided into three classes, designated as Class I, Class II, and Class III as specified in the resolution adopted by Shareholders at such meeting. Each Class shall consist, as nearly as may be possible, of one-third of the total number of directors constituting the entire Board of Directors. The Class I directors elected at the 2010 annual meeting of Shareholders shall be deemed elected for a three-year term, Class II directors for a two-year term, and Class III directors for a one-year term. Each director shall hold office until the next annual meeting of Shareholders upon which his/her term expires and until his/her successor is elected and qualified, or until his/her earlier death, resignation or removal. At each succeeding annual meeting of Shareholders, successor directors to the Class of directors whose term expires at that annual meeting of Shareholders shall be elected for a three-year term. If the number of directors has changed, any increase or decrease shall be apportioned among the Classes so as to maintain the number of directors in each Class as nearly equal as possible.

(c) Any vacancies occurring on the Board of Directors, including a vacancy resulting from an increase in the number of directors, may be filled only by the affirmative vote of a majority of the remaining members of the Board of Directors, even if less than a quorum, at any meeting of the Board of Directors. Notwithstanding the immediately preceding sentence, the Board of Directors may by resolution determine that any such vacancies shall be filled by the Shareholders of the Corporation. A director elected to fill a vacancy occurring on the Board of Directors, including a vacancy resulting from an increase in the number of directors, shall hold office until the next annual meeting of Shareholders upon which his/her term expires and until his/her successor is elected and qualified, or until his/her earlier death, resignation or removal.

(d) A director may be removed from office only for cause as hereinafter defined and at a meeting of Shareholders called expressly for that purpose by a vote of the holders of 66-2/3% of the shares cast that are entitled to vote at an election of directors. For purposes of this provision, “cause" shall mean (i) a conviction of a felony regardless of whether it relates to the Corporation or its securities; (ii) declaration of incompetency or unsound mind by court order; or (iii) commission of an action that constitutes intentional misconduct or a knowing violation of law that, in either case, results in a material injury to the Corporation.”

Article 11. Incorporator. The name and the address of the Incorporator is Steve Gorlin, 1234 Airport Road, Suite 105, Destin, Okaloosa County, Florida 32541.

Exhibit 10.25

MIMEDX GROUP, INC.
2016 EQUITY AND CASH INCENTIVE PLAN

Amended and Restated through October 2, 2020

Restricted Stock Unit Agreement

THIS RESTRICTED STOCK UNIT AGREEMENT (this "Agreement") dated as of the _____ day of _____, 20___, between MiMedx Group, Inc. (the "Company") and _____ (the "Participant"), is made pursuant and subject to the provisions of the Company's 2016 Equity and Cash Incentive Plan as amended and restated through October 2, 2020 (the "Plan"), a copy of which is attached hereto. Unless otherwise defined herein, all terms used herein that are defined in the Plan have the same meaning given them in the Plan.

1. Grant of Restricted Stock Units. Pursuant to the Plan, the Company, on _____ ____, 20__ (the "Date of Grant"), granted to the Participant, subject to the terms and conditions of the Plan and subject further to the terms and conditions set forth herein, this Restricted Stock Unit Award for _____ Restricted Stock Units ("RSUs"). Each RSU represents the right to receive one share (a "Share") of Common Stock subject to the terms of this Agreement. The RSUs will vest as set forth in Section 2 below. The RSUs will vest as set forth in Section 2 below and, upon vesting, will be settled as set forth in Section 3.

2. Vesting of the RSUs. Subject to earlier expiration, termination or vesting as provided herein, the RSUs will become vested and nonforfeitable as follows:

(a) *Time-Based Vesting*. The RSUs will become vested and nonforfeitable with respect to one-third (1/3) of the RSUs (rounded down to the nearest whole RSU) on each of the first and second anniversaries of the Date of Grant, and with respect to the remaining RSUs on the third anniversary of the Date of Grant, provided the Participant has been continuously employed by, or providing services to, the Company or an Affiliate from the Date of Grant until such date(s).

