

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

FORM 10-Q

(Mark One)

☒ QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the quarterly period ended September 30, 2022

OR

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

For the transition period from _____ to _____

Commission file number: 001-37478

NATERA, INC.

(Exact Name of Registrant as Specified in Its Charter)

Delaware
(State or Other Jurisdiction of Incorporation or Organization)

01-0894487
(I.R.S. Employer Identification No.)

13011 McCallen Pass
Building A Suite 100
Austin, TX
(Address of Principal Executive Offices)

78753
(Zip Code)

(650) 249-9090

(Registrant's Telephone Number, Including Area Code)

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

<u>Title of each class</u>	<u>Trading Symbol(s)</u>	<u>Name of each exchange on which registered</u>
Common Stock, par value \$0.0001 per share	NTRA	The Nasdaq Stock Market LLC (Nasdaq Global Select Market)
Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐		
Indicate by check mark whether the registrant has submitted electronically 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, smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.		
Large accelerated filer	☒	Accelerated filer ☐
Non-accelerated filer	☐	Smaller reporting company ☐
		Emerging growth company ☐

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

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

As of November 1, 2022, the number of outstanding shares of the registrant's common stock, par value \$0.0001 per share, was 97,602,871.

Natera, Inc.
FORM 10-Q FOR THE QUARTER ENDED September 30, 2022
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SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This report contains forward-looking statements. The forward-looking statements are contained principally in the sections titled "Risk Factors" and "Management's Discussion and Analysis of Financial Condition and Results of Operations," but are also contained elsewhere in this report. Forward-looking statements include information concerning our future results of operations and financial position, strategy and plans, and our expectations for future operations. Forward-looking statements include all statements that are not historical facts and, in some cases, can be identified by terms such as "believe," "may," "will," "estimate," "continue," "anticipate," "design," "intend," "expect," "could," "plan," "potential," "predict," "seek," "should," "would" or the negative version of these words and similar expressions.

These forward-looking statements include, but are not limited to, statements concerning the following:

- our expectation that, for the foreseeable future, a significant portion of our revenues will be derived from sales of Panorama and Horizon;
- our ability to increase demand for our tests, particularly Panorama, Horizon, Signatera, and Prospera;
- our expectation that Panorama will be adopted for broader use in average-risk pregnancies and for the screening of microdeletions and that third-party payer reimbursement will be available for these applications, including our expectations that the results from our single nucleotide polymorphism-based Microdeletion and Aneuploidy RegisTry (SMART) Study may support broader use and reimbursement for the use of Panorama in average risk pregnancies and for microdeletions;
- the extent and duration of the impact of the COVID-19 pandemic on our business, results of operations, stock price, or overall financial condition;
- our expectations of the reliability, accuracy, and performance of our tests, as well as expectations of the benefits of our tests to patients, providers, and payers;
- our ability to successfully develop additional revenue opportunities, expand our product offerings to include new tests, and expand adoption of our current and future technologies through Constellation, our cloud-based distribution model;
- our efforts to successfully develop and commercialize our oncology and organ health products;
- our ability to comply with federal, state, and foreign regulatory requirements, programs and policies and to successfully operate our business in response to changes in such requirements, programs and policies;
- our ability to respond to, defend, or otherwise favorably resolve litigation or other proceedings, including investigations, subpoenas, demands, disputes, requests for information, and other regulatory or administrative actions or proceedings;
- the effect of improvements in our cost of goods sold;
- our estimates of the total addressable markets for our current and potential product offerings;
- our ability and expectations regarding obtaining, maintaining and expanding third-party payer coverage of, and reimbursement for, our tests;
- the effect of changes in the way we account for our revenue;
- the scope of protection we establish and maintain for, and developments or disputes concerning, our intellectual property or other proprietary rights;
- our ability to successfully compete in the markets we serve;
- our reliance on collaborators such as medical institutions, contract laboratories, laboratory partners, and other third parties;
- our ability to operate our laboratory facility and meet expected demand, and to successfully scale our operations;
- our reliance on a limited number of suppliers, including sole source suppliers, which may impact our ability to maintain a continued supply of laboratory instruments and materials and to run our tests;
- our expectations of the rate of adoption of Panorama, Horizon and of any of our other current or future tests by laboratories, clinics, clinicians, payers, and patients;
- our ability to complete clinical studies and publish compelling clinical data in peer-reviewed medical publications regarding Panorama and any of our future tests, and the effect of such data or publications on professional society or practice guidelines or coverage and reimbursement determinations from third-party payers, including our SMART and CIRCULATE-Japan studies and our ongoing and planned trials in oncology and transplant rejection;

- our reliance on our partners to market and offer our tests in the United States and in international markets;
- our expectations regarding acquisitions, dispositions and other strategic transactions;
- our expectations regarding the conversion of our outstanding 2.25% convertible senior notes due 2027 in the aggregate principal amount of \$287.5 million and our ability to make debt service payments under the Convertible Notes if such Convertible Notes are not converted;
- our ability to control our operating expenses and fund our working capital requirements;
- the factors that may impact our financial results; and
- anticipated trends and challenges in our business and the markets in which we operate.

Forward-looking statements involve known and unknown risks, uncertainties and other factors that may cause our actual results, performance or achievements to be materially different from any future results, performance or achievements expressed or implied by the forward-looking statements, including those discussed in Part II, Item 1A, "Risk Factors" in this report and Part I, Item 1A, "Risk Factors" in our Annual Report on Form 10-K for the year ended December 31, 2021 filed with the Securities and Exchange Commission on February 25, 2022. Given these uncertainties, you should not place undue reliance on these forward-looking statements. In light of the significant uncertainties in these forward-looking statements, you should not regard these statements as a representation or warranty by us or any other person that we will achieve our objectives and plans in any specified time frame, or at all. You should read this report completely and with the understanding that our actual future results may be materially different from what we expect.

Also, forward-looking statements represent our beliefs and assumptions only as of the date of this report. Any forward-looking statement made by us in this report speaks only as of the date on which it is made. Except as required by law, we disclaim any obligation to update these forward-looking statements publicly, or to update the reasons actual results could differ materially from those anticipated in these forward-looking statements, even if new information becomes available in the future.

As used in this quarterly report on Form 10-Q, the terms "Natera," "Registrant," "Company," "we," "us," and "our" mean Natera, Inc. and its subsidiaries unless the context indicates otherwise.

PART 1 – FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

Natera, Inc.

Condensed Consolidated Balance Sheets

(in thousands except par value and per share amounts)

	September 30, 2022 (Unaudited)	December 31, 2021
Assets		
Current assets:		
Cash and cash equivalents	\$ 57,042	\$ 84,386
Restricted cash	86	228
Short-term investments	464,112	829,896
Accounts receivable, net of allowance of \$4,676 in 2022 and \$2,429 in 2021	236,362	122,074
Inventory	40,428	26,909
Prepaid expenses and other current assets, net	31,599	29,645
Total current assets	829,629	1,093,138
Property and equipment, net	87,486	65,516
Operating lease right-of-use assets	73,791	59,013
Other assets	18,206	18,820
Total assets	\$ 1,009,112	\$ 1,236,487
Liabilities and Stockholders' Equity		
Current liabilities:		
Accounts payable	\$ 34,225	\$ 27,206
Accrued compensation	42,226	40,941
Other accrued liabilities	132,751	93,353
Deferred revenue, current portion	7,932	7,404
Short-term debt financing	50,147	50,052
Total current liabilities	267,281	218,956
Long-term debt financing	281,336	280,394
Deferred revenue, long-term portion	20,405	21,318
Operating lease liabilities, long-term portion	78,469	61,036
Other long-term liabilities	—	1,479
Total liabilities	647,491	583,183
Commitments and contingencies (Note 8)		
Stockholders' equity:		
Common stock, \$0.0001 par value: 750,000 shares authorized at both September 30, 2022 and December 31, 2021, respectively; 97,300 and 95,140 shares issued and outstanding at September 30, 2022 and December 31, 2021, respectively	10	10
Additional paid in capital	2,181,282	2,050,417
Accumulated deficit	(1,800,062)	(1,394,836)
Accumulated other comprehensive loss	(19,609)	(2,287)
Total stockholders' equity	361,621	653,304
Total liabilities and stockholders' equity	\$ 1,009,112	\$ 1,236,487

See accompanying notes to the unaudited interim condensed consolidated financial statements.

Natera, Inc.
Condensed Consolidated Statements of Operations and Comprehensive Loss
(Unaudited)

(in thousands, except per share data)

	Three months ended September 30,		Nine months ended September 30,	
	2022	2021	2022	2021
Revenues				
Product revenues	\$ 199,831	\$ 153,940	\$ 584,415	\$ 413,971
Licensing and other revenues	10,806	4,176	18,555	38,487
Total revenues	210,637	158,116	602,970	452,458
Cost and expenses				
Cost of product revenues	115,436	80,511	326,862	221,870
Cost of licensing and other revenues	1,076	860	2,102	2,426
Research and development	65,510	98,457	228,504	192,397
Selling, general and administrative	147,667	128,485	444,769	364,273
Total cost and expenses	329,689	308,313	1,002,237	780,966
Loss from operations	(119,052)	(150,197)	(399,267)	(328,508)
Interest expense	(2,330)	(2,078)	(6,567)	(6,226)
Interest and other income, net	87	1,274	1,165	4,230
Loss before income taxes	(121,295)	(151,001)	(404,669)	(330,504)
Income tax expense	(185)	(272)	(557)	(648)
Net loss	\$ (121,480)	\$ (151,273)	\$ (405,226)	\$ (331,152)
Unrealized loss on available-for-sale securities, net of tax	(3,212)	(950)	(17,322)	(2,768)
Comprehensive loss	\$ (124,692)	\$ (152,223)	\$ (422,548)	\$ (333,920)
Net loss per share (Note 12):				
Basic and diluted	\$ (1.25)	\$ (1.63)	\$ (4.20)	\$ (3.72)
Weighted-average number of shares used in computing basic and diluted net loss per share:				
Basic and diluted	97,052	92,558	96,408	89,130

See accompanying notes to the unaudited interim condensed consolidated financial statements.

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

	Three months ended September 30, 2021					
	Common Stock		Additional	Accumulated Other	Accumulated	Total
	Shares	Amount	Paid-in Capital	Comprehensive Income	Deficit	Stockholders' Equity
Balance as of June 30, 2021	88,498	\$ 9	\$ 1,399,659	\$ 2,441	\$ (1,102,999)	\$ 299,110
Issuance of common stock upon exercise of stock options	268	—	3,945	—	—	3,945
Issuance of common stock for public offering, net	5,176	1	550,821	—	—	550,822
Issuance of common stock for IPR&D acquisition	276	—	30,901	—	—	30,901
Vesting of restricted stock units	320	—	3	—	—	3
Stock-based compensation	—	—	26,459	—	—	26,459
Unrealized loss on available-for sale securities	—	—	—	(950)	—	(950)
Net loss	—	—	—	—	(151,273)	(151,273)
Balance as of September 30, 2021	94,538	\$ 10	\$ 2,011,788	\$ 1,491	\$ (1,254,272)	\$ 759,017

	Nine months ended September 30, 2021					
	Common Stock		Additional	Accumulated Other	Accumulated	Total
	Shares	Amount	Paid-in Capital	Comprehensive Loss	Deficit	Stockholders' Equity (Deficit)
Balance as of December 31, 2020	86,223	\$ 9	\$ 1,411,286	\$ 4,259	\$ (929,318)	\$ 486,236
Issuance of common stock upon exercise of stock options	1,051	—	10,774	—	—	10,774
Issuance of common stock under employee stock purchase plan	106	—	6,085	—	—	6,085
Issuance of common stock for public offering, net	5,175	1	550,821	—	—	550,822
Issuance of common stock for IPR&D acquisition	276	—	30,901	—	—	30,901
Vesting of restricted stock	1,707	—	—	—	—	—
Stock-based compensation	—	—	84,797	—	—	84,797
Unrealized loss on available-for sale securities	—	—	—	(2,768)	—	(2,768)
Cumulative-effect adjustment upon adoption of ASU 2016-13	—	—	(82,876)	—	6,198	(76,678)
Net loss	—	—	—	—	(331,152)	(331,152)
Balance as of September 30, 2021	94,538	\$ 10	\$ 2,011,788	\$ 1,491	\$ (1,254,272)	\$ 759,017

Three months ended September 30, 2022						
	Common Stock		Additional	Accumulated Other	Accumulated	Total
	Shares	Amount	Paid-in	Comprehensive	Deficit	Stockholders'
			Capital	Loss		Equity
Balance as of June 30, 2022	96,903	\$ 10	\$ 2,139,551	\$ (16,397)	\$ (1,678,582)	\$ 444,582
Issuance of common stock upon exercise of stock options	84	—	1,393	—	—	1,393
Vesting of restricted stock units	313	—	—	—	—	—
Stock-based compensation	—	—	40,338	—	—	40,338
Unrealized loss on available-for sale securities	—	—	—	(3,212)	—	(3,212)
Net loss	—	—	—	—	(121,480)	(121,480)
Balance as of September 30, 2022	97,300	\$ 10	\$ 2,181,282	\$ (19,609)	\$ (1,800,062)	\$ 361,621

Nine months ended September 30, 2022						
	Common Stock		Additional	Accumulated Other	Accumulated	Total
	Shares	Amount	Paid-in	Comprehensive	Deficit	Stockholders'
			Capital	Income		Equity
Balance as of December 31, 2021	95,140	\$ 10	\$ 2,050,417	\$ (2,287)	\$ (1,394,836)	\$ 653,304
Issuance of common stock upon exercise of stock options	785	—	5,971	—	—	5,971
Issuance of common stock under employee stock purchase plan	285	—	8,496	—	—	8,496
Vesting of restricted stock	1,090	—	—	—	—	—
Stock-based compensation	—	—	116,398	—	—	116,398
Unrealized loss on available-for sale securities	—	—	—	(17,322)	—	(17,322)
Net loss	—	—	—	—	(405,226)	(405,226)
Balance as of September 30, 2022	97,300	\$ 10	\$ 2,181,282	\$ (19,609)	\$ (1,800,062)	\$ 361,621

See accompanying notes to the unaudited interim condensed consolidated financial statements.

Natera, Inc.
Condensed Consolidated Statements of Cash Flows
(Unaudited)

	Nine Months Ended September 30,	
	2022	2021
<i>(in thousands)</i>		
Operating activities		
Net loss	\$ (405,226)	\$ (331,152)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	12,772	8,259
Expensed in-process research and development	—	35,604
Premium amortization and discount accretion on investment securities	3,971	5,707
Stock-based compensation	116,398	84,797
Non-cash lease expense	9,989	8,106
Amortization of debt discount and issuance cost	941	917
Inventory reserve adjustments	(148)	726
Other non-cash benefits	100	133
Provision for credit losses	2,615	380
Unrealized losses on investment securities	(12)	—
(Gain) loss on investments	532	(58)
Changes in operating assets and liabilities:		
Accounts receivable	(116,903)	(32,232)
Inventory	(13,372)	(8,717)
Prepaid expenses and other current assets	686	(254)
Other assets	(200)	(550)
Accounts payable	8,367	183
Accrued compensation	1,285	4,960
Operating lease liabilities	(7,207)	(7,597)
Other accrued liabilities	35,422	34,845
Deferred revenue	(384)	(40,557)
Cash used in operating activities	<u>(350,374)</u>	<u>(236,500)</u>
Investing activities		
Purchases of investments	(86,947)	(674,372)
Proceeds from sale of investments	214,738	77,563
Proceeds from maturity of investments	216,500	348,410
Purchases of property and equipment, net	(35,870)	(32,027)
Cash paid for acquisition of an asset	—	(4,271)
Cash provided by (used in) investing activities	<u>308,421</u>	<u>(284,697)</u>
Financing activities		
Proceeds from exercise of stock options	5,971	10,774
Proceeds from issuance of common stock under employee stock purchase plan	8,496	6,085
Proceeds from public offering, net of issuance cost	—	550,814
Cash provided by financing activities	<u>14,467</u>	<u>567,673</u>
Net increase in cash, cash equivalents and restricted cash	(27,486)	46,476
Cash, cash equivalents and restricted cash, beginning of period	84,614	48,855
Cash, cash equivalents and restricted cash, end of period	<u>\$ 57,128</u>	<u>\$ 95,331</u>
Supplemental disclosure of cash flow information:		
Cash paid for interest	\$ 4,008	\$ 3,690
Non-cash investing and financing activities:		
Purchases of property and equipment in accounts payable and accruals	\$ 458	\$ 4,957

See accompanying notes to the unaudited interim condensed consolidated financial statements.

Natera, Inc.
Notes to Unaudited Interim Condensed Consolidated Financial Statements

1. Description of Business

Natera, Inc. (the "Company") was formed in the state of California as Gene Security Network, LLC in November 2003 and incorporated in the state of Delaware in January 2007. The Company is a diagnostics company with proprietary molecular and bioinformatics technology that it is applying to change the management of disease worldwide. The Company's cell-free DNA ("cfDNA") technology combines its novel molecular assays, which reliably measure many informative regions across the genome from samples as small as a single cell, with its statistical algorithms which incorporate data available from the broader scientific community to identify genetic variations covering a wide range of serious conditions with high accuracy and coverage. The Company's technology has been proven clinically and commercially in the women's health space, in which it develops and commercializes non- or minimally-invasive tests to evaluate risk for, and thereby enable early detection of, a wide range of genetic conditions, such as Down syndrome. The Company is now translating its success in women's health and applying its core technology to the oncology market, in which it is commercializing a personalized blood-based DNA test to detect molecular residual disease and monitor disease recurrence, as well as to the organ health market, initially with a test to assess kidney transplants for rejection. The Company operates laboratories certified under the Clinical Laboratory Improvement Amendments ("CLIA") providing a host of cell-free DNA-based molecular testing services. The Company determines its operating segments based on the way it organizes its business to make operating decisions and assess performance. The Company operates one segment, the development and commercialization of molecular testing services, applying its proprietary technology in the fields of women's health, oncology and organ health. The Company has three subsidiaries.

The Company's product offerings include its Panorama Non-Invasive Prenatal Test ("NIPT") that screens for chromosomal abnormalities of a fetus as well as in twin pregnancies, typically with a blood draw from the mother; Vistara, a single-gene mutations screening test performed to identify single-gene disorders; Horizon Carrier Screening ("HCS") to determine carrier status for a large number of severe genetic diseases that could be passed on to the carrier's children; Spectrum Pre-implantation Genetics ("Spectrum") to evaluate embryos to identify chromosomal anomalies or inherited genetic conditions to improve the chances of a healthy pregnancy during an in vitro fertilization ("IVF") cycle; Anora Miscarriage Test ("Anora") to rapidly and extensively analyze fetal chromosomes to understand the cause of miscarriage; Non-Invasive Paternity Testing ("PAT"), which is exclusively marketed and sold by a licensee from whom the Company receives a royalty; Signatera, which detects circulating tumor DNA in patients previously diagnosed with cancer to assess molecular residual disease and monitor for recurrence; and Prospera, to assess organ transplant rejection. All testing is available principally in the United States. The Company also offers its Panorama test to customers outside of the United States, primarily in Europe. The Company also offers Constellation, a cloud-based software platform that enables laboratory customers to gain access through the cloud to the Company's algorithms and bioinformatics in order to validate and launch their own tests based on the Company's technology.

2. Summary of Significant Accounting Policies

During the nine months ended September 30, 2022, there were no material changes to the Company's significant accounting policies as disclosed in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2021 (filed on February 25, 2022).

Basis of Presentation

The accompanying unaudited interim condensed consolidated financial statements have been prepared in conformity with U.S. generally accepted accounting principles ("U.S. GAAP") for interim financial information. The unaudited interim condensed consolidated financial information includes only adjustments of a normal recurring nature necessary for a fair presentation of the results of operations, financial position, changes in stockholders' equity, and cash flows. The results of operations for the nine months ended September 30, 2022, are not necessarily indicative of the results for the full year or the results for any future periods. The condensed consolidated balance sheet as of December 31, 2021 has been derived from audited financial statements at that date. These financial statements should be read in conjunction

with the audited financial statements, and related notes for the year ended December 31, 2021 included in the Company's Annual Report on Form 10-K filed with the SEC on February 25, 2022.

Some items in the prior period financial statements were reclassified to conform to the current presentation.

Liquidity Matters

The Company has incurred net losses since its inception and anticipates net losses and negative operating cash flows for the near future. The Company had a net loss of \$405.2 million for the nine months ended September 30, 2022 and an accumulated deficit of \$1.8 billion as of September 30, 2022. As of September 30, 2022, the Company had \$57.1 million in cash, cash equivalents, and restricted cash, \$464.1 million in marketable securities, \$50.1 million of outstanding balance of the Credit Line (as defined in Note 10, *Debt*) including accrued interest with an additional \$100.0 million in credit line availability, and \$287.5 million outstanding principal balance of its 2.25% Convertible Senior Notes (the "Convertible Notes"). In November 2022, the Company has drawn \$30.0 million from the \$100.0 million available from the Credit Line.

While the Company has introduced multiple products that are generating revenues, these revenues have not been sufficient to fund all operations. Accordingly, the Company has funded the portion of operating costs that exceeds revenues through a combination of equity issuances, debt issuances, and other financings.

The Company continues to develop and commercialize future products and invest in the growth of its business and, consequently, it will need to generate additional revenues to achieve future profitability and will need to raise additional equity or debt financing. If the Company raises additional funds by issuing equity securities, its stockholders will experience dilution. Additional debt financing, if available, may involve covenants restricting its operations or its ability to incur additional debt. Any additional debt financing or additional equity that the Company raises may contain terms that are not favorable to it or its stockholders and requires significant debt service payments, which diverts resources from other activities. Additional financing may not be available at all, or in amounts or on terms acceptable to the Company. If the Company is unable to obtain additional financing, it may be required to delay the development and commercialization of its products and significantly scale back its business and operations.

On September 10, 2021, the Company entered into an agreement with a third party for an asset acquisition where the acquired asset was in-process research and development primarily in exchange for an equity consideration payment. In addition, pursuant to the agreement, certain employees of the third party became employees of the Company. The third party was a biotechnology company focused on oncology. The total upfront acquisition consideration amounts to \$35.6 million composed of the issuance of 276,346 shares of the Company's common stock with a fair value of \$30.9 million, approximately \$3.9 million of cash consideration, assumed net liabilities of \$0.2 million, as well as \$0.6 million of acquisition related legal and accounting costs directly attributable to the acquisition of the asset. The Company accounted for the transaction as an asset acquisition as substantially all of the estimated fair value of the gross assets acquired was concentrated in a single identified in-process research and development asset ("IPR&D") thus satisfying the requirements of the screen test in ASU 2017-01. The estimated fair value of the acquired workforce was not significant. The Company concluded the acquired IPR&D has no alternative-future use and accordingly expensed approximately \$35.6 million, on the day the transaction closed as research and development expense, which is reflected in its consolidated statement of operations.

Further, additional consideration aggregating up to approximately \$35.0 million may be paid in an estimated 269,547 of additional shares, consistent with the registration statement filed with the SEC on September 10, 2021, that are potentially issuable to legacy shareholders of this third party upon the achievement of defined milestones relating to product development, commercial launch and continued employment of certain selling shareholders, each of which will be revalued at each reporting date and amount of compensation expense will be adjusted accordingly. The Company assessed some of the milestones as probable as of September 30, 2022. As achievement of all milestones is contingent upon the continued employment of certain selling shareholders, the Company accounted for the consideration related to all of the milestones as compensation expenses and recognized these expenses ratably over the estimated performance period of 24 months, to approximately September 2023.

In July 2021, the Company completed an underwritten equity offering and sold 5,175,000 shares of its common stock at a price of \$113 per share to the public. Before estimated offering expenses of \$0.4 million, the Company received proceeds of approximately \$551.2 million net of the underwriting discount.

Based on the Company's current business plan, the Company believes that its existing cash and marketable securities will be sufficient to meet its anticipated cash requirements for at least 12 months after November 8, 2022.

Principles of Consolidation

The accompanying condensed consolidated financial statements include all the accounts of the Company and its subsidiaries. The Company established a subsidiary that operates in the state of Texas to support the Company's laboratory and operational functions. The Company established a subsidiary that operates in Canada following the acquisition of the IPR&D asset, which includes a lease for the laboratory space located in Canada. All intercompany balances and transactions have been eliminated.

Use of Estimates

The preparation of financial statements in accordance with generally accepted accounting principles ("GAAP") in the United States requires management to make estimates and assumptions about future events that affect the amounts of assets and liabilities reported, disclosures about contingent assets and liabilities, and reported amounts of revenues and expenses. Significant items subject to such estimates include the allowance for doubtful accounts, average selling price expected to be received from insurance payors, the operating right-of-use assets and the associated lease liabilities, the average useful life for property and equipment, deferred revenues associated with unsatisfied performance obligations, accrued liability for potential refund requests, stock-based compensation, the fair value of options, income tax uncertainties, and the expected consideration to be received from contracts with customers. These estimates and assumptions are based on management's best estimates and judgment. Management regularly evaluates its estimates and assumptions using historical experience and other factors, including contractual terms and statutory limits; however, actual results could differ from these estimates and could have an adverse effect on the Company's financial statements.

Revenue

The total consideration which the Company expects to be entitled to from patients and insurance carriers in exchange for the Company's products is a significant estimate determined by calculating the average selling price based on the contractual pricing agreed to with each insurance carrier for each test (CPT code) performed adjusted for variable consideration related to historical percent of cases allowed, historical percent of patient responsibility collected, and historical percent of contract price collected from insurance carriers. The Company uses the expected-value approach of estimating variable consideration. The Company also considers recent trends, past events not expected to recur, and future known changes such as anticipated contractual pricing changes or insurance coverages. For insurance carriers with similar reimbursement characteristics, the Company uses a portfolio approach to estimate the effects of variable consideration. The Company also applies a constraint to the estimated variable consideration when it assesses it is probable that a significant reversal in the amount of cumulative revenue may occur in future periods.

When assessing the total consideration for insurance carriers and patients, a certain percentage of revenues is further constrained for estimated refunds.

Stock-based compensation

The Company's stock-based compensation relates to stock options, restricted stock units ("RSUs"), performance-based awards, market-based awards, and stock purchase rights under an Employee Stock Purchase Plan ("ESPP").

Stock based compensation granted to the Company's employees is measured at the grant date based on the fair value of the award. The fair value is recognized as expense over the requisite service period, which is generally the vesting period or estimated performance period of the respective awards.

The Company uses the Black-Scholes option-pricing model to estimate the fair value of stock options issued to employees and non-employees. Stock-based compensation expense for stock-based awards is based on their grant date fair value. The fair value of stock option awards is generally recognized as compensation expense on a straight-line basis over the requisite service period in which the awards are expected to vest and forfeitures are estimated based on historical trends at the time of grant and revised as necessary for service-based grants. If awards have both a service condition and performance or market condition, then an accelerated expense method is used. Stock option awards that include a service condition and a performance condition are considered expected to vest when the performance condition is probable of being met. The Black-Scholes model considers several variables and assumptions in estimating the fair value of stock-based awards. These variables include the per share fair value of the underlying common stock, exercise price, expected term, risk-free interest rate, expected annual dividend yield and the expected stock price volatility over the expected term. For all stock options granted, we calculate the expected term using the simplified method for "plain vanilla" stock option awards. The Company determines expected volatility using the historical volatility of the stock price of similar publicly traded peer companies. The risk-free interest rate is based on the yield available on U.S. Treasury zero-coupon issues similar in duration to the expected term of the equity-settled award.

The Company determines the fair value of RSUs based on the closing price of our stock price, which is listed on Nasdaq, at the date of the grant.

For stock options and performance-based awards that vest upon meeting performance conditions or market conditions in combination with performance conditions, the Company derives the requisite service period from the grant date to the date it is probable that the vesting conditions will be met. The requisite service period is considered to be a significant accounting estimate. For stock options with market conditions, the Company derives the requisite service period using the Monte Carlo simulation model.

The Monte Carlo simulation model is used to estimate the fair value of market-based condition awards. The model requires the input of the Company's expected stock price and peer stock price volatility, the expected term of the awards, and a risk-free interest rate. Determining these assumptions requires significant judgment. See further discussion on the valuation assumptions used under Note 9, *Stock Based Compensation*.

Income Taxes

Income taxes are recorded in accordance with Financial Accounting Standards Board ASC Topic 740, *Income Taxes* ("ASC 740"), which provides for deferred taxes using an asset and liability approach. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases using enacted tax rates in effect for the year in which the differences are expected to affect taxable income. Tax benefits are recognized when it is more likely than not that a tax position will be sustained during an audit. Deferred tax assets are reduced by a valuation allowance if current evidence indicates that it is considered more likely than not that these benefits will not be realized. See further discussion in Note 11, *Income Taxes*.

Allowance for doubtful accounts

The allowance for doubtful accounts for trade accounts receivable and other receivables is based on the Company's assessment of the collectability of customer accounts. The Company regularly reviews the allowance by considering factors such as historical experience, credit quality, the age of the accounts receivable balances, and current economic conditions that may affect a customer's ability to pay.

Inventory

The Company's inventory balance primarily consists of raw materials and supplies. Inventory is recorded at the lower of cost or net realizable value, determined on a first-in, first-out basis. The Company uses judgment to analyze and determine if the composition of its inventory is obsolete, slow-moving or unsalable and frequently reviews such determinations. A write down of specifically identified unusable, obsolete, slow-moving or known unsalable inventory in the period is first recognized by using a number of factors including product expiration dates and scrapped inventory. Any

write-down of inventory to net realizable value establishes a new cost basis and will be maintained even if certain circumstances suggest the inventory is recoverable in subsequent periods. Costs associated with the write-down of inventory are recorded to cost of revenue on our consolidated statements of operations. The Company makes assumptions about future demand, market conditions and the release of new products that may supersede older products. However, if actual market conditions are less favorable than anticipated, additional inventory write-downs may be required.

Investments and financial instruments

The Company classifies its investments as Level 1 or 2 within the fair value hierarchy. Fair values determined by Level 1 inputs utilize quoted prices (unadjusted) in active markets for identical assets that the Company has the ability to access. Fair values determined by Level 2 inputs utilize data points that are observable such as quoted prices, interest rates and yield curves. The Company holds Level 2 securities which are initially valued at the transaction price and subsequently valued by a third-party service provider using inputs other than quoted prices that are observable either directly or indirectly, such as yield curve, volatility factors, credit spreads, default rates, loss severity, current market and contractual prices for the underlying instruments or debt, broker and dealer quotes, as well as other relevant economic measures. The Company performs certain procedures to corroborate the fair value of these holdings.

Right-of-use assets

The incremental borrowing rate is used to determine the present value of the minimum future lease payments. The Company estimates the incremental borrowing rate of its leases based on the weighted-average annual percentage yield of corporate bonds with a similar credit rating as the Company and a similar bond term as the lease term as of the approximate lease commencement date.

Property and equipment

Property and equipment, including purchased and internally developed software, are stated at cost. Depreciation and amortization is calculated using the straight-line method over the estimated useful lives of the assets, which are generally three to five years determined by the classification of the property and equipment class in accordance with the Company's fixed asset policy. Leasehold improvements are amortized using the straight-line method over the estimated useful lives of the assets or the remaining term of the lease, whichever is shorter. The Company periodically reviews the useful lives assigned to property and equipment placed in service in accordance with the Company's fixed asset policy and changes the estimates of useful lives to reflect the results of such reviews. The Company amortizes its internal-use software over the estimated useful lives of three years.

Other accrued liabilities

The Company's uses estimates, judgments, and assumptions in several areas including, but not limited to, estimates of progress to date for certain contracts with vendors, liabilities related to clinical trials, payroll and related expenses, marketing liabilities, reserves associated with insurance and general overpayments, tax-related liabilities, and other operating expenses. Estimates consist of historical trends, analytical procedures, review of supporting documentation, inquiries with supply partners and vendors, and other relevant assumptions. Although the Company believe its estimates, assumptions, and judgment are reasonable, it is based upon information presently available and are subject to change.

Cash and Cash Equivalents

Cash and cash equivalents consist of cash and money market deposits with financial institutions.

Restricted Cash

Restricted cash is currently presented as a separate line item in the Company's balance sheet. In the statements of cash flows, it is included together with cash and cash equivalents and considered as part of the total ending cash balance.

Credit Losses

Appropriate provision has been made for lifetime expected credit losses in accordance with ASC Topic 326-20, *Financial Instruments—Credit Losses* (“Topic 326”), for trade receivables and available-for-sale debt securities. The Company’s estimate of expected credit losses includes consideration of past events, current conditions, and forecasts of future economic conditions.

The following is a roll-forward of the allowances for credit losses related to trade accounts receivable and other receivables for the three and nine months ended September 30, 2022 and 2021:

	Three Months Ended	
	September 30,	
	2022	2021
	(in thousands)	
Beginning balance	\$ 3,561	\$ 3,788
Provision for credit losses	1,115	317
Total	\$ 4,676	\$ 4,105

	Nine Months Ended	
	September 30,	
	2022	2021
	(in thousands)	
Beginning balance	\$ 2,429	\$ 4,220
Provision for credit losses	2,615	380
Write-offs	(368)	(495)
Total	\$ 4,676	\$ 4,105

Available-for-sale debt securities. The amended guidance from ASU 2016-13 requires the measurement of expected credit losses for available-for-sale debt securities held at the reporting date over the remaining life based on historical experience, current conditions, and reasonable and supportable forecasts. The Company evaluated its investment portfolio under the available-for-sale debt securities impairment model guidance and determined the Company’s investment portfolio is composed of low-risk, investment grade securities.

Investments

Investments consist primarily of debt securities such as U.S. Treasuries, U.S. agency and municipal bonds. Management determines the appropriate classification of securities at the time of purchase and re-evaluates such determination at each balance sheet date. The Company generally classifies its entire investment portfolio as available-for-sale. The Company views its available-for-sale portfolio as available for use in current operations. Accordingly, the Company classifies all investments as short-term, irrespective of maturity date. Available-for-sale securities are carried at fair value, with unrealized gains and losses reported in accumulated other comprehensive income (loss), which is a separate component of stockholders’ equity.

Related Party

On December 6, 2021, the Company participated along with certain other investors in the series B financing of MyOme, Inc. (“MyOme”), and purchased preferred shares and warrants in exchange for a cash payment of approximately \$4.0 million. The Company’s investment in MyOme is recorded at cost and no impairment was identified as of September 30, 2022. The following are the Company’s related persons and the basis of each such related person’s relationship with MyOme:

- Matthew Rabinowitz, the Company’s executive chairman and co-founder, is the chairman of the board and founder of MyOme, and a beneficial holder of approximately 35.5% of the outstanding shares of MyOme;

- Jonathan Sheena, the Company's co-founder and a member of the Company's board of directors, is a stockholder and a member of the board of directors of Myome;
- Daniel Rabinowitz, the Company's Secretary and Chief Legal Officer, is a stockholder of Myome; and
- Roelof Botha, the Lead Independent Director of the Company's board of directors, is a managing member of Sequoia Capital. Two funds affiliated with Sequoia Capital also participated in MyOme's series B financing, and purchased MyOme series B preferred shares for an aggregate purchase price of approximately \$1.7 million.

Fair Value

The Company discloses the fair value of financial instruments for financial assets and liabilities for which the value is practicable to estimate. Fair value is defined as the price that would be received upon the sale of an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date (exit price).

Risk and Uncertainties

The Company is subject to risks and uncertainties as a result of the COVID-19 pandemic. The extent of the impact of the COVID-19 pandemic on the Company's business and the macroeconomic environment generally is highly uncertain and difficult to predict, and the full extent and duration of the impact of the COVID 19 pandemic on its business, its operations, and the global economy as a whole is not yet known. While the Company's test volumes and overall average selling prices increased in the nine months ended September 30, 2022 compared to the nine months ended September 30, 2021, COVID-19 has negatively impacted the macroeconomic environment and the Company cannot predict the potential nature, magnitude and duration of the continued effects of the COVID-19 pandemic on the macroeconomic environment.

Further, in the Company's operations as a public company, prolonged government disruptions, global pandemics and other natural disasters or geopolitical actions, for example the geopolitical instability due to the ongoing military conflict between Russia and Ukraine, have resulted in significant economic uncertainty. These macroeconomic conditions could affect the Company's ability to access the public markets and obtain necessary capital in order to properly capitalize and continue its operations.

Financial instruments that potentially subject the Company to credit risk consist of cash, accounts receivable and investments. The Company limits its exposure to credit loss by placing its cash in financial institutions with high credit ratings. The Company's cash may consist of deposits held with banks that may at times exceed federally insured limits of \$250,000 per customer. The Company performs evaluations of the relative credit standing of these financial institutions and limits the amount of credit exposure with any one institution.

As of the date of filing of this Quarterly Report, the Company does not believe that inflation has had a material effect on the Company's business, financial condition, or results of operations. If the Company's costs were to become subject to significant inflationary pressures, the Company may not be able to fully offset such higher costs through increases in revenue as increases in core inflation rates may also negatively affect demand for the Company's product offerings. The Company's inability or failure to do so could harm the Company's business, financial condition, and results of operations.

The Company performs evaluations of financial conditions for insurance carriers, patients, clinics and laboratory partners and generally does not require collateral to support credit sales. For the three and nine months ended September 30, 2022, and 2021, there were no customers exceeding 10% of total revenues on an individual basis. As of September 30, 2022 and December 31, 2021, there were no customers with an outstanding balance exceeding 10% of net accounts receivable.

Accumulated Other Comprehensive Income (Loss)

Comprehensive loss and its components encompass all changes in equity other than those with stockholders, and include net loss, unrealized gains and losses on available-for-sale marketable securities and foreign currency translation adjustments.

	Three months ended September 30,		Nine months ended September 30,	
	2022	2021	2022	2021
	<i>(in thousands)</i>		<i>(in thousands)</i>	
Beginning balance	\$ (16,397)	\$ 2,441	\$ (2,287)	\$ 4,259
Net unrealized loss on available-for-sale securities, net of tax and foreign currency translation adjustment	(3,212)	(950)	(17,322)	(2,768)
Ending balance	\$ (19,609)	\$ 1,491	\$ (19,609)	\$ 1,491

The increase in net unrealized loss on available-for-sale securities is due to increased market volatility. The Company has assessed the unrealized loss position for available-for-sale securities and determined that an allowance for credit losses was not necessary.

Recent Accounting Pronouncements

From time to time, new accounting pronouncements are issued by the Financial Accounting Standards Board ("FASB") under its accounting standard codifications or other standard setting bodies and adopted by the Company as of the specified effective date. Unless otherwise discussed below, the Company believes that the impact of accounting standards updates recently issued that are not yet effective will not have a material impact on its financial position or results of operations upon adoption.

New Accounting Pronouncements Not Yet Adopted

In March 2020, ASU 2020-04, *Reference Rate Reform (Topic 848)* was issued which provides temporary optional guidance to ease the potential burden in accounting for reference rate reform. The new guidance provides optional expedients and exceptions for applying generally accepted accounting principles to transactions affected by reference rate reform if certain criteria are met. These transactions include contract modifications, hedging relationships, and sale or transfer of debt securities classified as held-to-maturity. Early adoption of this ASU is permitted, and the Company may elect to apply the amendments prospectively through December 31, 2022. The Company's financial instruments that are in the scope of ASU 2020-04 include but are not limited to the UBS credit line agreement. The Company is currently evaluating the impact of the adoption of this standard on its consolidated financial statements.

3. Revenue Recognition

The Company recognizes revenues when, or as, performance obligations in the contracts are satisfied, in the amount reflecting the expected consideration to be received from the goods or services transferred to the customers.

Product Revenues

Product revenues are derived from contracts with insurance carriers, laboratory partners and patients in connection with sales primarily related to prenatal genetic tests. The Company enters into contracts with insurance carriers with primarily payment terms related to tests provided to the patients who have health insurance coverage. Insurance carriers are considered as third-party payers on behalf of the patients, and the patients are considered as the customers who receive genetic test services. Tests may be billed to insurance carriers, patients, or a combination of insurance carriers and patients. Further, the Company sells tests to a number of domestic and international laboratory partners and identifies the laboratory partners as customers provided that there is a test services agreement between the two parties.

Additionally, the Company enters into agreements with pharmaceutical companies to utilize the Company's Signatera tests typically to study new cancer treatments or to validate the outcomes of clinical trials for which the pharmaceutical companies are identified as customers. Such arrangements generally involve performing whole exome sequencing ("WES") services and the testing of patient samples to detect cancer mutations using its Signatera test. Each test is billable to customers and the personalized cancer profile also makes each test distinct within the context of the contract as customers can exercise control over the test results upon delivery. The Company allocates the contract price to each test using the stand-alone selling price for each service and recognizes the test processing revenue as individual test results are delivered to customers.

A performance obligation represents a promise in a contract to transfer a distinct good or service to a customer, which represents a unit of accounting in accordance with ASC 606. 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 the Company 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. A portion of the consideration should be allocated to each distinct performance obligation and recognized as revenue when, or as, the performance obligation is satisfied. The Company evaluates its contracts with insurance carriers, laboratory partners and patients and identifies the performance obligations in those contracts, which are the delivery of the test results.

The total consideration which the Company expects to collect in exchange for the Company's products is an estimate and may be fixed or variable. Consideration includes reimbursement from both patients and insurance carriers, adjusted for variable consideration related to disallowed cases, discounts, refunds and doubtful accounts, and is estimated using the expected value approach. For insurance carriers with similar reimbursement characteristics, the Company uses a portfolio of relevant historical data to estimate variable consideration and total collections for the Company's products. The Company constrains the estimated variable consideration when it assesses it is probable that a significant reversal in the amount of cumulative revenue recognized may occur in future periods. The consideration expected from laboratory partners usually includes a fixed amount, but it can be variable depending on the volume of tests performed, and the Company determines the variable consideration using the expected value approach. For insurance carriers, laboratory partners and patients, the Company allocates the total consideration to a single performance obligation, which is the delivery of the test results to the customers.

When assessing the total consideration for insurance carriers and patients, a certain percentage of revenues is further constrained for estimated refunds.

The Company generally bills an insurance carrier, a laboratory partner or a patient upon delivery of test results. The Company also bills patients directly for out-of-pocket costs involving co-pays and deductibles that they are responsible for. Tests billed to insurance carriers and directly to patients usually take an average of nine to twelve months to collect payment, and for tests billed to laboratory distribution partners, the average collection cycle takes approximately two to three months. At times, the Company may or may not get reimbursed for the full amount billed. Further, the Company

may not get reimbursed at all for tests performed if such tests are not covered under the insurance carrier's reimbursement policies or the Company is not a qualified provider to the insurance carrier, or if the tests were not previously authorized.

Product revenue is recognized in an amount equal to the total consideration (as described above) at a point in time when the test results are delivered. The Company reserves certain amounts in other accrued liabilities on the balance sheet in anticipation of requests for refunds of payments previously made by insurance carriers, which are accounted for as reductions in product revenues in the statement of operations and comprehensive loss. During the three months ended September 30, 2022 and 2021, \$1.8 million and \$1.6 million, respectively, were released from amounts previously held in reserves in other accrued liabilities, and recognized as product revenue. During the nine months ended September 30, 2022 and 2021, \$4.7 million and \$4.6 million, respectively, were released from amounts previously held in reserves in other accrued liabilities, and recognized as product revenue. The release of amounts reserved were recognized as product revenue within that period.

Licensing and Other Revenues

The Company recognizes licensing revenues from its cloud-based distribution service offering, Constellation, by granting licenses to its licensees to use certain of the Company's proprietary intellectual properties and cloud-based software and IVD kits. The Company also recognizes revenues from its agreements with Qiagen LLC, ("Qiagen"), BGI Genomics Co., Ltd. ("BGI Genomics"), Foundation Medicine, Inc. ("Foundation Medicine"), and other revenues.

Constellation

The laboratory partners with whom the Company enters into a licensing arrangement represent the licensees and are identified as customers. The licensees do not have the right to possess the Company's software, but rather receive services through the cloud software. These arrangements often include: (i) the delivery of the services through the cloud software, (ii) the necessary support and training, and (iii) the IVD kits to be consumed as tests are processed. The Company does not consider the software as a service, the support or the training as being distinct in the context of such arrangements, and therefore they are combined as a single performance obligation. The software, support and training are delivered simultaneously to the licensees over the term of the arrangement.

