

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 10-Q

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

For the quarterly period ended June 30, 2019

Or

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

For the transition period from _____ to _____

Commission File Number: 000-21088

VICAL INCORPORATED

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

10390 Pacific Center Court
San Diego, California
(Address of principal executive offices)

93-0948554
(I.R.S. Employer
Identification No.)

92121
(Zip Code)

(858) 646-1100

(Registrant's telephone number, including area code)

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

Title of each class	Trading symbol(s)	Name of each exchange on which registered
Common Stock, \$0.01 par value per share	VICL	The Nasdaq Capital Market

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

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

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

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
Emerging growth company	<input type="checkbox"/>		

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

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

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

Total shares of common stock outstanding at June 30, 2019: 22,841,278

VICAL INCORPORATED

FORM 10-Q

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PART I. FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

VICAL INCORPORATED
BALANCE SHEETS
(In thousands, except par value data)
(Unaudited)

	June 30, 2019	December 31, 2018
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 10,813	\$ 11,870
Marketable securities, available-for-sale	30,907	36,201
Receivables and other assets	979	1,128
Total current assets	42,699	49,199
Long-term investments	—	2,386
Property and equipment, net	2	100
Other assets	—	659
Total assets	<u>\$ 42,701</u>	<u>\$ 52,344</u>
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable and accrued expenses	\$ 1,159	\$ 3,551
Deferred revenue	—	30
Total current liabilities	1,159	3,581
Stockholders' equity:		
Preferred stock, \$0.01 par value, 5,000 shares authorized, none issued and outstanding	—	—
Common stock, \$0.01 par value, 50,000 shares authorized, 22,841 and 21,817 shares issued and outstanding at June 30, 2019 and December 31, 2018, respectively	229	218
Additional paid-in capital	490,343	490,337
Accumulated deficit	(449,072)	(442,064)
Accumulated other comprehensive income	42	272
Total stockholders' equity	41,542	48,763
Total liabilities and stockholders' equity	<u>\$ 42,701</u>	<u>\$ 52,344</u>

See accompanying notes to unaudited financial statements

VICAL INCORPORATED
STATEMENTS OF OPERATIONS
(In thousands, except per share data)
(Unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2019	2018	2019	2018
Revenues:				
Contract revenue	\$ —	\$ 725	\$ —	\$ 1,431
License and royalty revenue	—	10	—	20
Total revenues	—	735	—	1,451
Operating expenses:				
Research and development	759	3,602	4,641	7,266
Manufacturing and production	—	—	—	1,436
General and administrative	2,242	2,261	3,618	4,378
Total operating expenses	3,001	5,863	8,259	13,080
Loss from operations	(3,001)	(5,128)	(8,259)	(11,629)
Other income:				
Investment and other income, net	571	260	1,251	491
Net loss	\$ (2,430)	\$ (4,868)	\$ (7,008)	\$ (11,138)
Basic and diluted net loss per share	\$ (0.11)	\$ (0.22)	\$ (0.31)	\$ (0.51)
Weighted average shares used in computing basic and diluted net loss per share	22,825	21,837	22,404	21,834

See accompanying notes to unaudited financial statements

VICAL INCORPORATED
STATEMENTS OF COMPREHENSIVE LOSS
(In thousands)
(Unaudited)

	Three Months Ended		Six Months Ended	
	June 30,		June 30,	
	2019	2018	2019	2018
Net loss	\$ (2,430)	\$ (4,868)	\$ (7,008)	\$ (11,138)
Other comprehensive loss:				
Unrealized gain (loss) on available-for-sale and long-term marketable securities:				
Unrealized gain arising during holding period, net of tax benefit of \$0 and \$6 for three months ended June 30, 2019 and 2018, respectively, and \$0 and \$6 for six months ended June 30, 2019 and 2018, respectively	25	73	143	8
Less: Reclassification adjustment for gains included in net loss	—	—	(373)	—
Other comprehensive gain (loss)	25	73	(230)	8
Total comprehensive loss	<u>\$ (2,405)</u>	<u>\$ (4,795)</u>	<u>\$ (7,238)</u>	<u>\$ (11,130)</u>

See accompanying notes to unaudited financial statements

VICAL INCORPORATED
STATEMENTS OF STOCKHOLDERS' EQUITY
(In thousands)
(Unaudited)

	<u>Common Stock</u>		Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Income/(Loss)	Total Stockholders' Equity
	Number of Shares	Amount				
Balance at January 1, 2019	21,817	\$ 218	\$ 490,337	\$ (442,064)	\$ 272	\$ 48,763
Net loss	—	—	—	(4,578)	—	(4,578)
Other comprehensive loss	—	—	—	—	(255)	(255)
Issuance of common stock upon exercise of warrants	993	10	—	—	—	10
Issuance of common stock underlying restricted stock units net of shares withheld to settle withholding taxes	13	1	—	—	—	1
Non-cash compensation expense related to grant of equity based compensation	—	—	(19)	—	—	(19)
Balance at March 31, 2019	<u>22,823</u>	<u>\$ 229</u>	<u>\$ 490,318</u>	<u>\$ (446,642)</u>	<u>\$ 17</u>	<u>\$ 43,922</u>
Net loss	—	—	—	(2,430)	—	(2,430)
Other comprehensive gain	—	—	—	—	25	25
Issuance of common stock underlying restricted stock units net of shares withheld to settle withholding taxes	18	—	2	—	—	2
Non-cash compensation expense related to grant of equity based compensation	—	—	23	—	—	23
Balance at June 30, 2019	<u>22,841</u>	<u>\$ 229</u>	<u>\$ 490,343</u>	<u>\$ (449,072)</u>	<u>\$ 42</u>	<u>\$ 41,542</u>

	<u>Common Stock</u>		Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Income/(Loss)	Total Stockholders' Equity
	Number of Shares	Amount				
Balance at January 1, 2018	21,802	\$ 218	\$ 489,975	\$ (426,738)	\$ 122	\$ 63,577
Net loss	—	—	—	(6,270)	—	(6,270)
Retained earnings adjustment upon adoption of ASU 2014-09	—	—	—	928	—	928
Other comprehensive loss	—	—	—	—	(65)	(65)
Issuance of common stock	—	—	—	—	—	—
Issuance of common stock underlying restricted stock units net of shares withheld to settle withholding taxes	13	—	1	—	—	1
Non-cash compensation expense related to grant of equity based compensation	—	—	47	—	—	47
Balance at March 31, 2018	<u>21,815</u>	<u>\$ 218</u>	<u>\$ 490,023</u>	<u>\$ (432,080)</u>	<u>\$ 57</u>	<u>\$ 58,218</u>
Net loss	—	—	—	(4,868)	—	(4,868)
Other comprehensive gain	—	—	—	—	73	73
Issuance of common stock	—	—	—	—	—	—
Issuance of common stock underlying restricted stock units net of shares withheld to settle withholding taxes	—	—	—	—	—	—
Non-cash compensation expense related to grant of equity based compensation	—	—	162	—	—	162
Balance at June 30, 2018	<u>21,815</u>	<u>\$ 218</u>	<u>\$ 490,185</u>	<u>\$ (436,948)</u>	<u>\$ 130</u>	<u>\$ 53,585</u>

See accompanying notes to unaudited financial statements

VICAL INCORPORATED
STATEMENTS OF CASH FLOWS
(In thousands)
(Unaudited)

	Six Months Ended June 30,	
	2019	2018
Cash flows from operating activities:		
Net loss	\$ (7,008)	\$ (11,138)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	18	119
Accretion of discount on short-term investments	(227)	(70)
Write-off of abandoned patents	—	673
Gain on sale of property and equipment	(309)	—
Net gain on sale of long-term investment	(373)	—
Compensation related to stock options and awards	4	209
Changes in operating assets and liabilities:		
Receivables and other assets	808	3,882
Accounts payable and accrued expenses	(2,487)	(2,058)
Employee termination benefits accrual	96	2
Deferred revenue	(30)	(249)
Net cash used in operating activities	<u>(9,508)</u>	<u>(8,630)</u>
Cash flows from investing activities:		
Proceeds from the sale of long-term investment	2,469	—
Maturities of marketable securities	12,000	14,719
Purchases of marketable securities	(6,419)	(20,843)
Sale of property and equipment	388	—
Purchases of property and equipment	—	(16)
Net cash provided by (used in) investing activities	<u>8,438</u>	<u>(6,140)</u>
Cash flows from financing activities:		
Net proceeds from issuance of common stock	13	1
Payment of withholding taxes for net settlement of restricted stock units	—	(1)
Net cash provided by financing activities	<u>13</u>	<u>-</u>
Net decrease in cash, cash equivalents and restricted cash	(1,057)	(14,770)
Cash, cash equivalents and restricted cash at beginning of period	11,870	25,033
Cash, cash equivalents and restricted cash at end of period	<u>\$ 10,813</u>	<u>\$ 10,263</u>

See accompanying notes to unaudited financial statements

VICAL INCORPORATED
NOTES TO FINANCIAL STATEMENTS
June 30, 2019
(Unaudited)

1. BASIS OF PRESENTATION

Vical Incorporated, or the Company, a Delaware corporation, was incorporated in April 1987 and has devoted substantially all of its resources since that time to the research and development of biopharmaceutical products, including those based on its patented DNA delivery technologies for the prevention and treatment of serious or life-threatening diseases.

The unaudited financial statements at June 30, 2019, and for the three and six months ended June 30, 2019 and 2018, have been prepared in accordance with the rules and regulations of the Securities and Exchange Commission, or SEC, and with accounting principles generally accepted in the United States applicable to interim financial statements. These unaudited financial statements have been prepared on the same basis as the audited financial statements included in the Company's Annual Report on Form 10-K and include all adjustments, consisting of only normal recurring accruals, which in the opinion of management are necessary to present fairly the Company's financial position as of the interim date and results of operations for the interim periods presented. Interim results are not necessarily indicative of results expected for a full year or future periods. The preparation of financial statements requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ materially from those estimates. These unaudited financial statements should be read in conjunction with the Company's audited financial statements for the year ended December 31, 2018, included in its Annual Report on Form 10-K filed with the SEC.

Cash, Cash Equivalents and Marketable Securities

Cash and cash equivalents consist of cash and highly liquid securities with original maturities at the date of acquisition of ninety days or less and that can be liquidated without prior notice or penalty. Investments with an original maturity of more than ninety days are considered marketable securities and have been classified by management as available-for-sale. These investments are classified as current assets, even though the stated maturity date may be one year or more beyond the current balance sheet date which reflects management's intention to use the proceeds from sales of these securities to fund its operations, as necessary. Such investments are carried at fair value, with unrealized gains and losses included as a separate component of stockholders' equity. Realized gains and losses from the sale of available-for-sale securities or the amounts, net of tax, reclassified out of accumulated other comprehensive income (loss), if any, are determined on a specific identification basis.