(b) *Change in Control*. Notwithstanding the foregoing, upon the occurrence of a Change in Control prior to the end of the applicable vesting period, any outstanding RSUs shall be treated in accordance with and governed by Section 14.05 of the Plan.

(c) *Death and Disability*. Additionally, if the Participant's employment with the Company and its Affiliates is terminated on account of the Participant's death or Disability prior to the end of the applicable vesting period, the RSUs shall become fully vested and nonforfeitable upon termination of the Participant's employment with the Company and its Affiliates on account of the Participant's death or Disability.

3. Settlement of RSUs.

(a) *Timing and Amount.* Except as otherwise required by applicable law or as set forth below or in the Plan, the Company shall cause one Share to be issued to the Participant for each vested RSU, with such Shares to be delivered to the Participant upon the applicable vesting date.

(b) *Stock Holding Requirements*. Notwithstanding any other provision of this Agreement, the Shares that are issued may not be sold, transferred or otherwise disposed of until the level of ownership provided in the Company's Stock Ownership Guidelines is met, to the extent applicable to the Participant. All Shares acquired hereunder ("net" shares acquired in case of any net exercise or withholding of shares) shall be subject to the terms and conditions of the Company's Stock Ownership Guidelines, as they may be amended from time to time.

4. Forfeiture of the Shares. RSUs that are not vested pursuant to Sections 2(a), (b) or (c) as of the date of termination of Participant's employment by the Company and its Affiliates will be forfeited automatically at

the close of business on that date (immediately upon notice of termination for Cause). In no event may the RSUs become vested, in whole or in part, after forfeiture pursuant to this Section 4.

5. Agreement to Terms of the Plan and this Agreement. The Participant has received a copy of the Plan, has read and understands the terms of the Plan and this Agreement, and agrees to be bound by their terms and conditions. All decisions and interpretations made by the Company or the Committee with regard to any question arising under this Agreement will be binding and conclusive on the Company and Participant and any other person who has any rights under this Agreement.

6. Tax Consequences. The Participant acknowledges (i) that there may be adverse tax consequences upon acquisition or disposition of the Shares received upon vesting of the RSUs and (ii) that Participant should consult a tax adviser prior to such acquisition or disposition. The Participant is solely responsible for determining the tax consequences of the Restricted Stock Unit Award and for satisfying the Participant's tax obligations with respect to the Restricted Stock Unit Award (including, but not limited to, any income or excise tax as resulting from the application of Code Sections 409A or 4999 or related interest and penalties), and the Company and its Affiliates shall not be liable if this grant is subject to Code Sections 409A, 280G or 4999. The Company's obligation to issue Shares is subject to the Participant's satisfaction of any applicable federal, state and local income and employment tax and withholding requirements in a manner and form satisfactory to the Company. The Committee, to the extent applicable law permits, may allow the Participant to pay any such amounts as provided in the Plan.

7. Fractional Shares. Fractional shares shall not be issuable hereunder, and when any provision hereof may entitle the Participant to a fractional share such fractional share shall be disregarded.

8. Change in Common Stock. The RSUs are subject to adjustment as provided in Article XVI of the Plan.

9. Notice. Any notice or other communication given pursuant to this Agreement, or in any way with respect to the Shares, shall be in writing and shall be personally delivered or mailed by United States registered or certified mail, postage prepaid, return receipt requested, to the following addresses:

If to the Company: MiMedx Group, Inc.
1775 West Oak Commons Ct. NE
Marietta, Georgia 30062
Attn: General Counsel

If to the Participant: __
__
__

10. Shareholder Rights; Dividend Equivalents. Except as provided below, Participant shall have no rights as a Shareholder of the Company with respect to shares underlying the RSUs unless and until Shares are delivered to Participant in respect of such RSUs upon vesting. The RSUs will be entitled to accrue Dividend Equivalents, which will be subject to all conditions and restrictions applicable to the underlying RSUs to which they relate, and which may not be paid until and unless the underlying RSUs have vested. Dividend Equivalents will accrue prior to the issuance of Shares with respect to the RSUs or their earlier forfeiture. Dividend Equivalents will be earned only for RSUs that are earned or deemed earned under this Agreement. With respect to RSUs that are not earned (because the applicable vesting restrictions do not lapse or otherwise), Dividend Equivalents that were accrued for those RSUs will be cancelled and forfeited along with the RSUs and underlying Shares, without payment therefor by the Company or any Affiliate. Dividend Equivalents will be paid at such time as the underlying RSUs to which they relate are paid.