The Company bills the majority of licensees, who process the tests in their laboratories, a fixed price for each test processed. Licensing revenues are recognized as the performance obligations are satisfied (i.e., upon the delivery of each test) and reported in licensing and other revenues in the Company's statements of operations and comprehensive loss.

Qiagen

In March 2018, the Company entered into a License, Development and Distribution Agreement (the "Qiagen Agreement") with Qiagen under which the Company granted Qiagen a license to develop, manufacture, distribute and commercialize NGS-based genetic testing assays and sequencing systems utilizing such assays, which incorporate the Company's proprietary technology. According to the terms of the Qiagen Agreement, the Company is initially entitled to receive an upfront license fee and prepaid royalties totaling \$40.0 million, which were fully collected in 2018. All or a portion of the prepaid royalties are refundable in limited circumstances. In addition, the Company was entitled to potential milestone payments from Qiagen upon the successful achievement of certain volume, regulatory and commercial milestones, and tiered royalties of \$10.0 million, of which the Company received \$5.0 million due December 31, 2018. The Qiagen Agreement has a term of 10 years and expires in March 2028, and it may be terminated earlier in certain circumstances. Upon termination of the Qiagen Agreement, the license granted to Qiagen will also terminate, except in certain limited circumstances. The Company provided to Qiagen standard indemnification protections, which is part of an assurance that the license meets the contract's specifications and is not an obligation to provide goods or services.

Effective in March 2020, the Company terminated the Qiagen Agreement. Subsequently, in March 2021, the Company and Qiagen signed a Termination and Settlement Agreement where the Company agreed to refund a net \$10 million as a result of the termination. The remaining \$28.6 million of deferred revenue was recognized as other licensing and other revenue in the first quarter of 2021.

BGI Genomics

In February 2019, the Company entered into a License Agreement (the “BGI Genomics Agreement”) with BGI Genomics to develop, manufacture, and commercialize NGS-based genetic testing assays for clinical and commercial use. The BGI Genomics Agreement has a term of ten years and expires in February 2029. According to the BGI Genomics Agreement, the Company is entitled to a total of \$50.0 million, comprised of upfront technology license fees, prepaid royalties relating to future sales of licensed products and performance of assay interpretation services, and milestone payments. During the three months ended June 30, 2019, the Company received \$35.6 million, net of withholding taxes, of these amounts. The Company recorded a receivable of \$2.5 million upon achieving the first milestone as of June 30, 2019, which was received in January 2021. Also, as required by the BGI Genomics Agreement, in June 2019 the Company prepaid \$6.0 million to BGI Genomics for future sequencing services and \$4.0 million for future sequencing equipment. These advance payments for equipment and services to be received in future periods aggregating to \$10.0 million were originally recorded in long-term advances on the Company's Condensed Consolidated Balance Sheet and will be periodically assessed for impairment. During the third quarter ending September 30, 2022, \$3.6 million was reclassified as prepaid expenses and other current assets. The Company recorded a receivable of \$5.0 million upon achieving a milestone in the first quarter of 2022. During the third quarter ending September 30, 2022, the Company agreed to discount the receivable to \$4.5 million which has been recognized as revenue. The \$4.5 million receivable was collected in October 2022.

Pursuant to the BGI Genomics Agreement, the Company licensed its intellectual property and will provide development services. Following completion of development services, the Company will provide assay interpretation services over the term of the BGI Genomics Agreement. The Company concluded that the license is not a distinct performance obligation as it does not have a stand-alone value to BGI Genomics apart from the related development services. Therefore, license and related development services, for each NIPT and Oncology product, represents a single performance obligation.

The Company is responsible for granting a license to specified intellectual property and performing certain development activities to customize its genetic testing assays for oncology and NIPT for use with BGI Genomics' sequencing instruments and proprietary technology platform. Revenue associated with these performance obligations is recognized over time using the input method, based on costs incurred to perform the development services, since the level of costs incurred over time best reflect the transfer of development services. Revenue associated with the assay interpretation services will be recognized upon delivery of these services. Funds received in advance are recorded as deferred revenue and will be recognized as the related services are delivered.

The initial transaction price was primarily comprised of license and milestone fees. The Company constrains the estimated variable consideration when it assesses it is probable that a significant reversal in the amount of cumulative revenue recognized may occur in future periods. Certain milestone and license fees were constrained and not included in the transaction price due to the uncertainties of research and development. The Company re-evaluates the transaction price, including the estimated variable consideration included in the transaction price and all constrained amounts, in each reporting period and as uncertain events are resolved or other changes in circumstances occur. The allocation of the transaction price was performed based on standalone selling prices, which are based on estimated amounts that the Company would charge for a performance obligation if it were sold separately.

In accordance with ASC 340-40, any incremental costs incurred to obtain a contract with a customer are required to be capitalized and amortized over the period in which the goods and services are transferred to the customer. The Company has elected to apply a practical expedient under ASC 340-40 to recognize the incremental costs of obtaining a contract as an expense when incurred provided that the amortization period of such costs, if capitalized, is one year or less. The incremental costs incurred in connection with the BGI Genomics arrangement is not material on an accumulated basis and therefore will not be capitalized on the balance sheet but will be expensed as incurred.

Foundation Medicine, Inc.

In August 2019, the Company entered into a License and Collaboration Agreement (the “Foundation Medicine Agreement”) with Foundation Medicine to develop and commercialize personalized circulating tumor DNA monitoring assays, for use by biopharmaceutical and clinical customers who order Foundation Medicine’s FoundationOne CDx. The Foundation Medicine Agreement has an initial term of five years, expiring in August 2024, with automatic renewals thereafter for successive one-year terms, unless the Foundation Medicine Agreement is earlier terminated in accordance with its terms. Natera and Foundation Medicine will share the revenues generated from both biopharmaceutical and clinical customers in accordance with the terms of the Foundation Medicine Agreement. The Foundation Medicine Agreement provides for approximately \$13.3 million in upfront licensing fees and prepaid revenues payable to the Company, and up to approximately \$32.0 million in minimum annual payments and payments tied to the Company’s achievement of certain developmental, regulatory, and commercial milestones. As of December 31, 2019, the Company received \$16.3 million of these amounts, of which \$3.0 million was for achieving certain milestones, and \$13.3 million was for licensing fees and prepaid revenue. There was an additional milestone met in May 2021. The Company accrued a \$1.0 million milestone payment against accounts receivable and short-term deferred revenue. This milestone was paid in early July 2021. Additionally, the Company included an incremental \$2.0 million in the transaction price of the contract based on the expectation of achieving a certain milestone in early 2022. This amount was not part of the initial transaction price. In the first quarter of 2022, the Company has recorded a receivable and subsequently collected \$2.0 million upon achieving a milestone.

Pursuant to the Foundation Medicine Agreement, the Company will provide development services in conjunction with granting the use of the Company’s intellectual property. Following completion of those development services, the Company is currently providing research use only assay testing services over the term of the agreement. The Company has concluded that the license is not a distinct performance obligation as it is highly interrelated and interdependent with the related development services. Therefore, license and related development services represent a single performance obligation.

The Company is responsible for providing the technology license and certain development services that are required to customize its proprietary Signatera test to work with Foundation Medicine’s FoundationOne CDx. The intellectual property has been licensed to Foundation Medicine for the customized test. In addition, the Company is responsible for delivering clinical study plans in order to demonstrate efficacy of the customized test which commenced in the second quarter of 2021. Revenues associated with each of the performance obligations are recognized over time using the input method, based on costs incurred to perform the development services, since the level of costs incurred over time best reflect the transfer of development services. Revenue associated with the assay testing services will be recognized upon delivery of these services. Funds received in advance are recorded as deferred revenue and will be recognized as the related services are delivered.

The initial transaction price was primarily comprised of license and milestone fees. The Company constrains the estimated variable consideration when it assesses it is probable that a significant reversal in the amount of cumulative revenue recognized may occur in future periods. Certain milestone fees were constrained and not included in the transaction price due to the uncertainties of research and development. The Company re-evaluates the transaction price, including the estimated variable consideration included in the transaction price and all constrained amounts, in each reporting period and as uncertain events are resolved or other changes in circumstances occur. The allocation of the transaction price was performed based on standalone selling prices, which are based on estimated amounts that the Company would charge for a performance obligation if it were sold separately.

In accordance with ASC 340-40, any incremental costs incurred to obtain a contract with a customer are required to be capitalized and amortized over the period in which the goods and services are transferred to the customer. The Company has elected to apply a practical expedient under ASC 340-40 to recognize the incremental costs of obtaining a contract as an expense when incurred provided that the amortization period of such costs, if capitalized, is one year or less.

Disaggregation of Revenues

The Company measures its performance results primarily based on revenues recognized from the three categories described below. The following table shows disaggregation of revenues by payer types:

	Three months ended September 30,		Nine months ended September 30,	
	2022	2021	2022	2021
(in thousands)				
Insurance carriers	\$ 174,825	\$ 132,423	\$ 507,389	\$ 351,218
Laboratory and other partners	27,050	17,441	69,929	77,575
Patients	8,762	8,252	25,652	23,665
Total revenues	<u>\$ 210,637</u>	<u>\$ 158,116</u>	<u>\$ 602,970</u>	<u>\$ 452,458</u>

The following table presents total revenues by geographic area based on the location of the Company's payers:

	Three months ended September 30,		Nine months ended September 30,	
	2022	2021	2022	2021
(in thousands)				
United States	\$ 197,066	\$ 148,033	\$ 576,169	\$ 427,804
Americas, excluding U.S.	1,155	1,247	2,426	3,052
Europe, Middle East, India, Africa	4,956	5,598	12,383	14,322
Asia Pacific and Other	7,460	3,238	11,992	7,280
Total revenues	<u>\$ 210,637</u>	<u>\$ 158,116</u>	<u>\$ 602,970</u>	<u>\$ 452,458</u>

The following table summarizes the Company's beginning and ending balances of accounts receivable and deferred revenues:

	Balance at September 30,		Balance at December 31,	
	2022		2021	
(in thousands)				
Assets:				
Accounts receivable	\$	236,362	\$	122,074
Liabilities:				
Deferred revenue, current portion	\$	7,932	\$	7,404
Deferred revenue, long-term portion		20,405		21,318
Total deferred revenues	\$	28,337	\$	28,722

The following table summarizes the changes in the balance of deferred revenues during the nine months ended September 30, 2022 and 2021:

	September 30, 2022	September 30, 2021
<i>(in thousands)</i>		
Beginning balance	\$ 28,722	\$ 72,930
Increase in deferred revenues	20,268	4,703
Refunds of revenues previously deferred	(337)	(10,000)
Revenue recognized during the period that was included in deferred revenues at the beginning of the period	(7,877)	(32,864)
Revenue recognized from performance obligations satisfied within the same period	(12,439)	(2,396)
Ending balance	\$ 28,337	\$ 32,373

During the nine months ended September 30, 2022, revenue recognized that was included in the deferred revenue balance at the beginning of the period totaled \$7.9 million. This balance consisted of approximately a net \$4.5 million related to BGI Genomics and Foundation Medicine and \$3.3 million related to genetic testing services. The current portion of deferred revenue includes \$0.7 million from the BGI Genomics Agreement as of September 30, 2022.

4. Fair Value Measurements

The Company's financial assets and liabilities carried at fair value are comprised of investment assets that include money market and investments.

The fair value accounting guidance requires that assets and liabilities be carried at fair value and classified in one of the following three categories:

Level I: Quoted prices in active markets for identical assets and liabilities that the Company has the ability to access.

Level II: Observable market-based inputs or unobservable inputs that are corroborated by market data, such as quoted prices, interest rates, and yield curves.

Level III: Inputs that are unobservable data points that are not corroborated by market data.

This hierarchy requires the Company to use observable market data, when available, and to minimize the use of unobservable inputs when determining fair value.

Assets and Liabilities That Are Measured at Fair Value on a Recurring Basis

The following table represents the fair value hierarchy for the Company's financial assets and financial liabilities measured at fair value on a recurring basis:

	September 30, 2022				December 31, 2021			
	Level I	Level II	Level III	Total	Level I	Level II	Level III	Total
<i>(in thousands)</i>								
Financial Assets:								
Money market deposits	\$ 496	\$ —	\$ —	\$ 496	\$ 10,041	\$ —	\$ —	\$ 10,041
U.S. Treasury securities	378,108	—	—	378,108	688,097	—	—	688,097
Corporate bonds and notes	—	23,374	—	23,374	—	52,337	—	52,337
Municipal securities	—	62,630	—	62,630	—	89,462	—	89,462
Total financial assets	\$ 378,604	\$ 86,004	\$ —	\$ 464,608	\$ 698,138	\$ 141,799	\$ —	\$ 839,937

Fair Value of Debt:

As of September 30, 2022, the estimated fair value of the Convertible Notes, which are not presented at fair value on the Condensed Consolidated Balance Sheets as of September 30, 2022 and December 31, 2021, was \$403.6 million and \$715.7 million, respectively, based upon observable, Level 2 inputs, including pricing information from recent trades of the Convertible Notes. As of September 30, 2022, the fair value of the UBS Credit Line, consisting of the total principal amount outstanding with accrued interest, was \$50.1 million. See Note 10, *Debt*, for additional details.

5. Financial Instruments

The Company elected to invest a portion of its cash assets in conservative, income earning, and liquid investments. Cash equivalents and investments, all of which are classified as available-for-sale securities, consisted of the following:

	September 30, 2022			December 31, 2021			
	Amortized Cost	Gross Unrealized Loss	Estimated Fair Value	Amortized Cost	Gross Unrealized Gain	Gross Unrealized Loss	Estimated Fair Value
	<i>(in thousands)</i>						
Money market deposits	\$ 496	\$ —	\$ 496	\$ 10,041	\$ —	\$ —	\$ 10,041
U.S. Treasury securities (1)	392,949	(14,841)	378,108	689,640	1,081	(2,624)	688,097
Corporate bonds and notes (1)	24,098	(724)	23,374	53,729	—	(392)	52,337
Municipal securities	66,350	(3,720)	62,630	89,814	261	(613)	89,462
Total	\$ 483,893	\$ (19,285)	\$ 464,608	\$ 842,224	\$ 1,342	\$ (3,629)	\$ 839,937
Classified as:							
Cash equivalents (2)			496				10,041
Short-term investments			464,112				829,896
Total			\$ 464,608				\$ 839,937

- (1) Per the Company's investment policy, all U.S. Treasury securities and debt securities are classified as short-term investments irrespective of holding period.
(2) Cash equivalents includes cash sweep accounts and U.S. Treasury money market mutual funds.

The Company invests in U.S. Treasuries, U.S. agency and high-quality municipal bonds which mature at par value and are all paying their coupons on schedule. The Company has therefore concluded there is currently no other than temporary impairment of its investments and will continue to recognize unrealized gains and losses in other comprehensive income (loss). During the nine months ended September 30, 2022, the Company sold \$214.7 million of investments. During the nine months ended September 30, 2022, the amount of net realized losses upon sales of investments was \$0.5 million. The Company uses the specific investment identification method to calculate realized gains and losses and amounts reclassified out of other comprehensive income to net income. As of September 30, 2022, the Company had 64 investments in an unrealized loss position in its portfolio. An allowance for credit losses was not necessary since the investments are low risk, investment grade securities. The Company has assessed the unrealized loss position for available-for-sale debt securities for which an allowance for credit losses has not been recorded. The fair value for investment securities at an unrealized loss position as of September 30, 2022 was \$464.1 million. The aggregate amount of unrealized losses of these securities was \$19.3 million, and the impact of the securities in a continuous loss position to the condensed consolidated statements of operations and comprehensive loss was not material as of September 30, 2022.

The following table summarizes the Company's portfolio of available-for-sale securities by contractual maturity as of September 30, 2022:

	September 30, 2022	
	Amortized Cost	Fair Value
	<i>(in thousands)</i>	
Less than or equal to one year	\$ 234,061	\$ 227,890
Greater than one year but less than five years	249,336	236,222
Total	\$ 483,397	\$ 464,112

6. Balance Sheet Components

Property and Equipment, net

The Company's property and equipment consisted of the following:

	Useful Life	September 30, 2022	December 31, 2021
		<i>(in thousands)</i>	
Machinery and equipment	3-5 years	\$ 59,040	\$ 33,722
Computer equipment	3 years	1,348	4,893
Capitalized software held for internal use	3 years	4,798	2,395
Leasehold improvements	Lesser of useful life or lease term	28,573	13,640
Construction-in-process		25,205	30,279
		118,964	84,929
Less: Accumulated depreciation and amortization		(31,478)	(19,413)
Total Property and Equipment, net		\$ 87,486	\$ 65,516

The Company's long-lived assets are primarily located in the United States.

During the nine months ended September 30, 2022, the increase in net property and equipment was due to increased leasehold improvements from expansion projects and purchases of new equipment for the Company's laboratories located in Texas and California to expand testing capabilities, offset by depreciation expense of \$12.2 million recorded in the nine months ended September 30, 2022. Depreciation expense of \$8.3 million was recorded in the nine months ended September 30, 2021. The Company did not incur an impairment charge during the nine months ended September 30, 2022.

Accrued Compensation

The Company's accrued compensation consisted of the following:

	September 30, 2022	December 31, 2021
	<i>(in thousands)</i>	
Accrued paid time off	\$ 2,904	\$ 2,567
Accrued commissions	11,079	15,726
Accrued bonuses	15,795	15,854
Other accrued compensation	12,448	6,794
Total accrued compensation	\$ 42,226	\$ 40,941

Other Accrued Liabilities

The Company's other accrued liabilities consisted of the following:

	September 30, 2022	December 31, 2021
	<i>(in thousands)</i>	
Reserves for refunds to insurance carriers	\$ 17,938	\$ 17,210
Accrued charges for third-party testing	11,863	5,849
Testing and laboratory materials from suppliers	14,961	3,799
Marketing and corporate affairs	5,676	7,853
Legal, audit and consulting fees	34,355	11,758
Accrued shipping charges	2,403	969
Sales and income tax payable	2,270	2,230
Accrued third-party service fees	6,881	13,442
Clinical trials and studies	18,297	11,218
Operating lease liabilities, current portion	6,139	5,752
Fixed asset purchases	3,976	1,853
Other accrued interest	2,695	1,078
Other accrued expenses	5,297	10,342
Total other accrued liabilities	\$ 132,751	\$ 93,353

Reserves for refunds to insurance carriers include overpayments from and amounts to be refunded to insurance carriers, and additional amounts that the Company estimates for potential refund requests during the period. When the Company releases these previously accrued amounts, they are recognized as product revenues in the condensed statements of operations and comprehensive loss.

The following table summarizes the reserve balance and activities for refunds to insurance carriers for the nine months ended September 30, 2022:

	September 30, 2022	September 30, 2021
	<i>(in thousands)</i>	
Beginning balance	\$ 17,210	\$ 17,366
Additional reserves	16,997	11,776
Refunds to carriers	(11,563)	(8,664)
Reserves released to revenue	(4,706)	(4,599)
Ending balance	\$ 17,938	\$ 15,879

7. Leases

Operating Leases

In September 2015, the Company's subsidiary entered into a long-term lease agreement for laboratory and office space totaling approximately 94,000 square feet in Austin, Texas. The lease term is 132 months beginning in December 2015 and expiring in November 2026 with monthly payments beginning in December 2016. In December 2021, the Company entered into an amendment of the Austin lease agreement which extended the lease of the current premises through March 2033. The amendment also includes two additional office spaces (the "First Expansion Premises" and the "Second Expansion Premises"). The First Expansion Premises consists of 32,500 rentable square feet and commenced in February 2022. The Second Expansion Premises consists of 65,222 rentable square feet and commenced in September 2022. The terms of the First and Second Expansion Premises expire in March 2033.

In October 2016, the Company entered into a lease directly with its landlord for laboratory and office spaces at its facilities located in San Carlos, California. The Company currently occupies approximately 113,000 square feet.

comprised of two office spaces (the "First Space" and the "Second Space"). The First Space covers approximately 88,000 square feet, and the Second Space totals approximately 25,000 square feet. The term of this lease is approximately 84 months and expires in October 2023. This lease contains an option to renew the lease term for five years, but the fair market rent amount upon renewal is not available from the landlord. In January 2021, the Company entered into an amendment of the lease to extend the term for 48 months to October 2027. The combined annual rent for the First Space and Second Space will be \$9.3 million commencing in October 2023.

The Company entered into a lease agreement commencing June 2018 for its cord blood tissue storage facility in Tukwila, Washington that covers approximately 10,000 square feet. The lease term is 62 months expiring in July 2023. The Company has the option to extend this lease for five years, and the fair market rent upon renewal is not determinable. However, since the Company sold its business related to cord blood and tissue storage in September 2019, the Company has subleased the facility and does not intend to exercise its option to renew the facility upon expiration.

In addition, the Company entered into a sublease agreement in June 2019 with a third party to sublease 25,879 square feet of space located on the third floor of the San Carlos, California building while maintaining its primary obligation as the intermediate lessor. The term of this lease is approximately 48 months commencing in October 2019 and expiring in September 2023. The annual lease payment starts at \$1.9 million and will escalate annually commencing in October 2020. An amendment of the San Carlos sublease agreement was entered in February 2021 and the third party surrendered 25,879 rentable square feet in the fourth quarter of 2021.

The Company entered into a lease agreement in November 2020 to lease 11,395 square feet of space located in South San Francisco, California over a 36-month term. The premises will be used for general office, laboratory and research use. The annual lease payment starts at \$0.9 million and will escalate annually commencing in December 2021. As of September 30, 2022, the Company remeasured its lease term as it is reasonably certain to exercise its renewal option which will extend the lease term by 36 months to November 2026.

As part of the IPR&D asset acquisition in September 2021, the Company inherited a lease for 7,107 square feet of laboratory space in Canada over a 24-month period. The annual lease payment starts at \$0.2 million.

The Company has also historically entered into leases of individual workspaces and storage spaces at various locations on both a month-to-month basis without an established lease term, and more recently for certain locations, has committed to terms approximating one to five years. For the facilities without a committed lease term, the Company has elected to not recognize them as right-of-use assets on the condensed consolidated balance sheets as they are all considered short-term leases. For individual workspaces where the committed lease term exceeds one year, the Company has recorded a right-of-use asset on the condensed consolidated balance sheets.

For the nine months ended September 30, 2022, the Company had noncash operating activities of \$22.1 million primarily related to additional right-of-use assets related to the First and Second Austin Expansion Premises commenced in February 2022 and September 2022, respectively, which were accounted for as new leases under ASC 842. For the nine months ended September 30, 2021, the Company had noncash operating activities of \$31.3 million primarily related to additional right-of-use assets primarily as a result of the San Carlos lease extension which was accounted for as a modification under ASC 842.

The operating lease right-of-use assets are classified as noncurrent assets in the balance sheet. The corresponding lease liabilities are separated into current and long-term portions as follows:

	September 30, 2022	December 31, 2021
	<i>(in thousands)</i>	
Operating lease liabilities, current portion included in other accrued liabilities	\$ 6,139	\$ 5,752
Operating lease liabilities, long-term portion	78,469	61,036
Total operating lease liabilities	<u>\$ 84,608</u>	<u>\$ 66,788</u>

The initial recognition of the operating lease liabilities was measured as the present value of the future minimum lease payments using a discount rate determined as of January 1, 2019. The operating right-of-use assets was calculated as the operating lease liabilities discounted at the present value, less the amount of unamortized tenant improvement allowance and deferred rent. The discount rate used was the Company's incremental borrowing rate given that the implicit rate to each lease was not readily determinable. In accordance with ASC 842, the incremental borrowing rate was estimated as the annual percentage yield resulting from a corporate debt financing over a loan term approximating the remaining term of each lease, with the effect of certain credit risk rating. As of September 30, 2022, the weighted-average remaining lease term was 4.94 years and the weighted-average discount rate was 6.70%.

The Company continues to recognize lease expense on a straight-line basis. The lease expense includes the amortization of the right-of-assets with the associated interest component estimated by applying the effective interest method. For the three months ended September 30, 2022 and 2021, total lease expense of \$3.5 million and \$2.8 million was recognized in the condensed statements of operations and comprehensive loss, respectively. For the nine months ended September 30, 2022 and 2021, total lease expense of \$10.0 million and \$8.1 million was recognized in the condensed statements of operations and comprehensive loss, respectively. Cash paid for amounts in the measurement of operating lease liabilities totaled \$1.7 million and \$2.6 million for the three months ended September 30, 2022 and 2021, respectively. Cash paid for amounts in the measurement of operating lease liabilities totaled \$7.2 million and \$7.6 million for the nine months ended September 30, 2022 and 2021, respectively.

The present value of the future annual minimum lease payments under all non-cancellable operating leases as of September 30, 2022 are as follows:

	Operating Leases	
	<i>(in thousands)</i>	
Year ending December 31:		
2022 (remaining 3 months)	\$	2,194
2023		12,462
2024		15,924
2025		16,286
2026		16,661
2027 and thereafter		<u>47,200</u>
Less: imputed interest		<u>110,727</u>
Operating lease liabilities	<u>\$</u>	<u>84,608</u>

8. Commitments and Contingencies

Legal Proceedings

The Company is involved in legal matters, including investigations, subpoenas, demands, disputes, litigation, requests for information, and other regulatory or administrative actions or proceedings, including those with respect to intellectual property, testing and test performance, billing, reimbursement, marketing, short seller and media allegations, employment, and other matters.

An independent committee of the Company's board of directors initiated and has completed an internal investigation into the allegations made in a March 2022 short seller report, with the assistance of the law firm of WilmerHale LLP. WilmerHale had access to company executives, personnel, records, communications, and documents. Based on the investigation, the independent committee, on behalf of the board, has concluded that the allegations of wrongdoing against the Company in the report were unfounded.

The Company is responding to ongoing regulatory and governmental investigations, subpoenas and inquiries, and contesting its current legal matters, but cannot provide any assurance as to the ultimate outcome with respect to any of the foregoing. There are many uncertainties associated with these matters. Such matters may cause the Company to incur costly litigation and/or substantial settlement charges, divert management attention, result in adverse judgments, fines, penalties, injunctions or other relief, and may result in loss of customer or investor confidence regardless of their merit or ultimate outcome. In addition, the resolution of any intellectual property litigation may require the Company to make royalty payments, which could adversely affect gross margins in future periods. If any of the foregoing were to occur, the Company's business, financial condition, results of operations, cash flows, prospects, or stock price could be adversely affected.

The Company assesses legal contingencies to determine the degree of probability and range of possible loss for potential accrual in its financial statements. When evaluating legal contingencies, the Company may be unable to provide a meaningful estimate due to a number of factors, including the procedural status of the matter in question, the presence of complex or novel legal theories, and/or the ongoing discovery and development of information important to the matters. In addition, damage amounts claimed in litigation or other matters may be unsupported, exaggerated or unrelated to possible outcomes, and as such are not meaningful indicators of its potential liability. Loss contingencies, including claims and legal actions arising in the ordinary course of business, are recorded as liabilities when the likelihood of loss is probable and an amount or range of loss can be reasonably estimated. During the periods presented, the Company does not believe there are such matters that will have a material effect on the financial statements.

Intellectual Property Litigation Matters.

The Company has been involved in two patent litigations against CareDx, Inc. ("CareDx") in the United States District Court for the District of Delaware ("CareDx Patent Cases"). In the first CareDx Patent Case, CareDx alleged, in a complaint filed jointly with the Board of Trustees of the Leland Stanford Junior University ("Stanford") in March 2019 and amended in March 2020, that the Company infringed three patents. The complaint sought unspecified damages and injunctive relief. In September 2021, the Court granted the Company's motion for summary judgment, finding all three patents invalid. This finding was affirmed on appeal in July 2022 by the United States Court of Appeals for the Federal Circuit. CareDx and Stanford have petitioned such court for a rehearing. In the second CareDx Patent Case, the Company alleges, in suits filed in January 2020 and May 2022, infringement by CareDx of three of the Company's patents, seeking unspecified damages and injunctive relief. The case is currently pending and is scheduled for trial in January 2024.

The Company has filed suit against ArcherDX, Inc. ("ArcherDX") in the United States District Court for the District of Delaware, alleging, in complaints and amended complaints filed in January, April, and August of 2020, which cases were consolidated in September 2020, that certain ArcherDX products infringe five of the Company's patents (the "ArcherDX case"). In January 2021, the Company filed a second amended complaint naming an additional Archer DX entity, ArcherDx LLC, and Invitae Corp. as defendants. The Company is seeking unspecified monetary damages and injunctive relief. The parties filed motions for summary judgment in January 2022, a hearing on which is scheduled for January 2023. Trial is currently scheduled for May 2023.

The Company is the subject of a lawsuit filed against it by Ravgen, Inc. ("Ravgen") in June 2020 in the United States District Court for the Western District of Texas, alleging infringement of two Ravgen patents. The complaint seeks monetary damages and injunctive relief. Various parties, including Natera, have filed challenges to the validity of the asserted patents with the United States Patent and Trademark Office, which challenges have been instituted for review. The lawsuit against the Company has been stayed pending the outcome of these validity challenges.

The Company was involved in litigation against Progenity, Inc. ("Progenity"), in which the Company alleged that Progenity's NIPT test infringes six of the Company's patents. Progenity sought declaratory judgment of non-infringement of the Company's asserted patents, and petitioned the Patent Trial and Appeal Board of the United States Patent and Trademark Office for inter partes review of all of the Company's asserted patents. In August 2021, the parties entered into a settlement agreement to settle the matters described above.

In October 2020, the Company filed suit against Genosity Inc. ("Genosity"), in the United States District Court for the District of Delaware, alleging that various Genosity products infringe one of the Company's patents and seeking unspecified monetary damages and injunctive relief. In April 2022, the Court granted the parties' stipulated request to stay the case pending the entry of a final judgment in the ArcherDX Litigation, in which the subject patent is also asserted.

In January 2021, the Company filed suit against Inivata, Inc. and Inivata Ltd. (collectively "Inivata") in the United States District Court for the District of Delaware. The complaint, amended by the Company in May 2021, alleges that various Inivata oncology products infringe two of the Company's patents and seeks unspecified monetary damages and injunctive relief. Inivata filed a motion to dismiss the Company's amended complaint, which the Court denied in March 2022.

The Company is the subject of lawsuits filed against it by Invitae Corp. ("Invitae") in the United States District Court of the District of Delaware alleging, in complaints filed in May and November of 2021, infringement of three patents and seeking monetary damages and injunctive relief.

Other Litigation Matters.

In August 2019, a suit was filed against the Company in the Circuit Court of Cook County, Illinois by a patient alleging claims relating to a discordant test result and seeking monetary damages. The suit was dismissed in June 2021.

The Company is involved in litigation with CareDx. CareDx filed suit against the Company in April 2019 in the United States District Court for the District of Delaware, alleging false advertising, and related claims based on statements describing studies that concern the Company's technology and CareDx's technology, seeking unspecified damages and injunctive relief. In February 2020, the Company filed a counterclaim against CareDx in the United States District Court for the District of Delaware, alleging false advertising, unfair competition and deceptive trade practices and seeking unspecified damages and injunctive relief. In March 2022, after trial, the jury returned a verdict that Natera was liable to CareDx and found damages of \$44.9 million. The jury also returned a verdict against CareDx, finding that CareDx had engaged in false advertising. The Company has filed a motion for judgment as a matter of law, requesting that the Court set aside the portions of the jury verdict adverse to Natera and issue a judgment accordingly. Because the Court has not issued an order of judgment, and because the motion for judgment as a matter of law remains pending, Natera does not consider a loss related to this matter to be probable and estimable.

The Company is involved in litigation against Guardant, Inc. ("Guardant"). On or about May 27, 2021, Guardant filed suit against the Company in the United States District Court of the Northern District of California alleging false advertising and related claims and seeking unspecified damages and injunctive relief. On or about May 28, 2021, the Company filed suit against Guardant in the Western District of Texas, alleging false advertising and related claims. The Company has voluntarily dismissed its Texas suit against Guardant. In the California action, the Company has answered Guardant's complaint and has asserted the claims from the action it dismissed in Texas as counterclaims, seeking unspecified damages and injunctive relief. In August 2021, Guardant moved to dismiss the Company's counterclaims, which motion was denied in all material respects. Trial is currently scheduled for February 2023.

In November 2021, a purported class action lawsuit was filed against the Company in the United States District Court for the Northern District of California, by a patient alleging various causes of action relating to the Company's patient billing and seeks, among other relief, class certification, injunctive relief, restitution and/or disgorgement, attorneys' fees, and costs. The Company has filed a motion to dismiss the lawsuit, on which a hearing is scheduled for January 2023.

In February 2022, two purported class action lawsuits were filed against the Company in the United States District Court for the Northern District of California. Each suit was filed by an individual patient alleging various causes of action related to the marketing of Panorama and seeking, among other relief, class certification, monetary damages, attorneys' fees, and costs. In May 2022, these matters were consolidated into one lawsuit. The Company has filed a motion to dismiss the consolidated lawsuit.

In March 2022, a purported class action lawsuit was filed against the Company and certain of its management in the Supreme Court of the State of New York, County of New York, asserting claims under Sections 11, 12, and 15 of the Securities Act of 1933. The complaint alleges, among other things, that the Company failed to disclose certain information regarding its Panorama test. The complaint seeks, among other relief, monetary damages, attorneys' fees, and costs. In July 2022, the parties filed a request for dismissal of the lawsuit. This matter has been dismissed and the claims raised in this matter were included in the lawsuit discussed below.

A purported class action lawsuit was filed against the Company and certain of its management in the United States District Court for the Western District of Texas, asserting claims under Sections 10(b) and 20(a) of the Securities Act of 1934 and Rule 10b-5 thereunder. The complaint, filed in April 2022 and amended in October 2022 (to include, among others, the claims raised in the lawsuit discussed in the preceding paragraph), alleges, among other things, that the management defendants made materially false or misleading statements, and/or omitted material information that was required to be disclosed, about certain of the Company's products and operations. The complaint seeks, among other relief, monetary damages, attorneys' fees, and costs.

Director and Officer Indemnifications

As permitted under Delaware law, and as set forth in the Company's Amended and Restated Certificate of Incorporation and its Amended and Restated Bylaws, the Company indemnifies its directors, executive officers, other officers, employees and other agents for certain events or occurrences that may arise while in such capacity. The maximum potential future payments the Company could be required to make under this indemnification is unlimited; however, the Company has insurance policies that may limit its exposure and may enable it to recover a portion of any future amounts paid. Assuming the applicability of coverage, the willingness of the insurer to assume coverage, and subject to certain retention, loss limits and other policy provisions, the Company believes any obligations under this indemnification would not be material, other than standard retention amounts for securities related claims. However, no assurances can be given that the covering insurers will not attempt to dispute the validity, applicability, or amount of coverage without expensive litigation against these insurers, in which case the Company may incur substantial liabilities as a result of these indemnification obligations.

Third-Party Payer Reimbursement Audits

From time to time, the Company receives recoupment requests from third-party payers for alleged overpayments. The Company disagrees with the contentions of pending requests and/or has recorded an estimated reserve for the alleged overpayments.

Contractual Commitments

The following table sets forth the material contractual commitments as of September 30, 2022 with a remaining term of at least one year:

Party	Commitments	Expiry Date
	(in thousands)	
Laboratory instruments supplier	\$ 16,900	December 2024
Material suppliers	16,623	June 2026
Application service providers	31,770	March 2026
Earnouts for development with acquired Canadian entity ⁽¹⁾	12,756	September 2023
Software development provider	324	December 2024
Other material suppliers	20,465	Various
Total	\$ 98,838	

(1) Represents the potential earnout payments for asset development with the acquired Canadian entity which are to be achieved upon the satisfaction of certain contractual conditions less the portion accrued on the Company's Condensed Consolidated Balance Sheet. Upon achievement, the earnout consideration will primarily be paid in shares of the Company's common stock, calculated based upon the fair market value of the Company's common stock at the time such shares are issued.

9. Stock-Based Compensation

2015 Equity Incentive Plan

General. The Company's board of directors adopted its 2015 Equity Incentive Plan (the "2015 Plan") in June 2015. The 2015 Plan replaced all of its prior stock plans.

Share Reserve. The initial number of shares of the Company's common stock available for issuance under the 2015 Plan was 3,451,495 shares. The number of shares reserved for issuance under the 2015 Plan will be increased automatically on the first business day of each fiscal year, commencing in 2016, by a number equal to the smallest of:

- 3,500,000 shares;
- 4% of the shares of common stock outstanding on the last business day of the prior fiscal year; or

- the number of shares determined by the Company's board of directors.

Stock options vest as determined by the compensation committee. In general, they will vest over a four-year period following the date of grant. Stock options expire at the time determined by the compensation committee but in no event more than ten years after they are granted. These awards generally expire earlier if the participant's service terminates earlier.

Restricted Shares and Stock Units. Restricted shares and stock units ("RSUs") may be awarded under the 2015 Plan in return for any lawful consideration, and participants who receive restricted shares or stock units generally are not required to pay cash for their awards. In general, these awards will be subject to vesting. Vesting may be based on length of service, the attainment of performance-based milestones or a combination of both, as determined by the compensation committee.

Employee Stock Purchase Plan

During the period ended September 30, 2022, there have not been any changes to the Company's 2015 Natera, Inc. Employee Stock Purchase Plan (the "ESPP") as disclosed in Form 10-K for the fiscal year ended December 31, 2021. The Company has made 3,455,128 shares available for issuance under the Plan as of September 30, 2022, a number that is automatically increased on the first business day of each fiscal year of the Company during the term of the ESPP by the least of (i) 1% of the total number of shares of common stock actually issued and outstanding on the last business day of the prior fiscal year, (ii) 880,000 shares of common stock (subject to the ESPP), or (iii) a number of shares of common stock determined by the Company's board of directors.

The first offering period of 2022 started on November 1, 2021 and ended on April 30, 2022, and 284,583 shares were purchased for proceeds of \$8.5 million. The second offering period of 2022 began on May 1, 2022 and will end on October 31, 2022. As of September 30, 2022, no shares have been purchased in the second offering period.

Stock Options and Restricted Stock Units

The following table summarizes option and RSU activity for the nine months ended September 30, 2022:

	Outstanding Options and RSUs				
	Shares Available for Grant	Number of Shares	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Life	Aggregate Intrinsic Value
<i>(in thousands, except for contractual life and exercise price)</i>				<i>(in years)</i>	
Balance at December 31, 2021	4,319	5,900	\$ 17.54	5.40	\$ 451,505
Additional shares authorized	3,500	—	—	—	—
Options granted	(265)	265	\$ 61.39	—	—
Options exercised	—	(785)	\$ 7.60	—	—
Options forfeited/cancelled	35	(35)	\$ 38.91	—	—
RSUs granted	(4,877)	—	—	—	—
RSUs forfeited/cancelled	532	—	—	—	—
Balance at September 30, 2022	3,244	5,345	\$ 21.04	5.10	\$ 149,931
Exercisable at September 30, 2022	—	4,555	\$ 12.12	4.53	\$ 145,939
Vested and expected to vest at September 30, 2022	—	5,294	\$ 20.56	5.07	\$ 149,685

Performance-based Awards

The Company grants certain senior-level executives performance stock options and units which vest based on either market and time-based service conditions or performance and time-based service conditions, which are referred to herein as performance-based awards. The Company assessed the performance-based awards with the appropriate valuation method and has recognized the applicable stock-based compensation expense. The following table summarizes the outstanding performance-based awards as of September 30, 2022:

Period Granted	Options Granted	RSUs Granted	Options Vested	RSUs Vested	Milestone	Valuation Method
			<i>(in thousands)</i>			
Q1 2019	200	300	200	300	(1)	Monte-Carlo Simulation
Q2 2019	—	188	—	140	(2)	Grant Date Stock Price
Q3 2019	—	50	—	50	(1)	Monte-Carlo Simulation
Q1 2020	150	300	150	300	(1)	Monte-Carlo Simulation
Q1 2020	—	436	—	408	(3)	Grant Date Stock Price
Q1 2020	129	—	129	—	(3)	Black-Scholes-Merton
Q2 2020	—	21	—	21	(3)	Grant Date Stock Price
Q3 2020	10	—	10	—	(4)	Black-Scholes-Merton
Q3 2020	—	27	—	17	(3)	Grant Date Stock Price
Q4 2020	—	32	—	19	(1)	Monte-Carlo Simulation
Q4 2020	—	22	—	2	(5)	Grant Date Stock Price
Q1 2021	150	125	—	—	(1)	Monte-Carlo Simulation
Q1 2021	—	279	—	15	(3)	Grant Date Stock Price
Q2 2021	163	—	—	—	(1)	Monte-Carlo Simulation
Q2 2021	29	—	—	—	(3)	Black-Scholes-Merton
Q2 2021	—	7	—	2	(3)	Grant Date Stock Price
Q4 2021	—	20	—	—	(1)	Monte-Carlo Simulation
Q4 2021	—	205	—	37	(3)	Grant Date Stock Price
Q1 2022	110	—	—	—	(3)	Black-Scholes-Merton
Q1 2022	—	849	—	—	(3)	Grant Date Stock Price
Q2 2022	—	103	—	—	(3)	Grant Date Stock Price
Q3 2022	—	54	—	4	(2)	Grant Date Stock Price

(1) The awards will vest based on the achievement of certain values of the Company's common stock at multiple thresholds within certain periods and are contingent upon the completion of requisite service through the date of such vesting.

(2) The vesting of the awards will be triggered after the end of the achievement milestone, as measured by the Company.

(3) The awards vest based on achievement of certain revenue targets, units, and system implementation, contingent upon the completion of requisite service through the date of such vesting.

(4) The awards have vested based on a change of coverage.

(5) The awards will vest based on achievement of certain revenue and recruiting targets.

The Company has recognized \$12.4 million and \$40.0 million in stock-based compensation for performance-based awards for the three and nine months ended September 30, 2022. The Company has recognized \$9.6 million and \$39.5 million in stock-based compensation for performance-based awards for the three and nine months ended September 30, 2021.

There were no performance-based awards with market conditions and a fair value estimated using a Monte Carlo simulation model granted in the nine months ended September 30, 2022.

Restricted Stock Units

The following table summarizes unvested RSU for the nine months ended September 30, 2022:

	Shares	Weighted-Average Grant Date Fair Value
<i>(in thousands, except for grant date fair value)</i>		
Balance at December 31, 2021	3,988	\$ 74.33
Granted	4,877	\$ 43.89
Vested	(1,090)	\$ 57.54
Cancelled/forfeited	(532)	\$ 56.92
Balance at September 30, 2022	7,243	\$ 57.86

Stock-Based Compensation Expense

Stock based compensation is related to stock options and RSUs granted to the Company's employees and is measured at the grant date based on the fair value of the award. The fair value is recognized as expense over the requisite service period, which is generally the vesting period of the respective awards on a straight-line basis. If awards have both a service condition and performance or market condition, then an accelerated expense method is used. No compensation cost is recognized when the requisite service has not been met and the awards are therefore forfeited.

Employee stock-based compensation expense was calculated based on awards ultimately expected to vest and has been reduced for estimated forfeitures. Forfeitures are estimated at the time of grant and revised, if necessary, in subsequent periods, if actual forfeitures differ from those estimates. Non-employee stock-based compensation expense was not adjusted for estimated forfeitures up until the occurrence of the actual forfeiture of the associated awards.

The following tables present the effect of employee and non-employee stock-based compensation expense on selected statements of operations line items for the three and nine months ended September 30, 2022 and 2021.

	Three months ended September 30,					
	2022			2021		
	Employee	Non-Employee	Total	Employee	Non-Employee	Total
	<i>(in thousands)</i>					
Cost of revenues	\$ 2,124	\$ —	\$ 2,124	\$ 1,262	\$ —	\$ 1,262
Research and development	12,972	497	13,469	6,242	410	6,652
Selling, general and administrative	24,524	221	24,745	18,478	67	18,545
Total	\$ 39,620	\$ 718	\$ 40,338	\$ 25,982	\$ 477	\$ 26,459

Nine months ended September 30,						
2022			2021			
Employee	Non-Employee	Total	Employee	Non-Employee	Total	
(in thousands)						
Cost of revenues	\$ 5,903	\$ —	\$ 5,903	\$ 3,246	\$ —	\$ 3,246
Research and development	33,911	1,432	35,343	16,168	974	17,142
Selling, general and administrative	74,700	452	75,152	64,231	178	64,409
Total	\$ 114,514	\$ 1,884	\$ 116,398	\$ 83,645	\$ 1,152	\$ 84,797

As of September 30, 2022, approximately \$304.9 million of unrecognized compensation expense, adjusted for estimated forfeitures, related to unvested option awards and RSUs will be recognized over a weighted-average period of approximately 2.7 years.

