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FORM 10-K

VITAL THERAPIES INC - VTL

Filed: March 13, 2018 (period: December 31, 2017)

Annual report with a comprehensive overview of the company

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

FORM 10-K

(Mark One)

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

For the fiscal year ended **December 31, 2017**

or

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

For the transition period from _____ to _____

Commission File Number: **001-36201**

Vital Therapies, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

**15010 Avenue of Science, Suite 200
San Diego, CA**
(Address of principal executive offices)

56-2358443
(I.R.S. Employer
Identification No.)

92128
(Zip Code)

Registrant's telephone number, including area code: **(858) 673-6840**

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

Title of Each Class	Name of Each Exchange on Which Registered
Common Stock, par value \$0.0001 per share	The Nasdaq Stock Market LLC (The Nasdaq Global Market)

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Act. Yes ☐ No ☒

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

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

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☒

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

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input checked="" type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/> (Do not check if a smaller reporting company)	Smaller reporting company	<input type="checkbox"/>
		Emerging growth company	<input checked="" type="checkbox"/>

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

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

The aggregate market value of the voting and non-voting stock held by non-affiliates of the registrant, based on the closing sale price of the registrant's common stock on June 30, 2017, the last business day of the registrant's most recently completed second fiscal quarter, as reported on The Nasdaq Global Market, was approximately \$88.3 million. Shares of common stock held by each executive officer and director and by each person who owns 10% or more of the outstanding common stock, based on filings with the Securities and Exchange Commission, have been excluded from this computation since such persons may be deemed to be affiliates of the registrant. The determination of affiliate status for this purpose is not necessarily a conclusive determination for other purposes.

There were 42,368,864 shares of the registrant's common stock, \$0.0001 par value per share, outstanding as of February 28, 2018.

Vital Therapies, Inc.
ANNUAL REPORT ON FORM 10-K
For the Fiscal Year Ended December 31, 2017
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Special Note Regarding Forward-Looking Statements

This Annual Report on Form 10-K, or Annual Report, contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities and Exchange Act of 1934, as amended, or the Exchange Act. These forward-looking statements are based on our management's beliefs and assumptions and on information currently available to our management, and are contained principally in the sections entitled "Business," "Risk Factors," and "Management's Discussion and Analysis of Financial Condition and Results of Operations." Forward-looking statements include all statements that are not historical facts and can be identified by terms such as "anticipates," "believes," "could," "seeks," "estimates," "expects," "intends," "may," "plans," "potential," "predicts," "projects," "should," "will," "would," "might," "can," "continue" or similar expressions and the negatives of those terms.

These forward-looking statements include, among other things, statements about:

- the cost, timing and results of our clinical programs for the ELAD® System, including statements related to our VTL-308 phase 3 clinical trial;
- the timing of, and our ability to obtain and maintain regulatory approvals for the ELAD System;
- regulatory developments in the United States and foreign countries;
- the potential market for the ELAD System, including our anticipated gross margins if commercialized;
- the rate and degree of market acceptance and clinical utility of the ELAD System;
- our commercialization, marketing and manufacturing capabilities and strategy;
- our plans to improve or explore future uses of the ELAD System;
- our plans to explore other uses for our VTL C3A cells;
- our plans to obtain funding for our operations;
- the performance of third parties in connection with the development of the ELAD System, including third parties involved in our clinical trials and third-party suppliers;
- the development, regulatory approval, efficacy and commercialization of competing products;
- our ability to retain key scientific or management personnel;
- our intellectual property position;
- our estimates regarding expenses, future revenue, capital requirements, projected cash runway and needs for additional financing; and
- our ability to maintain effective internal control over financial reporting.

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 described in "Risk Factors" and elsewhere in this Annual Report. Given these uncertainties, you should not place undue reliance on these forward-looking statements. Also, forward-looking statements represent our management's beliefs and assumptions only as of the date of this Annual Report. You should read this Annual Report and the documents that we reference in this Annual Report and have filed with the Securities and Exchange Commission, or SEC, as exhibits hereto completely and with the understanding that our actual future results may be materially different from what we expect.

Except as required by law, we assume no 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.

PART I

Item 1. Business.

Overview

We are a clinical-stage biotechnology company focusing on the discovery, development and commercialization of cell-based therapies capable of transforming the management of life-threatening conditions. Our initial product candidate, the ELAD® System, or ELAD, is a human-cell-based, bio-artificial liver which is being developed to improve rates of survival among patients with acute forms of liver failure.

We believe that the ELAD System may improve rates of overall survival and transform the management of acute forms of liver failure. Therapy with ELAD consists of a single, up to five-day treatment session, during which a patient's blood plasma is passed continuously through four cartridges containing approximately one pound of VTL C3A cells. These cells, which are grown by us from our proprietary cell banks, are human, liver-derived cells, which have been shown to retain a large number of the liver's synthetic and metabolic functions. During therapy with the ELAD System, we believe that the VTL C3A cells may infuse the patient's plasma with beneficial proteins, including growth factors, cell survival proteins, and anti-inflammatory proteins, and also remove certain harmful substances, such as endotoxin, all of which may better allow the patient's own liver to recover and regenerate, thereby potentially improving patient survival. The ELAD System has been granted orphan drug designation by the U.S. Food and Drug Administration, or FDA, and the European Commission, for the treatment of patients with acute liver failure, including alcoholic hepatitis.

In May 2016, we commenced our pivotal VTL-308 clinical study. This is a randomized and controlled study comparing the efficacy and safety of the ELAD System plus standard-of-care to standard-of-care alone in adults, under the age of 50 and without secondary organ failure, with liver failure from severe alcoholic hepatitis, or sAH. VTL-308 is designed to enroll at least 150 subjects, and the study's primary endpoint is a Kaplan-Meier analysis of overall survival to be performed after the last subject to be enrolled has been followed for at least ninety days. The secondary endpoints are to evaluate the proportion of survivors at study days 28 and 91, as well as the proportion of subjects achieving a certain threshold of bilirubin reduction and surviving without transplant. As of March 12, 2018, 147 subjects have been enrolled in the VTL-308 study, and we expect to announce topline data in the third quarter of 2018. If the data is positive, these results are expected to form the basis for a marketing application to the FDA and other global health regulatory authorities for the approval of the ELAD System for the treatment of sAH. We anticipate performing follow-on studies in other acute forms of liver failure.

Results from a prior study, VTI-208, informed the design of the VTL-308 study and guided its focus on subjects under the age of 50 without secondary organ failure. The VTI-208 study enrolled 203 subjects between 2013 and 2015 with alcohol-induced liver decompensation, most of whom were experiencing liver failure as a result of sAH. In August 2015, we learned that the Kaplan-Meier analysis of overall survival was not statistically different between groups in the intention-to-treat, or ITT, population. However, in a pre-specified subset of 120 subjects with Model for End-stage Liver Disease, or MELD, scores <28, the Kaplan-Meier analysis of overall survival did approach statistical significance. A subject's MELD score is a tool for characterizing the severity of liver disease and degree of secondary organ dysfunction, and also provides a prognosis for survival at 90 days. In another pre-specified exploratory analysis of 101 subjects with less than the median age of 46.9 years, the Kaplan-Meier analysis of overall survival also favored the ELAD-treated subjects.

Earlier studies, prior to VTI-208, were primarily designed to identify patient populations and clinical trial designs that were appropriate to pursue in pivotal clinical studies. Two randomized controlled trials (VTI-201 and VTI-206) were conducted primarily in U.S. subjects to help better define the population that would be appropriate for study in pivotal clinical trials. The outcomes of these studies suggested that subjects in whom alcohol was the predominant factor leading to their acute liver failure were a particularly suitable population for study in pivotal clinical trials.

Additionally, a 69-subject randomized, controlled clinical trial (VTIC-301) was performed at two hospital centers in Beijing, China, primarily in subjects with an acute form of liver failure caused by viral hepatitis B. Data showed a statistically significant improvement in transplant-free survival rates in the ELAD-treated group as compared with the control group, while data from a subset comprising the first 49 subjects in this clinical trial revealed a statistically significant difference in overall transplant-free survival.

In the United States, we estimate that at least 40,000 patients annually experience an acute form of liver failure that may be addressed by the ELAD System. These include liver failure from sAH, post-surgical liver failure, and fulminant hepatic failure. Except for liver transplant, which is severely limited by the availability of organs or not advisable for many patients under current guidelines, the current standard-of-care is primarily focused on the management of complications, which does not restore lost liver function and is associated with a high rate of mortality.

In addition to the ELAD System, we are also exploring the use of proteins produced by our VTL C3A cells to resuscitate donated livers prior to transplantation into patients as there is a need to increase the number and quality of livers available for

transplant. Our pre-clinical research in this field is being done in collaboration with leading research centers in the U.S. and the UK.

We currently retain worldwide rights to the ELAD System free of royalties. If we receive marketing authorization for our products, we intend to establish targeted commercialization and marketing capabilities for our products in the United States and Europe by developing a sales force that would focus on academic medical centers and other centers of excellence treating liver failure. In the United States, for instance, we believe that the approximately 125 active liver transplant centers, as well as a few dozen other specialized liver centers, represent appropriate sites for the placement of the ELAD System. As such, we believe a small, targeted sales force could effectively cover these institutions and successfully commercialize our ELAD System, if approved. We believe a similar sized sales force would be appropriate for Europe. For commercialization of the ELAD System, if approved, outside of the United States and Europe, we may enter into collaborations or license agreements with strategic partners.

We are led by a team of executives and directors with significant experience in drug discovery, development and commercialization. Our Chief Executive Officer, or CEO, Russell J. Cox, joined us in January 2018 and has been responsible for developing, launching and selling products in the hospital market for Genentech, Scios Inc. (acquired by Johnson and Johnson in 2003), Tercica (acquired by Ipsen Group) and Jazz Pharmaceuticals plc. Other members of our management team have held senior positions at Baxter, Biogen, Bristol Myers Squibb, IDEC Pharmaceuticals and Medimmune. In addition, our Chairman, Faheem Hasnain, is the former CEO and President of Receptos, Inc., which was acquired by Celgene in 2015. Other members of our Board of Directors currently hold or have held leadership positions with Amgen, BioMarin Pharmaceutical, HeartWare and Medivation.

Our Strategy

Our vision is to become a leading global biotechnology company that discovers, develops and commercializes novel therapies capable of extending survival in patients suffering from acute forms of liver failure. We intend to utilize our product development and commercial execution strategies to achieve this vision. Key elements of our execution strategy are as follows:

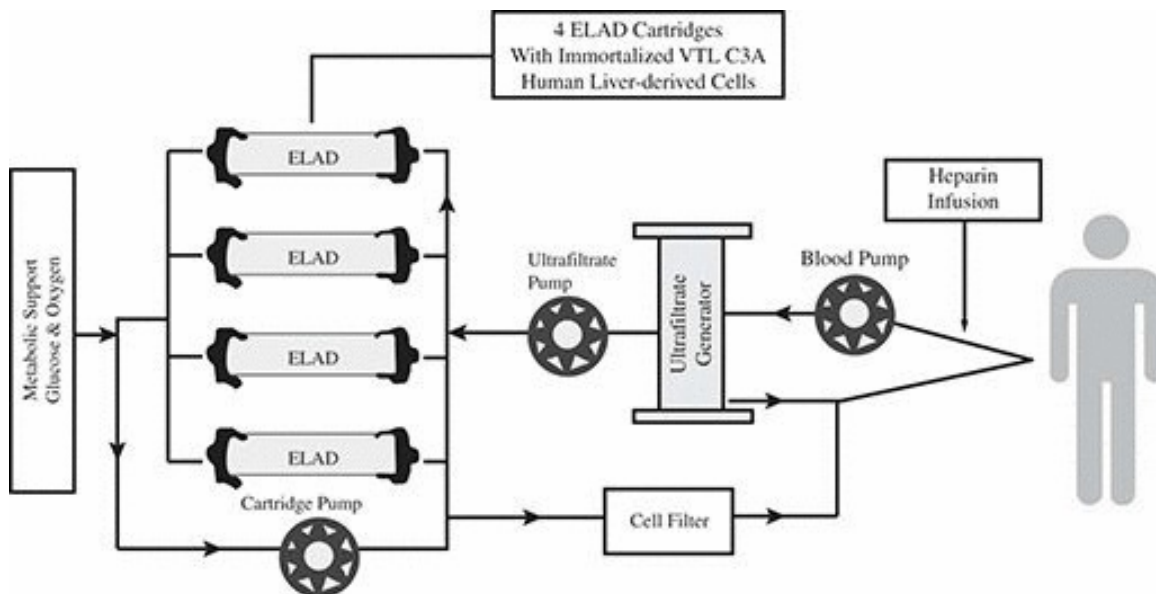
- *Successfully complete the ELAD System's clinical development in sAH subjects.* For VTL-308, we expect to enroll at least 150 subjects in an event-driven clinical design at approximately 50 sites in the U.S. and Europe, and we expect to report top-line data for VTL-308 in the third quarter of 2018.
- *Obtain regulatory approval for the ELAD System in the U.S. and Europe.* If our VTL-308 clinical trial is statistically and clinically successful, we plan to submit a Biologics License Application, or BLA, to the FDA and a Marketing Authorization Application, or MAA, to the European Medicines Agency, or EMA. An additional phase 3 trial may or may not be required for these approvals.
- *Maximize the commercial potential of the ELAD System in the U.S. and Europe.* If approved, we intend to directly commercialize the ELAD System in the U.S. and Europe with a targeted sales force focusing on liver transplant centers and other specialist intensive care centers. We believe that we can price the ELAD System in a range consistent with other currently marketed lifesaving therapies, such as left ventricular assist devices, orphan biologic medications for hereditary metabolic diseases and monoclonal antibody medications for cancer.
- *Explore commercial opportunities for the ELAD System in other international markets.* We have completed a trial for the ELAD System that may be considered pivotal in China. The study predominantly enrolled subjects with viral hepatitis B, and our application for marketing approval, filed in 2007, is still under review. However, we do not currently anticipate receiving approval in China prior to our receipt of regulatory approval, if any, in the U.S. or Europe. We would expect to address the commercial opportunity in China following approval in the U.S. or Europe. We also plan to evaluate commercial opportunities in Australia, Japan, India, other Asian markets, the Middle East, Brazil and Africa.
- *Pursue development of the ELAD System in therapeutic areas beyond sAH.* If the ELAD System is approved for use in patients with sAH, we may pursue the ELAD System's clinical development in viral hepatitis B, FHF, post-surgical liver failure and bridge-to-transplant.
- *Develop technical improvements and new applications.* We plan to continue our development of the ELAD System with the incorporation of technical improvements to our ancillary delivery device, customized disposable sets, and cells. In addition, we plan to explore the development of next generation systems and other uses for VTL C3A cells, such as resuscitation of donated livers.

Our ELAD System Product Candidate

ELAD System

The ELAD System is a phase 3 investigational, extracorporeal human hepatic cell-based liver treatment designed to supplement hepatic function in order to potentially improve survival rates among patients with acute forms of liver failure. The ELAD System consists of four disposable ELAD C3A cell cartridges attached to a reusable ancillary delivery device using customized disposable tubing. The four ELAD cartridges collectively contain approximately eight thousand hollow fibers and approximately one pound of VTL C3A cells from our proprietary cell bank.

The figure below is a schematic of the ELAD System:



During ELAD treatment, an extracorporeal pumping unit draws blood from the subject via a central venous line which then passes into the system to generate ultra-filtrated plasma (ultrafiltrate). The subject's ultrafiltrate is pumped through the hollow fibers of the cartridge, wherein the semipermeable membrane permits a bidirectional flow between the cells (grown between the exterior of the hollow fibers) and the ultrafiltrate (contained in the lumen of the hollow fibers). Toxins, nutrients and dissolved gases pass from the ultrafiltrate to the cells, while the potentially beneficial macromolecules and other substances synthesized by the cells simultaneously pass into the subject's ultrafiltrate.

After circulation through the ELAD C3A cell cartridges, the ultrafiltrate passes through a 0.2- μ m pore size filter, is recombined with the cellular components of the subject's blood, and is returned to the subject via the central venous line. VTL C3A cells' metabolic byproducts are thereby returned to the subject to be utilized or to be excreted by the renal or gastrointestinal system. This circulation can be maintained continuously for the duration of the ELAD treatment for up to five days, as determined by the treating physician. The ELAD System monitors and enables adjustment of glucose and oxygen concentrations in the ultrafiltrate, as well as temperature and other parameters, in order to maintain the viability of the C3A cells.

Our Proprietary VTL C3A Cell Bank

The liver is a complex organ comprising several different cell types to perform the majority of its biochemical functions, with hepatocytes being most widely recognized for their roles in synthesis and metabolism. Hepatocyte viability is limited when cultured or expanded outside the body as they very quickly de-differentiate or die. Therefore, normal hepatocytes present practical and logistical obstacles for use in a liver-assist product. Cell lines derived from liver cells can alleviate many of these practical and logistical obstacles. The specific cell line that was selected for the allogeneic ELAD System, the VTL C3A cell line, is a sub-clone of a human hepatoblastoma cell line, HepG2. The C3A cell line was developed at Baylor College of Medicine and deposited at the American Type Culture Collection. The specific cells stored in our proprietary cell banks and their progeny are referred to as VTL C3A cells. Under the right conditions, VTL C3A cells rapidly proliferate, allowing growth of the large amount of cells necessary to treat the subject with a liver support system, and with cells that remain metabolically active during treatment. Each ELAD treatment uses approximately one pound of cells.

Treatment with the ELAD System is not patient-specific, and our VTL C3A cells, which are derived from a single source, are used to treat all patients. This process is known as allogeneic cellular therapy. In contrast, autologous cellular therapy uses a patient's own cells, which are manipulated in individual production batches, a costly and complex process. As a result, the production and logistics of treatment with our VTL C3A cells does not face some of the challenges commonly associated with autologous cellular therapies.

The VTL C3A cell bank has been subjected to rigorous safety testing for adventitious agents in accordance with regulatory guidance documents. This bank contains enough cells to enable our clinical development and commercialization. We own this VTL C3A cell bank exclusively and on a royalty-free basis. In addition, we have developed proprietary methods for growing, storing and optimizing the function of these cells.

Our proprietary VTL C3A cell bank is stored in three separate locations around the world for security purposes and is used as the basis for growing the cells needed for each patient at our production facility in San Diego, California.

ELAD Mechanism of Action

While the mechanism(s) of action for the ELAD System have not been fully elucidated, several potential mechanisms have been modeled during in vitro studies as outlined below. More recently, ongoing work has related these in vitro results to clinical responses. For example, in 25 subjects (14 treated with ELAD and 11 control) from our VTI-208 study meeting VTL-308 criteria, three proteins produced by the VTL C3A cells (IL-1Ra, VEGF-A, sFas), that showed activity during our in vitro models, have also been shown to increase in VTI-208 subject plasma while on ELAD treatment as compared to control subjects. In contrast, other proteins (procalcitonin and ferritin, markers of inflammation and endothelin-1, a marker of endothelial dysfunction) have been shown to decrease in concentration during ELAD treatment as compared to control subjects, suggestive of a pharmacodynamic response to ELAD treatment consistent with the in vitro findings.

The VTL C3A cells may:

1. *Provide acute-phase response proteins to help dampen the pro-inflammatory environment and restore the patient's immune responses.* The VTL C3A cells secrete several anti-inflammatory proteins, including alpha-1-antitrypsin (AAT) and interleukin-1 receptor antagonist (IL-1Ra), the latter of which is upregulated in response to pro-inflammatory cytokines typically found in alcoholic hepatitis patients. Further, VTL C3A cell-secreted factors were shown to reduce levels of pro-inflammatory interleukin 1-beta (IL-1beta) in activated macrophage cultures.
2. *Provide factors which have been shown to prevent hepatocyte and endothelial cell death, through dampening oxidative stress and/or stimulating survival.* The VTL C3A cells secrete a number of recognized factors that are involved with regeneration and have been shown, *in vitro*, to prevent death and promote survival of hepatocytes including soluble Fas receptor and amphiregulin (a recognized potent mitogen during liver regeneration in small-animal models of partial hepatectomy). These factors have also been shown to increase the ratio of reduced to oxidized glutathione reserves (glutathione being one of the most potent intracellular anti-oxidants). VTL C3A cells secrete a number of proteins involved in angiogenesis such as vascular endothelial growth factor, placental growth factor and angiopoietin, which may be beneficial by improving vascularity in damaged liver sinusoids as well as in other organs. VTL C3A cell-secreted proteins were shown *in vitro* to prevent cell death in endothelial cells and to reduce intracellular oxidative stress.
3. *Produce blood coagulation factors to address blood clotting imbalances that are common in alcoholic hepatitis patients.* Blood coagulation factors, Factor V, Factor VII, Factor VIII, Factor IX, Factor X, Factor XI, Factor XII, Factor XIII, fibrinogen, tissue factor, tissue factor pathway inhibitor, prothrombin, antithrombin III, Protein C, kininogen, prekallikrein, 2-macroglobulin, plasminogen, and plasminogen activator inhibitor-1 have been shown to be produced by the VTL C3A cells.
4. *Assist in the restoration of liver function by providing liver-specific metabolism and detoxification capabilities.* The VTL C3A cells express messenger RNA, or mRNA, for cytochrome P450, or CYP, isoenzymes CYP1A2, CYP2C9, CYP2C19, CYP2D6, CYP3A4 and CYP3A5, which are collectively responsible for metabolizing nearly 90% of all drugs. Moreover, this CYP expression appears to respond dynamically as evidenced by different expression patterns in VTL C3A cells exposed to different clinical subjects.

While a statistically significant reduction in bilirubin has been demonstrated in subjects over the three to five days of ELAD treatment, because the VTL C3A cells lack the transporters required for unconjugated bilirubin uptake, the metabolic pathway of bilirubin reduction is not supported through our *in vitro* studies. However, bilirubin has been shown to be non-specifically sequestered by the VTL C3A cell membranes, which may help contribute to reducing overall bilirubin levels in ELAD-treated subjects.

VTL C3A cells have also been shown to express mRNA for bile acid gene targets involved in synthesis, conjugation and transport functions. Bile acid metabolism appears to be moderate in comparison to the cholestatic environment (a condition in which substances normally excreted into bile are retained) of alcoholic patients, based on initial studies; however, total bile acid levels trended lower, decreased more rapidly, and showed enhanced secondary bile acid conjugation over 5 days in a survey of subjects receiving ELAD treatment compared to control subjects.

Further studies are continuing to characterize ELAD's mechanisms of action.

Differentiating Factors of the ELAD System

Unlike other potential therapies developed for acute forms of liver failure in the past, we believe the ELAD System has a unique combination of attributes:

- *Biologically active.* The ELAD System contains biologically active VTL C3A cells and is designed to replicate many liver functions. We believe that an acellular solution to liver failure is unlikely to effectively replace lost liver function. We believe that a cellular approach like ours, capable of replicating key biologic processes, is best able to provide the requisite flexibility and breadth of function to sufficiently supplement liver function and improve survival in patients with acute liver failure.
- *Human cellular therapy.* The ELAD System is based on human cells, which confer a considerable advantage over non-human, animal-based cell therapies. Given the widespread availability of animal tissues, much work has been done on the use of animal liver cells, often derived from pigs, to treat humans with liver failure. While immunological risk is always present in cellular therapy, the use of non-human animal tissues presents greater immunological risk compared to human cellular therapy. Humans possess naturally occurring antibodies that react with antigens on porcine cell surfaces. These antibodies can mount an immediate attack in the presence of porcine cells, causing these cells to rapidly lose function and die. Moreover, repeated treatments with a porcine cell may cause subsequent immune responses to become increasingly severe. The infusion of porcine enzymes into a patient's blood stream also poses immunologic risk. We are not aware of any FDA-approved, non-human animal-based cellular therapy for use in patients.
- *Commercially scalable.* Our VTL C3A cells used in the ELAD System are immortal and can be expanded in quantities to scale production. Each set of four cartridges used to treat a single patient is grown in a production process that takes up to two months. The process is carefully controlled and is performed under ultra-clean conditions to avoid contamination in our current Good Manufacturing Practices, or cGMP, compliant production plant. The process is scalable by modular units.
- *Minimal manipulation needed by site.* Prior to shipment, the ELAD cartridges are put into a dormant state and shipped under cool conditions. They have been validated to survive for up to 60 hours before being used for treatment. When the hospital receives the cartridges, they are unpacked by our ELAD System specialists on site, placed on the system, flushed with saline and are ready to be used for patient treatment. Our VTL C3A cells usually remain viable for the duration of the patient treatment.

Liver Failure

The liver performs a wide variety of vital life functions including metabolic, regulatory, detoxification and synthetic activities. The primary liver cell, the hepatocyte, is believed to be responsible for approximately 500 or more specific biologic processes. In addition, the liver also serves as a reservoir for immune cells which clear the blood of pathogens. As a result, the liver's failure to perform its normal role can have devastating or fatal consequences. Causes of liver failure are numerous, and the condition is typically described in terms of rapidity of onset. The two main categories are acute liver failure and chronic liver failure. In the U.S., according to the Centers for Disease Control and Prevention, chronic liver disease and cirrhosis represented the twelfth leading cause of death in 2015. In China, where viral hepatitis is endemic, liver and liver-related disease including liver cancer and hepatitis B represented the fifth leading cause of death in 2014.

Severe Alcoholic Hepatitis (sAH)

Alcoholic hepatitis arises when the cause of the acute liver decompensation appears to be directly related to excessive consumption of alcohol. Severe alcoholic hepatitis, or sAH, is defined as progressive inflammatory liver disease, leading to an acute form of alcohol-induced liver injury that occurs with the consumption of large amounts of alcohol in patients with relatively mild, underlying chronic alcoholic liver disease.

Various degrees of fibrosis and hepatitis are present in sAH patients. Those patients with characteristics of acute alcoholic hepatitis, or AAH, and a Maddrey Discriminant Function (a calculation used to predict the prognosis of alcoholic hepatitis) of ≥ 32 are deemed to have sAH. Other AAH patients (non-AAH Liver Disease) may have underlying chronic liver disease due to other etiologies, but the cause of their acute decompensation is considered to be related to excessive alcohol consumption. In sAH, there appears to be sufficient hepatocyte mass to allow hepatic regeneration and reversal of the decompensation. It can be discriminated from patients with end-stage liver disease by measurements of liver size using imaging techniques such as ultrasound or CT scan as they tend to present with enlarged livers, rather than with the shrunken livers characteristic of subjects with end-stage liver disease.

Treatment options for patients with sAH are limited. In particular sAH patients with a Maddrey Discriminant Function of >32 have a poor prognosis, with 90-day survival of around 50%. Regimens that have been used for at least the last 40 years, including corticosteroids, theophylline with corticosteroids, pentoxifylline and infliximab, have had no significant effect on the long-term survival of patients with sAH. Steroid use has been associated with an increased rate of infections, a frequent complication of liver failure. Other contraindications to steroid use in patients with sAH include active gastrointestinal bleeding, renal failure, acute pancreatitis, active tuberculosis, uncontrolled diabetes and psychosis. Subjects who do not respond to seven days of steroid therapy have a particularly dismal prognosis, with six-month survival rates of less than 25%. A major study of more than 1,100 subjects with a clinical diagnosis of sAH demonstrated a reduction in 28-day mortality in subjects administered steroids that did not reach statistical significance, with no improvement in survival at 90 days or one year. This study also revealed no survival benefit at any time point for pentoxifylline relative to placebo. Under current guidelines, transplantation is generally not recommended for subjects with sAH.

The Department of Health and Human Services in the U.S. estimates that for 2014 the number of hospital admissions related to sAH in the U.S. was approximately 102,000, with approximately 15,000 of these admissions identifying sAH as the primary diagnosis. In addition, approximately 323,000 hospital admissions occurred in 2014 related to alcoholic cirrhosis, alcohol liver damage not otherwise specified or alcoholic fatty liver, with approximately 50,000 hospital admissions identifying these conditions as the primary diagnosis. We believe that a subset of these patients have a form of non-sAH Liver Disease that may be treatable with the ELAD System. Incidence rates for both sAH and non-sAH Liver Disease appear to be similar in Europe.

Acute-on-Chronic Liver Failure (ACLF)

Hepatocellular damage, secondary to a variety of insults (infectious agents, alcohol, exogenous drugs autoimmunity, non-alcoholic fatty liver disease, non-alcoholic steatohepatitis etc.), can result in chronic liver disease, if the underlying etiology is not effectively treated. This condition is characterized histopathologically by increasing degrees of fibrosis and cirrhosis, and frequently remains subclinical or undiagnosed. Often as a result of a secondary insult, the liver can decompensate, leading to a life-threatening disorder known as acute-on-chronic liver failure, or ACLF.

The damage to the liver from continuing insults causes the gradual development of fibrosis in the liver over time, which results in a decrease of both liver function and the ability to regenerate after decompensation. The fibrosis progresses to cirrhosis when this process continues for many years. The progression of fibrosis to cirrhosis results in a shrunken liver, distortion of hepatic lobules, and continued loss of hepatocytes (due to replacement with fibrotic tissue) that leads to progressive and recurrent episodes of decompensation. This progressive loss of hepatocyte mass impairs the liver's inherent ability to regenerate following decompensation.

Fulminant Hepatic Failure (FHF)

Another form of acute liver failure is fulminant hepatic failure, or FHF, a relatively rare condition characterized by a rapid deterioration of liver function with altered mental state and coagulopathy in individuals without known pre-existing liver disease. The most frequent causes include drug or toxin-induced liver injury, viral hepatitis, autoimmune disease and hypoperfusion. Two thousand cases of FHF are estimated to occur in the U.S. each year. The standard of care includes liver transplantation, and these patients get priority on the liver transplant list although they tend to progress very rapidly and may succumb to their disease before a suitable organ becomes available. We believe the ELAD System may provide these patients with a bridge-to-transplant, or potentially, recovery without transplantation.

Post-Surgical Liver Failure

Another form of acute liver failure can arise following surgical procedures. For example post-surgical liver failure can arise due to:

1. Primary Graft Non-Function, which occurs when a newly transplanted liver fails to function. This is a life threatening medical emergency, and can lead to death if a new organ does not become available quickly. We believe the ELAD System may provide patients with a bridge-to-transplant until a second liver becomes available.

2. **Small-For-Size or Split Liver Transplant** occurs when the transplanted liver is functioning, but may be too small to sustain the patient, either because only a small donor liver was available, or because a live person donated a portion of their liver for transplantation. We believe the ELAD System may be able to support the patient's liver function until the donated organ regenerates to a size large enough to become independent of external support. Moreover, the ELAD System may also enable transplantation of smaller liver fragments than typically used, potentially expanding the available pool of donor organs.
3. **Liver Cancer Resection.** Primary liver cancer can sometimes be cured by resecting the cancerous part of the liver after which the remaining liver regenerates to full size. Currently, surgeons will typically only resect up to 50% of the liver in order to avoid death from liver failure. However, more extensive resections occasionally occur, and resection of smaller portions can also lead to liver failure. We believe the ELAD System may be able to support these patients while their liver regenerates and may also enable surgeons to perform larger tumor resections.

We estimate that the first two categories of post-surgical liver failure could account for several hundred patients a year in the U.S. However, it is estimated that there were over 15,000 liver resections performed in 2014 in the U.S.

Chronic Liver Failure

Chronic liver failure refers to a gradual loss of liver function and is usually characterized by the presence of widespread cirrhosis, which refers to the replacement of normal liver tissue by fibrosis, scar tissue and regenerative nodules. As normal liver tissue is destroyed, the organ gradually fails to perform its normal metabolic, regulatory and synthetic functions. Unfortunately, damage from cirrhosis cannot be reversed, and lost liver function can only be regained through transplantation. For this reason, we do not believe that the ELAD System would be effective for cirrhotic patients other than possibly to bridge these patients to transplant.

Limitations of Currently Available Treatment Options for Acute Forms of Liver Failure

Given the liver's complexity, there are no simple or widely effective medical solutions to acute forms of liver failure. The only long-term cure for acute liver failure is surgical transplantation. As published by the U.S. Department of Health and Human Services' Organ Procurement and Transplantation Network, there were 8,082 liver transplants performed in the U.S. in 2017. Also, according to a research report on the 2017 U.S. organ and tissue transplant cost estimates from Milliman, one of the world's largest providers of actuarial and related product services, the average billable charge for a liver transplant in 2017, including the one month before surgery and six months after surgery, was \$812,500. There are approximately 14,000 patients currently on the transplant waiting list and approximately 1,200 patients die while waiting each year. Similarly, there are approximately 7,000 liver transplants performed per year in Europe. Outside of transplant, current therapy is defined by the treating facility and is mostly supportive and designed to manage the symptoms and complications associated with acute forms of liver failure.

Pharmaceuticals

N-acetylcysteine is approved by the FDA for the prevention of acute liver injury following the ingestion of toxic amounts of acetaminophen. Other treatments, including steroids and pentoxifylline, are often used off-label to manage symptoms associated with acute forms of liver failure, although steroids in particular have been shown to increase the risk of potentially fatal infections. Results from the Steroids or Pentoxifylline for Alcoholic Hepatitis study, or STOPAH, were presented at the American Association for the Study of Liver Disease, or AASLD, meeting in November 2014. STOPAH enrolled 1,103 subjects with sAH at 65 sites in the U.K., but failed to demonstrate any significant benefit in the primary analysis of overall survival for subjects treated with either steroids, pentoxifylline or a combination of the two at one, three or twelve months, as compared with placebo. In a secondary, multivariate analysis of the data, a small benefit was observed for those subjects taking steroids at one month, although this benefit was not seen in multivariate analyses at either three months or at twelve months. Despite the availability of these treatments, the one-year mortality rate for acute forms of liver failure remains above 50%. We are not aware of any mechanisms for pharmacologically addressing liver failure specifically or restoring lost liver function.

Liver Support Devices

Two commercially available liver dialysis systems, MARS from Baxter (formerly Gambro) and Prometheus from Fresenius, have undergone extensive clinical development. Another company, Hepa Wash GmbH has begun a limited market introduction of an albumin dialysis system in Europe, and HepaNet has introduced the OPAL system, an evolution of the MARS albumin dialysis system in Germany. All rely on not only traditional dialysis circuits to remove water-soluble toxins, but also albumin dialysis circuits to remove albumin-bound molecules. To our knowledge none of these non-cellular systems has shown an improvement in long-term survival among patients with liver failure. It was also recently reported that a team from the Institute for Liver and Digestive Health, University College London and Yaqrit Ltd had initiated a clinical trial in decompensated liver disease for a novel liver dialysis (non-bioartificial) system to be known as YAQ-002 incorporating

albumin dialysis along with selective adsorption technology. There are also reports of a human cell-based system under development in China, but the clinical status of this program has not been confirmed.

Clinical Experience with the ELAD System

The following table summarizes clinical trials using the current configuration of the ELAD System:

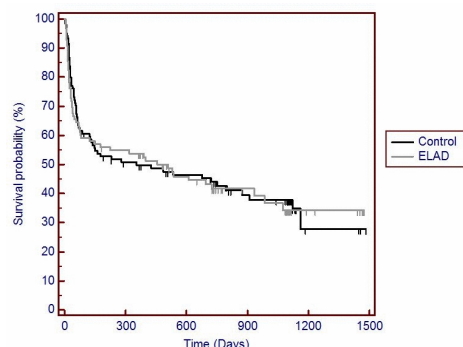
Trial	Date	Study Design	Indication(s)	Sites	Location(s)	Total Subjects Enrolled
VTL-308 (phase 3)	Commenced May 2016	Randomized, controlled	sAH	Around 50	U.S., Europe	Minimum of 150
VTI-208 (phase 3)	2013-2015	Randomized, controlled	Primarily sAH	59	U.S., Europe, Australia	203
VTI-210 (phase 3)	Commenced November 2014 and terminated August 2015	Randomized, controlled	sAH	46	U.S., Europe	18
VTI-212 (phase 2/3)	Commenced June 2014 and terminated August 2015	Single-arm in phase 2 component	FHF and post-surgical liver failure	19	U.S.	8
VTI-206 (phase 2b)	2009 – 2011	Randomized, controlled	AILD and other	26	U.S., Europe	62
Compassionate-use program	2008 – 2010	Single-arm	Various	8	U.S., U.K., Singapore, Saudi Arabia	18
VTI-201 (phase 2a)	2008 – 2009	Randomized, controlled	ACLF and other	6	U.S.	18
VTIC-301 (Pivotal)	2006 – 2007	Randomized, controlled	Various, primarily viral hepatitis	2	China	69
CR-202 (phase 2)	2001 – 2003	Randomized, controlled	FHF	8	U.S., U.K.	19
PS-0698 (phase 1)	1999 – 2000	Randomized, controlled	FHF	6	U.S., U.K.	25

The ELAD System's Clinical Development in sAH

VTI-208

In August 2015, we announced that the VTI-208 clinical trial did not achieve its primary endpoint of overall survival through study day 91. In the extended follow-up of the VTI-208 subjects, referred to as VTI-208E, we have an additional twenty-nine months of survival data as of December 31, 2017. The year end 2017 survival data continues to support the August 2015 conclusions (N=203; Kaplan Meier: p-value 0.859, hazard ratio 1.031).

Kaplan Meier Curve for VTI-208/VTI-208E Overall Survival at December 31, 2017



Seventy-two subjects remained in the VTI-208E extension study at December 31, 2017 and are being monitored annually for survival, transplant and cancer for up to five years.

Pre-specified subgroup analyses of overall survival were conducted on medically-pertinent baseline demographic factors to identify the extent of influence these known factors had, if any, on the overall study outcome. These factors had been previously identified as potential influences on outcome based on scientific considerations, including the outcomes of the STOPAH study (Thursz 2015), results from the CLIF-SOFA consortium (Arroyo 2015), and previous ELAD clinical data. Results of these subgroup analyses revealed that overall survival outcomes in the ITT population were substantially influenced by MELD score and, to a lesser degree, age.

The MELD score is a numerical scale, ranging from 6 (less ill) to 40 (gravely ill), developed for use in liver transplant candidates age 12 and older. It gives each person a 'score' (number) based on how urgently he or she needs a liver transplant within the next three months. The number is calculated by a formula using three routine lab test results:

- bilirubin, which measures how effectively the liver excretes bile;
- INR (prothrombin time), which measures the liver's ability to make blood clotting factors; and
- creatinine, which measures kidney function (impaired kidney function is often associated with severe liver disease).

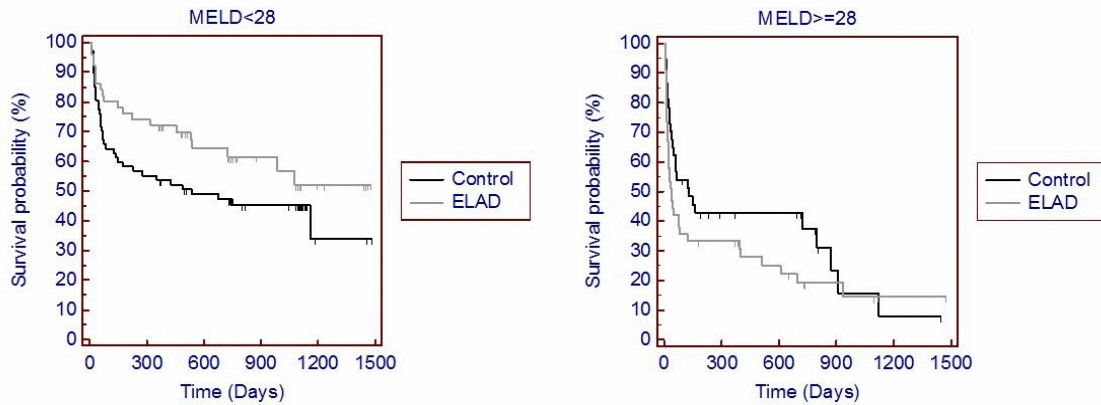
The specific formula is as follows:

$$\text{MELD} = 3.78 \times \ln[\text{serum bilirubin (mg/dL)}] + 11.2 \times \ln[\text{INR}] + 9.57 \times \ln[\text{serum creatinine (mg/dL)}] + 6.43$$

The MELD score has also been used to assess mortality risk in other types of liver dysfunction, including sAH. For example an sAH patient with a MELD score of 28 is projected to have a 54% chance of dying over a period of 90 days.

The pre-specified subgroup analysis of MELD, evaluated as a dichotomous variable of <28 and ≥ 28 , identified two distinct populations with respect to ELAD treatment outcomes versus the control group: in subjects with lower MELD scores, treatment outcomes favored ELAD, and, in the similar population with higher MELD scores, outcomes shifted in favor of the control group. Data revealed clinically-meaningful differences as shown by p-value and hazard ratio, or HR, favoring ELAD in the primary endpoint of overall survival up to at least study day 91 in a large subset of subjects with MELD scores <28 (N=120; Kaplan Meier at December 31, 2017: p-value=0.101, HR 0.633). This was also observed in the secondary endpoint of proportion of survivors at study day 91 (N=120; survival: ELAD 80.4% versus control 65.2%, Pearson's chi-squared: p-value=0.068). For those subjects with MELD scores ≥ 28 , the opposite outcome was observed in overall survival (N=83; Kaplan Meier at December 31, 2017: p-value=0.139, HR 1.471) and in the secondary endpoint of proportion of survivors at study day 91 (N=83; survival: ELAD 35.6% versus control 55.3%, Pearson's chi-squared: p-value=0.072).

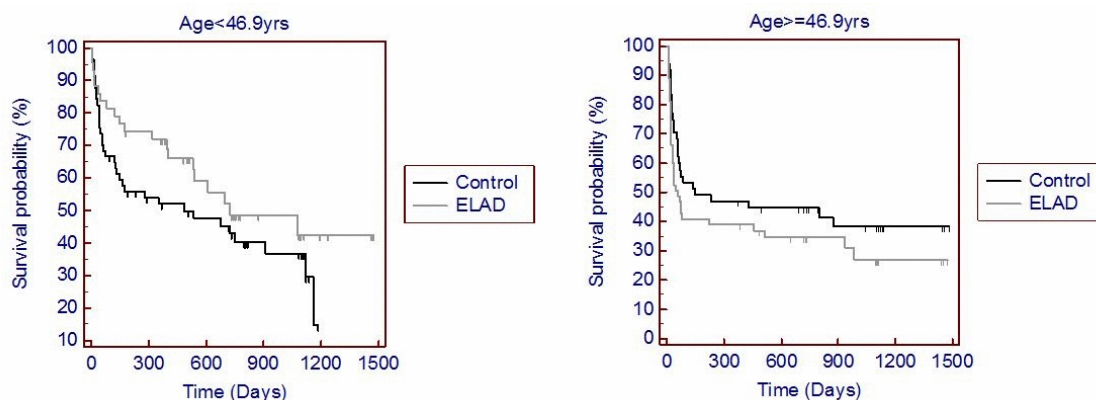
Kaplan Meier Curve for VTI-208/VTI-208E Overall Survival MELD <28 and ≥28 at December 31, 2017



A more granular post-hoc analysis of MELD score parameters as compared to outcome revealed an important directional association between MELD scores and relative overall survival outcomes. These additional pre-specified and post-hoc analyses helped to discriminate the contribution of each of the individual MELD parameters (bilirubin, creatinine, and INR) on these dichotomized outcomes. Results indicate that higher creatinine and INR levels, reflective of kidney injury and coagulopathy, respectively, are the key drivers associated with less favorable ELAD treatment outcomes compared with controls. The reduced tolerance of subjects with evidence of acute kidney injury and coagulopathy appears to be due to an interventional effect of the extracorporeal administration of ELAD. The limits set in VTI-208 to control the impact of extracorporeal treatment on subjects with secondary organ dysfunction, which had been established based on these critical indicators from our prior datasets, have been set lower in VTL-308.

Although less pronounced than the impact of MELD scores on overall survival, subject age was also identified in a pre-specified subgroup analysis as a demographic factor found to influence study outcomes. In subjects with less than the median age of 46.9 years, the Kaplan-Meier analysis of overall survival favored ELAD (N=101; Kaplan Meier at December 31, 2017: p-value=0.141, HR 0.663). This was also observed in the secondary endpoint of proportion of survivors at study day 91 with ELAD survival of 81.4% versus control survival of 67.2% (Pearson's chi-squared: p-value=0.112). In those subjects with greater than the median age, the opposite outcome was observed in overall survival. This finding is consistent with the liver resection literature indicating that the liver's capacity for regeneration diminishes with age. This effect appears to be somewhat exacerbated if there is evidence of acute kidney injury or coagulopathy.

Kaplan Meier Curve for VTI-208/VTI-208E Overall Survival Age <46.9 and ≥46.9 at December 31, 2017



VTI-210

The VTI-210 clinical trial was based on a design suggested by the European regulatory authority and sought to only include subjects who had failed conventional therapy. However, the trial was voluntarily discontinued by us after only 18 subjects were enrolled when our August 2015 analysis of the VTI-208 data suggested that the VTI-210 enrollment criteria were unlikely to lead to a successful trial outcome. In particular, within the VTI-208 data set, healthy secondary organ function at baseline appeared to be a critical determinant of positive outcome with ELAD. In contrast, the VTI-210 criteria allowed subjects to be enrolled with severe secondary organ dysfunction.

It is difficult to draw any conclusions from the small sample of subjects enrolled in VTI-210. That said, there were no significant differences in mortality between the ELAD-treated and control groups either at day 28 or day 91, with three deaths in each group at day 28 and one additional death in the ELAD-treated group at day 91. Additional deaths occurred in both groups after 91 days, consistent with the very low survival expectations of patients who have failed conventional therapy. The adverse event profile was consistent with findings in other ELAD studies and typical for subjects treated with extracorporeal therapies.

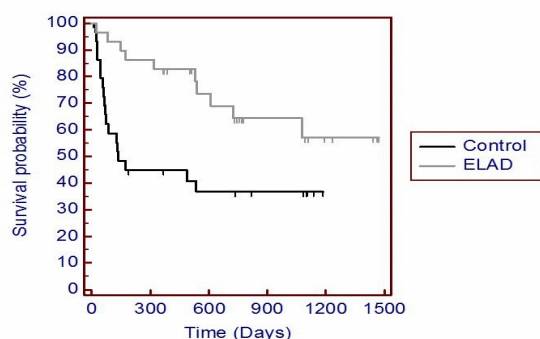
VTL-308

Based on our pre-specified and post-hoc analyses of VTI-208 subsets, we initiated our new phase 3 clinical trial in sAH, referred to as VTL-308, in early 2016. VTL-308 is a phase 3 randomized, open-label, multicenter, controlled, pivotal study, designed to evaluate the ELAD System in subjects with sAH who meet criteria based on the data from the pre-specified and post-hoc analyses of the VTI-208 clinical trial.

The key changes from the VTI-208 clinical trial protocol include restrictions on subjects' age, MELD score and the three components of the MELD score associated with kidney dysfunction (creatinine), blood clotting dysfunction (INR) and liver function (bilirubin). The VTL-308 inclusion criteria have been established to reflect the same study population as that enrolled in a subset of the VTI-208 population with baseline criteria including MELD <30, age <50, INR ≤2.5, creatinine <1.3mg/dL and serum total bilirubin ≥16mg/dL. When we apply the baseline criteria that we are using in the VTL-308 clinical trial to the subjects in the VTI-208 clinical trial on a post-hoc basis, the study would have reached a nominal p-value of <0.01 with respect to overall survival. These VTI-208 analyses provided the rationale for our current VTL-308 phase 3 clinical trial in sAH.

The Kaplan-Meier graph of this subset in VTI-208 as of December 31, 2017 is shown below. The hazard ratio is maintained below 0.4 and the significant separation between the survival of treated and control patients remains evident. Data from this post-hoc analysis indicated that there remains a statistically significant difference between treated and control subjects in the primary endpoint of overall survival in this population (N=60; Kaplan Meier at December 31, 2017: nominal p-value=0.018, HR 0.391). This was also observed in the secondary endpoint of proportion of survivors at study day 91 (N=60; survival: ELAD 93.1% versus control 61.3%, Pearson's chi-squared: nominal p-value=0.004). It should be noted that there remain relatively few subjects with four-year follow up data. No death was reported in either the treated or control groups during the twelve months ended December 31, 2017. As we continue to collect data, the shape of the curves will continue to change as the data mature and more subjects achieve the milestones. While there is no guarantee that VTL-308 will replicate this result, we believe these VTI-208 subset results are a sound basis to proceed with VTL-308.

Kaplan Meier Curve for VTI-208/VTI-208E Overall Survival MELD <30, Age <50, INR <=2.5, creatinine <1.3mg/dL and bilirubin >=16 mg/dL at December 31, 2017



The sample size for the VTL-308 study was defined by applying these criteria to the analysis of the primary endpoint of overall survival in the ITT population, and assuming: (1) that this prospectively-defined population behaves similarly to this subgroup of the VTI-208 study; (2) the use of a log-rank test (Kaplan Meier) comparing two survival curves with a two-sided significance level of 0.05; (3) exponential survival curves with proportional hazards; (4) uniform accrual with an accrual time of at least 720 days and a minimum follow-up time of 90 days; and (5) a drop-out rate of 10%. Based on these parameters, a sample size for VTL-308 of 75 subjects per each the ELAD-treated and control groups is consistent with power of at least 0.95 with estimated median survival times of 438 and 175 days, respectively.

In November 2015, we received written responses from the FDA to our Type C meeting request on the planned VTL-308 clinical trial. At the FDA's suggestion, we have incorporated an event-driven feature into the trial design consistent with the primary endpoint of overall survival. Under the modified design, enrollment will continue until at least 150 subjects have been enrolled and approximately 55 events are expected to have occurred by data lock, consistent with the event rate seen in the target subpopulation from VTI-208. In early 2018, independent statistical experts evaluated blinded event rate data from the VTL-308 study. These statisticians concluded that the blinded event rate observed in VTL-308 was consistent with the predicted event rate that was modeled in the trial's original statistical plan. As a result, the statisticians recommended that we retain our original enrollment target of at least 150 subjects in order to achieve the expected number of 55 events.

We expect to enroll subjects at about 50 sites in the United States and Europe. Many of the sites have been selected based on their high enrollment in the VTI-208 trial or their demonstrated capability to enroll these types of subjects. We expect to report top-line data for VTL-308 in the third quarter of 2018. The VTL-308 phase 3 has been designed to demonstrate statistical significance based on the subset results of the VTI-208 trial; however, there can be no assurance that the trial will be successful or that a single trial will be sufficient to support a marketing application in any country.

The ELAD System's Clinical Development in Acute Flare of Viral Hepatitis

VTIC-301

Between 2006 and 2007, we enrolled 69 subjects with acute-on-chronic liver failure (ACLF) in a randomized, controlled open-label trial at two hospitals in Beijing, China. Inclusion criteria focused the trial's enrollment on subjects anticipated to have a 50% chance of death by 84 days, and the majority of enrolled subjects were experiencing an acute flare of viral hepatitis. The study was designed to enroll 120 subjects but was terminated early by one of the hospital's ethics committee because, in light of the results discussed below, it would have been unethical to continue to treat control subjects with standard of care alone. Endpoints included survival at 14, 28, 56 and 84 days, as analyzed using a log-rank method.

A significant protocol amendment was enacted after the enrollment of the first 49 subjects, in which inclusion criteria were changed, reducing the severity of disease, and a shorter ELAD System treatment time was recommended. This change in study design resulted in far fewer deaths or transplants in the second subset of 20 ELAD-treated and control subjects. A revised statistical plan was prepared to accommodate these differences in subject populations. Separate analyses were performed on the 49-subject subset and the full 69-subject population, and additional statistical analysis techniques were proposed, such as the use of Wilcoxon rank-sum techniques to analyze continuous variables such as survival time.

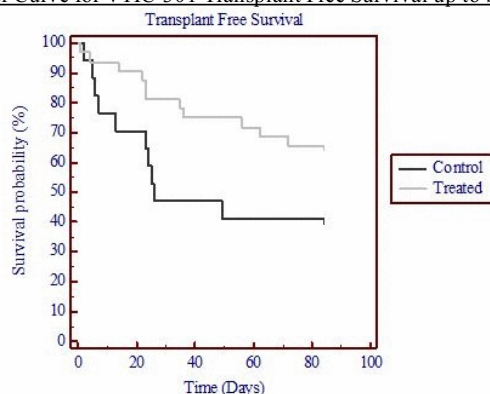
Analysis of the first 49 subjects (32 subjects randomized to be treated with the ELAD System for three days along with standard of care for the treating institution and 17 subjects randomized to be treated with standard of care alone) revealed the following:

- significant differences in 28 and 56-day survival using the log-rank test ($p=0.015$ and 0.026 , respectively); (log-rank was not significant at 14 and 84 days, $p=0.074$ and 0.058 , respectively);
- significant differences in 84-day survival using the Wilcoxon test ($HR=0.45$; $p=0.049$); and
- no unexpected safety issues.

Generally, the serious adverse events reported in this study were reflective of the severity of disease and co-morbidities present in the patient population. There were 16 post-treatment adverse events in eight of the 32 treated subjects that the investigators reported as possibly or probably related to treatment.

These efficacy results are depicted in the below Kaplan-Meier curve:

Kaplan Meier Curve for VTIC-301 Transplant Free Survival up to Study Day 84



Analysis of all 68 subjects treated (44 subjects randomized to be treated with the ELAD System for one to three days along with standard of care for the treating institution and 25 subjects randomized to be treated with standard of care alone; note one control subject withdrew consent immediately following randomization and is not included in this analysis, so only 24 controls are included for a total of 68 subjects) revealed the following:

- Significant differences in 28-day survival using the log-rank test ($p=0.015$);
- No significant differences in 14, 56 and 84-day survival using the log-rank test; and
- No unexpected safety issues.

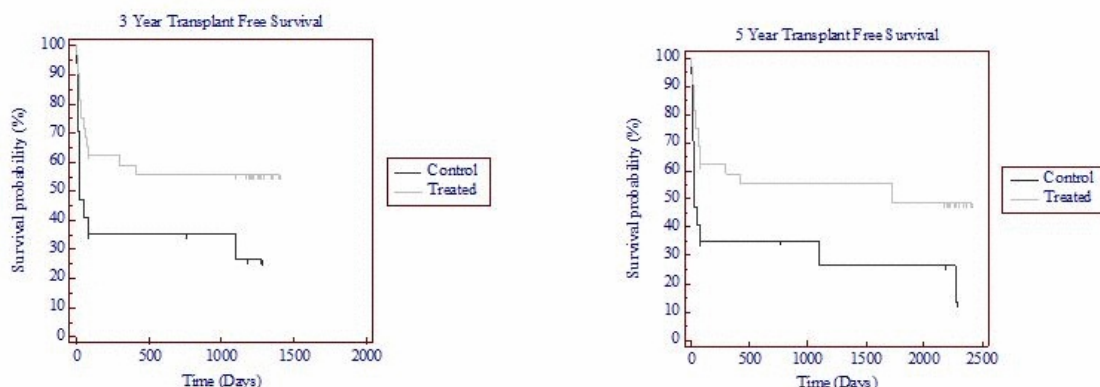
Based on these results, it was concluded that the Wilcoxon test is a more sensitive technique to elucidate differences between groups in the ELAD System clinical trials, and that a more severely diseased population and more extended treatment times should be evaluated in future clinical studies.

One further observation from the 49 subjects in the first part of this study was that the ELAD System can significantly decrease bilirubin levels, an important biomarker of liver function in patients with ACLF. The overall magnitude of the decrease in mean end of treatment total bilirubin in the ELAD group was 25.1% (17.5 to 13.1 mg/dL) compared to an increase in the control group of 36.8% (17.1 to 23.4 mg/dL). Serum sodium, another biomarker associated with survival in subjects with ACLF, also was significantly improved in the subjects treated with the ELAD System relative to control subjects.

These China pivotal trial data formed the basis of a submission for marketing approval to the China FDA, or CFDA, in September 2007. It should also be noted that this study was not designed, and will not be used, as a pivotal trial to support approval of the ELAD System in the U.S. and Europe.

Subsequent to the completion of the VTIC-301 clinical study, an additional protocol was prepared by the treating physicians to explore the long-term survival of subjects enrolled in this study. Following the grant of informed consent, subjects enrolled in VTIC-301 were contacted and invited to return to the treating hospital for examination for recurrence of liver disease or the incidence of cancer. This study was carried out in 23 and 22 subjects, respectively, three and five years following initial randomization.

These data from the first 49 subjects suggest that the survival benefit (statistically significant at three years and five years, Kaplan Meier: $p < 0.05$, log-rank) afforded to those subjects treated with the ELAD System is maintained over a three and five-year period relative to those subjects in the control group. These trends are depicted in the Kaplan-Meier curves below:



While these follow-up analyses were not prospectively defined in the VTIC-301 protocol, we believe they provide valuable information on the long-term survival of this group of patients.

The results of VTIC-301 were submitted to the CFDA for marketing approval in September 2007. However, a regulation enacted in 2009 prevents the approval of novel foreign medical products until they are approved in their home markets first. Accordingly, we would not expect activity or approval by the regulatory authorities in China unless and until we have approval in the U.S.

Commercialization Strategy and Organization

Given our stage of development, we have not yet established a commercial organization or distribution capabilities. If approved, we intend to directly commercialize the ELAD System in the U.S. and Europe with a targeted hospital sales force and to either commercialize directly or utilize a variety of types of collaboration in other markets.

Sales, Marketing and Reimbursement

Following FDA and/or EMA approval, if any, we intend to launch the ELAD System commercially in the U.S. and Europe, respectively. We expect to direct our initial sales and marketing efforts at sites which have participated in our phase 3 clinical trials in the U.S. and Europe. Subsequently, we would expect to gradually expand our focus in the U.S. to approximately 100 liver-transplant centers, as well as to another 100 specialist intensive care centers with a similar penetration in Europe. We expect that our commercial infrastructure would be comprised of a targeted hospital sales force led by several experienced sales management personnel, an internal marketing and medical affairs staff, and a reimbursement support team. We currently intend to focus our initial commercial efforts on the U.S. and European markets, which we believe represent the largest and most readily addressable market opportunities for the ELAD System. In addition, we believe that Australia, China, Japan, India, other Asian markets, the Middle East, Brazil, and Africa represent significant opportunities because of the prevalence of liver disease in these geographies, and we intend to pursue the commercialization of the ELAD System in certain of these markets through collaborations.

We expect the ELAD System to be reimbursed as an in-patient drug in the U.S. For patients eligible for Medicare, who we anticipate to constitute a minority of the ELAD System-addressable patients, reimbursement to the hospital is expected to occur under a diagnosis related group, which may be eligible for a New Technology Add-on Payment and outlier payments. We have begun the process to request appropriate codes and groupings for the ELAD System therapy from the Centers for Medicare & Medicaid Services, which may take several years to complete, if successful. We have been notified by the American Medical Association, or AMA, that a temporary, or Category III, Current Procedural Terminology, or CPT, code for physician care oversight of an extra-corporeal liver system was accepted in February 2015, and which became effective on January 1, 2016. However, implementation of a permanent, or Category I, CPT code with a predetermined physician payment value is a lengthy process and is not expected to be complete until several years after potential marketing approval in the U.S. We also expect to work with private payors to develop appropriate case-rates for the ELAD System reimbursement in the U.S. We believe we will ultimately be able to price the ELAD System in a range consistent with other currently marketed life-saving therapies, such as left ventricular assist devices, orphan biologic medications for hereditary metabolic diseases, and monoclonal antibody medications for cancer.

Manufacturing and Supply

Our manufacturing facility is licensed as a drug and medical device manufacturer by the California Food and Drug Bureau. This facility was remodeled in 2014 in order to expand manufacturing capacity to support worldwide clinical trials and early marketing demands for the ELAD System. We intend to make additional modifications that we expect to complete prior to a preapproval inspection, if any.

At our facility, we manufacture the ELAD System, which is comprised of our proprietary VTL C3A cells, cartridges and the bedside unit. The system contains both reusable and disposable medical device components. We source certain components of the ELAD System from third-party suppliers. Most components of our ELAD System are FDA-cleared and CE marked. In a few cases, we manufacture a device or a device component ourselves. Based on discussions with the regulatory authorities, we have determined that all components will have to be submitted for approval for use with the ELAD System as part of the BLA.

All biopharmaceutical production activities must be conducted under cGMP, the standards established by the FDA for pharmaceutical and biologics production. Medical devices must be manufactured in accordance with pertinent device regulations. The equipment used in the manufacturing process is based on designs typically encountered in the production of other biotechnology products and has been customized to tailor their use to the ELAD System production. The ELAD cartridges and bedside units are tested according to the FDA's and other applicable regulatory bodies' standards before they can be released for use in humans. All device components shipped from us to our investigational sites are subject to quality control inspection.

Training and Support

We also expect to deploy a training and support team at the liver transplant and specialist intensive care centers that our sales and marketing team are expected to target. During the initial commercialization period, it will be essential for us to have our own trained staff present during the delivery of the ELAD System therapy. This may entail the construction and operation of training centers and will require the hiring of personnel capable of being adequately trained.

Future Commercialization Opportunity

The VTL C3A cells which we grow in our facility produce large quantities of proteins and other cell products, such as albumin, alpha-fetoprotein, alpha-1 antichymotrypsin, alpha-1 antitrypsin, C3 complement, anti-thrombin 3, Factor V, Factor VII, fibrinogen, and transferrin. For example, we are exploring the use of proteins produced by our VTL C3A cells to resuscitate donated livers prior to transplantation in patients. In addition, many of these compounds have known or potential industrial and/or therapeutic applications. We have been exploring the potential commercialization of proteins and other C3A-produced compounds. However, to date, we have not yet identified any feasible opportunities.

Intellectual Property

We have a patent portfolio and substantial know-how relating to the ELAD System. Our patent portfolio includes patents with claims directed to our ELAD System, specific clonal cells and cell-lines derived from human liver-derived C3A cells, as well as methods of growing such cells. We are currently the owner of record of four issued U.S. patents and over a dozen issued or allowed foreign patents. Additionally, we are the owner of record of two pending Patent Cooperation Treaty international applications and three pending U.S. patent applications, as well as numerous corresponding pending foreign applications. One granted U.S. patent claims a method of using C3A cells to treat a patient's blood. The patent has a term that extends to 2027 and may possibly be extended further if the patent is determined to be eligible for patent term extension. Additionally, a second granted U.S. patent includes claims to an extracorporeal device configuration which is cell type independent and which we believe encompasses our ELAD System. The patent has a term that extends to 2025 and may possibly be extended further if the patent is determined to be eligible for patent term extension. Foreign counterparts of these patents have been issued in countries throughout the world, including, for example, in Australia, Canada, Indonesia, Israel, Japan, Mexico, New Zealand, Singapore, South Africa, South Korea, Taiwan and the Philippines. Furthermore, related applications remain pending in certain other jurisdictions including, for example, Europe, Brazil, Hong Kong and India.

We strive to protect the proprietary technology that underlies the ELAD System. We seek patent protection in the U.S. and internationally for the ELAD System, its methods of use and processes of manufacture, and any other technology to which we have rights, where available and when appropriate. We also rely on trade secrets that may be important to the development of our business.

A predecessor company initially developed the ELAD System after the technology was spun out of Baylor College of Medicine in 1990. In 2003, we acquired substantially all of the assets of the predecessor, including trade secrets, know how, clinical experience and key employees and facilities.

Our success will depend on our ability to obtain and maintain patent and other proprietary rights in commercially important technology, inventions and know-how related to our business, the validity and enforceability of our patents, and the continued confidentiality of our trade secrets as well as on our ability to operate without infringing the valid and enforceable patents and proprietary rights of third parties. We also expect to rely on continuing technological innovation and in-licensing opportunities to develop and maintain our proprietary position.

We cannot be sure that patents will be granted with respect to any of our pending patent applications or with respect to any patent applications we may own or license in the future, nor can we be sure that any of our existing patents or any patents we may own or license in the future will be useful in protecting our technology. For this and more comprehensive risks related to our intellectual property, please see "Risk Factors — Risks Related to Intellectual Property."

The term of individual patents depends upon the legal term of the patents in the countries in which they are obtained. In most countries in which we file, the patent term is 20 years from the date of filing the non-provisional priority application. In the U.S., a patent's term may be lengthened by patent term adjustment, which compensates a patentee for administrative delays by the U.S. Patent and Trademark Office, or PTO, in granting a patent, or may be shortened if a patent is terminally disclaimed over an earlier-filed patent.