Revenue Recognition

The Company recognizes revenue when control of its products and services is transferred to its customers in an amount that reflects the consideration the Company expects to receive from its customers in exchange for those products and services. This process involves identifying the contract with a customer, determining the performance obligations in the contract, determining the contract price, allocating the contract price to the distinct performance obligations in the contract, and recognizing revenue when the performance obligations have been satisfied. A performance obligation is considered distinct from other obligations in a contract when it provides a benefit to the customer either on its own or together with other resources that are readily available to the customer and is separately identified in the contract. The Company considers a performance obligation satisfied once it has transferred control of a good or service to the customer, meaning the customer has the ability to use and obtain the benefit of the good or service. The Company recognizes revenue for satisfied performance obligations only when it determines there are no uncertainties regarding payment terms or transfer of control.

Research and Development Costs

Research and development costs are expensed as incurred. Research and development costs include salaries and personnel-related costs, supplies and materials, outside services, costs of conducting preclinical and clinical trials, facilities costs and amortization of intangible assets. The Company accounts for its clinical trial costs by estimating the total cost to treat a patient in each clinical trial, and accruing this total cost for the patient over the estimated treatment period, which corresponds with the period over which the services are performed, beginning when the patient enrolls in the clinical trial. This estimated cost includes payments to the site conducting the trial, and patient-related lab and other costs related to the conduct of the trial. Cost per patient varies based on the type of clinical trial, the site of the clinical trial, the method of administration of the treatment, and the number of treatments that a patient receives. Treatment periods vary depending on the clinical trial. The Company makes revisions to the clinical trial cost estimates in the current period, as clinical trials progress.

Manufacturing and Production Costs

Manufacturing and production costs include expenses related to manufacturing contracts and expenses for the production of plasmid DNA for use in the Company's research and development efforts. Production expenses related to the Company's research and development efforts are expensed as incurred.

Net Loss Per Share

Basic and diluted net loss per share has been computed using the weighted-average number of shares of common stock outstanding during the period. The weighted average number of shares used to compute diluted loss per share excludes any assumed exercise of stock options and warrants and any assumed issuance of common stock under restricted stock units (RSUs) as the effect would be antidilutive. Common stock equivalents of 6.2 million and 7.2 million for the three months ended June 30, 2019 and 2018, respectively, were excluded from the calculation because of their antidilutive effect. Common stock equivalents of 6.6 million and 7.2 million for the six months ended June 30, 2019 and 2018, respectively, were excluded from the calculation because of their antidilutive effect.

Stock-Based Compensation

The Company records its compensation expense associated with stock options and other forms of equity compensation based on their fair value at the date of grant using the Black-Scholes-Merton option pricing model. Stock-based compensation includes amortization related to stock option awards based on the estimated grant date fair value. Stock-based compensation expense related to stock options is recognized ratably over the vesting period of the option. In addition, the Company records expense related to RSUs granted based on the fair value of those awards on the grant date. The fair value related to the RSUs is amortized to expense over the vesting term of those awards. Forfeitures of stock options and RSUs are recognized as they occur.

Stock-based compensation expense for a stock-based award with a performance condition is recognized when the achievement of such performance condition is determined to be probable. If the outcome of such performance condition is not determined to be probable or is not met, no compensation expense is recognized and any previously recognized compensation expense is reversed.

Recent Accounting Pronouncements

In February 2016, the FASB issued ASU No. 2016-02, "Leases (Topic 842)." The new standard requires a lessee to record on the balance sheet the assets and liabilities for the rights and obligations created by leases with lease terms of more than 12 months and requires both lessees and lessors to disclose certain key information about lease transactions. The standard is effective for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. The Company adopted this standard during the first quarter of 2019. The adoption of this guidance did not have a material impact on the Company's financial statements and related disclosures.

2. STOCK-BASED COMPENSATION

Total stock-based compensation expense was allocated to research and development, manufacturing and production and general and administrative expense as follows (in thousands):

	Three Months Ended		Six Months Ended	
	June 30,		June 30,	
	2019	2018	2019	2018
Research and development	\$ 6	\$ 48	\$ (44)	\$ 76
Manufacturing and production	—	—	—	(68)
General and administrative	17	114	48	201
Total stock-based compensation expense	<u>\$ 23</u>	<u>\$ 162</u>	<u>\$ 4</u>	<u>\$ 209</u>

There were no stock-based awards granted by the Company during the three and six months ended June 30, 2019. During the six months ended June 30, 2018, the Company granted stock-based awards with a total estimated value of \$0.4 million, which were equal to 2.5% of the outstanding shares of common stock at the end of the period. At June 30, 2019, total unrecognized estimated compensation expense related to unvested stock-based awards granted prior to that date was \$0.1 million, which is expected to be recognized over a weighted-average period of 1.3 years.

3. MARKETABLE SECURITIES, AVAILABLE FOR SALE

The following is a summary of available-for-sale marketable securities (in thousands):

	Amortized Cost	Unrealized Gain	Unrealized Loss	Market Value
June 30, 2019				
U.S. treasuries	\$ 30,865	\$ 42	\$ —	\$ 30,907
	<u>\$ 30,865</u>	<u>\$ 42</u>	<u>\$ —</u>	<u>\$ 30,907</u>
December 31, 2018				
U.S. treasuries	\$ 36,219	\$ —	\$ 18	\$ 36,201
	<u>\$ 36,219</u>	<u>\$ —</u>	<u>\$ 18</u>	<u>\$ 36,201</u>

At June 30, 2019, none of these securities were scheduled to mature outside of one year. The Company did not realize any gains or losses on sales of available-for-sale securities for the three and six months ended June 30, 2019. As of June 30, 2019, none of the securities had been in a continuous material unrealized loss position longer than one year.

4. OTHER BALANCE SHEET ACCOUNTS

Accounts payable and accrued expenses consisted of the following (in thousands):

	June 30, 2019	December 31, 2018
Employee compensation	\$ 335	\$ 1,768
Post-termination benefit accrual	96	—
Clinical trial accruals	111	1,000
Accounts payable	544	412
Other accrued liabilities	73	371
Total accounts payable and accrued expenses	<u>\$ 1,159</u>	<u>\$ 3,551</u>

5. LONG-TERM INVESTMENTS

During the six months ended June 30, 2019, the Company sold its auction rate security classified as a long-term investment with a par value of \$2.5 million. Included in investment and other income for the six months ended June 30, 2019 is a net gain of \$0.4 million related to the sale.

6. FAIR VALUE MEASUREMENTS

The Company measures fair value as an exit price, representing the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. As such, fair value is a market-based measurement that should be determined based on assumptions that market participants would use in pricing an asset or liability. Fair value measurements are based on a three-tier fair value hierarchy, which prioritizes the inputs used in measuring fair value as follows:

- Level 1: Observable inputs such as quoted prices in active markets;
- Level 2: Inputs, other than the quoted prices in active markets, that are observable either directly or indirectly; and
- Level 3: Unobservable inputs in which there is little or no market data, which require the reporting entity to develop its own assumptions.

Cash equivalents, marketable securities and long-term investments measured at fair value are classified in the table below in one of the three categories described above (in thousands):

June 30, 2019	Fair Value Measurements			
	Level 1	Level 2	Level 3	Total
Money market funds	\$ 10,178	\$ —	\$ —	\$ 10,178
U.S. treasuries	30,907	—	—	30,907
	<u>\$ 41,085</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 41,085</u>

December 31, 2018	Fair Value Measurements			
	Level 1	Level 2	Level 3	Total
Money market funds	\$ 11,523	\$ —	\$ —	\$ 11,523
U.S. treasuries	36,201	—	—	36,201
Auction rate securities	—	—	2,386	2,386
	<u>\$ 47,724</u>	<u>\$ —</u>	<u>\$ 2,386</u>	<u>\$ 50,110</u>

The Company invests in U.S. treasury securities, certificates of deposit and money market funds, which are valued based on publicly available quoted market prices for identical securities as of June 30, 2019. The Company determines the fair value of corporate bonds and other government-sponsored enterprise related securities with the aid of valuations provided by third parties using proprietary valuation models and analytical tools. These valuation models and analytical tools use market pricing or similar instruments that are both objective and publicly available, including matrix pricing or reported trades, benchmark yields, broker/dealer quotes, issuer spreads, two-sided markets, benchmark securities, bids and/or offers. The Company validates the valuations received from its primary pricing vendors for its Level 2 securities by examining the inputs used in that vendor's pricing process and determines whether they are reasonable and observable. The Company also compares those valuations to recent reported trades for those securities. As of June 30, 2019 and December 31, 2018, the Company had no investments in Level 2 securities. The Company did not transfer any investments between level categories during the six months ended June 30, 2019.

Activity for assets measured at fair value using significant unobservable inputs (Level 3) is presented in the table below (in thousands):

Balance at December 31, 2018	\$ 2,386
Change in fair market value included in other comprehensive loss	83
Sale of Level 3 security	(2,469)
Balance at June 30, 2019	<u>\$ —</u>
Total gains or losses for the period included in net loss attributable to the change in unrealized gains or losses relating to assets still held at the reporting date	<u>\$ —</u>

7. COMMITMENTS AND CONTINGENCIES

In the ordinary course of business, the Company may become a party to additional lawsuits involving various matters. The Company is unaware of any such lawsuits presently pending against it which, individually or in the aggregate, are deemed to be material to the Company's financial condition or results of operations.

The Company prosecutes its intellectual property vigorously to obtain the broadest valid scope for its patents. Due to uncertainty of the ultimate outcome of these matters, the impact on future operating results or the Company's financial condition is not subject to reasonable estimates.

8. ASTELLAS OUT-LICENSE AGREEMENTS

In July 2011, the Company entered into license agreements with Astellas Pharma Inc., or Astellas, related to the Company's CMV program. The license agreement was terminated in February 2018. Under the terms of the agreements, the Company was performing research and development services and manufacturing services which were being paid for by Astellas. During the three and six months ended June 30, 2018, the Company recognized \$0.7 million and \$1.2 million, respectively, of revenue related to these contract services.

9. FACILITY LEASE

The Company occupies approximately 17,000 square feet of research laboratory and office space at a single site in San Diego, California under a sublease with Genopis, Inc., or Genopis. In July 2018, the Company entered into an agreement with Genopis to sell the Company's idle manufacturing assets for \$1.7 million. As part of the agreement, Genopis agreed to sublease 51,400 square feet of the Company's facility through the remaining term of the Company's lease, which expired on December 31, 2018. Genopis was also required to sign a long-term lease with the facility's landlord beginning on January 1, 2019. Genopis agreed to sublease 17,000 square feet of the facility (consisting of lab and office space) to the Company at no cost for the one-year period ending on December 31, 2019. The fair value of rent of the lab and office space that the Company is occupying at no cost was \$0.4 million as of June 30, 2019 and is recorded in receivables and other assets.

10. STOCKHOLDERS' EQUITY

As of the date of this filing, the Company has on file a shelf registration statement that allows it to raise up to an additional \$40.0 million from the sale of common stock, preferred stock, debt securities and/or warrants, subject to limitations on the amount of securities that it may sell under the registration statement in any 12-month period. Specific terms of any offering under a shelf registration statement and the securities involved would be established at the time of sale.