Valuation of Stock Option Grants to Employees and Non-employees

The Company utilizes the Black-Scholes option pricing model when estimating the fair value of stock options. For the three and nine months ended September 30, 2022, the following valuation assumptions were applied on both the employee and non-employee options. In the same period of the prior year, the valuation assumptions as follows were only used for stock options granted to employees.

Three months ended September 30,			Nine months ended September 30,		
2022	2021		2022	2021	
Expected term (years)	6.05	10.00	5.12	10.00	5.11
Expected volatility	61.63 %	56.31 %	55.91 %	62.30 %	55.33 %
Expected dividend rate	0.00 %	0.00 %	0.00 %	0.00 %	0.00 %
Risk-free interest rate	3.15 %	1.30 %	1.62 %	3.15 %	0.81 %

As of September 30, 2022, total options outstanding include 25,865 shares of option awards that were granted to non-employees, of which all shares are vested. Stock-based compensation expense related to stock options granted to non-employees is recognized as the stock option is earned and the services are rendered. The Company believes that the estimated fair value of the stock options is more readily measurable than the fair value of the services rendered.

10. Debt

Credit Line Agreement

In September 2015, the Company entered into a credit line with UBS (the "Credit Line") providing for a \$50.0 million revolving line of credit which was fully drawn down in 2016. The Credit Line was amended in July 2017 and bears interest at 30-day LIBOR plus 1.10%. The interest rate was subsequently changed to the 30-day Secured Overnight Financing Rate ("SOFR") average, plus 1.21%. The SOFR rate is variable. The Credit Line was subsequently increased from \$50.0 million to \$150.0 million. The Credit Line is secured by a first priority lien and security interest in the Company's money market and marketable securities held in its managed investment account with UBS. UBS has the right to demand full or partial payment of the Credit Line obligations and terminate the Credit Line, in its discretion and without cause, at any time.

For both the three months ended September 30, 2022 and 2021, the Company recorded interest expense on the Credit Line of \$0.2 million. For both the nine months ended September 30, 2022 and 2021, the Company recorded interest expense on the Credit Line of \$0.5 million. Interest payments on the Credit Line were made within the same periods. As of September 30, 2022 and December 31, 2021, the total principal amount outstanding with accrued interest was \$50.1 million. As of September 30, 2022, there is \$100 million remaining availability on the Credit Line. In November 2022, the Company has drawn \$30.0 million from the \$100.0 million available from the Credit Line.

Convertible Notes

In April 2020, the Company issued \$287.5 million aggregate principal amount of Convertible Notes due 2027 in a private placement offering to qualified institutional buyers pursuant to Rule 144A under the Securities Act of 1933, as amended. The Convertible Notes are senior, unsecured obligations of the Company and bear interest at a rate of 2.25% per year, payable in cash semi-annually. The Convertible Notes mature in May 2027, unless earlier converted, repurchased or redeemed in accordance with their terms. Upon conversion, the Convertible Notes are convertible into cash, shares of the Company's common stock or a combination of cash and shares of the Company's common stock, at the Company's election.

The Company received net proceeds from the Convertible Notes of \$278.3 million, after deducting the initial purchasers' discounts and debt issuance costs. The Company used approximately \$79.2 million of the net proceeds from the Convertible Notes offering to repay its obligations under the 2017 Term Loan with OrbiMed.

The holders of the Convertible Notes may convert all or a portion of their Convertible Notes at their option at any time prior to the close of business on the business day immediately preceding February 1, 2027 in multiples of \$1,000 principal amount, under any the following circumstances:

- During any fiscal quarter commencing after March 31, 2020 (and only during such fiscal quarter), if the last reported sale price of the Company's common stock for at least 20 trading days (whether or not consecutive) during the period of 30 consecutive trading days ending on, and including, the last trading day of the immediately preceding fiscal quarter is greater than or equal to 130% of the conversion price on each applicable trading day.
- During the five business day period after any five consecutive trading day period in which the trading price per \$1,000 principal amount of Convertible Notes for each trading day of that five-day consecutive trading period was less than 98% of the product of the last reported sale price of the Company's common stock and the conversion rate on each such trading day.
- If the Company calls any or all of the Convertible Notes for redemption at any time prior to the close of business on the second business day prior to the redemption date.
- Upon the occurrence of certain distributions.
- Upon the occurrence of specified corporate transactions.

The Convertible Notes are convertible into shares of the Company's common stock, par value \$0.0001 per share, at an initial conversion rate of 25.7785 shares of common stock per \$1,000 principal amount of the Convertible Notes, which is equivalent to an initial conversion price of approximately \$38.79 per share of common stock, convertible to 7,411,704 shares of common stock. The conversion rate and corresponding conversion price are subject to adjustment upon the occurrence of certain events but will not be adjusted for any accrued or unpaid interest. The holders of the Convertible Notes who redeem their Convertible Notes in connection with a make-whole fundamental change are, under certain circumstances, entitled to an increase in the conversion rate. Additionally, in the event of a fundamental change, the holders of the Convertible Notes may require the Company to repurchase for cash all or a portion of their Convertible Notes at a price equal to 100% of the principal amount, plus any accrued and unpaid interest.

The Company may not redeem the Convertible Notes prior to May 2024, and no sinking fund is provided for the Convertible Notes. The Company may redeem for cash all or any portion of the Convertible Notes, at the Company's option, on or after May 2024, if the last reported sale price of the Company's common stock has been at least 130% of the conversion price then in effect for at least 20 trading days during any 30 consecutive trading day period ending on the trading day immediately preceding the date on which the Company provides notice of redemption. The redemption price will be equal to 100% of the principal amount of the Convertible Notes to be redeemed plus accrued and unpaid interest.

Upon adoption of ASU 2020-06, the Company allocated all of the debt discount to long-term debt. The debt discount is amortized to interest expense using the effective interest method, computed to be 2.72%, over the life of the Convertible Notes or approximately its seven-year term. The outstanding Convertible Notes balances as of September 30, 2022 and December 31, 2021 are summarized in the following table:

	September 30, 2022	December 31, 2021
	(in thousands)	
Long-Term Debt		
Outstanding Principal	\$ 287,500	\$ 287,500
Unamortized debt discount and issuance cost	(6,164)	(7,106)
Net carrying amount	\$ 281,336	\$ 280,394

The following tables present total interest expense recognized related to the Convertible Notes during the three and nine months ended September 30, 2022 and 2021:

	Three months ended September 30,	
	2022	2021
	(in thousands)	
Cash interest expense		
Contractual interest expense	\$ 1,617	\$ 1,617
Non-cash interest expense		
Amortization of debt discount and debt issuance cost	316	308
Total interest expense	\$ 1,933	\$ 1,925

	Nine months ended September 30,	
	2022	2021
	(in thousands)	
Cash interest expense		
Contractual interest expense	\$ 4,852	\$ 4,852
Non-cash interest expense		
Amortization of debt discount and debt issuance cost	941	917
Total interest expense	\$ 5,793	\$ 5,769

11. Income Taxes

During the three months ended September 30, 2022 and 2021, the Company recorded total income tax expense of approximately \$185,000 and \$272,000, respectively. During the nine months ended September 30, 2022 and 2021, the Company recorded total income tax expense of approximately \$557,000 and \$648,000, respectively. The income tax expense is primarily attributable to state income tax and foreign income tax expenses resulting from testing to clinics and licenses of cloud-based software and intellectual property that are based in a foreign country. Due to the Company's history of cumulative operating losses, the Company concluded that, after considering all the available objective evidence, it is not more likely than not that all of the Company's net deferred tax assets will be realized. Accordingly, all of the Company's deferred tax assets, which includes net operating loss carryforwards and tax credits related primarily to research and development, continue to be subjected to a full valuation allowance as of September 30, 2022. The Company will continue to maintain a full valuation allowance until there is sufficient evidence to support recoverability of its deferred tax assets.

Interest and/or penalties related to income tax matters are recognized as a component of income tax expense. As of September 30, 2022 and December 31, 2021, there were no accrued interest and penalties related to uncertain tax positions.

12. Net Loss per Share

Basic net loss per share is computed by dividing the net loss attributable to common stockholders by the weighted-average number of common shares outstanding for the period, excluding shares subject to repurchase and without consideration of potentially dilutive securities. Diluted net loss per share is computed by giving effect to all potentially dilutive common shares outstanding for the period. For purposes of this computation, outstanding common stock options,

and restricted stock units are considered to be common share equivalents. Common share equivalents are excluded from the computation in periods in which they have an anti-dilutive effect, unless the consideration of any one of them gives a dilutive effect.

The Convertible Notes are not convertible by the holders as of September 30, 2022. Upon conversion, the Company has the option to pay cash, issue shares of common stock, or any combination thereof for the aggregate amount due upon conversion. If converted, the principal value of the Convertible Notes would exceed the value based on contractual settlement provisions by \$81.3 million as of September 30, 2022. Since the Company is in a net loss position in the periods presented, the shares which would be issued upon conversion of the Convertible Notes are excluded from the net loss per share calculation as it would have an antidilutive effect. As such, the 7.4 million shares underlying the conversion option of the Convertible Notes will not have an impact on the Company's diluted earnings per share. If converted, the Company does not intend to settle the obligation in cash.

The following table provides the basic and diluted net loss per share computations for three and nine months ended September 30, 2022 and 2021.

	Three months ended September 30,		Nine months ended September 30,	
	2022	2021	2022	2021
<i>(in thousands, except per share data)</i>				
Numerator:				
Net loss, basic and diluted	\$ (121,480)	\$ (151,273)	\$ (405,226)	\$ (331,152)
Denominator:				
Weighted-average number of shares used in computing net loss per share, basic and diluted	97,052	92,558	96,408	89,130
Net loss per share, basic and diluted	\$ (1.25)	\$ (1.63)	\$ (4.20)	\$ (3.72)

The following table shows total outstanding potentially dilutive shares excluded from the computation of diluted loss per share as their effect would be anti-dilutive, as of September 30, 2022 and 2021:

	September 30,	
	2022	2021
	<i>(in thousands)</i>	
Options to purchase common stock	5,345	6,012
Performance-based awards and restricted stock units	7,243	3,782
Employee stock purchase plan	148	73
Convertible Notes	7,411	7,411
Earnouts for development with acquired Canadian entity	525	270
Total	20,672	17,548

13. Subsequent Events

On November 4, 2022, the Company effected a strategic organizational update (the "Organizational Update") to refocus resources in its core business areas that align with the Company's long-term vision and strategic priorities. As part of the Organizational Update, the Company is reducing headcount by approximately 3.8% through a reduction in its workforce. Most of the reduction in force took place on November 4, 2022, with the remainder to be completed in January 2023. The Company estimates that it will incur expenses of approximately \$4.7 million related to the Organizational Update, substantially all of which will be cash expenditures and vesting of equity awards for severance and other related costs through the first quarter of 2023.

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

You should read the following discussion and analysis of our financial condition and results of operations in conjunction with our unaudited condensed consolidated financial statements and related notes included in Part I, Item 1 of this report. Our actual results could differ materially from those discussed below. Factors that could cause or contribute to such differences include, but are not limited to, those identified below and those discussed in "Risk Factors" in our Annual Report on Form 10-K for the year ended December 31, 2021, filed with the Securities and Exchange Commission on February 25, 2022.

Overview

We are a diagnostics company with proprietary molecular and bioinformatics technology that we deploy to change the management of disease worldwide. We began in the women's health space, in which we develop and commercialize non- or minimally-invasive tests to evaluate risk for, and thereby enable early detection of, a wide range of genetic conditions, such as Down syndrome. Our technology is now also being used in the oncology market, in which we are commercializing, among others, a personalized blood-based DNA test to detect molecular residual disease and monitor disease recurrence, as well as in the organ health market, with tests to assess organ transplant rejection. We seek to enable even wider adoption of our technology through Constellation, our global cloud-based distribution model. In addition to our direct sales force in the United States, we have a global network of over 100 laboratory and distribution partners, including many of the largest international laboratories.

We currently provide a comprehensive suite of products in women's health, as well as our oncology and organ health products, and our Constellation cloud-based platform. We generate a majority of our revenues from the sale of Panorama, our non-invasive prenatal test ("NIPT"), as well as Horizon, our Carrier Screening ("HCS") test. In addition to Panorama and Horizon, our product offerings in women's health include Spectrum Preimplantation Genetics, our Anora miscarriage test, and Vistara single-gene NIPT, as well as our Empower hereditary cancer screening test, which we also plan to offer to oncologists through our oncology sales channel. We also offer our Signatera molecular residual disease test for oncology applications, which we commercialize as a test run in our CLIA (as defined below) laboratory and offer on a research use only basis to research laboratories and pharmaceutical companies; and our Prospera organ transplant assessment tests.

We process tests in our laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 ("CLIA") in Austin, Texas and San Carlos, California. A portion of our testing is performed by third-party laboratories. Our customers include independent laboratories, national and regional reference laboratories, medical centers and physician practices for our screening tests, and research laboratories and pharmaceutical companies. We market and sell our tests through our direct sales force and, for our women's health tests, through our laboratory distribution partners. We bill clinics, laboratory distribution partners, patients, pharmaceutical companies and insurance payers for the tests we perform. In cases where we bill laboratory distribution partners, our partners in turn bill clinics, patients and insurers. The majority of our revenue comes from insurers with whom we have in-network contracts. Such insurers reimburse us for our tests pursuant to our in-network contracts with them, based on positive coverage determinations, which means that the insurer has determined that the test in general is medically necessary for this category of patient.

In addition to offering tests to be performed at our laboratories, either directly or through our laboratory distribution partners, we also establish licensing arrangements with laboratories under Constellation, our cloud-based distribution model, whereby our laboratory licensees run the molecular workflows themselves and then access our bioinformatics algorithms through our cloud-based software. This cloud-based distribution model results in lower revenues and gross profit per test than cases in which we process a test ourselves; however, because we do not incur the costs of processing the tests, our costs per test under this model are also lower. We began entering into these licensing arrangements starting in the fourth quarter of 2015.

The principal focus of our commercial operations is to offer our tests through both our direct sales force and laboratory distribution partners, and our Constellation licensees under our cloud-based distribution model. The number of tests that we accession is a key indicator that we use to assess our business. A test is accessioned when we receive the test

at our laboratory, the relevant information about the test is entered into our computer system, and the test sample is routed into the appropriate workflow. This number is a subset of the number of tests that we process, which includes tests distributed through our Constellation licensees. The number of tests that we process is a key metric as it tracks overall volume growth, particularly as our laboratory partners may transition from sending samples to our laboratory to our cloud-based distribution model, as a result of which our tests accessioned would decrease but our tests processed would remain unchanged.

During the nine months ended September 30, 2022, we processed approximately 1,506,700 tests, comprised of approximately 1,460,100 tests accessioned in our laboratory, compared to approximately 1,131,200 tests processed, comprised of approximately 1,089,200 tests accessioned in our laboratory, during the nine months ended September 30, 2021. This increase in volume primarily represents continued commercial growth of Panorama and HCS, both as tests performed in our laboratory as well as through our Constellation software platform.

The percent of our revenues attributable to our U.S. direct sales force for the nine months ended September 30, 2022 was 89%, a slight decrease compared to 90% for the nine months ended September 30, 2021. The percent of our revenues attributable to U.S. laboratory distribution partners for the nine months ended September 30, 2022 was 7%, an increase from 5% in the same period in the prior year. Our ability to increase our revenues and gross profit will depend on our ability to further penetrate the U.S. market with our direct sales force. The percent of our revenues attributable to international laboratory distribution partners and other international sales for the nine months ended September 30, 2022 was 4%, down from 5% for the nine months ended September 30, 2021, due primarily to the increase in US direct sales as a percentage of revenue.

For the nine months ended September 30, 2022, total revenues were \$603.0 million, compared to \$452.5 million in the nine months ended September 30, 2021. Revenues generated from testing accounted for \$584.4 million, 97% of total revenues for the nine months ended September 30, 2022 compared to \$414.0 million representing 91% of total revenues for the nine months ended September 30, 2021. For the nine months ended September 30, 2022 and 2021, no customers exceeded 10% of the total revenues on an individual basis. Revenues from customers outside the United States were \$26.8 million, representing approximately 4% of total revenues for the nine months ended September 30, 2022. For the nine months ended September 30, 2021, revenues from customers outside the United States were \$24.7 million, representing approximately 5% total revenues. Most of our revenues have been denominated in U.S. dollars, though we generate some revenue in foreign currency, primarily denominated in Euros and Singapore Dollars.

Our net loss for the nine months ended September 30, 2022 and 2021 were \$405.2 million and \$331.2 million, respectively. This included non-cash stock compensation expense of \$116.4 million and \$84.8 million for the nine months ended September 30, 2022 and 2021, respectively. As of September 30, 2022, we had an accumulated deficit of \$1.8 billion.

Impact of COVID-19 and Other Macroeconomic Conditions

The COVID-19 pandemic has continued to present a global public health and economic challenge that has affected our business operations and the U.S. and other major economies and financial markets. We have modified our business practices in response to the spread of COVID-19 (including temporary closures of our offices, implementing remote work policies and practices, vaccination requirements, travel restrictions, and other measures as we have deemed necessary or appropriate from time to time), and incurred additional operating costs, and we may take further actions from time to time as may be required by government authorities or that we determine are in the best interests of our employees, customers and business partners. Such actions could also impact our ability to fully integrate businesses we may acquire in the future. There is no certainty that any such actions will be sufficient to mitigate the continuing risks posed by the virus or otherwise be satisfactory to government authorities. If significant portions of our workforce, and particularly our laboratory staff, were unable to work effectively, including due to illness, quarantines, social distancing, recruiting and retention difficulties, government actions, including the prospect of rising interest rates, inflationary pressure, and stock market volatility, or other restrictions in connection with the COVID-19 pandemic, our operations and financial results will be impacted.

The extent to which the COVID-19 pandemic will continue to impact our business, results of operations and financial condition will depend on future developments, which continue to remain highly uncertain and cannot be predicted, including, but not limited to, the continued duration and spread of the pandemic, including the contagiousness of variants and their severity, the actions to contain the virus or address its impact, and the extent to which pre-pandemic economic and operating activities resume. The COVID-19 pandemic and the resulting economic pressures could continue to limit the ability of our customers, suppliers and business partners to perform under their contracts with us, including third-party payers' ability to make timely payments to us. We may also experience a shortage of laboratory supplies and reagents or a suspension of services from other laboratories or third parties. We also increased our dependence on growing and maintaining a network of mobile phlebotomy specialists who can provide testing capabilities, as many consumers are unable or unwilling to visit clinics, hospitals or other testing facilities as a result of the COVID-19 pandemic. Even after the COVID-19 pandemic has subsided, we may continue to experience an adverse impact to our business because of its global economic impact, including as a result of inflation and any recession that has occurred or may occur in the future.

Specifically, difficult macroeconomic conditions as a result of COVID-19, such as decreases in per capita income and level of disposable income, increased and prolonged unemployment, rising interest rates, increased inflation, a decline in consumer confidence, as well as limited or significantly reduced points of access of our products, could have a material adverse effect on the demand for some of our products, such as our products targeted for the IVF market. Decreased demand for our tests, particularly in the United States, could negatively affect our overall financial performance. A significant portion of our revenue is concentrated in the United States, where the impact of COVID-19 has been significant, and the potential decrease in demand for our tests could have a disproportionately negative impact on our business and financial results.

In particular, while our test volumes and the average selling price of our tests collected from insurance payors in the nine months ended September 30, 2022 have increased compared to the nine months ended September 30, 2021, we cannot predict volatility of the volumes and selling prices of our tests that may result from the continued impact of the COVID-19 pandemic and the resulting impacts on the economy, and either or both of these metrics may fluctuate from period to period. Further, we cannot predict the potential nature, magnitude and duration of the effects of the COVID-19 pandemic and related economic pressures will have on our business.

In response to the COVID-19 pandemic, we have implemented measures to protect the health of our employees and to support the functionality of our laboratories. We will continue to support and incur expenditures towards COVID-19 prevention and employee safety.

Since the World Health Organization declared the global outbreak of COVID-19 to be a pandemic in March 2020, we have operated in an uncertain and disruptive pandemic environment but to date we have successfully maintained our operational effectiveness, including the operation of financial reporting systems, internal control over financial reporting and disclosure controls and procedures. We continue to closely monitor the recent developments surrounding this pandemic and resurgences including, among other developments, local, state, national and global vaccination efforts and the potential impacts of variants.

Our results of operations may be adversely affected by various other macroeconomic conditions that could cause economic uncertainty and volatility in the financial markets, many of which are beyond our control. Our business could be impacted by, among other things, downturns in the financial markets or in economic conditions, supply chain disruptions, and geopolitical instability, such as the military conflict in Ukraine. Further, rising interest rates, increasing inflation, and stock market volatility that the economy has recently been experiencing could also negatively impact our operations and financial results. We cannot at this time fully predict the likelihood of one or more of the above events, their duration or magnitude or the extent to which they may negatively impact our business.

See Part I, Item 1A, "Risk Factors" in our Annual Report on Form 10-K for the year ended December 31, 2021 filed with the Securities and Exchange Commission on February 25, 2022 for a further discussion of the potential adverse

impact of COVID-19 and the resulting impacts on the economy on our business, results of operations and financial condition.

Components of the Results of Operations

Revenues

We generate revenues from the sale of our tests, primarily from the sale of our Panorama and HCS tests. Our two primary distribution channels are our direct sales force and our laboratory partners. In cases where we promote our tests through our direct sales force, we generally bill directly to a patient, clinic or insurance carrier, or a combination of the insurance carrier and patient, for the fees.

Sales of our clinical tests are recorded as product revenues. Revenues recognized from tests processed through our Constellation model, from the Qiagen LC ("Qiagen"), BGI Genomics Co. Ltd., and Foundation Medicine, Inc. agreements (collectively the "Strategic Partnership Agreements") are reported in licensing and other revenues.

In cases where we sell our tests through our laboratory partners, the majority of our laboratory partners bill the patient, clinic or insurance carrier for the performance of our tests, and we are entitled to either a fixed price per test or a percentage of their collections.

Our ability to increase our revenues will depend on our ability to further penetrate the domestic and international markets and, in particular, generate sales through our direct sales force, develop and commercialize additional tests, obtain reimbursement from additional third-party payers and increase our reimbursement rate for tests performed. In particular, our financial performance depends on reimbursement for Panorama in the average risk population and for microdeletions. There has been a significant increase in the number of commercial third-party payers that cover the use of Panorama in the average risk population, representing approximately 95% of commercial covered lives in the United States, as well as an increasing number of state Medicaid payers expanding coverage to average risk pregnancies. Many third-party payers do not currently reimburse for microdeletions screening in part because there is currently limited published data on the performance of microdeletions screening tests. A new current procedure terminology ("CPT") code for microdeletions went into effect beginning January 1, 2017. We have experienced low average reimbursement rates thus far for microdeletions testing under this new code, and we expect that this new code will cause, at least in the near term, our microdeletions reimbursement to remain low, due to third-party payers declining to reimburse and through reduced reimbursement under the new code. This has had, and we expect it will continue to have, an adverse impact on our revenues. In addition, a new CPT code for expanded carrier screening went into effect beginning January 1, 2019, and has had, and may continue to have, an adverse effect on our reimbursement rates for our broader Horizon carrier screening panel for which we previously primarily received reimbursement on a per-condition basis, as those tests may be reimbursed as a combined single panel instead of as multiple individual tests. Because our revenues from Horizon continue to represent an increasing proportion of our overall revenues, a decline in our reimbursement rates for, and therefore our average selling price of, Horizon, could result in a decline in our overall revenue.

Our financial performance has also been impacted by the increase in in-network coverage of our tests by third-party payers, which we believe is crucial to our growth and long-term success. However, because the negotiated fees under our contracts with third-party payers are typically lower than the list price of our tests, as we enter into additional in-network contracts with insurance providers, our average reimbursement per test may decrease as compared to out-of-network contracts. While we expect the reduction in average reimbursement per test from in-network pricing to reduce our revenues and gross margins in the near term, in-network pricing is more predictable than out-of-network pricing, and we intend to continue to mitigate the impact by driving more business from our most profitable accounts.

Cost of Product Revenues

The components of our cost of product revenues are material and service costs, impairment charges associated with testing equipment, personnel costs, including stock-based compensation expense, equipment and infrastructure expenses associated with testing samples, electronic medical records, order and delivery systems, shipping charges to transport samples, costs incurred from third party test processing fees, and allocated overhead such as rent, information technology costs, equipment depreciation and utilities. Costs associated with Whole Exome Sequencing ("WES") are also included, as well as labor costs, relating to our Signatera CLIA and Signatera research use only offerings. Costs associated with performing tests are recorded when the test is accessioned. We expect cost of product revenues in absolute dollars to increase as the number of tests we perform increases.

As we continue to achieve scale, we have increased our focus on more efficient use of labor, automation, and DNA sequencing. For example, we updated the molecular and bioinformatics process for Panorama to further reduce the sequencing reagents, test steps and associated labor costs required to obtain a test result, while increasing the accuracy of the test to allow it to run with lower fetal fraction input. These improvements also reduced the frequency of the need to require blood redraws from the patient.

Cost of Licensing and Other Revenues

The components of our cost of licensing and other revenues are material costs associated with test kits sold to Constellation clients, development and support services relating to our Strategic Partnership Agreements, and costs associated with specimens and WES.

We currently have 15 revenue generating licensing and service agreements with laboratories under our Constellation distribution model. We consider our cost of licensing and other revenues for the Constellation software platform to be relatively low, and therefore we expect its associated gross margin is higher. We expect our cost of licensing will increase in relation to volume growth.

Critical Accounting Policies

Our management's discussion and analysis of our financial condition and results of operations is based on our financial statements, which have been prepared in accordance with generally accepted accounting principles in the United States. The preparation of these financial statements requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements, as well as the reported revenue generated, and expenses incurred during the reporting periods. Our estimates are based on our historical experience and on various other factors that we believe are reasonable under the circumstances, the results of which form the basis for making judgments about the carrying value of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions. We consider our critical accounting policies and estimates to be revenue recognition, leases, fair value measurements, and stock-based compensation.

There have been no material changes to our other critical accounting policies and estimates as compared to the disclosures in our Annual Report on Form 10-K for the year ended December 31, 2021.

Recent Accounting Pronouncements

We believe that the impact of accounting standards updates recently issued that are not yet effective will not have a material impact on our financial position or results of operations upon adoption.

Results of Operations

Comparison of the three months ended September 30, 2022 and 2021

	Three Months Ended September 30,		Change	
	2022	2021	Amount	Percent
<i>(in thousands except percentage)</i>				
Revenues				
Product revenues	\$ 199,831	\$ 153,940	\$ 45,891	29.8 %
Licensing and other revenues	10,806	4,176	6,630	158.8
Total revenues	210,637	158,116	52,521	33.2
Cost and expenses				
Cost of product revenues	115,436	80,511	34,925	43.4
Cost of licensing and other revenues	1,076	860	216	25.1
Research and development	65,510	98,457	(32,947)	(33.5)
Selling, general and administrative	147,667	128,485	19,182	14.9
Total cost and expenses	329,689	308,313	21,376	6.9
Loss from operations	(119,052)	(150,197)	31,145	(20.7)
Interest expense	(2,330)	(2,078)	(252)	12.1
Interest and other income, net	87	1,274	(1,187)	(93.2)
Loss before income taxes	(121,295)	(151,001)	29,706	(19.7)
Income tax expense	(185)	(272)	87	(32.0)
Net loss	\$ (121,480)	\$ (151,273)	\$ 29,793	(19.7) %

Revenues

Total revenues are comprised of product revenues, which are primarily driven by sales of our Panorama and HCS tests, oncology testing, and licensing and other revenues, which primarily includes development licensing revenue and licensing of our Constellation software. Total revenues increased by \$52.5 million, or 33.2%, when compared to the three months ended September 30, 2021.

We derive our revenues from tests based on units reported to customers—tests delivered with a result. All reported units are either accessioned in our laboratory or processed outside of our laboratory. As noted in the section titled “Overview” above, the number of tests that we process is a key metric as it tracks overall volume growth. During the three months ended September 30, 2022, total reported units were approximately 482,900, comprised of approximately 469,200 tests reported in our laboratory. Comparatively, during the three months ended September 30, 2021, total reported units were approximately 373,100, comprising of approximately 360,700 tests reported in our laboratory.

Product Revenues

During the three months ended September 30, 2022, product revenues increased by \$45.9 million, or 29.8% compared to the three months ended September 30, 2021, as a result of the continued revenue growth from test volumes.

Licensing and Other Revenues

Licensing and other revenues increased by \$6.6 million, or 158.8%, during the three months ended September 30, 2022 when compared to the three months ended September 30, 2021. The increase was primarily due to revenue from our collaborative agreements.

Cost of Product Revenues

During the three months ended September 30, 2022, cost of product revenues increased compared to the three months ended September 30, 2021 by approximately \$34.9 million, or 43.4%, due to a \$12.0 million increase in third-party fees, higher costs related to inventory consumption of \$4.5 million driven by an increase in accessioned tests, a \$5.0 million increase in shipping related charges, and a \$13.4 million increase in labor and overhead costs driven by headcount growth and product support.

Cost of Licensing and Other Revenues

Cost of licensing and other revenues for the three months ended September 30, 2022, when compared to the three months ended September 30, 2021, increased by \$0.2 million, or 25.1%, primarily due to an increase in labor and overhead costs and third-party service fees related to increased volumes.

Research and Development

Research and development expenses during the three months ended September 30, 2022, decreased by \$32.9 million, or 33.5%, when compared to the three months ended September 30, 2021. The decrease was driven by a \$41.9 million decrease in earnouts for asset development related to milestone achievement, a \$5.1 million decrease in consulting costs, and a \$1.2 million decrease in software costs related to lower fees. This was offset by a \$13.8 million increase in salary and related compensation expenditures primarily due to headcount growth, which includes a \$6.8 million increase in stock-based compensation expense, a \$0.4 million decrease in clinical trial expenses, and a \$1.1 million increase in facilities, software, office, and other costs.

Selling, General and Administrative

Selling, general and administrative expenses increased by \$19.2 million, or 14.9%, during the three months ended September 30, 2022 compared to the three months ended September 30, 2021. The increase was attributable to an increase of \$14.4 million in salary and related compensation expenditures primarily due to headcount growth, which includes a \$6.3 million increase in stock-based compensation expense. Additionally, there was a \$1.3 million increase in travel related costs, a \$3.5 million increase in consulting and legal fees, a \$0.5 million increase in hardware and software licenses, and a \$1.2 million increase from business insurance and other administrative costs, offset by a \$1.7 million decrease in marketing expenses.

Interest Expense

Interest expense slightly increased in the three months ended September 30, 2022 compared to the same period in the prior year. The interest expense is primarily from our 2.25% Convertible Senior Notes (the "Convertible Notes") issued in April 2020.

Interest and Other Income

Interest and other income for the three months ended September 30, 2022 decreased \$1.2 million compared to the same period in the prior year, primarily due to the sale and maturities of investments resulting in lower interest income as well as lower yields from our investments. Additionally, one of our subleases was terminated in the fourth quarter of 2021 resulting in lower sublease rental income compared to 2021.

Comparison of the nine months ended September 30, 2022 and 2021

	Nine Months Ended September 30,		Change	
	2022	2021	Amount	Percent
<i>(in thousands except percentage)</i>				
Revenues				
Product revenues	\$ 584,415	\$ 413,971	\$ 170,444	41.2 %
Licensing and other revenues	18,555	38,487	(19,932)	(51.8)
Total revenues	602,970	452,458	150,512	33.3
Cost and expenses				
Cost of product revenues	326,862	221,870	104,992	47.3
Cost of licensing and other revenues	2,102	2,426	(324)	(13.4)
Research and development	228,504	192,397	36,107	18.8
Selling, general and administrative	444,769	364,273	80,496	22.1
Total cost and expenses	1,002,237	780,966	221,271	28.3
Loss from operations	(399,267)	(328,508)	(70,759)	21.5
Interest expense	(6,567)	(6,226)	(341)	5.5
Interest and other income, net	1,165	4,230	(3,065)	(72.5)
Loss before income taxes	(404,669)	(330,504)	(74,165)	22.4
Income tax expense	(557)	(648)	91	(14.0)
Net loss	\$ (405,226)	\$ (331,152)	\$ (74,074)	22.4 %

Revenues

Total revenues are comprised of product revenues, which are primarily driven by sales of our Panorama and HCS tests, oncology testing, and licensing and other revenues, which primarily includes development licensing revenue and licensing of our Constellation software. Total revenues increased by \$150.5 million, or 33.3%, when compared to the nine months ended September 30, 2021.

We derive our revenues from tests based on units reported to customers—tests delivered with a result. All reported units are either accessioned in our laboratory or processed outside of our laboratory. As noted in the section titled “Overview” above, the number of tests that we process is a key metric as it tracks overall volume growth. During the nine months ended September 30, 2022, total reported units were approximately 1,400,400, comprised of approximately 1,356,500 tests reported in our laboratory. Comparatively, during the nine months ended September 30, 2021, total reported units were approximately 1,042,600 comprising of approximately 1,003,100 tests reported in our laboratory.

Product Revenues

During the nine months ended September 30, 2022, product revenues increased by \$170.4 million, or 41.2% compared to the nine months ended September 30, 2021, as a result of the continued revenue growth from test volumes.

Licensing and Other Revenues

Licensing and other revenues decreased by \$19.9 million, or 51.8%, during the nine months ended September 30, 2022 when compared to the nine months ended September 30, 2021. The decrease in revenue was primarily due to \$28.6

million of revenue recognized from Qiagen associated with deferred revenues recognized as a result from a settlement with Qiagen in prior year partially offset by a \$8.7 million increase in revenue from our collaborative agreements.

Cost of Product Revenues

During the nine months ended September 30, 2022, cost of product revenues increased compared to the nine months ended September 30, 2021 by approximately \$105.0 million, or 47.3%, due to a \$42.6 million increase in third-party fees, higher costs related to inventory consumption of \$12.2 million driven by an increase in accessioned tests, a \$11.6 million increase in shipping related charges, and a \$38.6 million increase in labor and overhead costs driven by headcount growth and product support.

Cost of Licensing and Other Revenues

Cost of licensing and other revenues for the nine months ended September 30, 2022, when compared to the nine months ended September 30, 2021, decreased by \$0.3 million, or 13.4%, primarily due to labor efficiencies from our collaborative agreements.

Research and Development

Research and development expenses during the nine months ended September 30, 2022, increased by \$36.1 million, or 18.8%, when compared to the nine months ended September 30, 2021. The increase was driven by a \$50.1 million increase in salary and related compensation expenditures primarily due to headcount growth, which includes a \$18.2 million increase in stock-based compensation expense. Additionally, there was an increase of \$10.9 million in clinical trial expenses, an increase of \$0.7 million in travel related costs and an increase of \$9.8 million in facilities, software, office, and other costs. This was offset by a \$31.5 million decrease in earnouts for asset development related to milestone achievement and a \$3.9 million decrease in consulting costs.

Selling, General and Administrative

Selling, general and administrative expenses increased by \$80.5 million, or 22.1%, during the nine months ended September 30, 2022 compared to the nine months ended September 30, 2021. The increase was attributable to an increase of \$46.6 million in salary and related compensation expenditures primarily due to headcount growth, which includes a \$10.9 million increase in stock-based compensation expense. Additionally, there was a \$1.7 million increase in marketing expenses, a \$9.7 million increase in travel related costs, a \$7.6 million increase in consulting and legal fees, a \$1.8 million increase in hardware and software licenses, a \$6.2 million increase in bad debt and legal accruals and a \$6.9 million increase from business insurance and other administrative costs.

Interest Expense

Interest expense increased slightly in the nine months ended September 30, 2022 compared to the same period in the prior year. The interest expense is primarily from the Convertible Notes issued in April 2020.

Interest and Other Income

Interest and other income for the nine months ended September 30, 2022 decreased \$3.1 million compared to the same period in the prior year, primarily due to the termination of one of our subleases in the fourth quarter of 2021 resulting in lower sublease rental income compared to 2021. Additionally, sale and maturities of investments resulted in lower interest income as well as lower yields from our investments.

Liquidity and Capital Resources

We have incurred net losses each year since our inception. For the nine months ended September 30, 2022, we had a net loss of \$405.2 million, and we expect to continue to incur losses in future periods as we continue to devote a substantial portion of our resources to our research and development and commercialization efforts for our existing and

new products. As of September 30, 2022, we had an accumulated deficit of \$1.8 billion. We had \$57.1 million in cash and cash equivalents and restricted cash, \$464.1 million in marketable securities, \$50.1 million of outstanding balance of the Credit Line including accrued interest, and \$287.5 million outstanding principal balance on the Convertible Notes.

While we have introduced multiple products that are generating revenues, these revenues have not been sufficient to fund all operations. Accordingly, we have funded the portion of operating costs that exceeds revenues through a combination of equity issuances and debt and other financings. We expect to develop and commercialize future products and continue to invest in the growth of our business and, consequently, we will need to generate additional revenues to achieve future profitability and may need to raise additional equity or incur additional debt. If we raise additional funds by issuing equity securities, our stockholders would experience dilution. Additional debt financing, if available, may involve covenants restricting our operations or our ability to incur additional debt. Any additional debt financing or additional equity that we raise may contain terms that are not favorable to us or our stockholders and requires significant debt service payments, which diverts resources from other activities. Additional financing may not be available at all, or in amounts or on terms acceptable to us. If we are unable to obtain additional financing, we may be required to delay the development and commercialization of our products and significantly scale back our business and operations.

In July 2021, the Company completed an underwritten equity offering and sold 5,175,000 shares of its common stock at a price of \$113 per share to the public. Before estimated offering expenses of \$0.4 million, the Company received proceeds of approximately \$551.2 million net of the underwriting discount.

Refer to additional disclosures associated with risks and our ability to generate and obtain adequate amounts of cash to meet capital requirements for both short-term and long-term obligations.

Based on our current business plan, we believe that our existing cash and marketable securities will be sufficient to meet our anticipated cash requirements for at least 12 months after November 8, 2022.

Credit Line Agreement

In September 2015, we entered into a Credit Line with UBS ("the Credit Line") providing for a \$50.0 million revolving line of credit which could be drawn in increments at any time. The Credit Line was amended in July 2017 and bears interest at 30-day LIBOR plus 1.10%, and it is secured by a first priority lien and security interest in our money market and marketable securities held in our managed investment account with UBS. The interest rate was subsequently changed to the 30-day Secured Overnight Financing Rate ("SOFR") average, plus 1.21%. The SOFR rate is variable. UBS has the right to demand full or partial payment of the Credit Line obligations and terminate it, in its discretion and without cause, at any time. The Credit Line was subsequently increased from \$50.0 million to \$150.0 million. As of September 30, 2022, the total principal amount outstanding with accrued interest was \$50.1 million. In November 2022, the Company has drawn \$30.0 million from the \$100.0 million available from the Credit Line.

Convertible Notes

In April 2020, we issued \$287.5 million aggregate principal amount of Convertible Notes in a private placement offering to qualified institutional buyers pursuant to Rule 144A under the Securities Act of 1933, as amended.

The Convertible Notes are senior, unsecured obligations of the Company and bear interest at a rate of 2.25% per year, payable in cash semi-annually in arrears in May and November of each year, beginning in November 2020. The Convertible Notes mature in May 2027, unless earlier converted, repurchased or redeemed in accordance with their terms. Upon conversion, the Convertible Notes are convertible into cash, shares of our common stock or a combination of cash and shares of our common stock, at our election.

We received net proceeds from the Convertible Notes of \$278.3 million, after deducting the initial purchasers' discounts and debt issuance costs. We used approximately \$79.2 million of the net proceeds from the Convertible Notes offering to repay our obligations under our 2017 Term Loan with OrbiMed.

Cash Flows

The following table summarizes our condensed consolidated cash flows for the periods indicated:

	Nine Months Ended September 30,	
	2022	2021
<i>(in thousands)</i>		
Cash used in operating activities	\$ (350,374)	\$ (236,500)
Cash provided by (used in) investing activities	308,421	(284,697)
Cash provided by financing activities	14,467	567,673
Net increase in cash, cash equivalents and restricted cash	(27,486)	46,476
Cash, cash equivalents and restricted cash, beginning of period	84,614	48,855
Cash, cash equivalents and restricted cash, end of period	\$ 57,128	\$ 95,331

Cash Used in Operating Activities

Cash used in operating activities during the nine months ended September 30, 2022 was \$350.4 million. The net loss of \$405.2 million includes \$147.2 million in non-cash charges resulting from \$12.8 million of depreciation and amortization, \$4.0 million premium amortization and discount accretion on investment securities, \$116.4 million of stock-based compensation expense, \$10.0 million of non-cash lease expense, \$0.9 million for amortization of debt discount and issuance cost, \$0.1 million of non-cash benefits, \$2.6 million of provision for credit losses, and \$0.5 million for realized loss from sales of investments, offset by \$0.1 million of inventory reserve adjustments. Operating assets had cash outflows of \$129.8 million resulting from a \$116.9 million increase in accounts receivable, a \$13.4 million increase in inventory, a \$0.2 million increase in other assets, offset by a \$0.7 million decrease in prepaid expenses and other assets. Operating liabilities resulted in cash inflows of \$37.4 million resulting from a \$35.4 million increase in other accrued liabilities, a \$8.3 million increase in accounts payable, and a \$1.3 million increase in accrued compensation offset by a \$7.2 million decrease in lease liabilities and a \$0.4 million decrease in deferred revenue.

Cash used in operating activities during the nine months ended September 30, 2021 was \$236.5 million. The net loss of \$331.2 million includes \$144.6 million in non-cash charges resulting from \$8.3 million of depreciation and amortization, \$35.6 million expense of in-process research and development, \$5.7 million premium amortization and discount accretion on investment securities, \$84.8 million of stock-based compensation expense, \$8.1 million of non-cash lease expense, \$0.9 million for amortization of debt discount and issuance cost, \$0.7 million of inventory reserve adjustments, \$0.4 million of provision for credit losses, and \$0.1 million of other non-cash charges. Operating assets had cash outflows of \$41.7 million resulting from \$32.2 million in increases in accounts receivable, \$8.7 million in increases in inventory, and \$0.8 million in increases in prepaid expenses and other current assets. Operating liabilities resulted in cash outflows of \$8.2 million resulting from a \$40.6 million decrease in deferred revenue and a \$7.6 million decrease in lease liabilities offset by a \$34.8 million increase in other accrued liabilities, \$5.0 million increase in accrued compensation, and a \$0.2 million increase in accounts payable.

Cash Provided by (Used in) Investing Activities

Cash provided by investing activities for the nine months ended September 30, 2022 totaled \$308.4 million, which was comprised of \$214.7 million from proceeds from sale of investments, \$216.5 million from proceeds of investments maturities, offset by \$86.9 million in purchasing of new investments, and \$35.9 million in acquisitions of property, plant and equipment.

Cash used in investing activities for the nine months ended September 30, 2021 totaled \$284.7 million, which was comprised of \$674.4 million in purchasing of new investments, \$32.0 million in acquisitions of property, plant and equipment, and \$4.3 million in cash paid for the acquisition of an asset, offset by \$77.6 million from proceeds from sale of investments and \$348.4 million from proceeds of investments maturities.

Cash Provided by Financing Activities

Cash provided by financing activities for the nine months ended September 30, 2022, totaled \$14.5 million which was comprised of \$6.0 million of proceeds from the exercise of stock options and \$8.5 million from issuance of common stock under the employee stock purchase plan.

Cash provided by financing activities for the nine months ended September 30, 2021 totaled \$567.7 million which was comprised of \$550.8 million net proceeds from our equity offering completed in the third quarter of 2021, \$10.8 million of proceeds from the exercise of stock options and \$6.1 million from issuance of common stock under the employee stock purchase plan.

Contractual Obligations and Other Commitments

We have entered into arrangements that contractually obligate us to make payments that will affect our liquidity and cash flows in future periods. Such arrangements include those related to our lease commitments, Credit Line (as defined below), Convertible Notes, commercial supply agreements and other agreements.