11. No Right to Continued Employment or Service. Neither the Plan, the granting of the RSUs nor any other action taken pursuant to the Plan or this Agreement constitutes or is evidence of any agreement or understanding, expressed or implied, that the Company or any Affiliate shall retain the Participant as an employee or other service provider for any period of time or at any particular rate of compensation.

12. Binding Effect. Subject to the limitations stated above and in the Plan, this Agreement shall be binding upon and inure to the benefit of the legatees, distributees, and personal representatives of the Participant and the successors of the Company.

13. Conflicts. In the event of any conflict between the provisions of the Plan and the provisions of this Agreement, the provisions of the Plan shall govern. All references herein to the Plan shall mean the Plan as in effect on the date hereof.

14. Counterparts. This Agreement may be executed in a number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one in the same instrument.

15. Miscellaneous. The parties agree to execute such further instruments and take such further actions as may be necessary to carry out the intent of the Plan and this Agreement. This Agreement and the Plan shall constitute the entire agreement of the parties with respect to the subject matter hereof.

16. Section 409A. Notwithstanding any of the provisions of this Agreement, it is intended that the RSUs granted pursuant to this Agreement be exempt from Section 409A of the Code as short-term deferrals, pursuant to Treasury regulation §1.409A-1(b)(4), or otherwise comply with Section 409A of the Code. Notwithstanding the preceding, neither the Company nor any Affiliate shall be liable to the Participant or any other person if the Internal Revenue Service or any court or other authority have any jurisdiction over such matter determines for any reason that the RSUs are subject to taxes, penalties or interest as a result of failing to be exempt from, or comply with, Section 409A of the Code. For the avoidance of doubt, the provisions of this Agreement shall be construed and interpreted consistent with Article XXII of the Plan.

17. Non-transferability and non-alienation. The Participant shall not assign or transfer any RSUs while such RSUs remain forfeitable, other than by will or the laws of descent and distribution. No right or interest of Participant or any transferee in the RSUs or Shares subject to the RSUs shall be subject to any lien or any obligation or liability of the Participant or any transferee.

18. Compensation Recoupment Policy. Notwithstanding any other provision of this Agreement, the rights, payments and benefits with respect to the RSUs (including any amounts received by Participant in connection with a sale of Shares received upon the vesting of the RSUs) shall be subject to reduction, reimbursement, cancellation, forfeiture, recoupment or return by the Company, to the extent any reduction, reimbursement, cancellation, forfeiture, recoupment or return is required under applicable law or the Company's Compensation Recoupment Policy or any similar policy that the Company may adopt.

19. Governing Law. This Agreement shall be governed by the governing laws applicable to the Plan.

[Signature Page to Follow]

IN WITNESS WHEREOF, the Company has caused this Agreement to be signed by a duly authorized officer, and the Participant has affixed the Participant's signature hereto.

COMPANY:

MIMEDX GROUP, Inc.

By:__
Name:__
Title:__

PARTICIPANT:

__
[Participant's Name]

Exhibit 10.35

2020 Management Incentive Plan (MIP)

I. Purpose

The 2020 MIP is designed to provide an incentive for key members of the MiMedx Group, Inc. ("MiMedx" or "Company") management team to exceed the 2020 Business Plan and reward those management team members with deserving performance. The MiMedx Board of Directors (the "Board of Directors") has complete authority to interpret the 2020 MIP, to prescribe, amend and rescind rules and regulations relating to it, and to make all other determinations necessary or advisable for the administration of the 2020 MIP (to the extent not inconsistent with Section 162(m) of the Code for payments to Covered Employees). The portion of this 2020 MIP applicable to Covered Employees (as defined by Section 162(m) of the Internal Revenue Code) has been approved by the Board of Directors pursuant to the MiMedx 2016 Equity and Cash Incentive Plan.