In November 2017, the Company sold 9,194,286 shares of its common stock in a public offering at a price of \$1.75 per share, including an overallotment of 2,142,857 shares issued at a price of \$1.75 per share, and pre-funded warrants to purchase 7,234,285 shares of common stock at a purchase price of \$1.74 per share. The pre-funded warrants have an exercise price of \$0.01 per share and may be exercised at any time. In March 2019, 993,211 warrants were exercised. As of June 30, 2019, warrants to purchase 6,241,074 shares of common stock were outstanding.

11. RELATED PARTY TRANSACTION

On April 4, 2017, the Company entered into a research collaboration agreement with AnGes. As of the date of the transaction, AnGes held 18.6% of the outstanding stock of the Company. Pursuant to the collaboration agreement, AnGes agreed to make a non-refundable payment to the Company of \$750,000 and the Company agreed to conduct certain research activities related to a development program targeting chronic hepatitis B. An amendment to the agreement was executed in September 2018 that added an additional non-refundable payment from AnGes to the Company of \$145,000. The HBV program was cancelled in 2019. As of June 30, 2019, the Company had recognized the full \$895,000 as contract revenue.

12. RESTRUCTURING COSTS

In February 2019, the Company made the decision to discontinue the Phase 2 clinical trial of VL-2397. As a result, the Company restructured its operations to conserve capital and recorded restructuring charges of \$0.6 million and \$2.1 million during the three and six months ended June 30, 2019, respectively.

In January 2018, the Company and Astellas announced that ASP0113 did not meet its primary endpoint in a Phase 3 clinical study in CMV end organ disease, after which Astellas informed the Company that it was terminating further development. As a result, the Company restructured its operations to conserve capital, which included a staff reduction of 40 employees and the write-off of certain intangible assets. The Company recorded charges for one-time employee termination benefits of \$1.1 million and for intangible asset impairments of \$0.3 million during the six months ended June 30, 2018. Overhead costs associated with the former manufacturing facility of \$0.6 million and \$1.0 million were recognized as general and administrative expense during the three and six months ended June 30, 2018, respectively.

The following table summarizes the restructuring charges (in thousands) recorded for the six months ended June 30, 2019 and 2018:

	Employee Termination Benefits	Asset Impairments	Total
2019			
Research and development	\$ 2,018	\$ —	\$ 2,018
General and administrative	70	—	70
	<u>\$ 2,088</u>	<u>\$ —</u>	<u>\$ 2,088</u>
2018			
Research and development	\$ 272	\$ 267	\$ 539
Manufacturing and production	735	—	735
General and administrative	117	—	117
	<u>\$ 1,124</u>	<u>\$ 267</u>	<u>\$ 1,391</u>

The following table sets forth the accrual activity for employee termination benefits for the six months ended June 30, 2019 (in thousands).

Balance at December 31, 2018	\$ —
Accruals	2,088
Payments	(1,992)
Balance at June 30, 2019	<u>\$ 96</u>

13. MERGER AGREEMENT

On June 2, 2019, the Company entered into an Agreement and Plan of Merger and Reorganization, or the Merger Agreement, with Brickell Biotech, Inc., a Delaware corporation and clinical-stage medical dermatology company, or Brickell Biotech, and Victory Subsidiary, Inc., a Delaware corporation and wholly owned subsidiary of the Company, or Merger Sub. Upon the terms and subject to satisfaction of the conditions described in the Merger Agreement, including approval of the transaction by the Company's stockholders, Merger Sub will be merged with and into Brickell Biotech, or the Merger, with Brickell Biotech surviving the Merger as a wholly owned subsidiary of the Company.

Concurrent with the execution of the Merger Agreement, Brickell entered into a Funding Agreement, or the Funding Agreement, with NovaQuest Co-Investment Fund X, L.P., or NovaQuest, pursuant to which NovaQuest committed to provide up to \$25.0 million in near-term research and development funding to Brickell following the closing of the Merger, or the Concurrent Financing, with \$5.6 million of the commitment expected to be paid promptly following the closing of the Merger and the remaining

portion of the commitment expected to be paid in quarterly payments equal to 67% of invoiced research and development expenses incurred during the subsequent four fiscal quarters.

In connection with the Concurrent Financing, immediately following the closing of the Merger, the combined company will issue warrants to NovaQuest, or the NovaQuest Warrants, to purchase shares of Vical common stock. The number of shares of Vical common stock underlying the NovaQuest Warrants will be based on 10% warrant coverage on the \$25.0 million NovaQuest funding commitment and the final exchange ratio for the Merger, or the Exchange Ratio, and the exercise price of the NovaQuest Warrants will be determined based on a 10% premium to the Brickell price per share of common stock implied value in the Merger, as adjusted for the Exchange Ratio.

Immediately following the Merger, the former Brickell securityholders and NovaQuest, collectively, are expected to own, subject to adjustment, approximately 60% of the aggregate number of shares of Vical common stock, and the securityholders of Vical immediately prior to the Merger are expected to own, subject to adjustment, approximately 40% of the aggregate number of shares of Vical common stock (in each case on a fully diluted basis using the treasury stock method in instances other than with respect to the NovaQuest Warrants and certain equity issuances by Brickell following the signing of the Merger Agreement and prior to the completion of the Merger).

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

This Quarterly Report on Form 10-Q, or Report, contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act, including statements regarding our business, our financial position, the research and development of biopharmaceutical products, the funding of our research and development efforts, whether and when the proposed merger with Brickell Biotech, Inc., or the Merger, will be consummated, the potential benefits to be derived from the Merger, financing and development plans of Brickell or the combined company if the Merger is consummated, and other statements describing our goals, expectations, intentions or beliefs. These statements often contain words such as “may,” “will,” “expect,” “anticipate,” “intend,” “plan,” “believe,” “estimate” or other words indicating future results, though not all forward-looking statements necessarily contain these identifying words. Such statements reflect our current views and assumptions and are subject to risks and uncertainties, particularly those inherent in the process of developing and commercializing biopharmaceutical products, and whether the conditions to the closing of the Merger will be satisfied. Actual results could differ materially from those projected herein. Factors that could cause or contribute to such differences include, but are not limited to, those discussed in our Annual Report on Form 10-K for the year ended December 31, 2018 and our preliminary proxy statement filed with the SEC on July 2, 2019, and in our subsequent filings with the SEC, and those identified in Part II, Item 1A of this Report under the caption “Risk Factors”. As a result, you are cautioned not to rely on these forward-looking statements. We disclaim any duty to update any forward-looking statement to reflect events or circumstances that occur after the date on which such statement is made.

Overview

Until recently, we were focused on developing our novel antifungal VL-2397, for the treatment of patients with invasive aspergillosis. VL-2397 was being evaluated in a multicenter, open label randomized Phase 2 clinical study, designed to compare the efficacy and safety of VL-2397 to standard treatment for invasive aspergillosis in acute leukemia patients and recipients of allogeneic hematopoietic cell transplant (HCT). In February 2019, we decided to discontinue the Phase 2 clinical trial of VL-2397 in order to conserve our cash resources while we pursue our strategic alternative review process.

On June 2, 2019, we entered into an Agreement and Plan of Merger and Reorganization, or the Merger Agreement, with Brickell Biotech, Inc., a Delaware corporation and clinical-stage medical dermatology company, or Brickell Biotech, and Victory Subsidiary, Inc., a Delaware corporation and wholly owned subsidiary of the Company, or Merger Sub. Upon the terms and subject to satisfaction of the conditions described in the Merger Agreement, including approval of the transaction by the Company's stockholders, Merger Sub will be merged with and into Brickell Biotech, or the Merger, with Brickell Biotech surviving the Merger as a wholly owned subsidiary of the Company

Research, Development and Manufacturing Programs

To date, we have not received revenues from the sale of independently developed pharmaceutical products and have received minimal revenues from the sale of commercially marketed products by our licensees. We have previously earned revenues by performing services under research and development and manufacturing contracts, from grants, and from licensing access to our proprietary technologies. Revenues by source were as follows (in millions):

Source	Three Months Ended		Six Months Ended	
	June 30,		June 30,	
	2019	2018	2019	2018
Astellas supply and services contract	—	\$ 0.7	—	\$ 1.2
Other contracts, licenses and royalties	—	—	—	0.3
Total revenues	\$ —	\$ 0.7	\$ —	\$ 1.5

In February 2019, we made the decision to discontinue the Phase 2 clinical trial of VL-2397 and, as a result, we restructured our operations to conserve capital. In January 2018, we and Astellas announced that ASP0113 did not meet its primary endpoint in a Phase 3 clinical study in CMV end organ disease, after which Astellas informed us that it was terminating further development.

Critical Accounting Policies and Estimates

The preparation and presentation of financial statements in accordance with accounting principles generally accepted in the United States requires that management make a number of assumptions and informed estimates that affect the reported amounts of assets, liabilities, revenues and expenses in our financial statements and accompanying notes. Management bases its estimates on

historical information and assumptions believed to be reasonable. Although these estimates are based on management's best knowledge of current events and circumstances that may impact us in the future, they are inherently uncertain and actual results may differ materially from these estimates.

Our critical accounting policies are those that affect our financial statements materially and involve a significant level of judgment by management. Our critical accounting policies regarding revenue recognition are in the following areas: license and royalty agreements, manufacturing contracts, contract services and grant revenues. Our critical accounting policies also include recognition of research and development expenses and the valuation of long-lived and intangible assets.

We describe our significant accounting policies in Note 1 of the Notes to Financial Statements included in our Annual Report on Form 10-K for the year ended December 31, 2018. We discuss our critical accounting policies and estimates in the section titled "Management's Discussion and Analysis of Financial Condition and Results of Operations" in our Annual Report on Form 10-K for the year ended December 31, 2018.

Recent Accounting Pronouncements

For information on the recent accounting pronouncements which may impact our business, see Note 1 of the Notes to Financial Statements included in this Report.

Results of Operations

Three Months Ended June 30, 2019, Compared with Three Months Ended June 30, 2018

Total Revenues. Total revenues decreased to \$0 for the three months ended June 30, 2019, from \$0.7 million for the three months ended June 30, 2018. This decrease was primarily due to the termination of the ASP0113 program in January 2018.

Research and Development Expenses. Research and development expenses decreased \$2.8 million, or 78.9%, to \$0.8 million for the three months ended June 30, 2019, from \$3.6 million for the three months ended June 30, 2018. This decrease was primarily due to the termination of the VL-2397 in February 2019. As of June 30, 2019 we did not have any active research and development programs.

Manufacturing and Production Expenses. In February 2018, we discontinued all manufacturing and production activities and, as a result, we did not incur any manufacturing and production expenses in either period.

General and Administrative Expenses. General and administrative expenses decreased \$0.1 million, or 0.8%, to \$2.2 million for the three months ended June 30, 2019, from \$2.3 million for the three months ended June 30, 2018. This decrease was primarily due to a decrease in wages and benefits as a result of lower headcount and lower facility costs.

Investment and Other Income, Net. Investment and other income, net, increased \$0.3 million to \$0.6 million for the three months ended June 30, 2019, from \$0.3 million for the three months ended June 30, 2018 primarily due to a \$0.3 million gain realized on the sale of assets during the three months ended June 30, 2019.