Credit Line

The short-term debt obligations consist of the \$49.0 million principal amount drawn from the UBS Credit Line (the "Credit Line") and applicable interest. The Credit Line was amended in July 2017 and bears interest at 30-day LIBOR plus 1.10%, and it is secured by a first priority lien and security interest in our money market and marketable securities held in our managed investment account with UBS. The interest rate was subsequently changed to the 30-day Secured Overnight Financing Rate ("SOFR") average, plus 1.21%. The SOFR rate is variable. UBS has the right to demand full or partial payment of the Credit Line obligations and terminate it, in its discretion and without cause, at any time. In November 2022, we have drawn \$30.0 million from the \$100.0 million available from the Credit Line. Please refer to Note 10, *Debt*, for further details.

Convertible Notes

The long-term debt obligations consist of the \$287.5 million principal amount from a private placement offering to qualified institutional buyers and applicable interest. The Convertible Notes are senior, unsecured obligations of the Company and bear interest at a rate of 2.25% per year, payable in cash semi-annually in arrears in May and November of each year, beginning in November 2020. The Convertible Notes mature in May 2027, unless earlier converted, repurchased or redeemed in accordance with their terms. Upon conversion, the Convertible Notes are convertible into cash, shares of our common stock or a combination of cash and shares of our common stock, at our election. Please refer to Note 10, *Debt*, for further details.

Inventory purchase and other contractual obligations

We enter into contracts in the normal course of business with various third parties for clinical trials, preclinical research studies, testing, manufacturing, and other services for operational purposes. The contractual obligations also include the potential earnout payment from our IPR&D asset acquisition less the portion accrued on the Balance Sheet. Payments due upon cancellation generally consist only of payments for services provided or expenses incurred, including non-cancellable obligations of our service providers, up to the date of cancellation. These payments have not been included separately within these contractual and other obligations disclosures. Please refer to Note 8, *Commitments and Contingencies* in the Notes to Unaudited Interim Condensed Consolidated Financial Statements for further details.

Off-Balance Sheet Arrangements

We do not have any off-balance sheet arrangements during the periods presented.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Interest Rate Risk

We are exposed to market risks in the ordinary course of our business. These risks primarily relate to interest rates. Our Credit Line has an interest rate of 30-day LIBOR plus 1.10%. The interest rate was subsequently changed to the 30-day Secured Overnight Financing Rate ("SOFR") average, plus 1.21%. The SOFR rate is variable. An incremental change in the borrowing rate of 100 basis points would increase our annual interest expense by \$0.5 million based on our \$50.1 million gross debt outstanding on our Credit Line, including principal and accrued interest as of September 30, 2022. The interest rate for our Convertible Notes is fixed at 2.25% and not exposed market risk related to interest rates. Our investment portfolio is exposed to market risk from changes in interest rates. This risk is mitigated as we have maintained a relatively short average maturity for our investment portfolio. An incremental change in the investment yield of 100 basis points would increase our annual interest income by approximately \$4.7 million annually in relation to amounts we would expect to earn, based on our short-term investments as of September 30, 2022.

Foreign Currency Exchange Rate Fluctuations

Our operations are currently conducted primarily in the United States. As we expand internationally, our results of operations and cash flows may become subject to fluctuations due to changes in foreign currency exchange rates. In periods when the U.S. dollar declines in value as compared to the foreign currencies in which we incur expenses, our foreign currency-based expenses will increase when translated into U.S. dollars. In addition, future fluctuations in the value of the U.S. dollar may affect the price at which we sell our tests outside the United States. To date, our foreign currency risk has been minimal, and we have not historically hedged our foreign currency risk; however, we may consider doing so in the future.

Inflation Risk

As of the date of filing of this Quarterly Report, we do not believe that inflation has had a material effect on our business, financial condition, or results of operations. If the Company's costs were to become subject to significant inflationary pressures, the Company may not be able to fully offset such higher costs through increases in revenue as increases in core inflation rates may also negatively affect demand for our product offerings. The Company's inability or failure to do so could harm the Company's business, financial condition, and results of operations.

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

Our management, with the participation of our Chief Executive Officer and our Chief Financial Officer, evaluated the effectiveness of our disclosure controls and procedures as of September 30, 2022. The term "disclosure controls and procedures," as defined in Rule 13a-15(e) under the Exchange Act, means controls and other procedures of a company that are designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the Securities and Exchange Commission's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is accumulated and communicated to our management, including its principal executive and principal financial officers, as appropriate to allow timely decisions regarding required disclosure.

Based on the evaluation of our disclosure controls and procedures as of September 30, 2022, our Chief Executive Officer and Chief Financial Officer concluded that, as of such date, our disclosure controls and procedures were effective at the reasonable assurance level.

Changes in Internal Control over Financial Reporting

During the three and nine months ended September 30, 2022, we have completed the implementation of a new Enterprise Resource Planning ("ERP") software system. Accordingly, we have modified certain existing internal control processes relating to the implementation of the new ERP system. There have been no additional changes in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during the period ended September 30, 2022, that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Inherent Limitations on Effectiveness of Controls

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

PART II – OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

From time to time, we are involved in legal proceedings. The results of such legal proceedings and claims cannot be predicted with certainty, and regardless of the outcome, legal proceedings could have an adverse impact on us because of defense and settlement costs, diversion of resources and other factors.

For information regarding certain current legal proceedings, see "Note 8—Commitments and Contingencies—Legal Proceedings" in the Notes to Unaudited Interim Condensed Consolidated Financial Statements, which is incorporated herein by reference.

ITEM 1A. RISK FACTORS

Investing in our common stock involves a high degree of risk. In addition to the information set forth in this Quarterly Report on Form 10-Q, including the section titled “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our consolidated financial statements and related notes, you should consider carefully the factors discussed in Part I, Item 1A, “Risk Factors” in our Annual Report on Form 10-K for the year ended December 31, 2021 filed with the Securities and Exchange Commission on February 25, 2022. The occurrence of any of the risks and uncertainties described in such Annual Report could materially and adversely affect our business, financial condition, results of operations and prospects. In that event, the price of our common stock could decline and you could lose part or all of your investment. Furthermore, such risks are not the only ones we face; additional risks and uncertainties not currently known or that we currently deem to be immaterial may also materially adversely affect our business, financial condition or results of operations.

ITEM 2 UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

(a) *Recent Sales of Unregistered Securities*

None.

(b) *Use of Proceeds*

Not applicable.

(c) *Purchases of Equity Securities by the Issuer and Affiliated Purchasers*

None.

ITEM 3 DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4 MINE SAFETY DISCLOSURES

Not applicable.

ITEM 5 OTHER INFORMATION

On November 4, 2022, the Company effected a strategic organizational update (the “Organizational Update”) to refocus resources in its core business areas that align with the Company’s long-term vision and strategic priorities. As part of the Organizational Update, the Company is reducing headcount by approximately 3.8% through a reduction in its workforce. Most of the reduction in force took place on November 4, 2022, with the remainder to be completed in January 2023. The Company estimates that it will incur expenses of approximately \$4.7 million related to the Organizational Update, substantially all of which will be cash expenditures and vesting of equity awards for severance and other related costs through the first quarter of 2023. These estimates are subject to a number of assumptions, and actual results may differ. The Company may also incur additional costs not currently contemplated due to events that may occur as a result of, or that are associated with, the Organizational Update.

ITEM 6 EXHIBITS

INDEX TO EXHIBITS

Exhibit No.	Description	Incorporated by Reference				
		Form	File No.	Exhibit	Filing Date	Filed Herewith
10.1	Lease Agreement dated September 24, 2015, by and between NSTX, Inc. and Karlin McCallen Pass, LLC.					X
10.2	First Amendment to Lease Agreement dated January 26, 2016, by and between NSTX, Inc. and Karlin McCallen Pass, LLC.					X
10.3	Second Amendment to Lease Agreement dated March 10, 2021, by and between NSTX, Inc. and KCP Parmer 3.2 Fee Owner, LLC.					X
10.4	Third Amendment to Lease Agreement dated December 29, 2021, by and between NSTX, Inc. and 13011 McCallen Pass, LLC.					X
31.1	Certification of Principal Executive Officer required by Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.					X
31.2	Certification of Principal Financial Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.					X
32.1†	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.					X

Exhibit No.	Description	Incorporated by Reference				
		Form	File No.	Exhibit	Filing Date	Filed Herewith
32.2†	Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.					X
101.INS	XBRL Instance Document - the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.					X
101.SCH	XBRL Taxonomy Extension Schema Document.					X
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document.					X
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document.					X
101.LAB	XBRL Taxonomy Extension Label Linkbase Document.					X
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document.					X
104	Cover Page Interactive Data File - The cover page interactive data file does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.					X

† The certifications attached as Exhibits 32.1 and 32.2 that accompany this Quarterly Report on Form 10-Q are not deemed filed with the SEC and are not to be incorporated by reference into any filing of Natera, Inc. under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, whether made before or after the date of this Quarterly Report on Form 10-Q, regardless of any general incorporation language contained in any filing.

SIGNATURES

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

NATERA, INC.

Date: November 8, 2022

By: / s / Steve Chapman
Name: **Steve Chapman**
Title: **Chief Executive Officer, President, and Director**
(Principal Executive Officer)

By: / s / Michael Brophy
Name: **Michael Brophy**
Title: **Chief Financial Officer**
(Principal Financial and Accounting Officer)

LEASE AGREEMENT BETWEEN
KARLIN MCCALLEN PASS, LLC,
AS LANDLORD, AND
NSTX, INC.,
AS TENANT
DATED SEPTEMBER 24, 2015

AUSTIN, TEXAS

BASIC LEASE INFORMATION

Lease Date: September __, 2015

Landlord: Karlin McCallen Pass, LLC, a Delaware limited liability company

Tenant: NSTX, Inc., a Delaware corporation

Premises: Approximately 93,967 rentable square feet, consisting of Suite No. 100, containing approximately 61,402 rentable square feet on the first floor ("**First Floor Space**") and Suite No. 200, containing approximately 32,565 rentable square feet on the second floor ("**Second Floor Space**") in the office building located at 13101 McCallen Pass, Austin, Texas 78753 (the "**Building**"); The Premises are outlined on the plan attached to the Lease as Exhibit A. The land on which the Building is located (the "**Land**") is described on Exhibit B. The term "**Project**", shall collectively refer to the Building, the Land and the driveways, parking facilities, and similar improvements and easements associated with the Building or the operation thereof. Tenant acknowledges that the rentable square feet contained in the Premises will increase upon installation of any Additional Shafts as defined in Section 8(a).

Term: One hundred thirty-two (132) full calendar months, plus any partial month from the Commencement Date to the end of the month in which the Commencement Date falls, starting on the Commencement Date and ending at 5:00 p.m. local time on the last day of the one hundred thirty-second (132nd) full calendar month following the Commencement Date, subject to adjustment and earlier termination as provided in the Lease.

Commencement Date: The earlier of (a) the date on which Tenant occupies any portion of the Premises and begins conducting business therein, or (b) December 1, 2015.

Basic Rent: Basic Rent shall be the following amounts for the following periods of time:

Lease Month	Annual Basic Rent Rate Per Rentable Square Foot	Monthly Basic Rent
1 - 12	\$0.00*	\$0.00
13-24	\$22.00**	\$133,035.83
25-36	\$22.50	\$176,188.12
37-48	\$23.00	\$180,103.41
49-60	\$23.50	\$184,018.70
61-72	\$24.00	\$187,934.00

73-84	\$24.50	\$191,849.29
85-96	\$25.00	\$195,764.58
97- 108	\$25.50	\$199,679.87
109- 120	\$26.00	\$203,595.16
121 - 132	\$26.50	\$207,510.45

* Tenant's obligation to pay Taxes for the Premises shall not commence until Lease Month 13. During Lease Months 1-12, Tenant's obligation to pay Operating Costs applies only to the First Floor Space and is limited to only the amount of Operating Costs which exceed \$9.50 per rentable square foot.

** During Lease Months 13-24, Monthly Basic Rent will be payable on (i) 40,000 square feet of the First Floor Space and (ii) all of the Second Floor Space; Additional Rent will be payable on the entire Premises.

As used herein, the term "**Lease Month**" means each calendar month during the Term (and if the Commencement Date does not occur on the first day of a calendar month, the period from the Commencement Date to the first day of the next calendar month shall be included in the first Lease Month for which Basic Rent is payable for purposes of determining the duration of the Term and the monthly Basic Rent rate applicable for such partial month).

Additional Rent: Tenant's Proportionate Share of Operating Costs, Taxes and Electrical Costs.

Initial Monthly Payment: The following shall constitute Tenant's initial monthly payment of Rent required pursuant to this Lease, which amounts shall be adjusted as and when required under the terms of the Lease:

Basic Rent:	\$133,035.83
Additional Rent:	\$80,272.59
Total Initial Monthly Payment:	\$213,312.42

Rent: Basic Rent, Additional Rent, and all other sums that Tenant may owe to Landlord or otherwise be required to pay under the Lease.

Security Deposit: \$375,000.00

Permitted Use: General office use, research and development, storage, clinical laboratory, and uses ancillary thereto.

Tenant's Proportionate Share: 48.9%, which is the percentage obtained by dividing (a) the number of rentable square feet in the Premises as stated above by (b) the 192,000 rentable square feet in the Building. Landlord and Tenant stipulate that the number of rentable square feet in the Premises and in the Building set forth above is conclusive and shall be binding upon them.

Initial Liability Insurance Amount: \$3,000,000

Tenant's Address: Prior to Commencement Date:
NSTX, Inc.
201 Industrial Road, Suite 410
San Carlos, CA 94070
Attention: Nathan Weems
Telephone: 650-249-9091 x547
Telecopy: _____

Following Commencement Date: NSTX, Inc./NSTX
The Littlefield Building
106 East 6th Street, Suite 934
Austin, Texas 78701
Attention: Damon Silvestry
Telephone: 512-944-5597
Telecopy: _____

With a copy to:
Chad Smith
Jackson Walker, LLP
100 Congress, Suite 1100
Austin, Texas 78701

Landlord's Address: For all Notices:
c/o Karlin Real Estate
11755 Wilshire Blvd., Suite 1400
Los Angeles, California 90025
Attention: Matthew Schwab
Telephone: 310-806-9700
Telecopy: 310-806-9799

With a copy to:
Karlin Real Estate
11755 Wilshire Blvd., Suite 1400
Los Angeles, California 90025
Attention: Dean Chang
Telephone: 310-806-9700
Telecopy: 310-806-9799

The foregoing Basic Lease Information is incorporated into and made a part of the Lease identified above. If any conflict exists between any Basic Lease Information and the Lease, then the Lease shall control.

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LEASE

This Lease Agreement (this "**Lease**") is entered into as of September _____, 2015, between **KARLIN MCCALLEN PASS, LLC**, a Delaware limited liability company ("**Landlord**"), and **NSTX, INC.**, a Delaware corporation ("**Tenant**").

1. Definitions and Basic Provisions. The definitions and basic provisions set forth in the Basic Lease Information (the "**Basic Lease Information**") set forth above are incorporated herein by reference for all purposes. Additionally, the following terms shall have the following meanings when used in this Lease: "**Affiliate**" means any person or entity which, directly or indirectly controls, is controlled by, or is under common control with the party in question; "**Building's Structure**" means the Building's exterior walls, roof, elevator shafts, footings, foundations, structural portions of load-bearing walls, structural floors and subfloors, and structural columns and beams; "**Building's Systems**" means the Building's HVAC, life safety, plumbing, electrical, and mechanical systems; "**including**" means including, without limitation; "**Laws**" means all federal, state, and local laws, ordinances, rules and regulations, all court orders, governmental directives, and governmental orders and all interpretations of the foregoing, and all restrictive covenants affecting this Lease or the Project, and "**Law**" means any of the foregoing; "**Tenant's Off-Premises Equipment**" means any of Tenant's equipment or other property that may be located on or about the Project (other than inside the Premises); and "**Tenant Party**" means any of the following persons: Tenant; any assignees claiming by, through, or under Tenant; any subtenants claiming by, through, or under Tenant; and any of their respective agents, contractors, employees, licensees, guests and invitees.

2. Lease Grant. Subject to the terms of this Lease, Landlord leases to Tenant, and Tenant leases from Landlord, the Premises.

3. Tender of Possession. Landlord will deliver the Premises to Tenant with Base Building Work Substantially Completed (other than the Dock, which is anticipated to be delivered not more than eight (8) weeks after the delivery of possession of the Premises to Tenant; both as defined in Exhibit D, and subject to Landlord's performance of punchlist items with regard to Base Building Work), within three (3) business days after full execution and delivery of this Lease and Landlord's receipt of all sums due at execution and evidence of insurance as required hereunder (the "**Delivery Date**"). By occupying the Premises, Tenant shall be deemed to have accepted the Premises in their condition as of the date of such occupancy, subject to the performance of punch-list items that remain to be performed by Landlord, if any. Within ten (10) days after written request by Landlord, Tenant shall execute and deliver to Landlord a letter substantially in the form of Exhibit E hereto confirming (1) the Commencement Date and the expiration date of the initial Term, (2) that Tenant has accepted the Premises, and (3) that Landlord has performed all of its obligations with respect to the Premises; however, the failure of the parties to execute such letter shall not defer the Commencement Date or otherwise invalidate this Lease. Occupancy of the Premises by Tenant prior to the Commencement Date shall be subject to all of the provisions of this Lease excepting only those requiring the payment of Basic Rent, Additional Rent, Taxes and Electrical Costs (each as defined herein). Landlord represents and warrants to Tenant that as of the date on which Landlord delivers the Premises to Tenant for construction of the Work, (i) the Base Building Work will be in good condition and repair, (ii) the electrical, mechanical, HVAC, plumbing, sewer, elevator and other systems

serving the Premises will be in good operating condition and repair, and (iii) the roof of the Building will be in good condition and water tight. To Landlord's current actual knowledge and with no independent investigation, the Premises and the Project are in compliance in all material respects with municipal, state and federal statutes, rules, regulations, ordinances, requirements and orders now in effect and applicable to the Premises. Landlord has not received written notice of any violation of same. Notwithstanding the terms of this Section 3, if Landlord fails to construct the Dock as required pursuant to ~~Exhibit D~~ within ninety (90) days after full execution and delivery of this Lease (extended on a day for day basis by Tenant Delay Days), Tenant may terminate this Lease by providing written notice to Landlord within ten (10) days following such ninety (90) day period, but in any event prior to Landlord's construction of the Dock.

4. Rent.

(a) Payment. Tenant shall timely pay to Landlord Rent, without notice, demand, deduction or set off (except as otherwise expressly provided herein), by good and sufficient check drawn on a national banking association at Landlord's address provided for in this Lease or as otherwise specified by Landlord and shall be accompanied by all applicable state and local sales or use taxes. The obligations of Tenant to pay Rent to Landlord and the obligations of Landlord under this Lease are independent obligations. Rent shall be payable monthly in advance. The first monthly installment of Basic Rent shall be payable contemporaneously with the execution of this Lease and applied to the thirteenth (13th) Lease Month; thereafter, Basic Rent shall be payable on the first day of each month beginning on the first day of the fourteenth (14th) Lease Month of the Term. The monthly Rent for any partial month at the beginning of the Term shall equal the product of 1/365 of the annual Basic Rent (and Additional Rent) in effect during the partial month and the number of days in the partial month, and shall be due on the Commencement Date. Payments of Rent for any fractional calendar month at the end of the Term shall be similarly prorated.

(b) Operating Costs; Taxes; Electrical Costs

(1) Tenant shall pay to Landlord Tenant's Proportionate Share of the annual Operating Costs (defined below). Upon Tenant's request from time to time, but in no event more frequently than annually, Landlord will update Tenant with regard to Landlord's preparation of the annual budget for the Building. Prior to each calendar year of the Term, Landlord shall make a good faith estimate of Tenant's Proportionate Share of Operating Costs for the following calendar year or part thereof during the Term. During each calendar year or partial calendar year of the Term, Tenant shall pay to Landlord, in advance concurrently with each monthly installment of Basic Rent, an amount equal to the estimated Tenant's Proportionate Share of Operating Costs for such calendar year or part thereof divided by the number of months therein. From time to time, Landlord may re-estimate the amount of Tenant's Proportionate Share of Operating Costs to be due by Tenant and deliver a copy of the re-estimate to Tenant. Thereafter, the monthly installments of Tenant's Proportionate Share of Operating Costs shall be adjusted in accordance with the estimations so that, by the end of the calendar year in question, Tenant shall have paid all of Tenant's Proportionate Share of Operating Costs as estimated by Landlord. Any amounts paid based on such an estimate shall be subject

to adjustment as herein provided when actual Operating Costs are available for each calendar year.

(2) The term "**Operating Costs**" means all expenses and disbursements (subject to the limitations set forth below) that Landlord incurs in connection with the ownership, operation, and maintenance of the Project, determined in accordance with sound accounting principles consistently applied, including the following costs: (A) reasonable wages and salaries of all on-site employees at or below the grade of senior building manager engaged in the operation, maintenance or security of the Project (together with Landlord's reasonable allocation of expenses of off-site employees at or below the grade of senior building manager who perform a portion of their services in connection with the operation, maintenance or security of the Project), including taxes, insurance and benefits relating thereto; (B) all reasonable supplies and materials used in the operation, maintenance, repair, replacement, and security of the Project; (C) reasonable costs for improvements made to the Project which, although capital in nature, are expected to reduce the normal operating costs (including all utility costs) of the Project, as amortized using a commercially reasonable interest rate over the time period reasonably estimated by Landlord to recover the costs thereof taking into consideration the anticipated cost savings, as determined by Landlord using its good faith, commercially reasonable judgment, as well as capital improvements made in order to comply with any Law hereafter promulgated by any governmental authority or any new interpretations of any Law hereafter rendered with respect to any existing Law, as amortized using a commercially reasonable interest rate over the useful economic life of such improvements as determined by Landlord in its reasonable discretion; (D) cost of all utilities, except Electrical Costs and the cost of other utilities reimbursable to Landlord by the Project's tenants other than pursuant to a provision similar to this Section 4(b); (E) insurance expenses; (F) repairs, replacements, and general maintenance of the Project; (G) fair market rental and other costs with respect to the management office for the Building; and (H) service, maintenance and management contracts with independent contractors for the operation, maintenance, management, repair, replacement, or security of the Project (including alarm service, window cleaning, and elevator maintenance).

Operating Costs shall not include costs for (i) capital improvements made to the Building, other than capital improvements described in Section 4(b)(2)(C) and except for items which are generally considered maintenance and repair items, such as painting of common areas, replacement of carpet in elevator lobbies, and the like; (ii) repair, replacements and general maintenance paid by proceeds of insurance or by Tenant or other third parties; (iii) interest, amortization or other payments on loans to Landlord; (iv) depreciation; (v) leasing commissions; (vi) legal expenses for services, other than those that benefit the Project tenants generally (e.g., tax disputes); (vii) renovating or otherwise improving space for occupants of the Project or vacant space in the Project; (viii) Taxes; and (ix) federal income taxes imposed on or measured by the income of Landlord from the operation of the Project; (x) Landlord's home office expense; (xi) specific costs specifically billed to specific tenants; (xii) costs occasioned by the violation of any law by Landlord which was in effect and applicable to the Project as of the Commencement Date; (xiii) other than applicable deductibles and costs of repair exceeding applicable proceeds/awards, the cost of any repair made by Landlord because

of the total or partial destruction of the Building or the total or partial condemnation of the Building; (xiv) costs incurred in connection with negotiations or disputes with any other occupant of the Building and costs arising from the violation by Landlord or any occupant of the Building (other than Tenant) of the terms and conditions of any lease or other agreement; or (xv) compensation for any officers of Landlord.

Subject to the annual reconciliation of Operating Costs, Landlord agrees that Landlord will not collect or be entitled to collect Operating Costs from all of its tenants in an amount which is in excess of one hundred percent (100%) of the Operating Expenses actually paid or incurred by Landlord in connection with the operation of the Project and/or Complex. Landlord shall use commercially reasonable efforts to minimize the amount of Operating Costs consistent with the practice of comparable landlords of comparable buildings in the TechRidge submarket in Austin, Texas submarket and its obligation to maintain the Class A nature of the Building.

(3) Tenant shall also pay Tenant's Proportionate Share of Taxes for each year and partial year falling within the Term. Tenant shall pay Tenant's Proportionate Share of Taxes in the same manner as provided above for Tenant's Proportionate Share of Operating Costs. "**Taxes**" means taxes, assessments, and governmental charges or fees whether federal, state, county or municipal, and whether they be by taxing districts or authorities presently taxing or by others, subsequently created or otherwise, and any other taxes and assessments (including non-governmental assessments for common charges under a restrictive covenant or other private agreement that are not treated as part of Operating Costs) now or hereafter attributable to the Project or its operation (including the franchise tax set forth in V.T.C.A. Tax Code section 171.0001 et. seq., as the same may be amended or recodified from time to time), excluding, however, penalties and interest thereon and federal and state taxes on income (if the present method of taxation changes so that in lieu of or in addition to the whole or any part of any Taxes, there is levied on Landlord a capital tax, sales tax, or use tax directly on the rents received therefrom or a franchise tax, assessment, or charge based, in whole or in part, upon such rents for the Project, then all such taxes, assessments, or charges, or the part thereof so based, shall be deemed to be included within the term "**Taxes**" for purposes hereof). Taxes shall include the costs of consultants retained in an effort to lower taxes and all costs incurred in disputing any taxes or in seeking to lower the tax valuation of the Project. For property tax purposes, Tenant waives all rights to protest or appeal the appraised value of the Premises, as well as the Project, and all rights to receive notices of reappraisal as set forth in Sections 41.413 and 42.015 of the Texas Tax Code.

(4) Tenant shall also pay to Landlord Tenant's Proportionate Share of the cost of all electricity used by the Project, net of the costs for separately metered or sub-metered electricity ("**Electrical Costs**") as well as the cost of electricity for the Premises as set forth on the Premises Sub-meter (defined below). Such amount shall be payable in monthly installments on the Commencement Date and on the first day of each calendar month thereafter. Each installment shall be based on Landlord's estimate of the amount due for each month. From time to time during any calendar year, Landlord may estimate or re-estimate the Electrical Costs to be due by Tenant for that calendar year and

deliver a copy of the estimate or re-estimate to Tenant. Thereafter, the monthly installments of Electrical Costs payable by Tenant shall be appropriately adjusted in accordance with the estimations.

(5) By April 1 of each calendar year, or as soon thereafter as practicable, Landlord shall furnish to Tenant a statement of Operating Costs and Electrical Costs for the previous year, in each case adjusted as provided in Section 4(b)(6), and of the Taxes for the previous year (the "**Operating Costs and Tax Statement**"). If Tenant's estimated payments of Operating Costs, Electrical Costs or Taxes under this Section 4(b) for the year covered by the Operating Costs and Tax Statement exceed Tenant's Proportionate Share of such items as indicated in the Operating Costs and Tax Statement, then Landlord shall promptly credit or reimburse Tenant for such excess; likewise, if Tenant's estimated payments of Operating Costs, Electrical Costs or Taxes under this Section 4(b) for such year are less than Tenant's Proportionate Share of such items as indicated in the Operating Costs and Tax Statement, then Tenant shall promptly pay Landlord such deficiency.

(6) With respect to any calendar year or partial calendar year in which the Building is not occupied to the extent of 95% of the rentable area thereof, or Landlord is not supplying services to 95% of the rentable area thereof, the Operating Costs and Electrical Costs for such period which vary with the occupancy of the Building shall, for the purposes hereof, be increased to the amount which would have been incurred had the Building been occupied to the extent of 95% of the rentable area thereof and Landlord had been supplying services to 95% of the rentable area thereof.

(c) Cap on Controllables. For purposes of calculating determining Tenant's Proportionate Share of Operating Costs under Section 4(6) for each calendar year after 2017, Controllable Operating Costs (defined below) for any calendar year will be deemed not to increase over the actual amount of Controllable Operating Costs incurred during the preceding year by more than 5% per year on a cumulative, compounded basis; for example, the maximum amount of Controllable Operating Costs that may be included in the calculation of such Additional Rent for each calendar year after 2015 shall equal the product of the 2017 Controllable Operating Costs and the following percentages for the following calendar years: 105% for 2018; 110.25% for 2019; 115.76% for 2020; 121.55% for 2021, etc. The term "**Controllable Operating Costs**" means all Operating Costs within the reasonable control of Landlord; thus, excluding taxes, insurance, utilities, snow removal costs, and costs incurred to comply with governmental requirements.

(d) Inspection and Audit Rights. Provided no Event of Default then exists, after receiving an annual Operating Costs and Tax Statement and giving Landlord 30-days' prior written notice thereof, Tenant may inspect or audit Landlord's records relating to Operating Costs and Taxes for the period of time covered by such Operating Costs and Tax Statement in accordance with the following provisions. If Tenant fails to object to the calculation of Operating Costs and Taxes on an annual Operating Costs and Tax Statement within 90 days after the statement has been delivered to Tenant, or if Tenant fails to conclude its audit or inspection within 30 days after commencement thereof, then Tenant shall have waived its right to object to the calculation of Operating Costs for the year in question and the calculation of Operating Costs

and Taxes set forth on such statement shall be final. Tenant's audit or inspection shall be conducted where Landlord maintains its books and records, shall not unreasonably interfere with the conduct of Landlord's business, and shall be conducted only during business hours reasonably designated by Landlord. Landlord will cooperate with Tenant, to a commercially reasonable extent, in connection with Tenant's audit. Tenant shall pay all costs of such audit or inspection, unless the total Operating Costs for the period in question is determined to be in error by more than five percent (5%) in the aggregate, and, as a result thereof, Tenant paid to Landlord more than the actual Operating Costs due for such period, in which case Landlord shall pay the reasonable and actual audit cost (not to exceed \$5,000). Tenant may not conduct an inspection or have an audit performed more than once during any calendar year. If such inspection or audit reveals that an error was made in the Operating Costs and Taxes previously charged to Tenant, then Landlord shall refund to Tenant any overpayment of any such costs, or Tenant shall pay to Landlord any underpayment of any such costs, as the case may be, within 30 days after notification thereof. Tenant shall maintain the results of each such audit or inspection confidential and shall not be permitted to use any third party to perform such audit or inspection, other than an independent firm of certified public accountants (1) reasonably acceptable to Landlord, (2) which is not compensated on a contingency fee basis or in any other manner which is dependent upon the results of such audit or inspection (and Tenant shall deliver the fee agreement or other similar evidence of such fee arrangement to Landlord upon request), and (3) which agrees with Landlord in writing to maintain the results of such audit or inspection confidential. Nothing set forth herein shall be construed to limit, suspend or abate Tenant's obligation to pay Rent when due, including Additional Rent.

5. Delinquent Payment; Handling Charges. All payments required of Tenant hereunder not received within five (5) business days of the date due shall bear interest from the date due until paid at the lesser of eighteen percent per annum or the maximum lawful rate of interest (such lesser amount is referred to herein as the "**Default Rate**"); additionally, Landlord, in addition to all other rights and remedies available to it and in the event Tenant is late paying the rent more than twice in any calendar year, may charge Tenant a fee equal to the greater of (a) \$50.00 or (b) five percent (5%) of the delinquent payment to reimburse Landlord for its cost and inconvenience incurred as a consequence of Tenant's delinquency. In no event, however, shall the charges permitted under this Section 5 or elsewhere in this Lease, to the extent they are considered to be interest under applicable Law, exceed the maximum lawful rate of interest. Notwithstanding the foregoing, the late fee referenced above shall not be charged with respect to the first occurrence (but not any subsequent occurrence) during any 12-month period that Tenant fails to make payment within five (5) business days of the date due, until five days after Landlord delivers written notice of such delinquency to Tenant.

6. Security Deposit. Contemporaneously with the execution of this Lease, Tenant shall pay to Landlord the Security Deposit, which shall be held by Landlord to secure Tenant's performance of its obligations under this Lease. The Security Deposit is not an advance payment of Rent or a measure or limit of Landlord's damages upon an Event of Default (as defined herein). Landlord may, from time to time following an Event of Default and without prejudice to any other remedy, use all or a part of the Security Deposit to perform any obligation Tenant fails to perform hereunder. Following any such application of the Security Deposit, Tenant shall pay to Landlord on demand the amount so applied in order to restore the Security Deposit to its original amount. Subject to the requirements of, and conditions imposed by, Laws applicable to

security deposits under commercial leases, Landlord shall, within the time required by applicable Law, return to Tenant the portion of the Security Deposit remaining after deducting all damages, charges and other amounts permitted by Law. Landlord and Tenant agree that such deductions shall include, without limitation, all damages and losses that Landlord has suffered or that Landlord reasonably estimates that it will suffer as a result of any breach of this Lease by Tenant. The Security Deposit may be commingled with other funds, and no interest shall be paid thereon. If Landlord transfers its interest in the Premises, Landlord will assign the Security Deposit to the transferee and, upon such transfer and the delivery to Tenant of an acknowledgement of the transferee's responsibility for the Security Deposit as provided by Law, Landlord thereafter shall have no further liability for the return of the Security Deposit.

7. Landlord's Obligations.

(a) Services. Landlord shall use all reasonable efforts to furnish to Tenant (1) water at those points of supply provided for general use of tenants of the Building; (2) heated and refrigerated air conditioning ("HVAC") through the Dedicated Units (defined below); (3) janitorial service to the Premises on weekdays, other than holidays, for Building-standard installations and such window washing as may from time to time be reasonably required; and (4) electrical current during normal laboratory hours for Tenant's equipment. Landlord shall maintain the common areas of the Building in reasonably good order and condition, except for damage caused by a Tenant Party. Tenant may notify Landlord in writing of its customary business hours, and Landlord agrees to supply the services specified in Section 7(a)(2) and 7(a)(4) above at Tenant's expense. Tenant may change such hours at any time upon notice to Landlord. The First Floor Space has two (2) dedicated HVAC units and the Second Floor Space has one (1) dedicated HVAC unit (the "Dedicated Units"), which will be run through the electrical sub-meter described in Section 7(b)(1). Each of the Dedicated Units are 115 ton package rooftop units servicing one-half (1/2) of a floor in the Building. Except for Electrical Costs, Tenant shall not be charged for after-hours use of (i) the Dedicated Units, or (ii) supplemental HVAC units in the Premises, owned by Tenant. If (i) Tenant's density (to the extent it exceeds, on an overall basis, one person per 200 rentable square feet) or (ii) Tenant's use of machines or equipment in the Premises affects the temperature otherwise maintained by the Dedicated Units or (iii) if Tenant otherwise overloads any utility, then upon not less than ten (10) business days prior written notice, Landlord may install supplemental air conditioning units or other supplemental equipment in the Premises, and the cost thereof, including the cost of installation, operation, use, and maintenance, in each case, shall be paid by Tenant to Landlord within 30 days after Landlord has delivered to Tenant an invoice therefor.

(b) Premises Sub-meter; Excess Utility Use.

(1) Prior to the Commencement Date, Landlord shall, at its sole cost, install a sub-meter to measure Tenant's electricity use in the Premises and shall bill Tenant directly for its use of electricity in the Premises. The sub-meter shall be read by Landlord or Landlord's designee monthly, and Tenant shall pay to Landlord, within 30 days after receipt of an invoice therefor, the cost of such electricity service based on rates charged for such service by the utility company furnishing such service, including all fuel adjustment charges and taxes.

(2) Landlord shall not be required to furnish electrical current for equipment that requires more than 110 volts, up to a maximum usage of 2000 amps for First Floor Space and 1000 amps for Second Floor Space, of 277/480V 3-phase, split between the towers, for the Premises ("**Landlord Provided Current**"). If Tenant's requirements for or consumption of electricity, including the requirements for all building equipment dedicated to the Premises (i.e., HVAC), exceeds the Landlord Provided Current, Landlord shall, at Tenant's expense, make reasonable efforts to supply the necessary additional service through the then-existing feeders and risers serving the Building and the Premises, and Tenant shall pay to Landlord the cost of such service within 30 days after Landlord has delivered to Tenant an invoice therefor. Tenant shall not install any electrical equipment requiring special wiring or requiring voltage in excess of 110 volts unless approved in advance by Landlord, which approval shall not be unreasonably withheld. Tenant shall not install any electrical equipment requiring voltage in excess of Building capacity unless approved in advance by Landlord, which approval may be withheld in Landlord's sole discretion. The use of electricity in the Premises shall not exceed the capacity of existing feeders and risers to or wiring in the Premises. Except for any risers approved by Landlord as part of the Working Drawings (as defined in Exhibit D), any risers or wiring required to meet Tenant's excess electrical requirements shall, upon Tenant's written request, be installed by Landlord, at Tenant's cost, if, in Landlord's judgment, the same are necessary and shall not cause permanent damage to the Building or the Premises, cause or create a dangerous or hazardous condition, entail excessive or unreasonable alterations, repairs, or expenses, or interfere with or disturb other tenants of the Building.

(c) Restoration of Services; Abatement. Landlord shall use reasonable efforts to restore any service required of it that becomes unavailable; however, such unavailability shall not render Landlord liable for any damages caused thereby, be a constructive eviction of Tenant, constitute a breach of any implied warranty, or, except as provided in the next sentence, entitle Tenant to any abatement of Tenant's obligations hereunder. If, however, Tenant is prevented from using the Premises because of the unavailability of any such service for a period of 15 consecutive business days following Landlord's receipt from Tenant of a written notice regarding such unavailability, the restoration of which is within Landlord's reasonable control, and such unavailability was not caused by a Tenant Party or a governmental directive, then Tenant shall, as its exclusive remedy be entitled to a reasonable abatement of Rent for each consecutive day (after such 15-day period) that Tenant is so prevented from using the Premises.

8. Improvements; Alterations; Repairs; Maintenance.

(a) Improvements; Alterations. Improvements to the Premises shall be installed at Tenant's expense only in accordance with plans and specifications which have been previously approved in writing by Landlord, which approval shall be governed by the provisions set forth in this Section 8(a). No alterations or additions in or to the Premises may be made without Landlord's prior written consent, which shall not be unreasonably withheld or delayed; however, Landlord may withhold its consent to any alteration or addition that would adversely affect (in the reasonable discretion of Landlord) the (1) Building's Structure or the Building's Systems (including the Building's restrooms or mechanical rooms), (2) exterior appearance of the Building, (3) appearance of the Building's common areas or elevator lobby areas, or

(4) provision of services to other occupants of the Building. Tenant shall not paint or install lighting or decorations, signs, window or door lettering, or advertising media of any type visible from the exterior of the Premises without the prior written consent of Landlord, which consent may be withheld in Landlord's sole and absolute discretion. All alterations, additions, and improvements shall be constructed, maintained, and used by Tenant, at its risk and expense, in accordance with all Laws; Landlord's consent to or approval of any alterations, additions or improvements (or the plans therefor) shall not constitute a representation or warranty by Landlord, nor Landlord's acceptance, that the same comply with sound architectural and/or engineering practices or with all applicable Laws, and Tenant shall be solely responsible for ensuring all such compliance. Notwithstanding the foregoing, Tenant may make alterations or additions without obtaining Landlord's prior written consent and without payment of any additional fees, provided that Tenant gives Landlord reasonable prior written notice of same and further provided that such alterations or additions (1) are purely cosmetic in nature (including painting, carpeting and the installation of floor covering or wall covering), (2) do not affect Building's Structure or Building's Systems, (3) cost less than Ten Thousand Dollars (\$10,000) in any one instance, and (4) do not require a governmental permit of any kind ("**Minor Alterations**"). Landlord acknowledges that Tenant may need additional shafts to the roof (including roof penetrations) for exhaust ducts, as well as roof access, to locate air handling equipment for its Permitted Use ("**Additional Shafts**"). Tenant shall submit plans and specifications for any Additional Shafts as part of the Space Plans and Working Drawings submitted to Landlord for approval, as set out in Exhibit D. Upon approval, Tenant may install the Additional Shafts above the Premises in accordance with the approved Space Plans and Working Drawings. In determining whether to approve Tenant's request for Additional Shafts, Landlord may consider all aspects thereof, including without limitation, the potential impact on other occupants of Building, the methods and materials of installation, Tenant's proposed maintenance schedule, the impact on roof and other warranties, and the potential impact of the Additional Shafts on the marketability of the Premises and/or the Building.

(b) Repairs; Maintenance. Tenant shall maintain the Premises in a clean, safe, and operable condition, and shall not permit or allow to remain any waste or damage to any portion of the Premises. Additionally, Tenant, at its sole expense, shall repair, replace and maintain in good condition and in accordance with all Laws and the equipment manufacturer's suggested service programs, all portions of the Premises, Tenant's Off-Premises Equipment and all areas, improvements and systems exclusively serving the Premises, including the Dedicated Units. Tenant shall repair or replace, subject to Landlord's direction and supervision, any damage to the Building caused by a Tenant Party. If Tenant fails to make such repairs or replacements within 15 days after the occurrence of such damage (or such longer period as may be reasonably required provided Tenant commences to make such repairs or replacements within such 15-day period and proceeds diligently to completion), then Landlord may make the same at Tenant's cost. If any such damage occurs outside of the Premises, then Landlord may elect to repair such damage at Tenant's expense, rather than having Tenant repair such damage. The reasonable costs of all maintenance, repair or replacement work performed by Landlord under this Section 8 shall be paid by Tenant to Landlord within 30 days after Landlord has invoiced Tenant therefor. Tenant's obligations to repair and/or maintain contained in this paragraph shall be limited to the interior of the Premises, and shall in no event include any structural elements, any building systems (including without limitation plumbing systems, sprinkler systems, and HVAC ducts), or regular wear and tear. Landlord shall maintain and repair the Building's

Structure and the Building's System, the exterior of the Building, the common areas and the elevator lobby areas, subject to Landlord's rights to be reimbursed pursuant to Section 4(6) above.

(c) Performance of Work. Except for Minor Alterations, all work described in this Section 8 shall be performed only by Landlord or by contractors and subcontractors approved in writing by Landlord, which approval will not be unreasonably withheld for contractors and subcontractors that maintain the insurance coverages required by Landlord. Tenant shall cause all contractors and subcontractors to procure and maintain insurance coverage naming Landlord, Landlord's property management company and Landlord's asset management company as additional insureds against such risks, in such amounts, and with such companies as Landlord may reasonably require. Tenant shall provide Landlord with the identities, mailing addresses and telephone numbers of all persons performing work or supplying materials prior to beginning such construction and Landlord may post on and about the Premises notices of non-responsibility pursuant to applicable Laws. All such work shall be performed in accordance with all Laws and in a good and workmanlike manner so as not to damage the Building (including the Premises, the Building's Structure and the Building's Systems). All such work which may affect the Building's Structure or the Building's Systems must be approved by the Building's engineer of record, at Tenant's expense and, at Landlord's election, must be performed by Landlord's usual contractor for such work. All work affecting the Building roof must be performed by Landlord's roofing contractor and will not be permitted if it would void or reduce the warranty on the roof.

(d) Mechanic's Liens. All work performed, materials furnished, or obligations incurred by or at the request of a Tenant Party shall be deemed authorized and ordered by Tenant only, and Tenant shall not permit any mechanic's liens to be filed against the Premises or the Project in connection therewith. Upon completion of any such work, Tenant shall deliver to Landlord final lien waivers from all contractors, subcontractors and materialmen who performed such work. If a lien is filed, then Tenant shall, within ten days after Landlord has delivered notice of the filing thereof to Tenant (or earlier, as necessary to prevent the forfeiture of the Premises, the Project or any interest of Landlord therein or the imposition of any fine with respect thereto), either (1) pay the amount of the lien and cause the lien to be released of record, or (2) diligently contest such lien and deliver to Landlord a bond or other security reasonably satisfactory to Landlord. If Tenant fails to timely take either such action, then Landlord may pay the lien claim, and any amounts so paid, including expenses and interest, shall be paid by Tenant to Landlord within ten days after Landlord has invoiced Tenant therefor. Landlord and Tenant acknowledge and agree that their relationship is and shall be solely that of "landlord-tenant" (thereby excluding a relationship of "owner-contractor," "owner-agent" or other similar relationships). Accordingly, all materialmen, contractors, artisans, mechanics, laborers and any other persons now or hereafter contracting with Tenant, any contractor or subcontractor of Tenant or any other Tenant Party for the furnishing of any labor, services, materials, supplies or equipment with respect to any portion of the Premises during the Term, are hereby charged with notice that they look exclusively to Tenant to obtain payment for same. Nothing herein shall be deemed a consent by Landlord to any liens being placed upon the Premises, the Project or Landlord's interest therein due to any work performed by or for Tenant or deemed to give any contractor or subcontractor or materialman any right or interest in any funds held by Landlord to reimburse Tenant for any portion of the cost of such work. Tenant shall defend, indemnify and

hold harmless Landlord and its agents and representatives from and against all claims, demands, causes of action, suits, judgments, damages and expenses (including attorneys' fees) in any way arising from or relating to the failure by any Tenant Party to pay for any work performed, materials furnished, or obligations incurred by or at the request of a Tenant Party. This indemnity provision shall survive termination or expiration of this Lease.