The term of a U.S. patent that covers an FDA-approved biologic may also be eligible for patent term extension, which permits patent term restoration as compensation for the patent term lost during the FDA regulatory review process. The Hatch-Waxman Amendments permit a patent term extension of up to five years beyond the expiration of the patent. The length of the patent term extension is related to the length of time the biologic is under regulatory review. A patent term extension cannot extend the remaining term of a patent beyond a total of 14 years from the date of product approval and only one patent applicable to an approved biologic may be extended. Similar provisions are available in Europe and other foreign jurisdictions to extend the term of a patent that covers an approved drug. When possible, depending upon the length of clinical trials and other factors involved in the filing of our BLA, we expect to apply for patent term extensions.

In addition to patents, we rely on trade secrets and know-how to develop and maintain our competitive position. For example, significant aspects of our proprietary technology are based on unpatented trade secrets and know-how. This includes our methods of expanding, culturing and optimizing the performance of the human VTL C3A cell line.

Trade secrets and know-how can be difficult to protect. We seek to protect our proprietary technology and processes, in part, by confidentiality agreements and invention assignment agreements with our employees, consultants, scientific advisors, contractors and commercial partners. These agreements are designed to protect our proprietary information and, in the case of the invention assignment agreements, to grant us ownership of technologies that are developed through a relationship with a third party. We also seek to preserve the integrity and confidentiality of our data and trade secrets by maintaining physical security of our premises and physical and electronic security of our information technology systems. While we have confidence in these individuals, organizations and systems, agreements or security measures may be breached, and we may not have adequate remedies for any breach. In addition, our trade secrets may otherwise become known or be independently discovered by competitors. To the extent that our contractors use intellectual property owned by others in their work for us, disputes may arise as to the rights in related or resulting know-how and inventions.

We seek trademark protection in the U.S. and outside of the U.S. where available and when appropriate. We have registered trademark rights for Vital Therapies in the U.S. and Australia and for ELAD in the U.S., Europe and Australia.

Competitive Environment

The biotherapeutic and medical device industries are highly competitive, and we face potential competition from pharmaceutical, specialty pharmaceutical, medical device and biotechnology companies worldwide. Given the significant unmet medical need for novel therapies to treat liver failure, many companies, universities and research organizations are actively engaged in the discovery, research and development of potential therapies in this field. This includes entities engaged in research on cell-based approaches to liver failure.

There are reports of a human cell-based system under development in China, but the clinical status of this program has not been confirmed. Additionally, a number of companies have performed research work on various human hepatocyte cell lines, and several academic researchers and companies are actively pursuing animal research in this area. Companies have also attempted to develop extracorporeal therapy based upon primary porcine hepatocytes and may be in early stage clinical studies with pig-cell based systems designed for the treatment of liver failure. Other than noted above, we are not aware of other entities being close to undergoing human clinical trials with a human cell-based product for the treatment of liver failure; however, it is possible that these trials are occurring without our knowledge, and that such a product may get to market much faster than we expect.

Liver dialysis systems are commercially available in the U.S. and Europe, and further development of albumin dialysis systems is ongoing. These systems rely on not only traditional dialysis circuits to remove water-soluble toxins, but also albumin dialysis circuits to remove albumin-bound molecules. To our knowledge none of these non-cellular systems has shown an improvement in long-term survival among patients with liver failure. It has also been reported that a clinical trial in decompensated liver disease for a novel liver dialysis (non-bioartificial) system incorporating albumin dialysis along with a selective adsorption technology has been initiated.

In addition, there are several drugs available to treat symptoms associated with liver failure, including steroids, pentoxifylline and N-acetylcysteine. These three drugs, alone or in combination, are used frequently in patients with liver failure resulting from acute hepatocellular insult. Gilead Sciences has initiated a phase 2 trial to evaluate the safety of a non-cellular, drug therapy known as GS-4997 in combination with a steroid named prednisolone, compared with prednisolone alone, in subjects with severe alcoholic hepatitis.

Government Regulation

We operate in a highly-regulated industry that is subject to significant federal, state, local and foreign regulation. Our present and future business has been, and will continue to be, subject to a variety of laws including, the Federal Food, Drug, and Cosmetic Act, or FDC Act, and the Public Health Service Act, or PHS Act, among others. Biologics and medical devices are subject to regulation under the PHS Act and FDC Act.

Regulation of Combination Products

The FDA has specified a definition for the term “combination product,” which includes: (1) a product comprised of two or more regulated components, i.e., drug/device, biologic/device, drug/biologic, or drug/device/biologic, that are physically, chemically, or otherwise combined or mixed and produced as a single entity; (2) two or more separate products packaged together in a single package or as a unit and comprised of drug and device products, device and biological products, or biological and drug products; (3) a drug, device, or biological product packaged separately that according to its investigational plan or proposed labeling is intended for use only with an approved individually specified drug, device, or biological product where both are required to achieve the intended use, indication, or effect and where upon approval of the proposed product the labeling of the approved product would need to be changed, e.g., to reflect a change in intended use, dosage form, strength, route of administration, or significant change in dose; or (4) any investigational drug, device, or biological product packaged separately that according to its proposed labeling is for use only with another individually specified investigational drug, device, or biological product where both are required to achieve the intended use, indication, or effect.

The FDA is divided into various “Centers” by product type. Different Centers typically review drug, biologic, or device applications. In order to review an application for a combination product, the FDA must decide which Center should be responsible for the review. FDA regulations require that the FDA determine the combination product’s primary mode of action, or PMOA, which is the single mode of a combination product that provides the most important therapeutic action of the combination product. The Center that regulates that portion of the product that generates the PMOA becomes the lead evaluator. If there are two independent modes of action, neither of which is subordinate to the other, the FDA makes a determination as to which Center to assign the product based on consistency with other combination products raising similar types of safety and effectiveness questions or to the Center with the most expertise in evaluating the most significant safety and effectiveness questions raised by the combination product. When evaluating an application, a lead Center may consult other Centers but still retain complete reviewing authority, or it may collaborate with another Center, by which the Center assigns review of a specific section of the application to another Center, delegating its review authority for that section. Typically, the FDA requires a single marketing application submitted to the Center selected to be the lead evaluator, although the agency has the discretion to require separate applications to more than one Center. One reason to submit multiple evaluations is if the applicant wishes to receive some benefit that accrues only from approval under a particular type of application, like new drug product exclusivity. If multiple applications are submitted, each may be evaluated by a different lead Center.

The ELAD System is regulated as a combination biologic/device in the U.S. Based upon the proposed mechanism of action, the primary Center within the FDA responsible for its regulation is the Center for Biologics Evaluation and Research, or CBER. The CBER office responsible for review is the Office of Tissues and Advanced Therapies, and the marketing application will be a BLA. CBER will consult with the Center for Devices and Radiological Health, or CDRH, in reviewing the device components of the ELAD System.

FDA Approval Process

In the U.S., pharmaceutical and biological products and medical devices are subject to extensive regulation by the FDA. The FDC Act, PHS Act, and other federal and state statutes and regulations, govern, among other things, the research, development, testing, manufacture, storage, recordkeeping, approval, labeling, promotion and marketing, distribution, post-approval monitoring and reporting, sampling, and import and export of these products. Failure to comply with applicable U.S. requirements may subject a company to a variety of administrative or judicial sanctions, such as FDA refusal to approve pending license applications, warning and other letters, product recalls, product seizures, total or partial suspension of production or distribution, injunctions, fines, civil penalties and criminal prosecution.

Preclinical Studies

Biological product development in the U.S. typically involves preclinical laboratory and animal tests. Preclinical tests include laboratory evaluation of product chemistry, formulation, and toxicity, as well as animal trials to assess the characteristics and potential safety and efficacy of the product. The conduct of the preclinical tests must comply with federal regulations and requirements including good laboratory practices. The results of preclinical testing are submitted to the FDA as part of an investigational new drug application, or IND, along with other information, including information about product chemistry, manufacturing and controls, and a proposed clinical trial protocol. Long-term preclinical tests, such as animal tests of reproductive toxicity and carcinogenicity, may continue after the IND is submitted.

A 30-day waiting period after the submission of each IND is required prior to the commencement of clinical testing in humans. If the FDA has not objected to the IND within this 30-day period, the clinical trial proposed in the IND may begin.

Clinical Studies

Clinical trials involve the administration of the investigational biologic to healthy volunteers or subjects with the targeted indication, or disease, under the supervision of a qualified investigator. Clinical trials must be conducted in compliance with federal regulations and good clinical practices, or GCP, an international standard meant to protect the rights and health of subjects and to define the roles of clinical trial sponsors, administrators, and monitors, as well as under protocols detailing the objectives of the trial, the parameters to be used in monitoring safety and the effectiveness criteria to be evaluated. Each protocol involving testing on U.S. subjects and subsequent protocol amendments must be submitted to the FDA as part of the IND.

The FDA may order the temporary or permanent discontinuation of a clinical trial at any time or impose other sanctions if it believes that the clinical trial is not being conducted in accordance with FDA requirements or presents an unacceptable risk to the clinical trial subjects. The clinical trial protocol, protocol amendments and informed consent information for subjects in clinical trials must also be submitted to an institutional review board, or IRB, for approval. An IRB may also require the clinical trial at the site to be halted, either temporarily or permanently, for failure to comply with the IRB's requirements, or may impose other conditions.

Disclosure of Clinical Trial Information

Sponsors of clinical trials of investigational products are required to register on clinicaltrials.gov, a National Institute of Health website registry database, and disclose certain clinical trial information. Information related to the product, patient population, phase of investigation, study sites and investigators, and other aspects of the clinical trial is then made public as part of the registration. Sponsors are also obligated to discuss the results of their clinical trials after completion. Disclosure of the results of these trials can be delayed until the new product or new indication being studied has been approved. Competitors may use this publicly available information to gain knowledge regarding the progress of development programs.

Marketing Approval

Clinical trials to support BLAs, which are applications for marketing approval, are typically conducted in three sequential phases, but the phases may overlap. In phase 1, the initial introduction of the investigational biologic candidate into healthy human subjects, the investigational biologic is tested to assess metabolism, pharmacokinetics, pharmacological actions, side effects associated with increasing doses and, if possible, early evidence on effectiveness. Phase 2 usually involves trials in a limited subject population, to determine the effectiveness of the investigational biologic for a particular indication or indications, dosage tolerance and optimum dosage, and identify common adverse effects and safety risks. In the case of product candidates for severe or life-threatening diseases such as cancer, the initial human testing is often conducted in patients rather than in healthy volunteers.

If an investigational biologic demonstrates evidence of effectiveness and an acceptable safety profile in phase 2 evaluations, phase 3 clinical trials are undertaken to obtain additional information about clinical efficacy and safety in a larger number of subjects, typically at geographically dispersed clinical trial sites, to permit the FDA to evaluate the overall benefit-risk relationship of the investigational drug and to provide adequate information for its labeling. In most cases, the FDA requires two adequate and well-controlled phase 3 clinical trials to demonstrate the efficacy and safety of the biologic for use in a specific indication or population. A single phase 3 clinical trial with other confirmatory evidence may be sufficient in rare instances where the study is a large multi-center trial demonstrating internal consistency and a statistically very persuasive finding of a clinically meaningful effect on mortality, irreversible morbidity, or prevention of a disease with a potentially serious outcome and confirmation of the result in a second trial would be practically or ethically impossible.

After completion of the required clinical testing, a BLA is prepared and submitted to the FDA. FDA approval of the BLA is required before marketing of the product may begin in the U.S. The BLA must include the results of all preclinical, clinical and other testing and a compilation of data relating to the product's manufacture and controls. The cost of preparing and submitting a BLA is substantial. The submission of most BLAs is subject to a substantial application fee and the manufacturer or sponsor of an approved BLA is also subject to annual product and establishment user fees.

The FDA has 60 days from its receipt of a BLA to determine whether the application will be accepted for filing based on the agency's threshold determination that it is sufficiently complete to permit substantive review. Once the submission is accepted for filing, the FDA begins an in-depth review. The FDA has agreed to certain performance goals in the review of BLAs. Most such applications for standard review biologics products are reviewed within twelve months of submission; most applications for priority review biologics are reviewed within eight months of submission. Priority review for biologics is limited to those products intended to treat a serious or life-threatening disease with unmet medical need relative to the currently approved products. The review process may be extended by the FDA for three additional months to consider certain late-submitted information, or information intended to clarify information already provided in the submission.

The FDA may also refer applications for novel biologics products or biologics products that present difficult questions of safety or efficacy, to an advisory committee, typically a panel that includes clinicians and other experts, for review, evaluation and a recommendation as to whether the application should be approved. The FDA is not bound by the recommendation of an advisory committee, but it generally follows such recommendations. Before approving a BLA, the FDA will typically inspect one or more clinical sites to assure compliance with GCP. Additionally, the FDA will inspect the facility or the facilities at which the biologic product is manufactured. The FDA will not approve the BLA unless compliance with current good manufacturing practice, or cGMP, is satisfactory, including compliance with applicable parts of the medical device Quality System Regulation, or QSR, as defined for combination products, and the BLA contains data that provide substantial evidence that the biologic is safe, pure and potent in the indication studied. Manufacturers of biologics also must comply with the FDA's general biological product standards.

After the FDA evaluates the BLA and the manufacturing facilities, it issues either an approval letter or a complete response letter. A complete response letter outlines the deficiencies in the submission and may require substantial additional testing, including additional large-scale clinical testing or information in order for the FDA to reconsider the application. If, or when, those deficiencies have been addressed to the FDA's satisfaction in a resubmission of the BLA, the FDA will issue an approval letter. The FDA has committed to reviewing such resubmissions in two or six months depending on the type of information included.

An approval letter authorizes commercial marketing and distribution of the biologic with specific prescribing information for specific indications. As a condition of BLA approval, the FDA may require substantial post-approval testing and surveillance to monitor the product's safety or efficacy and may impose other conditions, including labeling restrictions, which can materially affect the product's potential market and profitability. Once granted, product approvals may be withdrawn if compliance with regulatory standards is not maintained or problems or safety issues are identified following initial marketing.

Changes to some of the conditions established in an approved application, including changes in indications, labeling, device components or manufacturing processes or facilities, require submission and FDA approval of a new BLA or BLA supplement before the change can be implemented. A BLA supplement for a new indication typically requires clinical data similar to that in the original application, and the FDA uses the same procedures and actions in reviewing BLA supplements as it does in reviewing BLAs.

Post-Approval Requirements

Once a BLA is approved, a product will be subject to certain post-approval requirements. For instance, the FDA closely regulates the post-approval marketing and promotion of biologics, including standards and regulations, off-label promotion, industry-sponsored scientific and educational activities and promotional activities involving the internet.

Biologics may be marketed only for the approved indications and in accordance with the provisions of the approved labeling.

Adverse event reporting and submission of periodic reports is required following FDA approval of a BLA. The FDA also may require post-marketing testing, known as phase 4 testing, Risk Evaluation and Mitigation Strategies, or REMS, and surveillance to monitor the effects of an approved product or place conditions on an approval that could restrict the distribution or use of the product. In addition, quality control as well as product manufacturing, packaging and labeling procedures must continue to conform to cGMP's after approval. Manufacturers and certain of their subcontractors are required to register their establishments with the FDA and certain state agencies, and are subject to periodic unannounced inspections by the FDA during which the agency inspects manufacturing facilities to assess compliance with applicable regulations such as cGMPs and the QSR. Accordingly, manufacturers must continue to expend time, money and effort in the areas of production and quality control to maintain compliance with cGMP's. Regulatory authorities may withdraw product approvals or request product recalls if a company fails to comply with regulatory standards, if it encounters problems following initial marketing, or if previously unrecognized problems are subsequently discovered.

Exclusivity and Approval of Competing Products

Biosimilar Exclusivity

The Biologics Price Competition and Innovation Act of 2009, or BPCIA, creates an abbreviated approval pathway for biological products shown to be highly similar to or interchangeable with an FDA-licensed reference biological product. Biosimilarity sufficient to reference a prior FDA-approved product requires that there be no differences in conditions of use, route of administration, dosage form, and strength, and no clinically meaningful differences between the biological product and the reference product in terms of safety, purity, and potency. Biosimilarity must be shown through analytical studies, animal studies, and at least one clinical study, absent a waiver. A biosimilar product may be deemed interchangeable with a prior approved product if it meets the higher hurdle of demonstrating that it can be expected to produce the same clinical results as the reference product and, for products administered multiple times, the biologic and the reference biologic may be switched after one has been previously administered without increasing safety risks or risks of diminished efficacy relative to exclusive use of the reference biologic. Complexities associated with the larger, and often more complex, structures of biological products, as well as the process by which such products are manufactured, pose significant hurdles to implementation.

A reference biologic is granted twelve years of exclusivity from the time of first licensure of the reference product, and no application for a biosimilar can be submitted for four years from the date of licensure of the reference product. The first biologic product submitted under the abbreviated approval pathway that is determined to be interchangeable with the reference product has exclusivity against a finding of interchangeability for other biologics for the same condition of use for the lesser of (i) one year after first commercial marketing of the first interchangeable biosimilar, (ii) eighteen months after the first interchangeable biosimilar is approved if there is no patent challenge, (iii) eighteen months after resolution of a lawsuit over the patents of the reference biologic in favor of the first interchangeable biosimilar applicant, or (iv) 42 months after the first interchangeable biosimilar's application has been approved if a patent lawsuit is ongoing within the 42-month period.

Orphan Drugs

Under the Orphan Drug Act, the FDA may grant orphan designation to a drug or biologic intended to treat a rare disease or condition, which is generally a disease or condition that affects fewer than 200,000 individuals in the U.S., or more than 200,000 individuals in the U.S. and for which there is no reasonable expectation that the cost of developing and making available in the U.S. a drug or biologic for this type of disease or condition will be recovered from sales in the U.S. for that drug or biologic. Orphan drug designation must be requested before submitting a BLA. After the FDA grants orphan drug designation, the generic identity of the therapeutic agent and its potential orphan use are disclosed publicly by the FDA.

If a product that has orphan drug designation subsequently receives the first FDA approval for the disease for which it has such designation, the product is entitled to orphan product exclusivity, which means that the FDA may not approve any other applications, including a full BLA, to market the same biologic for the same indication for seven years, except in limited circumstances, such as a showing of clinical superiority to the product with orphan drug exclusivity. Orphan drug exclusivity does not prevent FDA from approving a different drug or biologic for the same disease or condition, or the same drug or biologic for a different disease or condition. Among the other benefits of orphan drug designation are tax credits for certain research and a waiver of the BLA application user fee.

A designated orphan drug may not receive orphan drug exclusivity if it is approved for a use that is broader than the indication for which it received orphan designation. In addition, orphan drug exclusive marketing rights in the U.S. may be lost if the FDA later determines that the request for designation was materially defective or if the manufacturer is unable to assure sufficient quantities of the product to meet the needs of patients with the rare disease or condition.

21st Century Cures Act

In December 2016, President Obama signed the 21st Century Cures Act, or Cures Act, into law. The Cures Act seeks to accelerate the discovery, development, and delivery of new medicines and medical technologies. To that end, and among other provisions, the Cures Act revises the United States Federal Food, Drug, and Cosmetic Act to streamline review of combination product applications and authorizes the FDA to designate a drug as a "regenerative advanced therapy," thereby making it eligible for certain expedited review and approval designations.

Federal and State Fraud and Abuse, Privacy and Transparency Laws

In addition to FDA restrictions on marketing of pharmaceutical products, several other types of federal and state laws in the U.S. have been applied to restrict certain business operations and activities in the biopharmaceutical and medical device industries in recent years. These laws that may affect our ability to operate include, but are not limited to:

The federal healthcare program anti-kickback statute prohibits, among other things, knowingly and willfully offering, paying, soliciting, or receiving any remuneration (including any kickback, bribe or rebate), directly or indirectly, overtly or covertly, in cash or in kind, to induce, or in return, for purchasing, leasing, ordering, or arranging for or recommending the purchase, lease, or order of any good, facility, service or item for which payment is made, in whole or in part, under a federal health care program. The federal healthcare program anti-kickback statute has been interpreted to apply to arrangements between pharmaceutical manufacturers on one hand and prescribers, purchasers and formulary managers on the other. Although there are a number of statutory exceptions and regulatory safe harbors protecting certain common activities from prosecution, the exceptions and safe harbors are drawn narrowly, and practices that involve remuneration intended to induce prescribing, purchasing, or recommending may be subject to scrutiny if they do not qualify for a statutory exception or a regulatory safe harbor. Failure to meet all of the requirements of a particular applicable statutory exception or regulatory safe harbor does not make the conduct per se illegal under the federal healthcare program anti-kickback statute. Instead, the legality of the arrangement will be evaluated on a case-by-case basis based on a cumulative review of all of its facts and circumstances.

The federal civil False Claims Act prohibits, among other things, any person or entity from knowingly presenting, or causing to be presented, a false or fraudulent claim for payment to, or approval by, the federal government, or knowingly making, using, or causing to be made or used, a false record or statement material to a false or fraudulent claim to the federal government. Recently, the civil False Claims Act has been used to assert liability on the basis of kickbacks and improper referrals, improperly reported government pricing metrics such as Medicaid Best Price or Average Manufacturer Price, improper promotion of drugs or off-label uses not expressly approved by the FDA in a drug's label, and misrepresentations with respect to the services rendered or items provided. The federal criminal false claims law prohibits, among other things, at any time knowingly and willingly making, or causing to be made, any false statement or representation of a material fact for use in determining rights to a benefit or payment under a federal healthcare program.

Many states also have statutes or regulations similar to the federal fraud and abuse laws, which apply to items and services reimbursed under Medicaid and other state programs, or, in several states, apply regardless of the payor (e.g. private payors). Sanctions under federal, and state healthcare fraud and abuse laws may include, without limitation, civil, criminal and administrative penalties, damages, monetary fines, disgorgement, possible exclusion from participation in Medicare, Medicaid and other federal healthcare program, contractual damages, reputational harm, diminished profits and future earnings, and the curtailment or restructuring of operations.

Additionally, the federal Health Insurance Portability and Accountability Act of 1996, or HIPAA, created new federal criminal statutes that prohibit knowingly and willfully executing, or attempting to execute, a scheme to defraud or to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any healthcare benefit program, including private third party payors and knowingly and willfully falsifying, concealing or covering up by trick, scheme or device a material fact or making any materially false, fictitious or fraudulent statement in connection with the delivery of or payment for healthcare benefits, items or services relating to healthcare matters. Many states have similar fraud and abuse statutes and regulations that apply to items and services reimbursed under Medicaid and other state programs, or, in several states, private payors. In addition, we may be subject to, or our marketing activities may be limited by, data privacy and security regulation by both the federal government and the states in which we conduct our business.

The risk of our being found in violation of these laws is increased by the fact that many of them have not been fully interpreted by the regulatory authorities or the courts, and their provisions are open to a variety of interpretations. Moreover, recent healthcare reform legislation has strengthened many of these laws. For example, the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act (collectively, the ACA), among other things, amends the intent requirement of the federal healthcare program anti-kickback statute to a stricter standard such that a person or entity does not need to have actual knowledge of the federal healthcare program anti-kickback statute or specific intent to violate it in order to have committed a violation. In addition, the ACA codified case law that a claim including items or services resulting from a violation of the federal anti-kickback statute constitutes a false or fraudulent claim for purposes of the civil False Claims Act. Because of the breadth of these laws and the narrowness of the statutory exceptions and regulatory safe harbors, it is possible that some of our business activities may not satisfy the statutory exceptions or regulatory safe harbors and we could be subject to challenge under one or more of such laws. State law equivalents to these federal laws may also apply. Such a challenge could have a material adverse effect on our business, financial condition and results of operations.

Additionally, the federal Physician Payments Sunshine Act within the ACA, and its implementing regulations, require that certain manufacturers of drugs, devices, biological, and medical supplies for which payment is available under Medicare, Medicaid, or the Children's Health Insurance Program (with certain exceptions) to report to the Centers for Medicare & Medicaid Services, or CMS, information related to certain payments or other transfers of value made or distributed to physicians and teaching hospitals, or to entities or individuals at the request of, or designated on behalf of, the physicians and teaching hospitals. The Physician Payments Sunshine Act provisions implemented in final regulation requires applicable manufacturers to report annually to CMS certain ownership and investment interests held by physicians and their immediate family members. Manufacturers are required to report such data to CMS by the 90th day of each subsequent calendar year. Other state laws require pharmaceutical companies to adopt and or disclose specific compliance policies to regulate the Company's interactions with healthcare professionals. Moreover, some states, such as Minnesota and Vermont, also impose an outright ban on certain gifts to physicians.

Violations of some of these laws may result in substantial fines. These laws affect promotional activities by limiting the kinds of interactions we may have with hospitals, physicians or other potential purchasers or users of our products. Both the disclosure laws and gift bans will impose additional administrative and compliance burdens on us once and if we receive marketing approval of our product. Although we seek to structure our interactions in compliance with all applicable requirements, these laws are broadly written, and it is often difficult to determine precisely how a law will be applied in specific circumstances. If an employee were to offer an inappropriate gift to a customer, we could be subject to a claim under an applicable state law. Similarly, if we fail to comply with a reporting requirement, we could be subject to penalties under applicable federal or state laws including, without limitation, civil, criminal and administrative penalties, damages, monetary fines, disgorgement, possible exclusion from participation in Medicare, Medicaid and other federal healthcare programs, contractual damages, reputational harm, diminished profits and future earnings, and the curtailment or restructuring of our operations. In addition to the federal and state disclosure and gift ban laws, certain countries outside of the U.S. have similarly enacted disclosure laws for which the company in its activities may be subjected to from time to time.

Regulation in the European Union

Biologics and medical devices are subject to extensive regulation outside of the U.S. In the European Union, for instance, a centralized approval procedure, or Centralized Procedures, may be used to authorize the marketing of a product in all countries of the European Union, which includes most major European markets. However, for certain products, if this procedure is not used, approval in one country of the European Union can be used to obtain approval in a second country of the European Union under two simplified application processes, either the mutual recognition procedure or the decentralized procedure. Both of these procedures rely on the principle of mutual recognition. In addition to regulatory approval, pricing and reimbursement approvals are also required in most countries.

In Europe, the ELAD System is regulated as a Combination Somatic Cell Advanced Therapy Medicinal Product, or ATMP. The primary regulatory license application in Europe (a Marketing Authorization Application, or MAA), if any, will be made to The Committee for Advanced Therapies, or CAT, and the Committee for Human Medicinal Products, or CHMP, which are the committees at the European Medicines Agency, or EMA, that are responsible for assessing the quality, safety and efficacy of ATMPs. Marketing Authorization Applications for ATMPs can only be filed using the Centralized Procedure. The CHMP and the CAT liaise closely together so the CHMP is able to make a scientific opinion relating to the authorization to place an ATMP on the market in accordance with Regulation (EC) No 1394/2007 and pharmacovigilance. The CAT has also established collaborations with Notified Bodies, or NBs, in Europe in order to review the device components of combination device products, and we anticipate that the device components of our submission would be reviewed by one of those NBs. Currently, during the clinical trial phase in Europe, we are granted authorization to conduct clinical studies at the national level through the health authority agencies in each country, each of which has its own format and regulation for the issuance of clinical trial authorizations, or CTAs. For some countries, it is necessary to obtain separate authorizations in each country for each clinical trial protocol from the medicines and device agencies as there is yet to be developed a procedure for dealing with combination products like the ELAD System. The EMA has provisions for providing companies with advice on topics related to marketing authorization in Europe through the Scientific Advice Working Party, or SAWP. Previously, we sought and obtained advice on the ELAD development program through the SAWP process. We anticipate obtaining further guidance and advice through future interactions with the SAWP.

In other jurisdictions we anticipate that there will be different requirements for authorization for clinical trials and ultimately marketing of the ELAD System due to the complex nature of the combination of biological and device components of our ELAD System.

Other Regulations

We are also subject to numerous, federal, state, local and foreign laws and regulations relating to such matters as safe working conditions, manufacturing practices, fire hazard control, environmental protection and the disposal of hazardous and potentially hazardous substances and biological materials. We may incur significant costs to comply with such laws and their related regulations now or in the future. In addition, we are also subject to laws and regulations in foreign countries outside of the U.S. and Europe where we may seek to commercialize the ELAD System. In certain cases, these foreign laws and regulations may change at inopportune times and prevent the ELAD System's timely commercialization. For example, several years after we submitted our 2007 regulatory package in China, we were notified of a then newly-enacted 2009 regulation which prohibits the ELAD System's approval in China until it is first approved in the U.S. As such, we now do not expect regulatory consideration of approval in China until after approvals are received in the U.S. or Europe.

Research and Development

We recognized \$39.3 million, \$30.0 million and \$39.8 million in research and development expenses in the years ended December 31, 2017, 2016 and 2015, respectively.

Geographic Information

During 2017, 2016 and 2015, substantially all of our long-lived assets were located within the U.S.

Financial Information about Segments

We manage our operations as a single reportable segment for the purposes of assessing performance and making operating decisions. Please see Note 1, "Description of Business and Basis of Financial Statements" in the notes to the consolidated financial statements.

Employees

As of January 31, 2018, we had 97 employees, 14 of whom held Ph.D. or M.D. degrees. Of our employees, 52 were engaged in research and development, 27 in manufacturing and 18 in administration. None of our employees is represented by a labor organization or under any collective bargaining arrangement, and we have never had a work stoppage. We consider our employee relations to be good.

Corporate Information and Website

We were incorporated in California in May 2003 as Vitagen Acquisition Corp., changed our name to Vital Therapies, Inc. in June 2003, and reincorporated in Delaware in January 2004. Our principal executive offices are located at 15010 Avenue of Science, Suite 200, San Diego, CA 92128. Our telephone number is (858) 673-6840. Our website address is <http://www.vitaltherapies.com>. This Annual Report on Form 10-K, our Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, and any amendments to those reports filed or furnished pursuant to Sections 13(a) and 15(d) of the Securities Exchange Act of 1934, as amended, or the Exchange Act, are available (free of charge) on our website as soon as reasonably practicable after we electronically file such material with, or furnish it to, the Securities and Exchange Commission, or SEC. The public may read and copy any materials filed by us with the SEC at the SEC's Public Reference Room at 100F Street, NE, Room 1580, Washington, DC 20549. The public may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. The SEC maintains an internet site that contains reports, proxy and information statements and other information regarding issuers that file electronically with the SEC at www.sec.gov. Information contained on, or that can be accessed through, our website, or from the SEC does not constitute part of this Annual Report on Form 10-K, and the inclusion of our website address in this Annual Report is an inactive textual reference only.

"Vital Therapies" and "ELAD" are registered trademarks of Vital Therapies, and the Vital Therapies logo is a trademark of Vital Therapies. Other service marks, trademarks, and tradenames referred to in this Annual Report are the property of their respective owners. Except as set forth above and solely for convenience, the trademarks and tradenames in this Annual Report are referred to without the ® and ™ symbols, but such references should not be construed as any indicator that their respective owners will not assert, to the fullest extent under applicable law, their rights thereto. We may remain an "emerging growth company" until as late as December 31, 2019 (the fiscal year-end following the fifth anniversary of the completion of our initial public offering), although we may cease to be an "emerging growth company" earlier under certain circumstances, including (i) if the market value of our common stock that is held by non-affiliates exceeds \$700 million as of any June 30, in which case we would cease to be an "emerging growth company" as of the following December 31, or (ii) if our gross revenue exceeds \$1.07 billion in any fiscal year. We refer to the Jumpstart Our Business Startups Act of 2012 herein as the "JOBS Act," and references herein to "emerging growth company" are intended to have the meaning associated with it in the JOBS Act.

Item 1A. Risk Factors.

Investing in shares of our common stock involves a high degree of risk. Before deciding to invest in our company or deciding to maintain or increase or decrease your investment, you should consider carefully the risks and uncertainties described below. The risks and uncertainties described below and in our other filings with the Securities and Exchange Commission, or SEC, are not the only ones we face. If one or more of the following risks are realized, our business, financial condition and results of operations and prospects could be materially and adversely affected. In that event, the market price of our common stock could decline, and you may lose all or part of your investment.

Risks Related to Our Business

We have designed our current phase 3 clinical trial for the ELAD® System based on the results of pre-specified and post-hoc analyses of our VTI-208 trial; however, there is no assurance of success and the trial may fail. Since the ELAD System is currently our sole product candidate, failure of this new trial could result in failure of the company.

In August 2015, we announced that the ELAD System, our sole product candidate, failed to meet its primary and secondary endpoints in our VTI-208 phase 3 clinical trial. Following this announcement, we discontinued our VTI-210 and VTI-212 clinical trials and began a series of pre-specified and post-hoc analyses of the VTI-208 data to determine if there was a basis for continuing the development of the ELAD System. Based on these analyses, we prepared a preliminary protocol for a new clinical trial, VTL-308, incorporating changes based on clinically relevant trends we observed in subset data from the VTI-208 clinical trial, including limits on subjects' age, Model for End-stage Liver Disease, or MELD, score and the three components of MELD score associated with kidney dysfunction (creatinine), blood clotting dysfunction defined as international normalization ratio, or INR, and liver function (bilirubin). In November 2015, we received written responses from the U.S. Food and Drug Administration, or the FDA, to our Type C meeting request on the VTL-308 phase 3 clinical trial. At the FDA's suggestion, we have incorporated an event-driven feature into the trial design consistent with the primary endpoint of overall survival. Under the modified design, enrollment will continue until at least 150 subjects have been enrolled and 55 events are expected to have occurred by data lock, consistent with the event rate seen in the target subpopulation from VTI-208.

The design of and assumptions underlying our new VTL-308 clinical trial, including the inclusion and exclusion criteria, may prove to be incorrect or may not ultimately demonstrate statistical significance in overall survival over a control group. Further, even if statistical significance in overall survival is achieved, the results may not be accepted without a confirmatory study as the basis for the submission of a biologics license application, or BLA, to the FDA or for a similar filing with any other regulatory authority. For example, even if the VTL-308 clinical trial were to meet its primary endpoint, the FDA or other regulatory authorities may still require an additional pivotal trial before granting market approval, which would require substantial additional time and funds in order to complete clinical development. If we are unsuccessful in our clinical development program, we will need to undertake a review of potential business alternatives, which may include, but are not limited to, a merger or sale of the company or ceasing operations and winding down the business.

We may not be able to complete the development of, successfully obtain regulatory or marketing approval for, or successfully commercialize, the ELAD System.

To date, we have expended significant time, resources and effort on the development of the ELAD System. The unfavorable VTI-208 outcome has caused a significant delay in our plans to commercialize the ELAD System. In order to complete the development of the ELAD System, we will need to complete one or more additional clinical trials that successfully demonstrate statistical significance in overall survival over a control group, manage clinical and manufacturing activities, obtain necessary regulatory approvals from the FDA in the U.S., from the European Medicines Agency, or EMA, in the European Economic Area, and from foreign regulatory authorities in other jurisdictions, obtain commercial manufacturing supply, build a commercial marketing organization or enter into a commercial marketing collaboration with a third party, and in some jurisdictions, obtain reimbursement authorization, among other things. If we do not successfully complete the necessary clinical trials, do not have sufficient commercial manufacturing supply for the ELAD System, encounter additional difficulties in the development of the ELAD System due to any of the factors discussed in this "Risk Factors" section or otherwise, do not seek or receive regulatory approval or are unable to successfully commercialize the ELAD System, if approved, then we will not be able to continue our business in its current form, and we would need to undertake a review of the potential business alternatives discussed above.

We are a clinical-stage company with no approved products, which makes assessment of our future viability and performance difficult.

We are a clinical-stage company, and we have no products approved for commercial sale or revenues from the sale of products. Our operations to date have been limited to organizing, staffing and financing our company, applying for patent rights, manufacturing on a clinical scale, undertaking clinical trials of our product candidate, and engaging in research and development. Our most recent clinical trials failed to reach both their primary and secondary endpoints or were terminated. We have not yet demonstrated an ability to obtain regulatory approval, manufacture products on a commercial scale, or conduct the sales and marketing activities necessary for successful product commercialization. As a result, there is limited information about us for investors to use when assessing our future viability and our potential to successfully develop product candidates, conduct clinical trials, manufacture our products on a commercial scale, obtain regulatory approval and profitably commercialize any approved products. We will encounter risks and difficulties frequently experienced by early-stage biotherapeutic companies in rapidly evolving fields, and we have not yet demonstrated an ability to successfully overcome such risks and difficulties. If we do not address these risks and difficulties successfully, our business will suffer.

We are totally dependent upon the success of the ELAD System, our sole product candidate. If we are unable to obtain approval for the ELAD System and effectively commercialize the ELAD System for the treatment of patients in its currently targeted indications, our business would be significantly harmed.

The ELAD System is designed to improve survival rates of patients with certain forms of liver failure resulting from hepatocellular insult. The ELAD System is a novel product candidate whose safety, efficacy and other attributes have not been demonstrated in well-designed, large scale, clinical trials and are not fully understood. As a cell-based therapy, the ELAD System's mechanism of action is complex, and we cannot be certain that our currently-targeted indications of severe alcoholic hepatitis, or sAH, in the U.S. and Europe, and viral hepatitis (predominantly hepatitis B) in China represent suitable applications for the ELAD System, or even ones where the ELAD System therapy can or will ultimately be shown to be safe and effective in well-designed phase 3 clinical trials necessary to support regulatory approval in any jurisdiction. For example, our VTI-208 phase 3 trial, primarily in subjects with sAH, failed to reach both its primary and secondary endpoints. Finally, even if the ELAD System is proven to be safe and effective and ultimately receives regulatory approval, there is no guarantee that its commercialization will be successful. If the ELAD System fails at any stage in our clinical trials or at the marketing stage, our business and operating results and financial condition will be materially and adversely affected.

We cannot give any assurance that we will successfully complete the ELAD System's clinical development, or that the ELAD System will receive regulatory approval in a timely fashion or at all.

We are subject to all of the uncertainties and complexities affecting a clinical-stage, combination product, biologic and medical device company. We have not successfully completed clinical development for any of the ELAD System's potential indications in the U.S. or Europe where the ELAD System is regulated as a combination biologic and medical device, and as a combined somatic cell Advanced Therapy Medicinal Product, respectively. We initiated a new phase 3 clinical trial, referred to as VTL-308, designed to establish the safety and efficacy of the ELAD System and to support approval in the U.S. and Europe. This clinical trial is being performed in certain subjects with sAH. Any additional indications we elect to pursue will require the initiation and completion of additional phase 3 clinical trials demonstrating safety and efficacy for each such indication. For example, even prior to our VTI-208 clinical trial, the FDA had noted its view that preliminary clinical evidence did not indicate that the ELAD System may demonstrate a substantial improvement over standard of care. Since then, our VTI-208 clinical trial failed to meet both its primary and secondary endpoints. There is no guarantee that any future clinical trials will be completed in a timely fashion or will succeed. Our ability to ultimately reach profitability is critically dependent on our future success in obtaining regulatory approval for the ELAD System. However, there is no assurance that any future clinical trials will be timely or successful, or that regulators will approve the ELAD System in a timely manner, or at all.

If we fail to obtain regulatory approval in the U.S. and Europe, our business would be harmed.

We require regulatory approval for each indication we are seeking before we can market and sell the ELAD System in a particular jurisdiction for such indication. To date, we have not applied for or received the regulatory approvals required for the commercial sale of the ELAD System for any indication in the U.S. or Europe. Our ability to obtain regulatory approval of the ELAD System depends on, among other things, the successful completion of phase 3 clinical trials, and the demonstration of efficacy with statistical significance and acceptable safety in humans. The results of our current clinical trial and any future clinical trials may not meet the FDA, the EMA or other regulatory agencies' requirements to approve the ELAD System for marketing under any specific indication, and these regulatory agencies may also determine that our manufacturing processes or facilities are insufficient to support approval. For example, the FDA had previously noted its view that preliminary clinical evidence available prior to our VTI-208 clinical trial did not indicate that the ELAD System may demonstrate a substantial improvement over standard of care. Additionally, the negative results of VTI-208 may bias the FDA, EMA and other regulatory authorities against the ELAD System. As such, we may need to conduct more clinical trials than we currently anticipate and upgrade our manufacturing processes and facilities, which may require significant additional time and expense and which could delay or prevent approval. Furthermore, the timing of final FDA review and action varies greatly, but can take years in some cases and may involve the input of an FDA advisory committee of outside experts. Sales of the ELAD System in the United States may commence only when our BLA is approved. We have set a goal of filing the BLA nine months after we report top-line data for VTL 308. However, the BLA filing may take longer and may be more expensive than we currently expect. If we fail to obtain such regulatory approval in a timely manner, our commercialization of the ELAD System would be further delayed and our business would be harmed.

If we are able to secure marketing approval, our commercial success will be determined by our ability to obtain acceptable pricing and reimbursement for the ELAD System.

Therapies such as the ELAD System in the U.S. are paid for primarily by private and government insurance, although in some markets payment may be made by private individuals and their families. Reimbursement policies and decisions for medical products is a highly bureaucratic, politicized and regulated process that includes consideration of factors such as cost effectiveness and meaningful patient benefit. Government and third-party payors are under great pressure to reduce costs. Furthermore, there are no therapies approved to restore liver function and the lack of an established reimbursement structure introduces additional uncertainty with regard to reimbursement for the ELAD System. Although we commissioned a report in 2013 from pricing study and reimbursement specialists that concluded we should target a commercial price between \$150,000 and \$275,000 for ELAD therapy in the U.S., we do not know whether this price is achievable or sustainable. Further, this report was prepared prior to the failure of the VTI-208 clinical trial, the discontinuation of our VTI-210 and VTI-212 clinical trials and prior to the commencement of our VTL-308 phase 3 trial, which may result in a lower target commercial price if the report is recreated based on the additional information now known to us. Although we do not expect to determine a target commercial price for ELAD therapy either within or outside of the U.S. until after the completion of a successful clinical trial, we believe it may be difficult to sustain a commercial price outside of the U.S. at or above the commercial price in the U.S. In addition, we will have no control over the reimbursement or conditions that may be set by the government or private insurers, if any, assuming we are able to secure marketing approval for the ELAD System. In markets where payment will be made by private individuals and their families, such private payors may not be prepared to pay an acceptable price.

If we are unable to implement our sales, marketing, distribution, training and support strategies in the U.S. and Europe or enter into agreements with third parties to perform these functions in markets outside of the U.S. and Europe, we will not be able to effectively commercialize the ELAD System and may not reach profitability.

Our technology is new and complex, and potential customers will have limited knowledge of, or experience with, the ELAD System. In addition, we have no ELAD System-related sales and marketing experience either domestically or abroad. We have not commercialized the ELAD System anywhere. Our commercial success will depend on our ability to market and receive adequate reimbursement for the ELAD System. This success will also depend on our ability to obtain and maintain adequate pricing for the ELAD System.

We do not have a sales or marketing infrastructure and have no experience in the sale, marketing or distribution of biologic products and medical devices. To achieve commercial success for the ELAD System, if and when we obtain marketing approval, we will need to establish a sales and marketing organization, and we are unable to predict how we will market the ELAD System. In the future, we expect to build a targeted sales, marketing, training and support infrastructure to market the ELAD System in the U.S. and Europe and to establish collaborations with third parties to market, distribute and support the ELAD System outside of the U.S. and Europe. There are risks involved with establishing our own sales, marketing, distribution, training and support capabilities. For example, recruiting and training sales and marketing personnel and the personnel necessary to initially provide on-site device support and later device training to end-users is expensive and time consuming and could delay any product launch. If the commercial launch of the ELAD System is delayed or does not occur for any reason, we would have prematurely or unnecessarily incurred these commercialization expenses. This may be costly, and our investment would be lost if we cannot retain or reposition our sales, marketing, training and support personnel.

Factors that may inhibit our efforts to commercialize the ELAD System on our own include:

- our inability to recruit, train and retain adequate numbers of effective sales, marketing, training and support personnel;
- the inability of sales personnel to obtain access to physicians, including key opinion leaders, or to persuade adequate numbers of physicians to use the ELAD System;
- our inability to properly support the ELAD System therapy with our own qualified personnel at each customer site or our inability to properly train and support our customers to use the ELAD System effectively on their own;
- the lack of complementary products to be offered by sales personnel, which may put us at a competitive disadvantage relative to companies with more extensive or integrated product offerings; and
- unforeseen costs and expenses associated with creating an independent sales, marketing, training and support organization.

If we are unable to establish our own sales, marketing, distribution, training and support capabilities and instead enter into arrangements with third parties to perform these services, our product revenues, gross margins and our profitability, if any, are likely to be lower than if we were to market, sell and distribute the ELAD System ourselves. In addition, we may not be successful in entering into arrangements with third parties to sell, market and distribute the ELAD System, or may be unable to do so on terms that are favorable to us. We will likely have little control over such third parties, and any of them may fail to devote the necessary resources and attention to commercialize the ELAD System effectively. If we do not establish sales, marketing, distribution, training and support capabilities successfully, either on our own or in collaboration with third parties, we will not be successful in commercializing the ELAD System and achieving profitability, and our business would be harmed.

We have incurred losses since our inception and expect to incur significant losses in the foreseeable future and may never become profitable. Even if we ultimately achieve profitability, it may not be sustained, and we may require additional capital.

We are a clinical-stage company, and clinical development of a novel therapy is a highly speculative undertaking. We have incurred significant losses in each fiscal year since our inception, including net losses of \$52.1 million, \$41.0 million and \$52.0 million for the years ended December 31, 2017, 2016 and 2015, respectively. As of December 31, 2017, we had an accumulated deficit of \$296.0 million. We expect to spend a considerable amount of our resources on the completion of our clinical programs and the work necessary to submit and gain approval of our ELAD System, including costs related to a potential BLA submission, on the production of the ELAD cartridges and bedside units, on investment in production facilities, and on the commercial launch and sales and marketing of the ELAD System. We also expect to expend considerable resources on research and development to develop new and improved products and to understand the mechanism of action of the ELAD System. Even if we succeed in commercializing the ELAD System, we expect to continue to incur substantial research and development and other expenditures to develop and market additional potential product candidates. We may encounter unforeseen expenses, difficulties, complications, delays and other unknown factors that may adversely affect our business. The size of our future net losses will depend, in part, on the rate of future growth of our expenses and our ability to generate revenue. Our prior losses and expected future losses have had and will continue to have an adverse effect on our stockholders' equity and working capital. To date, we have not generated significant revenues, and we anticipate incurring additional losses and negative cash flow from operations for at least the next several years. Even if we do achieve profitability in the future, there is no guarantee that we will be able to sustain this profitability in subsequent periods, and we may need to raise additional capital.

Our ability to use our net operating losses to offset future taxable income may be subject to certain limitations.

As of December 31, 2017, we had net operating loss, or NOL, carryforwards of approximately \$167.7 million and \$200.8 million (prior to our adjustments for uncertain tax positions), net of estimated limitations caused by certain ownership changes under Section 382 of the Internal Revenue Code, for federal and state income tax purposes, respectively. In general, under Section 382, a corporation that undergoes an “ownership change” is subject to limitations on its ability to utilize its pre-change NOLs and its tax credit carryforwards. We believe our existing NOLs and tax credit carryforwards are subject to limitations arising from previous ownership changes, and if we undergo any further ownership changes, our ability to utilize NOLs and tax credit carryforwards could be further limited. Future changes in our stock ownership, some of which are outside of our control, could also result in additional ownership changes under Section 382. Furthermore, our ability to utilize NOLs and tax credit carryforwards of companies that we may acquire in the future may be subject to limitations. In addition, in 2013, California adopted a single factor, sales, for apportioning income and losses to the state. Although completely offset by our valuation allowance, we had recognized NOL carryforwards from 2013 through 2017 based on a multiple factor apportionment based on salaries, property and sales in the state. This position was based on prior court rulings supporting the use of the multiple factor apportionment. This ruling was overturned by the California Supreme Court in December 2015, and, in October 2016, the U.S. Supreme Court declined to hear the case. California has no regulations or guidance nor have there been any rulings addressing how a company with no sales should apportion losses to California. As most of our operations are in California, we intend to file our tax returns using a multiple factor apportionment until such time as California provides a ruling or guidance on such an apportionment. For these reasons, we may not be able to utilize a material portion of the NOLs and tax credit carryforwards, even if we attain profitability.

We conduct business and file income tax returns in various tax jurisdictions. Our tax position could be adversely affected by several factors, many of which are outside of our control. For example, in the U.S., the recently enacted U.S. tax reform on December 22, 2017 commonly referred to as the Tax Cuts and Jobs Act, or the Tax Act, which may have a negative impact on our business. In addition, it is possible that further changes to the U.S. tax code and the tax rules in the other jurisdictions could occur in the near future. Although we monitor these developments, it is not possible to assess to what extent changes may be implemented in the U.S. and other jurisdictions in which we conduct our business or may impact the way in which we conduct our business or our effective tax rate due to the unpredictability and interdependency of these potential changes. Even though we maintain a full valuation allowance to offset our NOLs and tax credit carryforwards, changes in tax laws and related regulations and practices could have a material adverse effect on our business operations, cash flows, effective tax rate, financial position and results of operations.

Our internal computer systems, cloud-based systems and those used by our clinical investigators, contract research organizations or other contractors or consultants may fail or suffer security breaches, which could result in a material disruption of our development programs for the ELAD System.

We rely on information technology systems to keep financial records, maintain laboratory, clinical data and corporate records, communicate with staff and external parties and operate other critical functions. Despite the implementation of security measures, our internal computer systems, cloud-based systems and those used by our clinical investigators, clinical research organizations, or CROs, and other contractors and consultants are vulnerable to damage from computer viruses, unauthorized access, natural disasters, cyber-attacks, terrorism, war, and telecommunication and electrical failures. The techniques that could be used to attack these computer systems are sophisticated, change frequently and may originate from less regulated and remote areas of the world. As a result, we may not be able to address these risks proactively or implement adequate preventative measures. While, to our knowledge, we have not experienced any significant system failure, theft of information, accident or security breach to date, if such an event were to occur and cause interruptions in our operations, it could result in a material disruption of our clinical development or manufacturing activities. For example, the loss of clinical trial data from future clinical trials could result in delays in regulatory approval efforts and significantly increase costs to recover or reproduce the data. To the extent that any disruption, theft of information, or security breach were to result in a loss of or damage to data or applications, or inappropriate disclosure of confidential or proprietary information, we could incur liability and the clinical development and any future development of the ELAD System could be delayed.

In the recent past, we have been involved in securities litigation, and defending against such litigation or an adverse resolution of such litigation may adversely affect our business, financial condition, results of operations and cash flows.

Our industry is characterized by frequent claims and litigation, including claims regarding patent or other intellectual property rights, as well as product liability. Following our announcement that the ELAD System, our sole product candidate, failed to meet its primary and secondary endpoints in our VTI-208 phase 3 clinical trial, we became the subject of a lawsuit alleging securities law violations. Although this litigation was dismissed, this type of litigation can be expensive and disruptive to normal business operations and divert management's attention, and the outcome can be difficult to predict regardless of the facts involved. An unfavorable outcome with respect to a lawsuit could have a material adverse effect on our business, financial condition, results of operations or cash flows.

Risks Related to the ELAD System's Clinical Development

We have limited experience in conducting pivotal clinical trials used to support regulatory approval, and our prior clinical trials of the ELAD System did not demonstrate a statistically significant improvement in survival, the primary endpoint that is needed to support regulatory approval.

Our VTI-208 phase 3 randomized, controlled, open-label trial evaluating the ELAD System in subjects primarily with sAH failed to meet the primary endpoint of overall survival through at least 91 days assessed using the Kaplan Meier statistical method. Our protocol for our new clinical trial in sAH, VTL-308, incorporates limits on subjects' age, MELD score and its three components. While the endpoints and populations for VTL-308 are derived from results of our prior studies, including the results of VTI-208, and based on medical literature, in none of those prior studies have we demonstrated a statistically significant effect on the population based on the endpoints prospectively described in the study plan. Our prior clinical trials of the ELAD System in sAH did not demonstrate statistically significant improvement over standard of care in the primary endpoint of survival through at least study day ninety-one. Similarly, our prior clinical trials of the ELAD System in fulminant hepatic failure, or FHF, did not demonstrate statistically significant improvement in the primary endpoint of 28-day survival. The lack of statistical significance could be attributed to various factors, including the lack of power to demonstrate significance, the design of the studies or the lack of an ELAD System treatment benefit.

Any positive results from previous clinical trials may not be predictive of future results.

Any positive results from our prior clinical trials, including either statistical significance in some endpoints or trends towards statistical significance in other endpoints, should not be relied upon as evidence that our current or future clinical trials will necessarily succeed. While we believe that we have learned valuable lessons from the results of prior trials and have attempted to use these lessons to guide our design of VTL-308, there can be no guarantee that these lessons are correct or that we have effectively incorporated them into the design of VTL-308. For example, our primary endpoint in VTI-208 was based on the results of a subset of subjects in our VTI-206 clinical trial. Although that subset showed a trend toward increased survival up to at least study day ninety-one, it consisted of only 29 subjects. The FDA has noted its belief that this preliminary clinical evidence did not indicate that our product may demonstrate a substantial improvement over standard of care. We cannot provide any guarantee that our potential future clinical trials will provide statistically significant data sufficient to support regulatory approval.

If we fail to select appropriate subjects for our phase 3 clinical trials or if these subjects do not progress as expected, it will be difficult for us to demonstrate the statistically significant efficacy of the ELAD System therapy necessary to gain approval.

We designed VTI-208 and VTI-210 in accordance with input provided by regulatory authorities that we must demonstrate a statistically significant improvement in a survival endpoint. VTI-208 and VTI-210 included concurrent control subjects in a 1:1 ratio with treated subjects, and all subjects were to be included in the statistical analysis. Each study was designed to enroll subjects with an expected death rate of about 50% in 90 days without the ELAD System therapy. It was and is necessary to select subjects with high expected death rates in order to be able to determine whether the ELAD System has an effect on treated subjects and to help determine the number of subjects to enroll in a clinical trial in order to be able to achieve statistical significance. We monitor certain baseline characteristics of the subjects we are enrolling in our studies (such as age and MELD scores) to assess that the population characteristics are similar to prior studies in which death rates were in the target range. Although we have incorporated limits on age, MELD scores, creatinine, INR and bilirubin for VTL-308, there is no assurance that the revised parameters will be sufficient to predict survival. Additionally, there is no assurance that the inclusion and exclusion criteria for VTL-308, which will have the same primary and secondary endpoints as the VTI-208 clinical trial, will help the study show statistical significance, and it may be more difficult for us to find subjects with the narrower criteria, which could delay enrollment and increase the costs of VTL-308 beyond our current expectations. Moreover, if we do not succeed in selecting appropriate subjects or if the subjects we select do not progress as expected, we may not be able to demonstrate statistically significant efficacy of the ELAD System therapy necessary to gain approval.

Random variation or changes in standard of care could cause our clinical trials to be delayed and/or fail.

Regulatory authorities worldwide have adopted the standard that, to gain marketing approval, clinical trials should produce a result that has less than a 5% probability of being due to random variation. There is no assurance that our current or any of our potential future clinical trials will meet that standard. In addition, we have designed all of our clinical trials to be judged by a survival primary endpoint, which may be difficult to achieve for many reasons, including unanticipated survival rates of control subjects due to random variations, deficiencies in our exclusion and inclusion criteria, and the standard of care of the subjects, which may vary from site to site and country to country and is continuously evolving. For example, the FDA had expressed concern that the VTI-208 study may not have been adequately designed to provide convincing evidence of efficacy if there were significant differences in how the ELAD System subjects and controls were treated during the treatment period and after hospital discharge. VTL-308 will bear the same risk. Variations in length of hospital stay, rates of hospital re-admission, alcohol recidivism rates, nutritional support, and concomitant medications, all of which are not within our control, could significantly confound the study results and call into question whether any difference in survival is due to the ELAD System or these factors.

Moreover, evolution in the standard of care for the treatment of patients with acute forms of liver failure could make our trials difficult to enroll and interpret. For instance, the results of the Steroids or Pentoxifylline for Alcoholic Hepatitis, or STOPAH, study funded by the United Kingdom National Institute for Health Research failed to demonstrate any significant benefit in the primary analysis of overall survival for subjects treated with either steroids, Pentoxifylline or a combination of the two at one, three or twelve months, as compared with placebo. Any of these factors, which are beyond our control, could materially and adversely affect the results of any of our phase 3 clinical trials and prevent us from gaining regulatory approval of our ELAD System therapy. In addition, even if the results of our clinical programs are positive, our inability to control or adequately account for these factors between treatment arms could cause the FDA or other regulatory authorities to determine that the results are not adequate, or must be reproduced in a confirmatory study, to support marketing approval.

The ELAD System treatment could result in significant clinical risks to the patient, including death.

The ELAD System therapy is targeted toward very sick patients who are likely to die if left untreated. Patients with liver failure resulting from acute hepatocellular insult quickly develop failure of other organs including lungs, kidney, brain, and blood coagulation systems. Patients who receive the ELAD System therapy may die due to other serious health problems even if the ELAD System is effective.

All extracorporeal therapy systems, including the ELAD System, cause a decline in blood platelets, which can lead to coagulation problems and uncontrolled bleeding because platelets are critical to clot formation. Patients with liver failure generally have serious blood clotting problems since the liver produces almost all of the body's blood clotting proteins. These patients therefore have wide variations in their ability to coagulate their blood. To minimize blood clotting issues during ELAD treatment, some subjects require an infusion of anti-coagulants, which can aggravate bleeding. Because every subject is different, the need for anti-coagulant therapy is variable and must be closely monitored during ELAD System therapy. The risk of uncontrolled bleeding may be treated during the ELAD System therapy by administering platelet transfusions or by administering blood coagulation factors. However, there have been cases of uncontrolled bleeding during and after the ELAD System therapy. Additionally, some patients have abnormal red blood cells, which have weakened cell walls subject to rupture by physical force, a process known as hemolysis. The physical force exerted on the red blood cells by the ultrafiltrate generator in the ELAD System line can, in some cases, be enough to cause overt mechanical hemolysis that resolves after ELAD treatment is stopped, but can result in death if it continues too long. The incidence of hemolysis was less than 0.5% in subjects enrolled in our prior clinical trials, and one patient died in the China trial as a result of hemolysis.

Data from our clinical trials suggest that ELAD treatment should not be used in subjects with acute kidney injury (defined as a serum creatinine level of greater than or equal to 1.5 mg/dL). The use of extracorporeal systems such as ELAD may cause harm in patients with pre-existing kidney injury because these subjects are at an increased risk to develop fluid overload due to the renal impairment. Furthermore, ELAD treatment should be stopped if a patient develops any indication for renal replacement therapy, because patients with renal impairment are less likely to be able to tolerate the increased stresses associated with two extracorporeal devices requiring high venous flow rates.

Similarly, data from our prior clinical trials suggest that ELAD treatment should not be used in subjects with severe coagulopathy (problems with blood clotting, defined as an INR of greater than 2.5). The use of extracorporeal systems such as ELAD may cause harm in patients with pre-existing severe coagulopathy because the circulation of blood outside the body can cause a depletion in circulating factors associated with the blood clotting cascade, and reductions in the number of circulating platelets in the blood which are required for the blood to clot properly. As a result, subjects on extracorporeal systems such as ELAD are at an increased risk to develop bleeding issues.

Human liver-derived C3A cells have been shown in animal studies to have the capacity to grow into a tumor mass under certain conditions. While it is possible that some VTL C3A cells could escape from the ELAD cartridges and cause tumors in patients or produce substances that could lead to the development of malignant tumors, it is expected within the natural medical history of this population of patients with chronic liver disease (whether caused by hepatitis B or alcohol) that a certain incidence of cancer will be reported. There was no evidence that the incidence or type of cancer was different between the ELAD and control group in the China study. There have been two reported cancers (rectal cancer and squamous cell carcinoma) in VTI-208E in ELAD-treated subjects. Long term follow up of the subjects in the VTI-208, VTI-210, VTI-212 and VTL-308 clinical studies, as required by the regulatory authorities, is ongoing, and will provide more information. These or other adverse events, even those that are currently unforeseen, could significantly affect our development and commercialization efforts, cause the regulatory authorities to place our clinical trials on hold or to refuse to grant or maintain the marketing approval or result in withdrawal of the ELAD System from the market.

Ethical considerations require us to conduct open-label clinical trials of the ELAD System where control subjects do not receive a sham treatment and this could introduce unacceptable bias into our trial results.

We are not conducting any of our clinical trials with a sham control extracorporeal circuit that includes empty cartridges. This is due to the potential harm that the extracorporeal circuit can cause to control subjects without the potential for any benefit, which makes it unethical to subject the controls to a sham. Although regulatory agencies agree that, due to the nature of the ELAD System therapy, it is not possible to conduct a blinded study, they have expressed concern that the open-label nature of the study may introduce significant bias in the treatment of the ELAD System or control subjects, since the study subject, physicians and caregivers know who has and has not received the ELAD System therapy. We have developed a protocol that attempts to minimize this bias to the extent possible, including defining a protocol-specific standard of care, specifying steroid treatment, standardizing the discharge criteria for both the ELAD System and control subjects, requiring that follow-up visits are conducted by a blinded reviewer, ensuring home healthcare nurses and other clinical personnel are unaware of treatment assignment, educating subjects not to reveal treatment assignment to their caregivers and monitoring concomitant medications, alcohol recidivism and interaction with the healthcare system to provide evidence that there is no meaningful difference between the groups that could significantly confound the trial data. However, there is no guarantee that bias will not enter into the trial, affect the results or cause regulatory agencies to refuse marketing approval of the ELAD System.

If we encounter difficulties enrolling subjects in our clinical trials, our clinical trials could be delayed or otherwise adversely affected.

Clinical trials for the ELAD System require us to identify and enroll a large number of subjects that meet all of the entry criteria set forth in our protocols, including having the disease under investigation. We may not be able to enroll a sufficient number of subjects who meet our protocol requirements in a timely manner. Subject enrollment is affected by numerous factors, many of which fall outside of our control, including:

- the size and nature of the subject population;
- timeliness of contracting with clinical trial sites, and obtaining approval of the trial by the applicable institutional review boards, or IRBs, or ethics committees;
- lack of a sufficient number of subjects who meet the enrollment criteria for our clinical trials;
- perceived risks and benefits of the product candidate under study;
- availability of competing therapies and clinical trials;
- efforts to facilitate timely enrollment in clinical trials;
- scheduling conflicts with participating clinicians; and
- proximity and availability of clinical trial sites and resources for prospective subjects.

In light of disclosures of our VTI-208 data by us and others, it is possible that subjects will be less willing to participate in future trials of the ELAD System. Additionally, we may experience difficulties enrolling new subjects based on the new exclusion and inclusion criteria for VTL-308. Even when we identify an appropriate subject population for a clinical trial, there can be no assurance that the subjects will elect to enroll in the study or complete the study. These difficulties could impact our anticipated budget and timeline for VTL-308.

If we have difficulty enrolling a sufficient number of subjects to conduct our clinical trials as planned or if enrolled subjects fail to complete the study or comply with our protocols, particularly with regard to follow-up appointments, the completion of our clinical trials will be delayed, and our business would be harmed.

We may face delays in completing our clinical trials, and we may be required to suspend, repeat or terminate our clinical trials if they are not conducted in accordance with applicable regulatory requirements, the results are negative or inconclusive, or the clinical trials are not well-designed or executed as expected.

Our clinical trials must be conducted in accordance with regulations governing clinical studies, and are subject to oversight by the FDA, foreign governmental agencies, ethics committees and IRBs at the medical institutions where the clinical trials are conducted. In addition, clinical trials may require large numbers of test subjects. Changes in regulatory requirements may occur at any time, and we may need to amend clinical trial protocols to reflect such changes. In addition, we may voluntarily amend our protocols, as we did for our VTI-210 clinical trial. Amendments may require us to resubmit our clinical trial protocols to ethics committees or IRBs for reexamination, which may impact the costs, timing or successful completion of the underlying trial.