Six Months Ended June 30, 2019, Compared with Six Months Ended June 30, 2018

Total Revenues. Total revenues decreased to \$0 for the six months ended June 30, 2019, from \$1.5 million for the six months ended June 30, 2018. This decrease was primarily due to the termination of the ASP0113 program in January 2018.

Research and Development Expenses. Research and development expenses decreased \$2.6 million, or 36.1%, to \$4.6 million for the six months ended June 30, 2019, from \$7.2 million for the six months ended June 30, 2018. This decrease was primarily due to the termination of the VL-2397 program in February 2019 and the termination of the ASP0113 program in January 2018. As of June 30, 2019 we did not have any active research and development programs.

Manufacturing and Production Expenses. Manufacturing and production expenses decreased to \$0.0 for the six months ended June 30, 2019 from \$1.4 million for the six months ended June 30, 2018. This decrease was due to the termination of the ASP0113 program in January 2018. The termination resulted in a decrease in manufacturing activity and a headcount reduction. In February 2018, we discontinued all manufacturing and production activities and, as a result, we do not expect to incur any future manufacturing or production expenses unless the Merger is consummated.

General and Administrative Expenses . General and administrative expenses decreased \$0.8 million, or 17.4 % , to \$3 .6 million for the six months ended June 30, 2019, from \$4.4 million for the six months ended June 30 , 2018. This decrease was primarily due to a decrease in wages and benefits as a result of lower headcount and lower facility costs.

Investment and Other Income, Net . Investment and other income, net, increased \$0.8 million to \$1.3 million for the six months ended June 30, 2019, from \$0.5 million for the six months ended June 30, 2018 primarily due to the reversal of previously recognized losses on long-term investments sold in March 2019 and a \$0.3 million gain realized on the sale of assets during the six months ended June 30, 2019.

Liquidity and Capital Resources

Since our inception, we have financed our operations primarily through private placements and public offerings of equity securities, and revenues from our operations. Cash, cash equivalents, marketable securities and long-term investments totaled \$41.7 million at June 30, 2019, compared with \$50.5 million at December 31, 2018. The decrease in our cash, cash equivalents and marketable securities for the six months ended June 30, 2019, was primarily the result of the use of cash to fund our operations.

Net cash used in operating activities was \$9.5 million and \$8.6 million for the six months ended June 30, 2019 and 2018, respectively. The increase in net cash used in operating activities for the six months ended June 30, 2019, compared with the prior year period, was primarily the result of a decrease in cash receipts from Astellas due to the termination of the ASP0113 program.

Net cash provided by (used in) investing activities was \$8.4 million and \$(6.1) million for the six months ended June 30, 2019 and 2018, respectively. The increase in net cash provided by investing activities for the six months ended June 30, 2019, compared with the prior year period, was primarily the result of a decrease of \$11.7 million in net purchases of marketable securities and an increase in proceeds received from the sale of long-term investments.

Net cash provided by financing activities was \$13,000 and \$0 for the six months ended June 30, 2019 and 2018, respectively.

A discussion of our exposure to interest rate risk is included in Part I, Item 3 of this Report under the heading “Quantitative and Qualitative Disclosures About Market Risk.”

We currently have on file an effective shelf registration statement that allows us to raise up to \$40.0 million from the sale of common stock, preferred stock, debt securities and/or warrants, subject to limitations on the amount of securities that we may sell under the registration statement in any 12-month period.

Despite our current shelf registration statement, additional financing through these or other means may not be available on favorable terms or at all. If additional financing is not available, we anticipate that our available cash and existing sources of funding will be adequate to satisfy our cash needs at least through December 31, 2020.

Contractual Obligations

Under the indemnification agreements with our officers and directors, we have agreed to indemnify those individuals for any expenses and liabilities in the event of a threatened, pending or actual investigation, lawsuit, or criminal or investigative proceeding.

We have an employment agreement that contains severance arrangements with our chief executive officer, or CEO, and severance agreements with two of our other employees. Under the agreement with our CEO, we are obligated to pay severance if we terminate the CEO’s employment without “cause,” or if the CEO resigns for “good reason,” as defined in the agreement, within the periods set forth therein. The severance for the CEO consists of continued base salary payments at the then-current rate, including the payment of health insurance premiums for 18 months, plus a payment equal to one and one-half times the CEO’s cash bonus in the previous year. In addition, the CEO receives accelerated vesting on all his unvested stock awards as if he had remained employed by us for 18 months from the date of termination. In the event that the termination occurs within 24 months of a “change in control,” as defined in the agreement, the severance for the CEO consists of a lump sum payment equal to 24 months of base salary at the then-current rate, the payment of health insurance premiums for 18 months, plus a payment equal to one and one-half times the CEO’s cash bonus in the previous year. In addition, all outstanding unvested stock awards will vest immediately. Under the agreements with our other two executives, we are obligated to pay severance if we terminate the executive’s employment without “cause,” or if the executive resigns for “good reason,” as defined in the agreements, within the periods set forth therein. The severance for one of these executives consists of a lump-sum payment equal to 12 months of base salary at the then-current rate, including the payment of health insurance premiums for 12 months, plus a payment equal to the executive’s cash bonus in the previous year. In addition, the executive receives accelerated vesting on all his unvested stock awards as if he had remained employed by us for 12 months from the date of termination. In the event that the termination occurs within 12 months of a “change in control,” as defined in the agreements, the

severance consists of a lump sum payment equal to 18 months of base salary at the then-current rate, the payment of health insurance premiums for 12 months, plus a payment equal to the executive's cash bonus in the previous year. In addition, all outstanding unvested stock awards will vest immediately. The severance for the remaining executive consists of a lump-sum payment equal to six months of base salary at the then-current rate, including the payment of health insurance premiums for six months, plus a bonus payment of \$75,000. The maximum payments due under these agreements would have been \$2.4 million if each such employee was terminated at June 30, 2019.

Off-Balance Sheet Arrangements

As of June 30, 2019, we did not have any off-balance sheet arrangements.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We are subject to interest rate risk. Our investment portfolio is maintained in accordance with our investment policy which defines allowable investments, specifies credit quality standards and limits the credit exposure of any single issuer. Our investment portfolio consists of cash equivalents and marketable securities. The average maturity of our investments is approximately three months. Our investments are classified as available-for-sale securities.

To assess our interest rate risk, we performed a sensitivity analysis projecting an ending fair value of our cash equivalents and marketable securities using the following assumptions: a three-month average maturity and a 150-basis-point increase in interest rates. This pro forma fair value would have been \$0.2 million lower than the reported fair value of our investments at June 30, 2019.

Our investment securities consist of government agency securities.

ITEM 4. CONTROLS AND PROCEDURES

Conclusion Regarding the Effectiveness of Disclosure Controls and Procedures

Under the supervision and with the participation of our management, including our principal executive and financial officer, we conducted an evaluation of the design and operation of our disclosure controls and procedures, as such term is defined in Rule 13a-15(e) promulgated under the Exchange Act as of the end of the period covered by this Report. Based on this evaluation, our principal executive officer and principal financial officer concluded that our disclosure controls and procedures were effective and were operating at a reasonable assurance level as of June 30, 2019.

Changes in Internal Control over Financial Reporting

Management has determined that there were no significant changes in our internal control over financial reporting that occurred during the three months ended June 30, 2019, that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

ITEM 1A. RISK FACTORS

You should consider carefully the following information about the risks described below, together with the other information contained in this Quarterly Report and in our other public filings in evaluating our business. The risk factors set forth below did not appear as separate risk factors, or contain changes to the similarly titled risk factors, included in “Item 1A. Risk Factors” set forth in the Vical 10-Q, as filed with the SEC on May 2, 2019. If any of the following risks actually occur, our business, financial condition, results of operations, and future growth prospects would likely be materially and adversely affected. In these circumstances, the market price of our common stock would likely decline.

Risks Related to the Merger

If the Merger with Brickell is not consummated, Vical’s business could suffer materially and Vical’s stock price could decline.

The consummation of the Merger with Brickell is subject to the satisfaction of a number of closing conditions, including the receipt of Vical stockholder approvals, Vical’s successful application for initial listing with Nasdaq, the occurrence of the special meeting of Vical’s stockholders, the satisfaction of the Vical net cash condition and other closing conditions. Vical and Brickell are targeting a closing of the Merger in the third quarter of 2019.

If the Merger is not consummated, Vical may be subject to a number of material risks, and its business and stock price could be adversely affected, as follows:

- Vical has incurred and expects to continue to incur significant expenses related to the Merger with Brickell, even if the Merger is not consummated.
- The Merger Agreement contains covenants restricting Vical’s solicitation of competing acquisition proposals and the conduct of Vical’s business between the date of signing the Merger Agreement and the closing of the Merger. As a result, significant business decisions and transactions before the closing of the Merger require the consent of Brickell. Accordingly, Vical may be unable to pursue business opportunities that would otherwise be in its best interest as a standalone company.
- Vical has invested significant time and resources in the transaction process and if the Merger Agreement is terminated. Vical will have limited prospects, given the fact that Vical has discontinued all activities relating to development of its clinical programs, including its ASP0113 program collaboration with Astellas, its HSV-2 vaccine program and its VL-2397 Phase 2 clinical trial.
- Vical could be obligated to pay Brickell a \$1.0 million termination fee in connection with the termination of the Merger Agreement, depending on the reason for the termination.

In addition, if the Merger Agreement is terminated and Vical’s board of directors determines to seek another business combination, it may not be able to find a third party willing to provide equivalent or more attractive consideration than the consideration to be provided by each party in the Merger. Due to the lengthy nature of the strategic process, the further passage of time will diminish cash available. In such circumstances, Vical’s board of directors may elect to, among other things, divest all or a portion of Vical’s business, or take the steps necessary to liquidate all of Vical’s business and assets, and in either such case, the consideration that Vical receives may be less attractive than the consideration to be received by Vical pursuant to the Merger Agreement.

Some of Vical’s officers and directors have conflicts of interest that may influence them to support or approve the Merger.

Officers and directors of Vical participate in arrangements that provide them with interests in the Merger that are different from Vical’s stockholders, including, among others, to the extent applicable, their continued service as a director of the combined company, severance benefits and continued indemnification. These interests, among others, may influence the officers and directors of Vical to support or approve the Merger

Vical's severance agreements with Vical's executive officers and certain other employees require Vical to pay severance benefits to any of those persons who are terminated under specified circumstances, including in connection with a change of control of Vical, which could harm Vical's financial condition or results.

Vical's executive officers and certain other employees are parties to severance agreements that contain change of control and severance provisions providing for severance and other benefits and acceleration of vesting of stock options in the event of a termination of employment under specified circumstances. Based on the terms of their respective severance agreements, Vical's executive officers will be entitled to receive an aggregate of approximately \$2.3 million in severance benefits due to the terminations of their employment upon a change of control in connection with the consummation of the Merger. The payment of these severance benefits could harm Vical's financial condition and results and reduce the cash available to the combined company following the Merger.

The Merger may be completed even though material adverse changes may result from the announcement of the Merger, industry-wide changes and other causes.