9. Use; Compliance with Law.

(a) Use. Tenant shall use the Premises only for the Permitted Use and shall comply with all Laws relating to this Lease and/or the use, condition, access to, and occupancy of the Premises and will not commit waste, overload the Building's Structure or the Building's Systems or subject the Premises to use that would damage the Premises. Tenant may use the Premises 24 hours a day, 7 days a week, 365 days a year. The population density within the Premises as a whole shall at no time exceed the maximum density permitted under applicable Laws. The Premises shall not be used for any use which is disreputable, creates extraordinary fire hazards, or results in an increased rate of insurance on the Building or its contents, or for the storage of any Hazardous Materials (other than typical office supplies [e.g., photocopier toner] and then only in compliance with all Laws). Tenant may use portions of the Premises for handling calls and/or processing payments ancillary to Tenant's business. If, because of a Tenant Party's acts or because Tenant vacates the Premises, the rate of insurance on the Building or its contents increases, then Tenant shall pay to Landlord the amount of such increase on demand, and acceptance of such payment shall not waive any of Landlord's other rights. Tenant shall conduct its business and control each other Tenant Party so as not to create any nuisance or unreasonably interfere with other tenants or Landlord in its management of the Building.

(b) Medical Waste. The term "**Medical Waste**" shall mean the types of medical waste described in the Texas Health and Safety, Code, and the regulations issued pursuant thereto, and any similar type of waste. Tenant shall not cause or permit any Medical Waste to be stored in or about the Premises or the Project by Tenant, its employees, agents, or contractors, except in compliance with applicable laws. Tenant hereby agrees, at Tenant's sole expense, to dispose of its Medical Waste in compliance with all federal, state and local laws, rules and regulations relating to the disposal of Medical Waste and to dispose of the Medical Waste in a prudent and reasonable manner. Tenant shall not place any Medical Waste in refuse containers emptied by Landlord's agents or employees or in any dumpster or refuse containers provided by Landlord or otherwise serving other tenants of the Project. Tenant shall promptly provide to Landlord (without demand by Landlord) a copy of any notice concerning the presence, release, exposure or disposal of any Medical Waste in or about the Premises or the Project in violation of applicable law. Upon any violation of this Section, or if Tenant is in violation of any applicable law with respect to the Medical Waste, Landlord and Landlord's employees, agents, contractors and lenders shall have the right, after providing prior written notice to Tenant and Tenant's failure to diligently pursue the correction of such violation, to enter the Premises to remediate any such violation and shall have the right to employ experts and/or consultants in connection with its examination of the Premises and with respect to the generation and disposal of Medical Waste on or from the Premises. The reasonable cost and expenses of any such inspection shall be paid by Landlord, unless it is determined that Tenant is not disposing of its Medical Waste in a manner permitted by applicable law, in which case Tenant shall reimburse Landlord as Additional Rent for the actual and reasonable cost of such

inspection within ten (10) days of Landlord's invoice therefor. The provisions of this Section are cumulative of and in addition to the obligations of Tenant under Section 25(u).

(c) Compliance with Law.

(1) If any federal, state or local laws, ordinances, orders, rules, regulations or requirements (collectively, "**Governmental Requirements**") in existence as of the date of the Lease require an alteration or modification of the Premises (a "**Code Modification**") and such Code Modification is not made necessary as a result of the specific use being made by Tenant of the Premises (as distinguished from an alteration or improvement which would be required to be made by the owner of any building comparable to the Building irrespective of the use thereof by any particular occupant) and is not made necessary as the result of any alteration of the Premises by Tenant, such Code Modification shall be performed by Landlord, at Landlord's sole cost and expense.

(2) If, as a result of one or more Governmental Requirements that are not in existence as of the date of this Lease, it is necessary from time to time during the Lease Term, to perform a Code Modification to the Building or the Project that is not made necessary as a result of the specific use being made by Tenant of the Premises (as distinguished from an alteration or improvement which would be required to be made by the owner of any building comparable to the Building irrespective of the use thereof by any particular occupant) and is not made necessary as the result of any alteration of the Premises by Tenant or is made necessary by performance of the Work (as defined in Exhibit D), such Code Modification shall be performed by Landlord and the cost thereof shall be included in Operating Costs.

(3) If, as a result of one or more Governmental Requirements, it is necessary from time to time during the Lease Term to perform a Code Modification to the Building or the Project that is made necessary as a result of the specific use being made by Tenant of the Premises, or as the result of any alteration of the Premises by Tenant, such Code Modification shall be the sole and exclusive responsibility of Tenant in all respects.

10. Assignment and Subletting.

(a) Transfers. Except as provided in Section 10(h), Tenant shall not, without the prior written consent of Landlord, (1) assign, transfer, or encumber this Lease or any estate or interest herein, whether directly or by operation of law, (2) permit any other entity to become Tenant hereunder by merger, consolidation, or other reorganization, (3) if Tenant is an entity other than a corporation whose stock is publicly traded, permit the transfer of an ownership interest in Tenant so as to result in a change in the current control of Tenant, (4) sublet any portion of the Premises, (5) grant any license, concession, or other right of occupancy of any portion of the Premises, or (6) permit the use of the Premises by any parties other than Tenant (any of the events listed in Section 10(a)(1) through 10(a)(6) being a "**Transfer**").

(b) Consent Standards. Landlord shall not unreasonably withhold or delay its consent to any assignment or subletting of the Premises, provided that the proposed transferee (1) is creditworthy and has a Tangible Net Worth (as defined below) not less than the Tangible Net Worth of Tenant as of the date hereof, (2) will use the Premises for the Permitted Use (thus, excluding, without limitation, uses for credit processing and telemarketing) and will not use the Premises in any manner that would conflict with any exclusive use agreement or other similar agreement entered into by Landlord with any other tenant of the Building or Complex, (3) will not use the Premises, Building or Project in a manner that would materially increase the pedestrian or vehicular traffic to the Premises, Building or Project, (4) is not a governmental entity, or subdivision or agency thereof, (5) is not another occupant of the Building or Complex, (6) is in compliance with the regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated Nationals and Blocked Persons List) and any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit or Support Terrorism), or other governmental action relating thereto, and (7) is not a person or entity with whom Landlord is then, or has been within the four-month period prior to the time Tenant seeks to enter into such assignment or subletting, negotiating to lease space in the Building or Complex or any Affiliate of any such person or entity; otherwise, Landlord may withhold its consent in its sole discretion. Additionally, Landlord may withhold its consent to any proposed Transfer if any Event of Default by Tenant then exists.

(c) Request for Consent. Except as provided in Section 10(h), Tenant shall provide Landlord with a written description of all terms and conditions of the proposed Transfer, copies of the proposed documentation, and the following information about the proposed transferee: name and address of the proposed transferee and any entities and persons who own, control or direct the proposed transferee; reasonably satisfactory information about its business and business history; its proposed use of the Premises; banking, financial, and other credit information; and general references sufficient to enable Landlord to determine the proposed transferee's creditworthiness and character (the "A/S Notice"). Landlord has a period of thirty (30) days after Landlord's receipt of the A/S Notice to notify Tenant that Landlord elects to:

- (1) cancel this Lease as to the space that is the subject of the A/S Notice in accordance with Section 10(f), or
- (2) consent to the assignment or sublease; or
- (3) refuse to consent to Tenant's assignment or sublease of that space for any reason listed in Section 10(b) and to continue this Lease in effect.

(d) Conditions to Consent. If Landlord consents to a proposed Transfer, the proposed transferee shall deliver to Landlord a written agreement expressly assuming Tenant's obligations hereunder; however, any transferee of less than all of the Premises shall be liable only for obligations under this Lease properly allocable to the space subject to the Transfer, for the period of the Transfer. No Transfer shall release Tenant from its obligations under this Lease; Tenant and its transferee shall be jointly and severally liable therefor. Landlord's consent to any Transfer shall not waive Landlord's rights as to any subsequent Transfers. If an Event of Default occurs while the Premises or any part thereof are subject to a Transfer, then Landlord, in

addition to its other remedies, may collect directly from such transferee all rents becoming due to Tenant and apply such rents against Rent. Tenant instructs its transferees to make payments of rent directly to Landlord upon receipt of notice from Landlord to do so following the occurrence of an Event of Default. Tenant shall pay for the cost of any demising walls or other improvements necessitated by a proposed subletting or assignment.

(e) Attornment by Subtenants. Each sublease hereunder shall be subject and subordinate to this Lease and to the matters to which this Lease is or shall be subordinate, and each subtenant is deemed to have agreed that in the event of termination, re-entry or dispossession by Landlord under this Lease, Landlord may, at its option, take over the right, title and interest of Tenant, as sublandlord, under such sublease, and such subtenant shall, at Landlord's option, attorn to Landlord pursuant to the then executory provisions of such sublease, except that Landlord shall not be (1) liable for any previous act or omission of Tenant under such sublease, (2) subject to any counterclaim, offset or defense of such subtenant against Tenant, (3) bound by any previous modification of such sublease not approved by Landlord in writing or by any rent or additional rent or advance rent which such subtenant has paid for more than the current month to Tenant, and all such rent shall remain due and owing, notwithstanding such advance payment, (4) bound by any security or advance rental deposit made by such subtenant which is not delivered to Landlord and with respect to which such subtenant shall look solely to Tenant for refund or reimbursement, or (5) obligated to perform any work in the subleased space or to prepare it for occupancy, and in connection with such attornment, the subtenant shall execute and deliver to Landlord any instruments Landlord may reasonably request to evidence and confirm such attornment. Each subtenant or licensee of Tenant shall be deemed, automatically as a condition of its occupying or using any part of the Premises, to have agreed to be bound by the terms of this Section 10(e).

(f) Cancellation. Landlord may, within 30 days after receipt of the A/S Notice, cancel this Lease as to the portion of the Premises proposed to be sublet or assigned as of the date the proposed Transfer is to be effective. If Landlord elects to cancel this Lease, Tenant has 5 days following receipt of Landlord's notice to cancel within which to rescind its notice of its proposed assignment or sublease and avoid a cancellation of this Lease. If Landlord cancels this Lease as to any portion of the Premises, then this Lease shall cease for such portion of the Premises and Tenant shall pay to Landlord all Rent accrued through the cancellation date relating to such portion of the Premises. Thereafter, Landlord may lease such portion of the Premises to the prospective transferee (or to any other person) without liability to Tenant.

(g) Additional Compensation. Tenant shall pay to Landlord, immediately upon receipt thereof, $\frac{1}{2}$ of the excess of (1) all compensation received by Tenant for a Transfer less the actual out-of-pocket costs reasonably incurred by Tenant with unaffiliated third parties (i.e., brokerage commissions and tenant finish work) in connection with such Transfer (such costs shall be amortized on a straight-line basis over the term of the Transfer in question) over (2) the Rent allocable to the portion of the Premises covered thereby.

(h) Permitted Transfers. Notwithstanding Section 10(a), Tenant may Transfer all or part of its interest in this Lease or all or part of the Premises (a "Permitted Transfer") to the following types of entities (a "Permitted Transferee") without the written consent of Landlord and without the payment of any additional fees:

(1) an Affiliate of Tenant;

(2) any corporation, limited partnership, limited liability partnership, limited liability company or other business entity in which or with which Tenant, or its corporate successors or assigns, is merged or consolidated, in accordance with applicable statutory provisions governing merger and consolidation of business entities, so long as

(A) Tenant's obligations hereunder are assumed by the entity surviving such merger or created by such consolidation; and (B) the Tangible Net Worth of the surviving or created entity is not less than the Tangible Net Worth of Tenant as of the date hereof; or

(3) any corporation, limited partnership, limited liability partnership, limited liability company or other business entity acquiring all or substantially all of Tenant's assets if such entity's Tangible Net Worth after such acquisition is not less than the Tangible Net Worth of Tenant as of the date hereof.

Tenant shall promptly notify Landlord of any such Permitted Transfer. Tenant shall remain liable for the performance of all of the obligations of Tenant hereunder, or if Tenant no longer exists because of a merger, consolidation, or acquisition, the surviving or acquiring entity shall expressly assume in writing the obligations of Tenant hereunder. Additionally, the Permitted Transferee shall comply with all of the terms and conditions of this Lease, and the use of the Premises by the Permitted Transferee may not violate any other agreements affecting the Premises, the Building, the Complex, Landlord or other tenants of the Building or Complex. No later than 30 days after the effective date of any Permitted Transfer, Tenant shall furnish Landlord with (A) copies of the instrument effecting such Permitted Transfer, (B) documentation establishing Tenant's satisfaction of the requirements set forth above applicable to any such Transfer, (C) evidence of insurance as required under this Lease with respect to the Permitted Transferee, and (D) evidence of compliance with the regulations of OFAC and any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action relating thereto, including the name and address of the Permitted Transferee and any entities and persons who own, control or direct the Permitted Transferee. The occurrence of a Permitted Transfer shall not waive Landlord's rights as to any subsequent Transfers. "**Tangible Net Worth**" means the excess of total assets over total liabilities, in each case as determined in accordance with generally accepted accounting principles consistently applied ("**GAAP**"), excluding, however, from the determination of total assets all assets which would be classified as intangible assets under GAAP including goodwill, licenses, patents, trademarks, trade names, copyrights, and franchises. Any subsequent Transfer by a Permitted Transferee shall be subject to the terms of this Section 10.

11. Insurance; Waivers; Subrogation; Indemnity.

(a) Tenant's Insurance. Effective as of the earlier of (1) the date Tenant enters or occupies the Premises, or (2) the Commencement Date, and continuing throughout the Term, Tenant shall maintain the following insurance policies: (A) commercial general liability insurance in amounts of \$3,000,000 per occurrence or, following the expiration of the initial Term, such other amounts as Landlord from time to time reasonably requires (and, if the use and occupancy of the Premises include any activity or matter that is or may be excluded from

coverage under a commercial general liability policy [e.g., the sale, service or consumption of alcoholic beverages], Tenant shall obtain such endorsements to the commercial general liability policy or otherwise obtain insurance to insure all liability arising from such activity or matter (including liquor liability, if applicable) in such amounts as Landlord may reasonably require), insuring Tenant, Landlord, Landlord's property management company, Landlord's asset management company and, if requested in writing by Landlord, Landlord's Mortgagee against all liability for injury to or death of a person or persons or damage to property arising from the use and occupancy of the Premises and (without implying any consent by Landlord to the installation thereof) the installation, operation, maintenance, repair or removal of Tenant's Off Premises Equipment, (B) insurance covering the full value of all alterations and improvements and betterments in the Premises, naming Landlord and Landlord's Mortgagee as additional loss payees as their interests may appear, (C) insurance covering the full value of all furniture, trade fixtures and personal property (including property of Tenant or others) in the Premises or otherwise placed in the Project by or on behalf of a Tenant Party (including Tenant's Off Premises Equipment), (D) contractual liability insurance sufficient to cover Tenant's indemnity obligations hereunder (but only if such contractual liability insurance is not already included in Tenant's commercial general liability insurance policy), (E) worker's compensation insurance to the extent required by law, and (F) business interruption insurance in an amount reasonably acceptable to Landlord. The commercial general liability insurance to be maintained by Tenant may have a deductible of no more than \$5,000 per occurrence; the property insurance to be maintained by Tenant may have a deductible of no more than \$10,000 per occurrence; and, all other insurance to be maintained by Tenant shall have no deductible. Tenant's insurance shall provide primary coverage to Landlord when any policy issued to Landlord provides duplicate or similar coverage. Landlord's policy will be excess over Tenant's policy. Tenant shall furnish to Landlord certificates of such insurance at least ten (10) days prior to the earlier of the Commencement Date or the date Tenant enters or occupies the Premises, and at least fifteen (15) days prior to each renewal of said insurance, and Tenant shall notify Landlord at least thirty (30) days before cancellation of any such insurance policies. All such insurance policies shall be in form reasonably satisfactory to Landlord and issued by companies with a Best's rating of A+/-VII or better. If Tenant fails to comply with the foregoing insurance requirements or to deliver to Landlord the certificates or evidence of coverage required herein, and such failure continues for more than five (5) days after written notice from Landlord, Landlord, in addition to any other remedy available pursuant to this Lease or otherwise, may, but shall not be obligated to, obtain such insurance and Tenant shall pay to Landlord within thirty (30) days after written notice from Landlord, the premium costs thereof, plus an administrative fee of 15% of such cost.

(b) Landlord's Insurance. Throughout the Term of this Lease, Landlord shall maintain, as a minimum, the following insurance policies: (1) property insurance for the Building's replacement value (excluding property required to be insured by Tenant), less a commercially-reasonable deductible if Landlord so chooses, and (2) commercial general liability insurance in an amount of not less than \$3,000,000. Landlord may, but is not obligated to, maintain such other insurance and additional coverages as it may deem necessary. The cost of all insurance carried by Landlord with respect to the Project shall be included in Operating Costs. The foregoing insurance policies and any other insurance carried by Landlord shall be for the sole benefit of Landlord and under Landlord's sole control, and Tenant shall have no right or claim to any proceeds thereof or any other rights thereunder.

(c) No Subrogation; Waiver of Property Claims. Landlord and Tenant each waives any claim it might have against the other for any damage to or theft, destruction, loss, or loss of use of any property, to the extent the same is insured against under any insurance policy of the types described in this Section 11 that covers the Project, the Premises, Landlord's or Tenant's fixtures, personal property, leasehold improvements, or business, or is required to be insured against under the terms hereof, **regardless of whether the negligence of the other party caused, or is alleged to have caused, such Loss (defined below).** Additionally, Tenant waives any claim it may have against Landlord for any Loss to the extent such Loss is caused by a terrorist act. Each party shall cause its insurance carrier to endorse all applicable policies waiving the carrier's rights of recovery under subrogation or otherwise against the other party. Notwithstanding any provision in this Lease to the contrary, Landlord, its agents, employees and contractors shall not be liable to Tenant or to any party claiming by, through or under Tenant for (and Tenant hereby releases Landlord and its servants, agents, contractors, employees and invitees from any claim or responsibility for) any damage to or destruction, loss, or loss of use, or theft of any property of any Tenant Party located in or about the Project, caused by casualty, theft, fire, third parties or any other matter or cause, **regardless of whether the negligence of any party caused, or is alleged to have caused, such Loss in whole or in part.** Tenant acknowledges that Landlord shall not carry insurance on, and shall not be responsible for damage to, any property of any Tenant Party located in or about the Project.

(d) Indemnity. Subject to Section 11(c), Tenant shall defend, indemnify, and hold harmless Landlord and its representatives and agents from and against all claims, demands, liabilities, causes of action, suits, judgments, damages, and expenses (including reasonable attorneys' fees) arising from any injury to or death of any person or the damage to or theft, destruction, loss, or loss of use of, any property or inconvenience (a "**Loss**") (1) occurring in or on the Project (other than within the Premises) to the extent caused by the negligence or willful misconduct of any Tenant Party; (2) occurring in the Premises, or (3) arising out of the installation, operation, maintenance, repair or removal of any property of any Tenant Party located in or about the Project, including Tenant's Off-Premises Equipment. **It being agreed that clauses (2) and (3) of this indemnity are intended to indemnify Landlord and its agents against the consequences of their own negligence or fault, even when Landlord or its agents are, or are alleged to be, jointly, comparatively, contributively, or concurrently negligent with Tenant, and even though any such claim, cause of action or suit is based upon or alleged to be based upon the strict liability of Landlord or its agents; however, such indemnity shall not apply to the sole or gross negligence or willful misconduct of Landlord and its agents.** The indemnities set forth in this Lease shall survive termination or expiration of this Lease and shall not terminate or be waived, diminished or affected in any manner by any abatement or apportionment of Rent under any provision of this Lease. If any proceeding is filed for which indemnity is required hereunder, the indemnifying party agrees, upon request therefor, to defend the indemnified party in such proceeding at its sole cost utilizing counsel satisfactory to the indemnified party.

12. Subordination; Attornment; Notice to Landlord's Mortgagee.

(a) Subordination. This Lease shall be subordinate to any deed of trust, mortgage, or other security instrument (each, a "**Mortgage**"), or any ground lease, master lease, or primary lease (each, a "**Primary Lease**"), that now or hereafter covers all or any part of the

Premises (the mortgagee under any such Mortgage, beneficiary under any such deed of trust, or the lessor under any such Primary Lease is referred to herein as a "**Landlord's Mortgagee**"). Any Landlord's Mortgagee may elect, at any time, unilaterally, to make this Lease superior to its Mortgage, Primary Lease, or other interest in the Premises by so notifying Tenant in writing. The provisions of this Section shall be self-operative and no further instrument of subordination shall be required; however, in confirmation of such subordination, Tenant shall execute and return to Landlord (or such other party designated by Landlord) within ten days after written request therefor such documentation, in recordable form if required, as a Landlord's Mortgagee may reasonably request to evidence the subordination of this Lease to such Landlord's Mortgagee's Mortgage or Primary Lease (including a subordination, non-disturbance and attornment agreement) or, if the Landlord's Mortgagee so elects, the subordination of such Landlord's Mortgagee's Mortgage or Primary Lease to this Lease.

(b) Subordination, Non-Disturbance and Attornment Agreement. Landlord shall obtain a subordination, non-disturbance and attornment agreement ("**SNDA**") from the current Landlord's Mortgagee (using such Landlord Mortgagee's form, a copy of which is attached hereto as Exhibit I), and Landlord shall obtain a subordination, non-disturbance and attornment agreement from any future Landlord's Mortgagee, in a form substantially similar to Exhibit I or other form reasonably acceptable to Tenant and such Landlord's Mortgagee. Any costs associated with obtaining such subordination, non-disturbance and attornment agreement including reasonable attorney's fee charged by Landlord's Mortgagee for providing a subordination, non-disturbance and attornment agreement on such lender's standard form shall be borne solely by Landlord. In addition, Landlord will pay the costs imposed by its lender for negotiation of such lender's standard form subordination, non-disturbance and attornment agreement up to \$1,500.00, with any additional amounts incurred in connection with Tenant's negotiation of such form being paid by Tenant. The subordination of Tenant's rights hereunder to any future Landlord's Mortgagee under Section 12(a) shall be conditioned upon such future Landlord's Mortgagee's execution and delivery of a subordination, non-disturbance and attornment agreement in a form substantially similar to Exhibit I or other form reasonably acceptable to Tenant and such Landlord's Mortgagee.

(c) Attornment. Tenant shall attorn to any party succeeding to Landlord's interest in the Premises, whether by purchase, foreclosure, deed in lieu of foreclosure, power of sale or otherwise, upon such party's request, and shall execute such agreements confirming such attornment as such party may reasonably request.

(d) Notice to Landlord's Mortgagee. Tenant shall not seek to enforce any remedy it may have for any default on the part of Landlord without first giving written notice by certified mail, return receipt requested, specifying the default in reasonable detail, to any Landlord's Mortgagee whose address has been given to Tenant, and affording such Landlord's Mortgagee a reasonable opportunity to perform Landlord's obligations hereunder.

(e) Landlord's Mortgagee's Protection Provisions. If Landlord's Mortgagee shall succeed to the interest of Landlord under this Lease, Landlord's Mortgagee shall not be: (1) liable for any act or omission of any prior lessor (including Landlord); (2) bound by any Rent which Tenant has paid for more than the current month to any prior lessor (including Landlord), and all such rent shall remain due and owing; (3) bound by any security or advance rental deposit

made by Tenant which is not delivered or paid over to Landlord's Mortgagee and with respect to which Tenant shall look solely to Landlord for refund or reimbursement; (4) bound by any termination, amendment or modification of this Lease made without Landlord's Mortgagee's consent and written approval, except for those terminations, amendments and modifications permitted to be made by Landlord without Landlord's Mortgagee's consent pursuant to the terms of the loan documents between Landlord and Landlord's Mortgagee; (5) subject to the defenses which Tenant might have against any prior lessor (including Landlord); and (6) subject to the offsets which Tenant might have against any prior lessor (including Landlord) except for those offset rights which (A) are expressly provided in this Lease, (B) relate to periods of time following the acquisition of the Building by Landlord's Mortgagee, and (C) Tenant has provided written notice to Landlord's Mortgagee and provided Landlord's Mortgagee a reasonable opportunity to cure the event giving rise to such offset event. Landlord's Mortgagee shall have no liability or responsibility under or pursuant to the terms of this Lease or otherwise after it ceases to own an interest in the Project. Nothing in this Lease shall be construed to require Landlord's Mortgagee to see to the application of the proceeds of any loan, and Tenant's agreements set forth herein shall not be impaired on account of any modification of the documents evidencing and securing any loan.

13. Rules and Regulations. Tenant shall comply with the rules and regulations of the Project which are attached hereto as Exhibit C. Landlord may, from time to time, change such rules and regulations for the safety, care, or cleanliness of the Project and related facilities, provided that such changes are applicable to all tenants of the Project, will not unreasonably interfere with Tenant's use of the Premises, do not alter any material term of this Lease, and are enforced by Landlord in a non-discriminatory manner. Tenant shall be responsible for the compliance with such rules and regulations by each Tenant Party.

14. Condemnation.

(a) Total Taking. If the entire Building or Premises are taken by right of eminent domain or conveyed in lieu thereof (a "**Taking**"), this Lease shall terminate as of the date of the Taking.

(b) Partial Taking - Tenant's Rights. If any part of the Building becomes subject to a Taking and such Taking will prevent Tenant from conducting on a permanent basis its business in the Premises in a manner reasonably comparable to that conducted immediately before such Taking, then Tenant may terminate this Lease as of the date of such Taking by giving written notice to Landlord within 30 days after the Taking, and Basic Rent and Additional Rent shall be apportioned as of the date of such Taking. If Tenant does not terminate this Lease, then Rent shall be abated on a reasonable basis as to that portion of the Premises rendered untenable by the Taking.

(c) Partial Taking - Landlord's Rights. If any material portion, but less than all, of the Building becomes subject to a Taking, or if Landlord is required to pay any of the proceeds arising from a Taking to a Landlord's Mortgagee and therefore insufficient proceeds remains for rebuilding the Building and (i) Landlord declines to pay such deficiency and provides Tenant with written notice thereof and offers Tenant the option of paying such deficiency and Tenant either fails to reply or declines to pay such deficiency within ten (10) days

after Landlord's offer, then Landlord may terminate this Lease by delivering written notice thereof to Tenant within 30 days after such Taking, and Basic Rent and Additional Rent shall be apportioned as of the date of such Taking. If Landlord does not so terminate this Lease, then this Lease will continue, but if any portion of the Premises has been taken, Rent shall abate as provided in the last sentence of Section 14(b).

(d) Temporary Taking. If all or any portion of the Premises becomes subject to a Taking for a limited period of time, this Lease shall remain in full force and effect and Tenant shall continue to perform all of the terms, conditions and covenants of this Lease, including the payment of Basic Rent and all other amounts required hereunder. If any such temporary Taking terminates prior to the expiration of the Term, Tenant shall restore the Premises as nearly as possible to the condition prior to such temporary Taking, at Tenant's sole cost and expense. Landlord shall be entitled to receive the entire award for any such temporary Taking, except that Tenant shall be entitled to receive the portion of such award which

(1) compensates Tenant for its loss of use of the Premises within the Term and (2) reimburses Tenant for the reasonable out-of-pocket costs actually incurred by Tenant to restore the Premises as required by this Section 14(d).

(e) Award. If any Taking occurs, then Landlord shall receive the entire award or other compensation for the Land, the Building, and other improvements taken; however, Tenant may separately pursue a claim (to the extent it will not reduce Landlord's award) against the condemnor for the value of Tenant's personal property which Tenant is entitled to remove under this Lease, moving costs, loss of business, and other claims it may have.

15. Fire or Other Casualty.

(a) Repair Estimate. If the Premises or the Building are damaged by fire or other casualty (a "**Casualty**"). Landlord shall, within 60 days after such Casualty, deliver to Tenant a good faith estimate (the "**Damage Notice**") of the time needed to repair the damage caused by such Casualty.

(b) Tenant's Rights. If a material portion of the Premises is damaged by Casualty such that Tenant is prevented from conducting its business in the Premises in a manner reasonably comparable to that conducted immediately before such Casualty and Landlord estimates that the damage caused thereby cannot be repaired within 180 days after the commencement of repairs (the "**Repair Period**"), then Tenant may terminate this Lease by delivering written notice to Landlord of its election to terminate within 30 days after the Damage Notice has been delivered to Tenant.

(c) Landlord's Rights. If a Casualty damages the Premises or a material portion of the Building and (1) Landlord estimates that the damage to the Premises cannot be repaired within the Repair Period, (2) the damage to the Premises exceeds 50% of the replacement cost thereof (excluding foundations and footings), as estimated by Landlord, and such damage occurs during the last twelve (12) months of the Term, (3) regardless of the extent of damage to the Premises, the damage is not fully covered by Landlord's insurance policies plus applicable deductibles (provided Landlord carries the insurance required hereunder) or Landlord makes a good faith determination that restoring the Building would be uneconomical, or (4)

Landlord is required to pay any insurance proceeds arising out of the Casualty to a Landlord's Mortgagee such that remaining insurance proceeds are insufficient to cover the costs of rebuilding, then Landlord may terminate this Lease by giving written notice of its election to terminate within 90 days after the Damage Notice has been delivered to Tenant.

(d) Repair Obligation. If neither party elects to terminate this Lease following a Casualty, then Landlord shall, within a reasonable time after such Casualty, begin to repair the Premises and shall proceed with reasonable diligence to restore the Premises to substantially the same condition as they existed immediately before such Casualty; however, Landlord shall not be required to repair or replace any alterations or betterments within the Premises (which shall be promptly and with due diligence repaired and restored by Tenant at Tenant's sole cost and expense) or any furniture, equipment, trade fixtures or personal property of Tenant or others in the Premises or the Building, and Landlord's obligation to repair or restore the Premises shall be limited to the extent of the insurance proceeds actually received by Landlord for the Casualty in question (plus applicable deductible amounts). If this Lease is terminated under the provisions of this Section 15, Landlord shall be entitled to the full proceeds of the insurance policies providing coverage for all alterations, improvements and betterments in the Premises (and, if Tenant has failed to maintain insurance on such items as required by this Lease, Tenant shall pay Landlord an amount equal to the proceeds Landlord would have received had Tenant maintained insurance on such items as required by this Lease).

(e) Abatement of Rent. If the Premises are damaged by Casualty, Rent for the portion of the Premises rendered untenable by the damage shall be abated on a reasonable basis from the date of damage until the completion of Landlord's repairs (or until the date of termination of this Lease by Landlord or Tenant as provided above, as the case may be), unless the gross negligence or willful misconduct of a Tenant Party caused such damage, in which case, Tenant shall continue to pay Rent without abatement.

16. Personal Property Taxes. Tenant shall be liable for all taxes levied or assessed against personal property, furniture, or fixtures placed by Tenant in the Premises or in or on the Building or Project. If any taxes for which Tenant is liable are levied or assessed against Landlord or Landlord's property and Landlord elects to pay the same, or if the assessed value of Landlord's property is increased by inclusion of such personal property, furniture or fixtures and Landlord elects to pay the taxes based on such increase, then Tenant shall pay to Landlord, within 30 days following written request therefor, the part of such taxes for which Tenant is primarily liable hereunder; however, Landlord shall not pay such amount if Tenant notifies Landlord that it will contest the validity or amount of such taxes before Landlord makes such payment, and thereafter diligently proceeds with such contest in accordance with Law and if the non-payment thereof does not pose a threat of loss or seizure of the Project or interest of Landlord therein or impose any fee or penalty against Landlord.

17. Events of Default. Each of the following occurrences shall be an "**Event of Default**":

(a) Payment Default. Tenant's failure to pay Rent within five (5) days after Landlord has delivered written notice to Tenant that the same is due; however, an Event of Default shall occur hereunder without any obligation of Landlord to give any notice if Tenant

fails to pay Rent when due and, during the 12 month interval preceding such failure, Landlord has given Tenant written notice of failure to pay Rent on one or more occasions;

(b) Abandonment. Any abandonment or vacation of all or substantially all of the Premises for any period of one hundred twenty (120) or more consecutive days (other than a vacancy due to a casualty, condemnation, or a vacancy for which Tenant is expressly entitled to abatement of rent under this Lease) provided that when Tenant vacates all or substantially all of the Premises for five (5) or more days, Tenant (i) provides Landlord at least thirty (30) days prior written notice of Tenant's intent to vacate, (ii) pays any additional insurance premiums which may result from such vacation, (iii) takes such action as Landlord may reasonably request to protect the Premises (including the Building) from vandalism and trespass, and (iv) otherwise continues to observe and perform all of Tenant's obligations and covenants contained in this Lease, including keeping all Building systems in the Premises operating at levels necessary to prevent damage to the Building or the Building systems, as reasonably determined by Landlord;

(c) Estoppel. Tenant fails to provide any estoppel certificate after Landlord's written request therefor pursuant to Section 25(e) and such failure shall continue for five days after Landlord's second written notice thereof to Tenant;

(d) Insurance. Tenant fails to procure, maintain and deliver to Landlord evidence of the insurance policies and coverages as required under Section 11(a) and such failure shall continue for five (5) days after Landlord's written notice thereof to Tenant;

(e) Mechanic's Liens. Tenant fails to pay and release of record, or diligently contest and bond around, any mechanic's lien filed against the Premises or the Project for any work performed, materials furnished, or obligation incurred by or at the request of Tenant, within the time and in the manner required by Section 8(d);

(f) Other Defaults. Tenant's failure to perform, comply with, or observe any other agreement or obligation of Tenant under this Lease and the continuance of such failure for a period of more than 30 days after Landlord has delivered to Tenant written notice thereof provided, however, that if the nature of Tenant's failure to perform is such that more than thirty (30) days are reasonably required to cure, then such failure to perform shall be deemed to have been cured if Tenant commences such performance within said thirty (30) day period and thereafter diligently pursues such cure to completion within a reasonable time; and

(g) Insolvency. The filing of a petition by or against Tenant (the term "Tenant" shall include, for the purpose of this Section 17(g), any guarantor of Tenant's obligations hereunder) (1) in any bankruptcy or other insolvency proceeding; (2) seeking any relief under any state or federal debtor relief law; (3) for the appointment of a liquidator or receiver for all or substantially all of Tenant's property or for Tenant's interest in this Lease; (4) for the reorganization or modification of Tenant's capital structure; or (5) in any assignment for the benefit of creditors proceeding; however, if such a petition is filed against Tenant, then such filing shall not be an Event of Default unless Tenant fails to have the proceedings initiated by such petition dismissed within 90 days after the filing thereof.

18. Remedies. Landlord's sole remedy for the Event of Default set forth in Subsection 17(b) above (Abandonment) is termination of this Lease. Upon any other Event of Default, Landlord may, in addition to all other rights and remedies afforded Landlord hereunder or by law or equity, take any one or more of the following actions:

(a) Termination of Lease. Terminate this Lease by giving Tenant written notice thereof, in which event Tenant shall pay to Landlord the sum of (1) all Rent accrued hereunder through the date of termination, (2) all amounts due under Section 19(a), and (3) an amount equal to (A) the total Rent that Tenant would have been required to pay for the remainder of the Term discounted to present value at a per annum rate equal to the "Prime Rate" as published on the date this Lease is terminated by The Wall Street Journal, Southwest Edition, in its listing of "Money Rates" minus one percent, minus (B) the then present fair rental value of the Premises for such period, similarly discounted;

(b) Termination of Possession. Terminate Tenant's right to possess the Premises without terminating this Lease by giving written notice thereof to Tenant, in which event Tenant shall pay to Landlord (1) all Rent and other amounts accrued hereunder to the date of termination of possession, (2) all amounts due from time to time under Section 19(a), and (3) all Rent and other net sums required hereunder to be paid by Tenant during the remainder of the Term, diminished by any net sums thereafter received by Landlord through reletting the Premises during such period, after deducting reasonable costs incurred by Landlord in reletting the Premises. If Landlord elects to proceed under this Section 18(b), Landlord may remove all of Tenant's property from the Premises and store the same in a public warehouse or elsewhere at the cost of, and for the account of, Tenant, without becoming liable for any loss or damage which may be occasioned thereby. Landlord shall use reasonable efforts to relet the Premises on such terms as Landlord in its sole reasonable discretion may determine (including a term different from the Term, rental concessions, and alterations to, and improvement of, the Premises); however, Landlord shall not be obligated to relet the Premises before leasing other portions of the Building or Complex and Landlord shall not be obligated to accept any prospective tenant unless such proposed tenant meets all of Landlord's leasing criteria. Landlord shall not be liable for, nor shall Tenant's obligations hereunder be diminished because of, Landlord's failure to relet the Premises or to collect rent due for such reletting. Tenant shall not be entitled to the excess of any consideration obtained by reletting over the Rent due hereunder. Reentry by Landlord in the Premises shall not affect Tenant's obligations hereunder for the unexpired Term; rather, Landlord may, from time to time, bring an action against Tenant to collect amounts due by Tenant, without the necessity of Landlord's waiting until the expiration of the Term. Unless Landlord delivers written notice to Tenant expressly stating that it has elected to terminate this Lease, all actions taken by Landlord to dispossess or exclude Tenant from the Premises shall be deemed to be taken under this Section 18(b). If Landlord elects to proceed under this Section 18(b), it may at any time elect to terminate this Lease under Section 18(a);

(c) Perform Acts on Behalf of Tenant. Perform any act Tenant is obligated to perform under the terms of this Lease (and enter upon the Premises in connection therewith if necessary) in Tenant's name and on Tenant's behalf, without being liable for any claim for damages therefor, except to the extent due to Landlord's gross negligence or willful misconduct in performing such obligation, and Tenant shall reimburse Landlord on demand for any reasonable expenses which Landlord may incur in thus effecting compliance with Tenant's

obligations under this Lease (including, but not limited to, collection costs and legal expenses), plus interest thereon at the Default Rate;

(d) Suspension of Services. Suspend any services required to be provided by Landlord hereunder without being liable for any claim for damages therefor; or

(e) Alteration of Locks. Additionally, with or without notice, and to the extent permitted by Law, Landlord may alter locks or other security devices at the Premises to deprive Tenant of access thereto, and Landlord shall not be required to provide a new key or right of access to Tenant.

19. Payment by Tenant; Non-Waiver; Cumulative Remedies.

(a) Payment by Tenant. Upon any Event of Default, Tenant shall pay to Landlord all reasonable costs incurred by Landlord (including court costs and reasonable attorneys' fees and expenses) in (1) obtaining possession of the Premises, (2) removing and storing Tenant's or any other occupant's property, (3) repairing, restoring, altering, remodeling, or otherwise putting the Premises into the condition required at expiration of the Term, (4) if Tenant is dispossessed of the Premises and this Lease is not terminated, reletting all or any part of the Premises (including reasonable brokerage commissions, cost of tenant finish work, and other costs incidental to such reletting), (5) performing Tenant's obligations which Tenant failed to perform, and (6) enforcing, or advising Landlord of, its rights, remedies, and recourses arising out of the default. To the full extent permitted by law, Landlord and Tenant agree the federal and state courts of the state in which the Premises are located shall have exclusive jurisdiction over any matter relating to or arising from this Lease and the parties' rights and obligations under this Lease.

(b) No Waiver. Landlord's acceptance of Rent following an Event of Default shall not waive Landlord's rights regarding such Event of Default. No waiver by Landlord of any violation or breach of any of the terms contained herein shall waive Landlord's rights regarding any future violation of such term. Landlord's acceptance of any partial payment of Rent shall not waive Landlord's rights with regard to the remaining portion of the Rent that is due, regardless of any endorsement or other statement on any instrument delivered in payment of Rent or any writing delivered in connection therewith; accordingly, Landlord's acceptance of a partial payment of Rent shall not constitute an accord and satisfaction of the full amount of the Rent that is due.

(c) Cumulative Remedies. Any and all remedies set forth in this Lease: (1) shall be in addition to any and all other remedies Landlord may have at law or in equity, (2) shall be cumulative, and (3) may be pursued successively or concurrently as Landlord may elect. The exercise of any remedy by Landlord shall not be deemed an election of remedies or preclude Landlord from exercising any other remedies in the future.

20. Landlord's Lien. In addition to any statutory landlord's lien, now or hereafter enacted, Tenant grants to Landlord, to secure performance of Tenant's obligations hereunder, a security interest in all of Tenant's property situated in or upon, or used in connection with, the Premises or the Project, and all proceeds thereof (except merchandise sold in the ordinary course

of business) (collectively, the "**Collateral**"), and the Collateral shall not be removed from the Premises or the Project without the prior written consent of Landlord until all obligations of Tenant have been fully performed. Such personalty thus encumbered includes specifically all trade and other fixtures for the purpose of this Section 20 and inventory, equipment, contract rights, accounts receivable and the proceeds thereof. Upon the occurrence of an Event of Default, Landlord may, in addition to all other remedies, without notice or demand except as provided below, exercise the rights afforded to a secured party under the Uniform Commercial Code of the state in which the Premises are located (the "**UCC**"). To the extent the UCC requires Landlord to give to Tenant notice of any act or event and such notice cannot be validly waived before a default occurs, then five-days' prior written notice thereof shall be reasonable notice of the act or event. In order to perfect such security interest, Landlord may file any financing statement or other necessary instrument at Tenant's expense at the state and county Uniform Commercial Code filing offices. Tenant grants to Landlord a power of attorney to execute and file any financing statement or other instrument necessary to perfect Landlord's security interest under this Section 20, which power is coupled with an interest and is irrevocable during the Term. Landlord may also file a copy of this Lease as a financing statement to perfect its security interest in the Collateral. Within ten days following written request therefor, Tenant shall execute financing statements to be filed of record to perfect Landlord's security interest in the Collateral. Provided that Tenant is not in default under any terms, conditions or covenants in this Lease, Landlord agrees that upon written request of Tenant, Landlord shall execute and deliver to Tenant an agreement reasonably satisfactory in form to Landlord, subordinating Landlord's liens and security interests, both statutory and contractual to the first lien or security interest of any bona fide lender, unaffiliated with Tenant taking or succeeding to a security interest in personal property of Tenant located within the Premises and specified in such request.

21. Surrender of Premises. No act by Landlord shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept a surrender of the Premises shall be valid unless it is in writing and signed by Landlord. Tenant shall have no obligation to restore the Premises or remove any of its improvements at the expiration or termination of this Lease, except as set forth below. At expiration or termination of this Lease, Tenant shall deliver to Landlord the Premises free of Hazardous Materials placed on the Premises during the Term by Tenant, its employees, agents or contractors, broom-clean, in good condition and repair, reasonable wear and tear (and condemnation and Casualty damage not caused by Tenant, as to which Sections 14 and 15 shall control) excepted, and shall deliver to Landlord all keys to the Premises. Provided that no default then exists under this Lease, Tenant may remove all unattached trade fixtures, furniture, and personal property placed in the Premises or elsewhere in the Building by Tenant (but Tenant may not remove any such item which was paid for, in whole or in part, by Landlord or any wiring or cabling unless Landlord requires such removal). Additionally, Tenant shall remove (a) the Additional Shafts and restore the floors and roof, and (b) any alterations, additions, improvements, trade fixtures, personal property, equipment, wiring, conduits, cabling, and furniture (including Tenant's Off-Premises Equipment) which were (i) performed or installed subsequent to the Work (as defined in Exhibit D) and either (ii) approved by Landlord pursuant to Section 8, provided Landlord specifically requested same to be removed in its written approval of the improvement or addition in question, or (iii) made in violation of Section 8. Tenant shall repair all damage caused by such removal. All items not so removed shall, at Landlord's option, be deemed to have been abandoned by Tenant and may be appropriated, sold, stored, destroyed, or otherwise disposed of by Landlord without notice to

Tenant and without any obligation to account for such items; any such disposition shall not be considered a strict foreclosure or other exercise of Landlord's rights in respect of the security interest granted under Section 21. The provisions of this Section 21 shall survive the end of the Term.