The goals of the 2020 MIP are:

1. To increase shareholder value.
2. To achieve and exceed the MiMedx 2020 Business Plan.
3. To reward key individuals for demonstrated performance that is sustained throughout the year.
4. To enhance the Company's ability to be competitive in the marketplace for executive talent, and to attract, retain and motivate a high-performing and high-potential management team.

II. MIP Program Period

This program is in effect from January 1, 2020 through December 31, 2020. The program is subject to adjustment by the Company at any time during or after the program period. In the event of a program adjustment, an addendum will be published to inform eligible participants. No such adjustment may be made if it causes payments to Covered Employees to no longer qualify as qualified performance-based compensation under Section 162(m) of the Code.

III. MIP Participation and Eligibility

Participation and eligibility is determined by the Board of Directors with the Compensation Committee, as defined herein, approving the eligibility of Covered Employees. No individual is automatically included in the 2020 MIP. Only those individuals approved by the Board of Directors and confirmed in writing are eligible. Verbal comments or promises to any employee or past practices are not binding on MiMedx or any of its divisions or subsidiaries in any manner.

Terminated Employees: If a participant terminates from the Company, the following guidelines will be used for all voluntary or involuntary terminations as well as terminations due to a Reduction in Force: Incentives are only earned by employees who are in good standing and employed on the date payment is made. Participants terminating employment prior to the date of payment are not eligible for any incentive payment, regardless of the reason for termination of employment.

First Time Participants: New management employees hired or promoted into an eligible position will be able to begin participating in the MIP on the first day of the first full month in the eligible position. The Bonus will be prorated based on the number of months employed in the eligible position. No incentives will be earned or paid for new hires beginning employment after September 30, 2020.

Existing Participants: Participants who transfer during the period January 1, 2020, through December 31, 2020, from one MIP eligible position to another MIP eligible position, having either a higher or lower Bonus, will begin participating at the new MIP level on the first day of the first full month in the new position. The participant's Bonus will be prorated for the months employed in each eligible position.

Leave of Absence: Participants who have been on an approved leave of absence for medical or other reasons for greater than 60 cumulative days, but 120 or lesser cumulative days, during the year will receive a prorated portion of their earned Bonus. Participants who have been on an approved leave of absence for medical or other reasons for greater than 120 cumulative days during the year will not be eligible to earn any amount of MIP for the year.

***Covered Employees*:** The Compensation Committee shall retain discretion to name as a participant any otherwise-eligible Covered Employee hired or promoted after the commencement of the Plan.

IV. MIP Administration

The Board of Directors has the discretion, subject to the provisions of the 2020 MIP, to make or to select the manner of making all determinations with respect to the 2020 MIP to the extent not inconsistent with Section 162(m) for Covered Employees. The Board of Directors has delegated the administration of the MIP to the Compensation Committee of the Board of Directors (the "Compensation Committee"), who in turn, will approve and subsequently make recommendations to the Board of Directors for final approval of all determinations with respect to the MIP. As delegated by the Board of Directors, the Compensation Committee shall have full authority to formulate adjustments and make interpretations under the 2020 MIP as it deems appropriate. As delegated, the Compensation Committee shall also be empowered to make any and all of the determinations not herein specifically authorized which may be necessary or desirable for the effective administration of the 2020 MIP. As delegated, the bonus amounts calculated under the 2020 MIP shall be paid only upon the Compensation Committee's determination, in its sole discretion, that the participant is entitled to them. All matters of delegation of the 2020 MIP will be approved by the Compensation Committee prior to its recommendation to the Board of Directors for final approval. The Compensation Committee shall be comprised at all times solely of two or more directors who are "outside directors" within the meaning of Section 162(m) of the Code.