Our clinical trials may require amendment or be delayed, not approved, unsuccessful or terminated as a result of many factors, including:

- delays or failures in designing an appropriate clinical trial protocol with sufficient statistical power and in reaching agreement on trial design with investigators and regulatory authorities;
- delays or failure in reaching agreement on acceptable terms with prospective CROs and clinical trial sites, the terms of which can be subject to extensive negotiation and may vary significantly among different CROs and trial sites;
- delays or failure by CROs, investigators and clinical trial sites in ensuring the proper and timely conduct of our clinical trials;
- delays or failure by us in manufacturing sufficient quantities of the ELAD cartridges pursuant to required quality standards for use in our clinical trials and by third-party manufacturers in supplying necessary and suitable components for the ELAD System;

- delays or failure in transporting the ELAD System and cartridges to clinical trial sites with sufficient rapidity to enable treatment to begin early enough to have an opportunity for clinical benefit;
- delays or failure in completing data analysis and achieving primary and secondary endpoints;
- delays in subject enrollment or site initiation, including in light of, among other things, our negative results from VTI-208;
- regulators or clinical site ethics committees or IRBs may not approve, delay, suspend or terminate clinical research for various reasons, including noncompliance with regulatory requirements or concerns about subject safety;
- we may suspend or terminate our clinical trials if we believe the ELAD System is exposing the participating subjects to unacceptable health risks or for other reasons;
- subjects may not complete our clinical trials due to safety issues, adverse events, inconvenience or other reasons;
- subjects in our clinical trials may die or suffer other adverse events for reasons that may be either related or unrelated to the ELAD System, particularly given the critically ill nature of these subjects;
- we may have difficulty in maintaining contact with subjects after treatment, preventing us from collecting the data required by our study protocol; and
- final analysis of the data from our clinical trials may conclude that the ELAD System lacks sufficient clinical efficacy or presents unacceptable safety risks.

If our clinical trials fail to provide evidence of safety and efficacy sufficient to satisfy the requirements of the regulatory authorities such as with VTI-208, the ELAD System will not be approved unless we are able to perform additional clinical trials showing such safety and efficacy. Delays in the completion of, or termination of, any clinical trial of the ELAD System may harm the future commercial prospects of the ELAD System, and our ability to generate revenues may be delayed or eliminated. In addition, any delay in completing our clinical trials increases our costs, slows down our development and approval process and delays or jeopardizes our ability to commercialize the ELAD System. These occurrences could harm our business, financial condition and prospects significantly.

Risks Related to Regulatory Matters

The FDA regulatory approval process is complex, time-consuming and inherently unpredictable. In addition, our negative VTI-208 data may adversely affect the attitude of regulatory authorities toward the development of the ELAD System.

The clinical development, manufacturing, labeling, storage, record-keeping, advertising, promotion, import, export, marketing and distribution of the ELAD System is subject to extensive regulation by the FDA. In the U.S., the ELAD System is regulated by the FDA as a combination biologic and medical device. Before the ELAD System can be marketed in the U.S., we must submit and the FDA must approve a BLA. In addition, the device components of the ELAD System must be found acceptable as part of the BLA. The ELAD System is a novel therapy involving a combination biologic and medical device and the regulatory review process is complex, time-consuming and unpredictable. As a result, our development costs, timelines and approvals are not readily predictable.

The time required to obtain approval by the FDA to market a new therapy is unpredictable but typically takes many years and depends upon many factors, including the substantial discretion of the regulatory authorities.

The ELAD System could fail to receive regulatory approval for many reasons, including the following:

- the FDA may disagree with the design or implementation of our clinical trials or study endpoints. For example, it has expressed concern about the open-label design and multiplicity of confounding variables, including the need for delineating the standard of care that both the treated and control groups will receive during our studies;
- we may be unable to demonstrate to the satisfaction of the FDA that the ELAD System is safe and effective for its proposed indications or that the ELAD System provides significant clinically relevant benefits or that the benefits outweigh the safety risks;

- the results of our clinical trials may not meet the level of statistical significance required by the FDA for approval or may not support approval of a label that could command a price sufficient for us to be profitable;
- the FDA may disagree with our interpretation of data from preclinical studies or clinical trials;
- the FDA may not accept clinical data from trials which are conducted outside their jurisdiction;
- the opportunity for bias in the clinical trials as a result of the open-label design may not be adequately handled and may cause our trial to fail;
- the ELAD System may be subject to an FDA advisory committee review, which is triggered by an FDA request and is solely within the FDA's discretion, which may result in unexpected delays or additional hurdles to approval;
- the FDA may determine that the manufacturing processes at our facilities or facilities of third party manufacturers with which we contract for clinical and commercial supplies are inadequate;
- even if VTL-308 is successful in demonstrating a statistically significant improvement over standard of care, in light of the fact that certain confounding factors may be viewed by the FDA as limiting the persuasiveness of the study results, a single successful phase 3 clinical trial may not be sufficient to provide the substantial evidence of effectiveness necessary to support regulatory approval, and therefore we may need more than one phase 3 clinical trial to secure regulatory approval;
- the FDA has commented that even if one of our phase 3 clinical trials is a statistical and clinical success, a second confirmatory trial that substantiates positive results may be necessary to support a BLA;
- the approval policies or regulations of the FDA may significantly change in a manner rendering our clinical data insufficient for approval; and
- the negative results from VTI-208 could result in more stringent requirements being imposed by regulatory bodies and advisory groups.

The FDA expressed concern with our past phase 3 clinical trial, VTI-208, that if there are significant differences in how the ELAD and control subjects are treated during the study and after discharge from the hospital, the study may not be able to provide convincing evidence of safety and efficacy. Differences in length of hospital stay, rates of hospital re-admission, alcohol recidivism rates, nutritional support, and concomitant medications could significantly confound the VTL-308 study results.

In addition, even if we were to obtain approval, the FDA may grant approval contingent on the performance of costly post-marketing clinical trials, or may approve the ELAD System with a label that does not include the labeling claims necessary or desirable for successful commercialization of the ELAD System. Any of the above could materially harm the ELAD System's commercial prospects.

We do not have, and may never obtain, the regulatory approvals we need to market our product.

In responding to a BLA, the FDA may require additional testing or information, may require that the product labeling be modified, may impose a post-approval study and other commitments or reporting requirements or other restrictions on product commercialization, or may deny the application. The FDA has established performance goals for review of BLAs; however, the FDA is not required to complete its review within these time periods. The timing of final FDA review and action varies greatly, but can take years in some cases and may involve the input of an FDA advisory committee of outside experts. Sales of the product in the United States may commence only when the BLA is approved.

To date, we have not applied for or received the regulatory approvals required for the commercial sale of any product in the United States or Europe. None of our product candidates have been determined to be safe and effective, and we have not submitted a BLA to the FDA or Europe for any of our product candidates.

It is possible that the ELAD System will never be approved for marketing. Failure to obtain regulatory approvals, or delays in obtaining regulatory approvals, may adversely affect the successful commercialization of the ELAD System, may impose additional costs on us, may diminish any competitive advantages that we may attain, and adversely affect our receipt of revenues.

The FDA may or may not grant an accelerated or “Priority Review” to our BLA, if requested by us, and even if the FDA designates Priority Review for the ELAD System, that designation would not assure FDA approval and may not even lead to a faster regulatory review or approval process.

On the date the FDA receives the original BLA submission, a 60 calendar day filing review period starts. Assuming the FDA accepts the submission for filing, a ten-month standard BLA review clock begins, which means the FDA has an aggregate twelve months from its receipt of the original submission to take regulatory action. We may be eligible for Priority Review for our BLA submission if the FDA determines that the ELAD System, if approved, would provide a significant improvement in safety or effectiveness. A six-month Priority Review clock would begin at the conclusion of the 60 calendar day filing review period that starts on the date of FDA receipt of the original BLA submission. Therefore, if Priority Review is granted, the FDA has a total of eight months to take action on an application as opposed to the standard timeline of twelve months. We may request Priority Review if and when we submit a BLA. The FDA has broad discretion whether or not to grant Priority Review even if we believe our product is eligible. Moreover, even if a product is designated for Priority Review, such a designation does not assure a faster regulatory review process or confer any advantage with respect to FDA approval. Moreover, a designation of Priority Review or even a standard review from the FDA does not guarantee approval within the eight-month or twelve-month review period, respectively, or at any time thereafter. Accordingly, we cannot assure you that our BLA will be approved in a timely manner, or at all.

The regulatory approval processes of foreign regulatory authorities are complex, time-consuming and inherently unpredictable.

Outside the U.S., our ability to market the ELAD System is contingent upon receiving marketing authorizations from appropriate regulatory authorities. If our clinical programs are successful, we currently anticipate submitting applications for marketing authorization in Europe. The requirements governing the conduct of clinical trials, marketing authorization, pricing and reimbursement vary widely from country to country, and we may be unable to meet such requirements. If the regulatory authority is satisfied that adequate evidence of safety, efficacy, and quality has been presented, a marketing authorization should be granted. The foreign regulatory approval process involves all of the risks associated with FDA approval.

Even if the ELAD System receives regulatory approval, we will be subject to ongoing regulatory requirements and may face regulatory or enforcement action.

If any ELAD System product receives regulatory approval, we will be subject to significant ongoing regulation by the FDA and other regulatory authorities, including regulation of our manufacturing operations and any third-party manufacturing operations to ensure our compliance with applicable current Good Manufacturing Practices, or cGMP, and/or Quality System Regulation, or QSR, post-approval clinical data, adverse event reporting and complaint handling, and advertising and promotional activities. Failure to comply with regulatory requirements may subject us to sanctions. These may include warning letters, adverse publicity, civil and criminal penalties, injunctions, product seizures or detention, and refusal to approve pending product marketing applications.

Our employees, independent contractors, principal investigators, CROs, consultants and vendors may engage in misconduct or other improper activities, including non-compliance with regulatory standards and requirements, and insider trading.

We are exposed to the risk that our employees, independent contractors, principal investigators, CROs, consultants and vendors may engage in fraud, misconduct or other illegal activity or that they do not comply with regulatory standards and requirements. Misconduct or non-compliance by these parties could include intentional, reckless and/or negligent conduct or unauthorized activities that violate (1) FDA regulations, including those laws that require the reporting of true, complete and accurate information to the FDA, (2) quality standards, including Good Laboratory Practices, or GLP, Good Clinical Practice, or GCP, and cGMP, (3) federal and state healthcare fraud and abuse laws and regulations, (4) laws that require the reporting of true and accurate financial information and data, (5) securities laws and regulations or (6) the federal Health Insurance Portability and Accountability Act of 1996, or HIPAA. If we obtain FDA approval of our product candidate and begin commercializing that product in the United States, our potential exposure under such laws will increase significantly, and our costs associated with compliance with such laws are also likely to increase. In particular, research, sales, marketing, education and business arrangements in the healthcare industry are also subject to extensive laws and regulations intended to prevent fraud, kickbacks, self-dealing and other abusive practices. These laws and regulations may restrict or prohibit a wide range of pricing, discounting, marketing and promotion, sales commission, customer incentive programs and other business arrangements. Activities subject to these laws also involve the improper use of information obtained in the course of subject recruitment for clinical trials, which could result in regulatory sanctions and cause serious harm to our reputation. We have adopted a code of business conduct and ethics, but it is not always possible to identify and deter misconduct by employees and

third parties. We may fail to identify and deter misconduct or non-compliance by employees and third parties, or the precautions we take to detect and prevent this activity may not be effective in controlling unknown or unmanaged risks or losses or in protecting us from governmental investigations or other actions or lawsuits stemming from a failure to be in compliance with such laws or regulations. If any such actions are instituted against us, and we are not successful in defending ourselves or asserting our rights, those actions could have a significant impact on our business, including the imposition of changes to or even the halt of our clinical trials or clinical manufacturing or civil, criminal and administrative penalties, damages, monetary fines, possible exclusion from participation in Medicare, Medicaid and other federal healthcare programs, contractual damages, reputational harm, diminished profits and future earnings, and curtailment of our operations, any of which could adversely affect our ability to operate our business and our results of operations.

Risks Related to the Medical Device Components of the ELAD System

If we or our third-party manufacturers fail to comply with QSR in the U.S. or Medical Device Directives and Standards in Europe, our business would suffer.

We are required to demonstrate and maintain compliance with applicable regulations for the manufacturing of combination biologic products, including specified parts of the QSR and European Medical Device Directives, or MDD. Our third-party medical device manufacturers are required to demonstrate and maintain compliance with the QSR and MDD. The QSR and MDD are complex regulatory schemes that cover the methods and documentation of the design, testing, control, manufacturing, labeling, quality assurance, packaging, storage and shipping of the ELAD System. Regulatory agencies enforce the QSR and MDD through periodic inspections. Prior to approval of the ELAD System, our manufacturing facility will be subject to a preapproval inspection to determine compliance with the applicable regulations, including cGMPs, parts of the QSR, the European drug cGMP regulations, and the MDD. In addition, our third-party medical device component manufacturers will be subject to a preapproval inspection to determine compliance with QSR and MDD requirements. Our failure, or the failure of our third-party manufacturers, to pass a preapproval inspection, or take satisfactory and prompt corrective action in response to an adverse inspection, could prevent or significantly delay approval of the ELAD System.

The ELAD System bedside unit is based on a cardio-pulmonary bypass system that was replaced with an updated system, and regulatory authorities may not view the systems as interchangeable, which could cause regulatory approvals to be significantly delayed.

The ELAD System bedside unit was originally based exclusively on the Livanova (formerly Sorin) Stöckert Perfusion System S3 Double Head Pump Module, a medical device indicated for use during cardio-pulmonary bypass surgery. All or part of our early clinical trials were carried out using an ELAD System bedside unit based on Livanova's S3 system. However, Livanova stopped selling the S3 system and replaced it with an updated S5 system. We carried out testing of an ELAD System bedside unit based on the S5 and we believe that the S3 and S5 systems are equivalent and interchangeable from a clinical and regulatory perspective. We have submitted information to both the U.S. and the European regulatory authorities to support equivalence. Both the S3 and S5 systems were used in our VTI-208 and VTI-210 clinical trials and both are being used in our VTL-308 clinical trial. There can be no assurance that regulatory authorities will continue to view the S3 and S5 systems interchangeably, or that Livanova will cooperate with us or provide us with the documentation necessary for inclusion in a BLA submission, if any, which would be required to obtain regulatory approval of our ELAD System. If regulatory authorities do not view the S3 and S5 systems as equivalent, or Livanova fails to provide the information necessary for inclusion in our regulatory filings, approval of our ELAD System may be significantly delayed or prevented. In addition, effective January 1, 2018, Livanova will no longer support its S3 systems. Accordingly, if our trial is successful, we would expect to commercialize ELAD with only the Livanova S5 system.

One of the ELAD System component suppliers was subject to an FDA consent decree, which could have forced us to find another supplier for this component.

One of the components of the ELAD System bedside unit is manufactured by Terumo Cardiovascular Systems, or Terumo. In March 2011, Terumo entered into a consent decree with the FDA which limited its ability to ship products from certain of its manufacturing facilities including the one that manufactures the component we use. We received notice from Terumo in June 2016 that all restrictions listed in the 2011 consent decree were lifted. If we had been unable to source the component we use from Terumo, we would have had to source the component from an alternative supplier. If Terumo or another component supplier has similar issues in the future, there is no guarantee that a qualified alternative supplier can be found that will agree to terms reasonably acceptable to us on a timely basis or at all.

Changes in any of the device components could affect our ability to complete our clinical trials and to obtain and maintain approval and commercialization efforts.

The device components of the ELAD System will be reviewed as part of any BLA for the ELAD System. If the manufacturers of those components make modifications, discontinue supplying or are unable to supply sufficient quantities of such components during our clinical testing or after any approval, or if we elect to change a component, we will need to perform validation testing and obtain FDA and other regulatory approval prior to using the modified or replacement component. For example, one of our suppliers of a key component in our manufacturing process is currently having an issue meeting all of their customer orders for the component. If we are unable to obtain sufficient quantities of the component on a timely basis, there could be a delay in enrollment in our clinical trial until additional supplies become available, or we would be required to validate an alternative component to use, which could delay our clinical trial and increase our costs. If the FDA or any other regulatory body fails to approve use of those modified or replacement devices or if we are unable to validate a replacement component, we would not be able to complete our clinical trials or, in the future, we might not be able to market or could have to suspend marketing of the ELAD System in certain jurisdictions.

We may be unable to demonstrate that devices cleared for different uses may be safe and effective for use in the ELAD System.

Most device components of the ELAD System have been previously cleared for use by the FDA or other regulatory authorities. However, in some instances, we will be using the components outside the scope of their cleared indications. Other device components have no regulatory approvals. We may need to conduct additional testing to bridge the differences between the cleared indications for use and the proposed use in the ELAD System in order to obtain approval, or we could be required to obtain separate clearance for one or more of the components used in the ELAD System. The failure to provide adequate bridging information or to obtain separate clearance of these device components for use in the ELAD System, if required, could delay or prevent approval of the ELAD System.

Risks Related to the Cellular Component of the ELAD System and Related Components

If we fail to comply with cGMPs, our business will suffer.

We are required to demonstrate and maintain compliance with cGMPs. The cGMPs describe the methods to be used in, and the facilities or controls to be used for, the manufacture, processing, packing, or holding of a biologic to assure the biologic meets the requirements for safety, and has the quality, purity, and potency characteristics that it purports or is represented to possess. Regulatory agencies enforce these requirements through periodic inspections. Prior to approval of the ELAD System, our manufacturing facilities will be subject to a preapproval inspection to determine compliance with U.S. and European cGMPs and applicable QSR and MDD requirements. Our failure to pass such an inspection, or take satisfactory and prompt corrective action in response to an adverse inspection, could prevent or significantly delay approval of the ELAD System.

We rely on third party suppliers, and in many instances, a single third party supplier, for critical components of the ELAD System, and these suppliers could cease to manufacture the components, go out of business or otherwise not perform as anticipated.

While the growth of our VTL C3A cells is under our control, the manufacture of all of the other parts and components of the ELAD System are undertaken by third party suppliers. We currently rely on a single source of supply for many critical components, including components of the ELAD System bedside unit, the ultrafiltrate generator cartridges, the media we use to grow and ship our VTL C3A cells, the cartridges in which our VTL C3A cells are grown, the final cell filter cartridges and the bioreactors that have been developed to grow and store the ELAD cartridges. We are currently investigating additional sources of supply for these components to support future clinical development and, ultimately, commercialization of the ELAD System. If we fail to develop additional sources of supply, and a single source of supply of a critical component of the ELAD System were to become unavailable, our ability to continue clinical development or to initiate commercialization of the ELAD System would be severely compromised. In addition, we rely on third party suppliers for the safety of products of human and animal origin that are incorporated in the ELAD System production process, and these suppliers could cease to manufacture the components, inadequately test these components, go out of business or otherwise not perform as anticipated. We do not have long-term agreements with our suppliers, and we purchase components on a purchase order basis. For components that are not readily available from other sources, we are subject to the risks that our suppliers will raise their prices or impose other terms or conditions that are less favorable or unacceptable to us.

For instance, bovine serum, which is a component of the cell growth media, is used in the manufacture of the ELAD System cartridges. It is obtained from an outside supplier. We are wholly reliant on the guarantee of our supplier that the calf serum used in our manufacturing procedures is free of transmitted animal viruses and other pathogens. Should the source of supply become infected, or the supplier become unable to continue to supply calf serum of the quality necessary to support human use, or the regulations change such that the calf serum cannot be used for human use, we would have to find alternative sources of supply and manufacturing methods, for which there is no guarantee of success.

Human albumin and Trypsin-EDTA are also used in the manufacture of the ELAD System cartridges and are each provided by a single supplier. In addition, while these products are tested to be free of contamination by the supplier, we cannot guarantee that will continue to be the case.

If our facility becomes inoperable, we will be unable to continue manufacturing our product candidate and as a result, our business will be harmed until we are able to secure a new facility.

We manufacture and assemble the ELAD System at our facility in San Diego, California. No other manufacturing or assembly facilities are currently available to us, and any additional manufacturing or assembly facilities that we use will need to be qualified and approved by regulatory authorities prior to our use. Our facility and the equipment would be costly to replace and could require substantial lead-time to repair or replace. The facility may be harmed or rendered inoperable by natural or man-made disasters, including fire, earthquakes, flooding and power outages, which may render it difficult or impossible for us to perform our research, development and manufacturing for some period of time. The inability to perform our research, development and manufacturing activities, combined with our limited inventory of reserve raw materials and manufactured supplies, may result in the delay of clinical trials or, if approved for sale, the loss of customers, or harm our reputation, and we may be unable to reestablish relationships with those customers in the future. Although we possess insurance for damage to our property and the disruption of our business, this insurance may not be sufficient to cover all of our potential losses or may not continue to be available to us on acceptable terms, or at all.

We may be unable to manage our anticipated manufacturing growth to support our clinical development activities and long-term commercial demand for the ELAD System.

If and when the ELAD System is approved for sale, we will need to expand our manufacturing space in San Diego and build new manufacturing facilities to meet anticipated demand for the ELAD System in the U.S. and abroad. These activities will involve significant expense, including the construction and validation of new clean rooms and bioreactors, the movement and installation of key manufacturing equipment and the modification of manufacturing processes. In addition, we must also notify, and in some cases obtain approval from, the FDA and other regulatory authorities of any changes or modifications to our manufacturing facilities and processes, and there is no assurance that they will authorize us to proceed. If we are not able to expand our manufacturing capacity to meet future demand, our business would be harmed.

Further, commercialization would place additional strain on our organization, employees and third-party suppliers, resulting in an increased need for us to carefully monitor quality. Any failure by us to manage any future growth effectively could have an adverse effect on our ability to achieve our development and commercialization goals.

We rely on third parties for certain aspects of the manufacture of our clinical product supplies, and we intend to rely on third parties for at least a portion of the manufacturing process of the ELAD System, if approved. Our business could be harmed if those third parties fail to provide us with sufficient quantities of product or fail to do so at acceptable quality levels or prices or if they encounter other manufacturing issues.

Although we currently have an operational San Diego manufacturing facility, we intend to continue to use third parties for certain parts of our production process during the commercialization period. Our anticipated manufacturing procedures expose us to a number of risks, including the following:

- We may be unable to identify manufacturers on acceptable terms or at all because the number of potential manufacturers is limited and the FDA must approve any manufacturers. This approval would require new testing and good manufacturing practices compliance inspections by the FDA. In addition, a new manufacturer would have to be educated in, or develop substantially equivalent processes for, production of our products.
- Our third-party manufacturers might be unable to timely manufacture the components and custom materials and supplies used in the ELAD System and delivery of ELAD therapy, or to produce the quantity and quality required to meet our commercial needs.

- Contract manufacturers may not be able to execute or comply with our manufacturing procedures and other logistical support requirements appropriately.
- Our contract manufacturers may not perform as agreed, may not devote sufficient resources to us, or may not remain in the contract manufacturing business and alternative manufacturers that can meet our requirements may be difficult to identify and qualify on a timely basis, if at all.
- Manufacturers are subject to ongoing periodic unannounced inspections by the FDA and corresponding state agencies to ensure strict compliance with current good manufacturing practices and other government regulations and corresponding foreign standards. We do not have control over third-party manufacturers' compliance with these regulations and standards, and they are also be subject to the same ongoing periodic unannounced inspection. Any license to manufacture product candidates will be subject to continued regulatory review. Failure to meet such standards could result in the need to take corrective actions and even withdrawal of product from the market.
- We may not own, or may have to share, the intellectual property rights to any improvements made by our third-party manufacturers in the manufacturing process, or in the manufacture of the custom materials used in the manufacture thereof.
- Our third-party manufacturers could breach or terminate their agreement with us.
- Our contract manufacturers may have unacceptable or inconsistent product quality, success rates and yields.
- We do not yet have sufficient information to reliably estimate the cost of commercial manufacturing and processing of our product candidates, and the actual cost to manufacture and process our product candidates could materially and adversely affect the commercial viability of the ELAD System.
- Our manufacturers may experience manufacturing difficulties due to resource constraints and labor disputes, as well as natural or man-made disasters.

Each of these risks could delay or prevent the completion of clinical trials or the approval of our product by the FDA, result in higher costs, or adversely impact commercialization of the ELAD System. If our contract manufacturers are unable to successfully produce any of the ELAD System's components or any related supplies for our clinical trials or commercialization, our clinical trials or our commercial efforts would be impaired, which would have an adverse effect on our business, financial condition, results of operations and growth prospects.

We forecast the requirements for components and materials used in the ELAD System, and if our forecasts are incorrect, we may experience delays in shipments or increased inventory costs.

We keep limited materials, components and finished product on hand. To manage our manufacturing operations with our suppliers, we forecast anticipated product orders and material requirements to predict our future inventory needs and enter into purchase orders on the basis of these requirements. Our limited historical experience may not provide us with enough data to accurately predict future demand. If our business expands, our demand for components and materials would increase and our suppliers may be unable to meet our demand. Many of our components are medical devices, which have fixed future expiration dates. If we overestimate our component and material requirements, we will have excess inventory, which may have to be disposed of if it exceeds approved expiration dates, which would increase our expenses. If we underestimate our component and material requirements, we may have inadequate inventory, which could interrupt, delay or prevent delivery of the ELAD System to our customers. Any of these occurrences would negatively affect our financial performance and the level of satisfaction our customers have with our business.

We may not be able to grow our VTL C3A cells reliably and cost-effectively.

Operations with human cells, even a stable, cell line such as the VTL C3A cells used in the ELAD System, can be subject to conditions and influences that we may not be able to control. Although our VTL C3A cells are stored at three separate locations in the U.S. and the U.K., it is possible that all three locations could be destroyed and we will lose all or a portion of our cell banks. It is also possible that the cells will simply cease to function. While we take precautions to prevent this from happening, the ELAD System employs new technologies and we could encounter unforeseen complications. To date, we have only produced the small number of the ELAD cartridges required to support our clinical trials. As we increase production to support commercial demand, we could experience significant scale-up issues, which may cause quality and cost problems. If we cannot produce the required number of the ELAD cartridges in a cost-effective manner, our business could be materially harmed.

Cellular therapy is complex, and we do not have a complete understanding of the mechanism of action of the ELAD System.

Cellular therapy is a complex treatment with multiple variables that are not fully understood. Our VTL C3A cells used in the ELAD cartridges produce hundreds of metabolites. Likewise, the plasma ultrafiltrate formed from blood, which has been treated by our VTL C3A cells in our ELAD cartridges, is a similarly complex material. The composition and stability of the treated blood can be affected by the conditions of its generation in the ELAD System bedside unit, which could affect treatment outcomes. For instance, while subjects treated with the ELAD System typically only require a single set of cartridges, some subjects require more than one set during their treatment period, which may have implications for not only efficacy, but also cost of goods. While we believe that we have identified the key parameters of the ELAD System VTL C3A cartridges and set them in an appropriate range, it is possible that there are other variables that are important to safety and efficacy that have not been anticipated. We believe that we have set these parameters at realistic levels that can be controlled by the specifications set for a supplier and confirmed by us in our quality control procedures, but it is possible that unanticipated complications will emerge.

Likewise, our research into the potential mechanism of action for the ELAD System is ongoing, and although we are developing theories behind how the ELAD System may exert a clinical effect, the proposed mechanism of action remains unproven and may never be proven. The ELAD System's mechanism of action appears complex, may involve numerous pathways and we may not succeed in ever elucidating the exact role of any given pathway. Moreover, our research on mechanism of action is primarily based on laboratory studies, and needs correlation with *in vivo* studies and patient outcomes. Additional research, some of which is underway, is needed.

Risks Related to the ELAD System's Future Commercialization

Our financial results may fluctuate unpredictably, making it difficult to forecast our future performance.

Our limited operating history makes it difficult for us to predict our future commercialization efforts. A number of factors, over which we have limited or no control, may contribute to fluctuations in our financial results, such as:

- delays in the receipt of necessary supplies needed for the manufacturing process;
- our ability to recruit, train and retain sales, marketing, training and support personnel;
- our inability to educate physicians about the ELAD System and drive the adoption of the ELAD System therapy for any approved indications;
- performance of our targeted sales force in the U.S. and Europe and future partners in other markets;
- results of clinical trials evaluating the ELAD System therapy;
- positive or negative media coverage of the ELAD System or products of our competitors or our industry;
- our ability to obtain further regulatory clearances or approvals, including for other indications;
- delays in, or failure of, product and component deliveries by our subcontractors and suppliers;
- changes in the length of the sales process;
- changes in healthcare coverage and reimbursement policies;
- customer response to the introduction of new product offerings; and
- fluctuations in foreign currencies.

In addition, because we have only manufactured the ELAD System for clinical use and have never manufactured at commercial scale, we cannot accurately predict the costs of transitioning to commercial scale manufacturing or what our costs would be to manufacture the ELAD System commercially. While we believe we would be able to realize attractive gross margins on sales of the ELAD System, if approved, we may not achieve gross margins that we or our investors deem adequate due to higher costs or lower pricing than we currently expect based on the limited information available to us.

If the market size for the ELAD System is smaller than we anticipate, it could significantly and negatively impact our business, financial condition and results of operations.

It is very difficult to estimate the future commercial potential of the ELAD System due to factors such as changing standards of care, third-party payor reimbursement standards, ability of patients to meet co-payment amounts (if any), patient and physician preferences, the availability of competitive alternatives that may emerge, and indications for use (that may be based on, among other things, certain MELD scores, age ranges, or other factors). Further, the design of our VTL-308 clinical trial incorporates limits on age, MELD score, creatinine, bilirubin and INR, thereby narrowing any potential future indication for use. If the ELAD System is approved for commercialization, these limitations may restrict the potential market size and opportunity for the ELAD System. For example, we have limited enrollment in the VTL-308 clinical trial to subjects within restrictions on subjects' age, MELD score and the three components of the MELD score. If we extrapolate the number of subjects in VTI-208 with those characteristics to the overall estimated sAH population, then the population treatable by the ELAD System would be limited further, unless we are able to develop strategies to get patients into treatment before their MELD scores and some of the components of MELD rise above certain thresholds. Through our analysis of the proportion of sAH subjects from VTI-208 that had the characteristics targeted in VTL-308, we did observe that roughly 60% of VTI-208 subjects were under the age of 50, which is the age limit in VTL-308, and that 90% of subjects were under the age of 60. If the potential eligible patient population is lower than anticipated, our business, financial condition and results of operations could be significantly and negatively impacted.

The human clinical trial results may not be representative of the results that are obtained after the ELAD System product launch.

Human clinical trials are very complicated undertakings and working with subjects in liver failure is particularly difficult because of the serious nature of the disease and the co-morbidities experienced by the subjects. Not enough is known about the function of the liver to understand the progression of liver disease and any single subject can react differently to the ELAD System therapy. This means that clinical trials done at different times in different groups of subjects may obtain different results. Safety risks not identified in our clinical trials may first appear after we obtain approval and commercialize the ELAD System. Any new post-marketing adverse events may significantly impact our ability to market the ELAD System and may require that we recall and discontinue commercialization of the product. Any of these events would harm our business.

The ELAD System is a very complicated therapy and will need to be delivered by well-trained staff. There is no guarantee that we will be able to implement such training and find sufficient numbers of people to enable us to grow at an acceptable rate.

In the initial commercialization period, it will be essential for us to have our own trained staff present during the delivery of the ELAD System therapy. This may entail the construction and operation of training centers and will require the hiring of personnel of appropriate ability to be adequately trained. The differences in language and culture may make this a difficult undertaking. If we cannot recruit, train and retain significant numbers of physicians and nurses, our ability to grow will be restrained and we may find that the ELAD System therapy is being delivered by people with a substandard level of training, and with potentially material adverse results. If the ELAD System therapy is delivered improperly, or the bedside device or the ELAD cartridges are not properly maintained by our customers, the ELAD System may not provide the intended benefit or could harm patients. This may in turn result in perceptions, even if unfounded, that the ELAD System is ineffective or that our bedside device or the ELAD cartridges are defective, which could materially harm our reputation and ability to market the ELAD System effectively.

We could lose our key employees. If we are unable to retain our management, scientific staff and scientific advisors, our business will be seriously jeopardized.

Competition among biotechnology companies for qualified employees is intense, and the ability to retain our key employees is critical to our ability to effectively manage our resources. We are highly dependent on the efforts of our key employees, including senior management and senior scientific, clinical, regulatory, operational and other personnel. The development of new therapeutic products requires expertise from a number of different disciplines, some of which are not widely available.

Our key employees have a significant amount of know-how and experience in our company, and the loss of one or more of them could have a material and adverse effect on our operations. While we have taken steps to incentivize and to retain our employees, including the granting of stock options, paying competitive salaries and implementing appropriate bonus programs, these factors may not be enough to retain the key employees that we need.

The loss of the services of existing personnel, the failure to recruit additional, suitable key scientific, managerial, clinical, regulatory, operational and other personnel in a timely manner, and the loss of our employees to our competitors would harm our research and development programs and our business. We may experience difficulty in hiring and retaining highly-skilled employees with appropriate qualifications. If we fail to attract new personnel or fail to retain and motivate our current personnel, our business and future growth prospects would be harmed.

Furthermore, while we have entered into employment letters with each of our executive officers, any of them could leave our employment at any time, as all of our employees are “at will” employees. It can be challenging to retain qualified personnel. The inability to recruit or loss of the services of any executive, key employee, consultant or advisor may impede our ability to identify and execute on our strategy.

Competitive products could be developed which would make the ELAD System obsolete.

The biotherapeutic and medical device industries are highly competitive, and we face potential competition from pharmaceutical, specialty pharmaceutical, medical device and biotechnology companies worldwide. Given the significant unmet medical need for novel therapies to treat liver failure, many companies, universities and research organizations are actively engaged in the discovery, research and development of potential therapies in this field. This includes entities engaged in research on cell-based approaches to liver failure.

There are reports of a human cell-based system under development in China, but the clinical status of this program has not been confirmed. Additionally, a number of companies have performed research work on various human hepatocyte cell lines, and several academic researchers and companies are actively pursuing animal research in this area. Companies have also attempted to develop extracorporeal therapy based upon primary porcine hepatocytes and may be in early stage clinical studies with pig-cell based systems designed for the treatment of liver failure. Other than noted above, we are not aware of other entities being close to undergoing human clinical trials with a human cell-based product for the treatment of liver failure; however, it is possible that these trials are occurring without our knowledge, and that such a product may get to market much faster than we expect.

Liver dialysis systems are commercially available in the U.S. and Europe, and further development of albumin dialysis systems is ongoing. These systems rely on not only traditional dialysis circuits to remove water-soluble toxins, but also albumin dialysis circuits to remove albumin-bound molecules. To our knowledge none of these non-cellular systems has shown an improvement in long-term survival among patients with liver failure. It has also been reported that a clinical trial in decompensated liver disease for a novel liver dialysis (non-bioartificial) system incorporating albumin dialysis along with a selective adsorption technology has been initiated.

In addition, there are several drugs available to treat symptoms associated with liver failure, including steroids, pentoxifylline and N-acetylcysteine. These three drugs, alone or in combination, are used frequently in patients with liver failure resulting from acute hepatocellular insult. Gilead Sciences has initiated a phase 2 trial to evaluate the safety of a non-cellular, drug therapy known as GS-4997 in combination with a steroid named prednisolone, compared with prednisolone alone, in subjects with severe alcoholic hepatitis.

The coverage and reimbursement status of new therapies is uncertain, and failure to obtain adequate coverage and reimbursement for the ELAD System therapy could limit our ability to generate revenue and become profitable.

There is significant uncertainty surrounding the third-party coverage and reimbursement of novel and newly-approved therapies, particularly for indications for which there is no current effective treatment or the current standard of care is relatively inexpensive. Due to the novel nature of the ELAD System and the potential for it to offer therapeutic benefit after a single administration of continuous therapy lasting up to five days, we face additional uncertainty related to coverage and reimbursement. We will depend in large part on the availability of coverage and the establishment of adequate reimbursement levels for the ELAD System from third-party payors, including government payors, such as the Medicare and Medicaid programs, and managed care organizations. Although we believe that the single largest category of ELAD-appropriate patients are covered by private insurance, followed by Medicaid and then Medicare, this analysis is based on small numbers, may not be accurate and may change in the future.

Third-party payors are increasingly focused on containing healthcare costs by limiting both coverage and the level of reimbursement for new therapies and, as a result, they may not cover or provide adequate payment for the ELAD System. Obtaining adequate coverage and reimbursement approval for a product from a third-party payor is a time-consuming, costly and sometimes unpredictable process that could require us to provide supporting scientific, clinical and cost-effectiveness data for the use of the ELAD System. However, we cannot guarantee that we will be able to provide data sufficient to gain acceptance with respect to adequate coverage and reimbursement. Payors may conclude that the ELAD System is less safe, less effective or less cost-effective than existing or later introduced therapies, and third-party payors may not approve the ELAD System for coverage and reimbursement or may cease providing or provide inadequate coverage and reimbursement. Coverage and reimbursement determinations are made on a payor-by-payor basis, and it may take several years to obtain appropriate reimbursement codes, if ever. Obtaining acceptable coverage and reimbursement from one payor does not guarantee that we will obtain similar acceptable coverage or reimbursement from another payor. As there is a large number of third-party payors, obtaining coverage and reimbursement in the U.S. and internationally will consume significant time and resources. A third-party payor's decision to provide coverage does not imply that an adequate reimbursement rate will be approved. There can be no assurance that our clinical data will allow for satisfactory pricing of the ELAD System, and the failure to obtain coverage and adequate reimbursement for the ELAD System would materially and adversely affect our business. Moreover, healthcare cost containment initiatives that limit or deny reimbursement for the ELAD System would also materially and adversely affect our business.

Our relationships with investigators, healthcare professionals, institutional providers, consultants, third-party payors and customers are subject to applicable anti-kickback, fraud and abuse and other healthcare laws and regulations, which could expose us to penalties, including without limitation, civil, criminal and administrative penalties, damages, monetary fines, disgorgement, possible exclusion from participation in Medicare, Medicaid and other federal healthcare programs, contractual damages, reputational harm, diminished profits and future earnings, and the curtailment or restructuring of our operations.

Healthcare providers, physicians and others play a primary role in the recommendation and prescribing of any product candidates for which we may obtain marketing approval. In the U.S., our current business operations and future arrangements with investigators, healthcare professionals, institutional providers, consultants, third-party payors and customers, may expose us to broadly applicable fraud and abuse and other healthcare laws and regulations. These laws may constrain the business or financial arrangements and relationships through which we research, market, sell and distribute our products that obtain marketing approval. Restrictions under applicable federal, state and foreign healthcare laws and regulations, include, but are not limited to, the following:

- the federal healthcare program anti-kickback statute prohibits, among other things, persons or entities from knowingly and willfully soliciting, offering, receiving or paying any remuneration (including any kickback, bribe, or rebate), directly or indirectly, overtly or covertly, in cash or in kind, to induce or in return for purchasing, leasing, ordering, or arranging for or recommending the purchase, lease, or order of any good, facility, service or item for which payment is made, in whole or in part, under a federal healthcare program;
- the federal civil and criminal false claims laws and civil monetary penalties laws, including civil whistleblower or qui tam actions, prohibit, among other things, individuals or entities from knowingly presenting, or causing to be presented, to the federal government, claims for payment or approval that are false or fraudulent or from knowingly making a false statement to improperly avoid, decrease or conceal an obligation to pay money to the federal government;
- HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act, or HITECH, and its implementing regulations, and as amended again by the final HIPAA omnibus rule, Modifications to the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules Under HITECH and the Genetic Information Nondiscrimination Act; Other Modifications to HIPAA, published in January 2013, imposes certain obligations, including mandatory contractual terms, with respect to safeguarding the privacy, security and transmission of individually identifiable health information without appropriate authorization by entities subject to the omnibus rule, such as health plans, clearinghouses and healthcare providers, and their associates;

- HIPAA, imposes criminal liability for, among other things, knowingly and willfully executing, or attempting to execute, a scheme to defraud any healthcare benefit program or to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any healthcare benefit program regardless of the payor (e.g., public or private) and knowingly or willfully falsifying, concealing, or covering up by any trick, scheme or device a material fact or making any materially false statement in connection with the delivery of, or payment for, healthcare benefits, items or services relating to healthcare matters;
- the federal transparency law, enacted as part of the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act (collectively, the ACA), and its implementing regulations, require manufacturers of drugs, devices, biologicals and medical supplies to report to the U.S. Department of Health and Human Services information related to payments and other transfers of value made to physicians and teaching hospitals, as well as ownership and investment interests held by physicians and their immediate family members;
- analogous state laws and regulations, including but not limited to: state anti-kickback and false claims laws, which may apply to our business practices, including but not limited to, research, distribution, sales and marketing arrangements and claims involving healthcare items or services reimbursed by state governmental and non-governmental third-party payors, including private insurers; state laws that require pharmaceutical companies to comply with the pharmaceutical industry's voluntary compliance guidelines and the relevant compliance guidance promulgated by the federal government; and state laws and regulations that require manufacturers to file reports relating to pricing and marketing information, which requires tracking gifts and other remuneration and items of value provided to healthcare professionals and entities; and
- European Union, or EU, data protection regulations, which may require member states of the EU to impose minimum restrictions on the collection and use of personal data that, in some respects, are more stringent, and impose more significant burdens on subject businesses, than current privacy standards in the U.S.

Efforts to ensure that our business arrangements with third parties will comply with applicable healthcare laws and regulations will involve substantial costs. It is possible that governmental authorities will conclude that our business practices may not comply with current or future statutes, regulations, agency guidance or case law involving applicable fraud and abuse or other healthcare laws and regulations. If our operations are found to be in violation of any of these or any other health regulatory laws or any other governmental regulations that may apply to us, we may be subject to penalties, including without limitation, civil, criminal and administrative penalties, damages, monetary fines, disgorgement, enhanced government reporting and oversight under a corporate integrity agreement or other similar arrangement, possible exclusion from participation in Medicare, Medicaid and other federal healthcare programs, contractual damages, reputational harm, diminished profits and future earnings, and the curtailment or restructuring of our operations. Any action against us for violation of these laws, even if we successfully defend against it, could cause us to incur significant legal expenses or divert our management's attention from the operation of our business. If any of the physicians or other providers or entities with whom we expect to do business are found to be not in compliance with applicable healthcare laws, they also may be subject to similar penalties.

Healthcare policy changes, including recent laws to reform the U.S. healthcare system, may have a material adverse effect on us.

In the U.S. and in other countries, there have been and we expect there will continue to be a number of legislative and regulatory proposals to change the healthcare system in ways that could significantly and adversely affect the business of developing and marketing new therapies by reducing the costs paid for medical products and services. For instance, the U.S. government and other governments have shown significant interest in pursuing healthcare reform, as evidenced by the passing of the ACA. Such government-adopted reform measures may adversely impact the pricing of healthcare products and services in the U.S. or internationally and the amount of reimbursement available from third-party payors. For instance, under the ACA, there is a 2.3% U.S. federal excise tax on the sale of certain medical devices. While we do not believe the tax will be applicable to us, the U.S. may seek to enforce the tax on us. In addition, in some foreign jurisdictions, there have been a number of legislative and regulatory proposals to change the healthcare system in ways that could affect our ability to sell the ELAD System profitably, if it is ultimately approved. The continuing efforts of the U.S. and other governments, insurance companies, managed care organizations and other payors of healthcare services to contain or reduce healthcare costs may adversely affect the prices we are able to charge for the ELAD System, if approved, and our ability to generate revenues and achieve and maintain profitability.

Risks Related to Doing Business Internationally

We plan to do business internationally, which may prove to be difficult and fraught with economic, regulatory and political issues.

We may commercialize the ELAD System in countries where the business, economic and political climates are very different from those of the U.S. We may not be aware of some of these issues, and it may be difficult for a U.S. company to overcome these issues and ultimately become profitable. For instance, we completed our Chinese pivotal clinical trial in 2007 and submitted our data to the China FDA, or CFDA, showing a statistically significant improvement in transplant-free survival among the ELAD System-treated subjects compared with control subjects. However, this application has been neither approved nor rejected and the timing and nature of any potential decision is highly uncertain. Moreover, currency controls are in effect in many foreign countries and could become much tighter in the future, which will hinder our ability to repatriate any profits or capital. These foreign countries may also favor businesses that are owned by nationals of those countries as opposed to foreign-owned businesses operating locally. As a small company, we may not have the resources to engage in the negotiation and time-consuming work needed to overcome some of these potential issues.

In the event that we receive marketing approval in foreign countries outside of the U.S. and Europe, we currently anticipate, in most cases, creating wholly-owned subsidiaries in those countries. These subsidiaries will need to build an effective sales, marketing, distribution, training and support staff and system, find an effective marketing partner or both. Any internal sales, marketing, training and support capabilities of the subsidiaries will need to be developed by these subsidiaries and will need to be built from scratch. The culture and accepted practices related to selling medical products in many foreign countries are unique, and it is possible that we will not be able to successfully penetrate these markets. A similar consideration applies to selling in the U.S., since each medical system is very different and requires a different strategic approach. We cannot guarantee that our approach to the U.S., European, Chinese or any other international market will be effective.

The medical systems in many foreign countries are very different from that of the U.S. and could cause significant problems for the ELAD System.

The medical systems in many countries around the world pose challenges to the commercialization of the ELAD System. For instance, most medical care in China is delivered on a private pay basis, and it may be difficult to receive payment for the ELAD System therapy delivered or the price of our product, which we expect to be relatively high, may prove to be beyond the capability of the targeted Chinese patient to pay. Further, as we have encountered in our clinical trials, the standard and the operation of the delivery of care in China are different, causing problems with the operation of the ELAD System therapy. These issues include the withholding of necessary medicines, the inadequate staffing of Chinese hospitals, the shortage of blood products, the differing practice of delivery of extracorporeal therapies, and the attitude of physicians and nurses. These issues and others are likely to occur in other countries around the world and there is no assurance that we will overcome these challenges or succeed in commercializing the ELAD System in foreign countries.

We face increased risks of doing business due to the extent of our operations internationally.

We currently anticipate our foreign commercialization efforts will be through wholly-owned, foreign domiciled subsidiaries. Our efforts to expand internationally pose risks that could adversely affect our business. These risks include, among others, the effects of:

- fluctuations in foreign currency exchange rates and controls;
- economic weakness, including inflation, or political instability in particular non-U.S. economies and markets;
- differing and changing regulatory requirements in non-U.S. countries;
- challenges enforcing our contractual and intellectual property rights, especially in those foreign countries that do not respect and protect intellectual property rights to the same extent as the United States;
- negative consequences from changes in tax laws;
- difficulties associated with staffing and managing international operations, including differing labor relations;
- potential liability under the Foreign Corrupt Practices Act or comparable foreign laws;
- business interruptions resulting from geo-political actions or natural disasters including earthquakes, typhoons, floods and fires;
- competitive disadvantages to established foreign businesses with significant current market share and business and customer relationships;
- nationalization;
- tax and regulatory policies of local governments and the possibility of trade embargoes;
- political instability, war, terrorism, or other hostilities; and
- laws and policies of the U.S. and foreign governments affecting foreign trade and investment.

Any of these risks could cause significant interruptions in our operations, which would adversely affect our ability to commercialize the ELAD System internationally and our financial condition, results of operations and business.

Revenues, profits and cash flows derived in foreign countries by foreign subsidiaries may be denominated in foreign currency. The value of this currency may be controlled or adjusted periodically by foreign governments, and may be subject to changes in the political and economic conditions.

Foreign economic, political and social conditions and government policies could materially and adversely affect our business.

A significant portion of our operations may be conducted in foreign countries and it is anticipated that a significant percentage of our revenues may be derived from these countries. Accordingly, our results of operations, financial condition and prospects would be subject, to a significant degree, to economic, political, legal and social developments around the world. The economies of many of these countries differ from the economy of the U.S. in many respects, including:

- level of government involvement;
- economic structure;
- allocation of resources;
- level of development;
- inflation rates;
- growth rate; and
- control of foreign exchange.

The legal systems in many foreign countries have inherent uncertainties that could limit the legal protections available to us.

We are subject to the laws and regulations of foreign governments, including those applicable to foreign investment and, in particular, laws applicable to wholly foreign-owned enterprises. Any litigation in these countries may be protracted and may result in substantial costs and diversion of resources and management attention. For example, in 2007, one of our clinical sites in China was sued in connection with the death of a subject of our clinical trial. An expert panel concluded that neither the ELAD System nor the clinical site was at fault and dismissed the lawsuit. Nevertheless, we were later informed that the subject's family had been awarded approximately \$100,000 in a subsequent civil proceeding brought against the clinical site. We ultimately decided to reimburse the clinical site for \$100,000, which was partially insured. In addition, these countries may enact new laws or amend current laws that may be detrimental to us, which may have a material adverse effect on our business operations.

We have limited business insurance coverage internationally.

The insurance industry in many parts of the world is still in an early stage of development. Insurance companies in many countries offer only limited business insurance options. As a result, we may not be able to maintain any liability, hazard or other insurance covering our services, business, operations, errors, acts or omissions, personnel or properties in all of the countries where we ultimately commercialize the ELAD System. To the extent that we are unable to recover from others for any uninsured losses, such losses could result in a loss of capital and significant harm to our business. If any action, suit, or proceeding is brought against us and we are unable to pay a judgment rendered against us or defend ourselves against such action, suit, or proceeding, our business, financial condition and operations could be negatively affected.

We must comply with the U.S. Foreign Corrupt Practices Act and similar foreign anti-corruption laws.

The U.S. Foreign Corrupt Practices Act, to which we are subject, prohibits corporations and individuals from engaging in certain activities to obtain or retain business or to influence a person working in an official capacity. It is illegal to pay, offer to pay or authorize the payment of anything of value to any foreign government official, government staff member, political party or political candidate in an attempt to obtain or retain business or to otherwise influence a person working in an official capacity. Other countries, such as the U.K. and China, have similar laws with which we must comply. Although we attempt to rigidly adhere to the requirements of the U.S. Foreign Corrupt Practices Act and all similar laws to which we are subject, there remains the risk that an employee or agent of ours could be accused of violating one or more of these laws, particularly in geographic regions where significant overlap exists between local government and healthcare industries. Such an accusation, even if unwarranted, could prove disruptive to our developmental and commercialization efforts.

We could be subject to additional income and other tax liabilities.

We are subject to income and other taxes in the U.S. and may be subject to income and other taxes in various other foreign jurisdictions. Significant planning is required in evaluating a worldwide provision for income and other taxes. During the ordinary course of business, there may be transactions for which the ultimate tax determination is uncertain. We may be subject to audit in various jurisdictions and such jurisdictions may assess additional income or other tax against us. Although we may believe our tax positions are reasonable, the final determination of tax audits and any related litigation could be materially different from our historical income tax provisions and accruals. The results of an audit or litigation could have a material and adverse effect on our operating results or cash flows in the period or periods for which that determination is made.

The United Kingdom's impending departure from the European Union could adversely affect our business.

The United Kingdom held a referendum in June 2016 in which a majority of voters voted to exit the European Union, or Brexit. Negotiations are underway to determine the future terms of the United Kingdom's relationship with the European Union, including, among other things, the terms of trade between the United Kingdom and the European Union as well as other world trading partners. The effects of Brexit will depend on any agreements the United Kingdom makes to retain access to European Union markets either during a transitional period or more permanently. Brexit could adversely affect European and worldwide economic and market conditions and could contribute to instability in global financial and foreign exchange markets, including volatility in the value of the sterling and euro. In addition, Brexit could lead to legal uncertainty and potentially divergent national laws and regulations as the United Kingdom determines which European Union laws to replace or replicate, including laws that could impact our clinical trials and our ability to obtain approval of our products or sell our products in the United Kingdom. Any of these effects of Brexit, and others we cannot anticipate, could adversely affect our business, results of operations, financial condition and cash flows.

Risks Related to Intellectual Property

Our patent rights may prove to be an inadequate barrier to competition.

We hold a patent in the U.S. which claims a method of using C3A cells to treat a patient's blood, which we believe covers the ELAD System therapy. In addition, we hold another U.S. patent with claims covering an extracorporeal device configuration, which we believe includes our ELAD System, independent of the cell-type used. Foreign counterparts of these patents have been issued in Australia, Canada, Indonesia, Israel, Japan, Mexico, New Zealand, Singapore, South Africa, South Korea, the Philippines and Taiwan and remain under review in certain jurisdictions, including but not limited to Europe, Brazil, Hong Kong and India. In addition to these two U.S. patents, we hold two additional patents in the U.S. However, the lifespan of any one patent is limited and each of these patents will ultimately expire, and we cannot be sure that pending applications will be granted, or that we will discover new inventions which we can successfully patent. Moreover, any of our granted patents may be held invalid by a court of competent jurisdiction, and any of these patents may also be construed narrowly by a court of competent jurisdiction in such a way that it is held to not directly cover the entire ELAD System or treatment. Furthermore, even if our patents are held to be valid and of broadly enforceable scope, third parties may find legitimate ways to compete with the ELAD System by inventing around our patents to avoid claims of patent infringement. Finally, the process of obtaining new patents is lengthy and expensive, as is the process for enforcing patent rights against an alleged infringer. Any such litigation could take years, cost large sums of money and pose a significant distraction to management. Indeed, certain jurisdictions outside of the U.S. and Europe where we hope to commercialize the ELAD System have a history of inconsistent, relatively lax or ineffective enforcement of patent rights. In such jurisdictions, even a valid patent may have limited value. Our failure to effectively enforce our patents would likely have a harmful impact on our ability to commercialize the ELAD System in these jurisdictions.

We do not hold any patents covering our VTL C3A cells or the production processes we use to grow the VTL C3A cells in the ELAD cartridges.

C3A cells are publicly available and the proprietary methods and production process that we use to grow our VTL C3A cells in the ELAD cartridges are our trade secrets, but they are not currently covered by a patent and no patents are pending. Although we have sought patent protection for certain aspects of our technology, such as our method of using human liver-derived C3A cells to treat a patient's blood, and we have obtained orphan designation in the U.S. and Europe for the use of C3A cells to treat acute liver failure, we have not sought patent protection for the proprietary methods we use to grow VTL C3A cells in our facility. Although we believe that some of these methods may be patentable, we prefer to avoid the disclosure requirements inherent in the patenting process, as such disclosure could provide competitors with insights that allow them to invent around any granted patents. We believe that this concern is particularly appropriate since C3A cells are publicly available, and have been available for research purposes for more than twenty years. Despite this availability, we are not aware of any third parties who have either demonstrated an ability to grow C3A cells in the quantities we do, or succeeded in treating a human subject with such cells. In addition, patent protection expires 20 years after the application's priority date which does not apply to trade secret protection. In light of the foregoing, we do not currently contemplate seeking patent protection for our production methods and instead intend to keep our production methods protected as trade secrets, which does not require us to publicly disclose these methods and which is not subject to a formal expiration date. However, trade secrets are vulnerable to inadvertent disclosure and misappropriation. In addition, independent discovery and publication of these methods by third parties, which is feasible given the public availability of C3A cells, would also destroy their trade secret protection. If any of these were to occur, our business may be harmed.

We protect much of our intellectual property as trade secrets. Confidentiality agreements with employees and third parties may not prevent unauthorized disclosure of trade secrets and other proprietary information.

Trade secrets offer a relatively limited form of protection as they do not create any barrier for third-parties who independently develop this information and who may even patent the information. In the course of our research and development activities and our business activities, we often rely on confidentiality agreements to protect our proprietary information. Such confidentiality agreements may be used, for example, when we talk to vendors of laboratory or clinical development services or potential strategic partners. In addition, each of our employees is required to sign a confidentiality agreement upon joining us. We take steps to protect our proprietary information, and our confidentiality agreements are carefully drafted to protect our proprietary interests. Nevertheless, there can be no assurance that an employee or an outside party will not make an unauthorized disclosure of our proprietary confidential information. This might happen intentionally or inadvertently. It is possible that a competitor will make use of such information, and that our competitive position will be compromised, in spite of any legal action we might take against persons making such unauthorized disclosures. Enforcing a claim that a third party illegally obtained and is using any of our trade secrets is expensive and time consuming, and the outcome is unpredictable. In addition, courts outside the U.S. sometimes are less willing than U.S. courts to protect trade secrets. Moreover, our competitors may independently develop equivalent knowledge, methods and know-how, which would harm our business.

If our ELAD cartridges or our VTL C3A cells are stolen, misappropriated or reverse engineered, others could produce competing products.

Third parties, including those involved in shipping our ELAD System cartridges or in any manufacturing abroad that we may undertake, often have custody or control of our ELAD cartridges. If our ELAD cartridges, or VTL C3A cells from our proprietary VTL C3A cell bank that are stored to grow in these cartridges, were stolen, misappropriated or reverse engineered, they could be used by other parties who may be able to reproduce these cartridges for their own commercial gain. If this were to occur, it would be difficult for us to challenge this type of use, especially in countries with limited intellectual property protection or in countries in which we do not have patents covering the misappropriated ELAD cartridges. In such instance, our business would be harmed.

Ownership of our intellectual property may be claimed by others.

The ELAD System has been under development for over 20 years and certain of our predecessor companies have filed for reorganization and bankruptcy. We were founded in 2003 by acquisition of the assets of a prior company after a bankruptcy. While we believe we have performed extensive diligence on the ownership of the intellectual property rights and have developed our own innovative technology which is independent of prior intellectual property rights, there could be claims by parties associated with the prior entities that could lead to costly and time consuming legal actions. In addition, we have engaged in collaborations with third parties where intellectual property has been developed. In one instance, we were engaged in a dispute over the ownership of intellectual property when a collaborator of ours pursued patent rights over technology which we believe we may have held rights to under the collaboration agreement. Although a patent which claims a different configuration than our ELAD System was ultimately issued in the U.S. to our former collaborator, we do not hold any rights to this patent. We are unaware of any active development with respect to the claimed system. Other such disputes could arise in the future or emerge from past activities which could lead others to claim our intellectual property.

We may be involved in future costly intellectual property litigation, which could impact our future business and financial performance.

Our industry has been characterized by frequent intellectual property litigation. Our competitors or other patent holders may assert that our ELAD System and the methods we employ are covered by their patents. For instance, we are aware of other patents issued in the liver support field which we believe do not cover our ELAD System or its use. If our ELAD System or methods are found to infringe any valid patents, we could be prevented from marketing our ELAD System. In addition, we do not know whether our competitors or potential competitors have applied for, or will apply for or obtain, patents that will prevent, limit or interfere with our ability to make, use, sell, import or export our ELAD System.

Litigation related to infringement and other intellectual property claims, with or without merit, is unpredictable, can be expensive and time-consuming and could divert management's attention from our core business. If we lose this kind of litigation, a court could require us to pay substantial damages, and prohibit us from using technologies essential to our ELAD System, any of which would have a material adverse effect on our business, results of operations and financial condition. We do not know whether necessary licenses would be available to us on satisfactory terms, or whether we could redesign our ELAD System or processes to avoid infringement.

Competing products may also appear in other countries in which our patent coverage might not exist or be as strong. If we lose a foreign patent lawsuit, we could be prevented from marketing our ELAD System in one or more countries.

In addition, we may hereafter become involved in litigation to protect our trademark rights associated with our company name or the names used with our ELAD System. Names used with our ELAD System and procedures may be claimed to infringe names held by others or to be ineligible for proprietary protection. If we have to change the name of our company or our ELAD System, we may experience a loss in goodwill associated with our brand name, customer confusion and a loss of sales.

We may be subject to damages resulting from claims that we or our employees have wrongfully used or disclosed alleged trade secrets owned by third parties.

Many of our employees were previously employed at universities or other life science companies, including our competitors or potential competitors. Although no claims against us are currently pending, we may be subject to claims that these employees or we have inadvertently or otherwise used or disclosed trade secrets or other confidential or proprietary information of their former employers. Litigation may be necessary to defend against these claims. If we fail in defending such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights or personnel. A loss of key personnel could hamper our ability to develop and commercialize the ELAD System, which could severely harm our business. Even if we are successful in defending against these claims, litigation could result in substantial costs and be a distraction to management.

Risks Related to Our Capital Requirements and Finances

To conserve capital, we may undertake workforce and cost reduction activities in the future. These activities may cause us to be unable to fully support and manage our operations.

In September 2015, we instituted across the board expense reductions to conserve capital. We may, in the future, need to undertake additional workforce reductions or restructuring activities. We also need to effectively manage our operations and facilities. Following any workforce reduction, it is possible that our infrastructure may be inadequate to support our future efforts and business strategy or to maintain operational, financial and management controls and reporting systems and procedures. If we cannot successfully manage our operations, we may be unsuccessful in executing our business strategy.

Enrollment in our VTL-308 clinical trial could take longer than we expect resulting in the need for additional funds.

While we expect the VTL-308 clinical trial to enroll subjects at a rate similar to VTI-208, it is possible that the changes in enrollment criteria will result in slow enrollment and that we will need to raise more capital than anticipated to complete the trial or that we will exhaust our funds and the company will fail.

Our future capital needs are uncertain, and we will need to raise additional funds in the future.

We may need to raise substantial additional capital to:

- complete clinical trials and related regulatory applications;
- fund our operations;
- commence and expand the commercialization of our products; and
- further our research and development.

Our future funding requirements will depend on many factors, including:

- market acceptance of our products;
- the cost of our research and development activities;
- the cost and timing of our clinical development activities, in particular the rate of initiation of our clinical sites, the rate of enrollment of our clinical trials and the need for any additional clinical trials;
- the cost of filing and prosecuting patent applications;
- the cost of defending litigation or any claims that we infringe third-party patents or violate other intellectual property rights;
- the cost and timing of regulatory clearances or approvals, if any;
- the cost and timing of establishing sales, marketing and distribution capabilities;
- the cost and timing of establishing additional technical support capabilities;
- the effect of competing technological and market developments; and
- the extent to which we acquire or invest in businesses, products and technologies, although we currently have no significant commitments or agreements relating to any of these types of transactions.

We may not be able to obtain additional funds on acceptable terms, or at all. If we raise additional funds by issuing equity securities, our stockholders will experience dilution. Debt financing, if available, may involve covenants restricting our operations or our ability to incur additional debt. Any debt or additional equity financing that we raise may contain terms that are not favorable to us or our stockholders. If we raise additional funds through collaboration and licensing arrangements with third parties, which we have no prior experience in, it may be necessary to relinquish some rights to our technologies or our products, or grant licenses on terms that are not favorable to us. If we are unable to raise adequate funds, we may have to liquidate some or all of our assets, or delay, reduce the scope of or eliminate some or all of our development programs.

If we do not have, or are not able to obtain, sufficient funds, we may have to delay development or commercialization of our products or license to third parties the rights to commercialize products or technologies that we would otherwise seek to commercialize. We also may have to reduce marketing, customer support or other resources devoted to our products or cease operations. Any of these factors could harm our operating results.

Any acquisitions that we make could disrupt our business and harm our financial condition.

We expect to evaluate potential strategic acquisitions of complementary businesses, products or technologies. We may also consider joint ventures, licensing and other collaborative projects. We may not be able to identify appropriate acquisition candidates or strategic partners, or successfully negotiate, finance or integrate acquisitions of any businesses, products or technologies. Furthermore, the integration of any acquisition and management of any collaborative project may divert our management's time and resources from our core business and disrupt our operations. We do not have any experience with acquiring companies or products. Any cash acquisition we pursue would diminish the funds otherwise available to us for other uses, and any stock acquisition would dilute our stockholders' ownership. While we from time to time evaluate potential collaborative projects and acquisitions of businesses, products and technologies, and anticipate continuing to make these evaluations, we have no present understandings, commitments or agreements with respect to any significant acquisitions or collaborative projects.

Raising additional funds through debt or equity financing is likely to be challenging, could be highly dilutive and may cause the market price of our common stock to decline.

To the extent that we raise additional capital through the sale of equity or convertible debt securities, the issuance of those securities could result in substantial dilution for our current stockholders and the terms may include liquidation or other preferences that adversely affect the rights of our current stockholders. Furthermore, the issuance of additional securities, whether equity or debt, by us, or the possibility of such issuance, may cause the market price of our common stock to decline further and existing stockholders may not agree with our financing plans or the terms of such financings. The failure of the VTI-208 clinical trial to meet its primary or secondary endpoints, in addition to general market conditions, may make it very difficult for us to seek and obtain further financing from the capital markets on favorable terms, or at all. If we cannot raise additional capital, we may be required to delay, reduce or eliminate certain aspects of our operations, and could cause us and our independent registered public accounting firm to indicate that there may be substantial doubt about our ability to continue as a going concern.