22. Holding Over. If Tenant fails to vacate the Premises at the end of the Term, then Tenant shall be a tenant at sufferance and, in addition to all other damages and remedies to which Landlord may be entitled for such holding over, (a) Tenant shall pay, in addition to the other Rent, Basic Rent equal to 150% of the Rent payable during the last month of the Term, and (b) Tenant shall otherwise continue to be subject to all of Tenant's obligations under this Lease. The provisions of this Section 22 shall not be deemed to limit or constitute a waiver of any other rights or remedies of Landlord provided herein or at law. If Tenant fails to surrender the Premises upon the termination or expiration of this Lease, in addition to any other liabilities to Landlord accruing therefrom, Tenant shall protect, defend, indemnify and hold Landlord harmless from all loss, costs (including reasonable attorneys' fees) and liability resulting from such failure, including any claims made by any succeeding tenant founded upon such failure to surrender, and any lost profits to Landlord resulting therefrom.

23. Certain Rights Reserved by Landlord. Provided that the exercise of such rights does not unreasonably interfere with Tenant's occupancy of the Premises, Landlord shall have the following rights:

(a) **Building Operations.** To decorate and to make inspections, repairs, alterations, additions, changes, or improvements, whether structural or otherwise, in and about the Project, or any part thereof; to enter upon the Premises (after giving Tenant reasonable notice thereof, which may be oral notice, except in cases of real or apparent emergency, in which case no notice shall be required) and, during the continuance of any such work, to temporarily close doors, entryways, public space, and corridors in the Building; to interrupt or temporarily suspend Building services and facilities; to change the name of the Building; and to change the arrangement and location of entrances or passageways, doors, and doorways, corridors, elevators, stairs, restrooms, or other public parts of the Building;

(b) **Security.** To take such reasonable measures as Landlord deems advisable for the security of the Building and its occupants; evacuating the Building for cause, suspected cause, or for drill purposes; temporarily denying access to the Building; and closing the Building after normal business hours and on Sundays and holidays, subject, however, to Tenant's right to enter when the Building is closed after normal business hours under such reasonable regulations as Landlord may prescribe from time to time;

(c) **Prospective Purchasers and Lenders.** To enter the Premises during business hours, upon twenty-four (24) hour notice, to show the Premises to prospective purchasers or lenders; and

(d) **Prospective Tenants.** At any time during the last 12 months of the Term (or earlier if Tenant has notified Landlord in writing that it does not desire to renew the Term) or at any time following the occurrence of an Event of Default which remains uncured, to enter the

Premises at all reasonable hours, upon reasonable prior notice, to show the Premises to prospective tenants.

(e) **Landlord's Entry.** Except in the case of emergency, Landlord will give Tenant reasonable notice prior to entering the Premises for any reason, and Landlord shall use commercially reasonable efforts to avoid unreasonably interfering with Tenant's business operations in the Premises.

24. Guaranty. As additional consideration for Landlord to enter into this Lease, Tenant shall cause Guarantor (as defined in Exhibit J) to execute the guaranty, attached hereto as Exhibit I and Tenant shall deliver same to Landlord contemporaneously with Tenant's execution hereof. Tenant's failure to deliver such guaranty as required in the preceding sentence shall be an automatic Event of Default under this Lease, with no notice being necessary to Tenant, and Landlord shall be entitled to exercise any and all rights and remedies available to it hereunder, as well as at law or in equity. Additionally, if Tenant fails to deliver such guaranty, Landlord, notwithstanding anything to the contrary contained in this Lease, (1) shall not be required to perform any tenant improvement work in the Premises, (2) shall not be required to make any reimbursements or allowances in connection with any tenant improvement work, (3) shall not be required to pay any brokerage commissions to the broker or brokers representing Tenant in connection with this Lease (and Tenant shall indemnify Landlord against all costs, expenses, attorneys' fees, and other liability for commissions or other compensation claimed by any broker or agent claiming the same by, through, or under Tenant), (4) may terminate this Lease by providing Tenant five days advance written notice thereof, and (5) shall not be required to honor any renewal rights, expansion rights or rights of first refusal set forth in this Lease.

25. Miscellaneous.

(a) **Landlord Transfer.** Landlord may transfer any portion of the Project and any of its rights under this Lease. Landlord will notify Tenant in writing within thirty (30) days of such transfer. If Landlord assigns its rights under this Lease, then Landlord shall thereby be released from any further obligations hereunder arising after the date of transfer, provided that the assignee assumes in writing Landlord's obligations hereunder arising from and after the transfer date.

(b) **Landlord's Liability.** The liability of Landlord (and its partners, shareholders or members) to Tenant (or any person or entity claiming by, through or under Tenant) for any default by Landlord under the terms of this Lease or any matter relating to or arising out of the occupancy or use of the Premises and/or other areas of the Building shall be limited to Tenant's actual direct, but not consequential, damages therefor and shall be recoverable only from the interest of Landlord in the Building, and Landlord (and its partners, shareholders or members) shall not be personally liable for any deficiency. Except in the event of holding over, the liability of Tenant (and its partners, shareholders or members) to Landlord (or any person or entity claiming by, through or under Tenant) for any default by Tenant under the terms of this Lease or any matter relating to or arising out of the occupancy or use of the Premises and/or other areas of the Building shall be limited to Landlord's actual direct, but not consequential, damages therefor, and Tenant (and its partners, shareholders or members) shall not be personally liable for any deficiency. The provisions of this Section shall survive any

expiration or termination of this Lease. Additionally, Tenant hereby waives its statutory lien under Section 91.004 of the Texas Property Code.

(c) Force Majeure. Other than for Tenant's obligations under this Lease that can be performed by the payment of money (e.g., payment of Rent and maintenance of insurance), whenever a period of time is herein prescribed for action to be taken by either party hereto, such party shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, terrorist acts or activities, governmental laws, regulations, or restrictions, or any other causes of any kind whatsoever which are beyond the control of such party.

(d) Brokerage. Neither Landlord nor Tenant has dealt with any broker or agent in connection with the negotiation or execution of this Lease, other than CBRE, Inc. (on behalf of Landlord) and Jones Lang LaSalle Brokerage, Inc. (on behalf of Tenant), each of whose commission shall be paid by Landlord pursuant to a separate written agreement. Tenant and Landlord shall each indemnify the other against all costs, expenses, attorneys' fees, liens and other liability for commissions or other compensation claimed by any broker or agent claiming the same by, through, or under the indemnifying party.

(e) Estoppel Certificates. From time to time but not more than three times annually, Tenant shall furnish to any party designated by Landlord, within ten days after Landlord has made a request therefor, a certificate signed by Tenant confirming and containing such factual certifications and representations as to this Lease as Landlord may reasonably request. Unless otherwise required by Landlord's Mortgagee or a prospective purchaser or mortgagee of the Project, the initial form of estoppel certificate to be signed by Tenant is attached hereto as Exhibit E. If Tenant does not deliver to Landlord the certificate signed by Tenant within such required time period, Landlord, Landlord's Mortgagee and any prospective purchaser or mortgagee, may conclusively presume and rely upon the following facts: (1) this Lease is in full force and effect; (2) the terms and provisions of this Lease have not been changed except as otherwise represented by Landlord; (3) not more than one monthly installment of Basic Rent and other charges have been paid in advance; (4) there are no claims against Landlord nor any defenses or rights of offset against collection of Rent or other charges; and (5) Landlord is not in default under this Lease. In such event, Tenant shall be estopped from denying the truth of the presumed facts.

(f) Notices. All notices and other communications given pursuant to this Lease shall be in writing and shall be (1) mailed by first class, United States Mail, postage prepaid, certified, with return receipt requested, and addressed to the parties hereto at the address specified in the Basic Lease Information, (2) hand delivered to the intended addressee, (3) sent by a nationally recognized overnight courier service, or (4) sent by facsimile transmission during normal business hours followed by a confirmatory letter sent in another manner permitted hereunder. All notices shall be effective upon delivery to the address of the addressee (even if such addressee refuses delivery thereof). The parties hereto may change their addresses by giving notice thereof to the other in conformity with this provision.

(g) Separability. If any clause or provision of this Lease is illegal, invalid, or unenforceable under present or future laws, then the remainder of this Lease shall not be affected

thereby and in lieu of such clause or provision, there shall be added as a part of this Lease a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.

(h) Amendments; Binding Effect; No Electronic Records. This Lease may not be amended except by instrument in writing signed by Landlord and Tenant. No provision of this Lease shall be deemed to have been waived by Landlord unless such waiver is in writing signed by Landlord, and no custom or practice which may evolve between the parties in the administration of the terms hereof shall waive or diminish the right of Landlord to insist upon the performance by Tenant in strict accordance with the terms hereof. Landlord and Tenant hereby agree not to conduct the transactions or communications contemplated by this Lease by electronic means, except by facsimile transmission as specifically set forth in Section 25(f), nor shall the use of the phrase "in writing" or the word "written" be construed to include electronic communications except by facsimile transmissions as specifically set forth in Section 25(f). The terms and conditions contained in this Lease shall inure to the benefit of and be binding upon the parties hereto, and upon their respective successors in interest and legal representatives, except as otherwise herein expressly provided. This Lease is for the sole benefit of Landlord and Tenant, and, other than Landlord's Mortgagee, no third party shall be deemed a third party beneficiary hereof.

(i) Quiet Enjoyment. Provided Tenant has performed all of its obligations hereunder, Tenant shall peaceably and quietly hold and enjoy the Premises for the Term, without hindrance from Landlord or any party claiming by, through, or under Landlord, but not otherwise, subject to the terms and conditions of this Lease.

(j) Entire Agreement. This Lease constitutes the entire agreement between Landlord and Tenant regarding the subject matter hereof and supersedes all oral statements and prior writings relating thereto. Except for those set forth in this Lease, no representations, warranties, or agreements have been made by Landlord or Tenant to the other with respect to this Lease or the obligations of Landlord or Tenant in connection therewith. The normal rule of construction that any ambiguities be resolved against the drafting party shall not apply to the interpretation of this Lease or any exhibits or amendments hereto.

(k) Waiver of Jury Trial. TO THE MAXIMUM EXTENT PERMITTED BY LAW, LANDLORD AND TENANT EACH WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY LITIGATION OR TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE ARISING OUT OF OR WITH RESPECT TO THIS LEASE OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith OR THE TRANSACTIONS RELATED HERETO.

(l) Governing Law. This Lease shall be governed by and construed in accordance with the laws of the state in which the Premises are located.

(m) Recording. Tenant shall not record this Lease or any memorandum of this Lease without the prior written consent of Landlord, which consent may be withheld or denied in the sole and absolute discretion of Landlord, and any recordation by Tenant shall be a material breach of this Lease. Tenant grants to Landlord a power of attorney to execute and record a

release releasing any such recorded instrument of record that was recorded without the prior written consent of Landlord.

(n) Water or Mold Notification. To the extent Tenant or its agents or employees discover any water leakage, water damage or mold in or about the Premises or Project, Tenant shall promptly notify Landlord thereof in writing.

(o) Joint and Several Liability. If Tenant is comprised of more than one party, each such party shall be jointly and severally liable for Tenant's obligations under this Lease. All unperformed obligations of Tenant hereunder not fully performed at the end of the Term shall survive the end of the Term, including payment obligations with respect to Rent and all obligations concerning the condition and repair of the Premises.

(p) Financial Reports. Within 15 days after Landlord's request, Tenant will furnish Tenant's most recent audited financial statements (including any notes to them) to Landlord, or, if no such audited statements have been prepared, such other financial statements (and notes to them) as may have been prepared by an independent certified public accountant or, failing those, Tenant's internally prepared financial statements. If Tenant is a publicly traded corporation, Tenant may satisfy its obligations hereunder by providing to Landlord Tenant's most recent annual and quarterly reports. Landlord will not disclose any aspect of Tenant's financial statements that Tenant designates to Landlord as confidential except (1) to Landlord's Mortgagee or prospective mortgagees or purchasers of the Building, (2) in litigation between Landlord and Tenant, and/or (3) if required by court order. Tenant shall not be required to deliver the financial statements required under this Section 25(p) more than once in any 12- month period unless requested by Landlord's Mortgagee or a prospective buyer or lender of the Building or an Event of Default occurs.

(q) Landlord's Fees. Whenever Tenant requests Landlord to take any action not required of it hereunder or give any consent required or permitted under this Lease, Tenant will reimburse Landlord for Landlord's reasonable, out-of-pocket costs payable to third parties and incurred by Landlord in reviewing the proposed action or consent, including reasonable attorneys', engineers' or architects' fees, within 30 days after Landlord's delivery to Tenant of a statement of such costs. Tenant will be obligated to make such reimbursement without regard to whether Landlord consents to any such proposed action.

(r) Telecommunications. Tenant and its telecommunications companies, including local exchange telecommunications companies and alternative access vendor services companies, shall have no right of access to and within the Building, for the installation and operation of telecommunications systems, including voice, video, data, Internet, and any other services provided over wire, fiber optic, microwave, wireless, and any other transmission systems ("Telecommunications Services"), for part or all of Tenant's telecommunications within the Building and from the Building to any other location without Landlord's prior written consent, not to be unreasonably withheld. All providers of Telecommunications Services shall be required to comply with the rules and regulations of the Building, applicable Laws and Landlord's policies and practices for the Building. Tenant acknowledges that Landlord shall not be required to provide or arrange for any Telecommunications Services and that Landlord shall have no liability to any Tenant Party in connection with the installation, operation or

maintenance of Telecommunications Services or any equipment or facilities relating thereto. Tenant, at its cost and for its own account, shall be solely responsible for obtaining all Telecommunications Services.

(s) Confidentiality. Each party acknowledges that the material terms and conditions of this Lease are to remain confidential for the other party's benefit, and may not be disclosed by either party to anyone, by any manner or means, directly or indirectly, without the other party's prior written consent; however, either party may disclose the terms and conditions of this Lease if required by Law or court order, to its attorneys, accountants, employees and existing or prospective financial partners provided same are advised by such party of the confidential nature of such terms and conditions and agree to maintain the confidentiality thereof (in each case, prior to disclosure). Each party shall be liable for any disclosures made in violation of this Section by such party or by any entity or individual to whom the terms of and conditions of this Lease were disclosed or made available by such party. The consent by either party to any disclosures shall not be deemed to be a waiver on the part of such party of any prohibition against any future disclosure.

(t) Authority. Tenant (if a corporation, partnership or other business entity) hereby represents and warrants to Landlord that Tenant is a duly formed and existing entity qualified to do business in the state in which the Premises are located, that Tenant has full right and authority to execute and deliver this Lease, and that each person signing on behalf of Tenant is authorized to do so. Landlord hereby represents and warrants to Tenant that Landlord is a duly formed and existing entity qualified to do business in the state in which the Premises are located, that Landlord has full right and authority to execute and deliver this Lease, and that each person signing on behalf of Landlord is authorized to do so.

(u) Hazardous Materials.

(1) The term "**Hazardous Materials**" means any substance, material, or waste which is now or hereafter classified or considered to be hazardous, toxic, or dangerous under any Law relating to pollution or the protection or regulation of human health, natural resources or the environment, or poses or threatens to pose a hazard to the health or safety of persons on the Premises or in the Building.

(2) Tenant shall not use, generate, store, or dispose of, or permit the use, generation, storage or disposal of Hazardous Materials on or about the Premises or the Project except in a manner and quantity necessary for the ordinary performance of Tenant's business, and then in compliance with all Laws. If Tenant breaches its obligations under this Section 25(u)(2), Landlord may immediately take any and all action reasonably appropriate to remedy the same, including taking all appropriate action to clean up or remediate any contamination resulting from Tenant's use, generation, storage or disposal of Hazardous Materials. Tenant shall defend, indemnify, and hold harmless Landlord and its representatives and agents from and against any and all claims, demands, liabilities, causes of action, suits, judgments, damages and expenses (including reasonable attorneys' fees and cost of clean-up and remediation) arising from Tenant's failure to comply with the provisions of this Section 25(u)(2); provided, however, the foregoing indemnity shall not extend to protect Landlord from any claims, demands,

liabilities, causes of action, suits, judgments, damages or expenses that are attributable to the action or inaction of Landlord or its employees, agents or representatives. The obligations of Tenant under this Section 25(u)(2) shall survive any expiration or termination of this Lease.

(3) Landlord warrants and represents that as of the date of this Lease, it has no current actual knowledge (without independent investigation) of any Hazardous Materials located at the Project at concentrations exceeding those allowed by Environmental Requirements (other than those present in de minimus quantities for ordinary cleaning or office purposes or in vehicles). Landlord shall indemnify, defend and hold harmless Tenant and its representatives and agents from and against any and all claims, demands, liabilities, causes of actions, suits, judgments, damages and expenses (including reasonable attorneys' fees and cost of clean-up and remediation) actually incurred by Tenant by reason of an action or proceeding brought against Tenant due to the presence of Hazardous Materials disposed upon or within the Premises or Project during the term by Landlord or its employees or agents at concentrations exceeding those allowed by Environmental Requirements; provided, however, the foregoing indemnity shall not extend to protect Tenant from any claims, demands, liabilities, causes of action, suits, judgments, damages or expenses that are attributable to the action or inaction of Tenant or its employees, agents or representatives. The obligations of Landlord under this Section 25(u)(3) shall survive any expiration or termination of this Lease.

(v) List of Exhibits. All exhibits and attachments attached hereto are incorporated herein by this reference.

<u>Exhibit A</u>	Outline of Premises
<u>Exhibit B</u>	Description of the Land
<u>Exhibit C</u>	Building Rules and Regulations
<u>Exhibit D</u>	Tenant Finish-Work (Landlord Performs the Work)
<u>Exhibit D-1</u>	Dock Truck Access
<u>Exhibit E</u>	Form of Confirmation of Commencement Date Letter
<u>Exhibit F</u>	Form of Tenant Estoppel Certificate
<u>Exhibit G</u>	Parking
<u>Exhibit H</u>	Renewal Option
<u>Exhibit I</u>	Subordination, Non-Disturbance and Attornment Agreement
<u>Exhibit J</u>	Guaranty

(w) Prohibited Persons and Transactions. Tenant represents and warrants to Landlord that Tenant is currently in compliance with and shall at all times during the Term (including any extension thereof) remain in compliance with the regulations of the OFAC of the Department of the Treasury (including those named on OFAC's Specially Designated Nationals and Blocked Persons List) and any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit or Support Terrorism), or other governmental action relating thereto.

(x) Determination of Charges. Landlord and Tenant agree that each provision of this Lease for determining charges and amounts payable by Tenant (including provisions regarding Additional Rent and Tenant's Proportionate Share of Taxes and Electrical Costs) is commercially reasonable and, as to each such charge or amount, constitutes a statement of the amount of the charge or a method by which the charge is to be computed for purposes of Section 93.012 of the Texas Property Code.

(y) No Invasive Testing. Tenant shall not undertake, nor shall Tenant permit any Tenant Party to undertake, any invasive investigation, drilling or sampling of the soil or groundwater at the Project without the prior written consent of Landlord, which consent shall be in Landlord's sole discretion.

26. Additional Provisions.

(a) Signage. Provided that Tenant is not then in default under this Lease beyond any applicable notice and cure period, then subject to receipt of all requisite governmental and applicable property owners' association approvals and consents, and in compliance with all applicable Laws, Tenant, at its sole cost (which may be applied against the Construction Allowance), may install the following signage, the size, design and location of which shall be approved by Landlord in its reasonable discretion:

- (1) One (1) sign panel on the Building monument sign; and
- (2) One (1) sign panel to be located on the exterior of the Building.

Subject to application of the Construction Allowance, Tenant is solely responsible for all costs for installation, maintenance and removal of Tenant's monument signage and exterior Building signage. Upon the earliest to occur of (i) ten (10) business days after expiration or earlier termination of the Lease or (ii) assignment of this Lease or sublet of the Premises (or any portion thereof), whether or not approved by Landlord (except to a Permitted Transferee), then Tenant, at Tenant's expense, shall promptly remove all of Tenant's signage and repair and restore all damage resulting from such removal. If Tenant fails to do so, Landlord may remove the signage and store or dispose of it in any manner Landlord deems appropriate without liability to Tenant. Tenant shall reimburse Landlord for all reasonable costs incurred by Landlord in connection therewith within ten (10) business days after Landlord's written invoice therefor.

(b) Storage Area. Tenant, at its sole cost, may install an outdoor storage area in a location and pursuant to a design mutually agreed upon by Landlord and Tenant (the "**Outdoor Storage Area**") for the sole purpose of maintaining a recycling station for materials used by Tenant at the Premises. Tenant must screen the Outdoor Storage Area in a manner acceptable to Landlord in its reasonable discretion and must maintain the Outdoor Storage Area and the area surrounding it in a clean and neat condition, and in compliance with Laws, and shall not allow any trash to collect or accumulate therein. Tenant hereby assumes all risk of loss to the Outdoor Storage Area and its contents and all liability for injury to any person or damage to any property arising out of Tenant's use of the Outdoor Storage Area or caused by trash or debris generated therefrom. Tenant shall cause its commercial general liability insurance to include coverage for liability of Tenant in respect of any loss or damage to any person or a third party's

property due to the negligent or wrongful act or omission of Tenant or a Tenant Party for whose acts or omissions Tenant is liable in respect of Outdoor Storage Area. Prior to the expiration or earlier termination of this Lease, as applicable, Tenant shall remove all improvements, equipment and installations made by or on behalf of Tenant or any Tenant Party, from the Outdoor Storage Area and repair any damage caused by such removal. In no event may Tenant use the Outdoor Storage Area for the use or storage or recycling of Hazardous Materials or any material requiring a special storage or special handling permit.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

LANDLORD AND TENANT EXPRESSLY DISCLAIM ANY IMPLIED WARRANTY THAT THE PREMISES ARE SUITABLE FOR TENANT'S INTENDED COMMERCIAL PURPOSE, AND TENANT'S OBLIGATION TO PAY RENT HEREUNDER IS NOT DEPENDENT UPON THE CONDITION OF THE PREMISES OR THE PERFORMANCE BY LANDLORD or ITS OBLIGATIONS HEREUNDER, AND, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, TENANT SHALL CONTINUE TO PAY THE RENT, WITHOUT ABATEMENT, DEMAND, SETOFF OR DEDUCTION, NOTWITHSTANDING ANY BREACH BY LANDLORD or ITS DUTIES OR OBLIGATIONS HEREUNDER, WHETHER EXPRESS OR IMPLIED.

This Lease is executed on the respective dates set forth below, but for reference purposes, this Lease shall be dated as of the date first above written. If the execution date is left blank, this Lease shall be deemed executed as of the date first written above.

LANDLORD:

KARLIN MCCALLEN PASS, LLC,
a Delaware limited liability corporation

By: /s/ Matthew Schwab
Name: MATTHEW SCHWAB
Title: AUTHORIZED AGENT
Execution Date: 9/24/2015

TENANT:

NSTX, INC.,
a Delaware corporation

By: /s/ Damon Silvestry
Name: Damon Silvestry
Title: VP, OPERATIONS
Execution Date: 24SEP15

EXHIBIT A
OUTLINE OF PREMISES

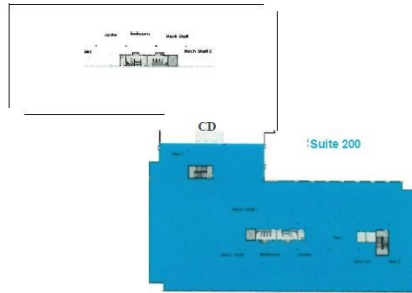
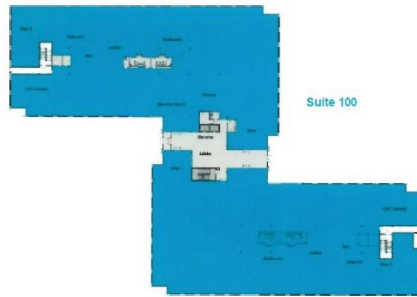


EXHIBIT B

DESCRIPTION OF THE LAND

Lot 4A, Block "A", RESUBDIVISION OF PARMER NORTH SECTION ONE LOTS 1 AND 2, a subdivision in Travis County, Texas, according to the map or plat thereof, recorded under Document No. 199900330 of the Official Public Records of Travis County, Texas.

B-1

EXHIBIT C

BUILDING RULES AND REGULATIONS

The following rules and regulations shall apply to the Premises, the Building and the Project:

1. Sidewalks, doorways, vestibules, halls, stairways, and other similar areas shall not be obstructed by tenants or used by any tenant for purposes other than ingress and egress to and from their respective leased premises and for going from one to another part of the Building.
2. Plumbing, fixtures and appliances shall be used only for the purposes for which designed, and no sweepings, rubbish, rags or other unsuitable material shall be thrown or deposited therein. Damage resulting to any such fixtures or appliances from misuse by a tenant or its agents, employees or invitees, shall be paid by such tenant.
3. No signs, advertisements or notices (other than those that are not visible outside the Premises) shall be painted or affixed on or to any windows or doors or other part of the Building without the prior written consent of Landlord. No nails, hooks or screws (other than those which are necessary to hang paintings, prints, pictures, or other similar items on the Premises' interior walls) shall be driven or inserted in any part of the Building except by Building maintenance personnel. No curtains or other window treatments shall be placed between the glass and the Building standard window treatments without the prior written consent of Landlord, which consent will not be unreasonably withheld, conditioned or delayed, to the extent such window treatments are required for the optimal performance of freezers maintained by Tenant in the Premises as part of Tenant's Permitted Use.
4. Landlord shall provide and maintain an alphabetical directory for all tenants in the main lobby of the Building.
5. Landlord shall provide all door locks in each tenant's leased premises, at the cost of such tenant, and no tenant shall place any additional door locks in its leased premises without Landlord's prior written consent. Landlord shall furnish to each tenant a reasonable number of keys to such tenant's leased premises, at such tenant's cost, and no tenant shall make a duplicate thereof.
6. Movement in or out of the Building of furniture or office equipment, or dispatch or receipt by tenants of any bulky material, merchandise or materials which require use of elevators or stairways, or movement through the Building entrances or lobby shall be conducted under Landlord's supervision at such times and in such a manner as Landlord may reasonably require. Each tenant assumes all risks of and shall be liable for all damage to articles moved and injury to persons or public engaged or not engaged in such movement, including equipment, property and personnel of Landlord if damaged or injured as a result of acts in connection with carrying out this service for such tenant.
7. Landlord may prescribe weight limitations and determine the locations for safes and other heavy equipment or items, which shall in all cases be placed in the Building so as to distribute weight in a manner acceptable to Landlord which may include the use of such

supporting devices as Landlord may require. All damages to the Building caused by the installation or removal of any property of a tenant, or done by a tenant's property while in the Building, shall be repaired at the expense of such tenant.

8. Corridor doors, when not in use, shall be kept closed. Nothing shall be swept or thrown into the corridors, halls, elevator shafts or stairways. No birds or animals (other than seeing-eye dogs) shall be brought into or kept in, on or about any tenant's leased premises. No portion of any tenant's leased premises shall at any time be used or occupied as sleeping or lodging quarters.

9. Tenant shall cooperate with Landlord's employees in keeping its leased premises neat and clean. Tenants shall not employ any person for the purpose of such cleaning other than the Building's cleaning and maintenance personnel.

10. To ensure orderly operation of the Building, no ice, mineral or other water, towels, newspapers, etc. shall be delivered to any leased area except by persons approved by Landlord.

11. Tenant shall not make or permit any vibration or improper, objectionable or unpleasant noises or odors in the Building or otherwise interfere in any way with other tenants or persons having business with them.

12. No machinery of any kind (other than normal office equipment) shall be operated by any tenant on its leased area without Landlord's prior written consent, nor shall any tenant use or keep in the Building any flammable or explosive fluid or substance (other than typical office supplies [e.g., photocopier toner] used in compliance with all Laws).

13. Landlord will not be responsible for lost or stolen personal property, money or jewelry from tenant's leased premises or public or common areas regardless of whether such loss occurs when the area is locked against entry or not.

14. No vending or dispensing machines of any kind may be maintained in any leased premises without the prior written permission of Landlord.

15. All vehicles are to be currently licensed, in good operating condition, parked for business purposes having to do with Tenant's business operated in the Premises, parked within designated parking spaces, one vehicle to each space. No vehicle shall be parked as a "**billboard**" vehicle in the parking lot. Any vehicle parked improperly may be towed away. Tenant, Tenant's agents, employees, vendors and customers who do not operate or park their vehicles as required shall subject the vehicle to being towed at the expense of the owner or driver. Landlord may place a "**boot**" on the vehicle to immobilize it and may levy a charge of \$50.00 to remove the "**boot**." Tenant shall indemnify, hold and save harmless Landlord of any liability arising from the towing or booting of any vehicles belonging to a Tenant Party.

16. No tenant may enter into phone rooms, electrical rooms, mechanical rooms, or other service areas of the Building unless accompanied by Landlord or the Building manager.

17. Tenant will not permit any Tenant Party to bring onto the Project any handgun, firearm or other weapons of any kind, illegal drugs or, unless expressly permitted by Landlord in writing, alcoholic beverages.

18. Tenant shall not permit its employees, agents, or invitees to smoke in the Premises or the lobbies, passages, corridors, elevators, vending rooms, rest rooms, stairways or any other area shared in common with other tenants in the Building, or permit its employees, agents, or invitees, to loiter at the Building entrances for the purposes of smoking. Landlord may, but shall not be required to, designate an area for smoking outside the Building.

EXHIBIT D

TENANT FINISH-WORK: ALLOWANCE

(Tenant Performs The Work)

1. **Acceptance of Premises.** Except as set forth in this Exhibit, Tenant accepts the Premises in their "**AS-IS**" condition on the date that this Lease is entered into.

2. **Base Building Work.** Landlord will deliver the Premises with the following work completed ("**Base Building Work**"), Supply and installation of ceiling grid and tile is not included within Base Building Work. Construction of the Dock is not included within Base Building Work, but subject to Landlord obtaining all necessary approvals in connection with such construction (as more fully set forth below), Landlord anticipates that Dock construction will be completed by the end of the eighth (8th) week after delivery of possession of the Premises to Tenant.

- (a) Landlord Provided Current as defined in Section 7(b)(2), supplied to the building core, at panels in electrical closet;
- (b) Exterior window line main heating, ventilation and air conditioning ducts completed to the VAV boxes.
- (c) Separate electrical and telephone rooms on each floor for use by Tenant, finished in sheetrock.
- (d) Access at core to domestic cold water, waste and vent system. All sawcuts/tie-ins to plumbing lines to be performed by Tenant for sinks, condensate drains, and similar items shall be subject to Landlord's review and approval as part of the Working Drawings (defined below).
- (e) All common areas including, but not limited to, restrooms, drinking fountains, HVAC mechanical room(s), telephone and electrical rooms, ground floor elevator lobby and fire stairwells will be completed with building standard finishes in accordance with applicable codes.
- (f) Mini-blinds installed on all exterior windows;
- (g) Sheetrock installed on all interior core walls and all columns.
- (h) Sprinkler risers and main loop installed on each floor with sprinkler heads turned up. All floors within the Premises will be broom clean unfinished concrete floors.
- (i) Any specialty hardware required by code to the common areas of the Building will be installed. Building standard passenger elevators sufficient to provide passenger services, which may also be used for deliveries.
- G) Building standard fire and life safety equipment shall be installed per applicable code, based on an open office floor plan.

(k) "At grade" dock with overhead rollup door.

(l) Recessed dock with overhead high rollup door allowing truck ingress and egress for trucks at least 53 feet long as set forth in Exhibit D-1 ("**Dock**"). Landlord anticipates that construction of this Dock will require a modification to the existing site plan, which modification is subject to governmental approval. Landlord and Tenant agree that Landlord will use commercially reasonable efforts to commence the necessary approval process promptly after Landlord's final approval of the Working Drawings and will diligently pursue the necessary approvals. Tenant acknowledges, however, that Landlord does not guarantee that it will obtain approval for constructing the Dock; the termination right set forth in Section 3 of the Lease is Tenant's sole remedy for Landlord's failure to construct the Dock in accordance with this Exhibit D.

3. **Space Plans.**

(a) Preparation and Delivery. On or before the earlier of the tenth day following the date of this Lease (such earlier date is referred to herein as the "**Space Plans Delivery Deadline**"), Tenant shall deliver to Landlord a space plan prepared by a design consultant reasonably acceptable to Landlord (the "**Architect**") depicting improvements to be installed in the Premises (the "**Space Plans**").

(b) Approval Process. Landlord shall notify Tenant whether it approves of the submitted Space Plans within five business days after Tenant's submission thereof. If Landlord disapproves of such Space Plans, then Landlord shall notify Tenant thereof specifying in reasonable detail the reasons for such disapproval, in which case Tenant shall, within three business days after such notice, revise such Space Plans in accordance with Landlord's objections and submit to Landlord for its review and approval. Landlord shall notify Tenant in writing whether it approves of the resubmitted Space Plans within three business days after its receipt thereof. This process shall be repeated until the Space Plans have been finally approved by Landlord and Tenant. If Landlord fails to notify Tenant that it disapproves of the initial Space Plans within five business days (or, in the case of resubmitted Space Plans, within three business days) after the submission thereof, then Landlord shall be deemed to have approved the Space Plans in question.

4. **Working Drawings.**

(a) Preparation and Delivery. On or before the earlier of the tenth day following the date on which the Space Plans are approved (or deemed approved) by Landlord and Tenant (such earlier date is referred to herein as the "**Working Drawings Delivery Deadline**"), Tenant shall provide to Landlord for its approval final working drawings, prepared by the Architect, of all improvements that Tenant proposes to install in the Premises; such working drawings shall include the partition layout, ceiling plan, electrical outlets and switches, telephone outlets, drawings for any modifications to the mechanical and plumbing systems of the Building, and detailed plans and specifications for the construction of the improvements called for under this Exhibit in accordance with all applicable Laws.

(b) Approval Process. Landlord shall notify Tenant whether it approves of the submitted working drawings within five business days after Tenant's submission thereof. If Landlord disapproves of such working drawings, then Landlord shall notify Tenant thereof specifying in reasonable detail the reasons for such disapproval, in which case Tenant shall, within three business days after such notice, revise such working drawings in accordance with Landlord's objections and submit the revised working drawings to Landlord for its review and approval. Landlord shall notify Tenant in writing whether it approves of the resubmitted working drawings within five business days after its receipt thereof. This process shall be repeated until the working drawings have been finally approved by Tenant and Landlord. If Landlord fails to notify Tenant that it disapproves of the initial working drawings within five business days (or, in the case of resubmitted working drawings, within five business days) after the submission thereof, then Landlord shall be deemed to have approved the working drawings in question.

(c) Landlord's Approval; Performance of Work. If any of Tenant's proposed construction work will affect the Building's Structure or the Building's Systems, then the working drawings pertaining thereto must be approved by the Building's engineer of record. Landlord's approval of such working drawings shall not be unreasonably withheld, conditioned or delayed provided that (1) they comply with all Laws, (2) the improvements depicted thereon do not adversely affect (in the reasonable discretion of Landlord) the Building's Structure or the Building's Systems (including the Building's restrooms or mechanical rooms), the exterior appearance of the Building, or the appearance of the Building's common areas or elevator lobby areas, (3) such working drawings are sufficiently detailed to allow construction of the improvements in a good and workmanlike manner, and (4) the improvements depicted thereon conform to the rules and regulations promulgated from time to time by Landlord for the construction of tenant improvements (a copy of which has been delivered to Tenant). As used herein, "Working Drawings" means the final working drawings approved by Landlord, as amended from time to time by any approved changes thereto, and "Work" means all improvements to be constructed in accordance with and as indicated on the Working Drawings, together with any work required by governmental authorities to be made to other areas of the Building as a result of the improvements indicated by the Working Drawings. Landlord's approval of the Working Drawings shall not be a representation or warranty of Landlord that such drawings are adequate for any use or comply with any Law, but shall merely be the consent of Landlord thereto. Tenant shall, at Landlord's request, sign the Working Drawings to evidence its review and approval thereof. After the Working Drawings have been approved, Tenant shall cause the Work to be performed in accordance with the Working Drawings.

5. Contractors; Performance of Work. The Work shall be performed only by licensed contractors and subcontractors approved in writing by Landlord, which approval shall not be unreasonably withheld, conditioned or delayed. All contractors and subcontractors shall be required to procure and maintain insurance against such risks, in such amounts, and with such companies as Landlord may reasonably require. Certificates of such insurance, with paid receipts therefor, must be received by Landlord before the Work is commenced. The Work shall be performed in a good and workmanlike manner free of defects, shall conform strictly with the Working Drawings, and shall be performed in such a manner and at such times as and not to unreasonably interfere with or delay Landlord's other contractors, the operation of the Building, and the occupancy thereof by other tenants. All contractors and subcontractors shall contact

Landlord and schedule time periods during which they may use Building facilities in connection with the Work (e.g., elevators, excess electricity, etc.). During the construction of the Work, Landlord shall provide utilities to the Premises (i.e., electricity and HVAC), elevator access and parking for contractors at no cost to Tenant.

6. **Construction Contracts.**

(a) **Tenant's General Contractor.** Tenant shall enter into a construction contract with a general contractor selected by Tenant and approved by Landlord (such approval not to be unreasonably withheld, conditioned or delayed) in a form acceptable to Tenant's representative for the Work, which shall comply with the provisions of this Section 6 and provide for, among other things, (1) a one-year warranty for all defective Work; (2) a requirement that Tenant's Contractor maintain general commercial liability insurance of not less than a combined single limit of \$5,000,000, naming Landlord, Landlord's property management company, Landlord's asset management company, Landlord's Mortgagee, Tenant, and each of their respective Affiliates as additional insureds; (3) a requirement that the contractor perform the Work in substantial accordance with the Space Plans and the Working Drawings and in a good and workmanlike manner; and (4) a requirement that the contractor is responsible for daily cleanup work and final clean up, including removal of debris ("**Approval Criteria**").

(b) **All Construction Contracts.** Unless otherwise agreed in writing by Landlord and Tenant, each of Tenant's construction contracts shall: (1) provide a schedule and sequence of construction activities and completion reasonably acceptable to Landlord, (2) be in a contract form that satisfies the Approval Criteria, (3) require the contractor and each subcontractor to name Landlord, Landlord's property management company, Landlord's asset management company, and Tenant as additional insured on such contractor's insurance maintained in connection with the construction of the Work, (4) be assignable following an Event of Default by Tenant under this Lease to Landlord and Landlord's Mortgagees, and (5) contain at least a one-year warranty for all workmanship and materials.

7. **Change Orders.** Tenant may initiate changes in the Work. Each such change must receive the prior written approval of Landlord, such approval not to be unreasonably withheld, conditioned or delayed; however, (a) if such requested change would adversely affect (in the reasonable discretion of Landlord) (1) the Building's Structure or the Building's Systems (including the Building's restrooms or mechanical rooms), (2) the exterior appearance of the Building, or (3) the appearance of the Building's common areas or elevator lobby areas, or (b) if any such requested change might delay the Commencement Date, Landlord may withhold its consent in its sole and absolute discretion. Tenant shall, upon completion of the Work, furnish Landlord with an accurate architectural "as-built" plan of the Work as constructed, which plan shall be incorporated into this Exhibit D by this reference for all purposes. If Tenant requests any changes to the Work described in the Space Plans or the Working Drawings, then such increased costs and any additional design costs incurred in connection therewith as the result of any such change shall be added to the Total Construction Costs.

8. **Definitions.** As used herein "**Substantial Completion**," "**Substantially Completed**," and any derivations thereof mean the Work in the Premises is substantially completed (as reasonably determined by Landlord) in accordance with the Working Drawings. Substantial Completion shall have occurred even though minor details of construction, decoration, landscaping and mechanical adjustments remain to be completed.

9. **Walk-Through; Punchlist.** When Tenant considers the Work in the Premises to be Substantially Completed, Tenant will notify Landlord and within three business days thereafter, Landlord's representative and Tenant's representative shall conduct a walk-through of the Premises and identify any necessary touch-up work, repairs and minor completion items that are necessary for final completion of the Work. Neither Landlord's representative nor Tenant's representative shall unreasonably withhold his or her agreement on punchlist items. Tenant shall use reasonable efforts to cause the contractor performing the Work to complete all punchlist items within 30 days after agreement thereon.

10. **Excess Costs.** The entire cost of performing the Work (including design of and space planning for the Work and preparation of the Working Drawings and the final "as-built" plan of the Work, costs of construction labor and materials, electrical usage during construction, additional janitorial services, general tenant signage, related taxes and insurance costs, licenses, permits, certifications, surveys and other approvals required by Law, and the construction supervision fee referenced in Section 14 of this Exhibit, all of which costs are herein collectively called the "**Total Construction Costs**") in excess of the Construction Allowance (hereinafter defined) shall be paid by Tenant. Upon approval of the Working Drawings and selection of a contractor, Tenant shall promptly execute a work order agreement which identifies such drawings and itemizes the Total Construction Costs and sets forth the Construction Allowance.

11. **Construction Allowance.** Landlord shall provide to Tenant a construction allowance not to exceed \$5,200,000 plus \$80.00 per rentable square foot in the Second Floor Space (the "**Second Floor Allowance**"; collectively, the "**Construction Allowance**") to be applied toward the Total Construction Costs, as adjusted for any changes to the Work. During the first twelve (12) Lease Months, Tenant must spend a minimum of \$4,912,160.00 (\$80.00 per rentable square foot of the First Floor Space) of the Construction Allowance on Work performed on the First Floor Space. Tenant may apply any or all of the Second Floor Allowance on Work performed on the First Floor Space. No advance of the Construction Allowance shall be made by Landlord until Tenant has first paid to the contractor from its own funds (and provided reasonable evidence thereof to Landlord) the anticipated amount by which the projected Total Construction Costs exceed the amount of the Construction Allowance. Thereafter, Landlord shall pay to Tenant the Construction Allowance in multiple disbursements (but not more than once in any calendar month) following the receipt by Landlord of the following items: (a) a request for payment, (b) final or partial lien waivers, as the case may be, from all persons performing work or supplying or fabricating materials for the Work in excess of \$5,000.00, fully executed, acknowledged and in recordable form, and (c) the Architect's certification that the Work for which reimbursement has been requested has been finally completed, including (with respect to the last application for payment only) any punch-list items, on the appropriate AIA form or another form approved by Landlord, and, with respect to the disbursement of the last 20% of the Construction Allowance, (1) the permanent certificate of occupancy issued for the Premises, (2) Tenant's occupancy of the Premises, (3) delivery of the architectural "as-built plan

for the Work as constructed (as set forth above) to Landlord's construction representative (set forth below), and (4) an estoppel certificate confirming such factual matters as Landlord or Landlord's Mortgagee may reasonably request (collectively, a "**Completed Application for Payment**"), Landlord shall pay the amount requested in the applicable Completed Application for Payment to Tenant within 30 days following Tenant's submission of the Completed Application for Payment. If, however, the Completed Application for Payment is incomplete or incorrect, Landlord's payment of such request shall be deferred until 30 days following Landlord's receipt of the Completed Application for Payment. Notwithstanding anything to the contrary contained in this Exhibit, Landlord shall not be obligated to make any disbursement of the Construction Allowance during the pendency of any of the following: (A) Landlord has received written notice of any unpaid claims relating to any portion of the Work or materials in connection therewith, other than claims which will be paid in full from such disbursement, (B) there is an unbonded lien outstanding against the Building or the Premises or Tenant's interest therein by reason of work done, or claimed to have been done, or materials supplied or specifically fabricated, claimed to have been supplied or specifically fabricated, to or for Tenant or the Premises, (C) the conditions to the advance of the Construction Allowance are not satisfied, or (D) an Event of Default by Tenant exists. Any unused portion of the Construction Allowance may be used to reimburse Tenant for acquisition of voice and data cabling, signage, moving costs and acquisition and installation of furniture and fixtures, provided that in each case Tenant submits to Landlord actual "paid" invoices and other information reasonably required by Landlord, substantiating such charges. The Construction Allowance must be used (that is, the Work must be fully complete and the Construction Allowance disbursed) within twenty-four (24) months following the Commencement Date or shall be deemed forfeited with no further obligation by Landlord with respect thereto, time being of the essence with respect thereto, provided, however, upon written notice to Landlord, Tenant may apply up to \$146,542.50 (\$4.50 per rentable square foot of the Second Floor Space) against Basic Rent payable pursuant to this Lease during the first 36 Lease Months.