In general, either party can refuse to complete the Merger if there is a material adverse change affecting the other party following June 2, 2019, the date of the Merger Agreement. However, some types of changes do not permit either party to refuse to complete the Merger, even if such changes would have a material adverse effect on Vical or Brickell, to the extent they resulted from the following (unless, in some cases, they have a disproportionate effect on Vical or Brickell, as the case may be):

- changes in the general business or economic conditions affecting the industry in which Vical and Brickell, and their respective affiliates, operate;
- acts of war, armed hostilities or terrorism;
- changes in financial, banking or securities markets;
- any change in, or any compliance with or action taken for the purpose of complying with, any law or GAAP;
- the taking of any action required to be taken by the Merger Agreement;
- with respect to Vical, any change in the stock price or trading volume of Vical's common stock;
- with respect to Vical, any failure to meet analysts' financial or industry expectations or projections; and
- with respect to Vical, the announcement of the Merger Agreement or the pendency of the Merger.

If adverse changes occur but Vical and Brickell must still complete the Merger, the combined company's stock price may suffer.

The market price of the combined company's common stock may decline as a result of the Merger.

The market price of the combined company's common stock may decline as a result of the Merger for a number of reasons, including if:

- the combined company does not achieve the perceived benefits of the Merger as rapidly or to the extent anticipated by financial or industry analysts;
- the effect of the Merger on the combined company's business and prospects is not consistent with the expectations of financial or industry analysts; or
- investors react negatively to the effect on the combined company's business and prospects from the Merger.

Vical's stockholders may not realize a benefit from the Merger commensurate with the ownership dilution they will experience in connection with the Merger.

If the combined company is unable to realize the strategic and financial benefits currently anticipated from the Merger, Vical's stockholders will have experienced substantial dilution of their ownership interest without receiving any commensurate benefit. Significant management attention and resources will be required to integrate the two companies. Delays in this process could adversely affect the combined company's business, financial results, financial condition and stock price following the Merger. Even if

the combined company is able to integrate the business operations successfully, there can be no assurance that this integration will result in the realization of the full benefits of synergies, innovation and operational efficiencies that may be possible from this integration and that these benefits will be achieved within a reasonable period of time.

The combined company will incur significant transaction costs as a result of the Merger, including investment banking, legal and accounting fees. In addition, the combined company will incur significant consolidation and integration expenses which cannot be accurately estimated at this time. Actual transaction costs may substantially exceed estimates and may have an adverse effect on the combined company's financial condition and operating results.

During the pendency of the Merger, Vical and Brickell will be subject to contractual limitations set forth in the Merger Agreement that restrict the parties' ability to enter into business combination transactions with another party.

Covenants in the Merger Agreement impede the ability of Vical or Brickell to make acquisitions or complete other transactions that are not in the ordinary course of business pending completion of the Merger. As a result, if the Merger is not completed, the parties may be at a disadvantage to their competitors. In addition, while the Merger Agreement is in effect and subject to limited exceptions, each party is prohibited from soliciting, initiating, encouraging or taking actions designed to facilitate any inquiries or the making of any proposal or offer that could lead to the entering into certain extraordinary transactions with any third party, such as a sale of assets, an acquisition of Vical's common stock, a tender offer for Vical's common stock, a Merger or other business combination outside the ordinary course of business. Any such transactions could be favorable to such party's stockholders.

Because the lack of a public market for Brickell's common stock makes it difficult to evaluate the fairness of the Merger, Brickell's stockholders may receive consideration in the Merger that is greater than or less than the fair market value of Brickell's common stock.

The outstanding share capital of Brickell is privately held and is not traded in any public market. The lack of a public market makes it difficult to determine the fair market value of Brickell. It is possible that the value of Vical's common stock to be issued in connection with the Merger will be greater than the fair market value of Brickell.

Because the Merger will result in an ownership change under Section 382 of the Internal Revenue Code (the "Code") for Vical, Vical's pre-Merger net operating loss carryforwards and certain other tax attributes will be subject to limitations. The net operating loss carryforwards and other tax attributes of Brickell and of the combined company may also be subject to limitations as a result of ownership changes.

If a corporation undergoes an "ownership change" within the meaning of Section 382 of the Code, the corporation's net operating loss carryforwards and certain other tax attributes arising before the ownership change are subject to limitations on use after the ownership change. In general, an ownership change occurs if there is a cumulative change in the corporation's equity ownership by certain stockholders that exceeds fifty percentage points over a rolling three-year period. Similar rules may apply under state tax laws. The Merger will result in an ownership change for Vical and, accordingly, Vical's net operating loss carryforwards and certain other tax attributes will be subject to limitations (or disallowance) on their use after the Merger. Brickell's net operating loss carryforwards may also be subject to limitation as a result of prior shifts in equity ownership and/or the Merger. Additional ownership changes in the future could result in additional limitations on Vical's, Brickell's and the combined company's net operating loss carryforwards. Consequently, even if the combined company achieves profitability, it may not be able to utilize a material portion of Vical's, Brickell's or the combined company's net operating loss carryforwards and other tax attributes, which could have a material adverse effect on cash flow and results of operations.

The Exchange Ratio is not adjustable based on the market price of Vical common stock so the Merger consideration at the closing of the Merger may have a greater or lesser value than at the time the Merger Agreement was signed.

At the effective time of the Merger, outstanding shares of Brickell capital stock will be converted into shares of Vical common stock. Applying the Exchange Ratio, the former Brickell securityholders and NovaQuest, collectively, are expected to own, subject to adjustment, approximately 60% of the aggregate number of shares of Vical common stock, and the securityholders of Vical as of immediately prior to the Merger are expected to own, subject to adjustment, approximately 40% of the aggregate number of shares of Vical common stock (in each case on a fully diluted basis using the treasury stock method in instances other than with respect to the NovaQuest Warrants and certain equity issuances by Brickell following the signing of the Merger Agreement and prior to the completion of the Merger). The exchange ratio formula is based on a \$60.0 million valuation of Brickell and a \$40.0 million valuation of Vical and is subject to adjustment based on the Vical net cash and Brickell net working capital balances prior to the completion of the Merger.

Any changes in the market price of Vical common stock before the completion of the Merger will not affect the number of shares Brickell stockholders will be entitled to receive pursuant to the Merger Agreement. Therefore, if before the completion of the

Merger the market price of Vical common stock declines from the market price on the date of the Merger Agreement, then Brickell securityholders could receive Merger consideration with substantially lower value. Similarly, if before the completion of the Merger the market price of Vical common stock increases from the market price on the date of the Merger Agreement, then Brickell securityholders could receive Merger consideration with substantially more value for their shares of Brickell capital stock than the parties had negotiated for in the establishment of the Exchange Ratio. The Merger Agreement does not include a price-based termination right. Because the Exchange Ratio does not adjust as a result of changes in the value of Vical common stock, for each one percentage point that the market value of Vical common stock rises or declines, there is a corresponding one percentage point rise or decline, respectively, in the value of the total Merger consideration issued to Brickell securityholders.

The opinion received by Vical's board of directors from MTS Securities has not been, and is not expected to be, updated to reflect changes in circumstances that may have occurred since the date of the opinion.

Vical retained MTS Securities as a financial advisor in connection with the Merger. On June 2, 2019, MTS Securities, an affiliate of MTS, delivered its opinion to the board of directors of Vical that, as of June 2, 2019, and subject to the various assumptions made, procedures followed, matters considered and qualifications and limitations set forth in such written opinion, the Exchange Ratio is fair, from a financial point of view, to the holders of Vical common stock. The opinion addresses solely the fairness, from a financial point of view and as of the date of such opinion, of the Exchange Ratio to the holders of Vical common stock and does not address any other terms in the Merger Agreement, or any other agreement contemplated by the Merger Agreement or relating to the Merger or any other aspect or implication of the Merger, including, without limitation, the form or structure of the Merger or the fairness of the Merger or the Exchange Ratio to any other securityholders or creditors or any other constituency of Vical. MTS Securities did not consider any potential legislative or regulatory changes currently being considered by the SEC, or any other governmental or regulatory bodies, or any changes in accounting methods or generally accepted accounting principles that may be adopted by the SEC or the Financial Accounting Standards Board. It should be understood that, although subsequent developments may affect the conclusion reached in the opinion, MTS Securities does not have any obligation to update, revise or reaffirm such opinion and has not done so.

Vical and Brickell may become involved in securities litigation or stockholder derivative litigation in connection with the Merger, and this could divert the attention of Vical and Brickell management and harm the combined company's business, and insurance coverage may not be sufficient to cover all related costs and damages.

Securities litigation or stockholder derivative litigation frequently follows the announcement of certain significant business transactions, such as the sale of a business division or announcement of a business combination transaction. Vical and Brickell may become involved in this type of litigation in connection with the Merger, and the combined company may become involved in this type of litigation in the future. Litigation often is expensive and diverts management's attention and resources, which could adversely affect the business of Vical, Brickell and the combined company, and insurance coverage may not be sufficient to cover all related costs and damages.

ITEM 5. OTHER INFORMATION

We will hold our 2019 Annual Meeting of Stockholders, or the 2019 Annual Meeting, more than 30 days after the one-year anniversary of the 2018 Annual Meeting of Stockholders, which was held on May 23, 2018. Any proposal submitted by a stockholder intended to be presented for consideration at the 2019 Annual Meeting must be delivered to or mailed and received, according to our Amended and Restated Bylaws, by our corporate secretary at our principal executive offices, not less than 50 days nor more than 75 days prior to the meeting; provided, however, that in the event that less than 65 days' notice or prior public disclosure of the date of the meeting is given or made to stockholders, notice by the stockholder to be timely must be so received not later than the close of business on the 15th day following the day on which such notice of the date of the 2019 Annual Meeting was mailed or such public disclosure was made. Any proposal submitted outside this timeframe will not be considered timely and such business will be excluded from consideration at the 2019 Annual Meeting. The notice to be delivered to our corporate secretary must be in writing and must comply with the provisions of our Amended and Restated Bylaws. For stockholders who wish to submit a proposal for consideration of inclusion in the 2019 proxy statement and presentation at the 2019 Annual Meeting pursuant to Rule 14a-8 under the Exchange Act, such proposal must be received by our corporate secretary at our principal executive offices no later than a reasonable time before we begin to print and mail the proxy materials for the 2019 Annual Meeting, and otherwise must comply with the Securities and Exchange Commission requirements in Proxy Rule 14a-8.