In order to raise required funds we may choose to enter into one or more collaborations. Such collaborations could require us to give up substantial rights to the ELAD System in the U.S. and/or outside the U.S.

We may choose to enter into one or more collaborations in order to continue the development of the ELAD System. These collaborations could require us to relinquish substantial rights, potentially including the grant of an exclusive license to make, use and sell the ELAD System, to another company.

Risks Related to Being a Public Company

The requirements of being a public company may strain our resources, divert management's attention and affect our ability to attract and retain executive management and qualified board members.

As a public company, we are subject to the reporting requirements of the Exchange Act, the Sarbanes-Oxley Act, the Dodd-Frank Act, the listing requirements of the Nasdaq Stock Market LLC and other applicable securities rules and regulations. Compliance with these rules and regulations increases our legal and financial compliance costs, makes some activities more difficult, time-consuming or costly and increases demand on our systems and resources, and even more so after we are no longer an "emerging growth company," as defined in the Jumpstart Our Business Startups Act, or the JOBS Act. The Exchange Act requires, among other things, that we file annual, quarterly and current reports with respect to our business and operating results. The Sarbanes-Oxley Act requires, among other things, that we maintain effective disclosure controls and procedures and internal control over financial reporting. In order to maintain and, if required, improve our disclosure controls and procedures and internal control over financial reporting to meet this standard, significant resources and management oversight are required. As a result, management's attention may be diverted from other business concerns, which could adversely affect our business and operating results. To assist us in complying with these requirements, we may need to hire more employees in the future or engage outside consultants, which will increase our costs and expenses.

In addition, changing laws, regulations and standards relating to corporate governance and public disclosure are creating uncertainty for public companies, increasing legal and financial compliance costs and making some activities more time consuming. These laws, regulations and standards are subject to varying interpretations, in many cases due to their lack of specificity, and, as a result, their application in practice may evolve over time as new guidance is provided by regulatory and governing bodies. This could result in continuing uncertainty regarding compliance matters and higher costs necessitated by ongoing revisions to disclosure and governance practices. We intend to invest resources to comply with evolving laws, regulations and standards, and this investment may result in increased general and administrative expenses and a diversion of management's time and attention from development activities to compliance activities. If our efforts to comply with new laws, regulations and standards differ from the activities intended by regulatory or governing bodies due to ambiguities related to their application and practice, regulatory authorities may initiate legal proceedings against us and our business may be adversely affected.

For as long as we remain an "emerging growth company," we may take advantage of certain exemptions from various reporting requirements that are applicable to public companies that are not "emerging growth companies" including, but not limited to, not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act, reduced disclosure obligations regarding executive compensation and financial statements in our periodic reports and proxy statements, and exemptions from the requirements of holding a nonbinding advisory vote to approve executive compensation and shareholder approval of any golden parachute payments not previously approved. We will take advantage of these reporting exemptions until we are no longer an "emerging growth company."

We may remain an “emerging growth company” until as late as December 31, 2019 (the fiscal year-end following the fifth anniversary of the completion of our initial public offering), although we may cease to be an “emerging growth company” earlier under certain circumstances, including (i) if the market value of our common stock that is held by non-affiliates exceeds \$700 million as of any June 30, in which case we would cease to be an “emerging growth company” as of the following December 31, or (ii) if our gross revenue exceeds \$1.07 billion in any fiscal year.

As a public company it is more expensive for us to maintain and obtain director and officer liability insurance, and we may be required to accept reduced coverage or incur substantially higher costs to obtain coverage. These factors may also make it more difficult for us to attract and retain qualified members of our board of directors, particularly to serve on our audit committee and compensation committee, and qualified executive officers.

Under Section 107(b) of the JOBS Act, “emerging growth companies” can delay adopting new or revised accounting standards until such time as those standards apply to private companies. We have irrevocably elected not to avail our company of this exemption from new or revised accounting standards and, therefore, we are subject to the same new or revised accounting standards as other public companies that are not “emerging growth companies.”

As a public company, we are obligated to develop and maintain proper and effective internal control over financial reporting. If we do not maintain a proper and effective system of internal control over financial reporting, or if these internal controls are determined not to be designed or operating effectively, it may adversely affect investor confidence in our company and, as a result, the value of our common stock.

We are required, pursuant to Section 404 of the Sarbanes-Oxley Act, to furnish a report by management on, among other things, the effectiveness of our internal control over financial reporting for the 2017 fiscal year. This assessment will need to include disclosure of any material weaknesses identified by our management in our internal control over financial reporting.

We have and will continue to evaluate and test our system of internal control over financial reporting. If, during the evaluation and testing process, we identify one or more material weaknesses in our internal control over financial reporting, we will be unable to assert that our internal controls are effective, which could result in a loss of investor confidence in the accuracy and completeness of our financial reports. This could cause the price of our common stock to decline, and we may be subject to investigation or sanctions by the SEC.

We are required to disclose changes made in our internal control and procedures on a quarterly basis. However, our independent registered public accounting firm will not be required to report on the effectiveness of our internal control over financial reporting pursuant to Section 404 until we are no longer an “emerging growth company” pursuant to the exemptions contained in the JOBS Act. At such time, our independent registered public accounting firm may issue a report that is adverse in the event it is not satisfied that our internal controls over financial reporting are designed and operating effectively to prevent or detect a material misstatement to the financial statements.

If we do not remediate any material weaknesses in our internal control over financial reporting, the accuracy and timeliness of our financial reporting may be adversely affected.

In prior years, we had not maintained an effective control environment to ensure that the design and execution of our controls consistently resulted in effective review of our financial statements and supervision by appropriate individuals. As a result of these factors, certain misstatements in our annual financial statements for periods prior to becoming a public company were identified and brought to the attention of management by our independent registered public accounting firm for correction. We and our independent registered public accounting firm concluded that these control deficiencies constituted a material weakness in our internal control over financial reporting. A material weakness is a control deficiency, or a combination of control deficiencies, in internal control over financial reporting, indicates that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis.

Efforts to remediate the control deficiencies that led to the material weakness discussed above were completed. However, the measures we have taken to date, or any measures we may take in the future, may not be sufficient to avoid potential future material weaknesses. In addition, an independent registered public accounting firm has not performed an evaluation of our internal control over financial reporting in accordance with the provisions of the Sarbanes-Oxley Act because no such evaluation has been required. Had our independent registered public accounting firm performed an evaluation of our internal control over financial reporting in accordance with the provisions of the Sarbanes-Oxley Act, additional significant deficiencies or material weaknesses may have been identified. If we are unable to successfully remediate any significant deficiency or material weakness in our internal control over financial reporting, or identify any additional significant deficiencies or material weaknesses that may exist, the accuracy and timing of our financial reporting may be adversely affected, we may be unable to maintain compliance with securities law requirements regarding timely filing of periodic reports in addition to applicable stock exchange listing requirements, investors may lose confidence in our financial reporting, and our stock price may decline as a result.

Risks Related to our Common Stock

If securities or industry analysts do not continue to publish research or publish unfavorable research about our business, our stock price and trading volume could decline.

The trading market for our common stock will rely in part on the research and reports that equity research analysts publish about us and our business. Although certain equity research analysts currently cover us, we do not have any control of the analysts or the content and opinions included in their reports or whether any such analysts will continue to, or whether new analysts will, cover us for any given period of time. The price of our stock could decline if one or more equity research analysts downgrade our stock or issue other unfavorable commentary or research. If one or more equity research analysts ceases coverage of our company or fails to publish reports on us regularly, demand for our stock could decrease, which in turn could cause our stock price or trading volume to decline.

The market price of our common stock has been, and may continue to be volatile and fluctuate significantly, which could result in substantial losses for investors.

The market price of our common stock has been and is likely to continue to be highly volatile. Since our initial public offering in April 2014 at a price of \$12.00 per share, the sale price of stock as reported on the Nasdaq Global Market has ranged from \$2.25 to \$35.20, through February 28, 2018. Our announcement in 2015 that the VTI-208 clinical trial failed to meet its primary or secondary endpoints resulted in a significant decline in the market price of our common stock. In addition, as with any public company, some investors hold a short position in our common stock. Such investors have published and distributed information about our company including on current and past clinical trials. Activities by these investors may increase the volatility of the market price of our common stock, and may affect our ability to raise additional funds and to complete our clinical trials and operations.

Our stock price could be subject to wide fluctuations due to many factors, including:

- clinical data and government approvals relating to the ELAD System;
- changes in governmental regulations or in the status of our regulatory approvals or applications;
- disputes or other developments with respect to our intellectual property rights or the intellectual property rights of others;
- product liability claims or other litigation;
- sales of large blocks of our common stock, including sales by our executive officers and directors;
- changes in earnings estimates or recommendations by securities analysts;
- our ability to meet investors' expectations regarding our future operating performance;
- media exposure of the ELAD System or products of our competitors;
- volume and timing of sales of the ELAD System;
- the introduction of new products or product enhancements by us or our competitors;
- our ability to develop, obtain regulatory clearance or approval for and market new and enhanced products on a timely basis;

- quarterly variations in our or our competitors' results of operations;
- developments in our industry; and
- general market conditions and other factors, including factors unrelated to our operating performance or the operating performance of our competitors.

In addition, an active and liquid market may not develop or persist and you may not be able to sell your shares quickly or at the recently reported price. These and other factors may make the price of our stock volatile and subject to unexpected fluctuations.

Sale of a substantial number of shares of our common stock by existing stockholders or by us may cause the price of our common stock to decline.

Sales of a substantial number of shares of our common stock into the public market or the perception that these sales might occur could depress the market price of our common stock and could impair our ability to raise adequate capital through the sale of additional equity securities. We are unable to predict the effect that sales may have on the prevailing market price of our common stock.

In May 2015, we filed a shelf registration statement that permitted: (i) the offering, issuance and sale by us of up to a maximum aggregate offering price of \$200.0 million of common stock, preferred stock, warrants, debt securities, and/or units in one or more offerings and in any combination; (ii) sales of up to 2.5 million shares of common stock by certain selling stockholders; and (iii) the offering, issuance and sale by us of up to a maximum aggregate offering price of \$75.0 million of our common stock that may be issued and sold under an "at-the-market" sales agreement with Cantor Fitzgerald & Co., or the ATM. In October 2015, we completed a follow-on public offering raising gross proceeds of \$34.5 million under the shelf registration statement. During the year ended December 31, 2016, we raised gross proceeds of \$12.2 million pursuant to the ATM. In March 2017, we completed an additional follow-on public offering raising gross proceeds of \$40.3 million. During the year ended December 31, 2017, we raised gross proceeds of \$600,000 pursuant to the ATM leaving \$112.5 million available under the shelf registration statement, \$62.2 million of which may be offered, issued and sold under the ATM at December 31, 2017.

In addition, we have filed registration statements on Form S-8 registering a total of 6,584,695 shares of common stock subject to options or reserved for future issuance under our 2012 Stock Option Plan and 2014 Equity Incentive Plan. Shares registered under these registration statements are available for sale in the public market subject to vesting arrangements, the exercise of such options and, in the case of our affiliates, the restrictions of Rule 144. As of December 31, 2017, options to purchase 3,562,490 shares of our common stock were exercisable. In September 2017, our board of directors approved the 2017 Inducement Equity Incentive Plan and amended and restated the plan in November 2017, or the Inducement Plan. Under the Inducement Plan, 1,850,000 shares of our common stock were reserved to be used exclusively for grants to individuals who were not previously our employees or directors, as an inducement material to the individual's entry into employment with us. We filed a registration statement on Form S-8 registering Inducement Plan shares in February 2018. No grants were made under the Inducement Plan in 2017.

Certain of our existing stockholders are also entitled, under contracts providing for registration rights, to require us to register shares of our common stock owned by them for public sale in the U.S. Any additional sales of securities by these stockholders, or the expectation that such sales may occur, could have a material adverse effect on the trading price of our common stock and make it more difficult for investors to sell shares of our common stock.

To the extent we raise additional capital by selling and issuing common stock, convertible securities or other equity securities, it may result in material dilution to our existing stockholders and new investors could gain rights superior to our existing stockholders. Sales by us or by our current stockholders also could cause the price of our common stock to fall and make it more difficult for you to sell shares of our common stock.

Our directors, officers and their affiliates have significant voting power and may take actions that may not be in the best interests of our other stockholders.

Our officers, directors and their affiliates collectively control approximately 28.9% of our outstanding common stock, including one stockholder and his affiliates who control approximately 26.9% of our outstanding common stock, as of December 31, 2017. As a result, these stockholders, if they act together, will be able to exert substantial influence over the management and affairs of our company and most matters requiring stockholder approval, including the election of directors. This concentration of ownership may have the effect of delaying or preventing a change in control and might adversely affect the market price of our common stock. This concentration of ownership may not be in the best interests of our other stockholders.

We have broad discretion to use of proceeds from our public offerings for working capital and general corporate purposes and we may not use them effectively.

The net proceeds of our public offerings are being allocated to fund the continuing clinical development of the ELAD System and the remainder for working capital and other general corporate purposes. Our management has broad discretion over the use and investment of the net proceeds of our public offerings within those categories, and accordingly, investors will need to rely upon the judgment of our management with respect to the use of proceeds.

Anti-takeover provisions in our amended and restated certificate of incorporation, amended and restated bylaws, and Fourth Amended and Restated Investors' Rights Agreement, as well as Delaware law, could discourage a takeover.

Our amended and restated certificate of incorporation, bylaws, Fourth Amended and Restated Investors' Rights Agreement, and Delaware law, contain provisions that might enable our management to resist a takeover, and might make it more difficult for an investor to acquire a substantial block of our common stock. These provisions:

- authorize our board of directors to issue, without further action by our stockholders, up to 20,000,000 shares of undesignated preferred stock;
- require that any action to be taken by our stockholders be effected at a duly called annual or special meeting and not by written consent;
- specify that special meetings of our stockholders can be called only by a supermajority (75%) vote of our directors then in office;
- specify that our board of directors may amend or repeal our bylaws only pursuant to a supermajority (75%) vote of our directors then in office;
- specify that our stockholders may amend or repeal our bylaws only pursuant to a supermajority (75% and majority of the minority, if applicable) vote of the outstanding shares of our capital stock;
- require in general the approval of a supermajority (75% and majority of the minority, if applicable) vote of our outstanding shares of capital stock to amend or repeal certain provisions of our certificate of incorporation;
- require the approval of a supermajority (75% and majority of the minority, if applicable) vote of our outstanding shares of capital stock to approve the sale or liquidation of the company;
- establish an advance notice procedure for stockholder approvals to be brought before an annual meeting of our stockholders, including proposed nominations of persons for election to our board of directors;
- provide that directors may be removed only for cause by a supermajority (75%) vote of our outstanding shares of capital stock;
- provide that vacancies on our board of directors may be filled only by a majority of directors then in office, even though less than a quorum;
- provide that in general the number of directors on our board may only be fixed from time to time by a supermajority (75%) vote of our directors then in office;
- establish that our board of directors is divided into three classes, Class I, Class II and Class III, with each class serving staggered terms; and
- provide that certain stockholders affiliated with Muneer A. Satter, referred to as the Satter Investors, have rights to nominate up to a specific percentage of our directors (currently 30%) based on the Satter Investors' ownership percentage in our Company.

These provisions might discourage, delay or prevent a change in control of our company or a change in our management. The existence of these provisions could adversely affect the voting power of holders of common stock and limit the price that investors might be willing to pay in the future for shares of our common stock.

Our certificate of incorporation also contains a provision that provides us with protections similar to Section 203 of the Delaware General Corporation Law and will prevent us from engaging in a business combination with a person who acquires at least 15% of our common stock for a period of three years from the date such person acquired such common stock, except for certain of our current stockholders, including Mr. Satter and entities affiliated with him, and, in certain instances, persons who purchase common stock from certain of our current stockholders, and unless board or stockholder approval is obtained prior to the acquisitions. These anti-takeover provisions and other provisions under Delaware law could discourage, delay or prevent a transaction involving a change in control of our company, even if doing so would benefit our stockholders. These provisions could also discourage proxy contests and make it more difficult for you and other stockholders to elect or remove directors of your choosing and to cause us to take other corporate actions you desire.

We have not paid dividends in the past and do not expect to pay dividends in the future, and any return on investment may be limited to the value of our stock.

We have never paid cash dividends on our common stock and do not anticipate paying cash dividends on our common stock in the foreseeable future. The payment of dividends on our common stock will depend on our earnings, financial condition and other business and economic factors affecting us at such time as our board of directors may consider relevant. If we do not pay dividends, our stock may be less valuable because a positive return on your investment will only occur if our stock price appreciates.

Item 1B. Unresolved Staff Comments.

Not applicable.

Item 2. Properties.

We lease 44,000 square feet in San Diego in four different facilities under leases with expiration dates ranging from January 2019 through June 2022. We operate our business out of several leased facilities to include 19,000 square feet for our corporate headquarters, 19,000 square feet for our manufacturing operations, and 6,000 square feet for research and development. We believe that these facilities are adequate to meet our existing needs, however, we will need to extend or replace our corporate headquarters and research and development facilities leases by February 2019. We also believe that additional or substitute facilities will be available on commercially reasonable terms, if required, although we would incur additional expenses in connection with any such new facilities.

Item 3. Legal Proceedings.

We are not currently a party to any litigation, nor are we aware of any pending or threatened litigation against us that we believe would materially affect our business, operating results, financial condition or cash flows. Our industry is characterized by frequent claims and litigation including securities litigation, claims regarding patent and other intellectual property rights and claims for product liability. As a result, in the future, we may be involved in various legal proceedings from time to time.

Item 4. Mine Safety Disclosures.

Not applicable.

PART II

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

Market Information

Our common stock is listed on The Nasdaq Global Market under the symbol "VTL". The following table sets forth the high and low sales prices per share of our common stock as reported on The Nasdaq Global Market for the periods indicated.

	Price Range	
	High	Low
Year Ended December 31, 2016		
First Quarter	\$11.34	\$6.80
Second Quarter	\$9.71	\$5.82
Third Quarter	\$7.36	\$5.49
Fourth Quarter	\$6.58	\$3.85
Year Ended December 31, 2017		
First Quarter	\$5.40	\$3.70
Second Quarter	\$4.10	\$2.25
Third Quarter	\$5.20	\$2.43
Fourth Quarter	\$6.50	\$4.30

Holders

As of February 28, 2018, there were approximately 69 holders of record of our common stock, which excludes stockholders whose shares were held in nominee or street name by brokers. The actual number of common stockholders is greater than the number of record holders, and includes stockholders who are beneficial owners, but whose shares are held in street name by brokers and other nominees. This number of holders of record also does not include stockholders whose shares may be held in trust by other entities.

Dividend Policy

We have never declared or paid cash dividends on our common stock. We currently intend to retain all available funds and any future earnings for use in the operation of our business and do not anticipate paying any dividends on our common stock in the foreseeable future. Any future determination to declare dividends will be made at the discretion of our board of directors and will depend on our financial condition, operating results, capital requirements, general business conditions and other factors that our board of directors may deem relevant.

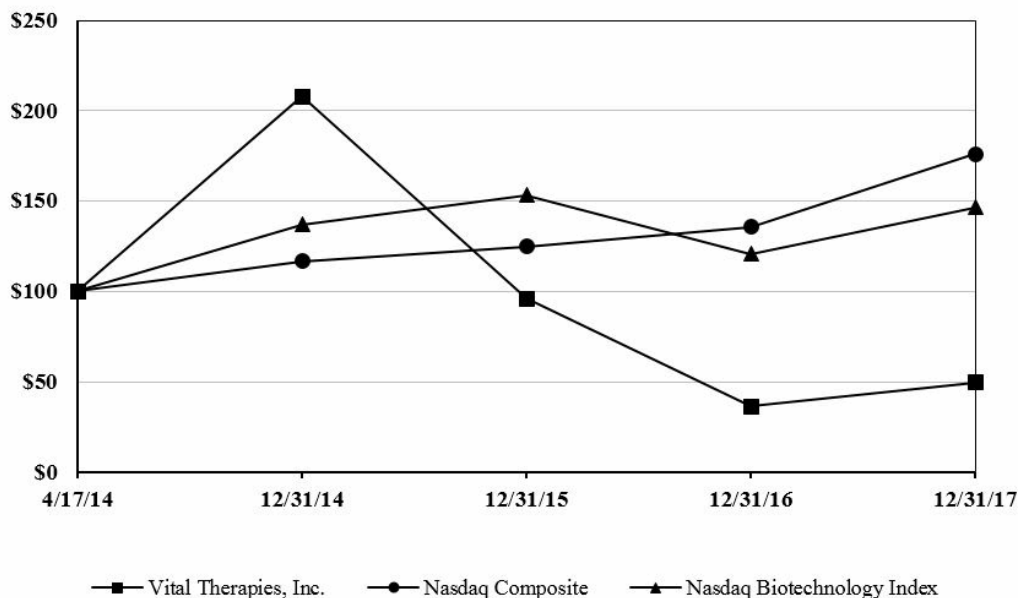
Securities Authorized for Issuance under Equity Compensation Plans

Information about our equity compensation plans is incorporated herein by reference to Item 12 of Part III of this Annual Report.

Performance Graph

The following graph shows a comparison from April 17, 2014 (the date our common stock commenced trading on The Nasdaq Global Market) through December 31, 2017 of the cumulative total return for our common stock, the Nasdaq Composite Index and the Nasdaq Biotechnology Index. The graph assumes an initial investment of \$100 on April 17, 2014. The comparisons in the graph are not intended to forecast or be indicative of possible future performance of our common stock.

Comparison of Cumulative Total Return
Among Vital Therapies, Inc., the Nasdaq Composite,
and the Nasdaq Biotechnology Index



Unregistered Sales of Equity Securities

On October 30, 2017, we entered into an independent consulting agreement, or the Consulting Agreement, with two consulting groups, or the Consultants, pursuant to which we issued 60,000 restricted shares of our common stock to the Consultants as partial consideration for investor relations services to be rendered. The issuance of these securities was deemed to be exempt from the registration requirements of the Securities Act of 1933, as amended, by virtue of Section 4(a)(2) thereof, as a transaction by an issuer not involving a public offering.

Issuer Purchases of Equity Securities

None.

Item 6. Selected Financial Data.

The following table summarizes our selected consolidated financial data for the periods and as of the dates indicated. We have derived the consolidated statement of operations data for the years ended December 31, 2017, 2016 and 2015 and the consolidated balance sheet data as of December 31, 2017 and 2016 from our audited financial statements included elsewhere in this Annual Report on Form 10-K. The selected statement of operations data for the years ended December 31, 2014 and 2013 and the balance sheet data as of December 31, 2015, 2014 and 2013 are derived from our audited financial statements not included in this Annual Report on Form 10-K. This data should be read in conjunction with the section entitled "Management's Discussion and Analysis of Financial Condition and Results of Operations" and with our audited consolidated financial statements and their related notes, which are included elsewhere in this Annual Report.

	Year Ended December 31,				
	2017	2016	2015	2014	2013
Consolidated Statement of Operations Data:	(in thousands, except share and per share amounts)				
Operating expenses:					
Research and development	\$ 39,341	\$ 30,046	\$ 39,773	\$ 39,479	\$ 21,787
General and administrative	13,314	11,220	12,347	10,863	9,615
Total operating expenses	52,655	41,266	52,120	50,342	31,402
Loss from operations	(52,655)	(41,266)	(52,120)	(50,342)	(31,402)
Revaluation of future purchase rights liabilities	—	—	—	2,600	(1,306)
Other income (expense), net	577	297	97	75	(10)
Net loss	(52,078)	(40,969)	(52,023)	(47,667)	(32,718)
Amortization of deemed dividend	—	—	—	(4,744)	(64)
Accretion to redemption value of redeemable convertible preferred stock	—	—	—	(4,410)	(6,303)
Net loss attributable to common stockholders	\$ (52,078)	\$ (40,969)	\$ (52,023)	\$ (56,821)	\$ (39,085)
Net loss per share attributable to common stockholders, basic and diluted	\$ (1.31)	\$ (1.31)	\$ (2.07)	\$ (3.54)	\$ (74.86)
Weighted-average common shares outstanding, basic and diluted (1)	39,859,009	31,387,579	25,152,948	16,054,452	522,102

- (1) Please refer to Note 2, "Summary of Significant Accounting Policies," in the notes to the consolidated financial statements, for an explanation of the method used to calculate basic and diluted net loss per share attributable to common stockholders and the number of shares used in the computation of the per share amounts.

	As of December 31,				
	2017	2016	2015	2014	2013
Consolidated Balance Sheet Data:	(in thousands)				
Cash and cash equivalents	\$ 56,901	\$ 59,991	\$ 83,416	\$ 102,238	\$ 38,186
Working capital	47,840	55,983	78,433	94,538	36,409
Total assets	60,384	64,026	89,081	108,082	46,585
Preferred stock	—	—	—	—	83,475
Additional paid-in-capital	345,915	302,185	285,098	248,305	58,413
Accumulated deficit	(295,953)	(243,825)	(202,856)	(150,833)	(103,166)
Total stockholders' equity (deficit)	50,044	58,446	82,325	97,563	(44,657)

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

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with our consolidated financial statements and related notes included elsewhere in this Annual Report. This discussion contains forward-looking statements that involve risks and uncertainties. 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" included elsewhere in this Annual Report. As used in this report, unless the context suggests otherwise, "we," "us," "our" or "the Company" refer to Vital Therapies, Inc. and its subsidiaries.

Overview

We are a clinical-stage biotechnology company focusing on the discovery, development and commercialization of cell-based therapies capable of transforming the management of life-threatening conditions. Our initial product candidate, the ELAD® System, or ELAD, is a human-cell-based, bio-artificial liver which is being developed to improve rates of survival among patients with acute forms of liver failure.

We believe that the ELAD System may improve rates of overall survival and transform the management of acute forms of liver failure. Therapy with ELAD consists of a single, up to five-day treatment session, during which a patient's blood plasma is passed continuously through four cartridges containing approximately one pound of VTL C3A cells. We believe these cells, which have been shown to retain a large number of the liver's synthetic and metabolic functions, may infuse the patient's plasma with beneficial proteins, including growth factors, cell survival proteins, and anti-inflammatory proteins, and may also remove certain harmful substances. This may better allow the patient's own liver to recover and regenerate, thereby potentially improving patient survival.

The ELAD System has been granted orphan drug designation by the U.S. Food and Drug Administration, or FDA, and the European Commission, for the treatment of patients with acute liver failure, including alcoholic hepatitis. This designation provides tax credits for qualified clinical testing, seven years of market exclusivity in the U.S. and ten years of market exclusivity in Europe for the first orphan drug approved for a given indication. However, orphan designation does not alter the standard regulatory requirements or the process for obtaining marketing approval.

In May 2016, we commenced our phase 3 VTL-308 clinical study. This is a randomized, open label, multicenter, controlled study comparing the efficacy and safety of the ELAD System plus standard-of-care to standard-of-care alone in adults, under the age of 50 and without secondary organ failure, with liver failure from severe alcoholic hepatitis, or sAH. VTL-308 is designed to enroll at least 150 subjects, and the study's primary endpoint is overall survival after the last subject to be enrolled has been followed for at least ninety days. As of March 12, 2018, 147 subjects have been enrolled in the VTL-308 study, and we expect to announce topline data in the third quarter of 2018. If the data is positive, these results are expected to form the basis for a marketing application to the FDA and other global health regulatory authorities for the approval of the ELAD System for the treatment of sAH.

Results from a prior phase 3 study, VTI-208, informed the design of the VTL-308 study and guided its focus on subjects under the age of 50 without secondary organ failure. The VTI-208 study enrolled 203 subjects between 2013 and January 2015 with alcohol-induced liver decompensation, most of whom were experiencing liver failure as a result of sAH. In August 2015, we learned that an analysis of overall survival was not statistically different between treated and control groups. Although VTI-208 failed to reach either its primary or secondary endpoints, pre-specified and post-hoc analyses identified criteria for a group of subjects in which favorable survival trends were observed. While the VTL-308 phase 3 clinical trial has been designed to show statistical significance based on these pre-specified and post-hoc analyses of the VTI-208 trial, there can be no assurance that the data from the trial or that a single trial will be sufficient to support a marketing application in any country.

During 2014, we also initiated enrollment in VTI-210, a second phase 3 clinical trial for subjects with sAH, and a phase 2 clinical trial, VTI-212, for subjects with post-surgical liver failure and fulminant hepatic failure. The VTI-210 trial was suggested by the European regulatory authority and was intended to include subjects who had failed conventional therapy and were therefore a sicker population than the VTI-208 subjects. Considering the results of the VTI-208 clinical trial and in an effort to focus our personnel and financial resources, we discontinued the VTI-210 and VTI-212 clinical trials, postponed most activities associated with the preparation for submitting a marketing application to the FDA, and reduced our workforce in late 2015.

We have incurred net losses since inception of \$296.0 million through December 31, 2017. We anticipate that we will continue to incur losses for at least the next several years. Due to the uncertainties involved with biological product development and the clinical trial process, we cannot predict the timing or accuracy of future expenses, when product approval for the ELAD System might occur, if ever, or when profitability may be achieved or sustained.

Financial Operations Overview

Research and Development Expenses

Research and development expenses relate to the development of the ELAD System and are expensed as incurred. Our research and development expenses consist primarily of:

- expenses incurred under agreements with clinical sites, clinical research organizations, or CROs, and statistical, regulatory and other consultants that assist us with our clinical trials;
- employee-related expenses, which include salaries, benefits, travel and stock-based compensation;
- the cost of acquiring and manufacturing clinical trial materials;
- facilities, depreciation, and other allocated expenses, which include direct and allocated expenses for rent, information systems, maintenance of facilities and equipment, and depreciation of fixed assets; and
- other costs associated with research, the preparation for a potential BLA filing and other regulatory activities.

We do not track our employee and facility-related research and development costs by clinical trial, as we have used our employee and infrastructure resources across multiple clinical trials, and we believe the allocation of such costs would be arbitrary and would not provide a meaningful assessment.

The costs of clinical trials may vary significantly over the life of a project owing to, but not limited to, the following:

- per subject trial costs;
- the number of sites included in the trials;
- the countries in which the trials are conducted;
- the number of subjects that participate in the trials;
- continuing quality assurance activities and standards consistent with the U.S. Food and Drug Administration, or FDA, and other regulatory requirements;
- potential additional safety monitoring or other studies requested by regulatory agencies;
- the number of events that occur in our event driven VTL-308 clinical trial; and
- the frequency and duration of subject follow-up visits.

A change in any of these variables could result in a significant change in the costs and timing associated with the development of the ELAD System. For example, if the FDA or other regulatory authorities were to require us to conduct clinical trials beyond what we currently anticipate will be required for the completion of clinical development of the ELAD System or if we experience significant delays in enrollment, we could be required to expend significant additional financial resources and time on the completion of the clinical development of the ELAD System. We also expect to incur an increase in operating costs related to certain tasks associated with the preparation of a BLA prior to the release of the results for the VTL-308 clinical trial. If we have a successful outcome from the VTL-308 clinical trial, we would expect to incur a significant increase in our operating costs related to the preparation of a BLA and the possible commercialization of the ELAD System.

General and Administrative Expenses

General and administrative expenses consist primarily of salaries and related costs for personnel in executive, finance, information technology, marketing and legal functions. Other general and administrative expenses include but are not limited to related facility costs, stock-based compensation, professional fees for legal, consulting, accounting and tax services and insurance costs. If we have a successful outcome from the VTL-308 clinical trial, we expect to incur additional costs related to planning and preparing for the possible commercialization of the ELAD System.

Other Income

Interest Income

Our cash and cash equivalents are or have been invested primarily in money market funds, which in our opinion, provide liquidity and protection from loss of principal. We expect to continue to make similar investments with any additional financing proceeds while the funds await use in operations.

Critical Accounting Policies and Estimates

The preparation of financial statements in conformity with generally accepted accounting principles in the U.S., or GAAP, requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of expenses during the reporting period. On an on-going basis, management makes its best estimate of the ultimate outcome for these items based on historical trends and other information available when the financial statements are prepared. Changes in estimates are typically recognized in the period when new information regarding estimates becomes available to management. Actual results could differ from those estimates.

Our significant accounting policies are described in more detail in Note 2, "Summary of Significant Accounting Policies," in the notes to the consolidated financial statements. However, we believe that the following accounting policies are the most critical for fully understanding and evaluating our financial condition and results of operations.

Clinical Trial Accruals

As part of the process of preparing our financial statements, we are required to estimate our accrued expenses. Our clinical trial accrual process seeks to account for expenses resulting from our obligations under agreements with clinical sites, clinical research organizations, or CROs, vendors, and consultants in connection with conducting our clinical trials. We account for these expenses according to the progress of each trial as measured by subject enrollment, the timing of various aspects of the trial and if available, information from our service providers. During the course of a clinical trial, we adjust our rate of clinical expense recognition if actual results differ from our estimates. Although we do not expect our estimates to be materially different from amounts actually incurred, our understanding of the status and timing of services performed relative to the actual status and timing of services performed may vary, and could result in us reporting amounts that may later be determined to be higher or lower than our estimates for a particular period and adjustments to our research and development expenses may be necessary in future periods.

Stock-Based Compensation

We measure and recognize compensation expense for all stock-based compensation for employees and directors based on the estimated fair value at the date of grant, and to consultants based on the ongoing estimated fair value. Currently, our stock-based awards consist only of stock options and restricted stock; however, future grants under our equity compensation plan may also consist of shares of restricted stock units, stock appreciation rights, performance awards and performance units. We estimate the fair value of stock options using the Black-Scholes-Merton, or BSM, option pricing model, which requires the use of estimates.

We recognize stock-based compensation cost for employees and directors for ratably vesting stock options on a straight-line basis over the requisite service period of the award. For performance-based stock options to employees and directors, we record stock-based compensation expense only when the performance-based milestone is deemed probable of achievement. We utilize both quantitative and qualitative criteria to judge whether milestones are probable of achievement.

The fair value of options granted to consultants is estimated using the BSM option pricing model and is re-measured at each reporting date with changes in fair value prior to vesting recognized as expense in the consolidated statements of operations across the applicable vesting period. For performance-based stock options to consultants, we record stock-based compensation expense only when the performance-based milestones are achieved unless there is a performance commitment.

Effective in the first quarter of 2017, we began recognizing forfeitures as they occur. In 2016 and earlier periods, stock-based compensation expense was recognized only for those awards that were ultimately expected to vest. Through 2016, we estimated forfeitures based on an analysis of our historical employee turnover. We revised the forfeiture estimate in subsequent periods if actual forfeitures differed from those estimates. Changes in estimated forfeitures, which were not material, impacted compensation cost in the period in which the change in estimate occurred.

The BSM option pricing model requires the input of highly-subjective assumptions, including the risk-free interest rate, the expected dividend yield of our common stock, the expected volatility of the price of our common stock, and the expected term of the option. These estimates involve inherent uncertainties and the application of management's judgment. If factors change and different assumptions are used, our stock-based compensation expense could be materially different in the future.

Income Taxes

We account for income taxes under the asset and liability method, which requires the recognition of deferred tax assets and liabilities for the expected future tax consequences of events that have been included in the condensed consolidated financial statements. Under this method, deferred tax assets and liabilities are determined on the basis of the differences between the financial statements and tax basis of assets and liabilities using enacted tax rates in effect for the year in which the differences are expected to reverse. The effect of a change in tax rates on deferred tax assets and liabilities is recognized in income in the period that includes the enactment date.

We recognize net deferred tax assets to the extent we believe these assets are more likely than not to be realized. In making such a determination, management considers all available positive and negative evidence, including future reversals of existing taxable temporary differences, projected future taxable income, tax-planning strategies, and results of recent operations. If management determines that we would be able to realize our deferred tax assets in the future in excess of their net recorded amount, management would make an adjustment to the deferred tax asset valuation allowance, which would reduce the provision for income taxes. As of December 31, 2017 and 2016, we maintained a full valuation allowance against our entire balance of deferred tax assets.

We record uncertain tax positions on the basis of a two-step process whereby (1) management determines whether it is more likely than not that the tax positions will be sustained on the basis of the technical merits of the position and (2) for those tax positions that meet the more-likely-than-not recognition threshold, management recognizes the largest amount of tax benefit that is more than 50 percent likely to be realized upon ultimate settlement with the related tax authority. We recognize interest and penalties related to unrecognized tax benefits, if any, within income tax expense, and any accrued interest and penalties are included within the related tax liability line.

On December 22, 2017, H.R. 1/Public Law No. 115-97 known as the Tax Cuts and Jobs Act, or the Tax Act, was signed into law. The effects of this new federal legislation are recognized upon enactment, which is the date a bill is signed into law. The Tax Act includes numerous changes in existing tax law; however, the most significant provisions affecting the company are a permanent reduction in the federal corporate income tax rate from 35% to 21%, annual limitations on the utilization of net operating losses and tax credits, the halving of the orphan drug credit, limitations on the deductibility of compensation paid to covered employees and the capitalization and amortization of research and development costs.

Results of Operations

Comparison of Fiscal Years Ended December 31, 2017 and 2016

The following table summarizes our operating expenses for the years ended December 31, 2017 and 2016 (dollars in thousands):

	Year Ended December 31,		Change	
	2017	2016	\$	%
Operating expenses:				
Research and development	\$ 39,341	\$ 30,046	\$ 9,295	31%
General and administrative	13,314	11,220	2,094	19%
Total operating expenses	\$ 52,655	\$ 41,266	\$ 11,389	28%

The \$9.3 million increase in research and development expense during the year ended December 31, 2017 as compared to the year ended December 31, 2016 principally reflects an \$8.0 million increase in costs related to the VTL-308 and prior clinical trials, primarily in higher costs for subjects, sites, manufacturing, enrollment support activities and consulting. As enrollment started in the second quarter of 2016, 35 subjects were enrolled in the VTI-308 clinical trial in the year ended December 31, 2016, while 97 subjects were enrolled during the year ended December 31, 2017. Costs also increased by \$1.2 million for activities to support a potential biologics license application, or BLA, submission in the future.

The \$2.1 million increase in general and administrative expense during the year ended December 31, 2017 as compared to the year ended December 31, 2016 was largely the result of a \$1.9 million increase in compensation-related costs. In December 2017, our chief executive officer transitioned from being an employee to a consultant. As a result of the related transition and consulting agreements, we recorded \$525,000 in severance costs and \$674,000 in stock-based compensation related to stock option modifications. In total, stock-based compensation increased by \$1.2 million in 2017 as compared to 2016 principally due to the stock option modifications and an increase in the number of options outstanding.

We expect to continue to incur significant research and development costs to complete enrollment in the VTL-308 clinical trial and in support of BLA activities. We also expect general and administrative costs to remain relatively constant in 2018 compared to 2017 except for increases in stock-based compensation and costs associated with hiring a new chief executive officer in January 2018. In addition, with successful topline results from our VTL-308 clinical trial, we would expect to increase our research and development costs to support a BLA submission and our general and administrative costs as we begin to prepare for the potential commercialization of the ELAD System.

Comparison of Fiscal Years Ended December 31, 2016 and 2015

The following table summarizes our operating expenses for the years ended December 31, 2016 and 2015 (dollars in thousands):

	Year Ended December 31,		Change	
	2016	2015	\$	%
Operating expenses:				
Research and development	\$ 30,046	\$ 39,773	\$ (9,727)	(24)%
General and administrative	11,220	12,347	(1,127)	(9)%
Total operating expenses	<u>\$ 41,266</u>	<u>\$ 52,120</u>	<u>\$ (10,854)</u>	(21)%

Research and development expense decreased by \$9.7 million during the year ended December 31, 2016 as compared to the year ended December 31, 2015. The reduction in research and development expenses resulted from an \$8.3 million decrease in clinical trial and related consulting, manufacturing and outside service costs. We opened 38 sites during the year ended December 31, 2016 and enrolled 35 subjects in the VTL-308 clinical trial. Higher costs in the year ended December 31, 2015 reflected costs associated with locking the database for and analysis of the VTI-208 clinical trial, and costs associated with the opening of 42 sites and the enrollment of 38 subjects in the VTI-208, VTI-210 and VTI-212 clinical trials. In addition, research and development-related salaries and related compensation costs decreased by \$1.3 million in the year ended December 31, 2016, primarily as a result of the reduction in staff and the recording of related severance costs in the third quarter of 2015.

The \$1.1 million decrease in general and administrative expense during the year ended December 31, 2016 as compared to the year ended December 31, 2015 was primarily the result of \$503,000, \$348,000 and \$177,000 of lower salaries, for consulting and outside services and for travel costs, respectively, in part reflecting reductions in costs in conjunction with the reduction in staff completed in the fourth quarter of 2015. The decrease was also driven by a \$250,000 reduction in audit and accounting fees and costs associated with being a public company and a \$170,000 reduction in insurance costs. These decreases were partially offset by increased stock-based compensation of \$640,000, primarily due to performance-based stock options that were granted in the fourth quarter of 2015. In addition, legal expenses increased by \$223,000 in 2016, principally reflecting costs associated with securities litigation that was dismissed in 2016.

Liquidity and Capital Resources

Overview

We have a history of incurring losses and negative cash flows from operations and have an accumulated deficit of \$296.0 million through December 31, 2017. Based on the structure and timing of the VTL-308 clinical trial, assuming limited activities related to the submission for a BLA and that we do not begin building any significant commercial infrastructure, we believe that our existing cash and cash equivalents of \$56.9 million as of December 31, 2017 should be sufficient to fund our operations through the first quarter of 2019, past the expected announcement of topline data for the VTL-308 clinical trial, which we currently anticipate to be in the third quarter of 2018. We have based this estimate on assumptions that may prove to be wrong, and we could utilize our available capital resources sooner than we currently expect. The timing and amount of our actual expenditures will be based on many factors, including, but not limited to, the timing of and enrollment in our clinical trials, the timing of any possible submission of a BLA, decisions with respect to building commercial operations, and any unforeseen cash needs which may deplete current cash and cash equivalents sooner than planned. Furthermore, our operating plans may change, and we may need additional funds earlier to meet operational needs and capital requirements for product development, BLA-related activities and building for commercialization.

We plan to address our liquidity needs through pursuing additional funding which we may seek to obtain through a combination of equity or debt financings, or government or other third-party financing, marketing and distribution arrangements and other collaborations, strategic alliances and licensing arrangements. In this regard, we currently have an effective shelf registration statement on Form S-3 on file with the SEC. Through December 31, 2017, we have raised gross proceeds of \$74.8 million pursuant to follow-on offerings in 2015 and 2017 and gross proceeds of \$12.8 million pursuant to the "at-the-market" sales agreement, or ATM, with Cantor Fitzgerald & Co in 2016 and 2017 under the shelf registration statement. At December 31, 2017, \$112.5 million remains available for issuance and sale under the shelf registration statement, \$62.2 million of which may be offered, issued and sold under the ATM. The shelf registration statement on Form S-3 expires on May 26, 2018.

However, there is no assurance that we will be able to obtain additional funding on acceptable terms or at all. If the Company is not able to secure adequate additional funding, it will be required to make reductions in certain spending to extend current funds. If we are unable to raise adequate funds, we may have to liquidate some or all of our assets, or we may have to delay, reduce the scope of, or eliminate some or all of our development programs or clinical trials. We may also have to delay development or commercialization of our products or license to third parties the rights to commercialize products or technology that we would otherwise seek to commercialize. Any of these factors could harm our operating results and future prospects.

Cash in excess of immediate requirements is invested in accordance with our investment policy, primarily with an intent to maximize liquidity and preserve capital. As of December 31, 2017, such funds were held in cash and money market funds.

Cash Flows

The following table shows a summary of our cash flows for each of the years ended December 31, 2017, 2016, and 2015 (in thousands):

	2017	2016	2015
Cash (used in) provided by:			
Operating activities	\$ (40,397)	\$ (35,774)	\$ (49,952)
Investing activities	(678)	(21)	(1,281)
Financing activities	37,984	12,374	32,421

Net cash used in operating activities

During the year ended December 31, 2017, operating activities used \$40.4 million of cash. The use of cash primarily related to our net loss of \$52.1 million adjusted for non-cash charges of \$5.5 million related to stock-based compensation and \$998,000 related to depreciation and amortization, partially offset by a \$4.9 million change in our operating assets and liabilities. Changes in our operating assets and liabilities during the year ended December 31, 2017 consisted primarily of an increase of \$4.8 million in accrued expenses and accounts payable and a decrease of \$165,000 in other current assets and prepaid expenses. The increase in accrued expenses and accounts payable was primarily attributable to the increase in amounts due for our VTL-308 clinical trial.

During the year ended December 31, 2016, operating activities used \$35.8 million of cash. The use of cash primarily related to our net loss of \$41.0 million adjusted for non-cash charges of \$4.7 million related to stock-based compensation and \$1.8 million related to depreciation and amortization, partially offset by a \$1.4 million change in our operating assets and liabilities. Changes in our operating assets and liabilities during the year ended December 31, 2016 consisted primarily of a decrease of \$1.0 million in accrued expenses and accounts payable and an increase of \$232,000 in other current assets and prepaid expenses. The decrease in accrued expenses and accounts payable was primarily attributable to the reduction in amounts due to clinical sites for our VTI-208, VTI-210 and VTI-212 clinical trials, partially offset by increases in amounts due for our VTL-308 clinical trial.

During the year ended December 31, 2015, operating activities used \$50.0 million of cash. The use of cash primarily related to our net loss of \$52.0 million adjusted for non-cash charges of \$4.0 million related to stock-based compensation and \$1.3 million related to depreciation and amortization and also related to a \$3.3 million net change in our operating assets and liabilities. Changes in our operating assets and liabilities during the year ended December 31, 2015 consisted primarily of a decrease of \$3.6 million in accrued expenses, an increase of \$281,000 in accounts payable and a decrease of \$143,000 in other assets and prepaid expenses. The decrease in accrued expenses was primarily attributable to a decrease of \$3.4 million in the clinical trial accrual due to the completion of the VTI-208 clinical trial.

Net cash used in investing activities

During the year ended December 31, 2017, net investing activities used \$678,000 of cash, primarily due to capital expenditures of \$685,000 for facility improvements and purchases of equipment for manufacturing and research and development.

During the year ended December 31, 2016, net investing activities used \$21,000 of cash, including capital expenditures of \$556,000 principally for purchases of equipment for manufacturing and clinical operations, partially offset by \$533,000 from a decrease in restricted cash requirements relating to our clinical trials and lease commitments.

During the year ended December 31, 2015, investing activities used \$1.3 million of cash, including \$2.3 million for facilities improvements and purchases of equipment for manufacturing, research and development, partially offset by \$1.1 million from a decrease in restricted cash requirements relating to our completed and terminated clinical trials.

Net cash provided by financing activities

During the year ended December 31, 2017, financing activities provided \$38.0 million of cash related to net cash proceeds after underwriters' commissions and cash payments for offering costs from the follow-on offering completed in March 2017 and the ATM offerings completed in 2017.

During the year ended December 31, 2016, financing activities provided \$12.4 million of cash, which included net proceeds of \$12.4 million after underwriters' commissions and offering costs from the ATM offerings and the private placement completed in the year ended December 31, 2016.

During the year ended December 31, 2015, financing activities provided \$32.4 million of cash, which included net proceeds of \$32.2 million after underwriters' discounts and commissions and offering costs, from a follow-on offering completed in October 2015. Additionally, cash provided by financing activities included \$515,000 received from the exercise of stock options, partially offset by the payment of \$283,000 for deferred financing costs.

Our forecast of the period of time through which our financial resources will be adequate to support our operations is a forward-looking statement that involves risks and uncertainties, and actual results could vary materially. Our future capital requirements are difficult to forecast and will depend on many factors, including, but not limited to:

- the scope, progress, results and costs of research and development and clinical trials related to the ELAD System or any future product candidates;
- the cost and timing of a potential BLA submission;
- the cost and timing of scaling up and validating the manufacturing process for the ELAD System or any other product candidates for commercialization;
- the cost and timing of commercialization activities, including reimbursement, marketing, sales and distribution costs, both before and after product approval (if any);
- our ability to establish new collaborations, licensing or other arrangements and the financial terms of such agreements;
- the number and characteristics of any future product candidates we pursue;
- the costs involved with being a public company;
- the costs involved in preparing, filing, prosecuting, maintaining, defending and enforcing patents, including litigation costs and the outcome of such litigation; and
- the timing, receipt and amount of sales of, or royalties, if any, on the ELAD System and any future product candidates.

Until such time, if ever, as we can generate substantial product revenues, we expect to finance our cash needs through a combination of stock offerings, debt financings, collaborations and licensing arrangements. We do not expect to achieve revenue from product sales prior to the use of the net proceeds from our public and private offerings to date. We do not have any committed external source of funds. Additional funds may not be available on acceptable terms, if at all. To the extent that we raise additional capital through the sale of equity securities, the ownership interest of our stockholders will be diluted and may be on terms that are not favorable to us or our stockholders. Debt financing, if available, may involve covenants restricting our operations or our ability to incur additional debt or other terms that are not favorable to us or our stockholders. If we raise additional funds through collaborations and licensing arrangements with third parties, which we have no prior experience in, we may have to relinquish some rights to our technologies or our products, or grant licenses on terms that are not favorable to us. If we are unable to raise adequate funds, we may have to liquidate some or all of our assets, or we may have to delay, reduce the scope of, or eliminate some or all of our development programs or clinical trials. We may also have to delay development or commercialization of our products or license to third parties the rights to commercialize products or technology that we would otherwise seek to commercialize. Any of these factors could harm our operating results.

Off-Balance Sheet Arrangements

Through December 31, 2017, we have not entered into and did not have any relationships with unconsolidated entities or financial collaborations, such as entities often referred to as structured finance or special purpose entities, established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow or limited purpose.

Contractual Obligations

Some of our most significant clinical trial expenditures are to investigative sites and to CROs. These agreements are cancellable by either party at any time upon written notice and do not have any cancellation penalties, but do obligate us to reimburse the providers for any time or costs incurred through the date of termination and to close out clinical sites. These items are not included in the table below. We lease office and manufacturing space in San Diego, California. The following table summarizes our contractual obligations at December 31, 2017 and the effect such obligations are expected to have on our cash flow in future periods:

	Payments Due by Period				
	Total	Less Than 1 Year	1-3 Years	3-5 Years	More Than 5 Years
	(In thousands)				
Operating lease obligations	\$ 2,584	\$ 1,073	\$ 856	\$ 655	\$ —
Purchase obligations	431	431	—	—	—
Total contractual obligations	<u>\$ 3,015</u>	<u>\$ 1,504</u>	<u>\$ 856</u>	<u>\$ 655</u>	<u>\$ —</u>

As of December 31, 2017, our purchase obligations include existing purchase commitments of \$288,000 with a vendor for raw materials that will be used in manufacturing on an as needed basis. During the years ended December 31, 2017, 2016 and 2015, we purchased \$1.1 million, \$943,000 and \$1.2 million, respectively, of materials from this vendor. Our purchase obligations also include a purchase commitment of \$143,000 with a vendor for a component used in our clinical trials that will be manufactured and delivered on an as agreed upon schedule during 2018. During the years ended December 31, 2017, 2016 and 2015, we purchased \$228,000, \$139,000 and \$106,000, respectively, of materials from this vendor. In the course of normal business operations, we also enter into agreements with contract service providers and others. We can elect to discontinue the work under these contracts and purchase orders with notice.

Recent Accounting Pronouncements

In February 2016, the Financial Accounting Standards Board, or FASB, issued Accounting Standards Update, or ASU, No. 2016-02, "Leases," or ASU 2016-02. ASU 2016-02 will require that lease arrangements longer than 12 months result in an entity recognizing an asset and liability equal to the present value of the lease payments in the statement of financial position. ASU 2016-02 is effective for annual periods beginning after December 15, 2018, and interim periods therein. This standard requires a modified retrospective transition approach for all leases existing at, or entered into after, the date of initial application, with an option to use certain transition relief. We expect to adopt ASU 2016-02 in 2019. The adoption of this guidance is expected to result in a significant increase in the total assets and liabilities reported on our consolidated balance sheets.

In March 2016, the FASB issued ASU No. 2016-09, "*Compensation-Stock Compensation: Improvements to Employee Share-Based Payment Accounting*," or ASU 2016-09. ASU 2016-09 changes how companies account for certain aspects of share-based payments to employees. The amendments in this update cover such areas as the recognition of excess tax benefits and deficiencies, the classification of those excess tax benefits on the statement of cash flows, an accounting policy election for forfeitures, the amount an employer can withhold to cover employee income taxes and still qualify for equity classification and the classification of those taxes paid on the statement of cash flows. Effective in the first quarter of 2017, we adopted the provisions of ASU 2016-09 to recognize forfeitures as they occur. Upon the adoption of this standard, we recorded a cumulative-effect adjustment of \$50,000 to increase additional paid-in capital and accumulated deficit reversing our estimate of forfeitures as of December 31, 2016.

In November 2016, the FASB issued ASU No. 2016-18, "*Statement of Cash Flows: Restricted Cash*," or ASU 2016-18. ASU 2016-18 provides guidance on the classification of restricted cash in the statements of cash flows. This ASU will require that our statements of cash flows explain the change during the period in the total of cash, cash equivalents and amounts generally described as restricted cash or restricted cash equivalents. The amendments in this ASU are effective for interim periods beginning after December 15, 2017, with early adoption permitted. We will adopt this standard in 2018, and ASU 2016-18 will not have a significant impact on our consolidated financial statements at the time of adoption.

In May 2017, the FASB issued ASU No. 2017-09, "*Compensation-Stock Compensation (Topic 718): Scope of Modification Accounting*," or ASU 2017-09. The amendments in this update provide guidance on determining which changes to the terms and conditions of share-based payment awards require an entity to apply modification accounting under Topic 718. The guidance is effective for public business entities for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2017. We expect to adopt ASU 2017-09 for fiscal year 2018. The amendments will be applied on a prospective basis to any award modified on or after the adoption date. Consistent with our past practice and ASU 2017-09, we recorded \$724,000 for stock option modifications in 2017, including modifications related to the transition of our chief executive officer.

JOBS Act

In April 2012, the Jumpstart Our Business Startups Act, or the JOBS Act, was enacted. Section 107 of the JOBS Act provides that an emerging growth company can take advantage of the extended transition period provided in Section 7(a)(2)(B) of the Securities Act for complying with new or revised accounting standards. Thus, an emerging growth company can delay the adoption of certain accounting standards until those standards would otherwise apply to private companies. We have irrevocably elected not to avail ourselves of this extended transition period and, as a result, we adopt new or revised accounting standards on the relevant dates on which adoption of such standards is required for other companies.

Item 7A. Quantitative and Qualitative Disclosures about Market Risk.***Interest Rate Sensitivity***

We had cash and cash equivalents of \$56.9 million at December 31, 2017, which was held for working capital purposes. We do not enter into investments for trading or speculative purposes. We do not believe that we have any material exposure to changes in the fair value of these investments as a result of changes in interest rates due to their short-term nature. Declines or increases in interest rates, however, will reduce or increase future investment income, respectively, to the extent we have funds available for investment.

Foreign Currency Exchange Risk

We have entered and may continue to enter into international agreements, primarily related to our clinical studies. Accordingly, we have an exposure to foreign currency exchange rates. To date, we have not entered into, and do not have any current plans to enter into, any foreign currency hedging transactions or derivative financial transactions. We expect our transactions outside of the U.S. in the near-term will primarily entail payments for clinical trials, and for vendors and consultants supporting those trials within Europe. Our exposure to foreign currency risk will fluctuate in future periods as our clinical trial activity in Europe changes. We do not expect to maintain any significant amount of assets outside of the U.S.

The functional currencies of our foreign subsidiaries are the local currencies. Accordingly, the effects of exchange rate fluctuations on the net assets of these operations are accounted for as translation gains or losses in accumulated other comprehensive income within stockholders' equity. Our foreign subsidiaries are currently inactive and, accordingly, a change of 10% in such foreign currency exchange rates would not have a material impact on their financial position or results of operations.

Effects of Inflation

We do not believe that inflation and changing prices had a significant impact on our results of operations for any periods presented herein.

Item 8. Financial Statements and Supplementary Data.

The consolidated financial statements required pursuant to this item are included in Part IV, Item 15 of this Annual Report, and are presented beginning on page F-1.

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure.

None.

Item 9A. Controls and Procedures.

Evaluation of Disclosure Controls and Procedures

Management, with the participation of its Chief Executive Officer and Chief Financial Officer, evaluated the effectiveness of our disclosure controls and procedures as of December 31, 2017. The term “disclosure controls and procedures,” as defined in Rule 13a-15(e) of the Securities Exchange Act of 1934, or the Exchange Act, means controls and other procedures of a company that are designed to provide reasonable assurance 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 provide reasonable assurance that information required to be disclosed is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure. Management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their desired control objectives, and management necessarily is required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures. Based on the evaluation of our disclosure controls and procedures as of December 31, 2017, our Chief Executive Officer and Chief Financial Officer have concluded that, as of December 31, 2017, our disclosure controls and procedures were effective at the reasonable assurance level.

Management's Report on Internal Control Over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting as such term is defined in Rule 13a-15(f) under the Exchange Act. Internal control over financial reporting is a process designed under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, 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. Our internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of our assets; (ii) provide reasonable assurance (a) transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, (b) our receipts and expenditures are being made only in accordance with authorizations of our management and directors; and (c) regarding the prevention or timely detection of the unauthorized acquisition, use or disposition of assets that could have a material effect on our financial statements.

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

As of December 31, 2017, our management conducted an evaluation of the effectiveness of our internal control over financial reporting using the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission in Internal Control - Integrated Framework (2013). Based on this evaluation, our management concluded that, as of December 31, 2017, our internal control over financial reporting was effective.

This annual report does not include an attestation report of our registered public accounting firm regarding internal control over financial reporting. Management’s report was not subject to attestation by our registered public accounting firm pursuant to rules of the Securities and Exchange Commission that permit us to provide only management’s report in this annual report.

Changes in Internal Control over Financial Reporting

There was no change in our internal control over financial reporting that occurred during the quarter ended December 31, 2017 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

Item 9B. Other Information.

None.

PART III

Item 10. Directors, Executive Officers and Corporate Governance.

Executive Officers and Directors

The following table sets forth the names, ages and positions of our executive officers and directors as of February 28, 2017:

Name	Age	Position
Executive Officers:		
Russell J. Cox	54	Director and Chief Executive Officer
Duane D. Nash, M.D., J.D.	47	President
Robert A. Ashley, M.A.	60	Executive Vice President and Chief Technical Officer
Michael V. Swanson, M.B.A.	63	Executive Vice President and Chief Financial Officer
Aron P. Stem, M.B.A.	64	Chief Administrative Officer
John M. Dunn, J.D.	66	General Counsel and Secretary
Andrew Henry	53	Vice President, Clinical Operations
Richard Murawski	69	Vice President, Manufacturing
Non-Employee Directors:		
Faheem Hasnain ⁽²⁾	59	Chairman
Jean-Jacques Bienaimé ⁽²⁾	64	Director
Cheryl L. Cohen ⁽⁴⁾	52	Director
Philip M. Croxford, M.B.A. ⁽⁴⁾	57	Director
Douglas E. Godshall, M.B.A. ⁽¹⁾	53	Director
Errol R. Halperin, J.D., L.L.M. ⁽¹⁾⁽³⁾	77	Director
J. Michael Millis, M.D. ⁽³⁾⁽⁴⁾	59	Director
Muneer A. Satter, J.D., M.B.A. ⁽²⁾⁽³⁾	57	Director
Lowell E. Sears, M.B.A. ⁽¹⁾⁽³⁾	67	Director
Randolph C. Steer, M.D., Ph.D. ⁽²⁾⁽⁴⁾	68	Director

- (1) Member of the Audit Committee.
- (2) Member of the Compensation Committee.
- (3) Member of Nominating and Governance Committee.
- (4) Member of Quality and Technology Committee.

Executive Officers

Russell J. Cox has served as a member of our board of directors and as our Chief Executive Officer since January 2018. Between May 2014 and December 2017, he served as the Executive Vice President and Chief Operating Officer of Jazz Pharmaceutical plc, or Jazz, with responsibility for U.S., EU and rest-of-world commercial activities, research and development, manufacturing and technical operations, new product planning and global molecule leadership. Prior to that, Mr. Cox served as Jazz's Executive Vice President and Chief Commercial Officer from March 2012 until May 2014. Earlier, he served in a variety of senior management roles at Jazz, which he joined in 2010. Previously, Mr. Cox served as Senior Vice President and Chief Commercial Officer of Ipsen Group, a pharmaceutical company, from January 2009 to January 2010. From 2007 until December 2008, he was Vice President of Marketing at Tercica, Inc. prior to its acquisition by Ipsen Group. From 2003 to 2007, he served as Vice President, Marketing with Scios Inc., which was acquired by Johnson & Johnson in 2003. Before 2003, Mr. Cox spent 12 years with Genentech, Inc. where he was a Product Team Leader responsible for the Growth Hormone franchise and led numerous product launches as a Group Product Manager. Mr. Cox has served on the board of directors of Aeglea BioTherapeutics, Inc., a biotechnology company, since 2015. Mr. Cox received a B.S. in Biomedical Science from Texas A&M University.

Duane D. Nash, M.D., J.D. has served as our President since March 2016. Between March 2012 and March 2016, he served as our Chief Business Officer, and he served as our Executive Vice President between May 2013 and March 2016. Between March 2012 and May 2013, he also served as our Medical Director. Dr. Nash completed his internship in general surgery at the University of California at San Francisco during which he served as a member of the liver transplant team. Dr. Nash also practiced as an attorney from November 2002 to February 2008, most recently at the law firm of Davis Polk, where he focused on intellectual property litigation and corporate matters. Dr. Nash joined Vital Therapies from Wedbush PacGrow Life Sciences where he was employed from March 2009 to March 2012 serving most recently as a Vice President in Equity Research. Before that he was a research analyst at Pacific Growth Equities from April 2008 through March 2009, which was subsequently acquired by Wedbush Securities, Inc. Dr. Nash has served on the board of directors of Akebia Therapeutics, Inc., a publicly-traded biotech company focused on the treatment of anemia and vascular disease, since May 2013. He served on the board of directors of Aerpio Therapeutics Inc., a clinical-stage biopharmaceutical company focused on advancing innovative therapies for vascular diseases, from September 2012 to March 2017. Dr. Nash earned a B.A. in biology from Williams College, an M.D. from Dartmouth Medical School, a J.D. from the University of California, Berkeley, and an M.B.A. from the University of Oxford.

Robert A. Ashley, M.A. has served as our Executive Vice President and Chief Technical Officer since September 2013. Between May 2008 and September 2013 he served as our Vice President and Chief Operating Officer. Mr. Ashley's career in the pharmaceutical industry extends more than 30 years. He was formerly Chairman, President and Chief Executive Officer of AmpliMed Corporation, a privately-held cancer drug development company, from January 2004 to March 2007, and Senior Vice President of Commercial Development at CollaGenex Pharmaceuticals, Inc., a publicly-held pharmaceutical company, from September 1994 to December 2003. Prior to that he held positions of increasing responsibility at Bristol-Myers Squibb from January 1989 to September 1994, and with Amersham International from 1979 to 1989. He earned a Master's Degree in Biochemistry from Oxford University. Mr. Ashley is the inventor of several issued and pending patents, as well as the author of several scientific papers. He serves on the Board of Directors of Rowpar Pharmaceuticals, a privately-held manufacturer of proprietary dental pharmaceuticals.