12. **Work in Excess of Construction Allowance.** If the Total Construction Costs of the Work exceeds the Construction Allowance, then Tenant may, prior to commencement of the Work, request that Landlord increase the Construction Allowance by the amount of the excess, up to a maximum of \$1,300,000.00 (the actual amount of the increase being the "**Additional Allowance**"). If Tenant timely requests the increase in the Construction Allowance, then Landlord shall increase the Construction Allowance by the amount of the Additional Allowance. Landlord shall prepare, and Landlord and Tenant shall promptly execute and deliver, an amendment to this Lease increasing the Basic Rental by the amount needed to amortize the Additional Allowance over the Term (beginning on the first day of Lease Month 13) at nine percent (9%) per annum, with the increased payments commencing with the first Basic Rental payment due under this Lease. Tenant is responsible for the amount by which the Total Construction Costs exceeds the sum of the initial Construction Allowance plus the Additional Allowance.

13. **Test Fit Allowance.** In addition to the Construction Allowance and the Additional Allowance, Landlord shall reimburse Tenant for the costs incurred by Tenant in connection with a test-fit plan for the Premises, up to a maximum amount of \$14,095.05. Landlord will reimburse Tenant for such costs within 30 days after receipt of written request by

Tenant, accompanied by "paid" invoices and other information reasonably requested by Landlord.

14. **Construction Management.** Tenant may employ its own construction manager and the fee paid to such manager may be applied against the Construction Allowance. Landlord or its Affiliate or agent shall coordinate the relationship between the Work, the Building and the Building's Systems. In consideration for Landlord's services, Tenant shall pay to Landlord a plan review fee of \$10,000.00.

15. **Construction Representatives.** Landlord's and Tenant's representatives for coordination of construction and approval of change orders will be as follows, provided that either party may change its representative upon written notice to the other.

Landlord's Representative:

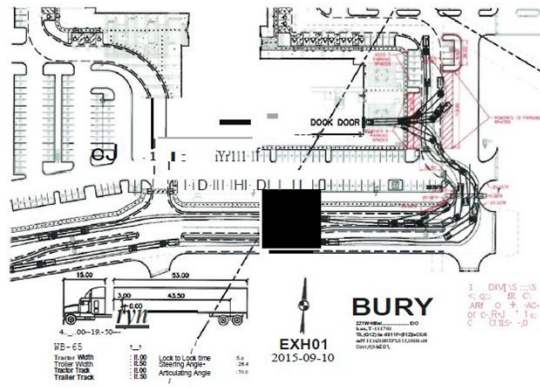
Granite Properties of Texas
808 W. 10th Street
Austin, TX 78701
Attention: Julie Lewis, CPM
Telephone: 512-469-0925
Telecopy: 512-469-0928

Tenant's Representative:

NATERA, Inc.
201 Industrial Rd, Suite 410
San Carlos, CA 94070
Attention: Damon Silvestry,
Vice President - Operations
Telephone: 650-249-9090 x1362
Telecopy

16. **Miscellaneous.** To the extent not inconsistent with this Exhibit, Sections 8(a) and 22 of this Lease shall govern the performance of the Work and Landlord's and Tenant's respective rights and obligations regarding the improvements installed pursuant thereto.

EXHIBIT D-1
DOCK TRUCK ACCESS



EXHIBITE

CONFIRMATION OF COMMENCEMENT DATE

_____, 20__

Re: Lease Agreement (the "**Lease**") dated _____, 2015, between Karlin McCallen Pass, L.L.C., a Delaware limited liability company ("**Landlord**"), and NSTX, Inc., a Delaware corporation ("**Tenant**"). Capitalized terms used herein but not defined shall be given the meanings assigned to them in the Lease.

Ladies and Gentlemen:

Landlord and Tenant agree as follows:

1. **Condition of Premises.** Tenant has accepted possession of the Premises pursuant to the Lease. Any improvements required by the terms of the Lease to be made by Landlord have been completed to the full and complete satisfaction of Tenant in all respects. Furthermore, Tenant acknowledges that the Premises are suitable for the Permitted Use.

2. **Commencement Date.** The Commencement Date of the Lease is ----- 20__

3. **Expiration Date.** The Term is scheduled to expire on the last day of the one hundred thirty-second (132nd) full calendar month of the Term, which date is ----- 20__

4. **Contact Person.** Tenant's contact person in the Premises is:

Attention: _____
Telephone: _____
Telecopy: _____

5. **Ratification.** Tenant hereby ratifies and confirms its obligations under the Lease, and represents and warrants to Landlord that it has no defenses thereto. Additionally, Tenant further confirms and ratifies that, as of the date hereof, (a) the Lease is and remains in good standing and in full force and effect, and (b) Tenant has no claims, counterclaims, set-offs or defenses against Landlord arising out of the Lease or in any way relating thereto or arising out of any other transaction between Landlord and Tenant.

6. **Binding Effect: Governing Law.** Except as modified hereby, the Lease shall remain in full effect and this letter shall be binding upon Landlord and Tenant and their respective successors and assigns. If any inconsistency exists or arises between the terms of this letter and the terms of the Lease, the terms of this letter shall prevail. This letter shall be governed by the laws of the state in which the Premises are located.

Please indicate your agreement to the above matters by signing this letter in the space indicated below and returning an executed original to us.

Sincerely,

KARLIN MCCALLEN PASS, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

Agreed and accepted:

NSTX, INC.,
a Delaware corporation

By: _____
Name: _____
Title: _____

EXHIBIT F

FORM OF TENANT ESTOPPEL CERTIFICATE

The undersigned is the Tenant under the Lease (defined below) between _____ a _____ as Landlord, and the undersigned as Tenant, for the Premises on the _____ floor(s) of the office building located at _____ and commonly known as _____ and hereby certifies as follows:

1. The Lease consists of the original Lease Agreement dated as of _____ 20____ between Tenant and Landlord[*'s predecessor-in-interest/* and the following amendments or modifications thereto (if none, please state "none"): _____

The documents listed above are herein collectively referred to as the "**Lease**" and represent the entire agreement between the parties with respect to the Premises. All capitalized terms used herein but not defined shall be given the meaning assigned to them in the Lease.

2. The Lease is in full force and effect and has not been modified, supplemented or amended in any way except as provided in Section 1 above.

3. The Term commenced on _____, 20____, and the Term expires, excluding any renewal options, on _____, 20____, and Tenant has no option to purchase all or any part of the Premises or the Building or, except as expressly set forth in the Lease, any option to terminate or cancel the Lease.

4. Tenant currently occupies the Premises described in the Lease and Tenant has not transferred, assigned, or sublet any portion of the Premises nor entered into any license or concession agreements with respect thereto except as follows (if none, please state "none"):

5. All monthly installments of Basic Rent, all Additional Rent and all monthly installments of estimated Additional Rent have been paid when due through _____. The current monthly installment of Basic Rent is \$_____.

6. All conditions of the Lease to be performed by Landlord necessary to the enforceability of the Lease have been satisfied and Landlord is not in default thereunder. In addition, Tenant has not delivered any notice to Landlord regarding a default by Landlord thereunder.

7. As of the date hereof, there are no existing defenses or offsets, or, to the undersigned's knowledge, claims or any basis for a claim, that the undersigned has against Landlord and no event has occurred and no condition exists, which, with the giving of notice or the passage of time, or both, will constitute a default under the Lease.

8. No rental has been paid more than 30 days in advance and no security deposit has been delivered to Landlord except as provided in the Lease.

9. If Tenant is a corporation, partnership or other business entity, each individual executing this Estoppel Certificate on behalf of Tenant hereby represents and warrants that Tenant is a duly formed and existing entity qualified to do business in the state in which the Premises are located and that Tenant has full right and authority to execute and deliver this Estoppel Certificate and that each person signing on behalf of Tenant is authorized to do so.

10. There are no actions pending against Tenant under any bankruptcy or similar laws of the United States or any state.

11. Other than in compliance with all applicable laws and incidental to the ordinary course of the use of the Premises, the undersigned has not used or stored any hazardous substances in the Premises.

12. Tenant is not itself, and is not directly or indirectly owned, controlled or supported by, a "Specially Designated National" or otherwise designated as a blocked person under any regulation of the Office of Foreign Assets Control, U.S. Department of Treasury (see: www.ustreas.gov/offices/enforcement/OFAC).

13. All tenant improvement work to be performed by Landlord under the Lease has been completed in accordance with the Lease and has been accepted by the undersigned and all reimbursements and allowances due to the undersigned under the Lease in connection with any tenant improvement work have been paid in full.

Tenant acknowledges that this Estoppel Certificate may be delivered to Landlord, Landlord's Mortgagee or to a prospective mortgagee or prospective purchaser, and their respective successors and assigns, and acknowledges that Landlord, Landlord's Mortgagee and/or such prospective mortgagee or prospective purchaser will be relying upon the statements contained herein in disbursing loan advances or making a new loan or acquiring the property of which the Premises are a part and that receipt by it of this certificate is a condition of disbursing loan advances or making such loan or acquiring such property.

Executed as of _____, 20__.

TENANT:

_____, a _____.

By: _____

Name: _____

Title: _____

EXHIBIT G

PARKING

Tenant may use up to three hundred twenty-five (325) unreserved parking spaces, of which Tenant may elect (which election must be made by Tenant prior to the Commencement Date) to convert up to thirty-two (32) spaces to reserved parking spaces ("**Converted Reserved Spaces**"), in the parking facilities associated with the Building (the "**Parking Area**") subject to such terms, conditions and regulations as are from time to time applicable to patrons of the Parking Area at no additional charge during the initial Term. Landlord shall have the sole right to identify the locations of the Converted Reserved Spaces, and Landlord may from time to time change the location of one or more Converted Reserved Spaces by giving ten (10) days' notice to Tenant.

Tenant shall at all times comply with all Laws respecting the use of the Parking Area. Landlord reserves the right to adopt, modify, and enforce reasonable rules and regulations governing the use of the Parking Area from time to time including any key-card, sticker, or other identification or entrance systems and hours of operations. Landlord may refuse to permit any person who violates such rules and regulations to park in the Parking Area, and any violation of the rules and regulations shall subject the car to removal from the Parking Area.

The parking spaces provided hereunder shall be provided on an unreserved, "first-come, first served" basis. Tenant acknowledges that Landlord has arranged or may arrange for the Parking Area to be operated by an independent contractor, not affiliated with Landlord.

There will be a replacement charge payable by Tenant equal to the amount posted from time to time by Landlord for loss of any magnetic parking card or parking sticker issued by Landlord.

All motor vehicles (including all contents thereof) shall be parked in the Parking Area at the sole risk of Tenant and each other Tenant Party, it being expressly agreed and understood Landlord has no duty to insure any of said motor vehicles (including the contents thereof), and Landlord is not responsible for the protection and security of such vehicles. **NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LEASE, LANDLORD SHALL HAVE NO LIABILITY WHATSOEVER FOR ANY PROPERTY DAMAGE OR OTHER LOSS WHICH MIGHT OCCUR ON THE PARKING AREA OR AS A RESULT OF OR IN CONNECTION WITH THE PARKING OF MOTOR VEHICLES IN ANY OF THE PARKING SPACES.**

EXHIBITH

RENEWAL OPTION

Provided no Event of Default exists and Tenant is occupying the entire Premises at the time of such election, Tenant may renew this Lease for one additional period of five (5) years, by delivering written notice of the exercise thereof to Landlord not earlier than twelve (12) months nor later than nine (9) months before the expiration of the Term. The Basic Rent payable for each month during such extended Term shall be the prevailing rental rate (the "**Prevailing Rental Rate**"), at the commencement of such extended Term, for renewals of space in the Building of equivalent quality, size, utility and location, with the length of the extended Term and the credit standing of Tenant to be taken into account, but in no event shall the Prevailing Rental Rate be less than the Basic Rent payable at expiration of the initial Lease Term. Within thirty (30) days after receipt of Tenant's notice to renew, Landlord shall deliver to Tenant written notice of the Prevailing Rental Rate and shall advise Tenant of the required adjustment to Basic Rent, if any, and the other terms and conditions offered. Tenant shall, within ten (10) days after receipt of Landlord's notice, notify Landlord in writing whether Tenant accepts or rejects Landlord's determination of the Prevailing Rental Rate. If Tenant timely notifies Landlord that Tenant accepts Landlord's determination of the Prevailing Rental Rate, then, on or before the commencement date of the extended Term, Landlord and Tenant shall execute an amendment to this Lease extending the Term on the same terms provided in this Lease, except as follows:

- (a) Basic Rent shall be adjusted to the Prevailing Rental Rate;
- (b) Tenant shall have no further renewal option unless expressly granted by Landlord in writing;
- (c) Landlord shall lease to Tenant the Premises in their then-current condition, and Landlord shall not provide to Tenant any allowances (e.g., moving allowance, construction allowance, and the like) or other tenant inducements; and
- (d) Tenant shall pay for the parking spaces which it is entitled to use at the rates from time to time charged to patrons of the Parking Area and/or any other parking area associated with the Building during the extended Term (plus all applicable taxes).

If Tenant rejects Landlord's determination of the Prevailing Rental Rate, or fails to timely notify Landlord in writing that Tenant accepts or rejects Landlord's determination of the Prevailing Rental Rate, time being of the essence with respect thereto, the Prevailing Rental Rate shall be determined in accordance with the baseball arbitration process set forth below.

Tenant's rights under this Exhibit shall terminate if (1) this Lease or Tenant's right to possession of the Premises is terminated, (2) Tenant assigns any of its interest in this Lease or sublets 25% or more of the Premises except in connection with a Permitted Transfer, (3) Tenant fails to timely exercise its option under this Exhibit, time being of the essence with respect to Tenant's exercise thereof, or (4) Tenant fails to timely notify Landlord in writing that Tenant accepts or rejects Landlord's determination of the Prevailing Rental Rate, time being of the essence with respect to Tenant's giving notice thereof.

If Landlord and Tenant are unable to reach agreement on the Prevailing Rental Rate within said forty (40) day period, then within seven (7) days, Landlord and Tenant shall each simultaneously submit to the other in a sealed envelope its good faith estimate of the Prevailing Rental Rate. If the higher of such estimates is not more than one hundred five percent (105%) of the lower, then the Prevailing Rental Rate shall be the average of the two. Otherwise, the dispute shall be resolved by arbitration as set forth below.

Within seven (7) days after the exchange of estimates, the parties shall select as an arbitrator an independent commercial real estate broker with at least ten (10) years of experience in leasing office space in the Austin, Texas submarket in which the Property is located (a "**Qualified Broker**"). If the parties cannot agree on a Qualified Broker, then within a second period of seven (7) days, each shall select a Qualified Broker and within ten (10) days thereafter the two appointed Qualified Brokers shall select a third Qualified Broker and the third Qualified Broker shall be the sole arbitrator. If one party shall fail to select a Qualified Broker within the second seven (7) day period, then the Qualified Broker chosen by the other party shall be the sole arbitrator.

Within twenty-one (21) days after submission of the matter to the arbitrator, the arbitrator shall determine the Prevailing Rental Rate by choosing whichever of the estimates submitted by Landlord and Tenant the arbitrator judges to be more accurate. No variation from either of the previously submitted opinions of rental value shall be permitted. In the case of a lease made pursuant to a broker's opinion of rental value, lease terms and conditions other than rent shall be as set forth in this Lease. The arbitrator shall notify Landlord and Tenant of its decision, which shall be final and binding. The fees of the arbitrator and the expenses of the arbitration proceeding, shall be shared equally by the parties. Each party shall pay the fees of its respective counsel.

EXHIBIT I

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

Wells Fargo Bank, National Association
Wells Fargo Commercial Real Estate (AU #63650)
333 S. Grand Ave., 9th Floor
Los Angeles, CA 90071
Attn: Cecilia Garcia
Loan No. 1010549

(Space Above For Recorder's Use)

**SUBORDINATION AGREEMENT, ACKNOWLEDGMENT OF LEASE ASSIGNMENT, ESTOPPEL, ATTORNMENT AND NON-DISTURBANCE
AGREEMENT
(Lease to Security Instrument)**

**NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO
AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.**

THIS SUBORDINATION AGREEMENT, ACKNOWLEDGMENT OF LEASE ASSIGNMENT, ESTOPPEL, ATTORNMENT AND
NON-DISTURBANCE AGREEMENT ("**Agreement**") is made as of , 20 , by and between KARLIN _____ a
Delaware limited liability company, owner of the real property hereinafter described ("**Owner**"), _____ ("**Tenant**"), and WELLS FARGO BANK,
NATIONAL ASSOCIATION (collectively with its successors or assigns, "**Lender**").

RECITALS

- A. Pursuant to the terms and provisions of a Lease dated _____ (as amended from time to time, the "**Lease**"), Owner granted to
Tenant a leasehold estate in and to a portion of the property described on Exhibit A attached hereto and incorporated herein by this reference (which
property, together with all improvements now or hereafter located on the property, is defined as the "**Property**").

- B. Owner has executed that certain Deed of Trust with Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing ("**Security Instrument**") securing, among other things, that certain Second Amended and Restated Promissory Note Secured by Deed of Trust, dated May 29, 2015 ("**Note**") in the principal sum of \$160,000,000, in favor of Lender ("**Loan**"). The Security Instrument has been or will be recorded in the real property records where the Property is located.
- C. As a condition to Lender making the Loan secured by the Security Instrument, Lender requires that the Security Instrument be unconditionally and at all times remain a lien on the Property, prior and superior to all the rights of Tenant under the Lease and that the Tenant specifically and unconditionally subordinate the Lease to the lien of the Security Instrument.
- D. Owner and Tenant have agreed to the subordination, attornment and other agreements herein in favor of Lender.

NOW THEREFORE, for valuable consideration and to induce Lender to make the Loan, Owner and Tenant hereby agree for the benefit of Lender as follows:

1. **SUBORDINATION.** Owner and Tenant hereby agree that:
- 1.1 **Prior Lien.** The Security Instrument securing the Note in favor of Lender, and any modifications, renewals or extensions thereof (including, without limitation, any modifications, renewals or extensions with respect to any additional advances made subject to the Security Instrument), shall unconditionally be and at all times remain a lien on the Property prior and superior to the Lease;
- 1.2 **Subordination.** Lender would not make the Loan without this agreement to subordinate; and
- 1.3 **Whole Agreement.** This Agreement shall be the whole agreement and only agreement with regard to the subordination of the Lease to the lien of the Security Instrument and shall supersede and cancel, but only insofar as would affect the priority between the Security Instrument and the Lease, any prior agreements as to such subordination, including, without limitation, those provisions, if any, contained in the Lease which provide for the subordination of the Lease to a deed or deeds of trust or to a mortgage or mortgages.

AND FURTHER, Tenant individually declares, agrees and acknowledges for the benefit of Lender, that:

- 1.4 **Use of Proceeds.** Lender, in making disbursements pursuant to the Note, the Security Instrument or any loan agreements with respect to the Property, is under no obligation or duty to, nor has Lender represented that it will, see to the application of such proceeds by the person or persons to whom Lender disburses such proceeds, and any application or use of such proceeds for purposes other

than those provided for in such agreement or agreements shall not defeat this agreement to subordinate in whole or in part; and

- 1.5 **Waiver, Relinquishment and Subordination.** Tenant intentionally and unconditionally waives, relinquishes and subordinates all of Tenant's right, title and interest in and to the Property to the lien of the Security Instrument and understands that in reliance upon, and in consideration of, this waiver, relinquishment and subordination, specific loans and advances are being and will be made by Lender and, as part and parcel thereof, specific monetary and other obligations are being and will be entered into which would not be made or entered into but for said reliance upon this waiver, relinquishment and subordination.
2. **ASSIGNMENT.** Tenant acknowledges and consents to the assignment of the Lease by Owner in favor of Lender.
3. **ESTOPPEL.** Tenant acknowledges and represents that:
 - 3.1 **Entire Agreement.** The Lease constitutes the entire agreement between Owner and Tenant with respect to the Property and Tenant claims no rights with respect to the Property other than as set forth in the Lease;
 - 3.2 **No Prepaid Rent.** No deposits or prepayments of rent have been made in connection with the Lease, except as follows (if none, state "None"):
 - 3.3 **No Default.** To the best of Tenant's knowledge, as of the date hereof: (i) there exists no breach, default, or event or condition which, with the giving of notice or the passage of time or both, would constitute a breach or default under the Lease; and (ii) there are no existing claims, defenses or offsets against rental due or to become due under the Lease;
 - 3.4 **Lease Effective.** The Lease has been duly executed and delivered by Tenant and, subject to the terms and conditions thereof, the Lease is in full force and effect, the obligations of Tenant thereunder are valid and binding and there have been no amendments, modifications or additions to the Lease, written or oral; and
 - 3.5 **No Broker Liens.** Neither Tenant nor Owner has incurred any fee or commission with any real estate broker which would give rise to any lien right under state or local law, except as follows (if none, state "None"):
4. **ADDITIONAL AGREEMENTS.** Tenant covenants and agrees that, during all such times as Lender is the Beneficiary under the Security Instrument:
 - 4.1 **Modification, Termination and Cancellation.** Tenant will not consent to any modification, amendment, termination or cancellation of the Lease (in whole or in

part) without Lender's prior written consent and will not make any payment to Owner in consideration of any modification, termination or cancellation of the Lease (in whole or in part) without Lender's prior written consent;

- 4.2 **Notice of Default.** Tenant will notify Lender in writing concurrently with any notice given to Owner of any default by Owner under the Lease, and Tenant agrees that Lender has the right (but not the obligation) to cure any breach or default specified in such notice within the time periods set forth below and Tenant will not declare a default of the Lease, as to Lender, if Lender cures such default within fifteen (15) days from and after the expiration of the time period provided in the Lease for the cure thereof by Owner; provided, however, that if such default cannot with diligence be cured by Lender within such fifteen (15) day period, the commencement of action by Lender within such fifteen (15) day period to remedy the same shall be deemed sufficient so long as Lender pursues such cure with diligence;
 - 4.3 **No Advance Rents.** Tenant will make no payments or prepayments of rent more than one (1) month in advance of the time when the same become due under the Lease; and
 - 4.4 **Assignment of Rents.** Upon receipt by Tenant of written notice from Lender that Lender has elected to terminate the license granted to Owner to collect rents, as provided in the Security Instrument, and directing the payment of rents by Tenant to Lender, Tenant shall comply with such direction to pay and shall not be required to determine whether Owner is in default under the Loan and/or the Security Instrument.
5. **ATTORNMENr.** In the event of a foreclosure under the Security Instrument, Tenant agrees for the benefit of Lender (including for this purpose any transferee of Lender or any transferee of Owner's title in and to the Property by Lender's exercise of the remedy of sale by foreclosure under the Security Instrument) as follows:
- 5.1 **Payment of Rent.** Tenant shall pay to Lender all rental payments required to be made by Tenant pursuant to the terms of the Lease for the duration of the term of the Lease;
 - 5.2 **Continuation of Performance.** Tenant shall be bound to Lender in accordance with all of the provisions of the Lease for the balance of the term thereof, and Tenant hereby attorns to Lender as its landlord, such attornment to be effective and self-operative without the execution of any further instrument immediately upon Lender succeeding to Owner's interest in the Lease and giving written notice thereof to Tenant;
 - 5.3 **No Offset.** Lender shall not be liable for, nor subject to, any offsets or defenses which Tenant may have by reason of any act or omission of Owner under the Lease, nor for the return of any sums which Tenant may have paid to Owner

under the Lease as and for security deposits, advance rentals or otherwise, except to the extent that such sums are actually delivered by Owner to Lender; and

- 5.4 **Subsequent Transfer.** If Lender, by succeeding to the interest of Owner under the Lease, should become obligated to perform the covenants of Owner thereunder, then, upon any further transfer of Owner's interest by Lender, all of such obligations shall terminate as to Lender.
 - 5.5 **Limitation on Lender's Liability.** Tenant agrees to look solely to Lender's interest in the Property and the rent, income or proceeds derived therefrom for the recovery of any judgment against Lender, and in no event shall Lender or any of its affiliates, officers, directors, shareholders, partners, agents, representatives or employees ever be personally liable for any such obligation, liability or judgment.
 - 5.6 **No Representation, Warranties or Indemnities.** Lender shall not be liable with respect to any representations, warranties or indemnities from Owner, whether pursuant to the Lease or otherwise, including, but not limited to, any representation, warranty or indemnity related to the use of the Property, compliance with zoning, landlord's title, landlord's authority, habitability or fitness for purposes or commercial suitability, or hazardous wastes, hazardous substances, toxic materials or similar phraseology relating to the environmental condition of the Property or any portion thereof.
6. **NON-DISTURBANCE.** In the event of a foreclosure under the Security Instrument, so long as there shall then exist no breach, default, or event of default on the part of Tenant under the Lease, Lender agrees for itself and its successors and assigns that the leasehold interest of Tenant under the Lease shall not be extinguished or terminated by reason of such foreclosure, but rather the Lease shall continue in full force and effect and Lender shall recognize and accept Tenant as tenant under the Lease subject to the terms and provisions of the Lease except as modified by this Agreement; provided, however, that Tenant and Lender agree that the following provisions of the Lease (if any) shall not be binding on Lender: any option to purchase with respect to the Property; any right of first refusal with respect to the Property; and any requirement of the landlord to pay or reimburse Tenant for tenant improvement costs.
7. **MISCELLANEOUS.**
- 7.1 **Remedies Cumulative.** All rights of Lender herein to collect rents on behalf of Owner under the Lease are cumulative and shall be in addition to any and all other rights and remedies provided by law and by other agreements between Lender and Owner or others.
 - 7.2 **Notices.** All notices, demands, or other communications under this Agreement and the other Loan Documents shall be in writing and shall be delivered to the appropriate party at the address set forth below (subject to change from time to time by written notice to all other parties to this Agreement). All notices, demands

or other communications shall be considered as properly given if delivered personally or sent by first class United States Postal Service mail, postage prepaid, or by Overnight Express Mail or by overnight commercial courier service, charges prepaid, except that notice of Default may be sent by certified mail, return receipt requested, charges prepaid. Notices so sent shall be effective three (3) Business Days after mailing, if mailed by first class mail, and otherwise upon delivery or refusal; provided, however, that non-receipt of any communication as the result of any change of address of which the sending party was not notified or as the result of a refusal to accept delivery shall be deemed receipt of such communication. For purposes of notice, the address of the parties shall be:

Owner: KARLIN McCALLEN PASS, LLC
11755 Wilshire Boulevard, Suite 1400
Los Angeles, CA 90025

Attention: Matthew Schwab

Tenant:

Attention: _____

Lender: Wells Fargo Bank, National Association
Wells Fargo Commercial Real Estate (AU #63650)
1800 Century Park East, 12th Floor
Los Angeles, CA 90067
Attention: Jessica Dunlevy Henning Loan No. 1010549

With a copy to: Wells Fargo Bank, National Association
Minneapolis Loan Center
608 2nd Avenue South, 11th Floor
Minneapolis, MN 55402
Attention: John Haider
Loan No. 1010549

Any party shall have the right to change its address for notice hereunder to any other location within the continental United States by the giving of thirty (30) days' notice to the other party in the manner set forth hereinabove.

7.3 **Heirs, Successors and Assigns**, Except as otherwise expressly provided under the terms and conditions herein, the terms of this Agreement shall bind and inure

to the benefit of the heirs, executors, administrators, nominees, successors and assigns of the parties hereto.

- 7.4 **Headings.** All article, section or other headings appearing in this Agreement are for convenience of reference only and shall be disregarded in construing this Agreement.
- 7.5 **Counterparts.** To facilitate execution, this document may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature of, or on behalf of, each party, or that the signature of all persons required to bind any party, appear on each counterpart. All counterparts shall collectively constitute a single document. It shall not be necessary in making proof of this document to produce or account for more than a single counterpart containing the respective signatures of, or on behalf of, each of the parties hereto. Any signature page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature pages.
- 7.6 **Exhibits, Schedules and Riders.** All exhibits, schedules, riders and other items attached hereto are incorporated into this Agreement by such attachment for all purposes.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR REAL PROPERTY SECURITY TO OBTAIN A LOAN A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.

IT IS RECOMMENDED THAT, PRIOR TO THE EXECUTION OF THIS AGREEMENT, THE PARTIES CONSULT WITH THEIR ATTORNEYS WITH RESPECT HERETO.

"OWNER"

KARLIN MCCALLEN PASS, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

"TENANT"

By: _____
Name: _____
Title: _____

"LENDER"

WELLS FARGO BANK, NATIONAL ASSOCIATION

By: _____
Name: _____
Title: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF _____ss.

On _____ before me, _____ personally appeared _____
_____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to
the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on
the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature _____

My commission expires _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF _____ss.

On _____ before me, _____ personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature _____

My commission expires _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF _____ss.

On _____ before me, _____ personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature _____

My commission expires _____

EXHIBIT A - DESCRIPTION OF PROPERTY

[To be attached.]

EXHIBIT J

GUARANTY

As a material inducement to Landlord to enter into the Lease Agreement of even date herewith (the "**Lease**"), between **NSTX, Inc.**, a Delaware corporation, as Tenant, and **Karlin McCallen Pass, LLC**, a Delaware limited liability company, as Landlord, **Natera Inc.**, a Delaware corporation ("**Guarantor**") hereby unconditionally and irrevocably guarantees the complete and timely performance of each obligation of Tenant (and any assignee) under the Lease and any extensions or renewals of and amendments to the Lease. This Guaranty is an absolute, primary, and continuing, guaranty of payment and performance and is independent of Tenant's obligations under the Lease. Guarantor (and if this Guaranty is signed by more than one person or entity, each Guarantor hereunder) shall be primarily liable, jointly and severally, with Tenant and any other guarantor of Tenant's obligations. Guarantor waives any right to require Landlord to (a) join Tenant with Guarantor in any suit arising under this Guaranty, (b) proceed against or exhaust any security given to secure Tenant's obligations under the Lease, or (c) pursue or exhaust any other remedy in Landlord's power.

Until all of Tenant's obligations to Landlord have been discharged in full, Guarantor shall have no right of subrogation against Tenant. Landlord may, without notice or demand and without affecting Guarantor's liability hereunder, from time to time, compromise, extend or otherwise modify any or all of the terms of the Lease, or fail to perfect, or fail to continue the perfection of, any security interests granted under the Lease. Without limiting the generality of the foregoing, if Tenant elects to increase the size of the leased premises, extend the lease term, or otherwise expand Tenant's obligations under the Lease, Tenant's execution of such lease documentation shall constitute Guarantor's consent thereto (and such increased obligations of Tenant under the Lease shall constitute a guaranteed obligation hereunder); Guarantor hereby waives any and all rights to consent thereto. Guarantor waives any right to participate in any security now or hereafter held by Landlord. Guarantor hereby waives all presentments, demands for performance, notices of nonperformance, protests, notices of protest, dishonor and notices of acceptance of this Guaranty, and waives all notices of existence, creation or incurring of new or additional obligations from Tenant to Landlord. Guarantor further waives all defenses afforded guarantors or based on suretyship or impairment of collateral under applicable Law, other than payment and performance in full of Tenant's obligations under the Lease. The liability of Guarantor under this Guaranty will not be affected by: (1) the release or discharge of Tenant from, or impairment, limitation or modification of, Tenant's obligations under the Lease in any bankruptcy, receivership, or other debtor relief proceeding, whether state or federal and whether voluntary or involuntary; (2) the rejection or disaffirmance of the Lease in any such proceeding; or (3) the cessation from any cause whatsoever of the liability of Tenant under the Lease.

Guarantor shall pay to Landlord all costs incurred by Landlord in enforcing this Guaranty (including, without limitation, reasonable attorneys' fees and expenses). The obligations of Tenant under the Lease to execute and deliver estoppel statements, as therein provided, shall be deemed to also require the Guarantor hereunder to do so and provide the same relative to Guarantor following written request by Landlord in accordance with the terms of the Lease. All notices and other communications given pursuant to, or in connection with, this Guaranty shall be delivered in the same manner required in the Lease. All notices or other communications

addressed to Guarantor shall be delivered at the address set forth below. This Guaranty shall be binding upon the heirs, legal representatives, successors and assigns of Guarantor and shall inure to the benefit of Landlord's successors and assigns.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

Executed as of September __, 2015.

Natera, Inc., a Delaware corporation

By: _____
Name: _____
Title: _____

Address: The Littlefield Building
106 East 6th Street, Suite 934
Austin, Texas 78701

Attention: Damon Silvestry
Telephone: 512-944-5597
Telecopy: _____

FIRST AMENDMENT TO LEASE

This FIRST AMENDMENT TO LEASE (this **Amendment**) is made and entered into as of January 6, 2016, by and between KARLIN MCCALLEN PASS, LLC, a Delaware limited liability company (**Landlord**), and NSTX, INC., a Delaware corporation (**Tenant**).

BACKGROUND:

- A. On September 24, 2015, Landlord and Tenant entered into a Lease (the **Lease**) for approximately 93,967 square feet of Rentable Area (the **Premises**) in Suites 100 and 200 of the building located at 13011 McCallen Pass, Austin, Texas (the **Building**).
- B. Landlord and Tenant desire to amend the Lease to, among other things, correct an error in the Lease with regard to construction of the Dock (as defined in the Lease).

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. Capitalized Terms. All capitalized terms which are not otherwise defined herein shall have the meaning set forth in the Lease, as amended hereby.
2. The Dock
 - a. The first sentence of Section 3 of the Lease provides (in part) that the Dock is "anticipated to be delivered" not more than eight weeks after delivery of the Premises to Tenant. The final sentence of Section 3 provides that if Landlord "fails to construct" the Dock within 90 days after the date of the Lease, Tenant has the right to terminate the Lease on terms more fully set forth in the Lease.
 - b. Landlord and Tenant agree that they did not intend for Tenant to have a termination option if Landlord failed to construct the Dock within 90 days after the date of the Lease, but only if Landlord failed to obtain all approvals required for construction of the Dock within 90 days after the date of the Lease.
 - c. Landlord hereby represents and warrants to Tenant that it has received all approvals required for construction of the Dock, and Tenant acknowledges its receipt of satisfactory evidence thereof. Based on the terms of this Amendment and Landlord's receipt of the necessary approvals, the termination right set forth in the last sentence of Section 3 of the Lease, and referenced in the last sentence of Section 2(1) of Exhibit D of the Lease, is hereby deleted.
 - d. Exhibit D-1 of the Lease (Dock Truck Access) is hereby deleted and replaced with the Exhibit D-1 attached hereto. The replacement Exhibit D-1 attached hereto is a copy of the plans approved by the City of Austin for the Dock.
 - e. Notwithstanding the terms of Section 3 of the Lease or Section 2 of this Amendment, if Landlord is unable to deliver the Dock to Tenant in accordance with Exhibit D-1 by May 1, 2016 (extended on a day for day basis by Tenant

Delay Days), Tenant may offset from its Basic Rent obligations first accruing following the Commencement Date one (1) day of Basic Rent for each day of delay thereafter, and ending on the day Landlord delivers the Dock to Tenant. The abatement rights afforded to Tenant in this Section 2.E of this Amendment shall be Tenant's sole remedy for Landlord's failure to timely deliver the Dock, provided that Landlord notifies Tenant immediately of any reasonably foreseeable events that may delay its delivery of the Dock.

3. Building Address. The street address for the Building provided in the "Premises" section of the Basic Lease Information is hereby deleted and replaced with the following: "13011 McCallen Pass. Austin, Texas 78753."
4. Conflicts. The terms of this Amendment prevail if there is a conflict with the terms of the Lease.
5. Headings. The headings or captions of the paragraphs in this Amendment are for convenience only and shall not act and shall not be implied to act to limit or expand the construction and intent of the contents of the respective paragraph.
6. Binding Effect. This Amendment is binding upon and shall inure to the benefit of the parties and their respective successors and assigns (but this reference to assigns shall not be deemed to act as a consent to an assignment by Tenant).
7. Ratification. The Lease, as amended and modified hereby, is ratified and confirmed by the parties as being in full force and effect.

EXECUTED as of the date first above written.

LANDLORD:

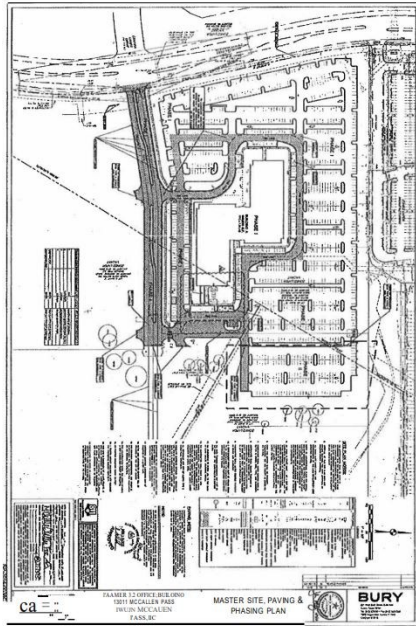
KARLIN MCCALLEN PASS, LLC,
a Delaware limited liability company

By: /s/ Matthew Schwab
Name: MATTHEW SCHWAB
Title: AUTHORIZED AGENT

TENANT:

NSTX, INC.,
a Delaware corporation

By: /s/ Damon Silvestry 19JAN16
Name: Damon Silvestry
Title: VP, Operations

DOCK TRUCK ACCESS

SECOND AMENDMENT TO LEASE AGREEMENT

THIS SECOND AMENDMENT TO LEASE AGREEMENT (this "Amendment") is made as of the 10 day of March, 2021 (the "Effective Date"), by and between KCP PARMER 3.2 FEE OWNER, L.L.C., a Delaware limited liability company ("Landlord"), and NSTX, INC., a Delaware corporation ("Tenant," together with Landlord, sometimes collectively referred to herein as the "Parties").

Recitals

A. Landlord and Tenant are the current "Landlord" and "Tenant", respectively, under that certain Lease Agreement dated September 24, 2015, as amended by that certain First Amendment to Lease dated January 6, 2016, as further amended by that certain Confirmation of Commencement Date dated as of January 27, 2016 (as so amended, the "Lease"), regarding the lease of approximately 93,967 rentable square feet of space commonly known as Suites 100 and 200 of the office building at 13011 McCallen Pass, Austin, Texas 78753, as more particularly described in the Lease ("Premises").

B. Tenant desires to install Additional Shafts (as described in the Lease) pursuant to the terms and conditions herein and Landlord and Tenant desire to amend certain other provisions of the Lease, as more particularly set forth in this Amendment.

Agreement

In consideration of the premises and the mutual covenants and agreements hereinafter made, and for other good and valuable consideration, the receipt, validity and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Additional Shafts.** Landlord and Tenant acknowledge and agree that Tenant shall have the right to install the Additional Shafts consistent with the architectural drawings for such Additional Shafts provided to Landlord by Tenant and the terms in Section 8(a) of the Lease. Upon the Effective Date, the term "Premises" will include the Additional Shafts and the rentable square footage of the Premises shall be increased by 34 rentable square feet from 93,967 rentable square feet to 94,001 rentable square feet, and all references in the Lease to the "Premises" shall be modified accordingly.

2. **Basic Rent.** Commencing on the Effective Date and throughout the remainder of the Term, Tenant shall pay Basic Rent as follows for the Premises at the times and in the manner set forth in the Lease:

Period	Annual Basic Rent Rate Per Rentable Square Foot	Monthly Basic Rent
Effective Date through November 30, 2021	\$24.00	\$188,002.00
December 1, 2021 through November 30, 2022	\$24.50	\$191,918.71
December 1, 2022 through November 30, 2023	\$25.00	\$195,835.42

December 1, 2023 through November 30, 2024	\$25.50	\$199,752.13
December 1, 2024 through November 30, 2025	\$26.00	\$203,668.83
December 1, 2025 through November 30, 2026	\$26.50	\$207,585.54

3. Tenant's Proportionate Share. Tenant shall remain obligated to pay Additional Rent during the Term and, effective as of the Effective Date, Tenant's Proportionate Share shall be amended to be 49.0% rather than 48.9%.

4. Brokers. Landlord and Tenant each represent and warrant to the other Party that it has not used the services of a broker or other real estate agent or licensee in connection with this Amendment. Landlord and Tenant hereby agree to indemnify and to hold harmless each other against any loss, expense or liability with respect to any claims for commissions, finder's fees or brokerage fees arising from or out of any breach of the foregoing representation and warranty.

5. Miscellaneous.

(a) All terms and conditions of the Lease not expressly modified by this Amendment shall remain in full force and effect, and, in the event of any inconsistencies between this Amendment and the terms of the Lease, the terms set forth in this Amendment shall govern and control. All references in the Lease to "this Lease" or similar wording shall mean the Lease as amended by this Amendment. The preamble and recitals set forth above are hereby incorporated into this Amendment by this reference in their entirety.

(b) This Amendment may be executed in one or more counterparts, which shall be construed together as one document. A telecopy or electronic delivery [i.e., the transmission by either party of its signature on an original or any copy of this instrument via fax machine or over the internet in electronic photostatic format (e.g., .pdf Adobe)] shall be deemed to be the delivery by such party of its original signature hereon.

(c) Unless defined differently herein or the context clearly requires otherwise, all terms used in this Amendment shall have the meanings ascribed to them under the Lease.

(d) In the event of any action at law or in equity between the Parties to enforce any of the provisions hereof, the non-prevailing party to such litigation shall pay to the prevailing party all costs and expenses, including reasonable attorneys' fees (including costs and expenses incurred in connection with all appeals) incurred by the prevailing party, and these costs, expenses and attorneys' fees may be included in and as part of the judgment.

(e) This Amendment (i) shall be binding upon and shall inure to the benefit of each of the Parties and their respective successors, assigns, receivers and trustees; (ii) may be modified or amended only by a written agreement executed by each of the Parties; and (iii) shall be governed by and construed in accordance with the laws of the State of Texas.

(f) This Amendment shall not be binding upon or effective against Landlord or Tenant unless and until Landlord receives the written consent of Landlord's lender(s)

approving Landlord's execution and delivery of this Amendment. Landlord shall submit this Amendment to its lender for consent within five (5) business days after Tenant's delivery of same to Landlord, and thereafter shall use diligent efforts to obtain such consent. Landlord's delivery of this Amendment as executed by Landlord shall be deemed evidence that Landlord has received such consent.

[signature page to follow]

IN WITNESS WHEREOF, the Parties have executed this Amendment to be effective as of the Effective Date.

LANDLORD:

KCP PARMER 3.2 FEE OWNER, LLC, a
Delaware limited liability company

By: /s/ David Adel
Name: David Adel
Title: Authorized Officer

TENANT:

NSTX, INC., a Delaware corporation

By: _____
Name: _____
Title: _____

Signature Page to Second Amendment to

IN WITNESS WHEREOF, the Parties have executed this Amendment to be effective as of the Effective Date.

LANDLORD:

KCP PARMER 3.2 FEE OWNER, LLC, a
Delaware limited liability company

By: _____
Name: _____
Title: Authorized Officer

TENANT:

NSTX, INC., a Delaware corporation

By: /s/ Robert A. Schueren
Name: /s/ Robert A. Schueren
Title: COO

Signature Page to Second Amendment to

THIRD AMENDMENT TO LEASE AGREEMENT

THIS THIRD AMENDMENT TO LEASE AGREEMENT (this "**Third Amendment**") is made as of December 29, 2021, by and between **13011 MCCALLEN PASS, LLC**, a Delaware limited liability company ("**Landlord**"), and **NSTX, INC.**, a Delaware corporation ("**Tenant**").

RECITALS

A. Landlord and Tenant are now parties to that certain Lease Agreement dated as of September 24, 2015 (the "**Original Lease**"), as amended by that certain First Amendment to Lease dated as of January 6, 2016, as further amended by that side letter agreement dated March 2, 2020, as further amended by that certain side letter agreement dated June 30, 2020, and as further amended by that certain Second Amendment to Lease dated as of March 10, 2021 (as amended, the "**Lease**"). Pursuant to the Lease, Tenant leases certain premises consisting of approximately 93,967 rentable square feet ("**Original Premises**") designated as Suites 100 and 200 in a building located at 13011 McCallen Pass, Austin, Texas 78753 (the "**Building**"). The Original Premises are more particularly described in the Lease. Capitalized terms used herein without definition shall have the meanings defined for such terms in the Lease.

B. The Term of the Lease is scheduled to expire on November 30, 2026 (the "**Original Expiration Date**").

C. Landlord and Tenant desire, subject to the terms and conditions set forth below, to amend the Lease to, among other things, (i) expand the size of the Original Premises by adding that portion of the second floor of the Building consisting of approximately 32,500 rentable square feet and designated as Suite 210, as shown on **Exhibit A-1** attached to this Third Amendment ("**First Expansion Premises**"), (ii) further expand the size of the Original Premises by adding that portion of the third floor of the Building consisting of approximately 34,552 rentable square feet and designated as Suite 300 and that portion of the third floor of the Building consisting of approximately 30,670 rentable square feet and designated as Suite 350, as shown on **Exhibit A-2** attached to this Third Amendment (collectively, the "**Second Expansion Premises**") and (iii) extend the Term of the Lease through March 31, 2033.