The Board of Directors may change the plan from time to time in any respect except as otherwise set forth herein. All decisions made on behalf of the Company by the Board of Directors or the Compensation Committee relative to the plan are final and binding. The determination of compliance with the individual objectives established under the plan for an employee shall be made by the Board of Directors in its sole discretion after approval by the Compensation Committee.

V. MIP Incentive Determination and Payment

The 2020 MIP provides for the determination of a Bonus expressed as a percentage of the participant's annual salary in effect at the end of the program period or the end of each respective period when a participant transfers from one MIP eligible position to another.

Participants approved for MIP participation as of January 1, 2020, are eligible for a full year's participation, not subject to proration if employed for the entire year, in accordance with the provisions hereof. All incentives earned under the MIP will be measured and paid annually.

VI. MIP Participants

The 2020 MIP participants include the position of Chief Executive Officer (the "CEO"), other Named Executive Officers, plus persons who report directly to either (1) the CEO; (2) the position of Chief Operating Officer (the "COO"), if such position exists; or (3) any Committee of the Board of Directors.

VII. MIP Method of Calculation

Each participant's incentive will be calculated based on the achievement of financial targets and individual objectives. The bonus for all MIP participants is divided equally into three components, two of which are financial components and one is an individual objectives component. The allocation of the bonus to the three components is as follows: one-third (1/3) of the bonus is allocated to 2020 Consolidated MiMedx Revenue performance ("Revenue"); and one-third (1/3) is allocated to 2020 Consolidated MiMedx Earnings Before Interest, Taxes, Depreciation, Amortization, and Share Based Compensation Expense performance ("Adjusted EBITDA"); and one-third (1/3) is allocated to individual objectives performance ("Individual Objectives").

Following the end of the Program Period, management will provide documentation to the Compensation Committee confirming the degree of achievement of all performance measures and/or metrics, performance goals and Individual Objectives pertaining to the 2020 MIP. The Compensation Committee will review the documentation from management, and following its review, the Compensation Committee will certify, in writing, the achievement of such performance measures and/or metrics/goals and Individual Objectives prior to the approval of the Compensation Committee and its subsequent recommendation to the Board of Directors for final approval and payment in accordance with such achievement.

Adjusted EBITDA Performance

If Adjusted EBITDA performance is unfavorable to the Adjusted EBITDA threshold, no payout for Adjusted EBITDA performance can be made. If Adjusted EBITDA performance is favorable to the Adjusted EBITDA threshold, the Adjusted EBITDA component is paid out independent of and in addition to the Revenue component in accordance with the terms set forth below. Adjusted EBITDA performance is measured before accrual and payout of bonus expense.

Revenue Performance

The Revenue threshold is the gatekeeper for the Revenue component. If Revenue performance is unfavorable to the Revenue threshold, no payout for Revenue performance can be made. If Revenue performance is favorable to the Revenue threshold, the Revenue component is paid out independent of and in addition to the Adjusted EBITDA component in accordance with the terms set forth below.

Individual Objectives Performance

The Individual Objectives component is independent of the Revenue component and the Adjusted EBITDA component. The payment of earned incentives based on the attainment of the Individual Objectives component is not conditioned on the achievement of the Adjusted EBITDA threshold nor the Revenue threshold.

Individual Objectives for the participants are reviewed and approved by the CEO and recommended to the Compensation Committee for their approval and recommended for

approval by the Board of Directors. The individual objectives are key operational measures and/or major milestone outcomes that are specific to the participant's position and directly related to the overall achievement of the MiMedx Business Plan and/or the MiMedx Strategic Plan.

If all of the Individual Objectives are achieved, the participant may earn the full Bonus amount allocated to the Individual Objectives component of the MIP. Each individual objectives may be weighed differently or all individual objectives may be given equal weighting. If some, but not all, of the individual objectives are attained, a partial amount of the Bonus allocated to the individual objectives component may be earned on a proportionate basis based on the level of attainment and respective weighting of attained individual objectives.