Michael V. Swanson, M.B.A. joined us in August 2013 as our Chief Financial Officer and has also served as our Executive Vice President since March 2016. Mr. Swanson has over 20 years of experience in senior financial positions in both public and private life sciences companies. Mr. Swanson was Chief Financial Officer of Amira Pharmaceuticals, Inc., a pharmaceutical company focused on the discovery and early development of drugs to treat inflammatory and fibrotic diseases, from May 2008 until the company was acquired in September 2011, and of Panmira Pharmaceuticals, LLC, a spin out from Amira from September to December 2011. From January 2012 to October 2015, Mr. Swanson provided financial consulting services to development stage companies. From July 2000 to April 2008, Mr. Swanson served in senior finance positions including Senior Vice President, Finance and Chief Financial Officer at Prometheus Laboratories Inc., a specialty pharmaceutical company marketing and selling pharmaceutical products and diagnostic testing services for gastrointestinal diseases and disorders. Previously, Mr. Swanson was Senior Vice President and Chief Financial Officer of Advanced Tissue Sciences, Inc., a publicly-traded biomedical company, where he served in senior financial positions for over ten years. Mr. Swanson also served as Director of Finance of the Fisher Scientific Group, Inc., a health and scientific technology company, and its parent, The Henley Group, Inc., a widely diversified holding company. Mr. Swanson began his career working approximately nine years with the public accounting firm of Deloitte Haskins & Sells, now Deloitte & Touche LLP. Mr. Swanson earned a B.S. in business administration from the California Polytechnic State University at San Luis Obispo and an M.B.A. from the University of Southern California. He is also a Certified Public Accountant (inactive).

Aron P. Stern, M.B.A. has served as our Chief Administrative Officer since August 2013 and as our Secretary from October 2005 to February 2015. Between June 2003 and August 2013, Mr. Stern served as our Treasurer, Vice President and Chief Financial Officer. Mr. Stern has over 20 years of experience in capital formation, acquisitions, financial strategy and financial and operational management in growth-stage high technology and biotechnology companies. He previously was Chief Financial Officer at each of Protein Polymer Technologies, Inc., a developer of a protein-based technology, 4-D Neuroimaging, a medical equipment manufacturing company, and VitaGen, Inc., our predecessor company. Mr. Stern also held positions at Apple Computer and Isis Pharmaceuticals, a developer of antisense drugs. Mr. Stern earned a B.S. in economics and business administration and an M.B.A. in finance and marketing from the University of California, Berkeley.

John M. Dunn, J.D. has served as our General Counsel since November 2014 and as our Secretary since February 2015. Mr. Dunn has over 25 years of national law firm and in-house general counsel experience. Mr. Dunn was Senior Vice President Legal and Compliance, General Counsel and Secretary of IDEC Pharmaceuticals from 2002 until its merger with Biogen in late 2003. From 2004 to 2012, Mr. Dunn served as an Executive Vice President at Biogen Idec where he was in charge of Biogen Idec's internal corporate venture fund and Innovation Incubator. More recently, Mr. Dunn was providing legal and corporate development advisory services to emerging life science companies. Previously, Mr. Dunn was a partner for 16 years in the Corporate, Securities and Technology Group at the Pillsbury Winthrop law firm where his practice focused on the healthcare industry. Mr. Dunn earned a B.S. in finance and his J.D. from the University of Wyoming. He serves as an advisor to TVM Capital, a life science venture capital firm, and is a member of the board of directors of Acer Therapeutics, Inc., a publicly-traded specialty orphan pharmaceutical company.

Andrew Henry has served as our Vice President of Clinical Operations since April 2013. Mr. Henry is responsible for the global implementation of our clinical program. Mr. Henry has over 25 years of experience managing clinical trials in life science companies with roles at Schering-Plough Oncology, Novartis Oncology and MedImmune. Between January 2009 and February 2013, Mr. Henry served as Senior Director of Clinical Trial Management and Senior Director of Global Clinical Operational Strategy of MedImmune, a biopharmaceutical company that is under AstraZeneca's biologics division. At MedImmune, Mr. Henry oversaw operations of all clinical studies being performed by the company across all therapeutic areas. From November 1997 to August 2008, Mr. Henry held roles as Senior Clinical Research Scientist and Head Clinical Resources and Development Director at Novartis Oncology, an ethical pharmaceutical company, where he oversaw clinical studies and the Department of Clinical Research Scientists/Clinical Trial Heads. Mr. Henry earned a B.S. in biology and biopsychology from William Paterson University.

Richard Murawski has served as our Vice President of Manufacturing since July 2013. Mr. Murawski has more than 40 years of experience in manufacturing facility design, construction, start-up, validation, and supply chain management, both domestically and internationally, including 17 major plant start-ups. From February 2013 to July 2013, Mr. Murawski was self-employed as a consultant. From June 2010 to February 2013, Mr. Murawski served as the Vice President/General Manager for Dendreon Corporation, a biotech manufacturing company, with responsibility for, among others, manufacturing, engineering, materials management, and facilities. Between June 2008 and July 2010, Mr. Murawski served as Chief Executive Officer of Murawski and Associates, a biotech consulting company, where he consulted companies on managing operations and biopharmaceutical facilities. From June 2002 to July 2008, Mr. Murawski served as Senior Vice President of Operations and Corporate Officer of Favril, Inc., a biotech manufacturing company, and was responsible for manufacturing, engineering, materials management, facilities, technical services, and environmental, health and safety functions. Mr. Murawski earned his B.S. in chemical engineering from the Newark College of Engineering at the New Jersey Institute of Technology.

Board of Directors

Russell J. Cox. Please see biographical information above in the section entitled "Executive Officers."

Faheem Hasnain has served on our board of directors since August 2016. Mr. Hasnain is currently Chairman and Chief Executive Officer of Gossamer Bio, Inc., a newly-formed company focused on the discovery and development of novel and differentiated therapeutic products to address unmet need amongst various targeted patient populations. Previously, Mr. Hasnain served as the Chief Executive Officer, President, and a director at Receptos, Inc. from November 2010 to August 2015. Prior to joining Receptos, Inc., Mr. Hasnain was the President and Chief Executive Officer and a director of Facet Biotech Corporation, a biology-driven antibody company with a focus in multiple sclerosis and oncology. He held that position from December 2008 until the company's acquisition by Abbott Laboratories in April 2010. Previously, Mr. Hasnain was President, Chief Executive Officer and a director of PDL BioPharma, Inc. from October 2008 until Facet Biotech was spun off from PDL BioPharma in December 2008. From October 2004 to September 2008, Mr. Hasnain was at Biogen Inc., most recently as Executive Vice President in charge of the oncology/rheumatology strategic business unit. Prior to Biogen, Mr. Hasnain held roles with Bristol Myers Squibb, where he was President of the Oncology Therapeutics Network, and for 14 years at GlaxoSmithKline and its predecessor organizations. He has been Chairman of the Board of Sente, Inc. since 2008 and of Tocagen Inc. since November 2014, and has served as a member of the board of directors of Kura Oncology, Inc. since April 2015. He previously served as a member of the board of directors of Ambit Biosciences Corporation, Seragon Pharmaceuticals, Tercica, Inc., Aragon Pharmaceuticals and Somaxon Pharmaceuticals, Inc. Mr. Hasnain received a B.H.K. and B.Ed. from the University of Windsor Ontario in Canada.

We believe that Mr. Hasnain is qualified to serve on our board of directors based on his extensive operational and leadership experience in biotechnology and pharmaceutical companies and as a director of publicly-traded companies.

Jean-Jacques Bienaimé, M.B.A. has served on our board of directors since September 2013. Since May 2005, Mr. Bienaimé has served as the chief executive officer and as a director of BioMarin Pharmaceutical Inc., a publicly-traded company that develops and commercializes innovative pharmaceuticals for serious diseases and medical conditions and, since June 2015, he has served as chairman of its board. From November 2002 to April 2005, Mr. Bienaimé served as chairman, chief executive officer and president of Genencor, a biotechnology company focused on industrial bioproducts and targeted cancer biotherapeutics. Prior to joining Genencor, Mr. Bienaimé was chairman, president and chief executive officer of SangStat Medical Corporation, another biotechnology company. He became president of SangStat Medical Corporation, a global pharmaceutical company, in 1998 and chief executive officer in 1999. Prior to joining SangStat Medical Corporation, Mr. Bienaimé held various management positions from 1992 to 1998 with Rhône-Poulenc Rorer Pharmaceuticals (now known as Sanofi-Aventis), including Senior Vice President of Corporate Marketing and Business Development, and Vice President and General Manager of the Advanced Therapeutic and Oncology division. Mr. Bienaimé has served on the board of BioMarin Pharmaceuticals Inc. since May 2005, and the board of Incyte Corporation, a publicly-traded biopharmaceutical company, since January 2015. In addition, he serves on the board of the Biotech Industry Organization and the Pharmaceutical Research and Manufacturers of America. Mr. Bienaimé served on the boards of Intermune, Inc., a publicly-traded biotechnology company, from March 2012 until its acquisition by Roche Holdings, Inc. in September 2014, and Portola Pharmaceuticals, Inc., a publicly-traded biopharmaceutical company, from September 2010 through June 2014. Mr. Bienaimé earned an M.B.A. from the Wharton School at the University of Pennsylvania and a B.S. in economics from the Ecole Supérieure de Commerce de Paris.

We believe that Mr. Bienaimé is qualified to serve on our board of directors based on his extensive experience in the management of biotechnology organizations, business development, and sales and marketing of both biotechnology and pharmaceutical products.

Cheryl L. Cohen has served on our board of directors since July 2015. Ms. Cohen served as chief commercial officer of Medivation, Inc., a publicly-traded bio-pharmaceutical company, from September 2011 until July 2014. Ms. Cohen currently serves as president of CLC Consulting, a pharmaceutical and biotechnology consulting firm specializing in new product start-up and commercialization, where she also served as president from September 2008 until September 2011. From November 2007 to September 2008, she served as the vice president, strategic commercial group, of Health Care Systems, Inc., a Johnson & Johnson company, and from October 1998 to November 2007, she worked at Janssen Biotech, Inc. (formerly Centocor Biotech, Inc.), a Johnson & Johnson company, in a variety of senior sales roles including vice president, rheumatology franchise. Ms. Cohen has served on the board of Novus Therapeutics, Inc. (reverse merger of Tokai Pharmaceuticals, Inc.) a publicly-traded pharmaceutical company focused on the acquisition, development, and commercialization of ear, nose, and throat products. Ms. Cohen served on the board of Protein Sciences Corporation, a privately held bio-pharmaceutical company specializing in vaccine development from October 2014 to August 2017, and she served on the board of Cytrx Corporation, a publicly traded bio-pharmaceutical company specializing in oncology, from June 2015 through October 2016. Ms. Cohen began her career at Solvay Pharmaceuticals in a variety of sales positions. Ms. Cohen received her B.A. from Saint Joseph College.

We believe that Ms. Cohen is qualified to serve on our board of directors based on her experience as an executive officer and director of private and publicly-traded companies, including companies in the pharmaceutical and bio-pharmaceutical industries.

Philip M. Croxford, M.B.A. has served on our board of directors since 2009 and as a healthcare president and chief executive officer for over 15 years. Currently, Mr. Croxford serves as an executive consultant to private equity and venture capital firms. Mr. Croxford, most recently served as President and Chief Executive Officer of Gamma Medica, Inc., a breast diagnostic imaging company, from April 2015 to September 2017. Previously, Mr. Croxford held the position of Global President of LifeCell Corporation, a tissue biotechnology engineering company, from September 2013 until September 2014, and was a member of its parent, Acelity (formerly KCI), Executive Leadership Team. From December 2012 to August 2013, Mr. Croxford was Senior Vice President of Global Commercial Operations for LifeCell. From June 2008 to December 2012 he was President and Chief Executive Officer of ArjoHuntleigh, North America, a member of The Getinge AB Group, a global medical and safety technology company listed on the OMX Nordic Exchange. He served on their Executive Leadership Team during his term in office. From February 2006 to October 2007, Mr. Croxford was President and Chief Executive Officer and member of the board of directors of Draeger Medical, Inc., a private medical device company. Mr. Croxford also served as Group Vice President and Worldwide General Manager of Arrow International, Inc. and as an Operating Company Board Member and Vice President for the Worldwide Wound Management Business of Ethicon, a Johnson & Johnson Company. Mr. Croxford also held other executive management positions with Johnson & Johnson Company and Smith & Nephew. He earned a B.Sc. (Honors) degree in pharmacy from the University of Manchester, School of Pharmacy, in England. Mr. Croxford is also a licensed member of the Royal Pharmaceutical Society of Great Britain. He earned a Post Graduate Diploma in marketing from the Royal Chartered Institute of Marketing, and is a Chartered Member of the Institute. He earned his M.B.A. from Heriot-Watt University, Edinburgh Business School, United Kingdom.

We believe Mr. Croxford is qualified to serve on our board of directors based on his significant operational and leadership experience, including, without limitation, senior management experience of public international companies, extensive experience in the life sciences and medical technology industries, and a strong academic background, including degrees in pharmacy, marketing and business.

Douglas E. Godshall, M.B.A. has served on our board of directors since May 2013. Mr. Godshall is currently Chief Executive Officer of Shockwave Medical Inc., a private company that develops and commercializes interventional devices utilizing lithotripsy technology for the treatment of complex vascular calcification. Previously, he was the Chief Executive Officer of HeartWare International, Inc., a developer of a range of implantable mechanical circulatory assist devices, starting in September 2006 and a director since October 2006, until the company was acquired by Medtronic in August 2016. Prior to joining HeartWare, Mr. Godshall served in various executive and managerial positions at Boston Scientific Corporation, a manufacturer and a developer of medical supplies and medical devices in a variety of fields, including as a member of Boston Scientific's Operating Committee and President, Vascular Surgery. Previously, Mr. Godshall had spent five years as Vice President, Business Development, at Boston Scientific, where he was focused on acquisition strategies for the cardiology, electrophysiology, neuroradiology and vascular surgery divisions. In March 2012, Mr. Godshall was appointed a director of pSivida Corp., a developer of drug delivery products for treatment of back-of-the-eye diseases. Mr. Godshall earned a B.A. in business from Lafayette College and an M.B.A. from Northeastern University.

We believe that Mr. Godshall is qualified to serve on our board of directors based on his experience as an executive officer and director of several life sciences and medical technology companies.

Errol R. Halperin, J.D., LL.M. has served on our board of directors since December 2012. Mr. Halperin was a senior partner of DLA Piper from January 1979 until December 2013. At the present time, Mr. Halperin is a senior strategic advisor to DLA Piper (U.S.). In his practice, Mr. Halperin provided general business advice to clients in a broad range of sectors, including the manufacturing, real estate industry and the real estate investment trust industry. Mr. Halperin's practice was concentrated in the areas of mergers and acquisitions, corporate law, international transactions, real estate law and federal income tax law. Mr. Halperin has also served on the board of Equity Residential, a public REIT, and private company boards. Currently, he is a director of Elkay Manufacturing Company, a privately held corporation, and Pangea Properties, a private real estate investment and management company. He also currently serves as a director of other late stage private venture companies, including LINQ3, LLC and Restorsea, LLC. Before joining DLA Piper, from June 1972 to January 1979 he was legislation counsel of the Joint Committee on Taxation of the U.S. Congress; and was an assistant branch chief of the Legislation and Regulations Division of the Chief Counsel for the Internal Revenue Service from June 1968 to June 1972. Mr. Halperin earned a B.S. and a J.D. from DePaul University and an LL.M. in taxation from New York University.

We believe that Mr. Halperin is qualified to serve on our board of directors based on his experience as an attorney practicing for a nationally known firm in the areas of mergers and acquisitions and corporate transactions and his involvement in advising venture capital backed companies.

J. Michael Millis, M.D. has served on our board of directors since 2006. Dr. Millis is a Professor of Surgery and Vice Chair of Global Surgery, Director of Hepatobiliary Surgery at the University of Chicago. Dr. Millis currently serves on the medical staff at the University of Chicago Hospital. His current research explores the application of cellular technology on patient care, including how hepatocyte transplantation, extracorporeal assist technology and stem cells can assist in the care of patients with liver disease or liver tumors. Dr. Millis has been associated with the ELAD System since 1994, and was an investigator on the Phase I clinical trial. He has been the chairman of the Vital Therapies Clinical Advisory Board since 2003. Dr. Millis currently serves or has served in the past on a variety of committees, such as the American Association for the Study of Liver Diseases' Ethics Committee, the American Society of Transplant Surgeons, Studies of Pediatric Liver Transplantation Scientific Advisory Board and Publication and Research Committee, and the ROBI Liver Intestinal Subcommittee, for which he is the former chairman. Dr. Millis is also a member of the Medical Advisory Committee of the American Liver Foundation Illinois Chapter. He also serves on the board of directors of Gift of Hope (the organ procurement organization for Illinois) and the Editorial Board of the American Journal of Transplantation, Transplantation, and Liver Transplantation. He earned a B.A. in chemistry and political science from Emory University and an M.D. with high honors from the University of Tennessee. He completed his surgical residency, clinical and research fellowship in liver transplantation at the University of California, Los Angeles. He also received his M.B.A. from University of Massachusetts, Amherst in 2014.

We believe that Dr. Millis is qualified to serve on our board of directors based on his participation on multiple advisory committees and boards and his research in the treatment of liver disease.

Muneer A. Satter, J.D., M.B.A. is a director of the Company and served as a co-Chairman of Vital Therapies' Board of Directors from 2012 to September 2017. Mr. Satter has been Founder and Managing Partner of Satter Medical Technology Partners, L.P. since 2016, Chairman of Satter Investment Management LLC since 2012, and he also manages the Satter Foundation. Previously, Mr. Satter was a partner at Goldman Sachs where he spent 24 years in various roles, most recently as the Global Head of the Mezzanine Group in the Merchant Banking Division, where he raised and managed over \$30 billion of assets. Mr. Satter is chairman of the board of directors of Akebia Therapeutics, Aerpio Therapeutics and Restorsea Holdings, LLC and a director of Linq3 Technologies LLC and Annexon Biosciences. He also serves as vice chairman of the Goldman Sachs Foundation and GS Gives, is a director of the Navy SEAL Foundation, a director of World Business Chicago, is on the Board of Advisors of the American Enterprise Institute and is on the Board of Trustees of Northwestern University where he is Chairman of the Finance Committee. Mr. Satter received a B.A. in Economics from Northwestern University, a J.D. from Harvard Law School and an M.B.A. from Harvard Business School.

We believe Mr. Satter is qualified to serve on our board of directors because of his extensive experience in merchant banking and venture capital investments and his experience as an investor and director of other companies in the life sciences and medical technology industries.

Lowell E. Sears, M.B.A. has served on our board of directors since May 2013. Mr. Sears is the Chairman and Chief Executive Officer of Sears Capital Management, a venture investment and portfolio management firm specializing in life sciences. From February 2012 to January 2017, he served on the board of directors of Cellurant Therapeutics, Inc., a clinical stage biotechnology company focused on the regulation of the hematopoietic, or blood-forming, system. From September 2005 to March 2017, Mr. Sears has also served on the board of directors of SymBio Pharmaceuticals, KK, Ltd., a biotechnology company that is engaged in identifying and developing therapeutics for the treatment of leukemia, multiple myeloma and lymphoma. He has served on the board of directors of SiteOne Therapeutics, Inc., a privately-held company developing small molecular pain therapies, and has been Chairman of the Board since September 2014. He has also served on the board of directors of Halcyon Medical, a cardiovascular device company, since April 2014. From 1986 until 1994, Mr. Sears was a part of the senior management team of Amgen, Inc., a developer and manufacturer of therapeutics targeting cancers, kidney ailments, inflammatory disorders, and metabolic diseases, where he was Chief Financial Officer as well as the Senior Vice President responsible for the Asia Pacific Region. Prior to joining Amgen, Mr. Sears held senior planning and financial positions with Atlantic Richfield Company, an oil company from 1976 until 1986, including Chief Financial Officer for its Ventures Division. He earned a B.A. in economics from Claremont McKenna College and an M.B.A. from the Stanford University Graduate School of Business.

We believe that Mr. Sears is qualified to serve on our board of directors based on his experience as a senior manager and director of private and publicly-traded companies, including several in the life sciences industry.

Randolph C. Steer, M.D., Ph.D. has served on our board of directors since May 2005. Dr. Steer has been an independent pharmaceutical, biotechnology and medical devices consultant since 1989. Dr. Steer has served as Associate Director of Medical Affairs at Marion Laboratories, a then-public pharmaceutical company; Medical Director at Ciba Consumer Pharmaceuticals (a division of Ciba-Geigy Corporation, a then-public pharmaceutical company); Vice President, Senior Vice President and Member of the Executive Committee at Physicians World Communications Group; Chairman, President and Chief Executive Officer of Advanced Therapeutics Communications International, a drug regulatory group serving the U.S., Mexico, Latin America, the Pacific Rim, Europe and Japan; Chairman and Chief Executive Officer of Vicus.com, Inc.; and President and Chief Operating Officer of Capstone Therapeutics Corp., a public biotechnology company. Dr. Steer is a member of the board of directors of Bio-Techne Corporation, a public biotechnology company, and the Board of Trustees of the Mayo Clinic. He earned his B.A. in Physiology from the University of Minnesota. He earned an M.D. from the Mayo Medical School and a Ph.D. from the University of Minnesota where he also completed a residency and subspecialty training in clinical and chemical pathology. He is a Fellow of the American College of Clinical Pharmacology.

We believe that Dr. Steer is qualified to serve on our board of directors based on his experience as a senior manager in multiple biotechnology and medical device companies and his background and experience in the medical and clinical field.

Family Relationships

There are no family relationships among any of our directors and executive officers.

Board Composition

Our board of directors is currently composed of eleven members. Ten of the eleven directors that comprise our board of directors are independent within the meaning of the independent director guidelines of the Nasdaq Stock Market. Please see the section entitled “*Director Independence*” in Item 13 below for further information. Our certificate of incorporation and bylaws currently in effect provide that the number of directors shall be at least one and will be fixed from time to time by resolution of our board of directors.

Our board of directors is divided into three classes of directors. At each annual meeting of stockholders, a class of directors will be elected for a three-year term to succeed the class whose terms are then expiring. The terms of the directors will expire upon the election and qualification of successor directors at the annual meeting of stockholders to be held during the years 2018 for the Class I directors, 2019 for the Class II directors and 2020 for the Class III directors.

The Class I directors are Messrs. Cox and Croxford, and Dr. Steer.

The Class II directors are Messrs. Bienaimé, Godshall, Hasnain and Satter.

The Class III directors are Mrs. Cohen, Messrs. Halperin and Sears and Dr. Millis.

The division of our board of directors into three classes with staggered three-year terms may delay or prevent a change of our board of directors or a change in control.

Certain of our stockholders affiliated with Mr. Satter, which we refer to as the Satter Investors, retain, contractual rights to nominate up to 30% of our directors, as provided in our Fourth Amended and Restated Investors’ Rights Agreement, dated as of August 28, 2013, as amended, or the Senior Preferred IRA. To date, the Satter Investors have not exercised their rights to designate any candidates for nomination but reserve the right to do so in the future.

Board Leadership Structure and Lead Director

Our board of directors is currently chaired by Mr. Hasnain. Although not currently serving as such, the Senior Preferred IRA provides that Mr. Satter can elect to serve as our Lead Director.

Our board of directors believes that the Company and its stockholders are currently best served by having Mr. Hasnain serve as Chairman of the Board. As Chairman, Mr. Hasnain promotes unified leadership and direction for our board and management and provides the critical leadership necessary for carrying out our strategic initiatives. Mr. Hasnain, together with our board’s strong committee system and substantial majority of independent directors, allows our board to maintain effective oversight of our business operations, including independent oversight of our financial statements, executive compensation, selection of director candidates, and corporate governance programs. We believe our current board leadership structure enhances the board’s ability to effectively carry out its roles and responsibilities on behalf of our stockholders.

Audit Committee

Our board of directors has a separately-designated standing audit committee, which operates pursuant to a charter. Our audit committee members currently consist of Messrs. Godshall, Halperin and Sears. Mr. Sears serves as the chairman. Our board of directors has determined that Mr. Sears qualifies as an audit committee financial expert within the meaning of the rules and regulations of the Securities and Exchange Commission, or SEC, and is independent under Rule 10A-3 of the Exchange Act and the current rules of the Nasdaq Stock Market and financially literate under the rules of the SEC and Nasdaq Stock Market.

The audit committee has (1) reviewed and discussed the audited financial statements with management; (2) discussed with the independent auditors the matters required by Public Company Accounting Oversight Board, or PCAOB, Auditing Standard No. 16, Communications with Audit Committees; (3) received written disclosures and the letter from the independent accountants required by applicable requirements of the PCAOB regarding the independent accountant's communications with the audit committee concerning independence and has discussed their independence with the independent accountants; and (4) recommended to the board of directors that the audited financial statements be included in the annual report on Form 10-K for the last fiscal year.

Section 16(a) Beneficial Ownership Reporting Compliance

Section 16(a) of the Exchange Act requires our executive officers and directors, and persons who own more than 10% of a registered class of our equity securities, to file reports of ownership and changes of ownership on Forms 3, 4 and 5 with the SEC. Such directors, executive officers and 10% stockholders are required by SEC regulations to furnish us with copies of all Section 16(a) forms they file.

Based solely on our review of the copies of such forms we have received and written representations from certain reporting persons that they filed all required reports, we believe that all of our officers, directors and greater than 10% stockholders complied with all Section 16(a) filing requirements applicable to them with respect to transactions during 2017.

Code of Business Conduct and Ethics

Our board of directors has adopted a written code of business conduct and ethics that applies to our directors, officers and employees, including our principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions. A copy of the code of business conduct and ethics is available on the corporate governance section of our website, which is located at <http://ir.vitaltherapies.com/corporate-governance.cfm>. If we make any substantive amendments to, or grant any waivers from, the code of business conduct and ethics for any officer or director, we will disclose the nature of such amendment or waiver on our website.

Considerations in Evaluating Director Nominees

In its evaluation of director candidates, including the members of the board of directors eligible for reelection, our nominating and governance committee will consider the following:

- The current size and composition of our board of directors and the needs of the board and its respective committees;
- Factors such as character, integrity, judgment, diversity of experience, independence, area of expertise, corporate experience, length of service, potential conflicts of interest, other commitments, and the like. Our nominating and governance committee evaluates these factors, among others, and does not assign any particular weighting or priority to any of these factors; and
- Other factors that our nominating and governance committee may consider appropriate.

The nominating and governance committee also focuses on issues of diversity, such as diversity in experience, international perspective, background, expertise, skills, age, gender, and ethnicity. The nominating and governance committee does not have a formal policy with respect to diversity; however, our board of directors and the nominating and governance committee believe that it is essential that members of our board of directors represent diverse viewpoints. Any nominee for a position on the board must satisfy the following minimum qualifications:

- The highest personal and professional ethics and integrity;
- Proven achievement and competence in the nominee's field and the ability to exercise sound business judgment;
- Skills that are complementary to those of the existing board;
- The ability to assist and support management and make significant contributions to the company's success; and
- An understanding of the fiduciary responsibilities required of a member of the board and the commitment of time and energy necessary to diligently carry out those responsibilities.

If our nominating and governance committee determines that an additional or replacement director is required, the committee may take such measures as it considers appropriate in connection with its evaluation of a director candidate, including candidate interviews, inquiry of the person or persons making the recommendation or nomination, engagement of an outside search firm to gather additional information, or reliance on the knowledge of the members of the committee, board, or management.

After completing its review and evaluation of director candidates, our nominating and governance committee recommends to our full board of directors the director nominees for selection. Our nominating and governance committee has discretion to decide which individuals to recommend for nomination as directors and our board of directors has the final authority in determining the selection of director candidates for nomination to our board.

Requirements for Stockholder Recommendations of a Candidate to our Board

It is the policy of our nominating and governance committee to consider recommendations for candidates to our board of directors from our stockholders. A stockholder that wishes to recommend a candidate for consideration by the committee as a potential candidate for director must direct the recommendation in writing to Vital Therapies, Inc., 15010 Avenue of Science, Suite 200, San Diego, California 92128, Attention: Secretary, and must include the candidate's name, home and business contact information, detailed biographical data, relevant qualifications, a signed letter from the candidate confirming willingness to serve, information regarding any relationships between us and the candidate and evidence of the recommending stockholder's ownership of our stock. Such recommendation must also include a statement from the recommending stockholder in support of the candidate, particularly within the context of the criteria for board membership, including issues of character, integrity, judgment, diversity of experience, independence, area of expertise, corporate experience, potential conflicts of interest, other commitments and the like and personal references. Our nominating and governance committee will consider the recommendation but will not be obligated to take any further action with respect to the recommendation.

Requirements for Stockholder Nominations to be brought before an Annual Meeting

Separately, our bylaws contain specific requirements governing the processes and procedures for stockholders who wish to formally nominate a candidate and ensure that he or she is nominated and eligible for election at an annual meeting of stockholders. Generally, nominations for the election of directors may be made by stockholders of record (both on the date of the applicable written notice and at the time of annual meeting) who have timely delivered written notice to us at Vital Therapies, Inc., 15010 Avenue of Science, Suite 200, San Diego, California 92128, Attention: Secretary in compliance with the advance notice provisions included in our bylaws. Such notice must contain specified information concerning the nominees such as the nominees' name, age, home and business contact information, principal occupation or employment, the class and number of shares beneficially owned directly or indirectly by the nominee, the date such shares were acquired and the investment intent of such acquisition, a written questionnaire completed by the nominee, a written representation from the nominee that he/she will not become a party to any agreement, arrangement or understanding with any person or entity as to how such person will act or vote and would be in compliance with all applicable publicly disclosed policies and guidelines, and any other information required to be disclosed about the nominee if proxies were to be solicited to elect the nominee as a director pursuant to Regulation 14A of the Exchange Act. In addition, such notice must contain specified information concerning the nominating stockholder such as the stockholder's name, address, the class and number of shares beneficially owned directly or indirectly by the stockholder, a description of any derivative positions held or beneficially held by the stockholder, whether and the extent to which a hedging transaction has been entered into by or on behalf of the stockholder, a description of all arrangements or understandings between the stockholder and the proposed nominee, a representation that the stockholder is a holder of record entitled to vote at the annual meeting and that the stockholder intends to appear in person or by proxy at the meeting to nominate the person named in its notice, a representation as to whether such stockholder intends to deliver a proxy statement and/or form of proxy to the holders of a sufficient number of our outstanding shares reasonably

believed by the stockholder to elect the proposed nominee or otherwise to solicit proxies or votes from stockholders in support of the nomination, and any other information required to be disclosed about the stockholder if proxies were to be solicited to elect the nominee as a director pursuant to Regulation 14A of the Exchange Act. For a stockholder recommendation to be considered by our nominating and governance committee as a potential candidate at an annual meeting, written notice of nominations must be received on or before the deadline for receipt of stockholder proposals for such meeting. In the event a stockholder decides to nominate a candidate for director and solicits proxies for such candidate, the stockholder will need to follow the rules set forth by the SEC and in our bylaws.

Item 11. Executive Compensation.

Our named executive officers for the year ended December 31, 2017, which consist of our principal executive officer and our two other most highly compensated executive officers, are Terence E. Winters, Ph.D., our Chief Executive Officer until December 31, 2017, Duane D. Nash, M.D., J.D., our President, and Robert A. Ashley our Executive Vice President and Chief Technology Officer.

Name and Principal Position	Year	Salary (\$)	Option Awards (\$) ⁽¹⁾	Non-Equity Incentive Plan Compensation (\$) ⁽²⁾	All Other Compensation (\$) ⁽³⁾	Total (\$)
Terence E. Winters, Ph.D. <i>Chief Executive Officer</i>	2017	504,700	902,170	219,746	550,551	2,177,167
	2016	490,000	586,400	73,500	18,808	1,168,708
Duane D. Nash, M.D., J.D. <i>President</i>	2017	400,000	193,647	177,496	—	771,143
	2016	375,550	498,440	67,820	—	941,810
Robert A. Ashley, M.A. <i>Executive Vice President and Chief Technology Officer</i>	2017	381,100	170,865	158,200	—	710,165
	2016	370,000	439,800	83,528	—	893,328

- (1) The amounts in the "Option Awards" column reflect the aggregate grant date fair value of stock options granted during the calendar year computed in accordance with the provisions of Accounting Standards Codification, or ASC, 718, *Compensation - Stock Compensation*. The assumptions that we used to calculate these amounts are discussed in Note 8 to our financial statements appearing at the end of this Annual Report. These amounts do not reflect the actual economic value that will be realized by the named executive officer upon the vesting of the stock options, the exercise of the stock options, or the sale of the common stock underlying such stock options. The 2017 amount for Dr. Winters includes \$674,350 of stock-based compensation recorded in conjunction with Dr. Winters' transition agreement. See footnote 10 to the consolidated financial statements included in this Annual Report on Form 10-K.
- (2) 2017 and 2016 amounts approved by our board of directors on January 30, 2018 and 2017, respectively.
- (3) "All Other Compensation" consists of company-paid reimbursement for Medicare and prescription drug coverage and, in 2017, the payment of certain legal fees. In addition, 2017 includes severance costs of \$525,100 payable to Dr. Winters pursuant to Dr. Winters' transition agreement. See footnote 10 to the consolidated financial statements included in this Annual Report on Form 10-K.

Non-Equity Incentive Plan Compensation and Bonus

Executive Incentive Compensation Plan

Our Executive Incentive Compensation Plan, or Incentive Plan, was adopted by our board of directors on July 8, 2013. Our Incentive Plan is administered by our compensation committee; provided, however, that our board of directors must approve any award or any amendment to any award made thereunder. Our compensation committee determines the performance goals applicable to any award, which goals may include, without limitation, the attainment of research and development milestones, sales bookings, business divestitures and acquisitions, cash flow, cash position, earnings (which may include earnings before interest and taxes, earnings before taxes and net earnings), earnings per share, net income, net profit, net sales, operating cash flow, operating expenses, operating income, operating margin, overhead or other expense reduction, product defect measures, product release timelines, productivity, profit, return on assets, return on capital, return on equity, return on investment, return on sales, revenue, revenue growth, sales results, sales growth, stock price, time to market, total shareholder return, working capital, and individual objectives or other subjective or objective criteria. Performance goals that include the Company's financial results may be determined in accordance with United States generally accepted accounting principles, or GAAP, or such financial results may consist of non-GAAP financial measures. The performance goals may be on an individual, divisional, business unit, functional or company-wide basis. The performance goals may differ from participant to participant and from award to award.

Pursuant to the employment letter agreements entered into between us and our named executive officers, our named executive officers are each eligible to receive annual bonuses as a percentage of their annual base salary based upon achievement of the performance goals determined by our compensation committee. For additional information regarding the terms of these employment letter agreements, see below under "Agreements With Our Named Executive Officers."

Notwithstanding the eligibility for bonus awards, our board of directors may, in its sole discretion and at any time, increase, reduce or eliminate a participant's actual award, or increase, reduce or eliminate the amount allocated to the bonus pool for a particular performance period. The actual award may be below, at or above a participant's target award, in the discretion of our board. Our board may determine the amount of any reduction on the basis of such factors as it deems relevant, and it is not required to establish any allocation or weighting with respect to the factors it considers.

Actual awards are paid in cash only after they are earned, which usually requires continued employment through the date of payment of the award. Payment of bonuses occurs as soon as administratively practicable after they are earned, but no later than the dates set forth in the Incentive Plan.

Our board of directors has the authority to amend, alter, suspend or terminate the Incentive Plan provided such action does not impair the existing rights of any participant with respect to any earned bonus.

For the fiscal year ended December 31, 2017, bonus awards for our named executive officers were based on the achievement of corporate performance goals, which carried a 60% weighting, and individual performance, which carried a 40% weighting, except with respect to Dr. Winters for whom a bonus award was based solely on the achievement of corporate performance goals. Our compensation committee established the categories of corporate performance goals as relating to the attainment of research and development milestones and financings. Our compensation committee determined that the performance goals of our named executive officers were met at a range of 87% to 92% of target, and payments were approved at those payout percentages by our board on January 30, 2018.

Agreements With Our Named Executive Officers

Terence E. Winters

We entered into an employment letter agreement, dated October 31, 2013, with Dr. Winters, which sets forth the terms and conditions of his employment with us. The employment letter agreement had no specific term and provides for at-will employment. This agreement supersedes all existing agreements he may have with us concerning his employment relationship. Prior to his resignation in December 2017, Dr. Winters' annual base salary was \$504,700, and he was eligible for an annual bonus equal to 50% of his base salary.

On December 1, 2017, Terence E. Winters, Ph.D. resigned as our Chief Executive Officer and as a member of our board of directors, effective as of December 31, 2017. In connection with his resignation, we entered into a transition agreement and release with Dr. Winters in which we agreed to pay Dr. Winters cash severance equal to his monthly base salary as currently in effect for 12 months following his termination date, pay Dr. Winters his achieved 2017 performance bonus, pay or reimburse Dr. Winters for his health coverage up to \$1,700 per month for up to 12 months following his termination date, and extend the option exercise period for his outstanding Vital Therapies, Inc. stock options up to the full maximum term (subject to earlier termination under the applicable equity incentive plan).

In addition, Dr. Winters agreed to provide transition consulting services (not to exceed 20 hours per week) at a rate of approximately \$250 per hour pursuant to a consulting agreement that is attached as an exhibit to the transition agreement and release. The consulting agreement has an initial 12-month term. Stock options held by Dr. Winters will continue to vest and remain exercisable in accordance with their terms during Dr. Winters' consultancy term; provided, however, that if Vital Therapies, Inc. terminates his consulting term early or fails to renew the agreement after the initial 12 month term, then 100% of any unvested shares subject to Dr. Winters' stock options will vest and become exercisable.

Duane D. Nash

We entered into an employment letter agreement, dated October 30, 2013, with Dr. Nash, our current President, which sets forth the terms and conditions of his employment with us. The employment letter agreement has no specific term and provides for at-will employment. This agreement supersedes all existing agreements he may have with us concerning his employment relationship. Dr. Nash's current annual base salary is \$400,000, and he is eligible for an annual bonus equal to 40% (increased to 50% for 2017) of his annual base salary.

Robert A. Ashley

We entered into an employment letter agreement, dated October 30, 2013, with Mr. Ashley, our current Executive Vice President and Chief Technology Officer, which sets forth the terms and conditions of his employment with us. The employment letter agreement has no specific term and provides for at-will employment. Mr. Ashley's current annual base salary is \$381,100, and he is eligible for an annual bonus equal to 35% (increased to 45% for 2017) of his annual base salary.

Executive Change of Control and Severance Agreements

We have entered into a change of control and severance agreement, with each of our executive officers, which requires us to make payments if the executive officer's employment with us is terminated in certain circumstances.

If prior to the two-month period before or after the twelve-month period following a change of control (such period, the Change of Control Period), an executive officer's employment is terminated without "cause" or an executive officer resigns for "good reason" (as such terms are defined in the change of control and severance agreement), such officer will be eligible to receive the following benefits if such officer timely signs and does not revoke a release of claims:

- continued payment of base salary for a period of six months (12 months in the case of Dr. Winters); and
- reimbursement by us for up to six months (12 months in the case of Dr. Winters) of COBRA premiums to continue health insurance coverage for such officer and such officer's eligible dependents, or taxable monthly payments for the equivalent period in the event payment for COBRA premiums would violate applicable law.

If, within the Change of Control Period, such officer's employment is terminated without cause or such officer resigns for good reason, such officer will be entitled to the following benefits if such officer timely signs a release of claims:

- a lump sum payment equal to (x) 12 months (18 months in the case of Dr. Winters) his annual base salary (for the year of the change of control or such officer's termination, whichever is greater), plus (y) 1x (1.5x in the case of Dr. Winters) the greater of: (A) such officer's target annual bonus (for the year of the change of control or such officer's termination, whichever is greater) or (B) such officer's actual bonus for performance relating to the calendar year immediately prior to the calendar year of such officer's termination;
- reimbursement by us for up to 12 months (18 months in the case of Dr. Winters) of COBRA premiums to continue health insurance coverage for such officer and such officer's eligible dependents, or taxable monthly payments for the equivalent period in the event payment for COBRA premiums would violate applicable law; and
- 100% accelerated vesting of all outstanding equity awards.

In addition, in the event any of the amounts provided for under these agreements or otherwise payable to our executive officers would constitute “parachute payments” within the meaning of Section 280G of the Internal Revenue Code and could be subject to the related excise tax, the executive officer would be entitled to receive either full payment of benefits under this agreement or such lesser amount which would result in no portion of the benefits being subject to the excise tax, whichever results in the greater amount of after-tax benefits to the executive officer. The agreements do not require us to provide any tax gross-up payments.

The option grants to Drs. Winters and Nash and Mr. Ashley made pursuant to our 2014 Plan, provide for accelerated vesting in connection with a change in control in limited circumstances, as described below.

2014 Equity Incentive Plan

Our 2014 Plan provides that in the event of a merger or change in control, as defined in the 2014 Plan, each outstanding award will be treated as the administrator determines, including, without limitation, that awards may be assumed or substituted for by the acquiring or succeeding corporation, awards may be terminated immediately prior to the consummation of the merger or change in control, awards may vest in whole or in part prior to or upon consummation of the merger or change in control and, to the extent the administrator determines, terminate on or immediately prior to the effectiveness of the merger or change in control, or awards may be terminated in exchange for cash or property or replaced with other rights or property. If a successor corporation does not assume or substitute an equivalent award for any outstanding award, then such award will fully vest, all restrictions on such award will lapse and all performance goals or other vesting criteria applicable to such award will be deemed achieved at one hundred percent (100%) of target levels. Additionally, if a successor corporation does not assume or substitute an option or stock appreciation right, the administrator will notify the participant in writing or electronically that such award will be exercisable for a specified period of time determined by the administrator prior to the transaction, and such award will then terminate upon the expiration of such period.

In addition, pursuant to their stock option agreements, certain optionees, including our named executive officers who have awards under the 2014 Plan, are eligible for full vesting acceleration of their outstanding options in the event their service is terminated other than for cause within twelve months following a change in control.

2012 Stock Option Plan and Option Agreements

Our 2012 Plan provides that in the event of a change in control, as defined in the 2012 Plan, the surviving, continuing, successor, or purchasing corporation or other business entity or parent thereof may assume or substitute an equivalent award for each outstanding option under the 2012 Plan. If there is no assumption or substitution of outstanding options, such options will terminate upon the expiration of a stated notice period unless otherwise specified in the applicable stock option agreement.

In addition, pursuant to their stock option agreements, certain optionees are eligible for full vesting acceleration of their outstanding options in the event their service is terminated other than for cause or they resign from their service for good reason, in either case, within twelve months following a change in control. Furthermore, if there is no assumption or substitution of outstanding options following a change in control and, provided further that, such optionee’s service has not terminated prior to such change in control, such outstanding options are eligible for full vesting acceleration as of the date ten days prior to the date of the change in control and will terminate upon the expiration of the stated notice period unless exercised or terminated in exchange for cash or property.

Outstanding Equity Awards at Fiscal Year-End for Fiscal 2017

The following table sets forth certain information concerning outstanding equity for our named executive officers awards at fiscal year-end December 31, 2017:

Name	Vesting Commencement Date	Number of Securities Underlying Unexercised Options Exercisable	Number of Securities Underlying Unexercised Options Unexercisable	Option Exercise Price	Option Expiration Date
Terence E. Winters, Ph.D. <i>Chief Executive Officer</i>	9/13/2012	386,672	—	\$ 8.00	9/25/2022
	10/9/2018 (1)	—	100,000	\$ 4.57	10/8/2025
	4/16/2016 (2)	41,666	58,334	\$ 8.28	5/12/2026
	6/10/2017 (2)	12,500	87,500	\$ 3.20	6/9/2027
Duane D. Nash, M.D., J.D. <i>President</i>	2/8/2012	93,377	—	\$ 0.43	3/31/2022
	4/25/2012	23,344	—	\$ 0.43	4/24/2022
	9/13/2012	241,670	—	\$ 8.00	9/25/2022
	10/9/2018 (1)	—	75,000	\$ 4.57	10/8/2025
	4/16/2016 (2)	35,416	49,584	\$ 8.28	5/12/2026
	6/10/2017 (2)	10,625	74,375	\$ 3.20	6/9/2027
Robert A. Ashley, M.A. <i>Executive Vice President and Chief Technology Officer</i>	2/8/2012	93,377	—	\$ 0.43	3/31/2022
	4/25/2012	23,344	—	\$ 0.43	4/24/2022
	9/13/2012	241,670	—	\$ 8.00	9/25/2022
	10/9/2018 (1)	—	75,000	\$ 4.57	10/8/2025
	4/16/2016 (2)	31,250	43,750	\$ 8.28	5/12/2026
	6/10/2017 (2)	9,375	65,625	\$ 3.20	6/9/2027

- (1) 100% of the shares subject to these options will vest on the third anniversary of the grant date if the VTL-308 clinical trial has achieved statistical significance of at least $p \leq 0.05$ in the primary efficacy end point by, and the participant continues to be a service provider through, the third anniversary of the grant date.
- (2) These options vest in equal monthly installments over the four-year period following the vesting commencement date.

Perquisites, Health, Welfare and Retirement Benefits

Our named executive officers are eligible to participate in our employee benefit plans, including our medical (except for Dr. Winters who has company-reimbursed Medicare and prescription drug coverage), dental, vision, group life, disability and accidental death and dismemberment insurance plans, in each case on the same basis as all of our other employees. We provide a 401(k) savings plan to our employees, including our current named executive officers, as discussed in the section below entitled “401(k) Savings Plan.”

We generally do not provide perquisites or personal benefits to our named executive officers, except in limited circumstances and as noted in the Summary Compensation Table above. Our board of directors may elect to adopt qualified or non-qualified benefit plans in the future if it determines that doing so is in our best interests.

401(k) Plan

We maintain a tax-qualified retirement plan that provides eligible employees, including named executive officers, with an opportunity to save for retirement on a tax advantaged basis. All participants' interests in their deferrals are 100% vested when contributed. Pre-tax and after-tax contributions are allocated to each participant's individual account and are then invested in selected investment alternatives according to the participant's directions. Currently, we do not make matching contributions into the plan. The 401(k) plan is intended to qualify under Sections 401(a) and 501(a) of the Internal Revenue Code. As a tax-qualified retirement plan, contributions to the 401(k) plan and earnings on those contributions are not taxable to the employees until distributed from the 401(k) plan, and all matching contributions, if any, are deductible by us when made.

Director Compensation

Our compensation committee has retained Aon Hewitt to, among other things, provide recommendations on non-employee director compensation based on an analysis of market data compiled from comparable companies in the biotechnology industry. The following table summarizes compensation paid to our non-employee directors during or with respect to the fiscal year ended December 31, 2017.

Name	Fees Earned or Paid in Cash (\$)	Option Awards (\$) ⁽¹⁾	All Other Compensation (\$) ⁽²⁾	Total (\$)
Jean-Jacques Bienaimé	46,000	102,547 (3)	—	148,547
Cheryl L. Cohen	46,000	102,547 (4)	—	148,547
Philip M. Croxford, M.B.A.	45,500	102,547 (5)	—	148,047
Douglas E. Godshall, M.B.A.	48,000	102,547 (6)	—	150,547
Errol R. Halperin, J.D., L.L.M.	53,500	102,547 (7)	—	156,047
Faheem Hasnain	55,833	136,537 (8)	—	192,370
J. Michael Millis, M.D.	51,000	102,547 (9)	38,750	192,297
Muneeb A. Satter, J.D., M.B.A.	55,667	143,566 (10)	—	199,233
Lowell E. Sears, M.B.A.	56,000	102,547 (11)	—	158,547
Randolph C. Steer, M.D., Ph.D.	51,000	102,547 (12)	—	153,547

(1) The amounts in the “Option Awards” column reflect the aggregate grant date fair value of stock options granted during the calendar year computed in accordance with the provisions of ASC 718. The assumptions that we used to calculate these amounts are discussed in Note 8 to our financial statements appearing at the end of this Annual Report. These amounts do not reflect the actual economic value that will be realized by the director upon the vesting of the stock options, the exercise of the stock options, or the sale of the common stock underlying such stock options. As of December 31, 2017, Dr. Winters, our Chief Executive Officer had outstanding and unexercised option awards for 686,672 shares.

(2) Dr. Millis’ was paid an aggregate of \$38,750 in consideration for services as a consultant and for services rendered as chair of our Clinical Advisory Board in 2017.

(3) Mr. Bienaimé had a total of 147,225 stock options outstanding as of December 31, 2017.

(4) Ms. Cohen had a total of 79,202 stock options outstanding as of December 31, 2017.

(5) Mr. Croxford had a total of 111,416 stock options outstanding as of December 31, 2017.

(6) Mr. Godshall had a total of 167,043 stock options outstanding as of December 31, 2017.

(7) Mr. Halperin has a total of 111,924 stock options outstanding as of December 31, 2017.

(8) Mr. Hasnain has a total of 118,818 stock options outstanding as of December 31, 2017.

(9) Dr. Millis had a total of 106,059 stock options outstanding as of December 31, 2017.

(10) Mr. Satter has a total of 93,270 stock options outstanding as of December 31, 2017.

(11) Mr. Sears has a total of 167,043 stock options outstanding as of December 31, 2017.

(12) Dr. Steer had a total of 122,400 stock options outstanding as of December 31, 2017.

Dr. Winters was not eligible to receive any board compensation because he was an employee. We reimburse our directors for their reasonable expenses incurred in connection with attending board and committee meetings.

Director Compensation Policy

In May 2013, our board of directors adopted and approved a compensation policy for our non-employee directors, which was subsequently amended on March 2015, December 2015 and May 2016, which provides for the following compensation to our non-employee directors:

- each non-employee director receives an annual base retainer of \$35,000 except that the Non-Executive Chairman of the Board receives an annual base retainer of \$50,000;
- in addition to the annual base retainer, the chairman of our audit committee receives an annual fee of \$15,000 and other members of our audit committee receive an annual fee of \$7,500;
- in addition to the annual base retainer, the chairmen of our other committees receive an annual fee of \$10,000 and other members of our other committees receive an annual fee of \$5,000;
- in addition to the fees listed above, each non-employee director shall receive a per-meeting attendance fee of \$500 for attending telephonic meetings of the Board. In addition, each Outside Director will be paid a per-meeting attendance fee of \$2,500 for attending in-person meetings of the Board in excess of four during each calendar year.

Pursuant to this policy, except as approved by our board of directors, each new director will receive an initial grant of non-qualified common stock options with a Black-Scholes value of approximately \$250,000 on the date of grant with vesting monthly over forty-eight months, subject to the director's continued service with us. In addition, on the date of each annual meeting of the Company's stockholders, each Outside Director who was a Director for the entire 6-month period preceding each such meeting automatically will be granted a non-statutory stock option with a Black-Scholes value of approximately \$125,000, or \$175,000 in the case of the Non-Executive Chairman of the Board. Each annual award will fully vest on the earlier of (i) the one-year anniversary of its grant date or (ii) the day prior to the next annual meeting, subject to the director's continued service with us.

Compensation Committee Interlocks and Insider Participation

As of December 31, 2017, the members of our compensation committee were, and currently are, Dr. Steer, Messrs. Bienaimé, Hasnain and Satter. None of the current or past members of our compensation committee is or has been an officer or employee of our company. None of our executive officers currently serves, or in the past year has served, as a member of the compensation committee (or other board committee performing equivalent functions or, in the absence of any such committee, the entire board of directors) or director of any entity that has one or more executive officers serving on our compensation committee or our board of directors.

Compensation Committee Report

The compensation committee has reviewed and discussed the foregoing "Executive Compensation" section of this Annual Report on Form 10-K with management. Based on this review and discussion, the compensation committee recommended to our board of directors that such information be included in this Annual Report on Form 10-K.

The Compensation Committee

Randolph C. Steer, M.D., Ph.D. (Chair)
Jean-Jacques Bienaimé
Faheem Hasnain
Muneer A. Satter

The information contained in the Compensation Committee Report shall not be deemed to be soliciting material or to be filed with the SEC, nor shall such information be incorporated by reference into any future filing under the Securities Act or the Exchange Act, except to the extent that Vital Therapies specifically incorporates it by reference in such filing.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.**Securities Authorized for Issuance Under Equity Compensation Plans**

The following table summarizes information about our equity compensation plans as of December 31, 2017. All outstanding option awards relate to our common stock.

Plan Category	Number of Securities to be Issued Upon Exercise of Outstanding Options, Warrants and Rights (a)	Weighted-average Exercise Price of Outstanding Options, Warrants and Rights (b)	Number of Securities Remaining Available for Future Issuance Under Equity Compensation Plans (excluding securities reflected in column (a)) (c)
Equity compensation plans approved by security holders:			
2012 Stock Option Plan	2,596,405	\$6.84	-
2014 Equity Incentive Plan (1)	3,487,077	\$6.70	125,000
Equity compensation plans not approved by security holders:			
Amended & Restated 2017 Inducement Equity Incentive Plan	—		1,850,000
Total	6,083,482	\$6.76	1,975,000

- (1) Our 2014 Equity Incentive Plan provides for an annual increase in the number of shares available for issuance thereunder on each anniversary date of our initial public offering, equal to the lower of: (i) 1,200,000 shares of our common stock; (ii) 3% of the outstanding shares of our common stock on the second-to-last day prior to each anniversary date; (iii) an amount as our board of directors may determine.

Security Ownership of Certain Beneficial Owners and Management

The following table sets forth the beneficial ownership of our common stock as of February 28, 2017 by:

- each person, or group of affiliated persons, who we know to beneficially own more than 5% of our common stock;
- each of our named executive officers;
- each of our directors; and
- all of our executive officers and directors as a group.

The percentage ownership information shown in the table is based on an aggregate of 42,368,864 shares of our common stock outstanding as of February 28, 2018.

We have determined beneficial ownership in accordance with the rules of the Securities and Exchange Commission. These rules generally attribute beneficial ownership of securities to persons who possess sole or shared voting power or investment power with respect to those securities. In addition, the rules include shares of common stock issuable pursuant to the exercise of stock options and warrants that are either immediately exercisable or exercisable on or before April 29, 2018, which is 60 days after February 28, 2018. These shares are deemed to be outstanding and beneficially owned by the person holding those options and warrants for the purpose of computing the percentage ownership of that person, but they are not treated as outstanding for the purpose of computing the percentage ownership of any other person. Unless otherwise indicated, the persons or entities identified in this table have sole voting and investment power with respect to all shares shown as beneficially owned by them, subject to applicable community property laws.

Unless otherwise noted below, the address of each of the individuals and entities named in the table below is c/o Vital Therapies, Inc., 15010 Avenue of Science, Suite 200, San Diego, California 92128. Beneficial ownership representing less than 1% is denoted with an asterisk (*).

	Number of Shares of Common Stock Beneficially Owned	Percentage of Common Stock Beneficially Owned
<i>5% Stockholders:</i>		
Trusts and Other Entities Affiliated with Muneer A. Satter ⁽¹⁾	11,534,688	27.1%
KCK Ltd. ⁽²⁾	2,788,181	6.6%
Victory Capital Management ⁽³⁾	2,925,886	6.9%
<i>Named Executive Officers and Directors:</i>		
Russell J. Cox	—	—
Terence E. Winters, Ph.D. ⁽⁴⁾	772,861	1.8%
Duane Nash, M.D., J.D. ⁽⁵⁾	426,822	1.0%
Robert A. Ashley, M.A. ⁽⁶⁾	413,516	1.0%
Faheem Hasnain ⁽⁷⁾	209,848	*
Jean-Jacques Bienaimé ⁽⁸⁾	167,322	*
Cheryl L. Cohen ⁽⁹⁾	33,748	*
Philip M. Croxford, M.B.A. ⁽¹⁰⁾	91,485	*
Douglas E. Godshall, M.B.A. ⁽¹¹⁾	191,396	*
Errol R. Halperin, J.D., L.L.M. ⁽¹²⁾	166,319	*
J. Michael Millis, M.D. ⁽¹³⁾	78,717	*
Muneer A. Satter, J.D., M.B.A. ⁽¹⁾	11,534,688	27.1%
Lowell E. Sears, M.B.A. ⁽¹⁴⁾	180,593	*
Randolph C. Steer, M.D., Ph.D. ⁽¹⁵⁾	79,065	*
All directors and executive officers as a group and certain former named executive officers ⁽¹⁶⁾	14,920,854	33.1%

(1) Consists of 11,382,277 shares, warrants to acquire 122,172 shares that are held by the Muneer A. Satter Revocable Trust and various other trusts and other entities for which Mr. Satter serves as trustee, investment advisor or manager and, in such capacity, has sole voting and dispositive control over all such shares and options to purchase 30,239 shares of common stock that are exercisable.

(2) The address of KCK Ltd. is KCK Ltd. A/C KCK Ltd OMC Chambers, Wickhams Cay 1, Road Town, Tortola VG1110 British Virgin Islands. KCK Ltd., through a board of directors consisting of three or more persons, has sole voting and investment power with respect to 2,788,181 shares of common stock held by KCK Ltd. This information is based solely upon a Schedule 13G filed by KCK Ltd. on February 13, 2017 for beneficial ownership as of December 31, 2016.

(3) The address of Victory Capital Management, Inc. is 4900 Tiedeman Road, 4th Floor, Brooklyn, OH 44144. Victory Capital is the beneficial owner of 2,925,886 shares of common stock held on behalf of numerous clients who have the right to receive and the power to direct the receipt of dividends from, or the proceeds of the sale of, such common stock, and Victory Capital disclaims any ownership associated with such rights. No client has the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of, more than 5% of the shares outstanding of common stock of the company. This information is based solely upon a Schedule 13G filed by Victory Capital Management, Inc. on February 8, 2018 for beneficial ownership as of December 31, 2017.

(4) Consists of 194,966 shares held by Terence E. Winters, 119,964 shares held by Terence E. Winters and Eileen Y. Winters, 427 shares that may be acquired pursuant to the exercise of warrants held of record by Terence E. Winters, and options to purchase 457,504 shares of common stock that are exercisable or becoming exercisable within 60 days of February 28, 2018.

(5) Consists of 8,224 shares held and options to purchase 418,598 shares of common stock that are exercisable or becoming exercisable within 60 days of February 28, 2018.

- (6) Consists of 2,000 shares held and options to purchase 411,516 shares of common stock that are exercisable or becoming exercisable within 60 days of February 28, 2018.
- (7) Consists of 181,943 shares held by Faheem Hasnain, 3,500 shares held by Faheem Hasnain Trust and options to purchase 24,405 shares of common stock that are exercisable or becoming exercisable within 60 days of February 28, 2018.
- (8) Consists of 65,119 shares held and options to purchase 102,203 shares of common stock.
- (9) Consists of 3,500 shares held by the Cheryl L. Cohen Trust Under Agreement dated April 1, 2005, Cheryl L. Cohen Trustee, and options to purchase 30,248 shares of common stock that are exercisable or becoming exercisable within 60 days of February 28, 2018.
- (10) Consists of 25,091 shares held and options to purchase 66,394 shares of common stock.
- (11) Consists of 69,375 shares held and options to purchase 122,021 shares of common stock.
- (12) Consists of 89,417 shares held by Errol R. Halperin, 10,000 shares held by Errol Halperin IRA FBO Errol Halperin, and options to purchase 66,902 shares of common stock.
- (13) Consists of 17,680 shares held and options to purchase 61,037 shares of common stock.
- (14) Consists of 58,572 shares held and options to purchase 122,021 shares of common stock.
- (15) Consists of 1,550 shares held, 137 shares that may be acquired pursuant to the exercise of warrants, and options to purchase 77,378 shares of common stock.
- (16) Consists of 12,251,443 shares held or beneficially owned, 122,791 shares that may be acquired pursuant to the exercise of warrants, and options to purchase 2,546,620 shares of common stock that are exercisable or becoming exercisable within 60 days of February 28, 2018.

Item 13. Certain Relationships and Related Transactions, and Director Independence.

The following is a summary of transactions since January 1, 2017 to which we have been a party in which the amount involved exceeded \$120,000 and in which any of our executive officers, directors, promoters or beneficial holders of more than 5% of our capital stock had or will have a direct or indirect material interest, other than compensation arrangements which are described under the section of this proxy statement titled "Executive Compensation."

Senior Preferred Investors' Rights Agreement

We and certain of our directors, executive officers and stockholders, including the Satter Investors, are parties to the Senior Preferred IRA. The Senior Preferred IRA contains customary registration rights and related provisions, including customary market standoff provisions.

The Senior Preferred IRA also provides that, for so long as the Satter Investors hold at least 30% of our outstanding common stock, the Satter Investors have the right to nominate 40% of our directors (rounded up to the nearest whole number). If the Satter Investors hold less than 30% (but at least 20%) of our outstanding common stock, they have the right to nominate 30% of our directors (rounded up to the nearest whole number). If the Satter Investors hold less than 20% (but at least 10%) of our outstanding common stock, they have the right to nominate 20% of our directors (rounded up to the nearest whole number). If the Satter Investors hold less than 10% (but at least 2%) of our outstanding common stock, they have the right to nominate 10% of our directors (rounded up to the nearest whole number). For so long as the Satter Investors hold less than 2% of our outstanding common stock, they do not have the contractual right to nominate any representatives to our board of directors. To date the Satter Investors have not exercised their rights to nominate any directors, but they have reserved the right to do so in the future.

Series D Investors' Rights Agreement

We and certain of our directors, executive officers and stockholders, including the Satter Investors, are or were parties to an investors' rights agreement, dated June 7, 2011, or the Series D IRA. The Series D IRA contains restrictions on transfer (for compliance with applicable securities laws) and customary registration rights. Upon the closing of our initial public offering in April 2014, all covenants in this agreement, except for the rights relating to the registration of shares under the Securities Act, terminated. The rights of any of our directors, officers or stockholders under the Series D IRA, who became parties to the Senior Preferred IRA, were superseded by the Senior Preferred IRA.

Indemnification of Officers and Directors

We have also entered into indemnification agreements with each of our directors and executive officers. The indemnification agreements and our amended and restated certificate of incorporation and amended and restated bylaws require us to indemnify our directors, executive officers and certain controlling persons to the fullest extent permitted by Delaware law.

Related-Person Transactions Policy

We adopted a written Related Person Transactions Policy that sets forth our policies and procedures regarding the identification, review, consideration, approval and oversight of "related person transactions."

For purposes of our policy only, a "related-person transaction" is a past, present or future transaction, arrangement or relationship (or any series of similar transactions, arrangements or relationships) in which we and any "related person" are participants, the amount involved exceeds \$120,000 and a related person has a direct or indirect material interest. Various transactions are not covered by this policy, including transactions involving compensation for services provided to us as an employee, director, consultant or similar capacity by a related person, equity and debt financing transactions with a related person that are approved by the Board, and other transactions not otherwise required to be disclosed under Item 404 of Regulation S-K. A "related person," as determined since the beginning of our last fiscal year, is any executive officer, director or nominee to become director, a holder of more than 5% of our common stock, including any immediate family members of such persons. Any related-person transaction may only be consummated if approved or ratified by the affirmative vote of seventy-five percent (75%) of our dis-interested directors then in office in accordance with the policy guidelines set forth below.

Under the policy, where a transaction has been identified as a related-person transaction, management must present information regarding the proposed related-person transaction to our audit committee for review and recommendation for approval to our board of directors. In considering related-person transactions, our audit committee and board of directors take into account the relevant available facts and circumstances including, but not limited to whether the terms of such transaction are no less favorable than terms generally available to an unaffiliated third-party under the same or similar circumstances and the extent of the related person's interest in the transaction. In the event a director has an interest in the proposed transaction, the director must recuse himself or herself from the deliberations and approval process.

Director Independence

As a company listed on the Nasdaq Global Market we are required under the listing rules of Nasdaq, or the Nasdaq listing rules, to maintain a board comprised of a majority of independent directors as determined affirmatively by our board. In addition, the Nasdaq listing rules require that, subject to specified exceptions, each member of our audit, compensation and nominating and governance committees must be independent. Audit committee members and compensation committee members must also satisfy the independence criteria set forth in Rule 10A-3 and Rule 10C-1, respectively, under the Exchange Act. Under the Nasdaq listing rules, a director will only qualify as an "independent director" if, in the opinion of our board of directors, the director does not have a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director.