ITEM 6. EXHIBITS

Exhibit Number	Description of Document
2.1(1)	Agreement and Plan of Merger and Reorganization, dated June 2, 2019, by and among the Company, Brickell Biotech, Inc. and Victory Subsidiary, Inc.
3.1(2)	Restated Certificate of Incorporation. (P)
3.2(3)	Amended and Restated Bylaws.
3.3(4)	Certificate of Amendment to Restated Certificate of Incorporation.
3.4(5)	Certificate of Amendment to Restated Certificate of Incorporation.
3.5(6)	Certificate of Amendment to Restated Certificate of Incorporation.
3.6(7)	Certificate of Amendment to Restated Certificate of Incorporation.
4.1(2)	Specimen Common Stock Certificate. (P)
10.1(8)	Form of Support Agreement, dated June 2, 2019, by and between the Company and each of the parties named in each agreement therein.
10.2(9)	Form of Lock-Up Agreement, dated June 2, 2019, by each of the parties named in each agreement therein.
10.3	Separation Agreement, dated May 21, 2019, by and between the Company and Larry R. Smith, Ph.D.
31.1	Certification of Vijay B. Samant, Chief Executive Officer, pursuant to Rules 13a-14(a) and 15d-14(a) of the Securities Exchange Act of 1934, as amended, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of Anthony A. Ramos, Chief Financial Officer, pursuant to Rules 13a-14(a) and 15d-14(a) of the Securities Exchange Act of 1934, as amended, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	Certification of Vijay B. Samant, Chief Executive Officer, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2	Certification of Anthony A. Ramos, Chief Financial Officer, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.INS	XBRL Instance Document.
101.SCH	XBRL Taxonomy Extension Schema Document.
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document.
101.DEF	XBRL Taxonomy Extension Definition Linkbase.
101.LAB	XBRL Taxonomy Extension Label Linkbase Document.
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document.

(P) Paper exhibit

(1) Incorporated by reference to exhibit 2.1 filed with the Company's Current Report on Form 8-K filed on June 3, 2019.

(2) Incorporated by reference to the exhibit of the same number filed with the Company's Registration Statement on Form S-3 (No. 333-95812) filed on August 15, 1995.

(3) Incorporated by reference to the exhibit of the same number filed with the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2010 (No. 000-21088) filed on August 6, 2010.

(4) Incorporated by reference to exhibit 3.1 to the Company's Current Report on Form 8-K filed on June 1, 2017.

(5) Incorporated by reference to exhibit 3.1 to the Company's Current Report on Form 8-K filed on May 25, 2016.

(6) Incorporated by reference to exhibit 3.3 filed with the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2010 (No. 000-21088) filed on August 6, 2010.

(7) Incorporated by reference to exhibit 4.2 filed with the Company's Registration Statement on Form S-8 (No. 333-135266) filed on June 23, 2006.

(8) Incorporated by reference to exhibit 10.1 filed with the Company's Current Report on Form 8-K filed on June 3, 2019.

(9) Incorporated by reference to exhibit 10.2 filed with the Company's Current Report on Form 8-K filed on June 3, 2019.

SIGNATURE

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

Vical Incorporated

Date: July 12, 2019

By: /s/ ANTHONY A. RAMOS
Anthony A. Ramos
Vice President, Chief Financial Officer (on behalf of
the registrant and as the registrant's Principal Financial
and Accounting Officer)

May 21, 2019

Larry Smith
By Hand

Re: Separation Agreement

Dear Larry:

This letter sets forth the substance of the separation agreement (the “*Agreement*”) that VICAL INCORPORATED (the “*Vical*” or “*Company*”) is offering to you.

1. SEPARATION DATE. Your employment termination date will be May 21, 2019 (the “*Employment Separation Date*”). On the Employment Separation Date, the Company will pay you all accrued salary, and all accrued and unused vacation earned through the Employment Separation Date, subject to standard payroll deductions and withholdings. You are entitled to these payments regardless of whether or not you sign this Agreement.

2. SEVERANCE BENEFITS . If you timely sign this Agreement, allow the release set forth herein to become effective, and comply with your continuing legal and contractual obligations to the Company , then the Company will provide you with the following severance benefits:

(a) Cash Severance Benefit. The Company will make a lump-sum cash severance payment to you in an amount equal to the sum of the following:

(i) \$312,100, which equals twelve (12) months of your base salary as in effect on the Employment Separation Date; plus

(ii) \$70,000, which equals the annual bonus you received in the twelve (12) month period preceding the Employment Separation Date.

This amount, less deductions and withholdings, will be paid to you within sixty (60) days following the Employment Separation Date.

(b) Consulting. The Company will engage you as a consultant under the terms of the Consulting Agreement attached hereto as **Exhibit B**.

(c) COBRA Severance Benefit. The Company will pay, on your behalf, on a monthly basis, the total amount of premiums required to continue your coverage under the Company’s health, dental and vision insurance plans pursuant to COBRA from the Employment Separation Date until the earliest of (i) the end of the twelve (12)-month period following the Employment Separation Date, (ii) the expiration of your eligibility for such coverage pursuant to COBRA, and (iii) the date you become eligible to enroll for coverage under a health, dental, or

vision insurance plan of a subsequent employer (the “**COBRA Payment Period**”), provided that you elect to continue such coverage pursuant to COBRA within the time period prescribed under COBRA. Such COBRA premium payments will be inclusive of premiums for your eligible dependents for such health, dental, or vision plan coverage as in effect immediately prior to the Employment Separation Date, provided that such dependents continue to be eligible for such coverage during the COBRA Payment Period. You will be required to notify the Company immediately if you become eligible to enroll for coverage under a health, dental, or vision insurance plan of a subsequent employer during the COBRA Payment Period.

(d) Accelerated Vesting. The Company will accelerate the vesting of your equity awards such that you will be deemed vested in those shares that would have vested in the one (1) year period following the Employment Separation Date had your employment not ended.

You acknowledge and agree that upon receipt of the severance benefits set forth in this Section 2, the Company will have satisfied in full any and all obligations to provide you with severance benefits, including (without limitation) the obligations set forth in your Severance Agreement dated January 23, 2015 (the “**Severance Agreement**”), and further acknowledge and agree that you will not be entitled to and will not receive any further severance benefits from the Company except as provided in Section 3 below.

3. CHANGE OF CONTROL SEVERANCE BENEFITS. In the event that (a) a Change of Control (as defined in the Severance Agreement) occurs while you are serving as a consultant to the Company pursuant to the Consulting Agreement, (b) you remain in full compliance with all legal and contractual obligations to the Company, and (c) you sign the Supplemental Release attached hereto as **Exhibit C** within ten (10) days after the closing of the Change of Control and allow it to become effective, then the Company will provide you with the following additional severance benefits:

(a) Change of Control Payment. You will be entitled to receive a cash payment equal to \$156,050, which equals six (6) months of your base salary in effect on your Employment Separation Date. This amount, less standard payroll deductions and holdings, shall be paid to you in a lump sum within sixty (60) days following the Supplemental Release Effective Date (as defined in the Supplemental Release).

(b) Change of Control Equity Vesting. The Company will accelerate the vesting of your equity awards such that all shares subject to your equity awards will be deemed vested and exercisable.

4. NO OTHER COMPENSATION OR BENEFITS . You acknowledge that, except as expressly provided in this Agreement, you will not receive any additional compensation, severance or benefits from the Company, with the exception of any vested right you may have under the express terms of a written ERISA-qualified benefit plan (e.g., 401(k) account).

5. EXPENSE REIMBURSEMENTS. You agree that, within ten (10) days after the Employment Separation Date, you will submit your final documented expense reimbursement statement reflecting all business expenses you incurred through the Employment Separation

Date, if any, for which you seek reimbursement. The Company will reimburse you for these expenses pursuant to its regular business practice.

6. RETURN OF COMPANY PROPERTY. By signing below, you represent and warrant that you have returned to the Company all Company documents (and all copies thereof) and other Company property in your possession or control, except any Company property that you need to retain in order to provide consulting services to the Company. You further represent that you have made a diligent search to locate any such documents, property and information. In addition, if you have used any personally owned computer, server, or e-mail system to receive, store, review, prepare or transmit any confidential or proprietary data, materials or information of the Company, then within five (5) business days after the Employment Separation Date, if requested by the Company, you must provide the Company with a computer-useable copy of such information and then permanently delete and expunge such confidential or proprietary information from those systems without retaining any reproductions (in whole or in part); and you agree to provide the Company access to your system, as requested, to verify that the necessary copying and deletion is done. **Your timely compliance with the provisions of this paragraph is a precondition to your receipt of the severance benefits provided hereunder.**

7. PROPRIETARY INFORMATION OBLIGATIONS . You acknowledge your continuing obligations under your Proprietary Information and Inventions Agreement, a copy of which is attached hereto as **Exhibit A**.

8. NONDISPARAGEMENT . You agree not to disparage the Company or the Company's officers, directors, employees, shareholders, parents, subsidiaries, affiliates, and agents, in any manner likely to be harmful to them or their business, business reputation or personal reputation; *provided that* you may respond accurately and fully to any question, inquiry or request for information when required by legal process. In addition, nothing in this provision or this Agreement is intended to prohibit or restrain you in any manner from making disclosures that are protected under the whistleblower provisions of federal or state law or regulation.

9. NO VOLUNTARY ADVERSE ACTION . You agree that you will not voluntarily (except in response to legal compulsion) assist any person in bringing or pursuing any proposed or pending litigation, arbitration, administrative claim or other formal proceeding against the Company, its parent or subsidiary entities, affiliates, officers, directors, employees or agents.

10. NO ADMISSIONS . You understand and agree that the promises and payments in consideration of this Agreement shall not be construed to be an admission of any liability or obligation by the Company to you or to any other person, and that the Company makes no such admission.

11. RELEASE OF CLAIMS .

(a) General Release. In exchange for the consideration provided to you under this Agreement to which you would not otherwise be entitled, you hereby generally and completely release the Company, and its affiliated, related, parent and subsidiary entities, and its and their current and former directors, officers, employees, shareholders, partners, agents, attorneys, predecessors, successors, insurers, affiliates, and assigns (collectively, the "**Released**

Parties”) from any and all claims, liabilities and obligations, both known and unknown, that arise out of or are in any way related to events, acts, conduct, or omissions occurring prior to or on the date you sign this Agreement (collectively, the “**Released Claims**”).

(b) **Scope of Release.** The Released Claims include, but are not limited to: (i) all claims arising out of or in any way related to your employment with the Company, or the termination of that employment; (ii) all claims related to your compensation or benefits from the Company, including salary, bonuses, commissions, vacation, expense reimbursements, severance pay, fringe benefits, stock, stock options, or any other ownership, equity, or profits interests in the Company; (iii) all claims for breach of contract, wrongful termination, and breach of the implied covenant of good faith and fair dealing; (iv) all tort claims, including claims for fraud, defamation, emotional distress, and discharge in violation of public policy; and (v) all federal, state, and local statutory claims, including claims for discrimination, harassment, retaliation, attorneys’ fees, or other claims arising under the federal Civil Rights Act of 1964 (as amended), the federal Americans with Disabilities Act of 1990, the federal Age Discrimination in Employment Act of 1967 (as amended) (the “**ADEA**”), the California Labor Code (as amended), and the California Fair Employment and Housing Act (as amended).

(c) **ADEA Waiver.** You acknowledge that you are knowingly and voluntarily waiving and releasing any rights you may have under the ADEA and that the consideration given for this waiver is in addition to anything of value to which you are already entitled. You further acknowledge that you have been advised, as required by the ADEA, that: (i) your waiver does not apply to any rights or claims that may arise after the date that you sign this Agreement; (ii) you should consult with an attorney prior to signing this Agreement (although you may choose voluntarily not to do so); (iii) you have forty-five (45) days to consider this Agreement (although you may choose voluntarily to sign it earlier); (iv) you have seven (7) days following the date you sign this Agreement to revoke your acceptance of this Agreement (by providing written notice of your revocation to the Company’s CEO); and (v) this Agreement will not be effective until the date upon which the revocation period has expired, which will be the eighth day after the date that this Agreement is signed by you provided that you do not revoke it (the “**Effective Date**”). You further acknowledge that the Company has provided you with the ADEA Disclosure information (under Title 29 U.S.C. Section 626(f)(1) (H)), attached as **Exhibit D** to this Agreement.