A table summary of the MIP Revenue and Adjusted EBITDA calculations is as follows:

	Threshold	**Target**	**Maximum**
Adjusted EBITDA	$33,976,000	$40,834,000	$61,251,000
Revenue	$261,090,000	$279,211,000	$321,093,000
Payout as a Percent of Target Bonus	50%	100%	150%

Straight-line interpolation will be used to calculate awards when performance falls between any two specified Performance Measures.

The Compensation Committee shall adjust the performance measures and/or metrics/goals as the Compensation Committee in its sole discretion may determine is appropriate in the event of unbudgeted acquisitions or divestitures or other unexpected fundamental changes in the business, any business unit or any product to fairly and equitably determine the bonus amounts and to prevent any inappropriate enlargement or dilution of the bonus amounts. In that respect, the performance measures and/or metrics/goals may be adjusted to reflect, by way of example and not of limitation, (i) unanticipated asset write-downs or impairment charges, (ii) litigation or claim judgments or settlements thereof, (iii) changes in tax laws, accounting principles or other laws or provisions affecting reported results, (iv) accruals for reorganization or restructuring programs, or extraordinary non-reoccurring items as described in Accounting Principles Board Opinion No. 30 or as described in management's discussion and analysis of the financial condition and results of operations appearing in the Annual Report on Form 10-K for the applicable year, (v) acquisitions or dispositions or (vi) foreign exchange gains or losses. To the extent any such adjustments affect any bonus amounts, the intent is that the adjustments shall be in a form that allows the bonuses payable to Covered Employees to continue to meet the requirements of Section 162(m) of the Code for deductibility to the extent intended to constitute qualified performance-based compensation.

Notwithstanding any other provision of the 2020 MIP, in no event may any bonuses payable to Covered Employees under the 2020 MIP exceed the maximum amounts payable based on achievement of Adjusted EBITDA and Revenue and Individual Objectives for 2020 (subject to any other limits set forth in the 2020 MIP).

VIII. Maximum MIP Payment Amounts

The maximum potential amount to be earned by a participant is two (2) times the participant's Bonus Amount. The determining annual base salary in the earned payout calculation is the annual base salary in effect at the end of the program period or the end of each respective period when a participant transfers from one MIP eligible position to another. In all cases, the maximum earned payout for the 2020 MIP for any one individual participant cannot exceed $1,100,000.

IX. Payment of Earned MIP Amounts

Amounts earned by participants will be paid following the Board of Directors meeting in late February or early March, and such payment date shall be paid typically between February 15, 2020 and March 15, 2020.

X. Exemption from 409A

This Plan is intended to be exempt from the applicable requirements of Section 409A of the Code and shall be construed and interpreted in accordance therewith. The Committee may at any time amend, suspend or terminate this Plan, or any payments to be made hereunder, as necessary to be exempt from Section 409A of the Code. Notwithstanding the preceding, MiMedx shall not be liable to any participant or any other person if the Internal Revenue Service or any court or other authority having jurisdiction over such matter determines for any reason that any bonus to be made under this Plan is subject to taxes, penalties or interest as a result of failing to be exempt from, or comply with, Section 409A of the Code. The bonuses under the Plan are intended to satisfy the exemption from Section 409A of the Code for “short-term deferrals.”

XI. MIP Miscellaneous

Nothing in the MIP shall be deemed to constitute a contract for the continuance of employment of the participants or bring about a change of status of employment. Neither the action of the Company in establishing this program, nor any provisions hereof, nor any action taken by the Company shall be construed as giving any employee the right to be retained in the employ of the Company for any period of time, or to be employed in any particular position, or at any particular rate of remuneration.

Further, nothing contained herein shall in any manner inhibit the day-to-day conduct of the business of the Company and its subsidiaries, which shall remain within the sole discretion of management of the Company; nor shall any requirements imposed by management or resulting from the conduct of the business of the Company constitute an excuse for, or waiver from, compliance with any goal established under this plan.

No persons shall have any right, vested or contingent, or any claim whatsoever, to be granted any award or receive any payment hereunder, except payments of awards determined and payable in accordance with the specific provisions hereof or pursuant to a specific and properly approved agreement regarding the granting or payment of an award to a designated individual.