Our board of directors has undertaken a review of the independence of our directors and considered whether any director has a material relationship with us that could compromise his or her ability to exercise independent judgment in carrying out his or her responsibilities. Based upon information requested from and provided by each director concerning his or her background, employment and affiliations, including family relationships, our board of directors has determined that none of Drs. Millis and Steer, Ms. Cohen and Messrs. Bienaimé, Croxford, Godshall, Halperin, Hasnain, Satter and Sears, representing ten of our eleven directors, has a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director and that each of these directors is an “independent director” as that term is defined under the Nasdaq listing rules. Dr. Winters was not considered an independent director, and Mr. Cox is currently not considered an independent director because of their respective positions as our Chief Executive Officer.

In making these determinations, our board of directors considered the relationships that each non-employee director has with us and all other facts and circumstances our board of directors deemed relevant in determining their independence, including consulting relationships, family relationships and the beneficial ownership of our capital stock by each non-employee director.

Item 14. Principal Accounting Fees and Services.

The audit committee of our board of directors selected PricewaterhouseCoopers LLP to be our independent registered public accounting firm for the year ended December 31, 2017.

The following table represents aggregate fees for services provided to us in the fiscal years ended December 31, 2017 and 2016 by PricewaterhouseCoopers LLP, our principal accountant. All fees below were pre-approved by the audit committee:

	Fiscal Year Ended	
	2017	2016
Audit Fees ⁽¹⁾	\$ 547,621	\$ 486,895
Audit-related Fees ⁽²⁾	—	—
Tax Fees ⁽³⁾	—	—
All Other Fees ⁽⁴⁾	1,800	1,800
Total Fees	\$ 549,421	\$ 488,695

- (1) Audit fees consist of fees incurred for professional services by PricewaterhouseCoopers LLP for audit and quarterly reviews of our financial statements, reviews of our registration statements on Form S-3 and Form S-8 and related services that are normally provided in connection with statutory and regulatory filings or engagements.
- (2) We did not engage PricewaterhouseCoopers LLP to perform audit-related services.
- (3) We did not engage PricewaterhouseCoopers LLP to perform tax advisory services.
- (4) Represents annual licensing fees for an accounting database subscription.

In connection with the audit of the 2017 financial statements, we entered into an engagement agreement with PricewaterhouseCoopers LLP that sets forth the terms by which PricewaterhouseCoopers LLP will perform audit services for us. Such engagement was approved in advance by our audit committee.

Auditor Independence

In 2017, there were no other professional services provided by PricewaterhouseCoopers LLP that would have required our audit committee to consider their compatibility with maintaining the independence of PricewaterhouseCoopers LLP.

Pre-Approval Policy

Our audit committee's policy is to pre-approve all audit and permissible non-audit services provided by the independent accountants. These services may include audit services, audit-related services, tax services and other services. Our audit committee generally pre-approves particular services or categories of services on a case-by-case basis. The independent registered public accounting firm and management are required to periodically report to our audit committee regarding the extent of services provided by the independent registered public accounting firm in accordance with these pre-approvals, and the fees for the services performed to date. All of the services of PricewaterhouseCoopers LLP for 2017 and 2016 described above were pre-approved by our audit committee.

PART IV

Item 15. Exhibits, Financial Statement Schedules.

	<u>Page</u>
<i>1. Financial Statements.</i> We have filed the following documents as part of this Annual Report:	
Report of PricewaterhouseCoopers LLP, Independent Registered Public Accounting Firm	F- 2
Consolidated Balance Sheets	F- 3
Consolidated Statements of Operations	F- 4
Consolidated Statements of Comprehensive Loss	F- 5
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<i>2. Financial Statement Schedules.</i> None.	
<i>3. Exhibits.</i> The following exhibits are filed herewith or are incorporated by reference to exhibits previously filed with the U.S. Securities and Exchange Commission.	

EXHIBITS

Exhibit Number	Exhibit Title	Incorporated by Reference			
		Form	File No.	Exhibit	Filing Date
3.1	Amended and Restated Certificate of Incorporation of the Registrant.	S-1/A	333-191711	3.2	November 6, 2013
3.2	Second Amended and Restated Bylaws of the Registrant.	S-1/A	333-191711	3.4	November 6, 2013
4.1	Specimen Common Stock Certificate of the Registrant.	S-1/A	333-191711	4.1	November 6, 2013
4.2	Fourth Amended and Restated Investors' Rights Agreement, dated August 28, 2013.	S-1	333-191711	4.2	October 11, 2013
4.3	Investors' Rights Agreement, dated February 23, 2012.	S-1	333-191711	4.3	October 11, 2013
4.4	Amended and Restated Investors' Rights Agreement, dated June 7, 2011.	S-1	333-191711	4.4	October 11, 2013
10.1+	Form of Indemnification Agreement between the Registrant and its directors and officers.	S-1/A	333-191711	10.1	November 6, 2013
10.2+	Employment Letter Agreement between the Registrant and Duane Nash, dated October 30, 2013.	S-1/A	333-191711	10.2	November 6, 2013
10.3+	Employment Letter Agreement between the Registrant and Robert A. Ashley, dated October 30, 2013.	S-1/A	333-191711	10.3	November 6, 2013
10.4+*	Transition Agreement and Release between the Registrant and Terence E. Winters, dated December 4, 2017.				
10.5+	Employment Letter Agreement between the Registrant and Michael V. Swanson, dated August 30, 2013.	S-1/A	333-191711	10.5	November 6, 2013
10.6+	Employment Letter Agreement between the Registrant and Andrew Henry, dated October 30, 2013.	S-1/A	333-191711	10.6	April 3, 2014
10.7+	Employment Letter Agreement between the Registrant and Aron P. Stern, dated October 30, 2013.	S-1/A	333-191711	10.7	March 11, 2014
10.8+	Employment Letter Agreement between the Registrant and Richard Murawski, dated October 30, 2013.	S-1/A	333-191711	10.9	March 11, 2014
10.9+	Employment Letter Agreement between the Registrant and John Dunn, dated March 5, 2015.	10-K	001-36201	10.10	March 20, 2015
10.10+*	Employment Letter Agreement between the Registrant and Russel J. Cox, dated November 30, 2017.				
10.11+	2012 Stock Option Plan and form of agreements.	S-1	333-191711	10.6	October 11, 2013
10.12+	2014 Equity Incentive Plan and form of agreements.	S-1/A	333-191711	10.11	March 11, 2014
10.13+*	Amended Global Stock Option Agreement under 2014 Equity Incentive Plan.				
10.14+	Vital Therapies, Inc. Amended & Restated 2017 Inducement Equity Incentive Plan.	S-8	333-222886	4.2	February 6, 2018
10.15+	Amended & Restated 2017 Inducement Equity Incentive Plan - Form of U.S. Stock Option Agreement.	S-8	333-222886	4.3	February 6, 2018
10.16+	Executive Incentive Compensation Plan.	S-1	333-191711	10.8	October 11, 2013
10.17+	Form Change of Control and Severance Agreement.	S-1	333-191711	10.9	October 11, 2013
10.18+	Non-Employee Director Compensation Policy.	S-1/A	333-191711	10.10	November 15, 2013

10.19+	Amended Outside Director Compensation Policy.	8-K	001-36201	10.1	May 27, 2016
10.20	Standard Industrial/Commercial Multi-Tenant Lease between R.E. Hazard Contracting Company and the Registrant, dated May 5, 2017.	10-Q	001-36201	10.18	May 9, 2017
10.21	Standard Office Lease between Arden Realty Limited Partnership and the Registrant, dated May 7, 2013.	S-1	333-191711	10.12	October 11, 2013
10.22	Amended Lease between BRA CA Office Owner LLC and the Company, dated August 23, 2016.	8-K	001-36201	10.1	August 29, 2016
21.1*	List of subsidiaries of the Registrant.				
23.1*	Consent of PricewaterhouseCoopers LLP, Independent Registered Public Accounting Firm.				
24.1*	Power of Attorney (included on the signature page).				
31.1*	Certification of Principal Executive 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.				
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.				
32.1**	Certification of Principal Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.				
32.2**	Certification of Principal Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.				
101.INS*	XBRL Instance Document.				
101.SCH*	XBRL Taxonomy Extension Schema Document.				
101.CAL*	XBRL Taxonomy Extension Calculation Linkbase Document.				
101.DEF*	XBRL Taxonomy Extension Definition Linkbase Database.				
101.LAB*	XBRL Taxonomy Extension Label Linkbase Document.				
101.PRE*	XBRL Taxonomy Extension Presentation Linkbase Document.				

+ Indicates a management contract or compensatory plan or arrangement.

* Filed herewith.

** In accordance with Item 601(b)(32)(ii) of Regulation S-K and SEC Release No. 33-8238 and 34-47986, Final Rule: Management's Reports on Internal Control Over Financial Reporting and Certification of Disclosure in Exchange Act Periodic Reports, the certifications furnished in Exhibits 32.1 and 32.2 hereto are deemed to accompany this Form 10-K and will not be deemed "filed" for purposes of Section 18 of the Exchange Act. Such certifications will not be deemed to be incorporated by reference into any filings under the Securities Act or the Exchange Act, except to the extent that the registrant specifically incorporates it by reference.

VITAL THERAPIES, INC.

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of
Vital Therapies, Inc.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Vital Therapies, Inc. and its subsidiaries ("the Company") as of December 31, 2017 and 2016, and the related consolidated statements of operations, comprehensive loss, stockholders' equity and cash flows for each of the three years in the period ended December 31, 2017, including the related notes (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2017 and 2016, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2017 in conformity with accounting principles generally accepted in the United States of America.

Basis for Opinion

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

We conducted our audits of these consolidated financial statements in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

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

Emphasis of Matter

As discussed in Note 1 to the consolidated financial statements, the Company will require additional financing to fund future operations. Management's plans in regard to this matter are described in Note 1.

/s/ PricewaterhouseCoopers LLP
San Diego, California
March 13, 2018

We have served as the Company's auditor since 2010.

VITAL THERAPIES, INC.
Consolidated Balance Sheets
(In thousands, except share and per share amounts)

	December 31,	
	2017	2016
Assets		
Current assets:		
Cash and cash equivalents	\$ 56,901	\$ 59,991
Other current assets and prepaid expenses	1,220	1,472
Total current assets	58,121	61,463
Property and equipment, net	2,155	2,505
Other assets	108	58
Total assets	<u>\$ 60,384</u>	<u>\$ 64,026</u>
Liabilities and Stockholders' Equity		
Current liabilities:		
Accounts payable	\$ 1,049	\$ 780
Accrued expenses	9,141	4,656
Other current liabilities	91	44
Total current liabilities	10,281	5,480
Long-term liabilities	59	100
Commitments and contingencies (note 4)		
Stockholders' equity:		
Preferred stock, \$0.0001 par value; 20,000,000 authorized and no shares issued or outstanding at December 31, 2017 and 2016	—	—
Common stock, \$0.0001 par value; 130,000,000 shares authorized at December 31, 2017 and 2016; 42,368,864 and 32,143,475 shares issued and outstanding at December 31, 2017 and 2016, respectively	4	3
Additional paid-in capital	345,915	302,185
Accumulated other comprehensive income	78	83
Accumulated deficit	(295,953)	(243,825)
Total stockholders' equity	50,044	58,446
Total liabilities and stockholders' equity	<u>\$ 60,384</u>	<u>\$ 64,026</u>

The accompanying notes are an integral part of these financial statements.

VITAL THERAPIES, INC.
Consolidated Statements of Operations
(In thousands, except share and per share amounts)

	Years Ended December 31,		
	2017	2016	2015
Operating expenses:			
Research and development	\$ 39,341	\$ 30,046	\$ 39,773
General and administrative	13,314	11,220	12,347
Total operating expenses	52,655	41,266	52,120
Loss from operations	(52,655)	(41,266)	(52,120)
Other income:			
Interest income	650	284	58
Other income (expense), net	(73)	13	39
Total other income	577	297	97
Net loss	\$ (52,078)	\$ (40,969)	\$ (52,023)
Net loss per share, basic and diluted	\$ (1.31)	\$ (1.31)	\$ (2.07)
Weighted-average common shares outstanding, basic and diluted	39,859,009	31,387,579	25,152,948

The accompanying notes are an integral part of these financial statements.

VITAL THERAPIES, INC.
Consolidated Statements of Comprehensive Loss
(In thousands)

	Years Ended December 31,		
	2017	2016	2015
Net loss	\$ (52,078)	\$ (40,969)	\$ (52,023)
Other comprehensive income (loss):			
Unrealized gains (losses) on cash equivalents	(6)	4	—
Foreign currency translation	1	(1)	(9)
Total comprehensive loss	<u>\$ (52,083)</u>	<u>\$ (40,966)</u>	<u>\$ (52,032)</u>

The accompanying notes are an integral part of these financial statements.

VITAL THERAPIES, INC.
Consolidated Statements of Stockholders' Equity
(In thousands, except shares)

	Common Stock		Additional Paid-In Capital	Accumulated Other Comprehensive Income (Loss)	Accumulated Deficit	Total Stockholders' Equity
	Shares	Amount				
Balance at January 1, 2015	23,982,786	\$ 2	\$ 248,305	\$ 89	\$ (150,833)	\$ 97,563
Net loss	—	—	—	—	(52,023)	(52,023)
Other comprehensive loss	—	—	—	(9)	—	(9)
Exercise of stock options and change in stock option early exercise repurchase liability	217,570	—	615	—	—	615
Stock-based compensation	—	—	4,029	—	—	4,029
Issuance of common stock, net of issuance costs	6,272,727	1	32,149	—	—	32,150
Balance at December 31, 2015	30,473,083	3	285,098	80	(202,856)	82,325
Net loss	—	—	—	—	(40,969)	(40,969)
Other comprehensive income	—	—	—	3	—	3
Exercise of stock options and change in stock option early exercise repurchase liability	8,098	—	54	—	—	54
Stock-based compensation	—	—	4,678	—	—	4,678
Issuance of common stock, net of issuance costs	1,662,294	—	12,355	—	—	12,355
Balance at December 31, 2016	32,143,475	3	302,185	83	(243,825)	58,446
Net loss	—	—	—	—	(52,078)	(52,078)
Other comprehensive income	—	—	—	(5)	—	(5)
Exercise of stock options	2,889	—	5	—	—	5
Stock-based compensation	—	—	5,480	—	—	5,480
Common stock issued for services	60,000	—	256	—	—	256
Issuance of common stock, net of issuance costs	10,162,500	1	37,939	—	—	37,940
Other	—	—	50	—	(50)	—
Balance at December 31, 2017	42,368,864	\$ 4	\$ 345,915	\$ 78	\$ (295,953)	\$ 50,044

The accompanying notes are an integral part of these financial statements.

VITAL THERAPIES, INC.
Consolidated Statements of Cash Flows
(In thousands)

	Years Ended December 31,		
	2017	2016	2015
Cash flows from operating activities:			
Net loss	\$ (52,078)	\$ (40,969)	\$ (52,023)
Adjustments to reconcile net loss to net cash used in operating activities:			
Depreciation and amortization	998	1,808	1,328
Stock-based compensation	5,480	4,678	4,029
Common stock issued for services	256	—	—
Other	(1)	85	—
Changes in operating assets and liabilities:			
Other assets and prepaid expenses	165	(232)	143
Accounts payable	287	(459)	281
Accrued expenses	4,490	(587)	(3,584)
Other liabilities	6	(98)	(126)
Net cash used in operating activities	(40,397)	(35,774)	(49,952)
Cash flows from investing activities:			
Purchases of property and equipment	(685)	(556)	(2,340)
Change in restricted cash	—	533	1,059
Proceeds from sale of equipment	7	2	—
Net cash used in investing activities	(678)	(21)	(1,281)
Cash flows from financing activities:			
Proceeds from issuance of common stock, net of issuance costs	37,998	12,355	32,189
Proceeds from exercise of stock options	5	32	515
Deferred financing costs	(19)	(13)	(283)
Net cash provided by financing activities	37,984	12,374	32,421
Effect of exchange rate changes on cash and cash equivalents	1	(4)	(10)
Net change in cash and cash equivalents	(3,090)	(23,425)	(18,822)
Cash and cash equivalents, beginning of period	59,991	83,416	102,238
Cash and cash equivalents, end of period	\$ 56,901	\$ 59,991	\$ 83,416
Supplemental disclosure of non-cash investing and financing activities:			
Purchase of property and equipment included in liabilities	\$ 16	\$ 41	\$ 9
Stock issuance costs included in liabilities	\$ 1	\$ —	\$ 39
Change in stock option early exercise repurchase liability	\$ —	\$ 23	\$ 108

The accompanying notes are an integral part of these financial statements.

Notes to Consolidated Financial Statements

1. Description of Business and Basis of Financial Statements

Description of Business

We are a clinical-stage biotechnology company focusing on the discovery, development and commercialization of cell-based therapies capable of transforming the management of life-threatening conditions. Our initial product candidate, the ELAD® System, or ELAD, is a human-cell-based, bio-artificial liver which is being developed to improve rates of survival among patients with acute forms of liver failure. Since inception, we have devoted essentially all of our efforts to product development, clinical testing and pilot manufacturing and have not recognized revenues from our planned principal operations. In August 2015, we reported that our VTI-208 phase 3 clinical trial of ELAD in severe alcoholic hepatitis failed to reach its primary or secondary endpoints, although medically pertinent pre-specified subsets based on age and disease severity did show trends toward efficacy. Considering the results of the VTI-208 clinical trial and in an effort to focus our personnel and financial resources, we also discontinued our VTI-210 and VTI-212 clinical trials. We are currently completing enrollment of subjects in our new phase 3 clinical trial of ELAD, known as VTL-308, in severe alcoholic hepatitis, based on our analysis of the results of the VTI-208 clinical trial. Our business, operating results, financial condition and growth prospects are subject to significant risks and uncertainties including the failure of our clinical trial to meet its endpoint, failure to obtain regulatory approval to commercialize ELAD and failure to secure additional funding to complete the development and commercialization of ELAD.

Liquidity

We have a history of incurring losses and negative cash flows from operations and have an accumulated deficit of \$296.0 million through December 31, 2017. Based on the structure and timing of the VTL-308 clinical trial, assuming limited activities related to the submission for a biologics license application, or BLA, and that we do not begin building any significant commercial infrastructure, we believe that our existing cash and cash equivalents of \$56.9 million as of December 31, 2017 should be sufficient to fund our operations through the first quarter of 2019, past the expected announcement of topline data for the VTL-308 clinical trial, which we currently anticipate to be in the third quarter of 2018. We have based this estimate on assumptions that may prove to be wrong, and we could utilize our available capital resources sooner than we currently expect. The timing and amount of our actual expenditures will be based on many factors, including, but not limited to, the timing of and enrollment in our clinical trials, the timing of any possible submission of a BLA, decisions with respect to building commercial operations, and any unforeseen cash needs which may deplete current cash and cash equivalents sooner than planned. Furthermore, our operating plans may change, and we may need additional funds earlier to meet operational needs and capital requirements for product development, BLA-related activities and building for commercialization.

We plan to address our liquidity needs through pursuing additional funding which we may seek to obtain through a combination of equity or debt financings, or government or other third-party financing, marketing and distribution arrangements and other collaborations, strategic alliances and licensing arrangements. In this regard, we currently have an effective shelf registration statement on Form S-3 on file with the SEC. The shelf registration statement currently permits the offering, issuance and sale by us of up to an aggregate offering price of \$112.5 million of common stock, preferred stock, warrants, debt securities or units in one or more offerings and in any combination, of which \$62.2 million may be offered, issued and sold under an “at-the-market” sales agreement with Cantor Fitzgerald & Co. However, there is no assurance that we will be able to obtain additional funding on acceptable terms or at all. If the Company is not able to secure adequate additional funding, it will be required to make reductions in certain spending to extend current funds. If we are unable to raise adequate funds, we may have to liquidate some or all of our assets, or we may have to delay, reduce the scope of, or eliminate some or all of our development programs or clinical trials. We may also have to delay development or commercialization of our products or license to third parties the rights to commercialize products or technology that we would otherwise seek to commercialize. Any of these factors could harm our operating results and future prospects.

This discussion contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities and Exchange Act of 1934, as amended, that are based on beliefs and assumptions currently available to management, and that involve risks and uncertainties and our actual results could differ materially.

Basis of Presentation and Consolidation

The accompanying consolidated financial statements have been prepared in conformity with United States generally accepted accounting principles, or GAAP, and include the accounts of Vital Therapies, Inc. and its wholly-owned subsidiaries located in the United Kingdom and China, both of which are currently inactive. All intercompany accounts and transactions have been eliminated in consolidation. We manage our operations as a single reportable segment for the purposes of assessing performance and making operating decisions.

2. Summary of Significant Accounting Policies

Use of Estimates

The preparation of financial statements in conformity with GAAP requires us to make certain estimates and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes. Actual results could differ materially from those estimates and assumptions.

Cash and Cash Equivalents

Cash and cash equivalents consist of cash and highly-liquid investments with original maturities of three months or less when acquired. Cash equivalents are stated at cost unless they are securities, in which case they are recorded at fair value, which approximates original cost.

Fair Value of Financial Instruments

Fair value is defined as the price that would be received to sell an asset or be paid to transfer a liability in an orderly transaction between market participants on the measurement date. Accounting guidance establishes a fair value hierarchy that requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. The standard describes three levels of inputs that may be used to measure fair value:

Level 1—Quoted prices in active markets for identical assets or liabilities. Our Level 1 assets consisted of money market funds for the periods presented. We had no Level 1 liabilities for the periods presented.

Level 2—Observable inputs other than Level 1 prices, such as quoted prices for similar assets or liabilities, quoted prices in markets with insufficient volume or infrequent transactions (less active markets), or model-derived valuations in which all significant inputs are observable or can be derived principally from or corroborated with observable market data for substantially the full term of the assets or liabilities. We had no Level 2 assets or liabilities for the periods presented.

Level 3—Unobservable inputs to the valuation methodology that are significant to the measurement of the fair value of assets or liabilities. We had no Level 3 assets or liabilities for the periods presented.

Any transfers into and out of levels within the fair value hierarchy will be recognized at the end of the reporting period in which the actual event or change in circumstances that caused the transfer occurs.

The carrying value of cash and cash equivalents, other current assets and prepaid expenses, accounts payable, accrued expenses, and other current liabilities approximates fair value due to the short period of time to maturity.

Property and Equipment

Property and equipment are recorded at cost and depreciated using the straight-line method over the estimated useful lives of the assets (generally three to five years). Leasehold improvements are stated at cost and depreciated on a straight-line basis over the lesser of the remaining term of the related lease or the estimated useful lives of the assets. Construction in progress is not depreciated until the underlying asset is available to be placed in service. Repairs and maintenance costs are charged to expense as incurred.

Impairment of Long-Lived Assets

Long-lived assets consist primarily of property and equipment. An impairment loss is recorded if and when events and circumstances indicate that assets might be impaired and the undiscounted cash flows estimated to be generated by those assets are less than the carrying amount of those assets. We have not recognized any impairment losses in the years ended December 31, 2017, 2016 or 2015.

Clinical Trial Accruals

As part of the process of preparing our financial statements, we are required to estimate our accrued expenses. Our clinical trial accrual process seeks to account for expenses resulting from our obligations under agreements with clinical sites, clinical research organizations, or CROs, vendors, and consultants in connection with conducting our clinical trials. We account for these expenses according to the progress of each trial as measured by subject enrollment, the timing of various aspects of the trial and if available, information from our service providers. During the course of a clinical trial, we adjust our rate of clinical expense recognition if actual results differ from our estimates. Although we do not expect our estimates to be materially different from amounts actually incurred, our understanding of the status and timing of services performed relative to the actual status and timing of services performed may vary, and could result in us reporting amounts that may later be determined to be higher or lower than our estimates for a particular period and adjustments to our research and development expenses may be necessary in future periods.

Research and Development

Research and development costs consist primarily of employee-related expenses, costs of contractors, clinical trial sites and CROs engaged in the development of ELAD, costs related to our investigation of the mechanism of action of ELAD, expenses associated with obtaining regulatory approvals, and the cost of acquiring and manufacturing clinical trial materials. All research and development costs are expensed as incurred.

Stock-Based Compensation

We measure and recognize compensation expense for all stock-based compensation for employees and directors based on the estimated fair value at the date of grant, and to consultants based on the ongoing estimated fair value. Currently, our stock-based awards consist only of stock options; however, future grants under our equity compensation plan may also consist of shares of restricted stock, restricted stock units, stock appreciation rights, performance awards and performance units. We estimate the fair value of stock options using the Black-Scholes-Merton, or BSM, option pricing model, which requires the use of estimates.

We recognize stock-based compensation cost for employees and directors for ratably vesting stock options on a straight-line basis over the requisite service period of the award. For performance-based stock options to employees and directors, we record stock-based compensation expense only when the performance-based milestone is deemed probable of achievement. We utilize both quantitative and qualitative criteria to judge whether milestones are probable of achievement.

The fair value of options granted to consultants is estimated using the BSM option pricing model and is re-measured at each reporting date with changes in fair value prior to vesting recognized as expense in the consolidated statements of operations across the applicable vesting period. For performance-based stock options to consultants, we record stock-based compensation expense only when the performance-based milestone is achieved unless there is a performance commitment.

Effective in the first quarter of 2017, we began recognizing forfeitures as they occur (see "Recently Issued and/or Adopted Accounting Standards" below). In 2016 and earlier periods, stock-based compensation expense was recognized only for those awards that were ultimately expected to vest. Through 2016, we estimated forfeitures based on an analysis of our historical employee turnover. We revised the forfeiture estimate in subsequent periods if actual forfeitures differed from those estimates. Changes in estimated forfeitures, which were not material, impacted compensation cost in the period in which the change in estimate occurred.

The BSM option pricing model requires the input of highly-subjective assumptions, including the risk-free interest rate, the expected dividend yield of our common stock, the expected volatility of the price of our common stock, and the expected term of the option. These estimates involve inherent uncertainties and the application of management's judgment. If factors change and different assumptions are used, our stock-based compensation expense could be materially different in the future. These assumptions are estimated as follows:

Risk-free Interest Rate

We base the risk-free interest rate assumption on zero-coupon U.S. treasury instruments appropriate for the expected term of the stock option grants.

Expected Dividend Yield

We base the expected dividend yield assumption on the fact that we have never paid cash dividends and have no present intention to pay cash dividends. Consequently, we used an expected dividend yield of zero.

Expected Volatility

The expected stock price volatility for our common stock is estimated based on volatilities of a peer group of similar publicly-traded, biotechnology companies by taking the average historic price volatility for the peers for a period equivalent to the expected term of the stock option grants. We do not use our average historic price volatility as we have only been a publicly-traded company since April 2014.

Expected Term

The expected term represents the period of time that options are expected to be outstanding. As we do not have sufficient historical experience for determining the expected term of the stock option awards granted, we have determined the expected life assumption for employee and director stock options using the comparable average expected term utilizing those companies in the peer group as noted above. For consultant stock options, we estimate the expected term based on the period we expect each consultant to provide services to us.

Leases

We lease all of our office space and enter into various other operating lease agreements in conducting our business. At the inception of each lease, we evaluate the lease agreement to determine whether the lease is an operating or capital lease. Some of our lease agreements may contain renewal options, tenant improvement allowances, rent holidays or rent escalation clauses. When such items are included in a lease agreement, we record a deferred rent asset or liability equal to the difference between the rent expense and future minimum lease payments due. The rent expense related to operating leases is recognized on a straight-line basis in the statements of operations over the term of each lease. In cases where our lessor grants us leasehold improvement allowances that reduce our rent expense, we capitalize the improvements as incurred and recognize deferred rent, which is amortized over the shorter of the lease term or the expected useful life of the improvements.

Comprehensive Income (Loss)

Comprehensive income (loss) is defined as the change in equity during a period from transactions and other events and circumstances from non-owner sources. Accumulated other comprehensive income has been reflected as a separate component of stockholders' equity in the accompanying consolidated balance sheets.

Foreign Currency Translation and Transactions

The functional currency of each of our subsidiaries in the United Kingdom and China, both of which are currently inactive, is the local currency. Assets and liabilities of the subsidiaries are translated at the rate of exchange at the balance sheet date. Expenses are translated at the average exchange rates in effect during the reporting period. Gains and losses resulting from foreign currency translation are included in accumulated other comprehensive income in the accompanying consolidated balance sheets. Gains and losses resulting from foreign currency transactions are included in the consolidated statements of operations, which to date have not been significant.

Income Taxes

We account for income taxes under the asset and liability method, which requires the recognition of deferred tax assets and liabilities for the expected future tax consequences of events that have been included in the consolidated financial statements. Under this method, deferred tax assets and liabilities are determined on the basis of the differences between the financial statements and tax basis of assets and liabilities using enacted tax rates in effect for the year in which the differences are expected to reverse. The effect of a change in tax rates on deferred tax assets and liabilities is recognized in income in the period that includes the enactment date.

We recognize net deferred tax assets to the extent we believe these assets are more likely than not to be realized. In making such a determination, management considers all available positive and negative evidence, including future reversals of existing taxable temporary differences, projected future taxable income, tax-planning strategies, and results of recent operations. If management determines that we would be able to realize our deferred tax assets in the future in excess of their net recorded amount, management would make an adjustment to the deferred tax asset valuation allowance, which would reduce the provision for income taxes. As of December 31, 2017 and 2016, we maintained a full valuation allowance against our entire balance of deferred tax assets.

We record uncertain tax positions on the basis of a two-step process whereby (1) management determines whether it is more likely than not that the tax positions will be sustained on the basis of the technical merits of the position and (2) for those tax positions that meet the more-likely-than-not recognition threshold, management recognizes the largest amount of tax benefit that is more than 50 percent likely to be realized upon ultimate settlement with the related tax authority. We recognize interest and penalties related to unrecognized tax benefits, if any, within income tax expense, and any accrued interest and penalties are included within the related tax liability line.

Net Loss Per Share

Basic net loss per share attributable to common stockholders is calculated by dividing the net loss by the weighted-average number of common shares outstanding for the period, without consideration for common stock equivalents. Diluted net loss per share attributable to common stockholders is computed by dividing the net loss by the weighted-average number of common shares and, if dilutive, common stock equivalents outstanding for the period determined using the treasury-stock method. Common stock equivalents are comprised of options outstanding under our stock option plan and warrants for the purchase of common stock. For all periods presented, there is no difference in the number of shares used to calculate basic and diluted shares outstanding due to our net loss position.

Potentially dilutive securities not included in the calculation of diluted net loss per share attributable to common stockholders because to do so would be anti-dilutive are as follows:

	As of December 31,		
	2017	2016	2015
Options to purchase common stock	6,083,482	4,841,274	3,716,520
Warrants to purchase common stock	240,620	240,620	250,646

Recently Issued and/or Adopted Accounting Pronouncements

In February 2016, the Financial Accounting Standards Board, or FASB, issued Accounting Standards Update, or ASU, No. 2016-02, "Leases," or ASU 2016-02. ASU 2016-02 will require that lease arrangements longer than 12 months result in an entity recognizing an asset and liability equal to the present value of the lease payments in the statement of financial position. ASU 2016-02 is effective for annual periods beginning after December 15, 2018, and interim periods therein. This standard requires a modified retrospective transition approach for all leases existing at, or entered into after, the date of initial application, with an option to use certain transition relief. We expect to adopt ASU 2016-02 in 2019. The adoption of this guidance is expected to result in a significant increase in the total assets and liabilities reported on our consolidated balance sheets.

In March 2016, the FASB issued ASU No. 2016-09, "Compensation-Stock Compensation: Improvements to Employee Share-Based Payment Accounting," or ASU 2016-09. ASU 2016-09 changes how companies account for certain aspects of share-based payments to employees. The amendments in this update cover such areas as the recognition of excess tax benefits and deficiencies, the classification of those excess tax benefits on the statement of cash flows, an accounting policy election for forfeitures, the amount an employer can withhold to cover employee income taxes and still qualify for equity classification and the classification of those taxes paid on the statement of cash flows. Effective in the first quarter of 2017, we adopted the provisions of ASU 2016-09 to recognize forfeitures as they occur. Upon the adoption of this standard, we recorded a cumulative-effect adjustment of \$50,000 to increase additional paid-in capital and accumulated deficit reversing our estimate of forfeitures as of December 31, 2016.

In November 2016, the FASB issued ASU No. 2016-18, "Statement of Cash Flows: Restricted Cash," or ASU 2016-18. ASU 2016-18 provides guidance on the classification of restricted cash in the statements of cash flows. This ASU will require that our statements of cash flows explain the change during the period in the total of cash, cash equivalents and amounts generally described as restricted cash or restricted cash equivalents. The amendments in this ASU are effective for interim periods beginning after December 15, 2017, with early adoption permitted. We will adopt this standard in 2018, and ASU 2016-18 will not have a significant impact on our consolidated financial statements at the time of adoption.

In May 2017, the FASB issued ASU No. 2017-09, "Compensation-Stock Compensation (Topic 718): Scope of Modification Accounting," or ASU 2017-09. The amendments in this update provide guidance on determining which changes to the terms and conditions of share-based payment awards require an entity to apply modification accounting under Topic 718. The guidance is effective for public business entities for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2017. We expect to adopt ASU 2017-09 for fiscal year 2018. The amendments will be applied on a prospective basis to any award modified on or after the adoption date. Consistent with our past practice and ASU 2017-09, we recorded \$724,000 for stock option modifications in 2017, including modifications related to the transition of our chief executive officer.

3. Other Financial Information

Property and Equipment

Property and equipment, leasehold improvements, and related accumulated depreciation and amortization were as follows (in thousands):

	December 31,	
	2017	2016
Manufacturing, clinical and laboratory equipment	\$ 7,500	\$ 7,325
Leasehold improvements	4,727	4,450
Office furniture and equipment	234	220
Construction in progress	17	111
	12,478	12,106
Less: accumulated depreciation and amortization	(10,323)	(9,601)
Total	\$ 2,155	\$ 2,505

Depreciation and amortization expense was \$998,000, \$1.8 million and \$1.3 million for the years ended December 31, 2017, 2016 and 2015, respectively.

Accrued Expenses

Accrued expenses consist of (in thousands):

	December 31,	
	2017	2016
Accrued clinical and related costs	\$ 5,377	\$ 2,316
Accrued compensation and related taxes	3,591	2,154
Accrued other	173	186
Total	\$ 9,141	\$ 4,656

4. Commitments and Contingencies

Operating Leases

We lease office, manufacturing and research and development facilities, and equipment under various non-cancellable operating lease agreements with expiration dates into 2022. In August 2016, we entered into amendments to extend certain leases for office and research and development space to January 2019. These amended leases do not include renewal options. Our facility leases generally provide for periodic rent increases and many contain escalation clauses. In May 2017, we entered into a new lease, or the Lease, extending the term of our existing manufacturing and research and development facility lease from June 2017 to June 2022. The Lease includes a renewal option and requires the payment of our proportionate share of the facility's operating expenses. Future minimum annual obligations under all non-cancellable operating lease commitments at December 31, 2017 are as follows (in thousands):

	Total	2018	2019	2020	2021	2022	Thereafter
Operating lease obligations	\$ 2,584	\$ 1,073	\$ 469	\$ 387	\$ 434	\$ 221	\$ —

We recognize rent expense for our facility operating leases on a straight-line basis. We account for the difference between the minimum lease payments and the straight-line amount as deferred rent. Total rent, property taxes and routine maintenance expense under our operating leases was \$999,000, \$933,000 and \$862,000 during the years ended December 31, 2017, 2016 and 2015, respectively. Current and long-term deferred rent totaled \$91,000 and \$59,000 at December 31, 2017 and \$44,000 and \$99,000 at December 31, 2016, respectively.

Purchase Commitments

Some of our most significant clinical trial expenditures are to investigative sites and to CROs. These agreements are cancellable by either party at any time upon written notice and do not have any cancellation penalties, but do obligate us to reimburse the providers for any time or costs incurred through the date of termination and to close out clinical sites. In the course of normal business operations, we also enter into agreements with contract service providers and others. We can elect to discontinue the work under these contracts and purchase orders with notice. These items are not included in the table below.

The following table summarizes our purchase obligations at December 31, 2017 (in thousands):

	Payments Due by Period				
	Total	Less Than 1 Year	2-3 Years	3-5 Years	More Than 5 Years
Purchase obligation	\$ 431	\$ 431	\$ —	\$ —	\$ —

As of December 31, 2017, our purchase obligations include existing purchase commitments of \$288,000 with a vendor for raw materials that will be used in manufacturing on an as needed basis. During the years ended December 31, 2017, 2016 and 2015, we purchased \$1.1 million, \$943,000 and \$1.2 million, respectively, of materials from this vendor. Our purchase obligations also include a purchase commitment of \$143,000 with a vendor for a component used in our clinical trials that will be manufactured and delivered on an as agreed upon schedule during 2018. During the years ended December 31, 2017, 2016 and 2015, we purchased \$228,000, \$139,000 and \$106,000, respectively, of materials from this vendor.

Legal Proceedings

We are not currently a party to any litigation, nor are we aware of any pending or threatened litigation against us, that we believe would materially affect our business, operating results, financial condition or cash flows. However, our industry is characterized by frequent claims and litigation including securities litigation, claims regarding patent and other intellectual property rights and claims for product liability. As a result, in the future, we may be involved in various legal proceedings from time to time.

5. Fair Value

The following fair value hierarchy table presents information about each major category of our financial assets and liabilities measured at fair value on a recurring basis (in thousands):

Fair Value Measurement at December 31, 2017				
	Fair Value	Level 1	Level 2	Level 3
Assets				
Money market funds	\$ 55,245	\$ 55,245	\$ —	\$ —
Fair Value Measurement at December 31, 2016				
	Fair Value	Level 1	Level 2	Level 3
Assets				
Money market funds	\$ 57,715	\$ 57,715	\$ —	\$ —

There were no liabilities measured at fair value on a recurring basis as of December 31, 2017 or 2016. The carrying amounts of other current assets and prepaid expenses, accounts payable, accrued expenses, and other current liabilities approximate their fair values due to their short-term nature.

For our money market funds, unrealized gains and losses are reported as accumulated other comprehensive income (loss), and realized gains and losses are included in interest income on the consolidated statements of operations. There were no transfers between Level 1, Level 2 or Level 3 for our assets or liabilities during the periods presented.

6. Common Stock and Stock Warrants

Certificate of Incorporation

The material terms of our amended restated certificate of incorporation, which became effective as of the closing of our IPO, are as follows:

Authorized Shares

Our amended and restated certificate of incorporation authorizes us to issue 150,000,000 shares of stock consisting of 130,000,000 shares of common stock, par value of \$0.0001 per share and 20,000,000 shares of preferred stock, par value \$0.0001 per share.

Dividends

Subject to preferences that may be applicable to any then outstanding preferred stock, holders of common stock are entitled to receive ratably those dividends, if any, as may be declared from time to time by our board of directors out of legally available funds.

Liquidation Preference

In the event of our liquidation, dissolution or winding up, holders of common stock will be entitled to share ratably in the net assets legally available for distribution to stockholders after the payment of all of our debts and other liabilities and the satisfaction of any liquidation preferences that may be granted to the holders of any then outstanding shares of preferred stock.

Rights and Preferences

Holders of common stock have no preemptive, conversion or subscription rights, and there are no redemption or sinking fund provisions applicable to the common stock. The rights, preferences and privileges of the holders of common stock are subject to, and may be adversely affected by, the rights of the holders of shares of any series of preferred stock, which we may designate and issue in the future.

Voting Rights

Each holder of common stock is entitled to one vote for each share on all matters submitted to a vote of the stockholders, including the election of directors. Our amended and restated certificate of incorporation and amended and restated bylaws do not provide for cumulative voting rights. Because of this absence of cumulative voting, the holders of a majority of the shares of common stock entitled to vote in any election of directors can elect all of the directors standing for election, if they should so choose. In addition, our amended and restated certificate of incorporation also provides that our directors may be removed only for cause by the affirmative vote of the holders of at least 75% of the combined voting power of all our stockholders entitled to vote on the election of directors, voting together as a single class.

Subject to supermajority votes for some matters, matters shall be decided by the affirmative vote of our stockholders having a majority in voting power of the votes cast by the stockholders present or represented and voting on such matter, provided that the holders of our common stock are not allowed to vote on any amendment to our certificate of incorporation that relates solely to the terms of one or more series of preferred stock if the holders of such affected series are entitled, either separately or together with the holders or one or more such series, to approve such amendment. The affirmative vote of the holders of at least 75% of the votes that all of our stockholders would be entitled to cast in any annual election of directors and, in some cases, the affirmative vote of a majority of minority stockholders entitled to vote in any annual election of directors are required to amend or repeal our bylaws, amend or repeal certain provisions of our certificate of incorporation, approve certain transactions with certain affiliates, or approve the sale or liquidation of the company. The vote of a majority of minority stockholders applies when an individual or entity and its affiliates or associates together own more than 50% of the voting power of our then outstanding capital stock, excluding any such person that owned 15% or more of our outstanding voting stock immediately prior to our IPO, and such a vote would require the approval of the majority of our voting stock, excluding the voting stock held by such a majority holder.

Public Offerings of Common Stock

We currently have an effective shelf registration statement on Form S-3 on file. The shelf registration statement permits: (i) the offering, issuance and sale by us of up to a maximum aggregate offering price of \$200.0 million of common stock, preferred stock, warrants, debt securities, and/or units in one or more offerings and in any combination; (ii) sales of up to 2.5 million shares of common stock by certain selling stockholders; and (iii) the offering, issuance and sale by us of up to a maximum aggregate offering price of \$75.0 million of our common stock that may be issued and sold under an “at-the-market” sales agreement, or ATM, with Cantor Fitzgerald & Co.

In October 2015, we completed a follow-on public offering raising gross proceeds of \$34.5 million under the shelf registration statement. The net proceeds to us from the following offering were \$32.1 million, after deducting underwriting discounts and commissions of \$2.1 million and estimated offering expenses of \$280,000.

During the year ended December 31, 2016, we raised gross proceeds of \$12.2 million pursuant to the ATM selling 1.5 million shares of our common stock at a weighted average price of \$7.90 per share. The net proceeds to us from the ATM were \$11.7 million after deducting underwriter commissions of \$366,000 and estimated offering expenses of \$173,000.

In March 2017, we completed an additional follow-on public offering under the shelf registration statement raising gross proceeds of \$40.3 million. Under this follow-on public offering, we sold 10.1 million shares of our common stock at a price of \$4.00 per share. The net proceeds to us from the March 2017 follow-on offering were \$37.5 million, after deducting underwriting discounts and commissions of \$2.4 million and offering expenses of approximately \$362,000. During the year ended December 31, 2017, we raised gross proceeds of \$600,000 pursuant to the ATM selling 100,000 shares of our common stock at a price of \$6.00 per share. The net proceeds to us from the ATM were \$468,000 after deducting underwriter commissions of \$18,000 and estimated offering expenses of \$114,000.

At December 31, 2017, \$112.5 million remains available for issuance and sale under the shelf registration statement, \$62.2 million of which may be offered, issued and sold under the ATM. The shelf registration statement on Form S-3 expires on May 26, 2018.

Private Placement of Common Stock

In August 2016, we entered into a securities purchase agreement, or the Securities Purchase Agreement, with a newly-appointed board member pursuant to which we agreed to issue and sell an aggregate of \$700,000 of our common stock in a private placement of shares that have not been registered under the Securities Act of 1933, or the Securities Act, by reason of a specific exemption from the registration provisions of the Securities Act. On August 12, 2016, we sold 118,243 shares of common stock under the Securities Purchase Agreement at a price of \$5.92 per share.

Common Stock Issued for Services

On October 30, 2017, we entered into an independent consulting agreement, or the Consulting Agreement, with two consulting groups, or the Consultants, pursuant to which we issued 60,000 restricted shares of our common stock to the Consultants as partial consideration for investor relations services to be rendered. The restricted shares have not been registered based on a specific exemption from the registration requirements of the Securities Act. The terms of the Consulting Agreement state that we have the right to terminate the Consulting Agreement at any time, upon providing written notice. If we elect to terminate this agreement for any reason within 180 days following the effective date, each of the Consultants will be required to promptly surrender to us 40% of the number of restricted shares issued to it. In connection with this transaction, we valued 36,000 shares, or 60% of the shares, at the quoted market price of \$207,000, or \$5.75, per share, on the date of the agreement. The remaining 24,000 shares are being adjusted to fair value based on the closing price at the end of the reporting period with the expense being recorded ratably over the 180-day period. We recognized expense in connection with these consulting shares of \$256,000 during the year ended December 31, 2017 in general and administrative expenses.

Warrants

We issued warrants in connection with financing activities and for consulting services in years prior to our initial public offering. As of December 31, 2017 and 2016, warrants for 240,620 shares of common stock were outstanding and exercisable at an exercise price of \$92.99 and expire in September 2019.

Stock Reserved for Future Issuance

Shares reserved for future issuance at December 31, 2017 are as follows:

	Number of Shares
Common stock options outstanding	6,083,482
Common stock options available for future grant:	
2014 Equity Incentive Plan	125,000
Amended and Restated 2017 Inducement Equity Incentive Plan	1,850,000
Exercise of common stock warrants outstanding	240,620
Total common shares reserved for future issuance	8,299,102

7. Stock Compensation Plans

Equity Incentive Plans

Our 2014 Equity Incentive Plan, or the 2014 Plan, became effective in April 2014 and replaced our 2012 Stock Option Plan, or the 2012 Plan, with respect to future awards. The 2014 Plan provides for the grant of stock options, restricted stock, restricted stock units, stock appreciation rights, performance awards and performance units to employees, directors, and consultants. The 2012 Plan provided for the grant of stock options, restricted stock, restricted stock units, stock purchase rights, and performance awards to employees, directors, and consultants. Option grants under our 2012 Plan were exercisable immediately and subject to repurchase rights, all of which have lapsed.

Shares available for grant under the 2014 Plan include any shares remaining available or becoming available in the future under the 2012 Plan due to cancellation or forfeiture. In addition, the 2014 Plan provides for annual increases in the number of shares available for issuance thereunder beginning upon its effective date in April 2014, and on each annual anniversary, equal to the lower of:

- 1,200,000 shares of our common stock;
- 3% of the outstanding shares of our common stock on the second-to-the-last day prior to each anniversary date of the effectiveness date of our initial public offering; or
- an amount as our board of directors may determine.

Pursuant to such provisions, the number of shares available for issuance under the 2014 Plan was increased by 1,200,000 shares effective April 16, 2017. Shares available for grant under the 2014 Plan totaled 125,000 shares as of December 31, 2017.

In September 2017, our board of directors approved the 2017 Inducement Equity Incentive Plan and amended and restated the plan in November 2017, or the Inducement Plan, which has terms and conditions substantially similar to our 2014 Plan. Under the Inducement Plan, 1,850,000 shares of our common stock were reserved to be used exclusively for grants to individuals who were not previously our employees or directors, as an inducement material to the individual's entry into employment with us within the meaning of Rule 5635(c)(4) of the Nasdaq Listing Rules. As of December 31, 2017, we had not made any grants under the Inducement Plan. See Note 10 regarding a subsequent grant under the Inducement Plan.

Option grants made under the 2014 Plan and the 2012 Plan generally vest over one or four years except for performance-based stock options. Our performance-based stock options will fully vest and become exercisable only on achievement of the performance conditions while the participant is a continuing service provider. Options generally expire ten years from the grant date or earlier in accordance with the terms of the plans and the related stock option agreement.

In 2015, our board of directors (the "Board") approved grants for performance-based stock options to certain employees and consultants under the 2014 Plan. Performance-based stock options for 647,322 shares remain outstanding at December 31, 2017. Performance-based stock options that have not been forfeited will fully vest on the third anniversary of the grant date if (i) our VTL-308 clinical trial has achieved statistical significance in its primary efficacy endpoint and (ii) the participant is a continuing service provider through the third anniversary of the grant date (as such terms are defined in the 2014 Plan). Vesting of the performance-based stock options will not be accelerated if the performance goal is achieved in less than three years. As of December 31, 2017 and 2016, we deemed the performance condition as being probable and are recording stock-based compensation expense over the requisite service period for all performance-based stock options held by employees. The performance-based stock options have exercise prices ranging from \$4.57 to \$7.69 per share, the closing sales price of our common stock on the grant dates, and expire ten years from the grant date (or earlier in accordance with the terms of the 2014 Plan and the related stock option agreement).

The following table summarizes stock option activity under the 2012 and 2014 Plans:

	Options	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Term (Years)	Aggregate Intrinsic Value (In thousands)
Outstanding as of January 1, 2017	4,841,274	\$ 7.78		
Granted	1,405,054	\$ 3.28		
Exercised	(2,889)	\$ 1.84		
Forfeited and expired	(159,957)	\$ 7.38		
Outstanding as of December 31, 2017	6,083,482	\$ 6.76	7.0	\$ 6,709
Options vested and expected to vest as of December 31, 2017	5,980,525	\$ 6.79	6.9	\$ 6,530
Options exercisable as of December 31, 2017	3,562,490	\$ 7.94	5.7	\$ 2,491

The aggregate intrinsic value of options is calculated as the difference between the exercise price of the options and the fair value of our common stock for those shares that had exercise prices lower than the fair value of our common stock as of December 31, 2017. The number of options vested and expected to vest is calculated as the total number of options vested plus the number of unvested options remaining after applying our estimated forfeiture rate.

The following table summarizes information about stock options (in thousands):

	Year Ended December 31,		
	2017	2016	2015
Aggregate intrinsic value of options exercised	\$ 10	\$ 39	\$ 1,235

We have not capitalized any stock based-compensation into the cost of inventory nor have we recognized an income tax benefit from the exercise of any stock options as we continue to record a full valuation allowance on our deferred tax assets.

Stock-based Compensation Expense

The weighted-average grant date fair value of stock options granted to employees and directors during the years ended December 31, 2017, 2016 and 2015 was \$2.34, \$5.70 and \$5.81, respectively. The following are the ranges of underlying assumptions used to determine the fair value of stock options granted to employees and non-employees:

	Years Ended December 31,		
	2017	2016	2015
Employees and Directors:			
Risk-free interest rate	1.5% - 2.0%	1.5% - 1.7%	1.7% - 1.9%
Expected dividend yield	—%	—%	—%
Expected volatility	82% - 85%	77% - 86%	73% - 92%
Expected term of options (years)	5.9 - 6.1	5.9 - 6.0	5.8 - 6.0
Range of common stock value	\$2.75 - \$5.80	\$5.90 - \$8.97	\$4.57 - \$26.71
Non-Employees:			
Risk-free interest rate	1.0% - 2.1%	0.5% - 1.9%	0.1% - 1.9%
Expected dividend yield	—%	—%	—%
Expected volatility	66% - 84%	77% - 97%	56% - 94%
Expected term of options (years)	0.5 - 4.5	0.2 - 5.5	0.3 - 6.0
Range of common stock value	\$2.90 - \$5.95	\$4.35 - \$9.07	\$4.04 - \$25.01

The following tables summarize the allocation of stock-based compensation expense to employees and non-employees (in thousands):

	Years Ended December 31,		
	2017	2016	2015
Employees and Directors:			
Research and development	\$ 1,645	\$ 1,758	\$ 1,412
General and administrative	3,742	2,751	2,012
Total	<u>\$ 5,387</u>	<u>\$ 4,509</u>	<u>\$ 3,424</u>
Non-Employees:			
Research and development	\$ 93	\$ 153	\$ 490
General and administrative	—	16	115
Total	<u>\$ 93</u>	<u>\$ 169</u>	<u>\$ 605</u>

As of December 31, 2017, there was \$6.2 million and \$449,000 of total compensation cost related to unvested employee and non-employee stock option awards, respectively, not yet recognized. The fair value of the non-employee stock options is re-measured at each reporting date and, accordingly, the expense to be recognized will change, primarily with changes in the market value of our common stock. Stock-based compensation expense for employee and non-employee stock option awards is expected to be recognized over a remaining weighted-average vesting period of 1.7 years and 2.1 years, respectively. Immediately following the transition described in note 10 to the consolidated financial statements, as of January 3, 2018, there was \$12.7 million and \$1.3 million of total compensation cost related to unvested employee and non-employee stock option awards, respectively, not yet recognized and expected to be recognized over 2.7 years and 2.0 years, respectively.

8. Income Taxes

Our net loss before income tax was subject to tax in the following jurisdictions for the following periods (in thousands):

	Year Ended December 31,		
	2017	2016	2015
United States	\$ (52,066)	\$ (40,929)	\$ (51,779)
Foreign	(12)	(40)	(244)
	<u>\$ (52,078)</u>	<u>\$ (40,969)</u>	<u>\$ (52,023)</u>

Our rate reconciliation consists of the following:

	Year Ended December 31,		
	2017	2016	2015
Federal statutory rate	35.0 %	35.0 %	35.0 %
State tax (net of federal benefit)	0.0 %	0.1 %	5.8 %
Effects of U.S. tax rate change	(47.6)%	0.0 %	0.0 %
Federal and state tax credits	46.8 %	2.9 %	3.0 %
Uncertain tax positions	(5.3)%	(16.0)%	0.0 %
Stock options	(1.4)%	(1.5)%	(1.0)%
Other	(0.2)%	(2.5)%	0.5 %
Change in valuation allowance	(27.3)%	(18.0)%	(43.3)%
Effective tax rate	<u>0.0 %</u>	<u>0.0 %</u>	<u>0.0 %</u>

Deferred income taxes result from temporary differences between the tax basis of assets and liabilities and their reported amounts in the financial statements that will result in taxable or deductible amounts in future years. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in years in which those temporary differences are expected to be recovered or settled. As tax laws and rates change, deferred tax assets and liabilities are adjusted through income tax expense.

On December 22, 2017, H.R. 1/Public Law No. 115-97 known as the Tax Cuts and Jobs Act, or the Tax Act, was signed into law. The effects of this new federal legislation are recognized upon enactment, which is the date a bill is signed into law. The Act includes numerous changes in existing tax law, including a permanent reduction in the federal corporate income tax rate from 35% to 21%. The rate reduction takes effect on January 1, 2018. As a result of the Tax Act, we have revalued our net deferred tax assets as of December 31, 2017 to reflect the rate reduction. We recorded a reduction in our net deferred tax assets of \$24.8 million in the fourth quarter of 2017 related to the revaluation of our net deferred tax assets as a result of the Tax Act; however, the revaluation does not result in any additional net income tax expense as our net deferred tax assets are fully offset by the valuation allowance.

Significant components of our net deferred tax assets are shown below. A valuation allowance has been established as realization of such net deferred tax assets has not met the more likely-than-not threshold requirement. If our judgment changes and it is determined that we will be able to realize these net deferred tax assets, the tax benefits relating to any reversal of the valuation allowance on the net deferred tax assets will be accounted for as a reduction to income tax expense.

	December 31,	
	2017	2016
	(in thousands)	
Deferred tax assets:		
Federal and state tax credits	\$ 43,600	\$ 6,056
Net operating loss carryforwards	35,903	58,722
Stock-based compensation	2,371	2,760
Foreign net operating loss carryforwards	169	256
Other, net	1,809	1,816
Total deferred tax assets	83,852	69,610
Less valuation allowance	(83,852)	(69,610)
	<u>\$ —</u>	<u>\$ —</u>

We have incurred net operating losses each year since inception due to our history as a development stage company with no realized revenues from our planned principal operations. These cumulative operating losses provide significant negative evidence in the determination of whether or not we will be able to realize our deferred tax assets such as our net operating losses and other favorable temporary differences. Our product candidate is in clinical trials, and there can be no assurance that it will ever be approved or that we will generate taxable income. As a result, we have maintained a full valuation allowance against the entire balance of our net deferred tax assets since the date of inception. The valuation allowance increased by \$14.2 million and \$7.3 million for the years ended December 31, 2017 and 2016, respectively.

In 2017, we made the decision to amend our federal tax returns to claim an orphan drug credit for the tax periods from 2013 through 2016. As a result, before consideration of any uncertain tax positions, we recorded orphan drug credit carryforwards of \$34.2 million and reductions to our federal research and development credit and NOL carryforwards tax effect of \$4.5 million and of \$7.3 million, respectively, in 2017.

As of December 31, 2017, we had available net operating loss, or NOL, carryforwards of approximately \$167.7 million and \$200.8 million for federal and state income tax purposes, respectively. These state NOL carryforwards include \$189.8 million in California NOLs generated in 2013 through 2017, which have been determined to be uncertain tax positions and, accordingly, are not included in our deferred tax assets. The federal and unexpired state NOLs begin to expire in 2032. In addition, as of December 31, 2017, before consideration of any uncertain tax positions, we had federal orphan drug, federal research and development, and state research and development tax credit carryforwards of \$43.8 million, \$0.8 million and \$3.6 million, respectively. Certain federal orphan drug tax credits and federal research and development credits begin to expire in 2033 and 2032, respectively, and the state research and development tax credits do not expire. These carryforwards and tax credits are net of the Section 382 and 383 limitations discussed below.

During the year ended December 31, 2017, \$361,000 of NOLs from our Chinese subsidiary expired leaving \$677,000 of NOLs from our Chinese subsidiary as of December 31, 2017. There will be further expirations of this NOL in 2018 and beyond.

Sections 382 and 383 of the Internal Revenue Code, or the IRC, limit a company's ability to utilize certain net operating losses and tax credit carryforwards in the event of a cumulative change in ownership in excess of 50%, as defined. We experienced changes in ownership, as defined in Section 382, in February 2012 and in December 2013. As a result, the deferred tax asset associated with our federal and state net operating loss carryforwards and federal and state tax credits have been reduced based on the Section 382 limitations. The amount of the reduction in our deferred tax assets is based on the estimated amount of the NOL carryforwards and federal and state research credits we believe cannot be used based on the estimated amount of our Section 382 annual limitation. We have reduced our deferred tax assets by \$15.0 million and have estimated that approximately \$58.7 million and \$37.8 million, respectively, of our federal and state NOLs for tax purposes cannot be used in future years as a result of this change in ownership. Additionally, we have estimated that approximately \$2.2 million and \$1.6 million of our federal and state research and development tax credits, respectively, cannot be used in future years due to the Section 382 limitation. We have not experienced any additional changes as defined in Section 382 through December 31, 2017. If additional Section 382 changes occur, limitations against the utilization of net operating losses and tax credits could further impact our future cash flows, but would not impact our 2017 consolidated financial statements, due to the existence of a full valuation allowance against our deferred tax assets.

The following table summarizes the activity related to our uncertain tax positions (in thousands):

	Year Ended December 31,	
	2017	2016
Balance at beginning of year	\$ 16,095	\$ 1,422
Additions based on tax positions related to the current year	5,134	4,408
Changes for prior period tax positions	2,041	10,265
Balance at end of year	\$ 23,270	\$ 16,095

Our uncertain tax positions relate to the apportionment of losses to California and to expenses qualifying for federal and state tax credits. In 2013, California adopted a single factor, sales, for apportioning income and losses to the state. However, we have filed our California state tax returns utilizing a multiple factor apportionment based on salaries, property and sales in the state. This position is based on a prior court ruling supporting the use of the multiple factor apportionment; however, this ruling was overturned by the California Supreme Court in December 2015. The ruling was filed with the U.S. Supreme Court, and in October 2016, the U.S. Supreme Court declined to hear the case. California has no regulations or guidance nor have there been any rulings addressing how a company with no sales should apportion losses to California. As most of our operations are in California, we intend to file our tax returns using a multiple factor apportionment until such time as California provides a ruling or guidance on such an apportionment.

We do not anticipate any significant changes in the amount of uncertain tax positions as of December 31, 2017 over the next twelve months; however, should California rule or provide guidance on apportionment to companies operating in the state, we would again recognize deferred tax assets for NOL carryforwards for losses apportioned to California based on such rule or guidance. Due to the full valuation allowance that we have on our net deferred tax asset balance, there are no uncertain tax positions that would impact the effective tax rate if recognized.

We are subject to U.S. federal, California and various other states and Chinese income taxes. We are no longer subject to U.S. federal or state income tax examination by tax authorities for tax returns filed for the years ended on or before December 31, 2013 and 2012, respectively. However, to the extent allowed by law, the taxing authorities may have the right to examine the period from 2003 through 2017 where NOLs or tax credits were generated and carried forward, and make adjustments to the amount of the NOL or tax credit carryforwards. We are not currently under examination by any federal or state jurisdictions.

9. Selected Quarterly Data (unaudited)

The following financial information reflects all normal recurring adjustments, which are, in the opinion of management, necessary for a fair statement of the results of the interim periods. Summarized quarterly data for 2017 and 2016 are as follows (in thousands, except per share data):

	For the Quarters Ended					
	March 31	June 30	September 30	December 31	Total Year	
2017:						
Operating expenses	\$ 12,687	\$ 12,549	\$ 12,639	\$ 14,780	\$ 52,655	
Net loss	\$ (12,602)	\$ (12,407)	\$ (12,481)	\$ (14,588)	\$ (52,078)	
Basic and diluted net loss per share (1)	\$ (0.39)	\$ (0.29)	\$ (0.30)	\$ (0.35)	\$ (1.31)	
2016:						
Operating expenses	\$ 9,656	\$ 9,546	\$ 10,239	\$ 11,825	\$ 41,266	
Net loss	\$ (9,589)	\$ (9,468)	\$ (10,178)	\$ (11,734)	\$ (40,969)	
Basic and diluted net loss per share (1)	\$ (0.31)	\$ (0.30)	\$ (0.32)	\$ (0.37)	\$ (1.31)	

(1) Net loss per share is computed independently for each of the quarters presented. Therefore, the sum of the quarterly per share calculations will not necessarily equal the annual per share calculation.

10. Chief Executive Officer Transition

On November 30, 2017, the board of directors appointed Russell J. Cox as our Chief Executive Officer with an effective start date of January 3, 2018. Mr. Cox will receive a base salary of \$540,000 annually and a cash signing bonus of \$330,000. Mr. Cox is eligible each year for a target bonus of 50% of his base salary as then in effect. Following his start date, Mr. Cox received a nonstatutory stock option to purchase 1,588,832 shares of our common stock under the Inducement Plan. The option has a 10-year term and an exercise price of \$6.30. The option grant will vest over four years with 25% of the total shares vesting one year from his start date and 1/48th of the total shares vesting monthly for the next three years subject to his continued service.

Dr. Terence E. Winters stepped down from being our chief executive officer, and became a consultant on January 1, 2018. As a part of Dr. Winters' transition and consulting agreements, Dr. Winters' outstanding stock options were modified (i) to extend the period of exercisability for the full term of the option rather than three months from the termination of the consulting agreement, and (ii) to accelerate the vesting of Dr. Winters' stock options, including his performance options to the extent applicable, should we terminate the consulting agreement prior to the end of its term including the renewal period. In the period ended December 31, 2017, we recorded \$525,000 in severance costs and stock-based compensation expense of \$674,000 associated with this stock option modification for Dr. Winters. In future periods, the unvested component of these stock options will be treated in a manner that is consistent with the other options that we have granted to consultants, as is more fully described in note 2 to the consolidated financial statements.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this Annual Report on Form 10-K to be signed on its behalf by the undersigned, thereunto duly authorized.

Vital Therapies, Inc.

Date: March 13, 2018

By: /s/ Russell J. Cox
Russell J. Cox
Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Russell J. Cox and Michael V. Swanson, and each of them, his or her true and lawful attorneys-in-fact, each with full power of substitution, for him or her in any and all capacities, to sign any amendments to this Annual Report on Form 10-K and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact or their substitute or substitutes may do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, this Annual Report on Form 10-K has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Signature	Title	Date
<u>/s/ RUSSELL J. COX</u> Russell J. Cox	Director and Chief Executive Officer (Principal Executive Officer)	March 13, 2018
<u>/s/ MICHAEL V. SWANSON</u> Michael V. Swanson	Executive Vice President and Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	March 13, 2018
<u>/s/ FAHEEM HASNAIN</u> Faheem Hasnain	Chairman	March 13, 2018
<u>/s/ JEAN-JACQUES BIENAIMÉ</u> Jean-Jacques Bienaimé	Director	March 13, 2018
<u>/s/ CHERYL L. COHEN</u> Cheryl L. Cohen	Director	March 13, 2018
<u>/s/ PHILIP M. CROXFORD</u> Philip M. Croxford	Director	March 13, 2018
<u>/s/ DOUGLAS E. GODSHALL</u> Douglas E. Godshall	Director	March 13, 2018
<u>/s/ ERROL R. HALPERIN</u> Errol R. Halperin	Director	March 13, 2018
<u>/s/ J. MICHAEL MILLIS, M.D.</u> J. Michael Millis, M.D.	Director	March 13, 2018
<u>/s/ MUNEEER A. SATTER</u> Muneer A. Satter	Director	March 6, 2018

<div><div>/s/ LOWELL E. SEARS</div><div>Lowell E. Sears</div></div>	Director	March 13, 2018
<div><div>/s/ RANDOLPH C. STEER, M.D., PH.D.</div><div>Randolph C. Steer, M.D., Ph.D.</div></div>	Director	March 13, 2018

TRANSITION AGREEMENT AND RELEASE

This Transition Agreement and Release (“Agreement”) is made by and between Terence E. Winters (“Executive”) and Vital Therapies, Inc. (the “Company”) (collectively referred to as the “Parties” or individually referred to as a “Party”).