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein by this reference, the mutual promises and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. Expansion of Premises

a. First Expansion Premises Commencing on the date that Landlord delivers the First Expansion Premises to Tenant (such date being the "**First Expansion Date**"), which is targeted for February 1, 2022 (the "**Target First Expansion Date**"), the Premises shall be deemed to be expanded to include the First Expansion Premises. During the period from the First Expansion Date through the day immediately preceding the 6-month anniversary of the First Expansion Date, Tenant shall not be required to pay Basic Rent with respect to the First Expansion Premises. Commencing on the 6-month anniversary of the First Expansion Date (such date being the "**First Expansion Rent Commencement Date**"), Tenant shall commence Basic Rent with respect to the First Expansion Premises in accordance with Section 4 below. The First Expansion Premises are currently leased by an existing tenant (the "**First Expansion Premises Tenant**"). Landlord and the First Expansion Premises Tenant are either concurrently herewith executing or have heretofore executed an early termination agreement pursuant to which such tenant's lease is being terminated prior to the Target First Expansion Date. Landlord shall deliver the First Expansion Premises to Tenant following the First Expansion Premises Tenant surrendering the First Expansion Premises to Landlord. If there is any delay



in delivery of the First Expansion Premises beyond the Target First Expansion Date, Landlord shall not be liable to Tenant for any loss or damage resulting therefrom, and the Lease and this Third Amendment shall not be void or voidable. Tenant agrees and acknowledges that, neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the condition of all or any portion of the First Expansion Premises, and/or the suitability of the First Expansion Premises for the conduct of Tenant's business, and Tenant waives any implied warranty that the First Expansion Premises are suitable for the Permitted Use (as defined in the Original Lease).

h. Second Expansion Premises. Commencing on the date that Landlord delivers the Second Expansion Premises to Tenant (to be delivered no sooner than September 1, 2022) (such date being the "Second Expansion Date"), which is targeted for September 1, 2022 (the "Target Second Expansion Date"), the Premises shall be deemed to be expanded to include the Second Expansion Premises. During the period from the Second Expansion Date through the day immediately preceding the 3-month anniversary of the Second Expansion Date, Tenant shall not be required to pay Basic Rent with respect to the Second Expansion Premises. Commencing on the 3-month anniversary of the Second Expansion Date (such date being the "Second Expansion Rent Commencement Date"), Tenant shall commence Basic Rent with respect to the Second Expansion Premises in accordance with Section 4 below. The Second Expansion Premises are currently leased by two existing tenants (the "Second Expansion Premises Tenants"), each of whose lease is scheduled to expire prior to the Target Second Expansion Date. Landlord shall deliver the Second Expansion Premises to Tenant following the Second Expansion Premises Tenants surrendering the Second Expansion Premises to Landlord. If there is any delay in delivery of the Second Expansion Premises beyond the Target Second Expansion Date, Landlord shall not be liable to Tenant for any loss or damage resulting therefrom, and the Lease and this Third Amendment shall not be void or voidable. Tenant agrees and acknowledges that, neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the condition of all or any portion of the Second Expansion Premises, and/or the suitability of the Second Expansion Premises for the conduct of Tenant's business, and Tenant waives any implied warranty that the Second Expansion Premises are suitable for the Permitted Use.

2. **Premises and Rentable Area of Premises.** Commencing on the First Expansion Date and continuing through the day immediately preceding the Second Expansion Date, the "Premises" (as originally defined in the Basic Lease Information of the Original Lease) shall be amended to include the First Expansion Premises and, as a result, the Premises shall be deemed to contain a total of 126,467 rentable square feet, consisting of both the Original Premises and the First Expansion Premises. Thereafter, commencing on the Second Expansion Date and continuing through the Term of the Lease, as extended pursuant to Section 3 below, the "Premises" shall be amended to include the Second Expansion Premises and, as a result, the Premises shall be deemed to contain a total of 191,689 rentable square feet, consisting of the Original Premises, First Expansion Premises and Second Expansion Premises.

3. **Term.** Notwithstanding anything to the contrary contained in the Lease, the expiration date of the Term is hereby extended through March 31, 2033.

4. **Basic Rent**

a. Original Premises. Tenant shall continue to pay Basic Rent for the Original Premises as provided for in the Lease through July 31, 2022. Thereafter, commencing on August 1, 2022 (the "Rent Restructure Date"), the Basic Rent rate payable by Tenant with respect to the Premises shall be amended to be \$27.00 per square foot of rentable area in the Premises per year, as such Basic Rent rate is subject to escalation pursuant to Section 4(d) below. Notwithstanding the foregoing to the contrary, provided Tenant is not in default under the Lease

past applicable notice and cure periods, the Basic Rent payable by Tenant with respect to the Original Premises shall be abated for the 8-month period from August 1, 2022 through March 31, 2023 (the "**Original Premises Abatement Period**").

b. **First Expansion Premises.** Commencing on the First Expansion Rent Commencement Date, Tenant shall commence paying Basic Rent with respect to the First Expansion Premises at a rate equal to \$27.00 per square foot of rentable area in the First Expansion Premises per year, as such Basic Rent rate is subject to escalation pursuant to Section 4(d) below. Notwithstanding the foregoing to the contrary, provided Tenant is not in default under the Lease past applicable notice and cure periods, the Basic Rent payable by Tenant with respect to the First Expansion Premises shall be abated for the initial 8 months following the First Expansion Rent Commencement Date (such period being the "**First Expansion Premises Abatement Period**").

c. **Second Expansion Premises.** Commencing on the Second Expansion Rent Commencement Date, Tenant shall commence paying Basic Rent with respect to the Second Expansion Premises at a rate equal to \$27.00 per square foot of rentable area in the Second Expansion Premises per year, as such Basic Rent rate is subject to escalation pursuant to Section 4(d) below. Notwithstanding the foregoing to the contrary, provided Tenant is not in default under the Lease past applicable notice and cure periods, the Basic Rent payable by Tenant with respect to the Second Expansion Premises shall be abated for the initial 8 months following the Second Expansion Rent Commencement Date (such period being the "**Second Expansion Premises Abatement Period**").

d. **Basic Rent Adjustments.** Basic Rent shall be increased on each annual anniversary of the Rent Restructure Date (each an "**Adjustment Date**") by multiplying the Basic Rent payable immediately before such Adjustment Date by 3% and adding the resulting amount to the Basic Rent payable immediately before such Adjustment Date. Basic Rent, as so adjusted, shall thereafter be due as provided in the Lease. With respect to the calculation of the initial Basic Rent adjustment for the first Adjustment Date, for purposes of calculating such Basic Rent adjustment, the abatement of the Basic Rent for the First Expansion Premises Rent Abatement Period and/or Second Expansion Premises Rent Abatement Period shall be disregarded.

e. **Additional TI Allowance.** In addition to the Tenant Improvement Allowance (as defined in the Tenant Work Letter (as defined in Section 6 below)), Landlord shall, subject to the terms of the Tenant Work Letter, make available to Tenant the Additional Tenant Improvement Allowance (as defined in the Tenant Work Letter).

With respect to any portion of the First Expansion Additional Tenant Improvement Allowance (as defined in the Tenant Work Letter) utilized by Tenant, commencing on the day following the First Expansion Premises Abatement Period and continuing thereafter on the first day of each month during the remainder of the Term (as extended pursuant to Section 3 above), Tenant shall pay the amount necessary to fully amortize the portion of the First Expansion Additional Tenant Improvement Allowance actually funded by Landlord, if any, in equal monthly payments with interest at a rate of 8% per annum over the remainder of the Term contemplated in Section 3 above, which interest shall begin to accrue on the date that Landlord first disburses such First Expansion Additional Tenant Improvement Allowance or any portion(s) thereof ("**First Expansion TI Rent**").

With respect to any portion of the Second Expansion Additional Tenant Improvement Allowance (as defined in the Tenant Work Letter) utilized by Tenant, commencing on the day following the Second Expansion Premises Abatement Period and continuing thereafter on the first day of each month during the remainder of the Term (as extended pursuant to Section 3



above), Tenant shall pay the amount necessary to fully amortize the portion of the Second Expansion Additional Tenant Improvement Allowance actually funded by Landlord, if any, in equal monthly payments with interest at a rate of 8% per annum over the remainder of the Term contemplated in Section 3 above, which interest shall begin to accrue on the date that Landlord first disburses such Second Expansion Additional Tenant Improvement Allowance or any portion(s) thereof ("**Second Expansion TI Rent**"). The First Expansion TI Rent and Second Expansion TI Rent is collectively hereafter referred to as the "**TI Rent**".

Any TI Rent remaining unpaid as of the expiration or earlier termination of this Lease shall be paid to Landlord in a lump sum at the expiration or earlier termination of this Lease.

5. **Tenant's Proportionate Share.** Commencing on the earlier to occur of (i) First Expansion Rent Commencement Date or (ii) the date that Tenant commences operations in the First Expansion Premises, the "**Tenant's Proportionate Share**" shall be increased to be 65.98%. Thereafter, commencing on the earlier to occur of (i) Second Expansion Rent Commencement Date or (ii) the date that Tenant commences operations in the Second Expansion Premises, the "**Tenant's Proportionate Share**" shall be increased to be 100%. Accordingly, Tenant shall commence paying Tenant's Proportionate Share of Operating Costs, Taxes and Electrical Costs with respect to the First Expansion Premises on the earlier to occur of (i) the 6-month anniversary of the First Expansion Date or (ii) the date that Tenant commences operations in the First Expansion Premises. In addition, Tenant shall commence paying Tenant's Proportionate Share of Operating Costs, Taxes and Electrical Costs with respect to the Second Expansion Premises on the earlier to occur of (i) the 3-month anniversary of the Second Expansion Date or (ii) the date that Tenant commences operations in the Second Expansion Premises. For the avoidance of doubt, Tenant's Proportionate Share of Operating Costs, Taxes and Electrical Costs shall not be abated during the Original Premises Abatement Period, First Expansion Premises Abatement Period and/or Second Expansion Premises Abatement Period. Notwithstanding anything to the contrary in the Lease, Operating Costs shall include capital improvements made (A) in order to extend the useful life of any capital items and (B) in the replacement of any capital items (other than the replacement of structural elements of the Building), as such capital improvements are amortized using a commercially reasonable interest rate over the useful economic life of such capital improvement as determined by Landlord in its reasonable discretion.
6. **Condition of Premises.** As used herein, the term "**Tenant Work Letter**" shall mean the Tenant Work Letter attached hereto as **Exhibit B**. The Tenant Work Letter, among other things, provide for a TI Allowance as defined, and on the terms and conditions set forth in, the Tenant Work Letter. Except for the aforementioned TI Allowance set forth in the Tenant Work Letter, Tenant hereby (i) agrees to lease the Original Premises in their existing "AS-IS", "WHERE-IS" and "WITH ALL FAULTS" condition and (ii) shall accept and lease the First Expansion Premises and Second Expansion Premises in their AS-IS, "WHERE-IS" and "WITH ALL FAULTS" condition as of the date that the same are delivered to Tenant; provided, however, Landlord shall deliver the First Expansion Premises and Second Expansion Premises broom clean and with all prior tenant's personal property and signage removed. Landlord shall have no obligation whatsoever to refurbish or otherwise improve the Original Premises, First Expansion Premises or Second Expansion Premises. Tenant acknowledges and agrees that any obligations of Landlord originally existing in the Lease to complete leasehold improvements and/or furnish allowance with respect to the Premises, if any, have been completed and/or satisfied in their entirety, and any provisions in the Lease providing for such obligations are hereby of no further force or effect.
7. **Security Deposit.** The defined term "**Security Deposit**" as originally defined in the Basic Lease Information of the Original Lease is hereby deleted in its entirety and replaced with the following:

"Security Deposit: \$550,000.00"

In addition, Section 6 of the Original Lease is hereby amended and restated in its entirety as follows:

"Tenant shall deposit with Landlord a security deposit (the '**Security Deposit**') for the performance of all of Tenant's obligations hereunder in the amount set forth in the Basic Lease Information of this Lease, which Security Deposit shall be in the form of an unconditional and irrevocable letter of credit (the '**Letter of Credit**'). (i) in form and substance satisfactory to Landlord, (ii) naming Landlord as beneficiary, (iii) expressly allowing Landlord to draw upon it at any time from time to time by delivering to the issuer notice that Landlord is entitled to draw thereunder, (iv) issued by an FDIC-insured financial institution satisfactory to Landlord, and (v) redeemable by presentation of a sight draft in the state of Landlord's choice. If Tenant does not provide Landlord with a substitute Letter of Credit complying with all of the requirements hereof at least 30 days before the stated expiration date of any then current Letter of Credit, Landlord shall have the right to draw the full amount of the current Letter of Credit and hold the funds drawn in cash without obligation for interest thereon as the Security Deposit. The Security Deposit shall be held by Landlord as security for the performance of Tenant's obligations under this Lease. The Security Deposit is not an advance rental deposit or a measure of Landlord's damages in case of Tenant's default. Upon each occurrence of an Event of Default (as defined in Section 17), Landlord may use all or any part of the Security Deposit to pay delinquent payments due under this Lease, future rent damages, and the cost of any damage, injury, expense or liability caused by such Event of Default, without prejudice to any other remedy provided herein or provided by law. Landlord's right to use the Security Deposit under this Section 6 includes the right to use the Security Deposit to pay future rent damages following the termination of this Lease pursuant to Section 18 below. Upon any use of all or any portion of the Security Deposit, Tenant shall pay Landlord on demand the amount that will restore the Security Deposit to the amount set forth in the Basic Lease Information of this Lease. Tenant hereby waives the provisions of any law, now or hereafter in force which provide that Landlord may claim from a security deposit only those sums reasonably necessary to remedy defaults in the payment of Rent, to repair damage caused by Tenant or to clean the Premises, it being agreed that Landlord may, in addition, claim those sums reasonably necessary to compensate Landlord for any other loss or damage, foreseeable or unforeseeable, caused by the act or omission of Tenant or any officer, employee, agent or invitee of Tenant. Upon bankruptcy or other debtor-creditor proceedings against Tenant, the Security Deposit shall be deemed to be applied first to the payment of Rent and other charges due Landlord for periods prior to the filing of such proceedings. If Tenant shall fully perform every provision of this Lease to be performed by Tenant, the Security Deposit, or any balance thereof (i.e., after deducting therefrom all amounts to which Landlord is entitled under the provisions of this Lease), shall be returned to Tenant (or, at Landlord's option, to the last assignee of Tenant's interest hereunder) within 90 days after the expiration or earlier termination of this Lease. Notwithstanding anything in this Lease or under Texas law to the contrary, Tenant hereby waives Section 93.004 - 93.011 of the Texas Property Code as such sections of the Texas Property Code relate to the Security Deposit under this Lease.

If Landlord transfers its interest in the Project or this Lease, Landlord shall either (a) transfer any Security Deposit then held by Landlord to a person or entity assuming Landlord's obligations under this Section 6, or (b) return to Tenant any Security Deposit then held by Landlord and remaining after the deductions permitted herein. Upon such transfer to such transferee or the return of the Security Deposit to Tenant, Landlord shall have no further obligation with respect to the Security Deposit, and Tenant's right to the return of the Security Deposit shall apply solely against Landlord's transferee. Landlord's obligation respecting the Security Deposit is that of a debtor, not a trustee, and no interest shall accrue thereon."



The Letter of Credit contemplated in this Section 7 shall be delivered by Tenant to Landlord concurrently with Tenant's execution of this Third Amendment and within 15 days following delivery of the Letter of Credit, Landlord shall return any unused portion of the cash security deposit originally deposited by Tenant with Landlord.

The "**Security Deposit**" shall hereafter be further increased as of the Second Expansion Date to be a total of \$750,000.00. By no later than the Second Expansion Date, Tenant shall deposit with Landlord either (i) a replacement Letter of Credit in the total amount of the increased Security Deposit (i.e., \$750,000) or (ii) an amendment to the existing Letter of Credit reflecting that the total amount of the Letter of Credit is being increased to total the increased Security Deposit amount. Any such replacement Letter of Credit or amendment to the Letter of Credit shall be in a form and substance satisfactory to Landlord and otherwise consistent with the terms of Section 6 of the Original Lease. If Tenant fails to deposit the replacement Letter of Credit or amendment to the existing Letter of Credit by the date that Landlord is prepared to deliver the Second Expansion Premises to Tenant, then, in addition to any other remedies available to Landlord, Landlord (A) shall have the right to delay delivering the Second Expansion Premises to Tenant until such replacement Letter of Credit or amendment to existing Letter of Credit has been delivered by Tenant and (B) the Second Expansion Date shall be deemed to have occurred on the date that Landlord would have delivered the Second Expansion Premises to Tenant but for Tenant's failure to have delivered the replacement Letter of Credit or amendment to existing Letter of Credit.

8. **Parking.** As of the First Expansion Date, the first sentence of **Exhibit G** to the Original Lease shall be amended and restated as follows:

"Subject to all applicable legal requirements, force majeure (as described in Section 25(c) of the Original Lease), a Taking (as defined in Section 14 Original Lease) and the exercise by Landlord of its rights hereunder, Tenant shall have the right, in common with other tenants of the Project pro rata in accordance with the rentable area of the Premises and the rentable areas of the Project occupied by such other tenants, to park in those areas designated for non-reserved parking, subject in each case to Landlord's rules and regulations; provided, however, to the extent Tenant made a written election as of the Commencement Date, Tenant shall have the right to convert up to 32 of its unreserved spaces to a reserved parking space ("**Converted Reserved Spaces**"). Such parking spaces shall be at no additional charge. Landlord may allocate parking spaces among Tenant and other tenants in the Project pro rata as described above if Landlord determines that such parking facilities are becoming crowded. Landlord shall not be responsible for enforcing Tenant's parking rights against any third parties, including other tenants of the Project or for enforcing any such reservation of parking spaces."

9. **Guaranty.** NATERA, INC., a Delaware corporation (the "**Guarantor**") executed that certain Guaranty dated September 24, 2015, in favor of Landlord under the Lease (the "**Guaranty**"), for the benefit of Tenant. The effectiveness of this Third Amendment shall be subject to and conditioned upon Guarantor joining in the execution of this First Amendment, and such execution shall evidence only: (i) the consent of Guarantor to the terms and conditions of this Third Amendment, (ii) the agreement of Guarantor that the Guaranty is and shall remain in full force and effect following the execution of this Third Amendment, and (iii) the liability of Guarantor under the Guaranty shall extend to and cover all of the obligations of Tenant under the Lease, as amended by this Third Amendment, including but not limited to, the Tenant's expansion into the First Expansion Premises and Second Expansion Premises and extension of the Term, as provided for in this Third Amendment.

10. **Deleted Provisions.** Exhibit H attached to the Original Lease is hereby deleted and of no further force or effect.

11. **Signage.** Following the First Expansion Date, subject to Landlord's prior written consent and subject to compliance with all applicable laws, ordinances, restrictions, rules and regulations, as well as all applicable covenants, restrictions affecting the Building, Tenant shall be permitted to install signage of similar size in those areas where the tenant occupying the First Expansion Premises immediately prior to the First Expansion Date had installed its signage. Similarly, following the Second Expansion Date, subject to Landlord's prior written consent and subject to compliance with all applicable laws, ordinances, restrictions, rules and regulations, as well as all applicable covenants, restrictions affecting the Building, Tenant shall be permitted to install signage of similar size in those areas where the tenants occupying the Second Expansion Premises immediately prior to the Second Expansion Date had installed their signage.
12. **OFAC.** Tenant and all beneficial owners of Tenant are currently (a) in compliance with and shall at all times during the Term of this Lease remain in compliance with the regulations of the Office of Foreign Assets Control ("OFAC") of the U.S. Department of Treasury and any statute, executive order, or regulation relating thereto (collectively, the "OFAC Rules"), (b) not listed on, and shall not during the term of the Lease be listed on, the Specially Designated Nationals and Blocked Persons List, Foreign Sanctions Evaders List, or the Sectoral Sanctions Identification List, which are all maintained by OFAC and/or on any other similar list maintained by OFAC or other governmental authority pursuant to any authorizing statute, executive order, or regulation, and (c) not a person or entity with whom a U.S. person is prohibited from conducting business under the OFAC Rules.
13. **Brokers.** Landlord and Tenant each represents and warrants that it has not dealt with any broker, agent or other person (collectively, "Broker") in connection with the transaction reflected in this Third Amendment and that no Broker brought about this transaction, other than Jones Lang LaSalle and CBRE, Inc. Landlord and Tenant each hereby agrees to indemnify and hold the other harmless from and against any claims by any Broker, other than Jones Lang LaSalle and CBRE, Inc., claiming a commission or other form of compensation by virtue of having dealt with Tenant or Landlord, as applicable, with regard to this Third Amendment. Landlord shall pay Jones Lang LaSalle and CBRE, Inc. a commission with respect to this Third Amendment pursuant to a separate written agreement between Landlord and each such broker.
14. **Miscellaneous**
- a. This Third Amendment is the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous oral and written agreements and discussions. This Third Amendment may be amended only by an agreement in writing, signed by the parties hereto.
- b. This Third Amendment is binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.
- c. This Third Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto except having additional signature pages executed by other parties to this Third Amendment attached thereto.
- d. Except as amended and/or modified by this Third Amendment, the Lease is hereby ratified and confirmed and all other terms of the Lease shall remain in full force and effect, unaltered and unchanged by this Third Amendment. In the event of any conflict between the provisions of this Third Amendment and the provisions of the Lease, the provisions of this Third Amendment shall prevail. Whether or not specifically amended by this Third Amendment, all of

the terms and provisions of the Lease are hereby amended to the extent necessary to give effect to the purpose and intent of this Third Amendment.

[Signatures are on the next page.]



IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment as of the day and year first above written.

TENANT:

NSTX, INC.,
a Delaware corporation

By: /s/ Michael Brophy Michael Brophy
Its: CFO

X ☐ I hereby certify that the signature, name, and title above are my signature, name and title.

LANDLORD:

13011 MCCALLEN PASS, LLC.
a Delaware limited liability company

By: /s/ Mark Hikin
Its: VP Real Estate Legal Affairs



JOINDER

NATERA, INC., a Delaware corporation joins in the execution of this Third Amendment to Lease Agreement for the sole purposes specified in Section 9 of this Third Amendment.

GUARANTOR:

**NATERA, INC.,
a Delaware corporation**

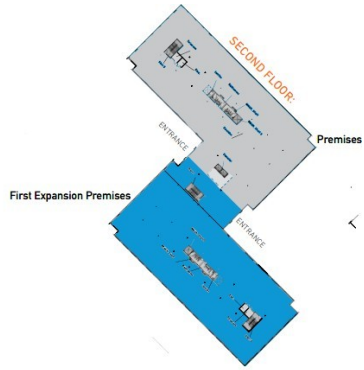
By: /s/ Michael Brophy
Name: Michael Brophy
Title: CFO

X ☐ I hereby certify that the signature, name, and title above are my signature, name and title.



EXHIBIT A-1

First Expansion Premises



LOCATION REFERENCE

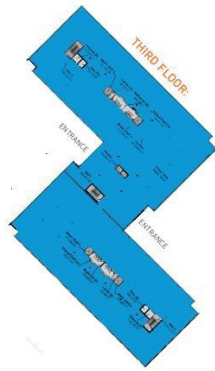
A-1-1



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EXHIBIT A-2

Second Expansion Premises



LOCATION REFERENCE

A-2-1



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EXHIBIT B

Tenant Work Letter

THIS TENANT WORK LETTER (this "**Work Letter**") is incorporated into that certain Lease Agreement dated as of September 24, 2015, as amended by that certain First Amendment to Lease dated as of January 6, 2016, as further amended by that certain Second Amendment to Lease dated as of March 10, 2021, as further amended by that certain Third Amendment to Lease dated as of December 29, 2021 (the "**Third Amendment**"), by and between 13011 MCCALLEN PASS, LLC, a Delaware limited liability company ("**Landlord**"), and NSTX, INC., a Delaware corporation ("**Tenant**") (the foregoing agreements collectively, the "**Lease**"). Any initially capitalized terms used but not defined herein shall have the meanings given them in the Lease.

1. **General Requirements.**

(a) **Tenant's Authorized Representative.** Tenant designates Rudy Quintanilla ("**Tenant's Representative**") as the only person authorized to act for Tenant pursuant to this Work Letter. Landlord shall not be obligated to respond to or act upon any request, approval, inquiry or other communication ("**Communication**") from or on behalf of Tenant in connection with this Work Letter unless such Communication is in writing from Tenant's Representative. Tenant may change Tenant's Representative or add an additional Tenant's Representative at any time upon not less than 5 business days advance written notice to Landlord.

(b) **Landlord's Authorized Representative.** Landlord designates Tom Metzger (such individual being the "**Landlord's Representative**") as the only persons authorized to act for Landlord pursuant to this Work Letter. Tenant shall not be obligated to respond to or act upon any request, approval, inquiry or other Communication from or on behalf of Landlord in connection with this Work Letter unless such Communication is in writing from Landlord's Representative. Landlord may change the Landlord's Representative at any time upon not less than 5 business days advance written notice to Tenant.

(c) **Architects, Consultants and Contractors.** Landlord and Tenant hereby acknowledge and agree that the architect (the "**TI Architect**") for the Tenant Improvements (as defined in Section 2(a), below), the general contractor for the Tenant Improvements (the "**General Contractor**"), and any subcontractors for the Tenant Improvements shall be selected by Tenant, subject to Landlord's approval, which approval shall not be unreasonably withheld, conditioned or delayed. Landlord shall be named a third party beneficiary of any contract entered into by Tenant with the TI Architect or the General Contractor, and of any warranty made by the General Contractor.

2. **Tenant Improvements.**

(a) **Tenant Improvements Defined.** As used herein, "**Tenant Improvements**" shall mean all improvements to the Premises desired by Tenant that are of a fixed and permanent nature performed pursuant to this Work Letter. Other than funding the TI Allowance (as defined in Section 5(b) below) as provided herein for the payment of TI Costs (as defined in Section 5(c) below), Landlord shall not have any obligation whatsoever with respect to the finishing of the Premises for Tenant's use and occupancy.

(b) **Tenant's Space Plans.** Tenant shall deliver to Landlord schematic drawings and outline specifications (the "**Space Plans**") detailing Tenant's requirements for the Tenant Improvements. Not more than 10 business days thereafter, Landlord shall deliver to Tenant its approval or the reasonable written objections, questions or comments of Landlord with regard to the Space Plans. If applicable, Tenant shall cause the Space Plans to be revised to address such written comments and shall resubmit said drawings to Landlord for approval within 10 business days thereafter. Such process shall continue until Landlord has approved the Space Plans. Landlord shall not unreasonably withhold, condition or

delay is approval of Tenant's Space Plans. Such process shall continue until Landlord has approved the Space Plans, except that after the initial written objections, questions or comments of Landlord with regard to the Space Plans, Landlord shall deliver to Tenant the additional written objections, questions or comments of Landlord, if any, with regard to the Space Plans not more than 5 business days after Tenant provides updated Space Plans to Landlord. All written objections, questions or comments of Landlord with regard to the Space Plans shall be reasonable and consistent with all requirements under applicable Laws (as defined in the Lease).

(c) **Working Drawings.** Tenant shall cause the TI Architect to prepare and Tenant shall deliver to Landlord for review and comment construction plans, specifications and drawings for the Tenant Improvements ("**TI Construction Drawings**"), which TI Construction Drawings shall be prepared substantially in accordance with the Space Plans. Tenant shall be solely responsible for ensuring that the TI Construction Drawings reflect Tenant's requirements for the Tenant Improvements. Landlord shall deliver its written comments on the TI Construction Drawings to Tenant not later than 10 business days after Landlord's receipt of the same; provided, however, that Landlord may not disapprove any matter that is consistent with the Space Plans. Tenant and the TI Architect shall consider all such comments in good faith and shall, within 10 business days after receipt, Tenant shall notify Landlord how Tenant proposes to respond to such comments. Any disputes in connection with such comments shall be resolved in accordance with Section 2(d) hereof. Provided that the design reflected in the TI Construction Drawings is consistent with the Space Plans, Landlord shall approve the TI Construction Drawings submitted by Tenant. Once approved by Landlord, subject to the provisions of Section 4 below, Tenant shall not materially modify the TI Construction Drawings except as may be reasonably required in connection with the issuance of the TI Permit (as defined in Section 3(a) below).

(d) **Approval and Completion.** If any dispute regarding the design of the Tenant Improvements is not settled within 10 business days after notice of such dispute is delivered by one party to the other, Tenant may make the final decision regarding the design of the Tenant Improvements, provided (i) Tenant acts reasonably and such final decision is either reasonably consistent with or a reasonable compromise between Landlord's and Tenant's positions with respect to such dispute, as reasonably determined by Tenant, (ii) that all costs and expenses resulting from any such decision by Tenant shall be payable out of the TI Fund (as defined in Section 5(d) below), and (iii) Tenant's decision will not adversely affect the base Building, structural components of the Building or any Building systems (in which case Landlord shall make the final decision). Any changes to the TI Construction Drawings following Landlord's and Tenant's approval of same requested by Tenant shall be processed as provided in Section 4 hereof.

3. **Performance of the Tenant Improvements.**

(a) **Commencement and Permitting of the Tenant Improvements.** Tenant shall not commence construction of the Tenant Improvements prior to Tenant having obtained and delivered to Landlord a building permit (the "**TI Permit**") authorizing the construction of the Tenant Improvements consistent with the TI Construction Drawings approved by Landlord. The cost of obtaining the TI Permit shall be payable from the TI Fund. Landlord shall reasonably assist Tenant in obtaining the TI Permit. Prior to the commencement of the Tenant Improvements, Tenant shall deliver to Landlord a copy of any contract with Tenant's contractors (including the TI Architect), and certificates of insurance from any contractor performing any part of the Tenant Improvement evidencing industry standard commercial general liability, automotive liability, "builder's risk", and workers' compensation insurance in commercially reasonable amounts, as determined by Tenant. In lieu of such contractors maintaining the insurance required pursuant to this Section 3(a), Tenant may (but shall not be obligated to) carry any such insurance on behalf of its contractors. Tenant shall cause the General Contractor to provide a certificate of insurance naming Landlord, any other third party designated by Landlord, and Landlord's lender (if any) as additional insureds for the General Contractor's liability coverages required above.

(b) **Selection of Materials, Etc.** Where more than one type of material or structure is indicated on the TI Construction Drawings approved by Tenant and Landlord, the option will be within Tenant's reasonable discretion if the matter concerns the Tenant Improvements, and within Landlord's reasonable discretion if the matter concerns the structural components of the Building or any Building system.

(c) **Tenant Liability.** Tenant shall be responsible for causing any deficiencies or defects in the Tenant Improvements to be corrected.

(d) **Substantial Completion.** Tenant shall substantially complete the Tenant Improvements or cause the Tenant Improvements to be substantially completed in a good and workmanlike manner, in accordance with the TI Permit subject, in each case, to Minor Variations and normal "punch list" items of a non-material nature which do not interfere with the use of the Premises ("**Substantial Completion**" or "**Substantially Complete**"). Upon Substantial Completion of the Tenant Improvements, Tenant shall require the TI Architect and the General Contractor to execute and deliver, for the benefit of Tenant and Landlord, a Certificate of Substantial Completion in the form of the American Institute of Architects ("AIA") document G704. For purposes of this Work Letter, "**Minor Variations**" shall mean any modifications reasonably required: (i) to comply with all requirements under applicable Laws and/or to obtain or to comply with any required permit (including the TI Permit); (ii) to comport with good design, engineering, and construction practices which are not material; or (iii) to make reasonable adjustments for field deviations or conditions encountered during the construction of the Tenant Improvements.

4. **Changes.** Any changes requested by Tenant to the Tenant Improvements after the delivery and approval by Landlord of the Space Plans ("**Changes**"), shall be requested and instituted in accordance with the provisions of this Section 4 and shall be subject to the written approval of Landlord, which approval shall not be unreasonably withheld, conditioned or delayed.

(a) **Tenant's Right to Request Changes.** If Tenant shall request Changes, Tenant shall request such Changes by notifying Landlord in writing in substantially the same form as the AIA standard change order form (a "**Change Request**"), which Change Request shall, in reasonable detail, set forth the nature and extent of any such Change. Such Change Request must be signed by Tenant's Representative. Landlord shall review and approve or disapprove such Change Request within 10 business days thereafter, provided that Landlord's approval shall not be unreasonably withheld, conditioned or delayed.

(b) **Implementation of Changes.** If Landlord approves such Change, Tenant may cause the approved Change to be instituted. If any TI Permit modification or change is required as a result of such Change, Tenant shall promptly provide Landlord with a copy of such TI Permit modification or change.

5. **Costs.**

(a) **Budget For Tenant Improvements.** Before the commencement of construction of the Tenant Improvements, Tenant shall obtain a reasonably detailed breakdown of the costs incurred or that will be incurred, in connection with the design and construction of the Tenant Improvements (as may be amended, the "**Budget**"), and deliver a copy of the Budget to Landlord for Landlord's approval, which approval shall not be unreasonably withheld or delayed. The Budget shall be based upon the TI Construction Drawings approved by Landlord. The Budget shall include a payment to Landlord of administrative rent ("**Administrative Rent**") equal to 1% of the TI Costs (as hereinafter defined) for monitoring and inspecting the construction of the Tenant Improvements, which sum shall be payable from the TI Fund.

(b) **TI Allowance.** Landlord shall provide to Tenant a tenant improvement allowance ("**TI Allowance**") as follows:



1. a **"First Expansion Premises Tenant Improvement Allowance"** in the maximum amount of \$90 per rentable square foot in the First Expansion Premises, which is included in the Basic Rent set forth in this Third Amendment;
2. a **"Second Expansion Premises Tenant Improvement Allowance"** in the maximum amount of \$90 per rentable square foot in the Second Expansion Premises, which is included in the Basic Rent set forth in this Third Amendment;
3. a **"First Expansion Additional Tenant Improvement Allowance"** in the maximum amount of \$50 per rentable square foot in the First Expansion Premises, which shall, to the extent used, result in TI Rent as set forth in Section 4(e) of this Third Amendment; and
4. a **"Second Expansion Additional Tenant Improvement Allowance"** in the maximum amount of \$50 per rentable square foot in the Second Expansion Premises, which shall, to the extent used, result in TI Rent as set forth in Section 4(e) of this Third Amendment.

The First Expansion Premises Tenant Improvement Allowance and Second Expansion Premises Tenant Improvement Allowance is hereafter collectively referred to as the **"Tenant Improvement Allowance."** The First Expansion Additional Tenant Improvement Allowance and Second Expansion Additional Tenant Improvement Allowance is hereafter collectively referred to as the **"Additional Tenant Improvement Allowance."** Notwithstanding anything herein to the contrary, in no event shall Tenant have the right to request disbursement of any portion of the Second Expansion Premises Tenant Improvement Allowance prior to the Second Expansion Date. Each time Tenant requests any disbursements of the First Expansion Premises Tenant Improvement Allowance and/or Second Expansion Premises Tenant Improvement Allowance shall constitute Tenant's election to use the same.

Tenant shall be deemed to have elected to use the Additional Tenant Improvement Allowance (or portions thereof, as applicable) as of the date that Tenant submits a draw request to Landlord pursuant to Section 5(c) below for all or any portion of the Additional Tenant Improvement Allowance, provided that Tenant (i) may not request a draw with respect to the First Expansion Additional Tenant Improvement Allowance until the First Expansion Tenant Improvement Allowance has been fully disbursed and (ii) may not request a draw with respect to the Second Expansion Additional Tenant Improvement Allowance until the Second Expansion Tenant Improvement Allowance has been fully disbursed.

Tenant shall have no right to the use or benefit (including any reduction to Base Rent) of any portion of the TI Allowance not required for the payment of TI Costs actually incurred by Tenant. Tenant shall have no right to any portion of the TI Allowance that is not requested for disbursement pursuant to the terms of Section 5(c) below before the last day of the month that is 18 calendar months after the Second Expansion Date. Tenant can construct the Tenant Improvements in phases and the First Expansion Premises Tenant Improvement Allowance, Second Expansion Premises Tenant Improvement Allowance, First Expansion Additional Tenant Improvement Allowance and Second Expansion Additional Tenant Improvement Allowance may be utilized toward the Tenant Improvements in either the First Expansion Premises and/or Second Expansion Premises as Tenant shall determine.

(c) **Costs Includable in TI Fund.** The TI Fund shall be used solely for the payment of design, inspection, permits, alteration, renovation, remodeling improvement, administrative and construction costs in connection with the construction of the Tenant Improvements, including, without limitation, the cost of electrical power and other utilities used in connection with the construction of the Tenant Improvements, the cost of preparing the Space Plans and the TI Construction Drawings, all costs set forth in the Budget, including Landlord's Administrative Rent, and the cost of Changes (collectively, **"TI Costs"**). Notwithstanding anything to the contrary contained herein, the TI Fund shall not be used to purchase any furniture, personal property or other non-building system materials or equipment, including, but not be limited to, Tenant's voice or data cabling, non-ducted biological safety cabinets and other scientific equipment not incorporated into the Tenant Improvements; provided, however, the TI Fund may

be used to purchase and install the following items so long as the same are permanently affixed to the Premises and will remain the Landlord's property following expiration or earlier termination of the Term: built-in casework and cabinets and other similar additions; and equipment, property and improvements built into the Premises so as to become an integral part of the Premises, including, without limitation, fume hoods which penetrate the roof or plenum area, built-in cold rooms and warm rooms, deionized water systems, glass washing equipment, autoclaves, chillers, built-in plumbing, electrical and mechanical equipment and systems, and any power generator and transfer switch. Tenant shall not be required to remove any of the Tenant Improvements at the expiration or earlier termination of the Term and Tenant shall not remove any such Tenant Improvements.

(d) **Excess TI Costs.** Landlord shall have no obligation to bear any portion of the cost of any of the Tenant Improvements except to the extent of the TI Allowance. If at any time and from time-to-time, the remaining TI Costs under the Budget (which may be updated by Tenant from time to time) exceed the sum of remaining unexpended TI Allowance ("**Excess TI Costs**"), monthly disbursements of the TI Allowance shall be made on a "parri passu" basis in the proportion that the sum of remaining TI Allowance bears to the outstanding TI Costs under the Budget, and Tenant shall fund the balance of each such monthly draw in excess of the TI Allowance being disbursed. Notwithstanding anything to the contrary set forth in this Section 5(d), Tenant shall be fully and solely liable for TI Costs and the cost of Minor Variations in excess of the TI Allowance. For purposes of any litigation instituted with regard to such amounts, those amounts will be deemed Rent under the Lease. The TI Allowance and Excess TI Costs is herein referred to as the "**TI Fund**".

(e) **Payment for TI Costs.** During the course of design and construction of the Tenant Improvements, subject to the terms of Section 5(d), Landlord shall reimburse Tenant for TI Costs not more than once a month against a draw request in Landlord's standard form, containing evidence of payment of such TI Costs by Tenant and such certifications, lien waivers (including a conditional lien release for each progress payment and unconditional lien releases for the prior month's progress payments), inspection reports and other matters as Landlord reasonably requests, to the extent of Landlord's approval thereof for payment, no later than 30 days following receipt of such draw request. Upon completion of the Tenant Improvements (and prior to any final disbursement of the TI Fund), Tenant shall deliver to Landlord: (i) a list setting forth the names of all contractors and first tier subcontractors who did the work and final, unconditional lien waivers from all such contractors and first tier subcontractors; (ii) as-built plans (one copy in print format and two copies in electronic CAD format) for such Tenant Improvements; (iii) a certification of substantial completion in Form AIA G704; (iv) a certificate of occupancy for the Premises; and (v) copies of all operation and maintenance manuals and warranties issued in connection with the Tenant Improvements.

(f) **Tenant Improvement Progress Reports.** On or before the 10th business day of each calendar month during the course of design and construction of the Tenant Improvements, Tenant shall deliver to Landlord a Tenant Improvement progress report in the form of **Schedule 1** completed to provide all of the most up-to-date information regarding Tenant's progress with respect to the design and construction of the Tenant Improvements in addition to the corresponding AIA forms G702 and G703, if applicable, for all contracted costs. Concurrently with each process report, Tenant shall also deliver to Landlord a forecast in the form of **Schedule 2** completed to provide the projected remaining TI Costs.

6. **Additional Insureds.** Tenant shall name the following parties as additional insureds under the insurance required to be carried under Section 11(a) of the Original Lease: (i) 13011 McCallen Pass, LLC, (ii) 13011 McCallen Pass Holding, LLC, (iii) Transwestern Property Company SW GP, L.L.C. and (iv) such other parties as Landlord may reasonably designate in writing from time to time.

7. **Miscellaneous.**

(a) **Consents.** Whenever consent or approval of either party is required under this Work Letter, that party shall not unreasonably withhold, condition or delay such consent or approval, except as may be expressly set forth herein to the contrary.

(b) **Modification.** No modification, waiver or amendment of this Work Letter or of any of its conditions or provisions shall be binding upon Landlord or Tenant unless in writing signed by Landlord and Tenant.

(c) **No Default Funding.** In no event shall Landlord have any obligation to fund any portion of the TI Allowance during any period that Tenant is in default under the Lease (beyond any applicable notice and cure periods). If Tenant cures any such default, Landlord shall resume funding the TI Allowance as set forth in this Work Letter.

Schedule 1

Tenant Improvement Progress Report

Project Address: _____

Certification Period: _____

1a. Original Project Budget, funded by TI Allowance	\$ _____
1a. Original Project Budget, funded by Tenant	\$ _____
1. Total Original Project Budget (Line 1a + 1b)	\$ _____
2. Net change by Change Orders/Update to budget	\$ _____
3. Current budget to date (Line 1 + 2)	\$ _____
4. Total soft costs incurred to date, if any	\$ _____
5. Total contracted costs incurred to date ^(a)	\$ _____
6. Total costs incurred to date (Lines 4 + 5)	\$ _____
7. Remaining balance to budget (Line 3 less Line 6)	\$ _____

Amounts above shall exclude furniture, equipment, and other moveable personal property. Please attach corresponding AIA Forms G702 and G703 for contracted costs incurred, including costs incurred, but not paid.

Certification signature: _____

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Schedule 2

TI Cost

Forecast

Tenant Improvement Construction Spending Summary
Property Address
As of Date

Cost Description	Budget	Incurred to Date	Project Cash Flows										Total
			MMYY	MMYY	MMYY	MMYY	MMYY	MMYY	MMYY	MMYY	MMYY	MMYY	
Hard Cost (General Contractor)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Architectural & Engineering	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Soft Cost	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Cumulative													
Total % Complete			%	%	%	%	%	%	%	%	%	%	%

* Incurred to date and projected cash flows should be based on accrual accounting when the transaction occurs rather than when payment is made.

**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER
PURSUANT TO
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Steve Chapman, certify that:

1. I have reviewed this quarterly report on Form 10-Q for the quarter ended September 30, 2022 of Natera, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(c) 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: November 8, 2022

By: /s/ Steve Chapman
Name: **Steve Chapman**
Title: **Chief Executive Officer and President**
(Principal Executive Officer)

**CERTIFICATION OF PRINCIPAL FINANCIAL AND ACCOUNTING OFFICER
PURSUANT TO
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Michael Brophy, certify that:

1. I have reviewed this quarterly report on Form 10-Q for the quarter ended September 30, 2022 of Natera, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(c) 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: November 8, 2022

By: / s / Michael Brophy
 Name: **Michael Brophy**
 Title: **Chief Financial Officer**
(Principal Financial and Accounting Officer)

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

I, Steve Chapman, Chief Executive Officer and President of Natera, Inc. (the "Company"), certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge:

- (1) The quarterly report on Form 10-Q for the Company for the quarter ended September 30, 2022 (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: November 8, 2022

By: /s/ Steve Chapman
Name: **Steve Chapman**
Title: **Chief Executive Officer and President**
(Principal Executive Officer)

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

I, Michael Brophy, Chief Financial Officer of Natera, Inc. (the "Company"), certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge:

(1) The quarterly report on Form 10-Q for the Company for the quarter ended September 30, 2022 (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: November 8, 2022

By: /s/ Michael Brophy
Name: **Michael Brophy**
Title: **Chief Financial Officer**
(Principal Financial and Accounting Officer)