Neither this program, nor any payments pursuant to this program, shall affect, or have any application to, any of the Company’s life insurance, disability insurance, PTO, medical or other related benefit plans, whether contributory or non-contributory on the part of the employee except as may be specifically provided by the terms of the benefit plan.

All payments pursuant to this program are in gross amounts less applicable withholdings. To the extent required by law, the Company shall withhold from all payments made hereunder any amount required to be withheld by Federal and state or local government or other applicable laws. Each participant shall be responsible for satisfying in cash or cash equivalent acceptable to the Committee any income and employment tax withholdings applicable to any payment under the 2020 MIP or participation’s participation in the 2020 MIP.

MiMedx reserves the right to apply a participant’s incentive payment against any outstanding obligations owed to the Company.

By accepting an award, each Participant agrees to return to the Company (or agree to the cancellation of) all or a portion of any awards, both paid and unpaid, previously granted to such

Participant under the Plan to the extent required under the terms of any Company recoupment policy currently in effect or as subsequently adopted by the Board to implement Section 304 of the Sarbanes-Oxley Act of 2002, or Section 10D of the Securities Exchange Act of 1934, as amended, or otherwise (or with any amendment or modification of any such recoupment policy adopted by the Board). All such determinations shall be final and binding.

Exhibit 21.1

MiMedx Group, Inc.
List of Subsidiaries

Company	**Jurisdiction of Organization**
MiMedx Tissue Services, LLC	Georgia
MiMedx Processing Services, LLC	Florida

Exhibit 23.1

Consent of Independent Registered Public Accounting Firm

MiMedx Group, Inc.
Marietta, Georgia

We hereby consent to the incorporation by reference in the Registration Statements on Form S-8 (No. 333-153255, 333-183991, 333-189784, 333-199841, 333-211900 and 333-251434) of MiMedx Group, Inc. of our reports dated March 8, 2021, relating to the consolidated financial statements and schedule, and the effectiveness of MiMedx Group, Inc.'s internal control over financial reporting, which appear in this Form 10-K. Our report on the effectiveness of internal control over financial reporting expresses an adverse opinion on the effectiveness of the Company's internal control over financial reporting as of December 31, 2020.

/s/ BDO USA, LLP
Atlanta, Georgia

March 8, 2021

EXHIBIT 31.1

Certification

I, Timothy R. Wright, certify that:

1. I have reviewed this report on Form 10-K of MiMedx Group, 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 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: March 8, 2021

/s/: Timothy R. Wright
Timothy R. Wright
Chief Executive Officer

EXHIBIT 31.2

Certification

I, Peter M. Carlson, certify that:

1. I have reviewed this report on Form 10-K of MiMedx Group, 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 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: March 8, 2021

/s/: Peter M. Carlson
Peter M. Carlson
Chief Financial Officer

Exhibit 32.1

CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO SECTION 90S OF THE SARBANES-OXLEY ACT OF 2002

The undersigned Timothy R. Wright, the Chief Executive Officer of MiMedx Group, Inc. (the "Company"), has executed this certification in connection with the filing with the Securities and Exchange Commission of the Company's Annual Report on Form 10-K for the period ending December 31, 2020 (the "Report"). Pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned hereby certifies, to his knowledge, that:

(1) the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: March 8, 2021

/s/: Timothy R. Wright
Timothy R. Wright
Chief Executive Officer
(Principal Executive Officer)

Exhibit 32.2

CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO SECTION 90S OF THE SARBANES-OXLEY ACT OF 2002

The undersigned Peter M. Carlson, the Chief Financial Officer of MiMedx Group, Inc. (the "Company"), has executed this certification in connection with the filing with the Securities and Exchange Commission of the Company's Annual Report on Form 10-K for the period ending December 31, 2020 (the "Report"). Pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned hereby certifies, to his knowledge, that:

(1) the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: March 8, 2021

/s/ Peter M. Carlson
Peter M. Carlson
Chief Financial Officer