RECITALS

WHEREAS, Executive signed an employment letter with the Company on October 31, 2013 (the “Offer Letter”) and a Change of Control and Severance Agreement on October 31, 2013 (the “Severance Agreement”);

WHEREAS, Executive previously signed an Employee Innovations and Proprietary Rights Assignment Agreement with the Company (the “Confidentiality Agreement”);

WHEREAS, Executive previously was granted and continues to hold outstanding stock options to purchase shares of the Company’s common stock (each, an “Option”) that are subject to the terms and conditions of the applicable Company stock plan and the applicable Option agreement (collectively the “Stock Agreements”);

WHEREAS, Executive and the Company have mutually agreed that Executive will separate from employment with the Company effective December 31, 2017 (the “Separation Date”);

WHEREAS, the Parties wish to resolve any and all disputes, claims, complaints, grievances, charges, actions, petitions, and demands that the Executive may have against the Company and any of the Releasees as defined below, including, but not limited to, any and all claims arising out of or in any way related to Executive’s employment with or separation from the Company; and

WHEREAS, Executive has been the Chief Executive Officer of the Company for over 14 years, it is the intent of all Parties to ensure a smooth transition to the new Chief Executive Officer on Executive’s retirement from the Company and to make available the legacy knowledge of Executive under the Consulting Agreement (as defined below), and it being the further intent of the Parties to make the transition amicable and for all parties to act in the best interests of the Company.

NOW, THEREFORE, in consideration of the mutual promises made herein, the Company and Executive hereby agree as follows:

COVENANTS

1. Consideration. In consideration of Executive’s execution and non-revocation of this Agreement and Executive’s fulfillment of all of its terms and conditions the Company agrees as follows:

a. Payment. The Company agrees to pay Executive a total of \$504,700.00 Dollars, at the rate of \$42,508.33 per month, less applicable withholdings, for twelve (12) months beginning on the first regular Company payroll date in accordance with the Company’s regular payroll practices on or following the later of the Effective Date or the Separation Date. For the avoidance of doubt, if the Effective Date is after the Separation Date the first payment made to Executive pursuant to this Section 1.a will include any severance payments that would have otherwise been paid to Executive if the Effective Date was on or before the Separation Date.

b. Health Insurance. The Company shall also pay or otherwise reimburse Executive for the cost of his health insurance premiums (including, but not limited to premiums for the coverage for which the Company has been providing reimbursement) for up to \$1,700 per month for twelve (12) months beginning on the first month following the Effective Date in accordance with the Company's current practices and procedures.

c. Payment of 2017 Bonus. The Company shall pay to Executive 100% of his achieved 2017 performance bonus (if any) based on the achievement of the relevant performance conditions as determined by the Board of Directors pursuant to the Company's 2017 Bonus Program. Such bonus amount will be paid to Executive at the same time that other executives of the Company receive their 2017 bonuses, which is expected to be immediately after the Company's January 2018 Board of Directors' meeting. For the avoidance of doubt, as detailed in the Company's 2017 Bonus Program, participants are required to be employed by the Company at the time bonuses are paid, but this requirement will be waived for Executive pursuant to the terms of this Agreement.

d. Extension of the Post-Termination Option Exercise Period. The Company shall extend the exercise period for each Option to the earlier of: (i) the end of such Option's maximum term or (ii) in connection with a "change in control" (or similar transaction) in accordance with the terms of the applicable Company stock plan governing such Option.

e. Post-Employment Consulting Services. Contingent upon the signing of this Agreement and effective as of the Separation Date, the Company agrees to retain Executive to perform transition services for the Company as a Consultant, in which role Executive shall provide *ad hoc* consulting services (the "Consulting Services") to the Company as an independent contractor pursuant to the terms of the Consulting Agreement attached hereto as **Exhibit A** (the "Consulting Agreement") for the period of time set forth in the Consulting Agreement (such period the "Consulting Period"). Nothing in this Agreement or the Consulting Agreement pertaining to Executive's anticipated role as a Consultant shall in any way be construed to constitute Executive as a continuing agent, employee, officer, executive, or representative of the Company after the Separation Date, but Executive shall perform the services under the Consulting Agreement solely as an independent contractor. There will be no break in Executive's service to the Company between the Separation Date and the commencement of the Consulting Period.

f. Supplemental Release. The Parties agree to execute the release attached hereto as **Exhibit B**, covering the period of time from the Effective Date through the Consulting Period and the termination of the Consulting Agreement (the "Supplemental Release"). If Executive refuses to sign the Supplemental Release, Executive will not receive the additional consideration described in Paragraph 2 of the Supplemental Release.

2. Resignation from Board. Effective as of the Separation Date, Executive hereby resigns from his seat on the Company's Board of Directors (the "Board") and any position he holds as an officer and director of any subsidiary of the Company. Executive also agrees to execute any necessary forms or other documents required to effect such resignation(s) as a matter of state, federal, or foreign law (and a resignation letter that may be required in the event the Company identifies any additional subsidiaries not listed here).

3. Stock. The Parties agree that the Options will continue to vest and remain exercisable in accordance with the terms of the Consulting Agreement (except as amended therein and by Section 1(d) of this Agreement) and the Stock Agreements (except as amended by Section 1(d) of this Agreement).

4. Benefits; Payment of Salary and Receipt of All Benefits. Executive's participation in all benefits and incidents of employment, including, but not limited to, vacation, and paid time off, will cease as of the Separation Date. Executive acknowledges and represents that as of the date Executive signs this Agreement, other than the consideration set forth in this Agreement, the Company has paid or provided all benefits and compensation due to Executive as a result of his employment with the Company that was due or payable on or before the date of signature. For the avoidance of doubt, Executive will be entitled to salary, benefits and expense reimbursement accrued or payable prior to the Separation Date the same as if this Agreement did not exist.

5. Release of Claims. Executive agrees that the foregoing consideration represents settlement in full of all outstanding obligations owed to Executive by the Company and its current and former officers, directors, employees, agents, investors, attorneys, shareholders, administrators, affiliates, benefit plans, plan administrators, professional employer organization or co-employer, insurers, trustees, divisions, and subsidiaries, and predecessor and successor corporations and assigns, (collectively, the "Releasees"). Executive, on Executive's own behalf and on behalf of Executive's respective heirs, family members, executors, agents, and assigns, hereby and forever releases the Releasees from, and agrees not to sue concerning, or in any manner to institute, prosecute, or pursue, any claim, complaint, charge, duty, obligation, demand, or cause of action relating to any matters of any kind, whether presently known or unknown, suspected or unsuspected, that Executive may possess against any of the Releasees arising from any omissions, acts, facts, or damages that have occurred up until and including the Effective Date of this Agreement, including, without limitation:

a. any and all claims relating to or arising from Executive's employment relationship with the Company and the termination of that relationship;

b. any and all claims relating to, or arising from, Executive's right to purchase, or actual purchase of shares of stock of the Company, including, without limitation, any claims for fraud, misrepresentation, breach of fiduciary duty, breach of duty under applicable state corporate law, and securities fraud under any state or federal law;

c. any and all claims for wrongful discharge of employment, termination in violation of public policy, discrimination, harassment, retaliation, breach of contract (both express and implied), breach of covenant of good faith and fair dealing (both express and implied), promissory estoppel, negligent or intentional infliction of emotional distress, fraud, negligent or intentional misrepresentation, negligent or intentional interference with contract or prospective economic advantage, unfair business practices, defamation, libel, slander, negligence, personal injury, assault, battery, invasion of privacy, false imprisonment, conversion, and disability benefits;

d. any and all claims for violation of any federal, state, or municipal statute, including, but not limited to, Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Equal Pay Act, the Fair Labor Standards Act, the Fair Credit Reporting Act, the Age Discrimination in Employment Act of 1967, the Older Workers Benefit Protection Act, the Employee Retirement Income Security Act of 1974, the Worker Adjustment and Retraining Notification Act, the Family and Medical Leave Act, the Sarbanes-Oxley Act of 2002, Immigration Reform and Control Act, the California Family Rights Act, the California Labor Code, the California Workers' Compensation Act, the California Fair Employment and Housing Act, the Arizona Civil Rights Act, the Arizona Employment Protection Act, the Arizona Wage Payment Law, the Arizona Equal Wages Act, the Arizona Workplace Harassment Law, and the Arizonians with Disabilities Act;

- e. any and all claims for violation of the federal or any state constitution;
- f. any and all claims arising out of any other laws and regulations relating to employment or employment discrimination;
- g. any claim for any loss, cost, damage, or expense arising out of any dispute over the nonwithholding or other tax treatment of any of the proceeds received by Executive as a result of this Agreement; and
- h. any and all claims for attorneys' fees and costs.

Executive agrees that the release set forth in this section shall be and remain in effect in all respects as a complete general release as to the matters released. This release does not extend to any obligations incurred under this Agreement. This release does not extend to any right Executive may have to unemployment compensation benefits. **This release does not release claims that cannot be released as a matter of law, including any Protected Activity (as defined below) or any indemnification rights available under any indemnification agreement or other agreement between Executive and the Company, Company Bylaws, or under applicable law.** Any and all disputed wage claims that are released herein shall be subject to binding arbitration as noted herein, except as required by applicable law.

6. Acknowledgment of Waiver of Claims under ADEA. Executive acknowledges that Executive is waiving and releasing any rights Executive may have under the Age Discrimination in Employment Act of 1967 ("ADEA"), and that this waiver and release is knowing and voluntary. Executive agrees that this waiver and release does not apply to any rights or claims that may arise under the ADEA after the Effective Date of this Agreement. Executive acknowledges that the consideration given for this waiver and release is in addition to anything of value to which Executive was already entitled. Executive further acknowledges that Executive has been advised by this writing that: (a) Executive should consult with an attorney prior to executing this Agreement; (b) Executive has twenty-one (21) days within which to consider this Agreement; (c) Executive has seven (7) days following Executive's execution of this Agreement to revoke this Agreement; (d) this Agreement shall not be effective until after the revocation period has expired; and (e) nothing in this Agreement prevents or precludes Executive from challenging or seeking a determination in good faith of the validity of this waiver under the ADEA, nor does it impose any condition precedent, penalties, or costs for doing so, unless specifically authorized by federal law. In the event Executive signs this Agreement and returns it to the Company in less than the 21-day period identified above, Executive hereby acknowledges that Executive has freely and voluntarily chosen to waive the time period allotted for considering this Agreement. Executive acknowledges and understands that revocation must be accomplished by a written notification to the person executing this Agreement on the Company's behalf that is received prior to the Effective Date. The Parties agree that changes, whether material or immaterial, do not restart the running of the 21-day period.

7. Unknown Claims; California Civil Code Section 1542. Executive acknowledges that Executive has been advised to consult with legal counsel and is familiar with the principle that a general release does not extend to claims that the releaser does not know or suspect to exist in Executive's favor at the time of executing the release, which, if known by Executive, must have materially affected Executive's settlement with the release and the provisions of California Civil Code Section 1542, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR

AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Executive, being aware of said code section, agrees to expressly waive any rights Executive may have thereunder, as well as under any other statute or common law principles of similar effect.

8. No Cooperation. Subject to paragraph 9 governing Protected Activity, Executive agrees that Executive will not knowingly encourage, counsel, or assist any attorneys or their clients in the presentation or prosecution of any disputes, differences, grievances, claims, charges, or complaints by any third party against any of the Releasees, in all cases, unless under a subpoena or other court order to do so or as related directly to the ADEA waiver in this Agreement. Executive agrees both to immediately notify the Company upon receipt of any such subpoena or court order, and to furnish, within three (3) business days of its receipt, a copy of such subpoena or other court order. If approached by anyone for counsel or assistance in the presentation or prosecution of any disputes, differences, grievances, claims, charges, or complaints against any of the Releasees, Executive shall state no more than that Executive cannot provide counsel or assistance. For the avoidance doubt, the restrictions in this paragraph shall not prevent Executive from serving as an employment reference to any existing or former employee of the Company.

9. Protected Activity Not Prohibited. Executive understands that nothing in this Agreement shall in any way limit or prohibit Executive from engaging in any Protected Activity. For purposes of this Agreement, "Protected Activity" shall mean filing a charge, complaint, or report with, or otherwise communicating, cooperating, or participating in any investigation or proceeding that may be conducted by, any federal, state or local government agency or commission, including the Securities and Exchange Commission, the Equal Employment Opportunity Commission, the Occupational Safety and Health Administration, and the National Labor Relations Board ("Government Agencies"). Executive understands that in connection with such Protected Activity, Executive is permitted to disclose documents or other information as permitted by law, and without giving notice to, or receiving authorization from, the Company. Notwithstanding the foregoing, Executive agrees to take all reasonable precautions to prevent any unauthorized use or disclosure of any information that may constitute Company confidential information under the Confidentiality Agreement to any parties other than the Government Agencies. Executive further understands that "Protected Activity" does not include the disclosure of any Company attorney-client privileged communications. Any language in the Confidentiality Agreement regarding Executive's right to engage in Protected Activity that conflicts with, or is contrary to, this paragraph is superseded by this Agreement. In addition, pursuant to the Defend Trade Secrets Act of 2016, Executive is notified that an individual will not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that (i) is made in confidence to a federal, state, or local government official (directly or indirectly) or to an attorney *solely* for the purpose of reporting or investigating a suspected violation of law, or (ii) is made in a complaint or other document filed in a lawsuit or other proceeding, if (and only if) such filing is made under seal. In addition, an individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the individual's attorney and use the trade secret information in the court proceeding, if the individual files any document containing the trade secret under seal and does not disclose the trade secret, except pursuant to court order.

10. Mutual Nondisparagement. Subject to paragraph 9 governing Protected Activity, Executive agrees to refrain from any disparagement, defamation, libel, or slander of any of the Releasees, and agrees to refrain from any tortious interference with the contracts and relationships of any of the Releasees. Executive shall direct any inquiries by potential future employers to the Company's human resources department. The Company agrees to refrain from any disparaging statements about Executive. The Company's obligations

under this paragraph extend only to the Company's current executive officers and members of its Board of Directors and only for so long as each officer or member is an employee or Director of the Company.

11. Breach. In addition to the rights provided in the "Attorneys' Fees" section below, Executive acknowledges and agrees that any material breach of this Agreement by Executive, unless such breach constitutes a legal action by Executive challenging or seeking a determination in good faith of the validity of the waiver herein under the ADEA, or of any provision of the Confidentiality Agreement shall entitle the Company to cease providing the consideration provided to Executive under this Agreement, including the Consulting Agreement, and to obtain damages, except as provided by law.

12. ARBITRATION. THE PARTIES AGREE THAT ANY AND ALL DISPUTES ARISING OUT OF THE TERMS OF THIS AGREEMENT, THEIR INTERPRETATION, AND ANY OF THE MATTERS HEREIN RELEASED, SHALL BE SUBJECT TO ARBITRATION IN THE COUNTY IN WHICH EMPLOYEE RESIDES, BEFORE THE JUDICIAL ARBITRATION AND MEDIATION SERVICE ("JAMS") UNDER ITS COMPREHENSIVE ARBITRATION RULES ("JAMS RULES") AND ARIZONA LAW. THE ARBITRATOR MAY GRANT INJUNCTIONS AND OTHER RELIEF IN SUCH DISPUTES. THE ARBITRATOR SHALL ADMINISTER AND CONDUCT ANY ARBITRATION IN ACCORDANCE WITH ARIZONA LAW, AND THE ARBITRATOR SHALL APPLY SUBSTANTIVE AND PROCEDURAL ARIZONA LAW TO ANY DISPUTE OR CLAIM, WITHOUT REFERENCE TO ANY CONFLICT-OF-LAW PROVISIONS OF ANY JURISDICTION. TO THE EXTENT THAT THE JAMS RULES CONFLICT WITH ARIZONA LAW, ARIZONA LAW SHALL TAKE PRECEDENCE. THE DECISION OF THE ARBITRATOR SHALL BE FINAL, CONCLUSIVE, AND BINDING ON THE PARTIES TO THE ARBITRATION. THE PARTIES AGREE THAT THE PREVAILING PARTY IN ANY ARBITRATION SHALL BE ENTITLED TO INJUNCTIVE RELIEF IN ANY COURT OF COMPETENT JURISDICTION TO ENFORCE THE ARBITRATION AWARD. THE PARTIES TO THE ARBITRATION SHALL EACH PAY HALF THE COSTS AND EXPENSES OF SUCH ARBITRATION, AND EACH PARTY SHALL SEPARATELY PAY FOR ITS RESPECTIVE COUNSEL FEES AND EXPENSES; PROVIDED, HOWEVER, THAT THE ARBITRATOR SHALL AWARD ATTORNEYS' FEES AND COSTS TO THE PREVAILING PARTY, EXCEPT AS PROHIBITED BY LAW. THE PARTIES AGREE THAT PUNITIVE DAMAGES SHALL BE UNAVAILABLE IN ARBITRATION. THE PARTIES HEREBY AGREE TO WAIVE THEIR RIGHT TO HAVE ANY DISPUTE BETWEEN THEM RESOLVED IN A COURT OF LAW BY A JUDGE OR JURY. NOTWITHSTANDING THE FOREGOING, THIS SECTION WILL NOT PREVENT EITHER PARTY FROM SEEKING INJUNCTIVE RELIEF (OR ANY OTHER PROVISIONAL REMEDY) FROM ANY COURT HAVING JURISDICTION OVER THE PARTIES AND THE SUBJECT MATTER OF THEIR DISPUTE RELATING TO THIS AGREEMENT AND THE AGREEMENTS INCORPORATED HEREIN BY REFERENCE. SHOULD ANY PART OF THE ARBITRATION AGREEMENT CONTAINED IN THIS PARAGRAPH CONFLICT WITH ANY OTHER ARBITRATION AGREEMENT BETWEEN THE PARTIES, THE PARTIES AGREE THAT THIS ARBITRATION AGREEMENT SHALL GOVERN.

13. Tax Consequences. The Company makes no representations or warranties with respect to the tax consequences of the payments and any other consideration provided to Executive or made on Executive's behalf under the terms of this Agreement. Executive agrees and understands that Executive is responsible for payment, if any, of local, state, and/or federal taxes on the payments and any other consideration provided hereunder by the Company and any penalties or assessments thereon. Executive further agrees to indemnify and hold the Releasees harmless from any claims, demands, deficiencies, penalties, interest, assessments, executions, judgments, or recoveries by any government agency against the Company for any amounts claimed due on account of (a) Executive's failure to pay or delayed payment of federal or state taxes, or (b) damages sustained by the Company by reason of any such claims, including

attorneys' fees and costs. It is intended that this Agreement comply with, or be exempt from, Code Section 409A and the final regulations and official guidance thereunder ("Section 409A") and any ambiguities herein will be interpreted to so comply and/or be exempt from Section 409A. Each payment and benefit to be paid or provided under this Agreement is intended to constitute a series of separate payments for purposes of Section 1.409A-2(b)(2) of the Treasury Regulations. The Company and Executive will work together in good faith to consider either (i) amendments to this Agreement; or (ii) revisions to this Agreement with respect to the payment of any awards, which are necessary or appropriate to avoid imposition of any additional tax or income recognition prior to the actual payment to Executive under Section 409A.

14. Attorneys' Fees. Except with regard to a legal action challenging or seeking a determination in good faith of the validity of the waiver herein under the ADEA, in the event that either Party brings an action to enforce or effect its rights under this Agreement, the prevailing Party shall be entitled to recover its costs and expenses, including the costs of mediation, arbitration, litigation, court fees, and reasonable attorneys' fees incurred in connection with such an action. The Company agrees to pay or otherwise reimburse Executive for the costs of negotiating the Agreement, Consulting Agreement, and Supplemental Release, in accordance with the Company's expense policy.

15. Entire Agreement; No Oral Modification. This Agreement represents the entire agreement and understanding between the Company and Executive concerning the subject matter of this Agreement and Executive's employment with and separation from the Company and the events leading thereto and associated therewith, and supersedes and replaces any and all prior agreements and understandings concerning the subject matter of this Agreement and Executive's relationship with the Company, with the exception of the Confidentiality Agreement (to which the Executive reaffirms and agrees to observe and abide by the terms) and the Stock Agreements (except as otherwise modified or superseded herein), or any indemnification rights available under any indemnification agreement or other agreement between Executive and the Company, Company Bylaws, or under applicable law (in all cases, except as modified by Section 18 of this Agreement). This Agreement may only be amended in a writing signed by Executive and the Company's Chair of the Board of Directors.

16. Governing Law. This Agreement shall be governed by the laws of the State of Arizona, without regard for choice-of-law provisions. Executive and the Company each consents to personal and exclusive jurisdiction and venue in the State of Arizona.

17. Effective Date. Executive understands that this Agreement shall be null and void if not executed by Executive within twenty one (21) days. Each Party has seven (7) days after that Party signs this Agreement to revoke it. This Agreement will become effective on the eighth (8th) day after Executive signed this Agreement, so long as it has been signed by the Parties and has not been revoked by either Party before that date (the "Effective Date").

18. Indemnification and D&O Insurance. The Company agrees to indemnify Executive to the maximum extent permitted by the Company's Bylaws or under any indemnification agreement or other agreement between Executive and the Company as in effect on the Separation Date.. The Company will maintain a Directors or Officers Insurance Policy covering Executive on terms no less favorable than provided to any of the Company's current officers or directors, and, in any event, on terms no less favorable than the terms in effect as of the Separation Date, and subject further to the terms of any indemnification agreement or other agreement between Executive and the Company as in effect on the Separation Date.

19. Executive's Artwork. The Company acknowledges that Executive is entitled to the artwork listed on Schedule 1, but Executive agrees to leave such artwork on display at the Company until he decides to remove it in his discretion.

20. Voluntary Execution of Agreement. Executive understands and agrees that Executive executed this Agreement voluntarily, without any duress or undue influence on the part or behalf of the Company or any third party, with the full intent of releasing all of Executive's claims against the Company and any of the other Releasees. Executive acknowledges that:

- (a) Executive has read this Agreement;
- (b) Executive has been represented in the preparation, negotiation, and execution of this Agreement by legal counsel of Executive's own choice or has elected not to retain legal counsel;
- (c) Executive understands the terms and consequences of this Agreement and of the releases it contains;
- (d) Executive is fully aware of the legal and binding effect of this Agreement; and
- (e) Executive has not relied upon any representations or statements made by the Company that are not specifically set forth in this Agreement.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the respective dates set forth below.

TERENCE E. WINTERS, an individual

Dated: December 4, 2017 /s/ Terence E. Winters

Terence E. Winters

VITAL THERAPIES, INC.

Dated: December 4, 2017 By /s/ Michael V. Swanson

Michael V. Swanson

Chief Financial Officer, Executive Vice President

Schedule 1

The artwork includes the following:

- Oriental painting in the foyer of 15222 Avenue of Science
- All the Chinese works displayed in the chief executive's office
- Three modern paintings of a meandering river in the corridor outside the chief executive's office
- Photo of the Durango train outside the chief executive's office

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EXHIBIT A

VITAL THERAPIES, INC. CONSULTING AGREEMENT

This Consulting Agreement (this “**Agreement**”) is made and entered into as of January 1, 2018 (the “**Effective Date**”) by and between Vital Therapies, Inc. (the “**Company**”), and Terence E. Winters, an individual (“**Consultant**”) (each herein referred to individually as a “**Party**,” or collectively as the “**Parties**”). The Company desires to retain Consultant as an independent contractor to perform consulting services for the Company, and Consultant is willing to perform such services, on the terms described below. In consideration of the mutual promises contained herein, the Parties agree as follows:

1. Services and Compensation

Consultant shall perform the services described in **Exhibit A-1** (the “**Services**”) for the Company (or its designee), and the Company agrees to pay Consultant the compensation described in **Exhibit A** for Consultant’s performance of the Services.

2. Confidentiality

A. **Definition of Confidential Information.** “**Confidential Information**” means any information (including any and all combinations of individual items of information) that relates to the actual or anticipated business and/or products, research or development of the Company, its affiliates or subsidiaries, or to the Company’s, its affiliates’ or subsidiaries’ technical data, trade secrets, or know-how, including, but not limited to, research, product plans, or other information regarding the Company’s, its affiliates’ or subsidiaries’ products or services and markets therefor, customer lists and customers (including, but not limited to, customers of the Company on whom Consultant called or with whom Consultant became acquainted during the term of this Agreement), software, developments, inventions, discoveries, ideas, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances, and other business information disclosed by the Company, its affiliates or subsidiaries, either directly or indirectly, in writing, orally or by drawings or inspection of premises, parts, equipment, or other property of Company, its affiliates or subsidiaries. Notwithstanding the foregoing, Confidential Information shall not include any such information which (i) was publicly known or made generally available prior to the time of disclosure to Consultant; (ii) becomes publicly known or made generally available after disclosure to Consultant through no wrongful action or inaction of Consultant; or (iii) is in the rightful possession of Consultant, without confidentiality obligations, at the time of disclosure as shown by Consultant’s then-contemporaneous written records; provided that any combination of individual items of information shall not be deemed to be within any of the foregoing exceptions merely because one or more of the individual items are within such exception, unless the combination as a whole is within such exception.

B. **Nonuse and Nondisclosure.** During and after the term of this Agreement, Consultant will hold in the strictest confidence, and take all reasonable precautions to prevent any unauthorized use or disclosure of Confidential Information, and Consultant will not (i) use the Confidential Information for any purpose whatsoever other than as necessary for the performance of the Services on behalf of the Company, or (ii) subject to Consultant’s right to engage in Protected Activity (as defined below), disclose the Confidential Information to any third party without the prior written consent of an authorized representative of the Company, except that Consultant may disclose Confidential Information to the extent compelled by applicable law; *provided however*, prior to such disclosure, Consultant shall provide prior written notice to Company and will cooperate with the Company if it seeks a protective order or such similar confidential

protection as may be available under applicable law. Consultant agrees that no ownership of Confidential Information is conveyed to the Consultant. Without limiting the foregoing, Consultant shall not use or disclose any Company property, intellectual property rights, trade secrets or other proprietary know-how of the Company to invent, author, make, develop, design, or otherwise enable others to invent, author, make, develop, or design identical or substantially similar designs as those developed under this Agreement for any third party. Consultant agrees that Consultant's obligations under this Section 2.B shall continue after the termination of this Agreement.

C. **Other Client Confidential Information.** Consultant agrees that Consultant will not improperly use, disclose, or induce the Company to use any proprietary information or trade secrets of any former or current employer of Consultant or other person or entity with which Consultant has an obligation to keep in confidence. Consultant also agrees that Consultant will not bring onto the Company's premises or transfer onto the Company's technology systems any unpublished document, proprietary information, or trade secrets belonging to any third party unless disclosure to, and use by, the Company has been consented to in writing by such third party.

D. **Third Party Confidential Information.** Consultant recognizes that the Company has received and in the future will receive from third parties their confidential or proprietary information subject to a duty on the Company's part to maintain the confidentiality of such information and to use it only for certain limited purposes. Consultant agrees that at all times during the term of this Agreement and thereafter, Consultant owes the Company and such third parties a duty to hold all such confidential or proprietary information in the strictest confidence and not to use it or to disclose it to any person, firm, corporation, or other third party except as necessary in carrying out the Services for the Company consistent with the Company's agreement with such third party.

3. Ownership

A. **Assignment of Inventions.** Consultant agrees that all right, title, and interest in and to any copyrightable material, notes, records, drawings, designs, inventions, improvements, developments, discoveries, ideas and trade secrets conceived, discovered, authored, invented, developed or reduced to practice by Consultant, solely or in collaboration with others, during the term of this Agreement and arising out of, or in connection with, performing the Services under this Agreement and any copyrights, patents, trade secrets, mask work rights or other intellectual property rights relating to the foregoing (collectively, "**Inventions**"), are the sole property of the Company. Consultant also agrees to promptly make full written disclosure to the Company of any Inventions and to deliver and assign (or cause to be assigned) and hereby irrevocably assigns fully to the Company all right, title and interest in and to the Inventions.

B. **Pre-Existing Materials.** Subject to Section 3.A, Consultant will provide the Company with prior written notice if, in the course of performing the Services, Consultant incorporates into any Invention or utilizes in the performance of the Services any invention, discovery, idea, original works of authorship, development, improvements, trade secret, concept, or other proprietary information or intellectual property right owned by Consultant or in which Consultant has an interest, prior to, or separate from, performing the Services under this Agreement ("**Prior Inventions**"), and the Company is hereby granted a nonexclusive, royalty-free, perpetual, irrevocable, transferable, worldwide license (with the right to grant and authorize sublicenses) to make, have made, use, import, offer for sale, sell, reproduce, distribute, modify, adapt, prepare derivative works of, display, perform, and otherwise exploit such Prior Inventions, without restriction, including, without limitation, as part of or in connection with such Invention, and to practice any method related thereto. Consultant will not incorporate any invention, discovery, idea, original works of

authorship, development, improvements, trade secret, concept, or other proprietary information or intellectual property right owned by any third party into any Invention without Company's prior written permission.

C. **Moral Rights.** Any assignment to the Company of Inventions includes all rights of attribution, paternity, integrity, modification, disclosure and withdrawal, and any other rights throughout the world that may be known as or referred to as "moral rights," "artist's rights," "droit moral," or the like (collectively, "**Moral Rights**"). To the extent that Moral Rights cannot be assigned under applicable law, Consultant hereby waives and agrees not to enforce any and all Moral Rights, including, without limitation, any limitation on subsequent modification, to the extent permitted under applicable law.

D. **Maintenance of Records.** Consultant agrees to keep and maintain adequate, current, accurate, and authentic written records of all Inventions made by Consultant (solely or jointly with others) during the term of this Agreement, and for a period of three (3) years thereafter. The records will be in the form of notes, sketches, drawings, electronic files, reports, or any other format that is customary in the industry and/or otherwise specified by the Company. Such records are and remain the sole property of the Company at all times and upon Company's request, Consultant shall deliver (or cause to be delivered) the same.

E. **Further Assurances.** Consultant agrees to assist Company, or its designee, at the Company's expense, in every proper way to secure the Company's rights in Inventions in any and all countries, including the disclosure to the Company of all pertinent information and data with respect thereto, the execution of all applications, specifications, oaths, assignments and all other instruments that the Company may deem necessary in order to apply for, register, obtain, maintain, defend, and enforce such rights, and in order to deliver, assign and convey to the Company, its successors, assigns and nominees the sole and exclusive right, title, and interest in and to all Inventions and testifying in a suit or other proceeding relating to such Inventions. Consultant further agrees that Consultant's obligations under this Section 3.E shall continue after the termination of this Agreement.

F. **Attorney-in-Fact.** Consultant agrees that, if the Company is unable because of Consultant's unavailability, dissolution, mental or physical incapacity, or for any other reason, to secure Consultant's signature with respect to any Inventions, including, without limitation, for the purpose of applying for or pursuing any application for any United States or foreign patents or mask work or copyright registrations covering the Inventions assigned to the Company in Section 3.A, then Consultant hereby irrevocably designates and appoints the Company and its duly authorized officers and agents as Consultant's agent and attorney-in-fact, to act for and on Consultant's behalf to execute and file any papers and oaths and to do all other lawfully permitted acts with respect to such Inventions to further the prosecution and issuance of patents, copyright and mask work registrations with the same legal force and effect as if executed by Consultant. This power of attorney shall be deemed coupled with an interest, and shall be irrevocable.

4. Conflicting Obligations

Consultant represents and warrants that Consultant has no agreements, relationships, or commitments to any other person or entity that conflict with the provisions of this Agreement, Consultant's obligations to the Company under this Agreement, and/or Consultant's ability to perform the Services. Consultant will not enter into any such conflicting agreement during the term of this Agreement.

5. Term and Termination

A. **Term.** The term of this Agreement will begin on the Effective Date of this Agreement and will continue until the earlier of (i) the one (1) year anniversary of the Effective Date or (ii) termination

as provided in Section 5.B. This Agreement will automatically renew for another twelve (12) month period unless either Party advises the other Party in writing of intent not to renew at least 30 days prior to the scheduled termination date.

B. **Termination.** The Company and Consultant may each terminate this Agreement upon giving the other Party fourteen (14) days prior written notice of such termination pursuant to Section 12.G of this Agreement. The Company may terminate this Agreement immediately and without prior notice if Consultant refuses to or is unable to perform the Services, except for reasonable obligations or health issues, or is in breach of any material provision of this Agreement, provided that Consultant is given written notice of breach and has not cured the breach within 30 days after such notice.

C. **Survival.** Upon any termination, all rights and duties of the Company and Consultant toward each other shall cease except:

(1) The Company will pay, within thirty (30) days after the effective date of termination, all amounts owing to Consultant for Services completed prior to the termination date and related reimbursable expenses, if any, submitted in accordance with the Company's policies and in accordance with the provisions of Section 1 of this Agreement; and

(2) Section 2 (Confidentiality), Section 3 (Ownership), Section 4 (Conflicting Obligations), Section 5 (Term and Termination), Section 6 (Independent Contractor; Benefits), Section 7 (Arbitration and Equitable Relief), and Section 8 (Miscellaneous) will survive termination or expiration of this Agreement in accordance with their terms.

6. Independent Contractor; Benefits

A. **Independent Contractor.** It is the express intention of the Company and Consultant that Consultant perform the Services as an independent contractor to the Company. Nothing in this Agreement shall in any way be construed to constitute Consultant as an agent, employee or representative of the Company. Without limiting the generality of the foregoing, Consultant is not authorized to bind the Company to any liability or obligation or to represent that Consultant has any such authority. Consultant acknowledges and agrees that Consultant is obligated to report as income all compensation received by Consultant pursuant to this Agreement. Consultant agrees to and acknowledges the obligation to pay all self-employment and other taxes on such income.

B. **Benefits.** The Company and Consultant agree that Consultant will receive no Company-sponsored benefits from the Company where benefits include, but are not limited to, paid vacation, sick leave, medical insurance and 401k participation. If Consultant is reclassified by a state or federal agency or court as the Company's employee, Consultant will become a reclassified employee and will receive no benefits from the Company, except those mandated by state or federal law, even if by the terms of the Company's benefit plans or programs of the Company in effect at the time of such reclassification, Consultant would otherwise be eligible for such benefits.

7. Arbitration and Equitable Relief. IN CONSIDERATION OF CONSULTANT'S CONSULTING RELATIONSHIP WITH THE COMPANY, ITS PROMISE TO ARBITRATE ALL DISPUTES RELATED TO CONSULTANT'S CONSULTING RELATIONSHIP WITH THE COMPANY AND CONSULTANT'S RECEIPT OF THE COMPENSATION AND OTHER BENEFITS PAID TO CONSULTANT BY COMPANY, AT PRESENT AND IN THE FUTURE, CONSULTANT AGREES THAT ANY AND ALL CONTROVERSIES, CLAIMS, OR DISPUTES WITH ANYONE (INCLUDING COMPANY AND ANY EMPLOYEE, OFFICER, DIRECTOR, SHAREHOLDER OR BENEFIT PLAN

OF THE COMPANY IN THEIR CAPACITY AS SUCH OR OTHERWISE), ARISING OUT OF, RELATING TO, OR RESULTING FROM CONSULTANT'S CONSULTING OR OTHER RELATIONSHIP WITH THE COMPANY OR THE TERMINATION OF CONSULTANT'S CONSULTING OR OTHER RELATIONSHIP WITH THE COMPANY, INCLUDING ANY BREACH OF THIS AGREEMENT, SHALL BE SUBJECT TO BINDING ARBITRATION PURSUANT TO THE ARBITRATION PROVISION AGREED TO IN SECTION 12 OF THE TRANSITION AGREEMENT AND RELEASE, DATED DECEMBER 4, 2017 BY AND BETWEEN CONSULTANT AND THE COMPANY, EXCEPT AS OTHERWISE PROHIBITED BY LAW.

8. Miscellaneous

A. **Governing Law; Consent to Personal Jurisdiction.** This Agreement shall be governed by the laws of the State of Arizona, without regard to the conflicts of law provisions of any jurisdiction. To the extent that any lawsuit is permitted under this Agreement, the Parties hereby expressly consent to the personal and exclusive jurisdiction and venue of the state and federal courts located in Arizona.

B. **Assignability.** This Agreement will be binding upon Consultant's heirs, executors, assigns, administrators, and other legal representatives, and will be for the benefit of the Company, its successors, and its assigns. There are no intended third-party beneficiaries to this Agreement, except as expressly stated. Except as may otherwise be provided in this Agreement, Consultant may not sell, assign or delegate any rights or obligations under this Agreement. Notwithstanding anything to the contrary herein, Company may assign this Agreement and its rights and obligations under this Agreement to any successor to all or substantially all of Company's relevant assets, whether by merger, consolidation, reorganization, reincorporation, sale of assets or stock, change of control or otherwise.

C. **Entire Agreement.** This Agreement constitutes the entire agreement and understanding between the Parties with respect to the subject matter herein and supersedes all prior written and oral agreements, discussions, or representations between the Parties. Consultant represents and warrants that Consultant is not relying on any statement or representation not contained in this Agreement. To the extent any terms set forth in any exhibit or schedule conflict with the terms set forth in this Agreement, the terms of this Agreement shall control unless otherwise expressly agreed by the Parties in such exhibit or schedule.

D. **Headings.** Headings are used in this Agreement for reference only and shall not be considered when interpreting this Agreement.

E. **Severability.** If a court or other body of competent jurisdiction finds, or the Parties mutually believe, any provision of this Agreement, or portion thereof, to be invalid or unenforceable, such provision will be enforced to the maximum extent permissible so as to effect the intent of the Parties, and the remainder of this Agreement will continue in full force and effect.

F. **Modification, Waiver.** No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, will be effective unless in a writing signed by the Parties. Waiver by the Company or Consultant of a breach of any provision of this Agreement will not operate as a waiver of any other or subsequent breach.

G. **Notices.** Any notice or other communication required or permitted by this Agreement to be given to a Party shall be in writing and shall be deemed given (i) if delivered personally or by commercial messenger or courier service, (ii) when sent by confirmed facsimile, or (iii) if mailed by U.S. registered or certified mail (return receipt requested), to the Party at the Party's address written below or at such other

address as the Party may have previously specified by like notice. If by mail, delivery shall be deemed effective three business days after mailing in accordance with this Section 12.G.

- (1) If to the Company, to:
15010 Avenue of Science, San Diego, CA 92128
Attention: Chief Executive Officer

(2) If to Consultant, to the address for notice on the signature page to this Agreement or, if no such address is provided, to the last address of Consultant provided by Consultant to the Company.

H. **Attorneys' Fees.** In any court action at law or equity that is brought by one of the Parties to this Agreement to enforce or interpret the provisions of this Agreement, the prevailing Party will be entitled to reasonable attorneys' fees, in addition to any other relief to which that Party may be entitled.

I. **Signatures.** This Agreement may be signed in two counterparts, each of which shall be deemed an original, with the same force and effectiveness as though executed in a single document.

J. **Protected Activity Not Prohibited.** Consultant understands that nothing in this Agreement shall in any way limit or prohibit Consultant from engaging in any Protected Activity. For purposes of this Agreement, "**Protected Activity**" shall mean filing a charge, complaint, or report with, or otherwise communicating, cooperating, or participating in any investigation or proceeding that may be conducted by, any federal, state or local government agency or commission, including the Securities and Exchange Commission ("**Government Agencies**"). Consultant understands that in connection with such Protected Activity, Consultant is permitted to disclose documents or other information as permitted by law, and without giving notice to, or receiving authorization from, the Company. Notwithstanding the foregoing, Consultant agrees to take all reasonable precautions to prevent any unauthorized use or disclosure of any information that may constitute Company confidential information to any parties other than the Government Agencies. Consultant further understands that "**Protected Activity**" does not include the disclosure of any Company attorney-client privileged communications. Pursuant to the Defend Trade Secrets Act of 2016, Consultant is notified that an individual will not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that (i) is made in confidence to a federal, state, or local government official (directly or indirectly) or to an attorney *solely* for the purpose of reporting or investigating a suspected violation of law, or (ii) is made in a complaint or other document filed in a lawsuit or other proceeding, if (and only if) such filing is made under seal. In addition, an individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the individual's attorney and use the trade secret information in the court proceeding, if the individual files any document containing the trade secret under seal and does not disclose the trade secret, except pursuant to court order.

(signature page follows)

IN WITNESS WHEREOF, the Parties hereto have executed this Consulting Agreement as of the date first written above.

CONSULTANT VITAL THERAPIES, INC.

By: /s/ Terence E. Winters By: /s/ Michael V. Swanson

Name: Terence E. Winters Name: Michael V. Swanson

Title: Chief Financial Officer, EVP

Address for Notice:

Vital Therapies Inc.

15010 Avenue of Science

San Diego, CA 92128

EXHIBIT A-1

SERVICES AND COMPENSATION

1. **Contact.** Consultant's principal Company contact:

Name: Russ Cox

Title: Chief Executive Officer

2. **Services.** The Services will include, but will not be limited to, the following:

Consultant will provide services to the Company as a Special Advisor on an *ad hoc* basis assisting with the transition of duties by providing support and input with respect to VTL-308 phase clinical trial, and engaging in other related services as requested by the Company's Board of Directors (the "Board") and/or the Company's Chief Executive Officer. Consultant will provide Services only upon request, but in no event will Consultant be expected to perform more than 20 hours of Services per month.

3. **Compensation.**

A. Cash Compensation. During the Term of this Agreement, the Company will pay Consultant \$250.00 per hour as a consulting fee. The Company will reimburse Consultant, in accordance with Company policy, for all reasonable expenses incurred by Consultant in performing the Services pursuant to this Agreement, if Consultant receives consent from an authorized agent of the Company prior to incurring such expenses and submits receipts for such expenses to the Company in accordance with Company policy.

B. Equity Compensation. During the Term of this Agreement, Consultant's stock options to purchase shares of the Company's common stock that are outstanding as of the Effective Date will continue to vest and become exercisable in accordance with the terms of the applicable Company equity plan and the applicable Option agreement governing such Option (the "**Stock Agreements**"); provided, however, that if the Company terminates this Agreement before the end of the twelve (12)-month term or declines to renew it at the end of the initial 12 month term, each of Consultant's Options will immediately vest and each Option will become exercisable until the earlier of: (i) the end of such Option's maximum term or (ii) in connection with a "change in control" (or similar transaction) in accordance with the terms of the applicable Company stock plan governing such Option.

All payments provided for under this Agreement are intended to be exempt from or otherwise comply with the requirements of Section 409A of the Internal Revenue Code of 1986, as amended, and the regulations and guidance thereunder (together, "**Section 409A**"), so that none of the payments and benefits to be provided hereunder will be subject to the additional tax imposed under Section 409A, and any ambiguities or ambiguous terms herein will be interpreted to be exempt or so comply. Each payment and benefit payable under this Agreement is intended to constitute a separate payment for purposes of Section 1.409A-2(b)(2) of the Treasury Regulations. In no event will the Company reimburse Consultant for any taxes that may be imposed on Consultant as a result of Section 409A.

This **Exhibit A-1** is accepted and agreed upon as of date first written above.

CONSULTANT **VITAL THERAPIES, INC.**

By: /s/ Terence E. Winters By: /s/ Michael V. Swanson

Name: Terence E. Winters Name: Michael V. Swanson

Title: Chief Financial Officer, EVP

EXHIBIT B
(Supplemental Release)

1. General Release. In consideration of the mutual promises, and consideration provided in the Transition Agreement and Release, dated December 4, 2017 (the “Agreement”), Terence E. Winters (“Consultant”) hereby verifies and confirms his renewed agreement to the terms of that Agreement, including but not limited to the release and waiver of any and all claims relating to the services provided to the Company, and further extends such release and waiver to any claims that may have arisen during the Consulting Period as defined therein, including but not limited to claims under any local ordinance or state or federal employment law, including laws prohibiting discrimination in employment on the basis of race, sex, age, disability, national origin, or religion, as well as any claims for misclassification, wrongful discharge, breach of contract, attorneys’ fees, costs, or any claims of amounts due for fees, commissions, expenses, salary, bonuses, profit sharing or fringe benefits (the “Supplemental Release”). Consultant acknowledges that Consultant is waiving and releasing any rights Consultant may have under the Age Discrimination in Employment Act of 1967 (“ADEA”), and that this waiver and release is knowing and voluntary. Consultant agrees that this waiver and release does not apply to any rights or claims that may arise under the ADEA after the Effective Date of this Supplemental Release. Consultant acknowledges that the consideration given for this waiver and release is in addition to anything of value to which Consultant was already entitled. Consultant further acknowledges that Consultant has been advised by this writing that: (a) Consultant should consult with an attorney prior to executing this Supplemental Release; (b) Consultant has twenty-one (21) days within which to consider this Supplemental Release; (c) Consultant has seven (7) days following Consultant’s execution of this Supplemental Release to revoke this Supplemental Release; (d) this Supplemental Release shall not be effective until after the revocation period has expired; and (e) nothing in this Supplemental Release prevents or precludes Consultant from challenging or seeking a determination in good faith of the validity of this waiver under the ADEA, nor does it impose any condition precedent, penalties, or costs for doing so, unless specifically authorized by federal law. In the event Consultant signs this Supplemental Release and returns it to the Company in less than the 21-day period identified above, Consultant hereby acknowledges that Consultant has freely and voluntarily chosen to waive the time period allotted for considering this Supplemental Release. Consultant acknowledges and understands that revocation must be accomplished by a written notification to the person executing this Supplemental Release on the Company’s behalf that is received prior to the Effective Date. The Parties agree that changes, whether material or immaterial, do not restart the running of the 21-day period.

2. Supplemental Consideration. Contingent on Consultant’s execution and non-revocation of this Supplemental Release, the Company agrees that Consultant may retain Consultant’s laptop and mobile device (together the “Transferred Devices”) provided that all contents on such devices constituting proprietary and Confidential Information (as defined in the Confidentiality Agreement) remains subject to the Confidentiality Agreement. Consultant agrees that the Company retains the right to review and remove any Confidential Information from the Transferred Devices at any time after the Separation Date, and Consultant agrees to use best efforts to permit the Company to ensure the return of any Company information residing on the Transferred Devices in a manner satisfactory to the Company and that he will not delete that information without the Company’s permission. In addition, Consultant will cooperate with the Company to remove from the Transferred Devices any Company-licensed software the Company deems necessary to remove to comply with its licensing obligations.

3. Payment of All Compensation and Fees. Consultant acknowledges and represents that, other than the consideration set forth in this Supplemental Release, the Company has paid or provided all payments, fees, severance, reimbursable expenses, stock, stock options, vesting, and any and all other compensation due to Consultant.

4. ARBITRATION. THE PARTIES AGREE THAT ANY AND ALL DISPUTES ARISING OUT OF THE TERMS OF THE AGREEMENT, THE CONFIDENTIALITY AGREEMENT, OR THIS SUPPLEMENTAL RELEASE, THEIR INTERPRETATION, AND ANY OF THE MATTERS HEREIN

RELEASED, SHALL BE SUBJECT TO ARBITRATION PURSUANT TO THE ARBITRATION PROVISION AGREED TO IN SECTION 14 OF AGREEMENT, EXCEPT AS OTHERWISE PROHIBITED BY LAW.

5. Entire Agreement. The Agreement and this Supplemental Release represent the entire agreement and understanding between the Company and Consultant concerning the subject matter of this Agreement and Consultant's relationship with and separation from the Company and the events leading thereto and associated therewith, and supersedes and replaces any and all prior agreements and understandings concerning the subject matter of this Supplemental Release and Consultant's relationship with the Company, with the exception of the Confidentiality Agreement, the Stock Agreements, any indemnification rights available under any indemnification or other agreement between Consultant and the Company, Company Bylaws, or under applicable law, and the surviving provisions of the Consulting Agreement, except, in all cases, as amended by the Agreement. For purposes of clarity, the arbitration provision of this Supplemental Release (as set forth herein) supersedes and replaces the arbitration provisions in the Agreement.

6. Expiration of Supplemental Release. Consultant understands that this Supplemental Release shall be null and void if not executed by him within twenty-one (21) days following the termination of the Consulting Agreement. This Supplemental Release will become effective on the date it has been signed by both Parties (the "Effective Date").

7. Voluntary Execution of Agreement. Consultant understands and agrees that Consultant executed this Supplemental Release voluntarily, without any duress or undue influence on the part or behalf of the Company or any third party, with the full intent of releasing all of Consultant's claims against the Company and any of the other Releasees (as defined in the Agreement). Consultant further acknowledges that: (a) Consultant has read this Supplemental Release; (b) Consultant has been represented in the preparation, negotiation, and execution of this Supplemental Release by legal counsel of Consultant's own choice or has elected not to retain legal counsel; (c) Consultant understands the terms and consequences of this Supplemental Release and of the releases it contains; and (d) Consultant is fully aware of the legal and binding effect of this Supplemental Release.

IN WITNESS WHEREOF, the Parties have executed this Supplemental Release on the respective dates set forth below.

TERENCE E. WINTERS, an individual

Dated: _____, 201_ _____
Terence E. Winters

VITAL THERAPIES, INC.

Dated: _____, 201_ By _____

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November 7, 2017

Russell Cox

Re: Employment Offer Letter

Dear Russ:

I am pleased to offer you the position of Chief Executive Officer with Vital Therapies, Inc. (“Company” or “we”). If you accept our offer, your first day of employment is anticipated to be January 3, 2018 (such date, or the date you actually commence employment, your “Start Date”).

In this position, you will report to the Company’s board of directors (the “Board”) and your responsibilities will be consistent with your title and position as CEO, and as otherwise reasonably assigned to you by the Board. You also will be appointed to serve as a member of the Board as soon as reasonably practicable following your Start Date and during the period in which you are serving as Chief Executive Officer, the Company shall nominate you to continue such service on the Board. During your employment with the Company, you will perform your duties faithfully and to the best of your ability and will devote your full business efforts and time to the Company. You agree not to actively engage in any other employment, occupation or consulting activity for any direct or indirect remuneration without the prior approval of the Board; provided, however, that the Company agrees and acknowledges that after you cease to be employed by your current employer that you will provide consulting services for your current employer for up to four months after your employment ceases to help transition your duties and responsibilities to your successor. The Company agrees to you providing such consulting services provided that doing so does not materially interfere with you providing services to the Company under this letter agreement and does not present any material conflict of interest to the Company.

The terms and your compensation are as follows:

1. **Base Salary:** Your base salary will be \$22,500 per semi-monthly pay period (equivalent to \$540,000 annually), less applicable withholdings and deductions. Your base salary will be paid periodically in accordance with the Company’s normal payroll practices and be subject to the usual, required withholdings. Your base salary will be subject to review and may be increased (but not reduced) as determined by the Board in accordance with the Company’s annual review process.
2. **Signing Bonus:** The Company will pay you a cash signing bonus of \$330,000, less applicable withholdings and deduction (the “Signing Bonus”). The Signing Bonus will be paid to you within 30 days of your Start Date.

3. Target Bonus: You are eligible to earn an annual cash bonus of 50% of your base salary (as then in effect) at target, based on achieving performance goals to be mutually agreed upon between you and the Board, subject to continued employment through the date bonuses are paid to Company executives generally. Your annual bonus for 2017 will be pro-rated for the portion of the calendar year that you are actually employed with the Company. Any achieved bonus, or any portion thereof, will be paid, less applicable withholdings and deductions, as soon as practicable after the Board has determined that it has been achieved, but in no event shall it be paid after the later of (i) the fifteenth (15th) day of the third (3rd) month following the close of the Company's fiscal year in which such bonus is earned or (ii) March 15 following the calendar year in which such bonus is earned.
4. Equity Awards. On the Start Date and after you have actually commenced providing services to the Company on that date, the Board or its authorized committee (the "Committee") will grant you an option to purchase 3.75% of the Company's outstanding common stock (as determined as of the date of grant), at the fair market value of the Company's common stock as determined on the date of grant (the "Option Grant"). The Option Grant will vest over four (4) years, with 25% of the total shares subject to the Option Grant vesting one (1) year from your Start Date, and thereafter, 1/48th of the total shares subject to the Option Grant vesting monthly for the next three (3) years on the same day of the month as the Start Date, subject to your continued service to the Company or its subsidiaries through each such date. The Option Grant will be subject to the terms, definitions and provisions of the Company's equity compensation plan and approved form of option agreement thereunder as then in-effect (collectively, the "Stock Agreements"). No right to any stock is earned or accrued until such time that vesting occurs, nor does this grant confer any right to continue employment with the Company.

After the Start Date, you will be eligible to receive additional equity awards pursuant to any plans or arrangements the Company may have in effect from time to time; provided, however, that you acknowledge that you will not receive an annual equity award at the beginning of 2018 when such grants are typically made to the Company's executives generally. The Committee will determine in its discretion whether you will be granted any future equity awards and the terms of any such award.
5. Benefits: You will be eligible to participate in all Company benefit plans as available to similarly-situated Company executives, including group health insurance and paid time off, based on policies in effect during your employment. The Company reserves the right to cancel or change the benefit plans and programs it offers to its employees at any time.
6. Relocation Expenses; Commuting Expenses: In order to assist with your relocation to the San Diego area, the Company will pay or otherwise reimburse you for: (i) temporary housing expenses that you incur for you and your family up to a total of \$6,000 per month for the

Transition Period, (ii) bi-monthly airfare travel for you between the San Diego area and the Bay Area and back during the Transition Period, and (iii) reasonable moving expenses you incur in connection with such relocation for the moving and shipping of furnishings up to a maximum of \$100,000. The payments or reimbursements provided for in this paragraph shall be subject to applicable tax withholding and any reimbursements shall be made within 30 days of the Company's receipt of documentation of such expenses in a form satisfactory to the Company; provided, however, that you must be employed with the Company on the date reimbursements are made. For purposes of this paragraph, the "Transition Period" will mean the earlier of (1) the later of (A) nine (9) months after your Start Date, or (B) the date the VTL-308 phase 3 clinical study is completed, as determined by the Board, and (2) the date you relocate to the San Diego area.

7. Severance: You will be permitted to enter into the Change of Control and Severance Agreement (the "Severance Agreement") attached hereto as Exhibit A. The Severance Agreement sets forth the severance payments and benefits to which you would be entitled in connection with certain terminations of employment, which would be in lieu of any other severance or other benefits you would otherwise be entitled to under any plan, program or policy that the Company may have in effect from time to time.
8. Attorneys' Fees: The Company will reimburse you for reasonable attorneys' fees incurred in the negotiation, preparation, and execution of this letter in an amount not to exceed \$20,000. Such reimbursement will be made within sixty (60) days of your submission of proper documentation of the fees to be reimbursed, but in no event later than March 15, 2018.

Your employment with the Company will be "at will." It is for no specified term, and may be terminated by you or the Company at any time, with or without cause or advance notice. Although the Company may change the terms and conditions of your employment from time-to-time, (including, but not limited to, changes in your position, compensation, and/or benefits), nothing will change the at-will employment relationship between you and the Company, but any such action may give you the opportunity to receive severance payments or benefits under (and subject to the terms and conditions of) the Severance Agreement. In addition, the compensation terms described herein will not affect your at-will employment status.

As an employee of the Company, you will have access to certain confidential information of the Company and you may, during the course of your employment, develop certain information or inventions that will be the property of the Company. To protect the interests of the Company, your acceptance of this letter confirms that the terms of the Company's Employee Innovations and Proprietary Rights Assignment Agreement (the "Confidentiality Agreement") and other compliance agreements that the Company reasonably requests that you enter into.

In the event of any dispute or claim relating to or arising out of your employment relationship with the Company, this offer letter, or the termination of your employment with the Company for any reason (including, but not limited to, any claims of breach of contract, wrongful termination or age, sex, race, national origin, disability or other discrimination or harassment), you and the Company agree to be bound by the arbitration terms set forth in the Arbitration Agreement attached hereto as Exhibit B.

This offer letter, along with the Confidentiality Agreement, the Stock Agreements, Severance Agreement, and Arbitration Agreement constitute the entire agreement between you and the Company regarding the subject matters discussed herein, and they supersede all prior negotiations, representations or agreements between you and the Company. This offer letter may only be modified by a written agreement signed by you and the chairman of the Company's compensation committee.

To accept the offer, please sign in the space indicated and return it to the Company. Your signature will acknowledge that you have read and understood and agreed to the terms and conditions of this letter agreement, Exhibit A and Exhibit B.

Sincerely,

VITAL THERAPIES, INC.

By /s/ Faheem Hasnain
Faheem Hasnain
Chairman

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Russ Cox

I have read and understood this letter agreement, Exhibit A and Exhibit B and hereby acknowledge, accept and agree to the terms as set forth herein and in Appendix B and further acknowledge that no other commitments were made to me as part of my employment offer except as specifically set forth herein.

Date: November 30, 2017 /s/ Russell Cox
Russell Cox

Exhibit A

CHANGE OF CONTROL AND SEVERANCE AGREEMENT

VITAL THERAPIES, INC.

CHANGE OF CONTROL AND SEVERANCE AGREEMENT

This Change of Control and Severance Agreement (the “**Agreement**”) is made and entered into by and between Russell Cox (“**Executive**”) and Vital Therapies, Inc., a Delaware corporation (the “**Company**”), effective as of Executive’s Start Date.

RECITALS

1. The Company has extended an offer of employment to Executive pursuant to the terms of the offer letter dated November 7, 2017 (the “**Offer Letter**”), which is incorporated herein by reference.
2. The Board of Directors of the Company (the “**Board**”), in consultation with the Compensation Committee of the Board of Directors (the “**Committee**”) believes that it is in the best interests of the Company and its stockholders (i) to assure that the Company will have the continued dedication and objectivity of Executive, notwithstanding the possibility, threat, or occurrence of a Change of Control and (ii) to provide Executive with an incentive to continue Executive’s employment prior to a Change of Control and to motivate Executive to maximize the value of the Company upon a Change of Control for the benefit of its stockholders.
3. The Board believes that it is imperative to provide Executive with certain severance benefits upon Executive’s termination of employment under certain circumstances. These benefits will provide Executive with enhanced financial security and incentive and encouragement to remain with the Company notwithstanding the possibility of a Change of Control.
4. Certain capitalized terms used in the Agreement are defined in Section 6 below.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. Term of Agreement. If Executive becomes entitled to benefits under Section 3 during the term of this Agreement, the Agreement will not terminate until all of the obligations of the parties hereto with respect to this Agreement have been satisfied.
2. At-Will Employment. The Company and Executive acknowledge that Executive’s employment is and will continue to be at-will, as defined under applicable law. As an at-will employee, either the Company or the Executive may terminate the employment relationship at any time, with or without Cause. Upon any termination of employment, the Company will pay Executive

all accrued but unpaid vacation, expense reimbursements, wages and other benefits due to Executive under any Company-provided plans, policies and arrangements, including the Offer Letter (“**Accrued Compensation**”). In the event Executive resigns for Good Reason as a result clause (ii) of that definition, as set forth in Section 6(g), then “Accrued Compensation” will include any base salary that would have otherwise been paid to Executive had the Company not materially reduced his annual base salary in the manner that gave rise to Executive’s ability to resign for Good Reason.

3. Severance Benefits.

(a) Termination without Cause or Resignation for Good Reason Unrelated to a Change of Control. If the Company terminates Executive’s employment with the Company without Cause (excluding death or Disability) or if Executive resigns from such employment for Good Reason, and, in each case, such termination occurs outside of the Change of Control Period, then subject to Section 4, Executive will receive the following:

(i) Accrued Compensation. The Company will pay Executive all Accrued Compensation.

(ii) Continuing Severance Payments. Executive will be paid continuing payments of severance pay at a rate equal to Executive’s base salary rate, as then in effect, for a period of twelve (12) months. The severance will be paid, less applicable withholdings, in installments over the severance period with the first payment to commence on the sixty-first (61st) day following Executive’s termination of employment (and include any severance payments that otherwise would have been paid to Executive within the sixty (60) days following Executive’s termination date), with any remaining payments paid in accordance with the Company’s normal payroll practices for the remainder of the severance period following Executive’s termination of employment (subject to any delay as may be required by Section 4(c)).

(iii) Prior Fiscal Year Bonus Payment. If Executive’s termination occurs after the end of a fiscal year but prior to the date annual bonuses are paid to Company executives (including Executive), then Executive will remain eligible to receive his bonus relating to such fiscal year, subject to achievement of any corporate objectives relating to the payment of bonuses as determined by the Board (or Committee) in its discretion. The bonus payment will be paid, less applicable withholdings, at the same time as bonuses relating to such year are paid to other Company executives (subject to any delay as may be required by Section 4(c)).

(iv) Continuation Coverage. If Executive elects continuation coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended (“**COBRA**”) within the time period prescribed pursuant to COBRA for Executive and Executive’s eligible dependents, then the Company will reimburse Executive for the COBRA premiums for such coverage (at the coverage levels in effect immediately prior to Executive’s termination) until the earlier of (A) a period of twelve (12) months from the date of termination or (B) the date upon which Executive and/or Executive’s eligible dependents are no longer eligible for COBRA continuation coverage. The reimbursements will be made by the Company to Executive consistent with the Company’s normal expense reimbursement policy. Notwithstanding the first sentence of

this Section 3(a)(iv), if the Company determines in its sole discretion that it cannot provide the foregoing benefit without potentially violating, or being subject to an excise tax under, applicable law (including, without limitation, Section 2716 of the Public Health Service Act), the Company will in lieu thereof provide to Executive a taxable monthly payment, payable on the last day of a given month (except as provided by the following sentence), in an amount equal to the monthly COBRA premium that Executive would be required to pay to continue the group health coverage for Executive and/or Executive's eligible dependents in effect on the termination of employment date (which amount will be based on the premium for the first month of COBRA coverage), which payments will be made regardless of whether Executive and/or Executive's eligible dependents elect COBRA continuation coverage and will commence on the month following Executive's termination of employment and will end on the earlier of (x) the date upon which Executive obtains other employment or (y) the date the Company has paid an amount equal to twelve (12) payments. Any such taxable monthly payments that otherwise would have been paid to Executive within the sixty (60) days following Executive's termination date instead will be paid on the sixty-first (61st) day following Executive's termination of employment, with any remaining payments paid as provided in the prior sentence (subject to any delay as may be required by Section 4(c)). For the avoidance of doubt, the taxable payments in lieu of COBRA reimbursements may be used for any purpose, including, but not limited to continuation coverage under COBRA, and will be subject to all applicable tax withholdings.

(v) Accelerated Vesting of Initial Option. Executive will vest in and have the right to exercise an additional number of outstanding and unvested shares subject to the Company stock option Executive received in connection with his commencement of employment equal to the number of such shares otherwise scheduled to vest during the twelve (12) month period following the date Executive's employment with the Company terminates had Executive remained employed with the Company through such date.

(b) Termination without Cause or Resignation for Good Reason in Connection with a Change of Control. If the Company terminates Executive's employment with the Company without Cause (excluding death or Disability) or if Executive resigns from such employment for Good Reason, and, in each case, such termination occurs during the Change of Control Period, then subject to Section 4, Executive will receive the following:

(i) Accrued Compensation. The Company will pay Executive all Accrued Compensation.