(d) **Section 1542 Waiver.** YOU UNDERSTAND THAT THIS AGREEMENT INCLUDES A RELEASE OF ALL KNOWN AND UNKNOWN CLAIMS. In giving the release herein, which includes claims which may be unknown to you at present, you acknowledge that you have read and understand Section 1542 of the California Civil Code, which reads as follows: “**A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.**” You hereby expressly waive and relinquish all rights and benefits under that section and any law of any other jurisdiction of similar effect with respect to your release of any unknown or unsuspected claims herein.

(e) **Excluded Claims.** Notwithstanding the foregoing, the following are not included in the Released Claims (the “**Excluded Claims**”): (i) any rights or claims for

indemnification you may have pursuant to any written indemnification agreement with the Company to which you are a party or under applicable law; (ii) any rights which are not waivable as a matter of law; and (iii) any claims for breach of this Agreement. You hereby represent and warrant that, other than the Excluded Claims, you are not aware of any claims you have or might have against any of the Released Parties that are not included in the Released Claims. You understand that nothing in this Agreement limits your ability to file a charge or complaint with the Equal Employment Opportunity Commission, the Department of Labor, the National Labor Relations Board, the Occupational Safety and Health Administration, the Securities and Exchange Commission or any other federal, state or local governmental agency or commission (“ **Government Agencies** ”). You further understand this Agreement does not limit your ability to communicate with any Government Agencies or otherwise participate in any investigation or proceeding that may be conducted by any Government Agency, including providing documents or other information, without notice to the Company. While this Agreement does not limit your right to receive an award for information provided to the Securities and Exchange Commission, you understand and agree that, to maximum extent permitted by law, you are otherwise waiving any and all rights you may have to individual relief based on any claims that you have released and any rights you have waived by signing this Agreement.

12. REPRESENTATIONS . You hereby represent that you have been paid all compensation owed and for all hours worked, have received all the leave and leave benefits and protections for which you are eligible, pursuant to the Family and Medical Leave Act or otherwise, and have not suffered any on-the-job injury for which you have not already filed a claim.

13. GENERAL. This Agreement, including Exhibits A, B, and C, constitutes the complete, final and exclusive embodiment of the entire agreement between you and the Company with regard to this subject matter. It is entered into without reliance on any promise or representation, written or oral, other than those expressly contained herein, and it supersedes any other such promises, warranties or representations. This Agreement may not be modified or amended except in a writing signed by both you and a duly authorized officer of the Company. This Agreement will bind the heirs, personal representatives, successors and assigns of both you and the Company, and inure to the benefit of both you and the Company, their heirs, successors and assigns. If any provision of this Agreement is determined to be invalid or unenforceable, in whole or in part, this determination will not affect any other provision of this Agreement and the provision in question will be modified by the court so as to be rendered enforceable to the fullest extent permitted by law, consistent with the intent of the parties . This Agreement will be deemed to have been entered into and will be construed and enforced in accordance with the laws of the State of California as applied to contracts made and to be performed entirely within California.

If this Agreement is acceptable to you, please sign below and return the original to me within forty-five (45) days. The Company’s offer contained in this Agreement will automatically lapse and expire if we do not receive the fully-signed Agreement from you within this time period.

Sincerely,

VICAL INCORPORATED

By: /s/ VIJAY B. SAMANT

VIJAY B. SAMANT

PRESIDENT AND CHIEF EXECUTIVE OFFICER

Exhibit A – Proprietary Information and Inventions Agreement

Exhibit B – Consulting Agreement

Exhibit C – Supplemental Release

Exhibit D – ADEA Disclosure

ACCEPTED AND AGREED:

/s/ LARRY SMITH

LARRY SMITH

EXHIBIT A
PROPRIETARY INFORMATION AND INVENTIONS AGREEMENT

EXHIBIT B
CONSULTING AGREEMENT

This Consulting Agreement (the “*Agreement*”), effective as of May 21, 2019 (the “*Effective Date*”), is entered into between VICAL INCORPORATED (“*Vical*”), a Delaware Corporation, having a place of business at 10390 Pacific Center Court, San Diego, CA 92121-4340, and LARRY SMITH (the “*Consultant*”), an individual having a principal address of 12757 Larchmont Street, Poway, CA, 92064.

WHEREAS, Vical hereby engages the Consultant as an independent contractor and not as an employee of Vical, to perform the services (the “*Services*”) described in **Attachment 1**, on the terms and subject to the conditions of this Agreement. The Consultant hereby accepts such engagement. The specific details of the Services set forth in **Attachment 1** may change over the term of this Agreement and any changes will be specified in writing by Vical and made a part of this Agreement upon acceptance by the Consultant.

WHEREAS, Consultant understands that Vical possesses and will continue to possess information that has been created, discovered or developed, or has otherwise become known to Vical, including without limitation information created, discovered, developed or made known by Consultant (and within the scope of this Agreement) or to Consultant during the period of or arising out of the Consultant’s retention as a consultant by Vical, and/or in which property rights have been assigned or otherwise conveyed to Vical, which information has commercial value in the business in which Vical is engaged. All of the aforementioned information is hereinafter called “*Proprietary Information*”. By way of illustration, but not limitation, Proprietary Information includes trade secrets, processes, formulae, data and know-how, improvement, inventions, techniques, marketing plans, strategies, forecasts and customer lists.

NOW, THEREFORE, In consideration of the foregoing, and of the mutual covenants, terms and conditions hereinafter expressed, the parties agree as follows:

1. All Proprietary Information shall be the sole property of Vical and its assigns, and Vical and its assigns shall be the sole owner of all patents and other rights in connection therewith. At all times during Consultant's retention by Vical and at all times after termination of such retention Consultant hereby agrees to keep in confidence and trust all Proprietary Information, and will not use or disclose any Proprietary Information or anything relating to it without the written consent of Vical, except as may be necessary in the ordinary course of performing duties as a consultant of Vical.
 2. All documents, data, records, apparatus, equipment and other physical property, whether or not pertaining to Proprietary Information, furnished to Consultant by Vical or produced by the Consultant or others shall be and remain the sole property of Vical and shall be returned promptly to Vical as and when requested by Vical. Should Vical not so request, Consultant shall return and deliver all such property upon termination of this Agreement by the Consultant or by Vical for any reason and Consultant shall not take any such property or any reproduction of such property upon such termination.
 3. Consultant agrees that Vical is the owner of the Proprietary Information it is disclosing and that Consultant will not disclose any such Proprietary Information to third parties, and Consultant agrees not to use any of such Proprietary Information at any time except for the purposes of performing the services specified herein; provided, however, Consultant shall have no liability to Vical with respect to
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use or disclosure to others not party to this Agreement, of such Proprietary Information as Consultant can establish by written documentation to:

- (a) have been publicly known prior to disclosure by Vical of such Proprietary Information to Consultant;
 - (b) have become publicly known, without fault on the part of Consultant, subsequent to disclosure by Vical of such Proprietary Information to Consultant;
 - (c) have been otherwise known by Consultant prior to communication by Vical to Consultant of such Proprietary Information as evidenced by written records;
 - (d) have been received by Consultant at any time from a source other than Vical lawfully having possession of such Proprietary Information;
 - (e) have been independently developed by Consultant without access to such Proprietary Information, as evidenced by written records; or
 - (f) be required by applicable law to be disclosed to a governmental authority or regulatory agency; provided, however, that to the extent permitted by applicable law, Consultant shall use its best efforts to obtain the agreement of such governmental authority to maintain the confidentiality of any such Proprietary Information.
4. The Consultant's obligation to hold Proprietary Information in confidence shall remain in effect for a period of five (5) years from the receipt of the Proprietary Information; provided, however, that such obligations with respect to trade secrets included in the Proprietary Information and identified and maintained as trade secrets by Vical will continue for so long as such trade secrets retain their legal status as trade secrets.
5. Upon the request of Vical, Consultant agrees to promptly return or destroy, at Vical's reasonable expense, all tangible items, and all copies thereof, relating to Vical's Proprietary Information, including all written material, photographs, models, compounds, compositions and any other items or information made available or supplied by Vical to Consultant (collectively referred to as ("**Materials**")). Furthermore, upon the request of Vical, Consultant shall also certify in writing the return or destruction of such Material.
6. Consultant agrees that for a period of one year following termination of this Agreement the Consultant will not solicit or in any manner encourage employees of Vical to leave its employ.
7. Consultant will promptly disclose to Vical, or any persons designated by it, all improvements, inventions, formulae, processes, methods, techniques, ideas, concepts, know-how, discoveries, developments innovations and data, whether or not patentable, made or conceived or reduced to practice or learned by the Consultant, either alone or jointly with others, during the term of this Agreement which (a) result from tasks assigned to Consultant by Vical, (b) are funded by Vical, or (c) result from use of premises owned, leased or contracted for by Vical (all said improvements, inventions, formulae, processes, methods, techniques, ideas, concepts, know-how, discoveries, developments, innovations and
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data shall be collectively hereinafter called “ ***Inventions*** ”). Such disclosure shall continue for one year after termination of this Agreement with respect to anything that would be an Invention if made, conceived, reduced to practice or learned during the term hereof.