(ii) Severance Payment. Executive will receive a lump-sum payment (less applicable withholding taxes) equal to the eighteen (18) months of Executive's annual base salary as in effect immediately prior to Executive's termination date or, if greater, at the level in effect immediately prior to the Change of Control. The severance will be paid, less applicable withholdings, on the sixty-first (61st) day following Executive's termination of employment (subject to any delay as may be required by Section 4(c)). For the avoidance of doubt, if (x) Executive incurred a termination prior to a Change of Control that qualifies Executive for severance payments under Section 3(a)(ii); and (y) a Change of Control occurs within two (2) months following Executive's termination of employment that qualifies Executive for the superior benefits under this

Section 3(b)(ii), then Executive shall be entitled to a lump-sum payment of the amount calculated under this Section 3(b)(ii), *less* amounts already paid under Section 3(a)(ii).

(iii) Prior Fiscal Year Bonus Payment. If Executive's termination occurs after the end of a fiscal year but prior to the date annual bonuses are paid to Company executives (including Executive), then Executive will remain eligible to receive his bonus relating to such fiscal year, subject to achievement of any corporate objectives relating to the payment of bonuses as determined by the Board (or Committee) in its discretion. The bonus payment will be paid, less applicable withholdings, at the same time as bonuses relating to such year are paid to other Company executives (subject to any delay as may be required by Section 4(c)). For the avoidance of doubt, if (x) Executive incurred a termination prior to a Change of Control that qualifies Executive for severance payments under Section 3(a)(iii); and (y) a Change of Control occurs within the two-month period following Executive's termination of employment that qualifies Executive for the superior benefits under this Section 3(b)(iii), then Executive shall be entitled to a lump-sum payment of the amount calculated under this Section 3(b)(iii), *less* amounts already paid under Section 3(a)(iii).

(iv) Current Fiscal Year Bonus Payment. Executive will receive a lump-sum payment equal to one hundred and fifty percent (150%) of the Executive's target bonus as in effect for the fiscal year in which Executive's termination of employment occurs. For avoidance of doubt, the amount paid to Executive pursuant to this Section 3(b)(iii) will not be prorated based on the actual amount of time Executive is employed by the Company during the fiscal year (or the relevant performance period if something different than a fiscal year) during which the termination occurs. The bonus payment will be paid, less applicable withholdings, on the sixty-first (61st) day following Executive's termination of employment (subject to any delay as may be required by Section 4(c)).

(v) Continuation Coverage. If Executive elects continuation coverage pursuant to COBRA within the time period prescribed pursuant to COBRA for Executive and Executive's eligible dependents, then the Company will reimburse Executive for the COBRA premiums for such coverage (at the coverage levels in effect immediately prior to Executive's termination) until the earlier of (A) a period of eighteen (18) months from the date of termination or (B) the date upon which Executive and/or Executive's eligible dependents become covered under similar plans. The reimbursements will be made by the Company to Executive consistent with the Company's normal expense reimbursement policy. Notwithstanding the first sentence of this Section 3(b)(iv), if the Company determines in its sole discretion that it cannot provide the foregoing benefit without potentially violating, or being subject to an excise tax under, applicable law (including, without limitation, Section 2716 of the Public Health Service Act), the Company will in lieu thereof provide to Executive a taxable monthly payment, payable on the last day of a given month (except as provided by the following sentence), in an amount equal to the monthly COBRA premium that Executive would be required to pay to continue Executive's group health coverage in effect on the termination of employment date (which amount will be based on the premium for the first month of COBRA coverage), which payments will be made regardless of whether Executive elects COBRA continuation coverage and will commence on the month following Executive's

termination of employment and will end on the earlier of (x) the date upon which Executive obtains other employment or (y) the date the Company has paid an amount equal to eighteen (18) payments. Any such payments that otherwise would have been paid to Executive within the sixty (60) days following Executive's termination date instead will be paid on the sixty-first (61st) day following Executive's termination of employment, with any remaining payments paid as provided in the prior sentence (subject to any delay as may be required by Section 4(c)). For the avoidance of doubt, the taxable payments in lieu of COBRA reimbursements may be used for any purpose, including, but not limited to continuation coverage under COBRA, and will be subject to all applicable tax withholdings.

(vi) Accelerated Vesting of Equity Awards. One hundred percent (100%) of Executive's then-outstanding and unvested Equity Awards will become vested in full. If, however, an outstanding Equity Award is to vest and/or the amount of the award to vest is to be determined based on the achievement of performance criteria, then the Equity Award will vest as to one hundred percent (100%) of the amount of the Equity Award assuming the performance criteria had been achieved at target levels for the relevant performance period(s).

(c) Voluntary Resignation; Termination for Cause. If Executive's employment with the Company terminates (i) voluntarily by Executive (other than for Good Reason) or (ii) for Cause by the Company, then Executive will not be entitled to receive severance or other benefits except for those (if any) as may then be established under the Company's then existing severance and benefits plans and practices or pursuant to other written agreements with the Company.

(d) Disability; Death. If the Company terminates Executive's employment as a result of Executive's Disability, or Executive's employment terminates due to Executive's death, then Executive will not be entitled to receive any other severance or other benefits, except for those (if any) as may then be established under the Company's then existing written severance and benefits plans and practices or pursuant to other written agreements with the Company.

(e) Exclusive Remedy. In the event of a termination of Executive's employment as set forth in Section 3(a) or (b) of this Agreement, the provisions of Section 3 are intended to be and are exclusive and in lieu of any other rights or remedies to which Executive or the Company otherwise may be entitled, whether at law, tort or contract, in equity, or under this Agreement (other than the payment of accrued but unpaid wages, as required by law, and any unreimbursed reimbursable expenses). For the avoidance of doubt, Executive shall in no circumstances be entitled to both the benefits pursuant to Section 3(a) and the benefits pursuant to Section 3(b). Executive will be entitled to no benefits, compensation or other payments or rights upon a termination of employment other than those benefits expressly set forth in Section 3 of this Agreement.

4. Conditions to Receipt of Severance

(a) Release of Claims Agreement. The receipt of any severance payments or benefits (other than the Accrued Compensation set forth in either Sections 3(a)(i) or 3(b)(i)) pursuant to this Agreement is subject to Executive signing and not revoking the Company's then-standard separation agreement and release of claims (the "**Release**"), which, provided that the Company

provides such Release within three (3) business days of termination, must become effective and irrevocable no later than the sixtieth (60th) day following Executive's termination of employment (the "**Release Deadline**"). If the Release does not become effective and irrevocable by the Release Deadline, Executive will forfeit any right to severance payments or benefits under this Agreement. In no event will severance payments or benefits be paid or provided until the Release actually becomes effective and irrevocable.

(b) Confidential Information and Invention Assignment Agreements. Executive's receipt of any payments or benefits under Section 3 (other than the Accrued Compensation set forth in either Sections 3(a)(i) or 3(b)(i)) will be subject to Executive continuing to comply with the terms of the Employee Innovations and Proprietary Rights Assignment Agreement that Executive executed when joining the Company, as such agreement may be amended from time to time.

(c) Section 409A.

(i) Notwithstanding anything to the contrary in this Agreement, no severance pay or benefits to be paid or provided to Executive, if any, pursuant to this Agreement that, when considered together with any other severance payments or separation benefits, are considered deferred compensation under Section 409A of the Code, and the final regulations and any guidance promulgated thereunder ("**Section 409A**") (together, the "**Deferred Payments**") will be paid or otherwise provided until Executive has a "separation from service" within the meaning of Section 409A. Similarly, no severance payable to Executive, if any, pursuant to this Agreement that otherwise would be exempt from Section 409A pursuant to Treasury Regulation Section 1.409A-1(b)(9) will be payable until Executive has a "separation from service" within the meaning of Section 409A.

(ii) Notwithstanding anything to the contrary in this Agreement, if Executive is a "specified employee" within the meaning of Section 409A at the time of Executive's termination (other than due to death), then the Deferred Payments, if any, that are payable within the first six (6) months following Executive's separation from service, will become payable on the first payroll date that occurs on or after the date six (6) months and one (1) day following the date of Executive's separation from service. All subsequent Deferred Payments, if any, will be payable in accordance with the payment schedule applicable to each payment or benefit. Notwithstanding anything herein to the contrary, if Executive dies following Executive's separation from service, but before the six (6) month anniversary of the separation from service, then any payments delayed in accordance with this paragraph will be payable in a lump sum as soon as administratively practicable after the date of Executive's death and all other Deferred Payments will be payable in accordance with the payment schedule applicable to each payment or benefit. Each payment and benefit payable under this Agreement is intended to constitute a separate payment under Section 1.409A-2(b)(2) of the Treasury Regulations.

(iii) It is intended that any amount paid under this Agreement that satisfies the requirements of the "short-term deferral" rule set forth in Section 1.409A-1(b)(4) of the Treasury Regulations will not constitute Deferred Payments for purposes of clause (i) above.

(iv) It is intended that any amount paid under this Agreement that qualifies as a payment made as a result of an involuntary separation from service pursuant to Section 1.409A-1(b)(9)(iii) of the Treasury Regulations that does not exceed the Section 409A Limit (as defined below) will not constitute Deferred Payments for purposes of clause (i) above.

(v) The foregoing provisions are intended to comply with the requirements of Section 409A so that none of the severance payments and benefits to be provided hereunder will be subject to the additional tax imposed under Section 409A, and any ambiguities herein will be interpreted to so comply. The Company and Executive agree to work together in good faith to consider amendments to this Agreement and to take such reasonable actions which are necessary, appropriate or desirable to avoid imposition of any additional tax or income recognition before actual payment to Executive under Section 409A. Executive agrees and acknowledges that the Company makes no representations or warranties with respect to the application of Section 409A and other tax consequences to any payments hereunder and, by the acceptance of any such payments, Executive agrees to accept the potential application of Section 409A and the other tax consequences of any payments made hereunder.

5. Limitation on Payments. In the event that the severance and other benefits provided for in this Agreement or otherwise payable to Executive (i) constitute “parachute payments” within the meaning of Section 280G of the Code, and (ii) but for this Section 5, would be subject to the excise tax imposed by Section 4999 of the Code, then Executive’s severance benefits will be either:

(a) delivered in full, or

(b) delivered as to such lesser extent which would result in no portion of such severance benefits being subject to excise tax under Section 4999 of the Code,

whichever of the foregoing amounts, taking into account the applicable federal, state and local income taxes and the excise tax imposed by Section 4999, results in the receipt by Executive on an after-tax basis, of the greatest amount of benefits, notwithstanding that all or some portion of such benefits may be taxable under Section 4999 of the Code. If a reduction in severance and other benefits constituting “parachute payments” is necessary so that benefits are delivered to a lesser extent, reduction will occur in the following order: (i) reduction of cash payments; (ii) cancellation of awards granted “contingent on a change in ownership or control” (within the meaning of Code Section 280G), (iii) cancellation of accelerated vesting of equity awards; or (iv) reduction of employee benefits. In the event that acceleration of vesting of equity award compensation is to be reduced, such acceleration of vesting will be cancelled in the reverse order of the date of grant of Executive’s equity awards.

A nationally recognized certified professional services firm selected by the Company, the Company’s legal counsel or such other person or entity to which the parties mutually agree (the “**Firm**”) shall perform the foregoing calculations related to the excise tax. The Company shall bear all expenses with respect to the determinations by the Firm required to be made hereunder. For purposes of making the calculations required by this Section, the Firm may make reasonable assumptions and approximations concerning applicable taxes and may rely on reasonable, good

faith interpretations concerning the application of Code Sections 280G and 4999. The Company and Executive will furnish to the Firm such information and documents as the Firm may reasonably request in order to make a determination under this Section. The Firm engaged to make the determinations hereunder shall provide its calculations, together with detailed supporting documentation, to the Company and Executive within fifteen (15) calendar days after the date on which Executive's right to the severance benefits or other payments is triggered (if requested at that time by the Company or Executive) or such other time as requested by the Company or Executive. Any good faith determinations of the Firm made hereunder shall be final, binding, and conclusive upon the Company and Executive.

6. Definition of Terms. The following terms referred to in this Agreement will have the following meanings:

(a) Cause. "**Cause**" will mean:

(i) Executive's material failure to perform Executive's stated duties, and Executive's continued failure to cure such failure to the reasonable satisfaction of the Company within ten (10) days following written notice of such failure to Executive from the Board;

(ii) Executive's material violation of a written Company policy (including any insider trading policy) or material breach of any written agreement or covenant with the Company, including, but not limited to, any applicable invention assignment and confidentiality agreement or similar agreement between the Company and Executive;

(iii) Executive's conviction of, or entry of a plea of guilty or *nolo contendere* to, a felony (other than motor vehicle offenses the effect of which do not materially impair Executive's performance of his employment duties);

(iv) a willful act by Executive that constitutes gross misconduct and which is injurious to the Company;

(v) Executive's commission of any act of fraud or embezzlement;

(vi) Executive's commission of any act of dishonesty or any other willful misconduct that has caused or is reasonably expected to result in a material injury to the Company; or

(vii) Executive's willful failure to cooperate with an investigation authorized by the Board or initiated by a governmental authority, in either case, relating to the Company, its business, or any of its directors, officers or employees.

The determination as to whether Executive is being terminated for Cause will be made in good faith by the Board. The foregoing definition does not in any way limit the Company's ability to terminate Executive's employment relationship at any time as provided in Section 2 above, and the term "Company" will be interpreted to include any subsidiary, parent, affiliate or successor thereto, if applicable.

(b) Change of Control. “**Change of Control**” means the occurrence of any of the following events:

(i) A change in the ownership of the Company which occurs on the date that any one Person, or more than one Person acting as a group (collectively, a “**Person**” for purposes of this definition), acquires ownership of the stock of the Company that, together with the stock held by such Person, constitutes more than fifty percent (50%) of the total voting power of the stock of the Company; provided, however, that for purposes of this subsection, (a) the acquisition of additional stock by any one Person, who is considered to own more than fifty percent (50%) of the total voting power of the stock of the Company, will not be considered a Change of Control and (b) the acquisition of additional stock of the Company by a Permitted Holder that, together with the stock held by such Person and its affiliates and/or associates, constitutes more than fifty percent (50%) of the total voting power of the stock of the Company, will not be considered a Change of Control so long as such acquisition is not in connection with a transaction that results in the Company ceasing to have any class of securities registered under the Securities and Exchange Act of 1934, as amended (*i.e.*, a “going-private” transaction); or

(ii) A change in the effective control of the Company which occurs on the date that a majority of members of the Board is replaced during any twelve (12) month period by Directors whose appointment or election is not endorsed by a majority of the members of the Board prior to the date of the appointment or election. For purposes of this clause (ii), (a) if any Person is considered to be in effective control of the Company, the acquisition of additional control of the Company by the same Person will not be considered a Change of Control and (b) any member of the Board that is nominated by any Permitted Holder shall be considered endorsed by a majority of the members of the Board; or

(iii) A change in the ownership of a substantial portion of the Company’s assets which occurs on the date that any Person acquires (or has acquired during the twelve (12) month period ending on the date of the most recent acquisition by such Person or Persons) assets from the Company that have a total gross fair market value equal to or more than fifty percent (50%) of the total gross fair market value of all of the assets of the Company immediately prior to such acquisition or acquisitions; provided, however, that for purposes of this subsection (iii), the following will not constitute a change in the ownership of a substantial portion of the Company’s assets: (A) a transfer to an entity that is controlled by the Company’s stockholders immediately after the transfer, or (B) a transfer of assets by the Company to: (1) a stockholder of the Company (immediately before the asset transfer) in exchange for or with respect to the Company’s stock, (2) an entity, fifty percent (50%) or more of the total value or voting power of which is owned, directly or indirectly, by the Company, (3) a Person, that owns, directly or indirectly, fifty percent (50%) or more of the total value or voting power of all the outstanding stock of the Company, or (4) an entity, at least fifty percent (50%) of the total value or voting power of which is owned, directly or indirectly, by a Person described in this subsection (iii)(B)(3). For purposes of this subsection (iii), gross fair market value means the value of the assets of the Company, or the value of the assets being disposed of, determined without regard to any liabilities associated with such assets.

For purposes of this definition, Persons will be considered to be acting as a group if they are owners of a corporation that enters into a merger, consolidation, purchase or acquisition of stock, or similar business transaction with the Company.

Notwithstanding the foregoing, a transaction will not be deemed a Change of Control unless the transaction qualifies as a change in control event within the meaning of Code Section 409A, as it has been and may be amended from time to time, and any proposed or final Treasury Regulations and Internal Revenue Service guidance that has been promulgated or may be promulgated thereunder from time to time.

For purposes of this definition, a “**Permitted Holder**” shall mean any Person that, individually or together with all of such Person’s affiliates and/or associates, is the owner of fifteen percent (15%) or more of the outstanding voting stock of the Company at the time of the Company’s Initial Public Offering or any of such Person’s affiliates or associates. All capitalized terms in the immediately preceding sentence that are not otherwise defined in this Agreement shall have the meanings given to such terms in the Company’s Amended and Restated Certificate of Incorporation as in effect immediately following the Company’s initial public offering of its common stock pursuant to an effective registration statement under the Securities Act of 1933, as amended (the “**Initial Public Offering**”).

Further and for the avoidance of doubt, a transaction will not constitute a Change of Control if: (i) its sole purpose is to change the state of the Company’s incorporation, or (ii) its sole purpose is to create a holding company that will be owned in substantially the same proportions by the persons who held the Company’s securities immediately before such transaction.

(c) Change of Control Period. “**Change of Control Period**” will mean the period beginning on the date two (2) months prior to, and ending on the date that is twelve (12) months following, a Change of Control.

(d) Code. “**Code**” will mean the Internal Revenue Code of 1986, as amended.

(e) Disability. “**Disability**” will mean that Executive has been unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months. Alternatively, Executive will be deemed disabled if determined to be totally disabled by the Social Security Administration. Termination resulting from Disability may only be effected after at least thirty (30) days’ written notice by the Company of its intention to terminate Executive’s employment. In the event that Executive resumes the performance of substantially all of Executive’s duties hereunder before the termination of Executive’s employment becomes effective, the notice of intent to terminate based on Disability will automatically be deemed to have been revoked.

(f) Equity Awards. “**Equity Awards**” will mean Executive’s outstanding stock options, stock appreciation rights, restricted stock, restricted stock units, performance shares, performance stock units and any other Company equity compensation awards.

(g) Good Reason. “**Good Reason**” will mean Executive’s voluntary termination, within thirty (30) days following the expiration of any Company cure period (discussed below) following the occurrence of one or more of the following, without Executive’s consent:

- (i) a material reduction of Executive’s authority, duties or responsibilities, relative to Executive’s authority, duties or responsibilities in effect immediately prior to such reduction, or, following a Change of Control;
- (ii) a material reduction by the Company of Executive’s annual base salary as in effect on the Start Date (or, if lower, as in effect immediately prior to the reduction), except to the extent the base salaries of all other senior executives of the Company are similarly reduced;
- (iii) the failure of the Company to obtain assumption of this Agreement by any successor;
- (iv) a material change in the geographic location of Executive’s principal workplace; provided, that a relocation of less than fifty (50) miles from San Diego, California will not be considered a material change in geographic location; or
- (v) a material breach by the Company of this Agreement or the Offer Letter.

Executive may not resign for Good Reason without first providing the Company with written notice within ninety (90) days of the initial existence of the condition that he believes constitutes Good Reason specifically identifying the acts or omissions constituting the grounds for Good Reason and a reasonable cure period of not less than thirty (30) days following the date of such notice.

For purposes of the “Good Reason” definition, the term “Company” will be interpreted to include any subsidiary, parent, affiliate or successor thereto, if applicable.

(h) Section 409A Limit. “**Section 409A Limit**” will mean two (2) times the lesser of: (i) Executive’s annualized compensation based upon the annual rate of pay paid to Executive during the Executive’s taxable year preceding the Executive’s taxable year of Executive’s termination of employment as determined under, and with such adjustments as are set forth in, Treasury Regulation 1.409A-1(b)(9)(iii)(A)(1) and any Internal Revenue Service guidance issued with respect thereto; or (ii) the maximum amount that may be taken into account under a qualified plan pursuant to Section 401(a)(17) of the Code for the year in which Executive’s employment is terminated.

(i) Start Date. “**Start Date**” will mean Start Date as defined in the Offer Letter.

7. Successors.

(a) The Company’s Successors. Any successor to the Company (whether direct or indirect and whether by purchase, merger, consolidation, liquidation or otherwise) to all or substantially all of the Company’s business and/or assets will assume the obligations under this

Agreement and agree expressly to perform the obligations under this Agreement in the same manner and to the same extent as the Company would be required to perform such obligations in the absence of a succession. For all purposes under this Agreement, the term “Company” will include any successor to the Company’s business and/or assets which executes and delivers the assumption agreement described in this Section 7(a) or which becomes bound by the terms of this Agreement by operation of law.

(b) Executive’s Successors. The terms of this Agreement and all rights of Executive hereunder will inure to the benefit of, and be enforceable by, Executive’s personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees.

8. Notice.

(a) General. Notices and all other communications contemplated by this Agreement will be in writing and will be deemed to have been duly given when sent electronically or personally delivered when mailed by U.S. registered or certified mail, return receipt requested and postage prepaid or when delivered by a private courier service such as UPS, DHL or Federal Express that has tracking capability. In the case of Executive, notices will be sent to the e-mail address or addressed to Executive at the home address, in either case which Executive most recently communicated to the Company in writing. In the case of the Company, electronic notices will be sent to the e-mail address of the Chairman of the Committee and mailed notices will be addressed to its corporate headquarters, and all notices will be directed to the attention of the Chairman of the Committee.

(b) Notice of Termination. Any termination by the Company for Cause or by Executive for Good Reason will be communicated by a notice of termination to the other party hereto given in accordance with Section 8(a) of this Agreement. Such notice will indicate the specific termination provision in this Agreement relied upon, will set forth in reasonable detail the facts and circumstances claimed to provide a basis for termination under the provision so indicated, and will specify the termination date (which will be not more than ninety (90) days after the giving of such notice).

9. Resignation. Upon the termination of Executive’s employment for any reason, Executive will be deemed to have resigned from all officer positions held at the Company and its affiliates voluntarily, without any further required action by Executive, as of the end of Executive’s employment and Executive, at the Board’s request, will execute any documents reasonably necessary to reflect Executive’s resignation.

10. Miscellaneous Provisions.

(a) No Duty to Mitigate. Executive will not be required to mitigate the amount of any payment contemplated by this Agreement, nor will any such payment be reduced by any earnings that Executive may receive from any other source.

(b) Waiver. No provision of this Agreement will be modified, waived or discharged unless the modification, waiver or discharge is agreed to in writing and signed by Executive and by an authorized officer of the Company (other than Executive). No waiver by either party of any breach of, or of compliance with, any condition or provision of this Agreement by the other party will be considered a waiver of any other condition or provision or of the same condition or provision at another time.

(c) Headings. All captions and section headings used in this Agreement are for convenient reference only and do not form a part of this Agreement.

(d) Entire Agreement. This Agreement, together with the Offer Letter, constitutes the entire agreement of the parties hereto and supersedes in their entirety all prior representations, understandings, undertakings or agreements (whether oral or written and whether expressed or implied) of the parties with respect to the subject matter hereof, including, but not limited to, any rights to extended post-termination exercise period, severance and/or change of control benefits set forth in any prior employment agreement or offer letter, option agreement, or similar agreement (or amendment thereto). No waiver, alteration, or modification of any of the provisions of this Agreement will be binding unless in writing and signed by duly authorized representatives of the parties hereto and which specifically mention this Agreement.

(e) Choice of Law. The validity, interpretation, construction and performance of this Agreement will be governed by the laws of the State of California (with the exception of its conflict of laws provisions). Any claims or legal actions by one party against the other arising out of the relationship between the parties contemplated herein (whether or not arising under this Agreement) will be commenced or maintained in any state or federal court located in the jurisdiction where Executive resides, and Executive and the Company hereby submit to the jurisdiction and venue of any such court.

(f) Severability. The invalidity or unenforceability of any provision or provisions of this Agreement will not affect the validity or enforceability of any other provision hereof, which will remain in full force and effect.

(g) Withholding. All payments made pursuant to this Agreement will be subject to withholding of applicable income, employment and other taxes.

(h) Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, each of the parties has executed this Agreement, in the case of the Company by its duly authorized officer, as of the day and year set forth below.

COMPANY VITAL THERAPIES, INC.

By: /s/ Faheem Hasnain
Title: Chairman
Date: November 7, 2017

EXECUTIVE By: /s/ Russell Cox

Title: C.E.O.
Date: November 30, 2017

[signature page of the Change of Control and Severance Agreement]

Exhibit B

ARBITRATION AGREEMENT

(a) **Arbitration.** In consideration of my employment with the Company, its promise to arbitrate all employment-related disputes, and my receipt of the compensation, pay raises and other benefits paid to me by the Company, at present and in the future, I agree that any and all controversies, claims, or disputes with anyone (including the Company and any employee, officer, director, stockholder or benefit plan of the Company in their capacity as such or otherwise) arising out of, relating to, or resulting from my employment with the Company or termination thereof, including any breach of this Agreement, will be subject to binding arbitration under the Arbitration Rules set forth in California Code of Civil Procedure Section 1280 through 1294.2, including Section 1281.8 (the “Act”), and pursuant to California law. The Federal Arbitration Act will also apply with full force and effect, notwithstanding the application of procedural rules set forth under the Act.

(b) **Dispute Resolution.** **Disputes that I agree to arbitrate, and thereby agrees to waive any right to a trial by jury, include any statutory claims under local, state, or federal law**, including, but not limited to, claims under Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, the Age Discrimination in Employment Act of 1967, the Older Workers Benefit Protection Act, the Sarbanes Oxley Act, the Worker Adjustment and Retraining Notification Act, the California Fair Employment and Housing Act, the Family and Medical Leave Act, the California Family Rights Act, the California Labor Code, claims of harassment, discrimination, and wrongful termination, and any statutory or common law claims. I further understand that this Agreement to arbitrate also applies to any disputes that the Company may have with me.

(c) **Procedure.** I agree that any arbitration will be administered by the Judicial Arbitration & Mediation Services, Inc. (“JAMS”), pursuant to its Employment Arbitration Rules & Procedures (the “JAMS Rules”). The arbitrator will have the power to decide any motions brought by any party to the arbitration, including motions for summary judgment and/or adjudication, motions to dismiss and demurrers, and motions for class certification, prior to any arbitration hearing. The arbitrator will have the power to award any remedies available under applicable law, and the arbitrator will award attorneys’ fees and costs to the prevailing party, except as prohibited by law. The Company will pay for any administrative or hearing fees charged by the administrator or JAMS, and all arbitrator’s fees, except that I will pay any filing fees associated with any arbitration that I initiate, but only so much of the filing fee as I would have instead paid had I filed a complaint in a court of law. I agree that the arbitrator will administer and conduct any arbitration in accordance with California law, including the California Code of Civil Procedure and the California Evidence Code, and that the arbitrator will apply substantive and procedural California law to any dispute or claim, without reference to the rules of conflict of law. To the extent that the JAMS Rules conflict with California law, California law will take precedence. The decision of the arbitrator will be in writing. Any arbitration under this Agreement will be conducted in San Diego County, California.

(d) **Remedy.** Except as provided by the Act, arbitration will be the sole, exclusive, and final remedy for any dispute between me and the Company. **Accordingly, except as provided**

by the Act and this Agreement, neither I nor the Company will be permitted to pursue court action regarding claims that are subject to arbitration. Notwithstanding, the arbitrator will not have the authority to disregard or refuse to enforce any lawful Company policy, and the arbitrator will not order or require the Company to adopt a policy not otherwise required by law which the Company has not adopted.

(e) Administrative Relief. I am not prohibited from pursuing an administrative claim with a local, state, or federal administrative body or government agency that is authorized to enforce or administer laws related to employment, including, but not limited to, the Department of Fair Employment and Housing, the Equal Employment Opportunity Commission, the National Labor Relations Board, or the Workers' Compensation Board. However, I may not pursue court action regarding any such claim, except as permitted by law.

(f) Voluntary Nature of Agreement. I acknowledge and agree that I am executing this Agreement voluntarily and without any duress or undue influence by the Company or anyone else. I further acknowledge and agree that I have carefully read this Agreement and that I have asked any questions needed for me to understand the terms, consequences and binding effect of this Agreement and fully understand it, including that ***I AM WAIVING MY RIGHT TO A JURY TRIAL***. Finally, I agree that I have been provided an opportunity to seek the advice of an attorney of my choice before signing this Agreement.

Global Stock Option Agreement

VITAL THERAPIES, INC.

2014 EQUITY INCENTIVE PLAN

GLOBAL STOCK OPTION AGREEMENT – UNITED KINGDOM CONSULTANTS

Unless otherwise defined herein, the terms defined in the Vital Therapies, Inc. 2014 Equity Incentive Plan (the “Plan”) will have the same defined meanings in this Global Stock Option Agreement which includes the Notice of Stock Option Grant (the “Notice of Grant”), Terms and Conditions of Stock Option Grant (attached hereto as Exhibit A) and the Appendices (attached hereto as Appendix A and Appendix B) containing country specific terms and conditions (collectively, the “Agreement”)

NOTICE OF STOCK OPTION GRANT

Participant: _____

Participant has been granted an Option to purchase Common Stock of Vital Therapies, Inc. (the “Company”), subject to the terms and conditions of the Plan and this Agreement, as follows:

Grant Number _____

Date of Grant _____

Vesting Commencement Date _____

Number of Shares Granted _____

Exercise Price per Share \$_____

Total Exercise Price \$_____

Type of Option Non-Statutory Stock Option

Term/Expiration Date _____

Vesting Schedule:

Subject to accelerated vesting as set forth below or in the Plan, this Option will be exercisable, in whole or in part, in accordance with the following schedule:

One forty-eighth (1/48th) of the Shares subject to the Option shall vest each month following the Vesting Commencement Date on the same day of the month as the Vesting Commencement Date

(and if there is no corresponding day, on the last day of the month), subject to Participant continuing to be a Service Provider through each such date. For purposes of this Agreement, Participant shall be deemed a Service Provider so long as he/she is providing services to the Company either directly or through his/her employment with Medical Research Network Limited ("MRN") or any successor contract organization (also referred to as, "Participant's Employer" or "Employer"). For purposes of this Agreement references to MRN shall include any successor contract organization through which Participant is providing services to the Company.

Termination Period:

Unless otherwise provided, this Option will be exercisable for three (3) months after Participant ceases to be a Service Provider, unless such termination is due to Participant's death or Disability, in which case this Option will be exercisable for twelve (12) months after Participant ceases to be a Service Provider. Notwithstanding the foregoing sentence, in no event may this Option be exercised after the Term/Expiration Date as provided above and may be subject to earlier termination as provided in Section 14(c) of the Plan.

By Participant's signature and the signature of the Company's representative below, Participant and the Company agree that this Option is granted under and governed by the terms and conditions of the Plan, this Agreement or any agreement between Participant and MRN (the "MRN Agreement"), including exhibits hereto, all of which are made a part of this document. Participant has reviewed the Plan, this Agreement and the MRN Agreement in their entirety, has had an opportunity to obtain the advice of counsel prior to executing this Agreement and fully understands all provisions of the Plan, the Agreement and the MRN Agreement. Participant hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Administrator upon any questions relating to the Plan and Agreement. Participant further agrees to notify the Company upon any change in the residence address indicated below.

PARTICIPANT VITAL THERAPIES, INC.

Signature By

— —

Print Name Title

— —

Address:

— —

— —

EXHIBIT A

TERMS AND CONDITIONS OF STOCK OPTION GRANT

1. **Grant of Option.** The Company hereby grants to the Participant named in the Notice of Grant (the “Participant”) an option (the “Option”) to purchase the number of Shares, as set forth in the Notice of Grant, at the exercise price per Share set forth in the Notice of Grant (the “Exercise Price”), subject to all of the terms and conditions in this Agreement and the Plan, which is incorporated herein by reference. In the event of a conflict between the terms and conditions of the Plan and the terms and conditions of this Agreement, the terms and conditions of this Agreement will prevail. Capitalized terms used and not defined in this Agreement will have the meaning set forth in the Plan.

2. **Vesting Schedule.** Except as provided in Section 3, the Option awarded by this Agreement will vest in accordance with the vesting provisions set forth in the Notice of Grant. Shares scheduled to vest on a certain date or upon the occurrence of a certain condition will not vest in Participant in accordance with any of the provisions of this Agreement, unless Participant will have been continuously a Service Provider from the Date of Grant until the date such vesting occurs.

3. **Administrator Discretion.** The Administrator, in its discretion, may accelerate the vesting of the balance, or some lesser portion of the balance, of the unvested Option at any time, subject to the terms of the Plan. If so accelerated, such Option will be considered as having vested as of the date specified by the Administrator.

4. **Exercise of Option.**

(a) **Right to Exercise.** This Option may be exercised only within the term set out in the Notice of Grant, and may be exercised during such term only in accordance with the Plan and the terms of this Agreement.

(b) **Method of Exercise.** This Option is exercisable by delivery of an exercise notice, in the form attached as Exhibit B (the “Exercise Notice”) or in a manner and pursuant to such procedures as the Administrator may determine, which will state the election to exercise the Option, the number of Shares in respect of which the Option is being exercised (the “Exercised Shares”), and such other representations and agreements as may be required by the Company pursuant to the provisions of the Plan. The Exercise Notice will be completed by Participant and delivered to the Company. This Option will be deemed to be exercised upon receipt by the Company of such fully executed Exercise Notice accompanied by the aggregate Exercise Price. Participant may only exercise this Option concurrent with a sale of underlying shares and only through Participant’s account with E-Trade or another broker designated by the Company (a “Designated Broker”).

5. **Method of Payment.** E-Trade or the Designated Broker will remit all proceeds from the exercise and sale of the underlying shares to the Company. The Company will apply an amount of the proceeds to the payment of the exercise price and will transfer the balance of the proceeds to Participant’s Employer for payment of employee’s and employer’s tax obligations on account of the exercise of the

Options, including all employee and employer National Insurance Contributions, with the balance remaining after payment of such tax obligations to be transferred to Participant by Participant's Employer.

6. Tax Obligations. Participant agrees that he/she is responsible for all income, employment, National Insurance Contributions or other tax-related items and other taxes which Participant's Employer determines must be withheld on account of the exercise of the Options or related to Participant's participation in the Plan and legally applicable to Participant ("Tax-Related Items") which is and remains Participant's responsibility and may exceed the amount actually withheld by the Company or Participant's Employer. Participant further acknowledges that the Company and Participant's Employer (i) make no representations or undertakings regarding the treatment of any Tax-Related Items in connection with any aspect of this Option, including, but not limited to, the grant, vesting or exercise of this Option, the subsequent sale of Shares acquired pursuant to such exercise and the receipt of any dividends; and (ii) do not commit to and are under no obligation to structure the terms of the grant or any aspect of this Option to reduce or eliminate Participant's liability for Tax-Related Items or achieve any particular tax result. Further, if Participant is subject to Tax-Related Items in more than one jurisdiction, Participant acknowledges that the Company and/or the Participant's Employer may be required to withhold or account for Tax-Related Items in more than one jurisdiction.

Participant further agrees that Participant's Employer may deduct the amounts required to satisfy all obligations in respect of income tax, employee's National Insurance Contributions and employer's National Insurance Contributions from the proceeds transferred from the Company prior to payment of the remaining balance of the proceeds to Participant. Prior to the relevant taxable or tax withholding event, as applicable, Participant agrees to cooperate with the Company and Participant's Employer if other arrangements are necessary to satisfy all Tax-Related Items.

Participant authorizes the Company Participant's Employer to satisfy the obligations with regard to all Tax-Related Items by one or a combination of the following: (i) paying cash, (ii) electing to have the Company withhold otherwise deliverable Shares having a Fair Market Value equal to the amount of such Tax-Related Items, (iii) request Participant's Employer to withhold the amount of such Tax-Related Items from Participant's wages or other cash compensation paid to Participant by the Company and/or the Participant's Employer, (iv) if Participant is a U.S. taxpayer, delivering to the Company already owned Shares having a Fair Market Value equal to such Tax-Related Items, or (v) if the Shares are then registered under the Securities Act and listed or quoted on a recognized national securities exchange, by selling a sufficient number of such Shares either through a voluntary sale or through a mandatory sale arranged by the Company (on Participant's behalf pursuant to this authorization without further consent) as the Company may determine in its sole discretion (whether through a broker or otherwise) equal to the amount of the Tax-Related Items. For the avoidance of doubt, if Participant is a Service Provider outside the U.S., payment of Tax-Related Items may not be effectuated by surrender of other Shares with a Fair Market Value equal to the amount of any Tax-Related Items.

Depending on the withholding method, the Company or the Participant's Employer may withhold or account for Tax-Related Items by considering applicable minimum statutory withholding amounts or other applicable withholding rates, including maximum applicable rates, in which case

Participant will receive a refund of any over-withheld amount in cash and will have no entitlement to the Shares equivalent. If the obligation for Tax-Related Items is satisfied by withholding in Shares, for tax purposes, Participant is deemed to have been issued the full number of Exercised Shares, notwithstanding that a number of the Shares is held back solely for the purpose of paying the Tax-Related Items.

Finally, Participant agrees to pay to the Company or the Participant's Employer any amount of Tax-Related Items that the Company or the Participant's Employer may be required to withhold or account for as a result of Participant's participation in the Plan that cannot be satisfied by the means previously described. The Company may refuse to issue or deliver the Shares or the proceeds of the sale of Shares, if Participant fails to comply with his or her obligations in connection with the Tax-Related Items.

7. Rights as Stockholder. Neither Participant nor any person claiming under or through Participant will have any of the rights or privileges of a stockholder of the Company. Participant acknowledges and understands that the sale of the underlying Shares will be concurrent with the exercise of the Options.

8. Nature of Grant. In accepting this Option, Participant acknowledges, understands and agrees that:

- (a) the grant of this Option is voluntary and occasional and does not create any contractual or other right to receive future grants of stock options, or benefits in lieu of stock options, even if stock options have been granted in the past;
- (b) all decisions with respect to future stock options or other grants, if any, will be at the sole discretion of the Company;
- (c) Participant is voluntarily participating in the Plan;
- (d) the future value of the underlying Shares is unknown, indeterminable, and cannot be predicted with certainty;
- (e) if the underlying Shares do not increase in value, this Option will have no value; and
- (f) if Participant is providing services outside the U.S., neither the Company nor any Parent or Subsidiary shall be liable for any foreign exchange rate fluctuation between Participant's local currency and the United States Dollar that may affect the value of this Option or of any amounts due to Participant pursuant to the exercise of this Option or the subsequent sale of the Exercised Shares.

9. No Advice Regarding Grant. The Company is not providing any tax, legal or financial advice, nor is the Company making any recommendations regarding Participant's participation in the Plan, or Participant's acquisition or sale of the Exercised Shares. Participant is hereby advised to consult

with his or her own personal tax, legal and financial advisors regarding his or her participation in the Plan before taking any action related to the Plan.

10. Data Privacy. *Participant hereby explicitly and unambiguously consents to the collection, use and transfer, in electronic or other form, of Participant's personal data as described in this Agreement and any other grant materials by and among, as applicable, the Company and Participant's Employer for the exclusive purpose of implementing, administering and managing Participant's participation in the Plan.*

Participant understands that the Company and Participant's Employer may hold certain personal information about Participant, including, but not limited to, Participant's name, home address and telephone number, date of birth, social insurance number or other identification number, salary, nationality, job title, any shares of stock or directorships held in the Company, details of all stock options or any other entitlement to Shares awarded, canceled, exercised, vested, unvested or outstanding in Participant's favor ("Data"), for the exclusive purpose of implementing, administering and managing the Plan.

Participant understands that Data may be transferred to a third party stock plan service provider, which may assist the Company (presently or in the future) with the implementation, administration and management of the Plan. Participant understands that the recipients of Data may be located in the United States or elsewhere, and that the recipient's country (e.g., the U.S.) may have different data privacy laws and protections than Participant's country. Participant understands that if Participant resides outside the U.S., he or she may request a list with the names and addresses of any potential recipients of Data by contacting the Company's human resources representative. Participant authorizes the Company, and any other possible recipients which may assist the Company (presently or in the future) with implementing, administering and managing the Plan to receive, possess, use, retain and transfer Data, in electronic or other form, for the sole purposes of implementing, administering and managing Participant's participation in the Plan. Participant understands that Data will be held only as long as is necessary to implement, administer and manage Participant's participation in the Plan. Participant understands that if Participant resides outside the U.S., he or she may, at any time, view Data, request additional information about the storage and processing of Data, require any necessary amendments to Data or refuse or withdraw the consents herein, in any case without cost, by contacting in writing the Company's human resources representative. Further, Participant understands that he or she is providing the consents herein on a purely voluntary basis. If Participant does not consent, or if Participant later seeks to revoke his or her consent, his or her relationship as a Service Provider and status with the Company or subsidiary or the Participant's Employer will not be adversely affected; the only adverse consequence of refusing or withdrawing Participant's consent is that the Company would not be able to grant Participant this Option or other equity awards or administer or maintain such awards. Therefore, Participant understands that refusing or withdrawing his or her consent may affect Participant's ability to participate in the Plan. For more information on the consequences of Participant's refusal to consent or withdrawal of consent, Participant understands that he or she may contact the Company's human resources representative.

11. No Guarantee of Continued Service. PARTICIPANT ACKNOWLEDGES AND AGREES THAT THE VESTING OF SHARES PURSUANT TO THE VESTING SCHEDULE HEREOF IS EARNED ONLY BY CONTINUING AS A SERVICE PROVIDER AT THE WILL OF THE PARTICIPANT'S EMPLOYER OR THE COMPANY AND NOT THROUGH THE ACT OF BEING HIRED, BEING GRANTED THIS OPTION OR ACQUIRING SHARES HEREUNDER. PARTICIPANT FURTHER ACKNOWLEDGES AND AGREES THAT THIS AGREEMENT, THE TRANSACTIONS CONTEMPLATED HEREUNDER AND THE VESTING SCHEDULE SET FORTH HEREIN DO NOT CONSTITUTE AN EXPRESS OR IMPLIED PROMISE OF CONTINUED ENGAGEMENT AS A SERVICE PROVIDER FOR THE VESTING PERIOD, FOR ANY PERIOD, OR AT ALL, AND WILL NOT INTERFERE IN ANY WAY WITH PARTICIPANT'S RIGHT OR THE RIGHT OF THE PARTICIPANT'S EMPLOYER OR THE COMPANY TO TERMINATE PARTICIPANT'S RELATIONSHIP AS A SERVICE PROVIDER AT ANY TIME, WITH OR WITHOUT CAUSE.

12. Address for Notices. Any notice to be given to the Company under the terms of this Agreement will be addressed to the Company at Vital Therapies, Inc., 15010 Avenue of Science, Suite 200, San Diego, CA 92128, or at such other address as the Company may hereafter designate in writing. Any notice to be given to MRN under the terms of this Agreement will be addressed to MRN at Talon House, Presley Way, Crownhill, Milton Keynes, Buckinghamshire MK8 0ES, or at such other address as MRN may hereafter designate in writing.

13. Non-Transferability of Option. This Option may not be transferred in any manner otherwise than by will or by the laws of descent or distribution and may be exercised during the lifetime of Participant only by Participant.

14. Binding Agreement. Subject to the limitation on the transferability of this grant contained herein, this Agreement will be binding upon and inure to the benefit of the heirs, legatees, legal representatives, successors and assigns of the parties hereto.

15. Additional Conditions to Issuance of Stock. If at any time the Company will determine, in its discretion, that the listing, registration, qualification or rule compliance of the Shares upon any securities exchange or under any state, federal or foreign law, the tax code and related regulations or the consent or approval of any governmental regulatory authority is necessary or desirable as a condition to the purchase by, or issuance of Shares to, Participant (or his or her estate) hereunder, such purchase or issuance will not occur unless and until such listing, registration, qualification, rule compliance, consent or approval will have been completed, effected or obtained free of any conditions not acceptable to the Company. Assuming such compliance, for income tax purposes the Exercised Shares will be considered transferred to Participant on the date the Option is exercised with respect to such Exercised Shares.

16. Agreement Governs. This Agreement is subject to all terms and provisions of the Plan; however, in the event of a conflict between one or more provisions of this Agreement and one or more provisions of the Plan, the provisions of this Agreement will govern. Capitalized terms used and not defined in this Agreement will have the meaning set forth in the Plan.

17. Administrator Authority. The Administrator will have the power to interpret the Plan and this Agreement and to adopt such rules for the administration, interpretation and application of the Plan as are consistent therewith and to interpret or revoke any such rules (including, but not limited to, the determination of whether or not any Shares subject to the Option have vested). All actions taken and all interpretations and determinations made by the Administrator in good faith will be final and binding upon Participant, the Company and all other interested persons. No member of the Administrator will be personally liable for any action, determination or interpretation made in good faith with respect to the Plan or this Agreement.

18. Electronic Delivery and Acceptance. The Company may, in its sole discretion, decide to deliver any documents related to Options awarded under the Plan or future options that may be awarded under the Plan by electronic means or request Participant's consent to participate in the Plan by electronic means. Participant hereby consents to receive such documents by electronic delivery and agrees to participate in the Plan through any on-line or electronic system established and maintained by the Company or a third party designated by the Company.

19. Captions. Captions provided herein are for convenience only and are not to serve as a basis for interpretation or construction of this Agreement.

20. Agreement Severable. In the event that any provision in this Agreement will be held invalid or unenforceable, such provision will be severable from, and such invalidity or unenforceability will not be construed to have any effect on, the remaining provisions of this Agreement.

21. Modifications to the Agreement. This Agreement constitutes the entire understanding of the parties on the subjects covered. Participant expressly warrants that he or she is not accepting this Agreement in reliance on any promises, representations, or inducements other than those contained herein. Modifications to this Agreement or the Plan can be made only in an express written contract executed by a duly authorized officer of the Company. Notwithstanding anything to the contrary in the Plan or this Agreement, the Company reserves the right to revise this Agreement as it deems necessary or advisable, in its sole discretion and without the consent of Participant, to comply with any applicable tax or other regulatory law or regulation.

22. Amendment, Suspension or Termination of the Plan. By accepting this Award, Participant expressly warrants that he or she has received an Option under the Plan, and has received, read and understood a description of the Plan. Participant understands that the Plan is discretionary in nature and may be amended, suspended or terminated by the Company at any time.

23. Governing Law and Venue. This Agreement will be governed by the laws of Delaware, without giving effect to the conflict of law principles thereof. For purposes of litigating any dispute that arises under this Option or this Agreement, the parties hereby submit to and consent to the jurisdiction of the State of California, and agree that such litigation will be conducted in the courts of San Diego County, California, or the federal courts for the United States for the Southern District of California, and no other courts, where this Option is made and/or to be performed.

24. Insider Trading Restrictions/Market Abuse Laws. Participant acknowledges that, depending on his or her country, Participant may be subject to insider trading restrictions and/or market abuse laws, which may affect his or her ability to acquire or sell Shares or rights to Shares under the Plan during such times as Participant is considered to have “inside information” regarding the Company (as defined by Applicable Laws). Any restrictions under these laws or regulations are separate from and in addition to any restrictions that may be imposed under any applicable Company insider trading policy. Participant acknowledges that it is his or her responsibility to comply with any applicable restrictions, and Participant is advised to speak to his or her personal advisor on this matter.

25. Language. If Participant has received this Agreement, or any other document related to this Option and/or the Plan translated into a language other than English and if the meaning of the translated version is different than the English version, the English version will control.

26. Appendix. Notwithstanding any provisions in this Agreement, this Option shall be subject to any special terms and conditions for Participant’s country set forth in the Appendices attached to this Agreement. Moreover, if Participant relocates to one of the countries included in the Appendices, the special terms and conditions for such country will apply to Participant to the extent the Company determines that the application of such terms and conditions is necessary or advisable for legal or administrative reasons. The Appendices constitute part of this Agreement.

27. Waiver. Participant acknowledges that a waiver by the Company of breach of any provision of this Agreement shall not operate or be construed as a waiver of any other provision of this Agreement, or of any subsequent breach by Participant or any other participant.

EXHIBIT B

VITAL THERAPIES, INC.

2014 EQUITY INCENTIVE PLAN EXERCISE NOTICE

Vital Therapies, Inc.
15010 Avenue of Science, Suite 200
San Diego, CA 92128

Attention: Stock Administration

1. Exercise of Option. Effective as of today, _____, _____, the undersigned (“Purchaser”) hereby elects to purchase _____ shares (the “Shares”) of the Common Stock of Vital Therapies, Inc. (the “Company”) under and pursuant to the 2014 Equity Incentive Plan (the “Plan”) and the Stock Option Agreement dated _____ (the “Agreement”). The purchase price for the Shares will be \$ _____, as required by the Agreement.

2. Delivery of Payment. Purchaser hereby herewith orders the sale of all the Shares. E-Trade (or other Designated Broker) is instructed to deliver to the Company all of the proceeds of the sale of the Shares and that the Company apply the proceeds to the full purchase price of the Shares and to remit the balance of the proceeds to the Participant’s Employer for payment of any required tax withholding to be paid by Participant and/or Participant’s Employer in connection with the exercise of the Option.

3. Representations of Purchaser. Purchaser acknowledges that Purchaser has received, read and understood the Plan and the Agreement and agrees to abide by and be bound by their terms and conditions.

4. Rights as Stockholder. Neither Participant nor any person claiming under or through Participant will have any of the rights or privileges of a stockholder of the Company.

5. Tax Consultation. Purchaser understands that Purchaser may suffer adverse tax consequences as a result of Purchaser’s purchase and sale of the Shares. Purchaser represents that Purchaser has consulted with any tax consultants Purchaser deems advisable in connection with the purchase or sale of the Shares and that Purchaser is not relying on the Company for any tax advice.

6. Entire Agreement; Governing Law. The Plan and Agreement are incorporated herein by reference. This Exercise Notice, the Plan and the Agreement constitute the entire agreement of the parties with respect to the subject matter hereof and supersede in their entirety all prior undertakings and agreements of the Company and Purchaser with respect to the subject matter hereof, and may not be modified adversely to the Purchaser’s interest except by means of a writing signed by the Company and Purchaser; provided, however,

Purchaser and agrees that he/she is bound by the terms of that certain VTL Equity Award Agreement entered into between Purchaser and Medical Research Network Limited (or successor employer). This Exercise Notice is governed by the internal substantive laws, but not the choice of law rules, of the State of Delaware, United States of America.

Submitted by: Accepted by:

PURCHASER VITAL THERAPIES, INC.

Signature By

Print Name Its

Address:

Date Received

Appendix A

COUNTRY-SPECIFIC TERMS AND CONDITIONS FOR EMPLOYEES IN THE UNITED KINGDOM.

This Appendix includes additional terms and conditions that govern the Option granted to Participant under the Plan if Participant is an Employee and resides and/or works in one of the countries listed below. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Plan and/or this Agreement to which this Appendix is attached.

If Participant is a citizen or resident of a country other than the one in which he or she is currently working and/or residing, transfers to another country after the Date of Grant, or is considered a resident of another country for local law purposes, the Company shall, in its discretion, determine the extent to which the special terms and conditions contained herein shall be applicable to Participant.

In accepting this Option, Participant acknowledges, understands and agrees that:

1. this Option and any Shares acquired under the Plan, and the income and value of same, are not intended to replace any pension rights or compensation;
2. this Option and any Shares acquired under the Plan, and the income and value of same, are not part of normal or expected compensation for any purpose, including, without limitation, calculating any severance, resignation, termination, redundancy, dismissal, end-of-service payments, bonuses, long-service awards, pension, retirement or welfare benefits or similar payments;
3. no claim or entitlement to compensation or damages shall arise from forfeiture of this Option resulting from the termination of Participant's employment (for any reason whatsoever, whether or not later found to be invalid or in breach of employment laws in the jurisdiction where Participant is employed or the terms of Participant's employment agreement, if any), and in consideration of the grant of this Option to which Participant is otherwise not entitled, Participant irrevocably agrees never to institute any claim against the Company, any Parent or Subsidiary, waives his or her ability, if any, to bring any such claim, and releases the Company and any Parent or Subsidiary from any such claim; if, notwithstanding the foregoing, any such claim is allowed by a court of competent jurisdiction, then, by participating in the Plan, Participant shall be deemed irrevocably to have agreed not to pursue such claim and agrees to execute any and all documents necessary to request dismissal or withdrawal of such claim; and
4. for purposes of this Option, Participant's employment relationship will be considered terminated as of the date Participant is no

longer actively providing services to the Company or any Parent or Subsidiary (regardless of the reason for such termination and whether or not later found to be invalid or in breach of employment or other laws in the jurisdiction where Participant is providing services or the terms of Participant's employment agreement, if any), and unless otherwise expressly provided in this Agreement or determined by the Company, (i) Participant's right to vest in this Option under the Plan, if any, will terminate as of such date and will not be extended by any notice period (e.g., if Participant is an Employee, Participant's period of service would not include any contractual notice period or any period of "garden leave" or similar period mandated under employment laws in the jurisdiction where Participant is an Employee or Participant's employment agreement, if any, unless Participant is providing bona fide services during such time); and (ii) the Termination Period (if any) during which Participant may exercise this Option after such termination of Participant's employment relationship will commence on the date Participant ceases to actively provide service and will not be extended by any notice period mandated under employment laws in the jurisdiction where Participant is employed or Participant's employment agreement, if any; the Administrator shall have the exclusive discretion to determine when Participant is no longer actively providing service for purposes of this Option (including whether Participant may still be considered to be providing service while on a leave of absence).

Notifications

This Appendix also includes information regarding exchange controls and certain other issues of which Participant should be aware with respect to Participant's participation in the Plan. The information is based on the securities, exchange control and other laws in effect in the respective countries as of July 2014. Such laws are often complex and change frequently. As a result, the Company strongly recommends that Participant not rely on the information noted herein as the only source of information relating to the consequences of Participant's participation in the Plan because the information may be out of date by the time Participant vests in or exercises this Option or sells any Exercised Shares.

In addition, the information contained herein is general in nature and may not apply to Participant's particular situation, and the Company is not in a position to assure Participant of any particular result. Accordingly, Participant is advised to seek appropriate professional advice as to how the Applicable Laws in his or her country may apply to his or her situation.

Finally, Participant understands that if he or she is a citizen or resident of a country other than the one in which he or she is currently residing and/or working, transfers to another country after the Date of Grant, or is considered a resident of another country for local law purposes, the notifications contained herein may not be applicable to Participant in the same manner.

Terms and Conditions

Responsibility for Taxes. The following provisions supplement Section 6 of the Terms and Conditions of Stock Option Grant:

Participant must pay to the Company or Subsidiary or contracting agency employing Participant ("Employer") any amount of income tax due that the Company or the Employer may be required to account to Her Majesty's Revenue and Customs ("HMRC") with respect to the event giving rise to the Tax-Related Items (the "Taxable Event") that cannot be satisfied by the means described in this Section 6(a). If payment or withholding of the income tax is not made within ninety (90) days of the end of the U.K. tax year in which the Taxable Event occurs or such other period as required under U.K. law (the "Due Date"), Participant agrees that the amount of any uncollected income tax will (assuming Participant is not a director or executive officer of the Company, within the meaning of Section 13(k) of the Exchange Act) constitute a loan owed by Participant to the Company or the Employer (as applicable), effective on the Due Date. Participant agrees that the loan will bear interest at the then-current HMRC official rate and it will be immediately due and repayable, and the Company and/or the Employer may recover it at any time thereafter by any of the means referred to in Section 6 of the Terms and Conditions. If Participant fails to comply with his or her obligations in connection with the income tax due as described in this section, the Company may refuse to deliver the Shares acquired under the Plan.

Notwithstanding the foregoing, if Participant is a director or executive officer of the Company (within the meaning of Section 13(k) of the Exchange Act), Participant will not be eligible for such a loan to cover the income tax due. In the event that Participant is a director or executive officer and the income tax due is not collected from or paid by Participant by the Due Date, the amount of any uncollected tax will constitute a benefit to Participant on which additional income tax and National Insurance Contributions ("NICs") will be payable. Participant will be responsible for reporting and paying any income tax due on this additional benefit directly to HMRC under the self-assessment regime and for reimbursing the Company or the Employer, as applicable, for the value of any NICs due on this

additional benefit. Participant acknowledges that the Company or the Employer may recover any such NICs at any time thereafter by any of the means referred to in Section 6 of the Terms and Conditions.

Appendix B

COUNTRY-SPECIFIC TERMS AND CONDITIONS FOR CONSULTANTS IN THE UNITED KINGDOM

This Appendix includes additional terms and conditions that govern this Option granted to Participant under the Plan if Participant is a consultant and resides and/or works in one of the countries listed below. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Plan and/or this Agreement to which this Appendix is attached.

If Participant is a citizen or resident of a country other than the one in which he or she is currently working and/or residing, transfers to another country after the Date of Grant, or is considered a resident of another country for local law purposes, the Company shall, in its discretion, determine the extent to which the special terms and conditions contained herein shall be applicable to Participant.

In accepting this Option, Participant acknowledges, understands and agrees that:

1. this Option and any Shares acquired under the Plan, and the income and value of same, are not intended to replace any compensation owed to Participant as a contractor;
2. this Option and any Shares acquired under the Plan, and the income and value of same, are not part of normal or expected compensation for any purpose and shall not be treated as employment-related income;
3. no claim or entitlement to compensation or damages shall arise from forfeiture of this Option resulting from the termination of Participant's relationship as a Service Provider (for any reason whatsoever, whether or not later found to be invalid or to be subject to employment laws in the jurisdiction where Participant is providing service or the terms of Participant's service agreement, if any), and in consideration of the grant of this Option to which Participant is otherwise not entitled, Participant irrevocably agrees never to institute any claim against the Company, any Parent or Subsidiary, waives his or her ability, if any, to bring any such claim, and releases the Company, any Parent or Subsidiary from any such claim; if, notwithstanding the foregoing, any such claim is allowed by a court of competent jurisdiction, then, by participating in the Plan, Participant shall be deemed irrevocably to have agreed not to pursue such claim and agrees to execute any and all documents necessary to request dismissal or withdrawal of such claim; and
4. for purposes of this Option, Participant's relationship as a Service Provider will be considered terminated as of the date Participant is no longer providing service to the Company, any Parent or Subsidiary (regardless of the reason for such termination and whether or not later found to be invalid or to be subject to the employment or other laws in the jurisdiction where Participant is providing service or the terms of Participant's service agreement, if any), and unless otherwise expressly provided in this Agreement or determined by the Company, (i) Participant's right to vest in this Option under the Plan, if any, will terminate as of such date and will not be extended by any notice period; and (ii) the Termination Period (if any) during which Participant may exercise this Option after such termination of Participant's relationship as a Service Provider will commence on the date Participant ceases to provide service; the Administrator shall have the exclusive discretion to determine when Participant is no longer actively providing service for purposes of this Option.

Notifications

This Appendix also includes information regarding exchange controls and certain other issues of which Participant should be aware with respect to Participant's participation in the Plan. The information is based on the securities, exchange control and other laws in effect in the respective countries as of July 2014. Such laws are often complex and change frequently. As a result, the Company strongly recommends that Participant not rely on the information noted herein as the only source of information relating to the consequences of Participant's participation in the Plan because the information may be out of date by the time Participant vests in or

exercises this Option or sells any Exercised Shares.

In addition, the information contained herein is general in nature and may not apply to Participant's particular situation, and the Company is not in a position to assure Participant of any particular result. Accordingly, Participant is advised to seek appropriate professional advice as to how the relevant laws in Participant's country may apply to his or her situation.

Finally, Participant understands that if he or she is a citizen or resident of a country other than the one in which he or she is currently residing and/or working, transfers to another country after the Date of Grant, or is considered a resident of another country, the notifications contained herein may not be applicable to Participant in the same manner.

Terms and Conditions

Responsibility for Taxes. The following provisions supplement Section 6 of the Terms and Conditions of Stock Option Grant:

Participant must pay to the Company or Subsidiary or contracting agency employing Participant ("Employer") any amount of income tax due that the Company or the Employer may be required to account to Her Majesty's Revenue and Customs ("HMRC") with respect to the event giving rise to the Tax-Related Items (the "Taxable Event") that cannot be satisfied by the means described in Section 6. If payment or withholding of the income tax is not made within ninety (90) days of the end of the U.K. tax year in which the Taxable Event occurs or such other period as required under U.K. law (the "Due Date"), Participant agrees that the amount of any uncollected income tax will (assuming Participant is not a director or executive officer of the Company, within the meaning of Section 13(k) of the Exchange Act) constitute a loan owed by Participant to the Company or the Employer (as applicable), effective on the Due Date. Participant agrees that the loan will bear interest at the then-current HMRC official rate and it will be immediately due and repayable, and the Company and/or the Employer may recover it at any time thereafter by any of the means referred to in Section 6 of the Terms and Conditions. If Participant fails to comply with his or her obligations in connection with the income tax due as described in this section, the Company may refuse to deliver the Shares acquired under the Plan.

Notwithstanding the foregoing, if Participant becomes a director or executive officer of the Company (within the meaning of Section 13(k) of the Exchange Act), Participant will not be eligible for such a loan to cover the income tax due. In the event that Participant is a director or executive officer and the income tax due is not collected from or paid by Participant by the Due Date, the amount of any uncollected tax will constitute a benefit to Participant on which additional income tax and National Insurance Contributions ("NICs") will be payable. Participant will be responsible for reporting and paying any income tax due on this additional benefit directly to HMRC under the self-assessment regime and for reimbursing the Company or the Employer, as applicable, for the value of any NICs due on this additional benefit. Participant acknowledges that the Company or the Employer may recover any such NICs at any time thereafter by any of the means referred to in Section 6 of the Terms and Conditions.

Subsidiaries of the Registrant

Set forth below is a list of subsidiaries of the Registrant. All of the subsidiaries listed below are wholly-owned subsidiaries of Vital Therapies, Inc. and are owned directly by Vital Therapies, Inc.

Subsidiary	Jurisdiction of Formation
Vital Therapies (Beijing) Co. Ltd.	China
Vital Therapies Ltd.	United Kingdom

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in the Registration Statement on S-3 (No. 333-204097) and Registration Statements on Form S-8 (Nos. 333-196571, 333-204644 and 333-211539) of Vital Therapies, Inc. of our report dated March 13, 2018 relating to the financial statements, which appears in this Form 10-K.

/s/ PricewaterhouseCoopers LLP

San Diego, California

March 13, 2018

CERTIFICATIONS

I, Russell J. Cox, certify that:

1. I have reviewed this Annual Report on Form 10-K for the fiscal year ended December 31, 2017 of Vital Therapies, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 13, 2018

By: /s/ Russell J. Cox

Russell J. Cox
Chief Executive Officer
(Principal Executive Officer)

CERTIFICATIONS

I, Michael V. Swanson, certify that:

1. I have reviewed this Annual Report on Form 10-K for the fiscal year ended December 31, 2017 of Vital Therapies, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 13, 2018

By: /s/ Michael V. Swanson

Michael V. Swanson

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

In connection with the Annual Report on Form 10-K of Vital Therapies, Inc. (the “Company”) for the period ended December 31, 2017, as filed with the Securities and Exchange Commission on the date hereof (the “Report”), the undersigned, Russell J. Cox, as Chief Executive Officer of the Company, hereby certifies, pursuant to 18 U.S.C. Section 1350, that to my knowledge:

1. the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
2. the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: March 13, 2018

/s/ Russell J. Cox

Russell J. Cox

Chief Executive Officer

The foregoing certification is being furnished solely to accompany the Report pursuant to 18 U.S.C. § 1350, and is not being filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, and is not to be incorporated by reference into any filing of the Company, whether made before or after the date hereof, regardless of any general incorporation language in such filing. A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

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

In connection with the Annual Report on Form 10-K of Vital Therapies, Inc. (the "Company") for the period ended December 31, 2017, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), the undersigned, Michael V. Swanson, as Chief Financial Officer of the Company, hereby certifies, pursuant to 18 U.S.C. Section 1350, that to my knowledge:

1. the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: March 13, 2018

/s/ Michael V. Swanson

Michael V. Swanson

Chief Financial Officer

(Principal Financial and Accounting Officer)

The foregoing certification is being furnished solely to accompany the Report pursuant to 18 U.S.C. § 1350, and is not being filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, and is not to be incorporated by reference into any filing of the Company, whether made before or after the date hereof, regardless of any general incorporation language in such filing. A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.