8. Consultant agrees that all Inventions shall be the sole property of Vical and its assigns, and Vical and its assigns shall be the sole owner of all patents and other rights in connection therewith. Consultant hereby assigns to Vical any and all right title and interest in or to any and all Inventions conceived or made by Consultant, whether alone or with others, during the term of this Agreement which either (a) involve or are reasonably related to the business of Vical or to Vical’s actual or demonstrably anticipated research or development; or (b) incorporate or are based on, in whole or in part, any of the Proprietary Information. Consultant agrees to provide all assistance reasonably requested by Vical in the preservation of its interests in the Inventions, such as by executing documents, testifying, etc., such assistance to be provided at Vical’s expense but without any additional compensation. Consultant shall at the expense of Vical, assist Vical or its nominees to obtain patents for such Inventions in any countries throughout the world. Such Inventions shall be the property of Vical or its nominees, whether patented or not. Consultant shall and does, without charge to Vical, assign to Vical all right, title, and interest in and to such Inventions, including in patents and patent applications and reissues thereof. Such assignment shall include the right to sue for infringement. Consultant agrees to execute, acknowledge, and deliver any instruments confirming the complete ownership by Vical of such inventions. Such assignments shall include the right to sue for infringement.
 9. Consultant agrees that any work prepared for Vical which is eligible for copyright protection in the United States or elsewhere shall be a work made for hire. If any such work is deemed for any reason not to be a work made for hire, Consultant shall assign all right, title and interest in the copyright in such work, and all extensions and renewals thereof, to Vical, and agree to provide all assistance reasonably requested by Vical in the establishment, preservation and enforcement of its copyrights in such work, such assistance to be provided at Vical’s expense but without any additional compensation. Consultant agrees to waive all moral rights relating to the work developed or produced, including without limitation any and all rights of identification of authorship and any and all rights of approval, restriction or limitation on use or subsequent modifications.
 10. Consultant represents that the performance of all the terms of this Agreement does not and will not breach any agreement, including confidentiality agreements, between Consultant and any third party.
 11. The term Vical as used herein shall include any subsidiary or affiliate of Vical Incorporated.
 12. This Agreement shall be binding upon the Consultant, the Consultants heirs, executors, assigns and administrators and shall inure to the benefit of Vical, its successors and assigns.
 13. This Agreement shall be governed by and construed in accordance with the laws of the State of California.
 14. In no event shall Vical be liable for any special, consequential or incidental damages arising out of or relating to this Agreement, or any claim, demand, action or other proceeding relating to this Agreement.
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15. Either party shall have the right to terminate this Agreement at any time with thirty (30) days written notice to the other party. Termination of this Agreement shall not relieve the parties of any obligation accruing to such termination, and the provisions of Paragraphs 1-6 shall survive the termination of this Agreement.
16. Consultant shall not assign or transfer this Agreement or any of its rights or obligations under this Agreement (in whole or in part), whether voluntary, by operation of law or otherwise, without the prior written consent of Vical. Any purported assignment or transfer in violation of this Paragraph 16 shall be void.
17. Vical and Consultant shall be independent contractors, and the relationship between the two parties shall not constitute a partnership, joint venture or agency. Neither party shall have the authority to make any statement, representation or commitment of any kind, or to take any action, which shall be binding on the other party, without the prior written consent of the other party.

ACCEPTED AND AGREED TO:

VICAL INCORPORATED LARRY SMITH

By: /s/ VIJAY B. SAMANT

By: /s/ LARRY SMITH

Name: Vijay B. Samant

Name: Larry Smith

Title: President and Chief Executive Officer

Title: Consultant

ATTACHMENT 1

- Services: Consultant will be reasonable available to answer questions and assist Vical with the strategic transactions process, provided, however, that such assistance will not exceed five (5) hours per week to be performed at mutually agreeable times.
- Deliverables: Deliverables will be defined by Vical.
- Expenses: All expenses including travel will be reimbursed upon submission of itemized invoice and audit by a Vical representative. Air travel must be authorized in advance by Vical, and booked at lowest coach fare. Hotel accommodations shall be reasonable and moderate, and any cancellation or “no show” fees arising from the acts of the consultant shall be borne solely by the consultant. Rental cars shall be economy cars. Personal auto mileage shall be reimbursed at the current federal rate for a non-government automobile. Requests for reimbursement of expenses greater than \$25 must be accompanied by a receipt. Meal and incidental expenses shall be limited to the rates provided on the US GSA Domestic Per Diem Rates website and do not require receipts <http://www.gsa.gov/portal/content/104877>. Travel hours shall not be reimbursed for more than 8 hours per day.
- Expenses shall be invoiced within 30 days of service rendered. Approval of invoices shall be contingent upon receipt of deliverables, as defined above, and audited and approved by an authorized Vical representative. Invoices will be responded to within 30 days of receipts, and paid within 30 days of approval.
- Consideration: The Severance Benefits described in Section 2 of the Separation Agreement dated May 21, 2019 are contingent upon your cooperation for the Consulting Term.
- Equity: Any equity awards granted to Consultant while Consultant was an employee of Vical will continue to vest during the term of this Consulting Agreement, and Consultant’s transition from an employee to a Consultant under this Agreement will not be deemed to be a break in continuous service for purposes of such equity awards.
- Consulting Term: From the Effective Date until the earlier of a Change of Control (as defined in that certain Severance Agreement dated January 23, 2015 between you and Vical) and September 30, 2019 (the “*Consulting Period Termination Date*”). Either party shall have the right to terminate this Agreement at any time with thirty (30) days written notice to the other party.
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EXHIBIT C
SUPPLEMENTAL RELEASE

In exchange for the severance benefits to be provided to me by VICAL INCORPORATED (the “ *Company* ”) pursuant to the Separation Agreement between the Company and me (the “ *Separation Agreement* ”), I hereby provide the following Supplemental Release.

In exchange for the consideration to which I would not otherwise be entitled, I hereby generally and completely release the Company and its directors, officers, employees, shareholders, partners, agents, attorneys, predecessors, successors, parent or subsidiary entities, insurers, affiliates and assigns from any and all claims, liabilities and obligations, both known and unknown, that arise out of or are in any way related to events, acts, conduct, or omissions prior to or on the date I sign this Supplemental Release .

This general release includes, but is not limited to: (1) all claims arising out of or in any way related to my consulting engagement by the Company or the termination of that engagement; (2) all claims related to my compensation or benefits from the Company, including salary, bonuses, commissions, vacation pay, expense reimbursements, severance pay, fringe benefits, stock, stock options or any other ownership interests in the Company; (3) all claims for breach of contract, wrongful termination or breach of the implied covenant of good faith and fair dealing; (4) all tort claims, including claims for fraud, defamation, emotional distress and discharge in violation of public policy; and (5) all federal, state, and local statutory claims, including claims for discrimination, harassment, retaliation, attorneys’ fees, or other claims arising under the federal Civil Rights Act of 1964 (as amended), the federal Americans with Disabilities Act of 1990, the federal Age Discrimination in Employment Act (the “ *ADEA* ”) (as amended), or the California Fair Employment and Housing Act (as amended).

Notwithstanding the foregoing, I am not hereby releasing the Company from any of the following claims: (a) any rights or claims for indemnification I may have pursuant to any written indemnification agreement with the Company to which I am a party, the charter, bylaws, or operating agreements of the Company, or under applicable law; (b) any rights that cannot be waived as a matter of law; or (c) any claims arising from the breach of this Supplemental Release . In addition, nothing in this Supplemental Release prevents me from filing, cooperating with, or participating in any proceeding before the Equal Employment Opportunity Commission, the Department of Labor, or the California Department of Fair Employment and Housing, except that I hereby waive my right to any monetary benefits in connection with any such claim, charge or proceeding.

I acknowledge that I am knowingly and voluntarily waiving and releasing any rights I may have under the ADEA. I also acknowledge that the consideration given for this waiver is in addition to anything of value to which I was already entitled. I further acknowledge that I have been advised by this writing, as required by the ADEA, that: (a) this waiver does not apply to any rights or claims that arise after the date I sign this Supplemental Release ; (b) I should consult with an attorney prior to signing this Supplemental Release ; (c) I have had twenty-one (21) days to consider this Supplemental Release ; (d) I have seven (7) days following the date I sign this Supplemental Release to revoke (in a written revocation sent to the Company’s Chief Executive Officer); and (e) this Supplemental Release will not be effective until the date upon which the revocation period has expired, which will be the eighth day after I sign this Supplemental Release (the “ *Supplemental Release Effective Date* ”) .

In granting the release herein, which includes claims which may be unknown to me at present, I acknowledge that I have read and understand Section 1542 of the California Civil Code: **“A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.”** I hereby expressly waive and relinquish all rights and benefits under that section and any law or legal principle of similar effect in any jurisdiction with respect to the releases granted herein, including but not limited to the release of unknown and unsuspected claims granted in this Supplemental Release.

I hereby represent that to date: (i) I have been paid all compensation owed and have been paid for all hours worked; (ii) I have received all the leave and leave benefits and protections for which I am eligible pursuant to the federal Family and Medical Leave Act, the California Family Rights Act, or otherwise; and (iii) I have not suffered any on-the-job injury for which I have not already filed a workers' compensation claim.

LARRY SMITH

By: /s/ LARRY SMITH

Date:

EXHIBIT D
ADEA DISCLOSURE

CERTIFICATION

I, Vijay B. Samant, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Vical Incorporated;
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: July 12, 2019

By: /s/ VIJAY B. SAMANT
Vijay B. Samant
Chief Executive Officer

CERTIFICATION

I, Anthony A. Ramos, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Vical Incorporated;
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: July 12, 2019

By: /s/ ANTHONY A. RAMOS
Anthony A. Ramos
Chief Financial Officer

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. § 1350, as adopted), Vijay B. Samant, the Chief Executive Officer of Vical Incorporated (the "Company"), hereby certifies that, to the best of his knowledge:

1. The Company's Quarterly Report on Form 10-Q for the period ended June 30, 2019, to which this Certification is attached as Exhibit 32.1 (the "Periodic Report"), fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934, as amended; and
2. The information contained in the Periodic Report fairly presents, in all material respects, the financial condition of the Company at the end of the period covered by the Periodic Report and results of operations of the Company for the period covered by the Periodic Report.

Dated: July 12, 2019

/s/ VIJAY B. SAMANT

Vijay B. Samant

Chief Executive Officer

THIS CERTIFICATION "ACCOMPANIES" THE FORM 10-Q TO WHICH IT RELATES, IS NOT DEEMED FILED WITH THE SECURITIES AND EXCHANGE COMMISSION AND IS NOT TO BE INCORPORATED BY REFERENCE INTO ANY FILING OF THE COMPANY UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED (WHETHER MADE BEFORE OR AFTER THE DATE OF THE FORM 10-Q), IRRESPECTIVE OF ANY GENERAL INCORPORATION LANGUAGE CONTAINED IN SUCH FILING. A SIGNED ORIGINAL OF THIS CERTIFICATION HAS BEEN PROVIDED TO THE COMPANY AND WILL BE RETAINED BY THE COMPANY AND FURNISHED TO THE SECURITIES AND EXCHANGE COMMISSION OR ITS STAFF UPON REQUEST.

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. § 1350, as adopted), Anthony A. Ramos, the Chief Financial Officer of Vical Incorporated (the "Company"), hereby certifies that, to the best of his knowledge:

1. The Company's Quarterly Report on Form 10-Q for the period ended June 30, 2019, to which this Certification is attached as Exhibit 32.2 (the "Periodic Report"), fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934, as amended; and
2. The information contained in the Periodic Report fairly presents, in all material respects, the financial condition of the Company at the end of the period covered by the Periodic Report and results of operations of the Company for the period covered by the Periodic Report.

Dated: July 12, 2019

/s/ ANTHONY A. RAMOS

Anthony A. Ramos

Chief Financial Officer

THIS CERTIFICATION "ACCOMPANIES" THE FORM 10-Q TO WHICH IT RELATES, IS NOT DEEMED FILED WITH THE SECURITIES AND EXCHANGE COMMISSION AND IS NOT TO BE INCORPORATED BY REFERENCE INTO ANY FILING OF THE COMPANY UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED (WHETHER MADE BEFORE OR AFTER THE DATE OF THE FORM 10-Q), IRRESPECTIVE OF ANY GENERAL INCORPORATION LANGUAGE CONTAINED IN SUCH FILING. A SIGNED ORIGINAL OF THIS CERTIFICATION HAS BEEN PROVIDED TO THE COMPANY AND WILL BE RETAINED BY THE COMPANY AND FURNISHED TO THE SECURITIES AND EXCHANGE COMMISSION OR ITS STAFF UPON REQUEST.